

City Council Introduction: **Monday**, February 25, 2008
Public Hearing: **Monday**, March 3, 2008, at **1:30** p.m.

Bill No. 08R-65

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 08007**, requested by Olderbak Enterprises North, for authority to expand a nonconforming use to increase the area where the sale of alcoholic beverages for consumption off the premises is allowed, on property generally located northwest of the intersection of South 48th Street and Meredith Street.

STAFF RECOMMENDATION: Conditional Approval.

ASSOCIATED REQUEST: Change of Zone No. 08003 (08-17)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 02/13/08
Administrative Action: 02/13/08

RECOMMENDATION: Conditional Approval (7-0: Gaylor-Baird, Carroll, Taylor, Cornelius, Esseks, Francis and Moline voting 'yes'; Larson and Sunderman absent).

FINDINGS OF FACT:

1. This request for special permit was heard by the Planning Commission in conjunction with Change of Zone No. 08003 from O-2 Suburban Office District to B-3 Commercial District on one lot (Lot 10).
2. The purpose of this special permit on three lots (Lots 10, 11 and 12) is to expand a nonconforming use to increase the area where the sale of alcoholic beverages for consumption off the premises is allowed.
3. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.10-11, concluding that the approval of this special permit would allow for the reconstruction of a nonconforming use and any adverse impacts on surrounding residents can be mitigated by special lighting and screening requirements. This type of renovation activity is key to maintaining the viability and vitality of the older districts and is supported by the Comprehensive Plan. The staff presentation is found on p.14.
4. The applicant's testimony is found on p.14-15, and the record consists of a petition in support bearing approximately 96 signatures (p.24-28).
5. Testimony in opposition is found on p.15-16, with concerns about traffic and congestion in the alley, light pollution, lack of communication from the applicant about this proposal, snow removal, crime, vandalism, litter and garbage. The record also consists of a letter in opposition from Burch & Associates, Inc., the owner of the adjacent property along the alley between Lowell and Meredith (p.29).
6. The applicant's response to the opposition is found on p.16-17.
7. On February 13, 2008, the Planning Commission agreed with the staff recommendation and voted 7-0 to adopt Resolution No. PC-01095, approving Special Permit No. 08007, with conditions (Larson and Sunderman absent). See p.3-7.
8. On February 13, 2008, the Planning Commission also voted 7-0 to recommend approval of the associated Change of Zone No. 08001.
9. On February 19, 2008, Keith Sackschewsky, the owner of the residential property which would abut the convenience store on the west, submitted an e-mail to the City Clerk requesting that Special Permit No. 08007 be appealed to the City Council (p.2).

FACTSHEET PREPARED BY: Jean L. Preister

DATE: February 20, 2008

REVIEWED BY: _____

DATE: February 20, 2008

REFERENCE NUMBER: FS\CC\2008\SP.08007 Appeal+



Joan E Ross/Notes
02/19/2008 09:30 AM

To Jean L Preister/Notes@Notes
cc ksackschewsky@aol.com
bcc
Subject Fw: petition before city council

Jean,
As we discussed, here is the appeal to City Council of the COZ 08003 and SP 08007. As we agreed, both the zone change and special permit will have public hearing before the City Council on March 3, 2008. The meeting begins at 1:30 p.m.

Mr. Sackschewsky, the Planning Department will send a letter to you confirming the date and time of the public hearing before City Council.

Joan Ross, CMC
City Clerk
402/441-7438
Fax: 402/441-8325

----- Forwarded by Joan E Ross/Notes on 02/19/2008 09:27 AM -----



ksackschewsky@aol.com
02/19/2008 12:19 AM

To jross@ci.lincoln.ne.us
cc
Subject petition before city council

I'm Keith Sackschewsky, I own the property at 4716-18 Meredith, I want to oppose change of zone No. 08003 and special permit No. 08007 before the City Council, I would appreciate being put on future schedule. Thank you Keith Sackschewsky

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**PLANNING COMMISSION FINAL ACTION
NOTIFICATION**

TO : Mayor Chris Beutler
Lincoln City Council

FROM : Jean Preister, Planning 

DATE : February 19, 2008

RE : **Special Permit No. 08007**
(Expansion of nonconforming use - 48th & Meredith Streets)
Resolution No. PC-01095

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, February 13, 2008:

Motion made by Cornelius, seconded by Francis, to approve **Special Permit No. 08007**, with conditions, requested by Olderbak Enterprises North LLC, for authority to expand a nonconforming use to increase the area where the sale of alcoholic beverages for consumption off the premises is allowed, on property located northwest of the intersection of S. 48th Street and Meredith Street.

Motion for conditional approval carried 7-0: Taylor, Esseks, Moline, Francis, Gaylor-Baird, Cornelius and Carroll voting 'yes' (Larson and Sunderman absent).

The Planning Commission's action is final, unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the date of the action by the Planning Commission.

On February 13, 2008, the Planning Commission also voted 7-0 to recommend approval of the associated Change of Zone No. 08003 from O-2 Suburban Office District to B-3 Commercial District.

