City Council Introduction: **Monday**, October 6, 2008
Public Hearing: **Monday**, October 13, 2008, at **1:30** p.m. Bill No. 08R-249

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 08038,** requested by Thomas E. Madsen, for authority to expand a nonconforming use on property generally located at N. 48th Street and Dudley Street.

STAFF RECOMMENDATION: Conditional Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 09/10/08
Administrative Action: 09/10/08

RECOMMENDATION: **DENIAL** (7-1: Taylor, Francis, Cornelius, Esseks, Partington, Larson and Carroll voting 'yes'; Sunderman voting 'no'; Gaylor Baird absent).

FINDINGS OF FACT:

1. The purpose of this special permit is for authority to expand a nonconforming use by adding an outdoor café at the bowling alley/restaurant that sells alcoholic beverages for consumption on the premises generally located at North 48th Street and Dudley Street (Madsen's Bowling & Billiards, 4700 Dudley Street).

2. This same special permit was approved by Planning Commission Resolution No. PC-01060 on June 20, 2007, conditioned upon the permittee constructing an 8' fence from the ground up around the perimeter of the deck. The applicant did not file the Letter of Acceptance for that Special Permit No. 07017 and did not appeal the Planning Commission action to the City Council.

3. The staff recommendation approve this special permit, with conditions, is based upon the "Analysis" as set forth on p.8-10, concluding that the special permit generally conforms with the Comprehensive Plan and the expanded area is no closer to a park or residential district than the existing licensed premises. The staff presentation is found on p.12.

4. The applicant was not present.

5. There was no testimony in opposition; however, the record consists of a letter in opposition from the property owner of 4639 Holdrege Street (p.23).

6. The Planning Commission discussion is found on p.13. A motion to approve this special permit, with the added condition to require an 8' fence from the ground up around the perimeter of the deck failed 3-5.

7. On September 10, 2008, the Planning Commission disagreed with the staff recommendation and voted 7-1 to **deny** this special permit, finding that the applicant did not comply with the Planning Commission's previous action on proposal and was not present at the public hearing on September 10, 2008.

8. On September 23, 2008, Thomas Madsen filed a letter appealing the Planning Commission action to the City Council (p.2). The applicant is also indicating that he will agree to construct an 8' fence/wall from the ground up.

FACTSHEET PREPARED BY: Jean L. Preister **DATE**: September 29, 2008

REVIEWED BY:_____ **DATE**: September 29, 2008

REFERENCE NUMBER: FS\CC\2008\SP.08038 Appeal

To The City Clerk, 09-23-2008

My name is Thomas Madsen. I would like to be approved for a permit to allow alcoholic beverages on our existing smoking deck. On Wednesday September 10th, 2008, there was a public hearing on an application for special permit no. 08038 for expansion of a non-conforming use by adding an outdoor café to our smoking deck.

Neither I Thomas Madsen nor a representative of my establishment was able to attend this public hearing. At that point the motion for approval was denied.

I was originally approved for a permit to allow alcoholic beverages on our smoking deck previously, with the amendment that an eight (8') foot fence would be built from the ground up to surround the deck. This permit no. 08038 was to have that wall removed, requesting instead to have the same privileges as other existing establishments in Lincoln.

Examples of these establishments would be neighborhood bars downtown that just have a waist high fence surrounding their smoking and alcohol area.

At this point in this process, I would like to request approval again with the understanding that we will build an eight foot wall from the ground up. When that was passed, I was not aware of a deadline or time frame that these procedures had to be completed by.

Sincerely,

Thomas Madsen

President
Madsen's Bowling and Billiards
Lincoln, NE – 68503
tomsqstix@neb.rr.com
402-730-0261 cell
402-466-8998 fax

FILED
CITY CLERK'S OFFICE
2008 SEP 23 PM 3 24
CITY OF LINCOLN
NEBRASKA

PLANNING COMMISSION FINAL ACTION
NOTIFICATION

TO : Mayor Chris Beutler
Lincoln City Council

FROM : Jean Preister, Planning

DATE : September 11, 2008

RE : **Special Permit No. 08038**
(Outdoor café - Madsens - North 48th & Dudley Streets)
Resolution No. PC-01140 – DENIED

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, September 10, 2008:

> Motion made by Cornelius, seconded by Taylor, to **deny Special Permit No. 08038**, requested by Thomas E. Madsen, for authority to expand a nonconforming use by adding an outdoor café at the bowling alley/restaurant that sells alcoholic beverages for consumption on the premises, on property generally located at N. 48th Street and Dudley Street.
>
> Motion to **deny** carried 7-1: Taylor, Francis, Cornelius, Esseks, Partington, Larson and Carroll voting 'yes'; Sunderman voting 'no'; Gaylor Baird 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.

