City Council Introduction: **Monday**, January 28, 2008
Public Hearing: **Monday**, February 4, 2008, at **1:30** p.m.

Bill No. 08-7

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 07059,** from O-3 Office Park District to B-2 Planned Neighborhood Business District, and from B-2 Planned Neighborhood Business District to O-3 Office Park District, requested by Holdrege Investors LLC and Morning Glory Estates Association, on property generally located at North 84th Street and Holdrege Street.

STAFF RECOMMENDATION: Approval

ASSOCIATES REQUESTS: Development and Conditional Zoning Agreement (08R-24) and Use Permit No. 128B (08R-25).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 12/05/07 and 12/19/07
Administrative Action: 12/19/07

RECOMMENDATION: Approval, subject to Development and Conditional Zoning Agreement (9-0: Larson, Moline, Francis, Taylor, Gaylor-Baird, Esseks, Sunderman, Cornelius and Carroll voting 'yes').

FINDINGS OF FACT:

1. This application was heard before the Planning Commission in conjunction with the associated amendment to the Morning Glory Estates use permit (Use Permit No. 128B).

2. The purpose of this change of zone request is to allow the amendment to the associated use permit to change office use to hotel, restaurant and retail uses. The change of zone from B-2 to O-3 on 1.21 acres covers a portion of the parking lot for an existing office building and a pad site to the north, and the change of zone from O-3 to B-2 on 3.63 acres covers Lot 7, Morning Glory Estates 2nd Addition, which is currently shown as the site for a 68,600 sq. ft. office building.

3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.4-5, concluding that this change of zone request complies with the requirements of the Zoning Ordinance and is consistent with the Comprehensive Plan. The staff presentation is found on p.7.

4. The applicant's testimony is found on p.7-8. The proposed draft of a "Development and Conditional Zoning Agreement" submitted by the applicant in their efforts to work with the neighborhood is found on p.20-24.

5. The record consists of a letter from Rob Otte (p.19) on behalf of a significant group of neighbors residing in the areas to the east and to the south, indicating that these neighbors will not object to this proposal if certain terms and conditions of a Conditional Zoning Agreement can be agreed upon between the applicant and his clients prior to scheduling this change of zone on the City Council agenda. The draft agreement would be approved by the City Council and signed by the City and the applicant. It would limit the hotel to "extended stay" and include special buffering, signage and lighting restrictions.

6. There was no testimony in opposition; however, the record consists of three letters in opposition (p.25-29).

7. The discussion with staff and the response by the applicant are found on p.9-11.

8. On December 19, 2007, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval, subject to a Development and Conditional Zoning Agreement which is substantially in conformance with the draft submitted to the Planning Commission on December 19, 2007. Such Agreement shall be finalized prior to scheduling this Change of Zone on the City Council agenda.

9. On December 19, 2007, the Planning Commission also voted 9-0 to recommend conditional approval of the associated Use Permit No. 128B, as amended by staff.

FACTSHEET PREPARED BY: Jean L. Walker **DATE**: January 22, 2008

REVIEWED BY:_____ **DATE**: January 22, 2008

REFERENCE NUMBER: FS\CC\2007\CZ.07059+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for DECEMBER 19, 2007 PLANNING COMMISSION MEETING

<u>As Revised and Recommended for Conditional Approval by Planning Commission: 12/19/07**</u>**

]

<u>PROJECT #:</u> Change of Zone No. 07059

<u>PROPOSAL:</u> Change of zone for 3.63 acres from O-3 to B-2.
Change of zone for 1.21 acres from B-2 to O-3.

LOCATION: N. 84th Street and Holdrege Street

LAND AREA: Changes of zone land area: 4.84 acres, more or less.

EXISTING ZONING: B-2 and O-3

CONCLUSION: This request complies with the requirements of the Zoning Ordinance and is consistent with the Comprehensive Plan.

RECOMMENDATION:

Change of Zone: O-3 to B-2. <u>**Conditional</u> Approval

Change of Zone: B-2 to O-3. <u>**Conditional</u> Approval

<u>**subject to a Development and Conditional Zoning Agreement which is substantially in conformance with the draft submitted to the Planning Commission on December 19, 2007. Such Agreement shall be finalized prior to scheduling this Change of Zone on the City Council agenda.**</u>

(Per Planning Commission: 12/19/07**)**

<u>GENERAL INFORMATION:</u>

LEGAL DESCRIPTION:

Lot 6, Morning Glory Estates Addition, Lot 7, Morning Glory Estates 2nd Addition, and portions of Outlots A and B, and Lot 2, Morning Glory Estates 5th Addition, located in the SW 1/4 of Section 14-10-7, Lancaster County, Nebraska.

EXISTING LAND USE: Vacant land and medical office.

SURROUNDING LAND USE AND ZONING:

North:	B-2	Vacant land and medical offices
South:	O-3	Restaurant and rural fire district station
East:	R-3	Single family and attach single family residential
West:	B-2	Vacant and commercial

ASSOCIATED APPLICATIONS: UP#128B

HISTORY:

May 15, 2007: Administrative Amendment #07027 to adjust lot layouts and setbacks for a portion of the use permit was approved by the Planning Director.

February 7, 2007: Administrative Amendment #07008 to adjust lot lines and setbacks for the use permit was approved by the Planning Director.

May 9, 2006: Administrative Amendment #06035 to adjust lot lines and setbacks for the use permit was approved by the Planning Director.

March 27, 2006: Change of Zone #06010 from O-3 to B-2 for a portion of the use permit was approved by City Council.

May 20, 2004: Administrative Amendment #04027 to modify Note #27 for the use permit was approved by the Planning Director.

Dec. 17, 2003: Administrative Amendment #03077 to transfer floor area between lots for the use permit was approved by the Planning Director.

April 23, 2003: Administrative Amendment #03002 to adjust lot lines and to transfer floor area between lots for the use permit was approved by the Planning Director.

January 8, 2002: Administrative Amendment #02001 to extend the time line of the letter of acceptance was approved by the Planning Director.

October 31, 2001: Use Permit 128A was approved by Planning Commission.

July 30, 2001: Use Permit 128 was approved by City Council.

COMPREHENSIVE PLAN SPECIFICATIONS:

P. 41 This area is designated as a Neighborhood Center.

P. 45 Neighborhood centers provide services and retail goods oriented to the neighborhood level, with significant pedestrian orientation and access. A typical center will have numerous smaller shops and offices and may include one or two anchor stores. In general, an anchor store should occupy about a third to half of the total space. In centers meeting the incentive criteria, anchor store(s) may be larger noting that the goals of a Neighborhood Centers are to be diverse and not simply one store. Examples include such as Lenox Village at S. 70th and Pioneers Boulevard, and Coddington Park Center at West A and Coddington. These smaller centers will not include manufacturing uses.