Please Note: On February 19, 2008, Keith Sackschewsky (the owner of 4716-4718 Meredith Street) requested that the special permit be appealed to the City Council. Therefore, both the change of zone and special permit will be scheduled for public hearing before the City Council on **Monday, March 3, 2008, 1:30 p.m.**

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Chris Fischel, 4001 S. 8th Street, Suite 101, 68502
Olderbak Enterprises North LLC, 2840 S. 74th Street, 68506
Foster Investment LLC, 3500 Frost Court, 68510
Kelly Tollefsen, Attorney, 201 N. 8th Street, Suite 300, 68502
Doug Krogman, Krogman Tile, 4723 Lowell Avenue, 68506
Keith Sackschewsky <ksackschewsky@aol.com>
Burch & Associates, Inc., 8101 S. 15th Street, Suite B, 68512
Mike Dennis, S. 48th Street Neighborhood Assn., 1845 S. 48th Street, 68506
Virginia Loomis Lipham, S 48th Street Neighborhood Assn., 3412 S. 48th Street, 68506

RESOLUTION NO. PC- 01095

SPECIAL PERMIT NO. 08007

1 WHEREAS, Olderbak Enterprises North LLC has submitted an application
2 designated as Special Permit No. 08007 for authority to expand a nonconforming use to
3 increase the area where the sale of alcoholic beverages for consumption off the premises is
4 allowed on property generally located at northwest of the intersection of S. 48th Street and
5 Meredith Street, and legally described as:

6 Lots 10-12, Block 39, College View, Lincoln, Lancaster County,
7 Nebraska; and

8 WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a
9 public hearing on said application; and

10 WHEREAS, the community as a whole, the surrounding neighborhood, and the
11 real property adjacent to the area included within the site plan for this expansion of a non-
12 standard area and sale of alcoholic beverages for consumption off the premises will not be
13 adversely affected by granting such a permit; and

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

18 NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County
19 Planning Commission of Lincoln, Nebraska:

1 That the application of Olderbak Enterprises North LLC, hereinafter referred to
2 as "Permittee", to expand a nonconforming use to increase the area where the sale of alcoholic
3 beverages for consumption off the premises is allowed on property described above be and the
4 same is hereby granted under the provisions of Section 27.63.280 of the Lincoln Municipal
5 Code upon condition that construction of said area be in substantial compliance with said
6 application, the site plan, and the following additional express terms, conditions, and require-
7 ments:

8 1. This approval permits the reconstruction of a nonconforming use, and permits
9 the sale of alcohol for consumption off the premises.

10 2. The City Council must approved the associated request, Change of Zone
11 #08003.

12 3. Upon approval of the special permit by the Planning Commission, the Permittee
13 shall cause to be prepared and submitted to the Planning Department a revised and
14 reproducible final site plan including 5 copies with all required revisions and documents as listed
15 below before receiving building permits:

- 16 a. Add a General Note that states "Signs need not be shown on this site
17 plan, but must to be in compliance with Zoning Ordinance be approved by
18 Building & Safety Department prior to installation".
19
20 b. Add a General Note that states "This approval does not allow an
21 automobile wash facility."
22
23 c. Revise the site plan to show an 8'-tall opaque fence along the west lot
24 line stepping down to 6' in height south of the building and adjacent to the
25 parking stalls near the west property line. The fence shall end at the
26 south end of the parking spaces, and the screening required along the
27 remaining portion of the west lot line south of last parking stall to the
28 south lot line shall be provided by a 100% screen at least three feet in
height consisting of plants.
29
30 d. Add a General Note that states "All canopy lights shall be flush mounted.
Lighting otherwise to comply with applicable Design Standards."

- e. Add a General Note that states "Required screening will be reviewed at the time of building permit and will comply with City of Lincoln Design Standards with one exception. Screening along the west property line to be as shown on the approved site plan".
- f. Add a General Note that states "Parking lot and drive aisles will be reviewed at the time of building permit and will comply with City of Lincoln Design Standards."
- g. Revise the site plan removing the north driveway and showing shared access via the alley.
- h. Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.

4. Before occupying buildings or starting the operation all development and construction must substantially comply with the approved plans.

5. All privately-owned improvements, including landscaping, must be permanently maintained by the Permittee.

6. The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.

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

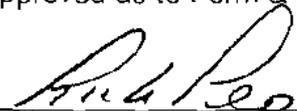
8. The Permittee shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

The foregoing Resolution was approved by the Lincoln City-Lancaster County Planning Commission on this 13 day of February, 2008.

ATTEST:


Chair

Approved as to Form & Legality:


Chief Assistant City Attorney

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 13, 2008 PLANNING COMMISSION MEETING

PROJECT #: Special Permit No. 08007

PROPOSAL: Expand a nonconforming use (a convenience store that sells alcohol for consumption off the premises).

LOCATION: Northwest of the intersection of South 48th and Meredith Streets

LAND AREA: 0.48 acres, more or less

EXISTING ZONING: O-2 and B-3

CONCLUSION: If approved, this request which allows for the reconstruction of a nonconforming use should not adversely affect surrounding residents if properly screened and buffered. This type of renovation activity is key to maintaining the viability and vitality of the older districts and is supported by the Comprehensive Plan.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 10-12, Block 39, College View

EXISTING LAND USE: Lots 11 and 12 are occupied by a convenience store. Lot 10 is occupied by an office building.

