

Change of Zone 08010

ORDINANCE NO. \_\_\_\_\_

1           AN ORDINANCE amending the Lincoln Zoning District Maps attached to and made a  
 2 part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln  
 3 Municipal Code, by changing the boundaries of the districts established and shown thereon.

4           BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

5           Section 1. That the "Lincoln Zoning District Maps" attached to and made a part of Title  
 6 27 of the Lincoln Municipal Code be and they are hereby amended by changing the boundaries  
 7 of the districts established and shown on said Maps as follows:

8                   A portion of Outlot "C", Hub Hall Heights 1st Addition, located in  
 9 the Southeast Quarter of Section 18, Township 10 North, Range 6  
 10 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska,  
 11 and more particularly described as follows:

12                   Commencing at the southwest corner of said Outlot "C", said point  
 13 being 60.00 feet north of the south line of said Southeast Quarter,  
 14 and 50.00 feet east of the west line of said Southeast Quarter,  
 15 said point being the true point of beginning; thence northerly along  
 16 the west line of said Outlot "C", said line being the east line of  
 17 N.W. 48th Street right-of-way, said line also being 50.00 feet east  
 18 of and parallel with the west line of said Southeast Quarter on an  
 19 assumed bearing of north 00 degrees 14 minutes 31 seconds  
 20 east, a distance of 785.42 feet to a northwest corner of said Outlot  
 21 "C"; thence north 89 degrees 39 minutes 42 seconds east along a  
 22 north line of said Outlot "C", a distance of 59.20 feet to a point;  
 23 thence south 35 degrees 01 minutes 34 seconds east along a  
 24 northeast line of said Outlot "C", a distance of 86.34 feet to a  
 25 point; thence south 48 degrees 50 minutes 27 seconds east along  
 26 a northeast line of said Outlot "C", a distance of 86.71 feet to a  
 27 point; thence south 60 degrees 13 minutes 39 seconds east along  
 28 a northeast line of said Outlot "C", a distance of 66.59 feet to a  
 29 point; thence south 60 degrees 15 minutes 36 seconds east along  
 30 a northeast line of said Outlot "C", a distance of 60.02 feet to a  
 31 point; thence south 60 degrees 14 minutes 21 seconds east along  
 32 a northeast line of said Outlot "C", a distance of 59.97 feet to a  
 33 point; thence south 60 degrees 09 minutes 19 seconds east along  
 34 a northeast line of said Outlot "C", a distance of 60.96 feet to a  
 35 point; thence north 29 degrees 48 minutes 09 seconds east along  
 36 a northwest line of said Outlot "C", a distance of 110.05 feet to a

1 point of intersection with the south line of Whisperwood Street  
2 right-of-way; thence south 60 degrees 12 minutes 22 seconds  
3 east along a northeast line of said Outlot "C", said line being a  
4 southwest line of said right-of-way, a distance of 50.90 feet to a  
5 point; thence south 29 degrees 47 minutes 38 seconds west along  
6 a southeast line of said Outlot "C", a distance of 110.00 feet to a  
7 point; thence south 60 degrees 12 minutes 22 seconds east along  
8 a northeast line of said Outlot "C", a distance of 242.20 feet to a  
9 point; thence south 63 degrees 34 minutes 37 seconds east along  
10 a northeast line of said Outlot "C", a distance of 73.06 feet to a  
11 point; thence south 73 degrees 05 minutes 27 seconds east along  
12 a northeast line of said Outlot "C", a distance of 74.97 feet to a  
13 point; thence south 87 degrees 23 minutes 14 seconds east along  
14 a north line of said Outlot "C", a distance of 119.62 feet to a point  
15 of intersection with the west line of Chitwood right-of-way, said  
16 point being a point of curvature of a non-tangent curve in a  
17 counter clockwise direction having a radius of 630.00 feet, a  
18 central angle of 01 degrees 49 minutes 39 seconds, an arc  
19 distance of 20.09 feet along an east line of said Outlot "C", said  
20 line being a west line of said right-of-way, a tangent length of  
21 10.05 feet, a chord bearing of south 00 degrees 42 minutes 44  
22 seconds west, and a chord distance of 20.09 feet to a point;  
23 thence north 89 degrees 47 minutes 55 seconds east along a  
24 north line of said Outlot "C", said line being a south line of said  
25 right-of-way, a distance of 60.00 feet to a point; thence south 00  
26 degrees 12 minutes 05 seconds east, a distance of 306.48 feet to  
27 a point of intersection with the south line of said Outlot "C", said  
28 point being on the north line of West Holdrege Street right-of-way;  
29 thence south 89 degrees 48 minutes 12 seconds west along a  
30 south line of said Outlot "C", said line being a north line of said  
31 right-of-way, said line being 60.00 feet north of and parallel with  
32 the south line of said Southeast Quarter, a distance of 964.09 feet  
33 to the point of beginning, said tract contains a calculated area of  
34 487,212.72 square feet or 11.18 acres, more or less;