P. 19 This area is designated as Commercial on the Future Land Use map.

P. 16 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.

P. 9 Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity.

P. 11 Strip commercial development along transportation corridors is discouraged.

P. 14 Mix of office, retail, and service uses.

P. 15 Pedestrian orientation with parking at rear, multiple pedestrian routes, and buildings close to each other.

P. 15 Transition of uses; less intense office uses near residential areas.

P. 29 The City should work with developers interested in providing new industrial and office development sites. These sites are important for new companies to come to town and to help existing businesses relocate within Lincoln.

P. 29 The creation of office sites is an important aspect of job growth for the community.

P. 35 Commercial and industrial districts in Lancaster County shall be located: ...in areas compatible with existing or planned residential uses...

P. 36 Strip commercial development is discouraged.
P. 36 4. No four corner commercial corners at intersections of major arterial streets.
P. 36 5. Transition of uses; less intense office uses near residential areas.
P. 48 Buildings and land uses at the edge of the center should be compatible with adjacent residential uses. Examples of compatible land uses include offices or child care centers. Buildings should be compatible in terms of height, building materials and setback. Small compatible commercial buildings at the edge could include retail or service uses. Buildings with more intrusive uses should have greater setbacks, screening requirements and be built of more compatible materials.
P.48 The most intensive commercial uses, such as restaurants, car washes, grocery stores, gasoline/ convenience stores and drive thru facilities should be located nearer to the major street or roadway and furthest from the residential area. Citizens of the community have become increasingly concerned about "light pollution" and its affects upon neighborhoods and the environment. Lighting, dumpsters, loading docks and other service areas should be shielded from the residential area.

TOPOGRAPHY: The development site has been graded to be relatively flat. Holdrege Street is a few feet higher than the site and N. 84th Street is lower than the site. The residential neighborhood to the east is a few feet higher than the development site.

REGIONAL ISSUES: A change of zone and change in use at this intersection subtracts from the total office space and adds to the total commercial space for the N. 84th Street corridor.

ALTERNATIVE USES: The site could remain zoned O-3 and could be developed in compliance with the existing use permit with a single large office building.

The site could remain zoned O-3 and could be subdivided and/or developed into smaller lots for several smaller office buildings by an administrative amendment.

The site could remain zoned O-3 and a special permit could be obtained for a hotel.

The site could remain zoned O-3 and a special permit could be obtained for a restaurant.

The site could remain zoned O-3 and could be subdivided and/or developed with other uses as allowed in the O-3 district.

ANALYSIS:

1. The 1.21 acre change of zone from B-2 to O-3 covers a portion of the parking lot for an existing office building and a pad site to the north which would also likely have an office use in the future.

2. The 3.63 acre change of zone from O-3 to B-2 covers Lot 7, Morning Glory Estates 2nd Addition, which is currently shown as the site for a 68,600 square foot office building on the existing use permit.

3. The O-3 District requires a minimum of two acres for a use permit. In order to comply with this requirement, the request includes rezoning some B-2 as O-3 . The changes of zone leave the development with 2.25 acres of O-3.

4. The changes of zone break up the existing zoning pattern where the O-3 of this development was contiguous with the O-3 across the street to the south.

5. Hotels are allowed in the O-3 District by special permit only. The developer could keep the land zoned O-3 and apply for the special permit for a hotel. The requirements of the special permit (LMC 27.63.390) include:
   a) The number of hotel or motel units shall not exceed the number obtained by dividing the total square foot area of the site by 1,500;
   b) Each hotel or motel unit shall have a minimum enclosed floor area of 500 square feet; and
   c) Each hotel or motel unit shall be a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

   The proposed hotel lot (Lot 7, Morning Glory Estates 2nd Addition) is 73,845 square feet, more or less. Therefore, the special permit for a hotel in the O-3 would only allow 49 rooms. The amendment to the use permit proposes an 85 room hotel.

   In previous meetings with staff and the neighborhood, the developer has indicated that the hotel would be an "extended stay" hotel, which may have some attributes of b) and c) above, but no commitment has been made on the amendment to the use permit which would indicate room size or status in terms of a "single habitable unit" or not. Other than the requirements for the O-3 special permit mentioned above, the City of Lincoln zoning code does not make any determination between a motel, hotel, or an extended stay hotel. Therefore, outside of the conditions of a special permit or use permit, the City cannot guarantee or regulate these distinctions.

6. The special permit requirements for hotels (LMC 27.63.390) were added to the zoning ordinance by Change of Zone #2111 in 1984 in conjunction with Special Permit #1089. The text amendment for the special permit was tailored for an extended stay hotel. This hotel is today known as Chase Suites Hotel at 200 S. 68th Place.

7. Restaurants are allowed in the O-3 District by special permit only. The developer could keep the land zoned O-3 and apply for the special permit for a restaurant. There are no specific requirements of the special permit (LMC 27.63.390).

Prepared by:

Brandon M. Garrett, AICP
Planner

DATE: December 10, 2007

APPLICANT: Don Day
Olsson Associates
1111 Lincoln Mall
Lincoln, NE 68508

OWNER: Holdrege Investors LLC & Morning Glory Estates Assoc. Inc.
300 N. 44th St., Ste. 100
Lincoln, NE 68503

CHANGE OF ZONE NO. 07059
and
USE PERMIT NO. 128B

REQUEST FOR DEFERRAL: December 5, 2007

Members present: Sunderman, Larson, Taylor, Francis, Moline, Gaylor-Baird, Esseks and Carroll; Cornelius absent.

Ex Parte Communications: None.

The Clerk announced that the applicant has requested a two-week deferral.

Sunderman moved deferral, with continued public hearing and action scheduled for December 19, 2007, seconded by Esseks and carried 8-0: Sunderman, Larson, Taylor, Francis, Moline, Gaylor-Baird, Esseks and Carroll voting 'yes'; Cornelius absent.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: December 19, 2007

Members present: Larson, Moline, Taylor, Gaylor-Baird, Esseks, Francis, Sunderman, Cornelius and Carroll.

Ex Parte Communications: The Commissioners all received a letter from Danielle Miller, 8611 Lavender Circle, in opposition.

Staff recommendation: Approval of the change of zone and conditional approval of the amendment to the use permit.

Staff presentation: **Brandon Garrett of Planning staff** explained that today's action is a recommendation to the City Council. The height waiver requested was initially eligible to be final action if a change of zone to the text of the ordinance was passed by the City Council. That text amendment was passed, except the B-2 and B-5 were not included in that ordinance. Therefore, the waiver to the B-2 height from 40 to 45 feet is required and must be acted upon by the City Council.

Garrett advised that at noon today, he received a copy of a letter from Rob Otte, who is the attorney representing the neighborhood to the east. That letter was addressed to Mike Rierden, who represents the applicant. The letter states that the neighborhood and Mr. Otte would not show up in opposition today based upon finalizing a Development and Conditional Zoning Agreement before action by the City Council.

Proponents

1. Mike Rierden appeared on behalf of the applicant. The request for change of zone from O-3 to B-2 is approximately 3.6 acres, the change from B-2 to O-3 is approximately 2.25 acres. The reason for the change to the O-3 is to maintain the minimum area requirement in the O-3 of 2 acres.