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-3
South:	Residential	R-4
East:	Commercial	B-3
West:	Residential	R-4

ASSOCIATED APPLICATIONS:

Change of Zone #08003 from O-2 to B-3.

HISTORY:

March 15, 2004 City Council approved Ordinance #18325, which deleted the provision in 27.63.685 to allow mitigation of the adverse effects of the sale of alcohol if the licensed premise was within 100' of a residential area.

April 11, 1994 City Council approved Ordinance #16593 which created new special permits regulating both on and off-sale alcohol.

September 7, 1979 The zoning on Lot 10 was changed from R-4 to O-2.

May 8, 1979 The zoning on Lots 11 and 12 was changed from I Commercial to B-3 Commercial with the 1979 Zoning Update.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page 16 - The Future Land Use Map of the Comprehensive Plan Land Use Map designates these lots for commercial land uses.

- 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.

Page 36 - Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented. As additional centers are built, the City and developers should be proactive in redevelopment of existing centers to make sure that redevelopment is sensitive to the surrounding neighborhood and happens quickly to reduce vacancies.

Page 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.

-Maintain and encourage retail establishments and businesses that are convenient to, and serve, neighborhood residents, yet are compatible with, but not intrusive upon residential neighborhoods.

-Expansion of existing commercial and industrial uses should not encroach on existing neighborhoods and must be screened from residential areas.

AESTHETIC CONSIDERATIONS:

1. The site is adjacent to an R-4-zoned lot to the west which is developed with a single-family residence. A 60% screen up to 10' in height is required along the west boundary of this site per City of Lincoln Design Standards. A 6'-tall fence will satisfy this requirement. Because the B-3 zoning district only requires a 5' side yard setback along the west lot line of Lot 10, a taller fence would help mitigate the impact of the commercial use adjacent to the residence and provide a buffer to the effects of the additional light and traffic associated with a larger store. An 8' high opaque fence along the west property that steps down to 6' in height south of the building adjacent to the parking stalls near the west property line would be appropriate. The screening required along the remaining portion of the west lot line south of the parking spaces to the south lot line should be provided by plants.

ANALYSIS:

1. This request seeks to expand a nonconforming use as allowed by special permit. The use is nonconforming as to the sale of alcohol, which is now required to be at least 100' away from a residential zoning district. This request is associated with a related change of zone application to change the zoning on the adjacent lot to the west from O-2 to B-3.
2. The applicant is proposing to demolish the existing facilities, then expand the site by building a larger store with additional gas pump islands over three lots instead of two.
3. This special permit can authorize the enlargement, extension, conversion, reconstruction, or structural alteration of a nonconforming use, including expanding the site by adding a lot as proposed with this request.
4. In reviewing the special permit for the expansion of nonconforming uses, the following criteria shall be considered:

A. Effects on adjacent property, traffic, city utility service needs. The property most impacted is the residential lot to the west. Measures to mitigate the impact, such as enhanced screening and lighting restrictions, should be included as part of this special permit. The site plan shows the rear of the building where there is little activity closest to the neighboring lot, along with three parking spaces. The pump islands are centered on the site away from west property line, and the door to the store opens to the southeast so any light and noise from inside the store is directed towards the street, away from the residence.

Traffic circulation in the area will be enhanced by the proposed layout as two existing driveways near the intersection will be removed. Public Works has also reached agreement with the applicant for shared access via the alley so the north driveway onto South 48th Street can also be eliminated.

B. Density of land use zoning for the subject property and adjacent property. While being expanded, the overall density of the development does not significantly increase with this request. The additional lot being added to the site allows for a larger store and more gas pumps, but requires the existing 1,700 square, two-story office building on Lot 10 to be removed. Higher density allows more efficient use of existing infrastructure and is generally desirable.

C. The degree of hardship upon the applicant which would be caused by failure to grant such a permit. If denied, the store cannot be moved onto Lot 10 and expanded as proposed. Without the additional area it appears unlikely the larger store and added gas pumps could be arranged to fit on the site. The applicant could choose not to replace the store, in which case he would lose the expected increase in revenues and the proposed investment would not be made in this area.

5. The site plan must comply with all required screening, landscaping, and all other design standards at the time of building permits with one exception. As noted previously in this report, additional screening along the west lot line is appropriate to mitigate the impact of the proposed use and is recommended as a condition of approval of this request (an 8' tall fence).
6. An expanded number of gas pump islands means the canopy will be larger, that there will be more lights on site, and that the light sources will be moved closer to the residence to the west. Flush mounted canopy lights will direct more of the light onto the pump islands and serve to reduce the impact of any new lighting upon the neighborhood.
7. Renovation of existing businesses in older neighborhoods is an important part of ensuring the older business districts throughout the city remain viable. Care needs to be taken to ensure it is done in a way that includes measures to mitigate the impact of the expanded presence to not harm the surrounding neighborhood. With adequate screening and lighting restrictions, this request allows an existing use to expand and upgrade to be more attractive, thereby serving to improve the area consistent with the goals of Comprehensive Plan.