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Tom Madsen, P.O. Box 30227, 68508
Cherie Krueger, East Campus Community Org., 1115 N. 44th Street, 68503
Dean Phelps, East Campus Community Org , 3837 Apple Street, 68503
Rick Lodes, East Campus, UNL, 107 Mussell Hall, 68583
Conniesykes49@yahoo.com

i:\shared\wp\jlu\2008 cenotice.sp\SP.08038 Denied

DENIED: 9/10/08

RESOLUTION NO. PC-01140

SPECIAL PERMIT NO. 08038

WHEREAS, Thomas E. Madsen has submitted an application designated as Special Permit No. 08038 for authority to expand a nonconforming use by adding an outdoor café at the bowling alley/restaurant that sells alcoholic beverages for consumption on the premises generally located at N. 48th Street and Dudley Street, and legally described as:

> Lots 1, 2, and 3, except the east 60 feet thereof, together with the east half of the vacated alley adjacent thereto; and the south half of vacated Starr Street adjacent thereto; Lots 6 and 7, except the east 60 feet of Lot 6, and except that part of Lots 6 and 7 conveyed to the City of Lincoln, Nebraska, in Deed Book 698, Page 303, but including the vacated alley adjacent to Lots 6 and 7; all of Lots 8, 9, 10, 11, and 12, and the west half of the vacated alley adjacent to Lots 8, 9, 10, 11, and 12; and the south 25 feet of the south half of vacated Starr Street adjacent to Lot 12, all in Block 8, Mount Forest, Lincoln, Lancaster County, Nebraska;

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

WHEREAS, the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this expansion of a non-standard area for an outdoor café at the bowling alley/restaurant that sells alcoholic beverages for consumption on the premises will not be adversely affected by granting such a permit; and

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

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

That the application of Thomas E. Madsen, hereinafter referred to as "Permittee", to expand a nonconforming use to add an outdoor café at the bowling alley/restaurant that sells alcoholic beverages for consumption on the premises on property described above be and the same is hereby granted under the provisions of Section 27.63.280 of the Lincoln Municipal Code upon condition that construction of said area be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves the expansion of a nonconforming use for the sale of alcohol for consumption on the premises.

2. Before allowing the consumption of alcohol on the deck, all development and construction must conform to the approved plans.

3. All privately-owned improvements, including landscaping, are to be permanently maintained by the Permittee.

4. 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.

5. The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee and his successors and assigns.

6. 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.

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

ATTEST:

DENIED by Planning Commission 9/10/08 (7-1: Taylor, Francis, Cornelius, Esseks, Partington, Larson and Carroll voting 'yes'; Sunderman dissenting; Gaylor Baird absent).

Approved as to Form & Legality:

Chief Assistant City Attorney

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for SEPTEMBER 10, 2008 PLANNING COMMISSION MEETING

PROJECT #: Special Permit No. 08038

PROPOSAL: Expand a nonconforming use (for the sale of alcohol) by adding an outdoor café (a bowling alley/restaurant that sells alcohol for consumption on the premises).

LOCATION: N. 48th Street and Dudley Street

LAND AREA: 288 sq. ft. (32' x 9' café area), more or less

EXISTING ZONING: H-2

CONCLUSION: The proposal generally conforms with the Comprehensive Plan and the expanded area is not closer to a park or residential district than the licensed premises already is.

RECOMMENDATION: Conditional Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached.

EXISTING LAND USE: Bowling alley and restaurant.

SURROUNDING LAND USE AND ZONING:

North:	ECCO Park	H-2
South:	Commercial uses	H-2
East:	Commercial uses	H-2
West:	Commercial uses	H-2

HISTORY:

July 18, 2008 Special Permit #07017 was voided for failure of the applicant to file the Letter of Acceptance with the City Clerk.

June 20, 2007 Planning Commission approved Special Permit #07017 with conditions for the same applicant and the same application.

March 15, 2004 City Council deleted the provision in 27.63.680 to allow mitigation of the adverse effects of the sale of alcohol if the licensed premise was within 100' of a residential area, etc.

April 11, 1994 City Council amended the zoning ordinance to require a special permit (27.63.680) to (among other things) regulate the location/separation of establishments selling alcohol from specific uses that could be negatively affected with provisions to reduce the separation. The applicant's sale of alcohol became a nonconforming use.

COMPREHENSIVE PLAN SPECIFICATIONS:

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. 16)

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. (p. 48)

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. (p. 48)

Expansion of existing commercial and industrial uses should not encroach on existing neighborhoods and must be screened from residential areas. (p. 48)

ALTERNATIVE USES: Continue to use the existing deck without alcohol sales thereon.

ANALYSIS:

1. The nonconforming use is the sale of alcohol for consumption on the premises, which currently requires a 100' separation from a daycare, park, church, mental health institution, or residential district. The applicant wishes to utilize the existing deck for the sale of alcohol, which will result in the expansion of the licensed premises for the sale of alcohol (the nonconforming use).

2. The special permit requested by the applicant allows the enlargement, extension, conversion, reconstruction, or structural alteration of a nonconforming use.

3. The proposed site plan would not move the licensed premises any closer to a use that requires the 100' separation, in this case a park or a residential district.