The reason for the change to B-2 is to place a proposed extended stay hotel on the property. Today there is an approved office building of 68,000 sq. ft. on that parcel and 45' in height. The applicant wishes to change that to an extended stay hotel, but under the B-2 the height limitation is 40', so that is the reason for the request to waive the height limitation to allow 45'.

Rierden advised that the applicant met with the neighbors three times and he has spoken with legal counsel a number of times. Rierden requested that Rob Otte's letter be made a part of the record. Rierden also submitted a copy of the proposed Development and Conditional Zoning Agreement. He believes they are close to finalizing this agreement and he requested a favorable recommendation from Planning Commission to move this forward to the City Council. The applicant has committed to the neighbors that he will not schedule these applications on the City Council agenda until the agreement has been signed.

Rierden advised that the key elements of the agreements with the neighbors is that they want the change of zone tied to an extended stay hotel for a certain period of time. He also wanted the Commission to know that the conditions in the agreement are based on requests by the neighbors. This is one issue where they have not reached total agreement because of the hotel's marketing plan, but he believes they will be able come to agreement. The agreement refers to the buffering, signing and lighting. The homeowners to the east will eventually have a 100% buffer.

2. Dave Johnson with Studio 951, 720 O Street, the architect for the project, gave a sense of flavor of the development with visuals. There will be three single story retail buildings along with the hotel. Further north in the development there is a dental office, vet clinic, Union Bank facility and another 8100 sq. ft. retail building and an office building. He displayed the architecture proposed for the development. There will be more trees than usually seen in a retail development. The fronts of the retail buildings will face the east and north. The back of the retail buildings will be mostly glass as opposed to a blank wall with service doors. There will be evergreen trees planted by the applicant in the back yards of the abutting residential properties. The applicant has also agreed to do a berm which will get the trees up higher, the trees being in the 10-12 ft. height to begin with. There is 160 feet between the end of the hotel and the back of the residences. The finished floor of the hotel can be at elevation 1272, which is down from N. 86th Street. From the grading plan, he believes that the two houses directly to the east have finished floors at about 1277.

Johnson then showed some room layouts for the suites of the proposed hotel, the smallest being 570 square feet.

3. John Klimpel, of **HMA Hotels,** testified in support. HMA Hotels will be partnering on this project on the extended stay hotel. They have done several extended stay hotels in the area, the most recent being Candlewood at 70th & Pioneer. There is a great need for this type of hotel in Lincoln.

There was no testimony in opposition.

Staff questions

Esseks stated that he personally feels comfortable supporting this proposal, provided a zoning agreement of this nature with protections for the adjacent residential properties is enacted. How do we make this possible? Garrett stated that the zoning agreement could be added as a condition of approval to the change of zone request. Esseks indicated that his vote hinges upon whether certain provisions of the zoning agreement are included. The Planning Commission would be approving something that has not been finalized. How do we deal with that? Rick Peo of City Law Department understands that the draft agreement is probably 90% accurate as to what would be finalized. He has not had a chance to evaluate the issues. Since the draft agreement has been made part of the record, the Planning Commission could indicate that any development agreement has to be substantially in compliance with the draft submitted today.

Carroll inquired about the signage. Garrett advised that the B-2 district would allow a 500 sq. ft. wall sign (or 30% of the facade) and a 100 sq. ft. ground sign per street frontage in the front yard. Out of the front yard they get 100 sq. ft. plus 50 sq. ft. ground sign per pad within 30 feet of the building. Carroll assumed then that the ground sign would be located along Holdrege Street at that intersection and a wall sign for the hotel. Garrett concurred. The agreement provides that any signage on the east side of the building facing the building would be minimal, if any at all.

Response by the Applicant

Don Linscott, one of the developers, stated that they would only allow the ground sign along Holdrege Street, and then one sign on the west side of the building for identification. The applicant has worked very hard with the neighborhood. They have had three meetings and have agreed to many of those suggestions. Many of the provisions in the zoning agreement are those things that he has agreed to do with the neighbors from the beginning. The only difference of opinion is that the neighbors would like to make sure this is an extended stay hotel for 15 years. The applicant would prefer 10 years based on the market place. Linscott is working in a co-venture with HMA, a hotel developer out of St. Louis. 70th & Pioneers is very similar to what will be done here. A lot of these issues were dealt with at 70th & Pioneers. We do not know if this is going to be a Marriott or Spring Hill, etc. The developer is working with a national company and the 15-year requirement is difficult. All franchisers only give you a 10-year license, and then you can renew it. Rierden stated that they will work something out with the neighborhood. The timetable is the only thing they have not reached agreement upon with the neighborhood.

Marvin Krout, Director of Planning, asked the Commission to suspend their rules to allow staff to make further comments about traffic issues. Today is the first time the staff has had an opportunity to look at the draft agreement. (***Editorial Comment**:* The discussion then diverted to discussions about turn lanes and it was discovered that the reference to "84th" Street in the zoning agreement was a typographical error. The correct reference is "86th" Street.)

Linscott then gave a history of the proposal. When it was originally submitted, the applicant showed two drive-through facilities, and they were told in a meeting with Public Works that they felt the two drive-through facilities would result in the development exceeding the number of trip generations. The applicant went back to the drawing board in order to stay in the same trip generation, resulting in 38,000 sq. ft. of retail and the extended stay hotel. To stay within that trip generation previously approved, the applicant agreed to do an 85 room hotel and 20,000 sq. ft. of retail (2 buildings).

Carroll then asked the applicant if he agreed with the staff's revised Condition #3.8:

> 3.8 Submit an escrow or some other method of securing the funding for the construction of the median on Holdrege Street for the N. 86th Street ~~north of Lexington Avenue~~ intersection.

Linscott stated that they had told the neighbors that they did not think they were going to have to have a left only turn from 86th & Holdrege. Linscott believes that this proposal complies with the trip generation that was previously approved. Linscott pointed out that the developer's pocket loss was tremendous in complying with the staff's recommendation to remove the two fast food locations. (In fact, he had both of them pre-sold.) But, he decided he was better off trying to work with staff in eliminating those two and complying with the 38,000 sq. ft., which is under the same trip generation currently approved with a 68,000 sq. ft. office building. Linscott would certainly like to work with the city, but he does not want to be the one between the city and the neighbors.

Garrett clarified that Condition #3.7 appears to be the condition to which Mr. Linscott is referring. That condition was in the original staff report:

> 3.7 Add General Note #45 to state "IF TRAFFIC VOLUMES AND/OR CRASH RATES INCREASE TO A LEVEL THAT WOULD WARRANT A SIGNAL, PUBLIC WORKS WOULD REQUIRE THE DEVELOPER TO CONSTRUCT A MEDIAN TO LIMIT ACCESS TO LEFT IN, RIGHT IN, AND RIGHT OUT ONLY."