CONDITIONS OF APPROVAL:

Site Specific:

1. This approval permits the reconstruction of a nonconforming use, and permits the sale of alcohol for consumption off the premises.
2. The City Council approves associated request:
 - 2.1 Change of Zone #08003

General:

3. Upon approval of the special permit by the Planning Commission, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 5 copies with all required revisions and documents as listed below before receiving building permits:
 - 3.1 Add a General Note that states "Signs need not be shown on this site plan, but must to be in compliance with Zoning Ordinance be approved by Building & Safety Department prior to installation".
 - 3.2 Add a General Note that states "This approval does not allow an automobile wash facility."
 - 3.3 Revise the site plan to show an 8'-tall opaque fence along the west lot line stepping down to 6' in height south of the building and adjacent to the parking stalls near the west property line. The fence shall end at the south end of the parking spaces, and

the screening required along the remaining portion of the west lot line south of last parking stall to the south lot line shall be provided by a 100% screen at least three feet in height consisting of plants.

- 3.4 Add a General Note that states "All canopy lights shall be flush mounted. Lighting otherwise to comply with applicable Design Standards."
- 3.5 Add a General Note that states "Required screening will be reviewed at the time of building permit and will comply with City of Lincoln Design Standards with one exception. Screening along the west property line to be as shown on the approved site plan".
- 3.6 Add a General Note that states "Parking lot and drive aisles will be reviewed at the time of building permit and will comply with City of Lincoln Design Standards."
- 3.7 Revise the site plan removing the north driveway and showing shared access via the alley.
- 3.8 Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.

Standard:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying buildings or starting the operation all development and construction is to generally comply with the approved plans.
 - 4.2 All privately-owned improvements, including landscaping, are to be permanently maintained by the owner.
 - 4.3 The site plan accompanying this permit shall generally be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by

Brian Will
441-6362, bwill@lincoln.ne.gov
Planner

January 31, 2008

APPLICANT: Chris Pischel
4001 S. 8th Street, Ste. 101
Lincoln, NE 68502

OWNER: Olderbak Enterprises North LLC
2840 S. 74th Street
Lincoln, NE 68506

**CHANGE OF ZONE NO. 08003
and
SPECIAL PERMIT NO. 08007**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 13, 2008

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

Ex Parte Communications: None.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit.

These applications were removed from the Consent Agenda at the request of a member of the public.

Staff presentation: **Brian Will of Planning staff** advised that this is a request for change of zone and special permit. 48th Street is on the east and Meredith Street is on the south. The change of zone from O-2 to B-3 is for one lot and the special permit covers the entire area, the purpose of which is to expand a nonconforming use relating to the sale of alcohol. The intent of this request is to remove the existing convenience store located on Lots 11 and 12 and build a new facility over all three lots. Staff is recommending approval.

Proponent

1. Chris Pischel, Hutchinson Architects, appeared on behalf of the applicant. This change of zone is key in order for this project to happen. The existing O-2 zoning does not allow for the convenience store use. The special permit is to expand a nonconforming use for the sale of alcohol. The existing store currently sells alcohol – the purpose of this proposal is to carry that use and function from the old store to the new project.

Pischel submitted that this type of renovation is something supported by the Comprehensive Plan. It would be an improvement visually to the neighborhood as well as functionally. Two of the current exits to the site will be closed and the entrance will be moved further to the west away from 48th Street. The access off 48th Street will be combined with the alley and that portion of the alley will be paved.

Pischel understands that a project such as this is going to have an impact on the neighborhood, but he suggested that it will be a positive improvement to the neighborhood and to the city to allow such a business as Kabredlo's to be allowed to put some money back into the community and improve the neighborhood by providing additional conveniences and new products for their customers at this location.

The applicant agreed with the conditions of approval set forth in the staff report. There will be additional gas pumps with increased lighting, but flush mounted lighting will be utilized to minimize light pollution. An 8' privacy fence and planted screening materials will be provided in as many locations as possible to buffer and help mitigate the impact on the neighboring community to the west.

(Editorial Note: The discussions about a reduction to the setback have been eliminated as there is no setback reduction being requested on this application.)

Esseks inquired whether the applicant has had any contact with the neighboring residents. Pischel had not personally but he stated that Mike Olderbak, the owner of Kabredlo's, has been in communication with the neighborhood, informing the residents and speaking with them directly. He is unable to be here today.

2. Kelly Tollefsen, legal counsel for the applicant, testified in support. She submitted that this proposal is consistent with the Comprehensive Plan in that the applicant will be demolishing an older building and structuring a new building that would beautify the neighborhood. Alcohol is already sold on Lots 11 and 12, so this would not increase alcohol sales within the area.

Tollefsen submitted that the 8' privacy fence will protect the neighbor. The alley is also required to be paved. The applicant has also done everything possible to minimize traffic. The petition on file indicates that there is overwhelming community support for this new store at this location. The additional gas pumps will require additional lighting but it will be focused more toward the gas pumps and away from the neighborhood.