35 be and it hereby is (1) transferred from the R-3 Residential District to the B-2 Planned  
36 Neighborhood Business District and is hereby made a part of the B-2 Planned Neighborhood  
37 Business District; (2) designated as a Planned Unit Development District pursuant to and in  
38 accordance with Chapter 27.60 of the Lincoln Municipal Code entitled "Planned Unit  
39 Development District"; and (3) governed by all the provisions and regulations pertaining to the  
40 B-2 Planned Neighborhood Business District except as modified in Section 2 below.

41 Section 2. The Development Plan submitted by Hub Hall Real Estate ("Permittee")  
42 for the Hub Hall Commercial Center Planned Unit Development, as set forth in Permittee's

1 application and the site plan, be and the same are hereby approved upon condition that  
2 construction and operation of said Planned Unit Development by Permittee and its successors  
3 and assigns be in substantial compliance with said application, the site plan, and the following  
4 express terms and conditions and requirements:

5 1. This approval permits up to 70,000 square feet of commercial floor area with a  
6 total daily trip count not to exceed 4,400.

7 2. This approval modifies the requirement in Lincoln Municipal Code § 27.60.030  
8 that the development plan contain all of the information required of a preliminary plat to allow  
9 the details typically shown on a preliminary plat to be approved by administrative amendment.

10 3. Final plats within the area of this Hub Hall Commercial Center Planned Unit  
11 Development must be approved by the City.

12 If any final plat on all or a portion of the approved planned unit development is  
13 submitted five (5) years or more after the approval of the planned unit development , the city  
14 may require that a new development plan be submitted, pursuant to all the provisions of section  
15 26.31.015. A new development plan may be required if the subdivision ordinance, the design  
16 standards, or the required improvements have been amended by the city; and as a result, the  
17 development plan for the planned unit development as originally approved does not comply with  
18 the amended rules and regulations.

19 4. Before the approval of a final plat, the public streets, private roadway  
20 improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities,  
21 land preparation and grading, sediment and erosions control measures, storm water  
22 detention/retention facilities, drainageway improvements, street lights, landscaping screens,  
23 street trees, temporary turnaround and barricades, and street name signs, must be completed  
24 or provisions (bond, escrow or security agreement) to guarantee completion must be approved  
25 by the City Law Department. The improvements must be completed in conformance with  
26 adopted design standards and within the time period specified in the Land Subdivision

1 Ordinance. A cash contribution to the City in lieu of a bond, escrow, or security agreement may  
2 be furnished for sidewalks and street trees along major streets that have not been improved to  
3 an urban cross section.

4 5. Before a final plat is approved Permittee as Subdivider must sign a final plat  
5 subdivision agreement that binds the Subdivider and Subdivider's successors and assigns:

6 A. To complete the street paving of public streets, and temporary  
7 turnarounds and barricades located at the temporary dead-end of the  
8 streets shown on the final plat within two (2) years following the approval  
9 of the final plat.

10 B. To complete the paving of private roadways, and temporary turnarounds  
11 and barricades located at the temporary dead-end of the private  
12 roadways shown on the final plat within two (2) years following the  
13 approval of this final plat.