The revision to Condition #3.8 made by the staff refers back to Condition #3.7. Condition #3.8 was revised only to correct a typo that he made previously. Condition #3.7 deals with how that median should be constructed and paid for. This is the same intersection (86th & Holdrege) that is referred to in the conditional zoning agreement. We're talking about the same thing.

Chad Blahak of Public Works explained that the issue with the 86th & Holdrege intersection was not that Public Works wanted to require any change or construction to that intersection at this point in time; however, the condition that was written was that it should be monitored and if crash rates and trip volumes increase to the point where a signal is warranted, that the intersection be closed to left in and right out only. When this project was originally approved, the substandard intersection spacing for full access median openings was approved, the original project being a lot less commercially intense. This project has gone through a previous change of zone to increase the traffic volume. Even though this proposal does not necessarily increase the peak hour volumes, it does increase the daily trips from 800 to 2500 daily trips. The intent of the condition was to apply some kind of financial guarantee that should the crash rates dictate a change to the intersection, there would be some escrow or financial guarantee to make those improvements in the future.

Esseks observed that this is a condition on negative evidence that may arise. It is only if it is needed.

Moline inquired whether the neighborhood's concerns would still be considered. Blahak stated that even if this application was not coming forward, Public Works would technically still have the authority to propose changes to intersections due to safety and traffic volume. The only thing that condition was meant to do was to apply some responsibility due to the increase of traffic volumes

over the history of this project. Condition #3.7 is not new today. It has been in the staff report all along.

Sunderman clarified that the staff is not asking the developer to put monies down to fund this, but merely asking for some sort of contract that they will pay for it if needed. Blahak acknowledged that the mechanism needs to be worked out – whether it is a bond or some type of agreement. Moline thinks it unfair to ask them to put up a bond if it may never happen.

Rierden suggested they could work further with staff prior to City Council.

CHANGE OF ZONE NO. 07059
ACTION BY PLANNING COMMISSION: December 19, 2007

Larson moved approval, seconded by Leirion.

Esseks moved to amend to require that the change of zone be conditioned upon the finalization of the development and conditional zoning agreement between the developer and the city that is substantially in conformance with the draft submitted to the Planning Commission on December 19, 2007, seconded by Cornelius.

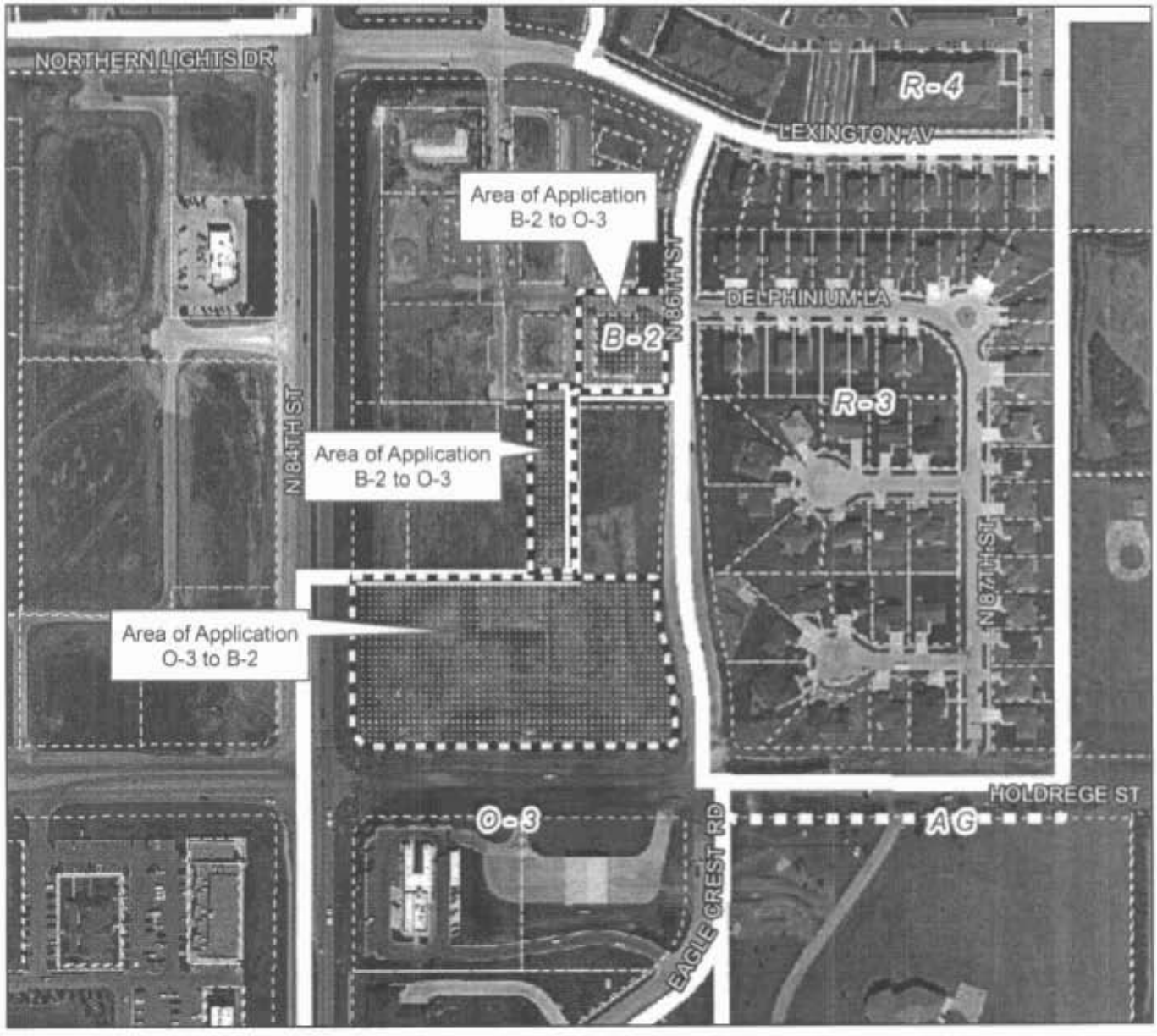
Esseks believes that the agreement deals with the concerns of the residents to the east. He thinks it is an impressive agreement and suggested that the city may want to use this in the future.

Motion to amend carried 9-0: Larson, Moline, Francis, Taylor, Gaylor-Baird, Esseks, Sunderman, Cornelius and Carroll voting 'yes'.

Main motion, as amended, carried 9-0: Larson, Moline, Francis, Taylor, Gaylor-Baird, Esseks, Sunderman, Cornelius and Carroll voting 'yes'. This is a recommendation to the City Council.

USE PERMIT NO. 128B
ACTION BY PLANNING COMMISSION: December 19, 2007

Cornelius moved to approve the staff recommendation of conditional approval, including the staff amendment to Condition #3.8, seconded by Taylor and carried 9-0: Larson, Moline, Francis, Taylor, Gaylor-Baird, Esseks, Sunderman, Cornelius and Carroll voting 'yes'. This is a recommendation to the City Council.