Opposition

1. Doug Krogman, Krogman Tile, owner of the building north of the convenience store, testified in opposition. He does not believe the petition in support is valid because it contains signatures of customers of the convenience store as opposed to the surrounding neighbors and businesses. The applicant has not talked with the business owners in the area. The applicant has not personally contacted the people that will be affected the most.

Krogman uses the alley as much as everyone else and he has to have the alley access because of his business. He has asked over and over that the beer and commercial trucks not park in the alley when making deliveries to this convenience store. They do not listen and they have done this for years. He acknowledged that he also uses the alley to unload trucks but not as much. If they pave the alley, it will bring more trucks into that location causing more traffic and more congestion.

Krogman supports the idea of having a new building, but his opposition has a lot to do with the people that own the building and how they run it. He displayed photographs of some rubbish and graffiti on the back of the building that has been there for two years. How long is the new building going to last? He also showed photographs of the garbage dumpster overflowing on the north side of the building. The wind blows all the garbage down the alley.

Krogman submitted a letter from Burch & Associates also in opposition (owner of the property running adjacent along the alley between Lowell and Meredith Streets). Harris Lawn did not know anything about this, but Krogman stated that they are also opposed.

Krogman requested that this proposal be deferred to require that the applicant discuss the plans with the businesses in the area.

2. Keith Sackschewsky, the owner of 4716 and 4718 Meredith, testified in opposition. His residential property abuts the proposed new building. His biggest concern is that Kabredlo's never plows their sidewalks or their lot. They don't pick up trash. The light pollution on his house is already unreal. Kabredlo's does not take care of the property they have now. He already has a problem with the noise. The back side of the building is a known location for kids to deal and do drugs. He has complained to the Police Department. Across the street on Meredith is a home with LOMAR kids in it; there is an apartment up the street with numerous little kids; and there is a rental next to him with little kids. Sooner or later with the cars coming up and down that street, someone is going to get run over. He has a problem at night with cars pulling into the parking lot and leaving their headlights on. He cannot even see to back out of his driveway. No one has contacted him about any of these plans. Why give them more when they don't take care of what they have?

Cornelius asked whether Sackschewsky has made complaints to Public Works about lack of snow removal. Sackschewsky stated that he has complained and the applicant might then shovel the sidewalk the next snow storm, but with the traffic it becomes ice by the time they do anything.

Sackschewsky has talked to all of his neighbors and there is not one in support.

Staff questions

(Editorial Note: While there was discussion about reducing the setback here, Will clarified that there were three Kabredlo's applications on today's agenda. One of them did seek an adjustment to the required yard; however, this is not the one because the applicant is requesting B-3 zoning in this case. This application meets the setback for this district.)

Cornelius sought confirmed that the normal advertising procedures were followed on these applications. Will confirmed. The Planning Department notice procedures include publication, posting of a sign and written notice to all surrounding property owners within 200 feet of the boundaries of the application property.

Response by the Applicant

Tollefsen responded to the business owner who is concerned about upkeep of the current building, suggesting that it would be very easy to put a wooden fence around the garbage containers, and she suggested that it could be added as a condition of approval. **(Editorial Note:** Later on in the discussion, it was clarified that the fence around the garbage containers is already a requirement.)

With respect to the condition of the building, the piping problems and the graffiti, Tollefsen suggested that to be one of the reasons this applicant has undergone the expense to purchase the

lot next door and to hire an architect to put a building up that will deal with these issues and beautify the neighborhood.

With respect to the snow removal, Tollefsen stated that she will visit with the applicant. There are ways to deal with this issue other than denying this request. She does not know that any complaints have been made to the applicant for failure to remove snow.

Tollefsen pointed out that the customers of this convenience store are also members of the local community and that is why they have signed the petition. The neighbors did receive written notice. She assured that the applicant will address any concerns with respect to removal of snow. This is a dilapidated building and that is why this application has been brought forward.

Francis inquired whether there is an individual manager for each store. Tollefsen advised that there is not. There are several different managers throughout the city managing several different stores. Francis suggested that perhaps the manager is not aware that the snow is not being removed. Tollefsen agreed that could be possible. On average, the managers try to spend 10-15 hours per store per location per week. She again assured that they will deal with the snow issue.

Tollefsen also submitted that paving the alley is going to assist. She agreed that it does get used by residents and the businesses, but the paving will help that. If the alley is being blocked by this applicant, Tollefsen assured that they will attempt to deal with that situation as well.

Gaylor-Baird inquired about the lighting and whether they are currently using the flush mounted lighting at this location. Tollefsen indicated that they are not currently using such lighting and that it would be an improvement over the current situation. She also pointed out that the 8' opaque fence will abut the residential property so that it should not be a situation where headlights would be coming through the fence.

Will confirmed that fencing around the garbage container is already a requirement and does not require an additional condition of approval.

CHANGE OF ZONE NO. 08003

ACTION BY PLANNING COMMISSION:

February 13, 2008

Taylor moved approval, seconded by Francis.

Taylor understands the neighbors' concerns and he thinks it would be good business for the applicant to take care of those issues. He is convinced that it will be helpful to have the paving and fencing in place.