14 C. To complete the installation of sidewalks along both sides of the public  
15 streets and private roadways, on the north side of W. Holdrege St. and  
16 the east side of NW 48<sup>th</sup> St. as shown on the final plat within four (4)  
17 years following the approval of the final plat.

18 D. To complete the public water distribution system to serve this plat within  
19 two (2) years following the approval of the final plat.

20 E. To complete the public wastewater collection system to serve this plat  
21 within two (2) years following the approval of the final plat.

22 F. To complete the enclosed public drainage facilities shown on the  
23 approved drainage study to serve this plat within two (2) years following  
24 the approval of the final plat.

25 G. To complete the enclosed private drainage facilities shown on the  
26 approved drainage study to serve this plat within two (2) years following  
27 the approval of the final plat.

28 H. To complete land preparation including storm water detention/retention  
29 facilities and open drainageway improvements to serve this plat prior to  
30 the installation of utilities and improvements but not more than two (2)  
31 years following the approval of the final plat

32 I. To complete the installation of public street lights along streets within this  
33 plat within two (2) years following the approval of the final plat.

34 J. To complete the installation of private street lights along private roadways  
35 within this plat within two (2) years following the approval of the final plat.

- 1 K. To complete the planting of the street trees along both sides of the public  
2 streets and private roadways, on the north side of W. Holdrege St. and  
3 the east side of NW 48<sup>th</sup> St. within this plat within four (4) years following  
4 the approval of the final plat.
- 5 L. To complete the planting of the landscape screen within this plat within  
6 two (2) years following the approval of the final plat.
- 7 M. To complete the installation of the street name signs within two (2) years  
8 following the approval of the final plat.  
9
- 10 N. To complete the installation of the permanent markers prior to  
11 construction on or conveyance of any lot in the plat.
- 12 O. To complete any other public or private improvement or facility required  
13 by Chapter 26.23 (Development Standards) of the Land Subdivision  
14 Ordinance in a timely manner which inadvertently may have been omitted  
15 from the above list of required improvements.
- 16 P. To submit to the Director of Public Works a plan showing proposed  
17 measures to control sedimentation and erosion and the proposed method  
18 to temporarily stabilize all graded land for approval.
- 19 Q. To comply with the provisions of the Land Preparation and Grading  
20 requirements of the Land Subdivision Ordinance.
- 21 R. To complete the public and private improvements shown on the Planned  
22 Unit Development.
- 23 S. To keep taxes and special assessments on the outlots from becoming  
24 delinquent.
- 25 T. To maintain the outlots and private improvements in a condition as near  
26 as practical to the original construction on a permanent and continuous  
27 basis.
- 28 U. To maintain the street trees along the private roadways and landscape  
29 screens on a permanent and continuous basis.
- 30 V. To maintain and supervise the private facilities which have common use  
31 or benefit in a condition as near as practical to the original construction on  
32 a permanent and continuous basis, and to recognize that there may be  
33 additional maintenance issues or costs associated with providing for the  
34 proper functioning of storm water detention/retention facilities as they  
35 were designed and constructed within the development and that these  
36 are the responsibility of the land owner.
- 37 W. To retain ownership of and the right of entry to the outlots in order to  
38 perform the above-described maintenance of the outlots and private  
39 improvements on a permanent and continuous basis. However,  
40 Subdivider may be relieved and discharged of such maintenance

1 obligations upon creating in writing a permanent and continuous  
2 association of property owners who would be responsible for said  
3 permanent and continuous maintenance subject to the following  
4 conditions:

5 (1) Owner shall not be relieved of Subdivider's maintenance  
6 obligation for each specific private improvement until a register  
7 professional engineer or nurseryman who supervised the  
8 installation of said private improvement has certified to the City  
9 that the improvement has been installed in accordance with  
10 approved plans.

11 (2) The maintenance agreements are incorporated into covenants  
12 and restrictions in deeds to the subdivided property and the  
13 documents creating the association and the restrictive covenants  
14 have been reviewed and approved by the City Attorney and filed  
15 of record with the Register of Deeds.

16 X. To submit to the lot buyers a copy of the soil analysis.

17 Y. To relinquish the right of direct vehicular access to N.W. 48<sup>th</sup> St. and from  
18 Lot 1, Block 2 and Lot 1, Block 3 to W. Holdrege St.