Change of Zone #07059
N 84th & Holdrege St

2005 aerial

Zoning:

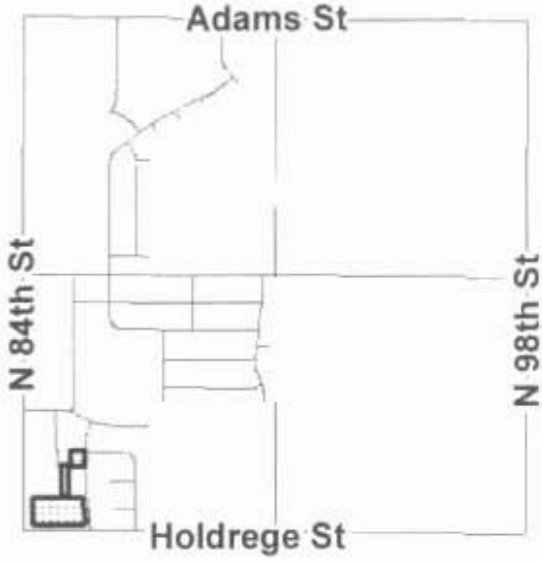
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	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 R07E

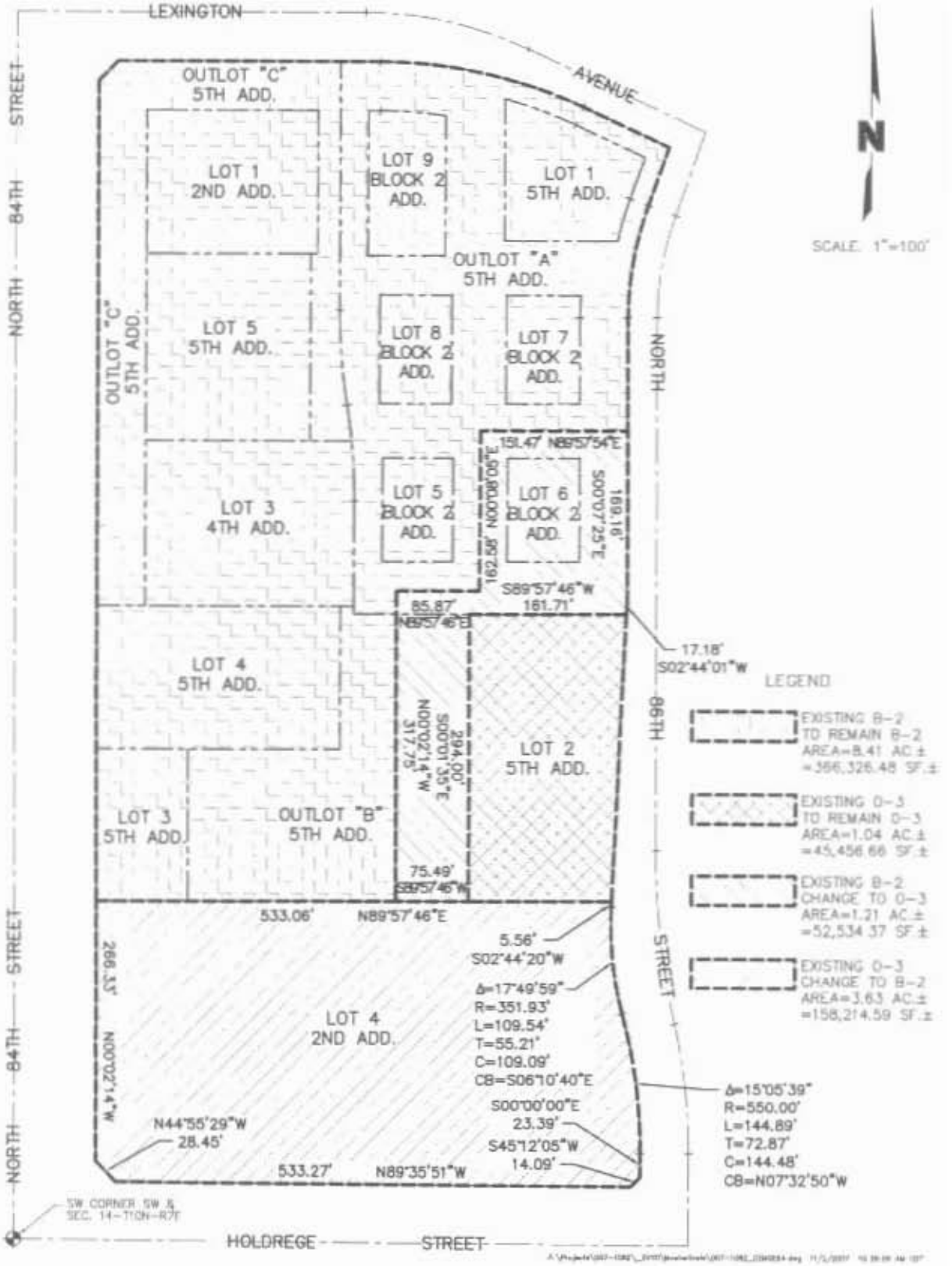
N

Zoning Jurisdiction Lines

City Limit Jurisdiction



m:\plan\arcview\07_cz\cz07059


LEXINGTON
AVENUE
N
SCALE 1"=100'
OUTLOT "C"
5TH ADD.
LOT 1
2ND ADD.
LOT 9
BLOCK 2
ADD.
LOT 1
5TH ADD.
OUTLOT "A"
5TH ADD.
LOT 5
5TH ADD.
LOT 8
BLOCK 2
ADD.
LOT 7
BLOCK 2
ADD.
OUTLOT "C"
5TH ADD.
NORTH
84TH
STREET
151.47' N89°57'54"E
N00°08'06"E
162.58'
S00°07'25"E
169.18'
LOT 3
4TH ADD.
LOT 5
BLOCK 2
ADD.
LOT 6
BLOCK 2
ADD.
S89°57'46"W
161.71'
85.87'
N89°57'46"E
17.18'
S02°44'01"W
LOT 4
5TH ADD.
N00°02'14"W
317.75'
294.00'
S00°01'35"E
LOT 2
5TH ADD.
LOT 3
5TH ADD.
OUTLOT "B"
5TH ADD.
75.49'
S89°57'46"W
533.06'
N89°57'46"E
5.56'
S02°44'20"W
Δ=17°49'59"
R=351.93'
L=109.54'
T=55.21'
C=109.09'
CB=S06°10'40"E
LOT 4
2ND ADD.
266.33'
N00°02'14"W
N44°55'29"W
28.45'
533.27'
N89°35'51"W
S00°00'00"E
23.39'
S45°12'05"W
14.09'
Δ=15°05'39"
R=550.00'
L=144.89'
T=72.87'
C=144.48'
CB=N07°32'50"W
86TH
STREET
LEGEND
EXISTING B-2
TO REMAIN B-2
AREA=8.41 AC.±
=366,326.48 SF.±
EXISTING O-3
TO REMAIN O-3
AREA=1.04 AC.±
=45,456.66 SF.±
EXISTING B-2
CHANGE TO O-3
AREA=1.21 AC.±
=52,534.37 SF.±
EXISTING O-3
CHANGE TO B-2
AREA=3.63 AC.±
=158,214.59 SF.±
SW CORNER SW 1/4
SEC. 14-T10N-R7E
HOLDREGE
STREET

Status of Review: **Complete**

Reviewed By **Building & Safety** **Terry Kathe**

Comments:

Status of Review: **Approved** **11/08/2007 2:49:35 PM**

Reviewed By **Building & Safety** **BOB FIEDLER**

Comments: approved

Status of Review: **Complete** **11/16/2007 4:26:21 PM**

Reviewed By **Fire Department** **ANY**

Comments: Upon review of the plan, the only request would be to have a fire hydrant put someplace in the area between Outlot "B" and Outlot "D". This would greatly enhance the availability of a water supply if needed.