Motion for approval carried 7-0: Esseks, Francis, Taylor, Cornelius, Moline, Gaylor-Baird and Carroll voting 'yes'; Sunderman and Larson absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 08007

ACTION BY PLANNING COMMISSION:

February 13, 2008

Cornelius moved to approve the staff recommendation of conditional approval, seconded by Francis.

Cornelius pointed out that what the Commission has heard as objections, again, relate primarily to code enforcement, and he encouraged the opposition to take their complaints about snow removal to Public Works. There are other bodies that can address these enforcement problems.

Motion for conditional approval carried 7-0: Esseks, Francis, Taylor, Cornelius, Moline, Gaylor-Baird and Carroll voting 'yes'; Sunderman and Larson absent. This is final action, unless appealed to the City Council within 14 days.



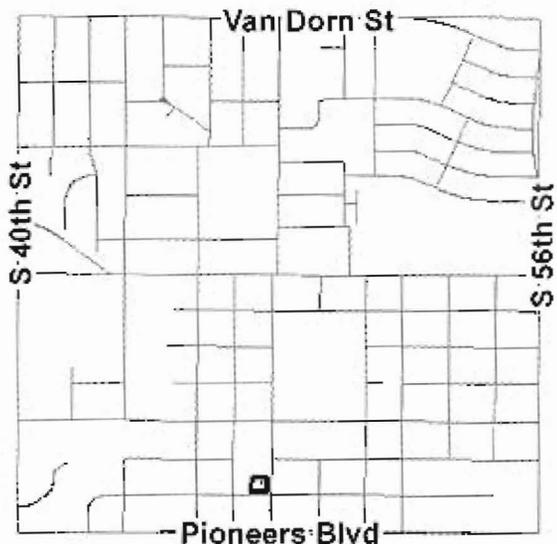
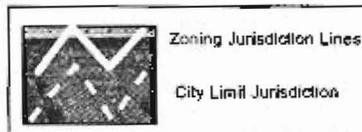
**Special Permit #08007
S 48th & Meredith St**

2007 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-6 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 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. 5 T09N R07E



SPO8007

HUTCHINSON
ARCHITECTS

4001 So. 8th Street Suite 101 Lincoln, NE 68502

Phone: (402) 421-1502 Fax: (402) 421-7835

January 16, 2008

Planning Commission
555 South 10th Street, Room 213
Lincoln, NE 68508

SUBJECT: Purpose of Special Permit Application RE: 4730 Meredith Street

Dear Planning Commission & City Council Members,

On behalf of Kabredlo's Inc., a longstanding and well loved local business, Hutchinson Architects, P.C. is requesting consideration & acceptance of a Special Permit, 27.63.280, for the expansion of an existing nonconforming use. Kabredlo's, a local Convenience Store Company, is seeking to demolish its existing facility at 4135 S 48th Street and re-construct a new, more updated & visually pleasing store on the adjacent to the West, at 4730 Meredith Street. The existing site will then be used for new gasoline pumps & canopy. Their current store which is in a B-3 zone & abuts a residential district already has a Special Permit for the sale of Alcoholic Beverages & all we are asking for is approval of a new Special Permit to expand the existing nonconforming use for the re-construction of their new store on the adjacent lot. All operations and business conducted on the new site, in the new store, will be exactly the same as present and we are not asking to be allowed to do anything new, as the sale of alcohol exists currently. We simply want to extend or switch this existing nonconforming use to the adjacent lot and the proposed new building and in doing so, relinquish the existing Special permit for the current facility, as there will no longer be a building on that property. In conjunction with this request we're also filing for a change of zone for this adjacent lot, as it is presently zoned O-2, & is the only O zoned lot in the area. We're anxious that you'll agree to our request and allow us and a beloved local business to the chance to continue to develop and improve Lincoln.

Respectfully,
HUTCHINSON ARCHITECTS, P.C.



James R. Hutchinson, AIA
JRS:clp

021

**Review Comments for
Application #: SP08007
KABREDLO'S - 48TH & MEREDETH**

Comments as of: Thursday, January 31, 2008

Status of Review: Approved

01/28/2008 11:54:03 AM

Reviewed By Health Department

ANY

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

TO: Brian Will DATE: January 28, 2008

DEPARTMENT: Planning FROM: Chris Schroeder
ATTENTION: DEPARTMENT: Health

CARBONS TO: BEH File SUBJECT: 3 Kabredlo's Locations
BEH Administration SP #08006, SP #08007
SP #08008

The Lincoln-Lancaster County Health Department has reviewed the special permit applications and does not object to the approval of these applications.

Status of Review: Active

Reviewed By Lincoln Police Department

ANY

Comments:

Status of Review: Active

Reviewed By Planning Department

BRIAN WILL

Comments:

Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

022

Status of Review: Complete

01/24/2008 2:53:49 PM

Reviewed By: Public Works - Development Services

SIETDQ

Comments: Memorandum

□

To: Brian Will, Planning Department
From: Charles W. Baker, Public Works and Utilities
Subject: Kabredlo's Special Permit #08008, #08007 and #08006
Date: January 24, 2008
cc: Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Kabredlo's Special Permit #08008, #08007 and #08006 at 3560 North 48th Street, 4135 South 48th Street, and 600 West "A" Street for Alcohol Special Permits. Public Works has the following comments.