19 Z. To inform all prospective purchasers and users that the land is located  
20 within the Airport Environs Noise District, that the land is subject to an  
21 avigation and noise easement granted to Lincoln Airport Authority, and  
22 that the land is potentially subject to aircraft noise levels which may affect  
23 users of the property and interfere with its use.

24 6. The Permittee shall cause to be prepared and submitted to the Planning  
25 Department a revised and reproducible final site plan including 5 copies with all required  
26 revisions and documents as listed below before a final plat is approved:

27 A. Revise the site plan as follows:

28 i. Delete Notes 3 & 13. They are not necessary.

29 ii. Add the following notes:

30 (1) "Street trees to be reviewed at time of final plat and  
31 assigned by Parks and Recreation."  
32

33 (2) "Site layout is conceptual. All information for a typically  
34 required preliminary plat may be required to be submitted  
35 including street and lot layout, street centerline profiles,  
36 grading plan, drainage study and utility plan to be  
37 approved by administrative amendment prior to final plat  
38 approval, and may result in modifications to the site  
39 layout."  
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- (3) "Final site layout and individual landscape plans for commercial buildings to be submitted at time of building permit."
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- iii. Add to the General Notes, "Signs need not be shown on this site plan, but need to be in compliance with chapter 27.69 of the Lincoln Zoning Ordinance, and must be approved by Building & Safety Department prior to installation"
- 9  
10
- iv. Change the name of N.W. 46<sup>th</sup> St. south of W. Whisperwood St. to NW. Chitwood Lane. Change W. Chitwood Lane to another name.
- 11  
12
- v. Show utility easements as required by LES memo of March 7, 2008.
- 13  
14
- vi. Make corrections to the satisfaction of Public Works and Utilities per their memo of March 13, 2008.
- 15
- vii. Dedicate an additional 6 feet of right-of-way along W. Holdrege St.
- 16  
17
- viii. Change southeast to southwest in the first line of the second paragraph of the legal description.
- 18
- ix. Show the sanitary sewer on the site plan.
- 19
- x. Remove the right-in/right-out access to N.W. 48<sup>th</sup> St.
- 20  
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- xi. Uses of the buildings in the area north of the east/west private roadway shall be restricted to office/retail uses and the buildings shall be a maximum of 12,000 square feet.
- 23  
24
- xii. Amend Note 4 to read, "Sidewalks shall be constructed on both sides of streets and private roadways."
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- xiii. Show sidewalks on the site plan.
- 26  
27
- B. Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the PUD has been recorded.
- 28  
29
- C. A landscape (screen) plan that shows screening along the north boundary approved by the Director of Planning.
- 30  
31
- D. Ornamental street lights for private roadways and pedestrian way easements are approved by L.E.S.
- 32
- E. The construction plans substantially comply with the approved plans.
- 33  
34
- F. Final plats must be approved by the City.

1           7.     Before occupying the dwelling units/buildings all development and construction is to  
2 substantially comply with the approved plans.

3           8.     All privately-owned improvements shall be permanently maintained by the Permittee  
4 or an appropriately established property owners association approved by the City Attorney.

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

8           10.    This ordinance's terms, conditions, and requirements bind and obligate the  
9 Permittee, its successors and assigns.

10          11.    The Permittee shall sign and return the letter of acceptance to the City Clerk within  
11 60 days following the approval of the change of zone, provided, however, said 60-day period may  
12 be extended up to six months by administrative amendment. The clerk shall file a copy of the  
13 ordinance approving the change of zone and the letter of acceptance with the Register of Deeds,  
14 filling fees therefor to be paid in advance by the Permittee.

15          Section 3.    Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall be  
16 posted on the official bulletin board of the City in lieu of and in place of newspaper publication with  
17 notice of passage and such posting to be given by publication one time in the official newspaper by  
18 the City Clerk. This ordinance shall take effect and be in force from and after its passage and  
19 publication as herein and in the City Charter provided.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this ___ day of _____, 2008:  _____ Mayor
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