Status of Review: **Approved** **11/16/2007 11:33:10 AM**

Reviewed By **Health Department** **ANY**

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION

TO: Brandon Garrett DATE: November 16, 2007

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Morning Glory Estates
EH Administration CZ #07059 UP #128B

The Lincoln-Lancaster County Health Department has reviewed the change of zone and use permit applications and does not object to the proposed changes.

Status of Review: **Active**

Reviewed By **Lincoln Police Department** **ANY**

Comments:

Status of Review: Active

Reviewed By Planning Department BRANDON GARRETT

Comments:

Status of Review: Routed

Reviewed By Planning Department COUNTER

Comments:

Status of Review: Complete

Reviewed By Planning Department RAY HILL

Comments:

Status of Review: Active

Reviewed By Public Works - Development Services ANY

Comments:

Status of Review: Active

Reviewed By Public Works - Long Range Planning ANY

Comments:

"Sgt. Don Scheinost" <lpd798@CJIS.LINCOLN.NE.GOV>

11/12/2007 09:00 AM

To Brandon Garrett <BGarrett@ci.lincoln.ne.us>

cc

bcc

Subject Morning Glory Estates

Mr. Garrett,

The Lincoln Police Department does not object to the Morning Glory Estates, CZ07059.

Sergeant Don Scheinost, #798
Lincoln Police Department
Management Services
402.441.7215
mail to: lpd798@cjis.lincoln.ne.gov

Memorandum

To:	Brandon Garrett, Planning Department
From:	Chad Blahak, Public Works and Utilities Randy Hoskins, Public Works and Utilities
Subject:	Morning Glory cz07059
Date:	December 10, 2007
cc:	

Engineering Services has reviewed the change of zone and amended use permit for the Morning Glory Estates, loeated on the northeast corner of 84th and Holdrege, and has the following comments:

1 The traffic study references a future 250' west bound right turn lane in Holdrege Street. The turn lane and required ROW need to be shown on the plans.

2 Information needs to be provided describing how the additional lots in the southwest corner of the development are to be provided water and sanitary sewer service.

3 It should be noted that numerous amendments have increased the intensity of the commercial component of the Morning Glory Estates development since its original approval. With this most recent proposed change of zone and land use the daily site trips will have increased approximately 26% from the original approved project according to the submitted traffic study and subsequent land use revisions. The location of 86th Street in relation to 84th Street was approved based on the idea that the land uses did not generate enough traffic to warrant a traffic signal. A traffic signal at this location would not be supported by Public Works due to the proximity of 86th to 84th Street (less than 700' spacing). The site trips shown for the proposed amendment (assuming the study reflects full build out) plus existing traffic indicate volumes that appear to be close to meeting the peak hour warrant. If traffic volumes and/or crash rates increase to a level that would warrant a signal, Public Works would require the developer to construct a median to limit access to left in right out only. A note needs to be added to the site plan acknowledging this requirement and an escrow or some other method of securing the funding for the construction needs to be obtained from the developer.

OLSSON
ASSOCIATES

November 7, 2007

Mr. Marvin S. Krout, Director
Lincoln Lancaster Planning Department
County-City Building
555 South 10th Street, Suite 213
Lincoln, NE 68508

Re: Morning Glory Estates
Amendment to Use Permit # 128 and Change Of Zone
OA Project No. 007-1082

Dear Mr. Krout,

On behalf of Holdrege Investors LLC, Olsson Associates is requesting an "Amendment to the Use Permit" and a "Change of Zone" to change 3.63 acres from O-3 to B-2 and to change 1.21 Acres from B-2 to O-3.

We are requesting this Amendment and Change of Zone to locate a 4 story hotel on this site along with retail shops and restaurants. The hotel, retail and restaurant space will replace a 68,600 SF, 3 story (45' high) office space that was previously approved. In total, this new plan reduces square footage by 38,650 SF. The trip generation of these new uses was reviewed and a technical memorandum is being submitted to outline the traffic impacts.

The Site Plan shows shared parking between the Hotel Lot 17 and adjacent Retail / Restaurant parking in Outlots "B" & "D". We are requesting that these two areas be allowed to utilize non-concurrent parking, since the Hotel's main stall use is at night and the Retail / Restaurant main stall use is during the day.

We are formally requesting a waiver. The waiver is to Title 27, 27.31.09 (a) in order to increase the B-2 height restriction from 40' to 45' on Lot 17.

In addition to the above mentioned changes, you will notice that the Land Use table has been updated along with the revision or addition of various General Notes.

017

1111 Lincoln Mall, Suite 111
P.O. Box 84608
Lincoln, NE 68501-4608
TEL 402.474.6311
FAX 402.474.5160
www.oaconsulting.com

Enclosed please find the following:

1. Site Plan, Sheet 1; 21 copies
2. City of Lincoln Zoning Application; "Use Permit; Amendment"
3. City of Lincoln Zoning Application; "Change of Zone"
4. Change of Zone Exhibit
5. Filing fee for "Use Permit & Change of Zone"; $1,480.00
6. Certificate of Ownership
7. Technical Memorandum – Traffic Impacts– Morning Glory Estates Site Plan Revisions; 3 copies

Please give me a call if you have any questions or concerns.