- Public Works has no objections to the Alcohol Sales Special Permits.
- Note that review of these permits with the submitted site plans does not necessarily mean that approval will be without comments or corrections required on the plans submitted through Building and Safety for construction permits.
- Public Works has no comment on the rear yard reduction requested with Special Permit #08006.

Status of Review: Complete

01/29/2008 3:00:16 PM

Reviewed By: Public Works - Development Services

SIETDQ

Comments: I met with Matt Wills and Mike Olderbak this morning on the three Kabredlo's sites. The following is the result of the discussions.

S 48th Site. Both were in agreement to pave the alley and use the alley access in conjunction with their north drive. This will allow for drive in parking stalls at an angle off the alley and allow for better circulation and more separation from the pump stacking and the drive access. The rest of the site plan remains the same.

023

9 48

KABREDLO'S STORE EXPANSION

We, the undersigned of the South 48th Street neighborhood, request that the city allow Kabredlo's, Inc. to demolish its existing facility at 4135 S. 48th and reconstruct a new, more updated and visually pleasing store. By signing this petition we are in support of the required setback and the special permit zoning.

	NAME	ADDRESS	PHONE#	SIGNATURE
1	Steven Stump	4205 So 52nd	424-5867	[Signature]
2	Roni Patterson	4449 S. 48		[Signature]
3	[Signature]	4374 S. 48th		[Signature]
4	Jimi Jimi	4310 meredeth	202 7600	[Signature]
5	Kent Keiser	5035 Linden st.		[Signature]
6	Donnell Turner	3720 S. 46th St		[Signature]
7	Edward y. Maynez III	4143 S 51 st		[Signature]
8	Larry Bemmelman	4902 Bellhaver DR.		[Signature]
9	Cheryl [Signature]	4138 S. 46 th ST		[Signature]
10	JEFF CADWALLADER	4138 S. 46 th #3		[Signature]
11	Brad Urbe	4811 [Signature] dr		[Signature]
12	Darin Shinaut	5450 Linden		[Signature]
13	Mary Jean	5525 E. 2nd Pl		[Signature]
14	Jason Potwin	2710 Dellingen		[Signature]
15	[Signature]	1433 [Signature] Way		[Signature]
16	[Signature]	3001 S O S 1st		[Signature]
17				
18				
19				
20				

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NAME	ADDRESS	PHONE#	SIGNATURE
1 Brent Gloria	4601 madison	960-5887	Brent Gloria
2 Angela Reuling	4100 LaSalle	770-5053	Angela Reuling
3 Tahira Ficke	4931 London Rd	601-3741	Tahira Ficke
4 Amber Smith	3835 ^{SO} 48 th	484 3530	Amber Smith
5 Devin Danke	4620 meredith st.	489-9318	Devin Danke
6 meg wehn	2531 S. Sand		Meg Wehn
7 James Murray	2849 434		James Murray
8 Ryan Gross	511 5054 th		Ryan Gross
9 Rick Johns			Rick Johns
10 Lucas Westphal	2722 535 st		Lucas Westphal
11 Lisa Hartman	4546 Meredith		Lisa Hartman
12 Jason Greis	4615 Meredith		Jason Greis
13 Erin Daniels	3320 FRANKLIN		Erin Daniels
14 Joel Gantner	3515 Prescott		Joel Gantner
15 Joe Moneo	4716 Meredith St.		Joe Moneo
16 Mike Moffitt	5450 Linden St		Mike Moffitt
17 MIKE MOFFITT	5011 LOWELL AVE		Mike Moffitt
18 Ben Kovarik	5120 Pawnee St.	414-7277	Ben Kovarik
19 Kanya Moneo	4716 Meredith	327 5057	Kanya Moneo
20 Colina Hillburt	2955 South St.		Colina Hillburt

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	NAME	ADDRESS	PHONE#	SIGNATURE
1	Mike Freeman	4211 Spruce	4848162	<i>Mike Freeman</i>
2	Robert Alder	5026 Golden Rod	402 310 5165	<i>Robert Alder</i>
3	Charles Prince	3840 S 46th	402 601-8690	<i>Charles Prince</i>
4	Nate DeMont	3836 S 16th	402 617-1370	<i>Nate DeMont</i>
5	Rocky Morrison	4621 Cooper	327 8865	<i>Rocky Morrison</i>
6	Michael Saper	4601 Umballe St.	483-2320	<i>Michael Saper</i>
	Jeniss Lick	4609 Carver #4	601-4620	<i>Jeniss Lick</i>
8	Melissa Schwaderer	4833 S. 45th	613-1007	<i>Melissa Schwaderer</i>
9	Kathryn Westerfield	5127 S. 53rd	202-2450	<i>Kathryn Westerfield</i>
10	Richard Olner	4200 Pioneers Blvd		<i>Richard Olner</i>
11	David Duncan	3509 Allendale	770-1775	<i>David Duncan</i>
12	D. Spencer	5020 Lowell Ave	217-3548	D. Spencer
13	Frazzle Wynne	4750 Stockwell	610-1396	<i>Frazzle Wynne</i>
14	Judith L Novacek	5401 Pioneers Blvd	68506	<i>Judith L Novacek</i>
15	Laura Podd's	5650 Hickory Crest Rd	416-3114	<i>Laura Podd's</i>
16	Chadley Goforth			<i>Chadley Goforth</i>
17	Nick Brown	5007 S. 32nd	540-2691	<i>Nick Brown</i>
18	Janelle Anderson	4711 So 48	261-6244	<i>Janelle Anderson</i>
19	Jane Mummaugh	5103 Lowell	8052432	<i>Jane Mummaugh</i>
20	Margy Morrison	3140 Mayflower	488-7070	<i>Margy Morrison</i>