Sincerely,

Don R. Day, PE

cc Don Linscott
Michael J. Rierden

F:\Projects\007-1082\Communications\Corsp\L-MKrout.11.07.07.doc

ITEM NO. 5.1a&b:
CHANGE OF ZONE NO. 07059
USE PERMIT NO. 128b
(p.101 - Cont'd Public Hearing - 12/19/07)

W. Michael Morrow
Terrance A. Poppe
Robert R. Otte
David W. Watermeier
Joel G. Lonowski
Kelly N. Tollefsen
Scott E. Tollefsen
Nicholas M. Froeschl *
Heidi M. Sprague **

* Licensed to practice in Nebraska and Kansas

** Fluent in Spanish

Morrow Poppe,
Otte & Watermeier, P.C.
Attorneys At Law - A Limited Liability Organization

Telephone: (402) 474-1731
Facsimile: (402) 474-5020

LOCATION:
201 North 8th Street, Suite 300
Lincoln, Nebraska 68508

MAILING ADDRESS:
P.O. Box 83439
Lincoln, Nebraska 68501-3439

WEBSITE:
www.morrowpoppelaw.com

SENDER'S EMAIL:
robot@morrowpoppelaw.com

December 19, 2007

Mr. Michael Rierden
645 "M" Street
Suite 200
Lincoln, NE 68508

RECEIVED
DEC 19 2007
LINCOLN ... COUNTY
PLANNING DEPARTMENT

RE: Change of Zone No. 07059
Use Permit No. 128B
Planning Commission – December 19, 2007

Dear Mike:

As you know, I represent a significant group of neighbors residing in the areas to the east and to the south of the property subject to the above-referenced changes requested by the Developer. First, these neighbors appreciate the Developer's willingness to meet and discuss the issues important to the neighborhood. I have reviewed the letter of commitment you submitted to me today on behalf of Hoog Gebouwe East, LLC to enter into a Conditional Zoning Agreement containing certain terms and conditions regarding the use of the property for an extended stay hotel and the conditions pursuant to which that property would be developed.

At this point, trusting in our ability to refine a couple of the issues that remain, the neighbors have asked me to confirm to you their confidence that we can work out any final issues prior to any matter appearing in front of the City Council. Thus, neither I nor my clients will appear at the Planning Commission hearing today, and I believe you can represent to the Planning Commission that their vote in favor of the proposed changes will not draw the objection of the neighbors I represent.

I look forward to working with you as this matter is resolved and understand that the matter will not be scheduled for hearing before the City Council until we have finalized the terms of the Conditional Zoning Agreement. Thank you for your consideration.

Sincerely,

MORROW, POPPE,
OTTE & WATERMEIER, P.C.

Robert R. Otte

By:
Robert R. Otte

RRO/bc
c Morning Glory Estates via email
c Brandon Garrett-Planning Staff via email

SUBMITTED AT PUBLIC HEARING
BEFORE PLANNING COMMISSION : 12/19/07
BY MICHAEL PIERDEN ON BEHALF
OF THE APPLICANT

CHANGE OF ZONE NO. 07059
USE PERMIT NO. 128B

DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT
(North 84th Street and Holdrege Street)

This Development and Conditional Zoning Agreement is hereby made and entered into this day of , 200 , by and between **HOOG GEBOUW EAST LLC**, herein referred to as "Developer", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City".

RECITALS

I.

Developer has petitioned the City for a Change of Zone (No. 07059) from O-3 to [illegible] upon the following described Property generally located at North 84th Street and Holdrege Street. The Property is legally described as: Lot 6, Morning Glory Estates Addition, Block 7, Morning Glory Estate Second Addition and portions of Outlots "A" and "B" and Lot 2, Morning Glory Estates 5th Addition located in the Southwest Quarter of Section 14, Township 10 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska.

II.

The Developer has represented to the City that in consideration of the City re-zoning the Property to B-2 Commercial Distriet and O-3 Commercial District the Developer will enter into an agreement with the City subjecting the Property to restrictions on uses, lighting and signage in order to provide a compatible development with the adjacent residential neighborhood.

III.

The City desires an Agreement, to be assured that the Developer will develop the Property in a manner compatible with the adjacent residential neighborhood should the Property be zoned to B-2 Commercial District and O-3 Commercial District.

NOW THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. The City hereby agrees to grant Developer's petition to change the zoning map from O-3 Office to B-2 Commercial District and B-2 Commercial District to O-3 Office on the Property set forth above.

2. In consideration for the City re-zoning the Property to B-2 Commercial District and O-3 Office District the Developer agrees that the development of the Property shall be subject to the following restrictions.

a. Developer agrees that the hotel proposed for the east end of the subject property would be what is commonly referred to as an extended stay hotel such as a Staybridge or Hawthorn. Each of the rooms would have fully equipped kitchens (refrigerator, microwave, stove, sink, silverware, cookware, etc.) in each room and a working desk with chair. The hotel would have no more than 85 rooms and shall have available exercise room and guest laundry facilities and fax/copy/printing services. The room type/mix shall be similar to that as shown on Exhibit "A"; and the selected hotel chain shall be considered a mid-range or up-scale chain of extended stay hotels. No outdoor pool shall be allowed with the hotel. No windows shall be allowed on the east side of the hotel. The Developer agrees to construct an earthen berm 4-6 feet high on the east side of the hotel and hotel parking lot. Said berm shall contain landscaping sufficient enough to provide 100% screen no more than five years after installation of the landscaping materials.

b. Developer shall plant trees on the individual lots which abut the east right-of-way line of North 86th Street from Delphineum Street to Holdrege Street. Developer shall provide a plan to the abutting residential properties for these planning materials prior to the issuance of the hotel building permit. Future maintenance of said trees and/or landscaping will be the responsibility of the individual lot owner.

c. The Developer agrees that all exterior lighting shall utilize full cut off fixtures and be mounted level. Lighting shall be similar to the Assurity Life Insurance Building located at 48th and Pine Lake Road and shall be designed to minimize or eliminate trespass into the residential neighborhoods.

d. The building shall be oriented generally as shown on Exhibit "B" which is attached hereto and incorporated herein.

e. Developer shall do all things that are commercially reasonable to reduce the first floor elevation of the hotel to be a minimum of five feet below the nearest home finished for floor elevation.

f. Buildings in the proposed Use Permit No. 128 and 128 A shall adhere to the Morning Glory Estates Design Covenants which are filed with the Lancaster County Register of Deeds office and identified as Instrument No. 2004-065241. Developer shall allow neighborhood representatives to review the plans and specifications submitted for building permits to verify proposed development is consistent with the Morning Glory Estates Design Covenants.

g. Developer shall not allow activities or services such as deliveries, garbage service, satellite dish service, outdoor pool, or air-conditioner

condensers or heat pump exchanges on the east side of the hotel building or parking lot. Further, the east side of the building shall have limited, if any, signage or lighting. All signage for the hotel shall be attached to the side of the hotel except that the hotel shall be allowed one ground sign along Holdrege Street. No signage shall be allowed on the east wall of the hotel.

h. Developer shall request and support a left turn in and right turn in/out design for the traffic using the southern most driveway along ~~84th~~ 86th Street serving the property.

i. Developer agrees that the aforementioned conditions would be recorded as part of the plat and restrict the property for at least _____ years. Additionally, the property use shall not be allowed to change if the alternative use would cause the traffic counts to be exceeded.

3. This Agreement shall run with the land and shall be binding upon the parties hereto and their respective successors and assigns.

4. This Agreement, when executed by the parties hereto, shall be recorded by the City in the office of the Register of Deeds of Lancaster County, Nebraska, filing fees to be paid by Developer.

IN WITNESS WHEREOF, the parties herein have executed this Agreement on the day and year set forth above.

HOOG GEBOUIW EAST LLC,
A Nebraska limited liability company,

_____
_____, Managing Member

ATTEST:

CITY OF LINCOLN, NEBRASKA,
a municipal corporation

_____
City Clerk

_____
Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by _____, Managing Member of **HOOG GEBOUW EAST LLC**, a Nebraska limited liability company.

_____
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by Chris Buetler, Mayor of the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation.

_____
Notary Public

Amber Denman

From: jkaplan@hmahotels.com
Sent: Tuesday, December 18, 2007 1:39 PM
To: adenman@greenleafproperties.com
Cc: john@hmahotels.com
Subject: Room Layouts - Candlewood Suites - Olathe, KS
Attachments: 05113-A17.pdf

Don / Walt

John Klimpel asked that I send this file to you.

Here is the breakdown of room types for the Olathe, KS Candlewood Suites property::

38 Studios
28 Double Studios
18 Suites
1 ADA Studio
2 ADA Double Studios
1 ADA Roll-In Shower Studio

If you have any questions or need additional information, please feel free to call me.

Joe Kaplan
HMA Hotels, LLC
636-328-1103

EXHIBIT " A "

"Don & Diane Crouch"
<dcrouch1@neb.rr.com>
11/19/2007 07:50 PM

To <plan@lincoln.ne.gov>
cc
bcc
Subject proposed zoning change

It is my understanding that the developer for property located between 84th and 86th streets north of Holdrege has requested a zoning change from Office – 3 to Business -2 so that he might construct a large 4 story motel.

I know that the atmosphere is currently business above all with city planners and with the the city council. I do understand the wish to promote business development.

I support business development when considered in the context of current zoning which in a sense is a promise concerning land use.

In this case I believe it is a matter of fairness and common sense. The developer was aware of the zoning and uses before purchasing the property. Those of us who built homes in this neighborhood in the past 3 or 4 years did so knowing the land use rules around us.

To simply change the zoning now that we have built is wrong. The developer has many options under current zoning.

A 4 story hotel would be totally out of place in this area.

Please honor the land use that has been set and which we relied upon. Do not allow any zoning changes.

SUBMITTED AT PUBLIC HEARING
BEFORE PLANNING COMMISSION: 12/19/07
AS EX PARTE COMMUNICATIONS
IN OPPOSITION

CHANGE OF ZONE NO. 07059
USE PERMIT NO. 128B

Dear Mr. Moline

November 30, 2007

In 2002 my husband and I purchased a site located at 8611 Lavender Circle on which to build our home. Being one of the first to purchase a lot in Morning Glory Estates, we felt safe buying a lot off of 86th Street because we had checked to ensure the adjacent property was zoned for uses we would be comfortable with having in our backyard.

In September of this year we were shocked to learn that a hotel, retail, and drive-thru space were being considered as our new neighbors. This proposal did not come anywhere close to meeting the original zoning criteria and was not what we had envisioned for our children's backyard. With the proposed plan in place, we would not have purchased our original lot.

Below are a few of my many concerns regarding the change in zoning and proposed site plan:

1. Traffic
    a. Holdrege and 86th Street already create a dangerous intersection due to several cars making U-turns to leave Sonic Drive-In. Additional retail and drive-thru services will only compound this existing problem.
    b. Both Sonic and Wendy's have reported approximate car counts between 500 – 600 vehicles per day. It is safe to assume that with the opening of Hy-Vee and Wal-mart, these car counts will increase. An additional increase in businesses of this type will surely increase the dangerousness of this intersection. Possible changes to this intersection may leave people no other choice but to use our neighborhood as a turn around or drive through.

2. Hours of Operation
    a. Many of the proposed businesses for this site allowed by the re-zoning will have increased hours of operation than that of the originally proposed office site. People, traffic, trash, and noise will all increase; degrading the integrity of our quiet community especially on evenings and weekends.
    b. Because retail and drive-thru businesses are open 14-18 hours per day, nighttime and weekend traffic will dramatically increase causing a barrage of unwanted headlights and increased noise.

3. Trash
    a. My neighbors and I often have to pick up trash in our community from local fast food businesses. Once again, additional retail and drive-thru sites would compound this existing problem.

4. Loss of "Buffer Zone"
    a. Both by changing the zoning of this property and approving the proposed plan, the primary function of this property will be destroyed. Our neighborhood will no longer have a separation between commercial and residential property.
    b. With a hotel, retail, and drive-thru business located on this site, we will have a parade of strangers with direct visual access to my home. This raises multiple security concerns for me in regard to my two young children.

5. An Issue of Trust
    a. Our neighborhood already has felt victim to city bureaucracy. We are currently dealing with city street and sidewalk issues, misrepresentation of the rental property built in our neighborhood, and follow-up of promised improvements by the original developer. Because of this I am leery of any developer making "neighborhood promises".
    b. Greenleaf Properties has seemed to behave in an untrustworthy way concerning their proposed development, and I am cautious about their promises. Once the zoning has been changed, I could be faced with the prospect of a low-end motel in my backyard and very little separation between my family and the clientele. Sex Offenders may need to register to live in my neighborhood, but not to stay in the hotel right in my children's backyard.

As you can tell I am adamantly opposed to the change in zoning and site plan proposed by Greenleaf Properties. City Planning Commissions, in all their wisdom, created "buffer zones" between residential and commercial properties with zoning restrictions for many reasons. I am asking you not to ignore these reasons, as well as my own limited perspective on why this proposed zoning change would devastate our quiet, residential neighborhood.

Thank you for your time and consideration,

Danielle Miller

"Kay Rising"
<kr94740@alltel.net>
01/12/2008 11:24 AM

To "city council" <Council@ci.lincoln.ne.us>
cc "Mayor" <Mayor@ci.lincoln.ne.us>
bcc
Subject Morning Glory Estates Rezoning

My concerns is not the rezoning of Morning Glory Estates, but the safety concerns related to the development in the area. With the additional increase of traffic related to the rezoning along with existing development along No. 84th and along Holdrege, I'm concerned with safety. The traffic continues to increase with each development and the attention to the speed limit (50 mph) is not obeyed, especially by the heavy truck traffic.

The City informed me they do not plan to install traffic signals at 84th & Lexington until there is an additional study, which is not schedule. It seems that common sense dictates the signal be in place before the opening of the new HyVee store and construction begins on the proposed motel. Also the safety concern at 84th & Leighton continues to increase. It would also improve safety if the speed limit along 84th would be decreased to 40 mph from Adams St. south.

Of other concern is that no traffic signal is proposed for the 86th & Holdrege intersection, and any such proposal is objected to by the City because of the nearness to 84th St. However the only way the residence of Eagle Crest and Eagle View Subdivisions have access to travel south along 84th St. is to exit onto Holdrege from Eagle Crest Road. This also includes the church, bank, fire station and Sonic Drive-In. Sonic does exit onto Holdrege but is requires a U-turn at 86th St. As Morning Glory Estates grows with it development the people south of Holdrege will have problems accessing Holdrege and this will only compound as development continues to the east. Your help on having signals placed at 84th & Lexington and 86th & Holdrege ASAP will be appreciated.

Kay Rising
8412 Peregrine Ct.
327-2668