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	NAME	ADDRESS	PHONE#	SIGNATURE
1	JL Elwell	4121 54th	432-4982	JL Elwell
2	Christine Wietz	2320 S. 24th	304-21095	Christine Wietz
3	Joe Hayden	4421 Meredith	4102-4503577	Joe Hayden
4	T. Hest	5527 S. 31st	4102-960-7541	T. Hest
5	Christina Smith		525-1397	Christina Smith
6	David Miller		211-7755	David Miller
7	Russell Stevenson		432-5038	Russell Stevenson
8	Julie Beerblom		601-1309	Julie Beerblom
9	Corinne Masson	4558 Lowell	601-6477	Corinne Masson
10	Michael Calloway	800 Peach		Michael Calloway
11	Julie Allen	4907 Sherman	309-9383	Julie Allen
12	CHRISTOPHER BERRY	4603 FRESCOTT	483-4086	Christopher Berry
13	Austin BOWEN	4603 prescott	483-4086	Austin Bowen
14	Kristina Saltzman	414 3145		Kristina Saltzman
15	Jeff Jeffers	3861 STEWART	488-3853	Jeff Jeffers
16	JEFF PERRY	4731 Sarnow Dr.	601-4216	Jeff Perry
17	Mike Caffey	5135 Linden St.	483-1783	Mike Caffey
18	Matt Paul	4411 Meredith St	488-7218	Matt Paul
19	TRACY McClough	4549 Meredith st	601-6858	Tracy McClough
20	Erma Day	3840 S 46	601-3375	Erma Day

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	NAME	ADDRESS	PHONE#	SIGNATURE
1	Richard J Simpson Sr.	4432 Touzlan	466-1592	<i>[Signature]</i>
2	Colleen Henley	4615 Meredith #18		<i>[Signature]</i>
3	Nancy Ruse	3405 S. 418th		<i>[Signature]</i>
4	Daren Turek	9620 Lowell Ave.		<i>[Signature]</i>
5	Carrie Magg	3847 Linden	3270168	<i>[Signature]</i>
6	Michelle Hankinson	4435 Pioneers Blvd		<i>[Signature]</i>
7	Danell M. Law	2601 N Eden Dr		<i>[Signature]</i>
8	Judy Hartwig	4921 So 45		<i>[Signature]</i>
9	<i>[Signature]</i>	4643 Calvert St.	617-0117	<i>[Signature]</i>
10	<i>[Signature]</i>	4810 So 47th		
11	Fred Ellis	4537 East Eden Dr.		<i>[Signature]</i>
12	Steve Klinker	3831 So 54th		<i>[Signature]</i>
13	A. Small A. Small			Angela A. Small
14	Jeanette Smith	2800 Culler Ave	401-2548	Jeanette Smith
15	Susan Stibor	4045 Pioneers Blvd		<i>[Signature]</i> 402-714-4114
16	Sheila Peterson	310 S. 25th St.	402-217-5769	<i>[Signature]</i>
17	Joseph Lae	1020 Sumner		601-4549
18	<i>[Signature]</i>	5120 Pawnee		641-7277
19	<i>[Signature]</i>	4611 Linden		488-5708
20	<i>[Signature]</i>	3929 S 48th		570-6255



OPPOSITION: (Submitted at public hearing
before Planning Commission: 2/13/08) CHANGE OF ZONE NO. 08003
SPECIAL PERMIT NO. 08007

BURCH & ASSOCIATES, INC.

Daryl Burch, EA
Mark Burch, EA

8101 S. 15th Street, Suite B
Lincoln, NE 68512

TEL (402) 483-4791
Fax (402) 483-4275

February 11, 2008

Doug Krogman
Krogman Tile

Re: Planning Commission Hearing

To whom it may concern:

Please be advised that we are OPPOSED to any changes to the re-zoning of the Kabredlo's on south 48th Street. Our property runs adjacent to the property along the alley between Lowell and Meredith.

We have had numerous problems with crime, traffic and vandalism due to the increased volume of the existing convenience store. Moving it further back on the former G.A. Youngs property in only going to place more traffic and strain on what used to be a relatively serene neighborhood.

Sincerely,

Daryl Burch

Mark Burch