4. The proposed site plan does not comply with the current separation requirement for the sale of alcoholic beverages because it is within 100' of ECCO Park. However, the alcohol sales on this site are currently not subject to the spacing requirement since the sales pre-dated the ordinance. The special permit applied for is to expand the nonconforming use, which in this case is the sale of alcohol for consumption on the premises.

5. In reviewing the special permit for the expansion of nonconforming uses, the following criteria should be considered:
   (a) Effects on adjacent property, traffic, city utility service needs;
   (b) Density of land use zoning for the subject property and adjacent property;

(c) The degree of hardship upon the applicant which would be caused by failure to grant such a permit.

Criterion (a): The effect this proposal would have on adjacent property would be minimal. The outdoor seating area is adjacent to the building, with the bowling alley on the west side and the parking lot on the east side. The deck is already in use for eating and smoking, so the noise will likely be at a similar level. Traffic will not likely increase.

Criterion (b): Since the deck already exists, the overall density of the development of this site is unchanged.

Criterion (c): The hardship to the applicant if the expansion of a nonconforming use is not passed would be the loss in future additional revenue from possible increased alcohol sales in the outdoor area.

6. It would be possible to construct an outdoor seating area for the consumption of alcohol on the proposed site so that it would be in compliance with the 100' spacing requirement, but since the deck already exists, it might not be financially feasible for the owner to do this. Even if the outdoor seating area was constructed 100' from the park, the applicant would still need this special permit to expand a nonconforming use because they would be expanding the licensed premises which is nonconforming.

   An alternative would be to construct the outdoor seating area more than 100' from the park and apply for its own special permit for the sale of alcohol for consumption on the premises rather than a special permit to expand a nonconforming use. This would make the outdoor area a conforming use and the bowling alley would remain as a nonconforming use. In either situation, a special permit would be required.

7. The expansion of the licensed premises would only be approximately 288 sq. ft. The existing deck is approximately 32' x 9' and is adjacent to the building with direct access to the licensed premises via a doorway that opens onto the outdoor seating area.

8. Currently, the area is for the applicant's clientele for sitting, eating, and smoking. Alcoholic beverages are not permitted in the area because it is outside of the licensed premises.

9. The expansion would allow for the business to serve its customers alcohol on the existing deck. The deck is accessed by a door from the licensed premises. The proposal would allow for customers to carry alcoholic beverages from the existing indoor licensed premises to the proposed expansion of the licensed premises on the existing deck.

10. The proposed outdoor licensed premises is on the east side of the building and faces N. 48th Street and commercial uses. Due to the bowling alley and N. 48th Street, it is unlikely that the outdoor sale of alcohol would result in more noise for the neighborhood than the regular traffic. The closest residence to the outdoor seating area is a duplex on the other side of the bowling alley approximately 280' away to the northwest.

11. The applicant proposes to use the deck as it exists today. There are no plans to cover or enclose it at this time. If walls or a roof were to be added, a building permit would be necessary and the Health Department would require minimum openings for air circulation. Advisory comments from the Health Department pertaining to a covered or enclosed outdoor seating area are attached.

12. Special Permit #07017 (same request as Special Permit #08038) was approved by Planning Commission with conditions. At the public hearing, a representative of a nearby property owner requested that an 8' fence from the ground up around the perimeter of the deck be added as a condition. The Planning Commission agreed to add the condition and approved the application. The applicant did not agree with the additional condition of approval, but did not appeal the decision to the City Council in the required 14 days, and did not sign the Letter of Acceptance. The application was voided.

CONDITIONS OF APPROVAL:

Site Specific Conditions:

1. This approval permits the expansion of a nonconforming use (the sale of alcohol for consumption on the premises).

Standard Conditions:

2. The following conditions are applicable to all requests:

    2.1 Before allowing the consumption of alcohol on the deck, all development and construction is to comply with the approved plans.

    2.2 All privately-owned improvements, including landscaping are to be permanently maintained by the owner.

    2.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

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

    2.5 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
Brandon M. Garrett, AICP
Planner
DATE: September 2, 2008

APPLICANT/OWNER: Thomas E. Madsen
P.O. Box 30227
Lincoln, NE 68503
402-730-0261

SPECIAL PERMIT NO. 08038

PUBLIC HEARING BEFORE PLANNING COMMISSION: September 10, 2008

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

Ex Parte Communications: None.

Staff recommendation: Conditional Approval.

Staff presentation: **Brandon Garrett of Planning staff** stated that the Commission had received one letter in opposition. Garrett also explained that this same exact application came before the Planning Commission on June 20, 2007. The Planning Commission approved the permit with a condition that the applicant construct an 8' fence all the way around the outdoor deck. That condition was requested by the representative of a nearby property owner that was in opposition. The applicant did not agree with the fence requirement; however, he did not appeal that decision to the City Council within the 14-day appeal period. After a time when the applicant did not return the Letter of Acceptance of conditional approval, that application was voided.

This is a new application, but basically the same request. Garrett showed a photograph of the deck, which is existing, with direct access through a door into the restaurant known as EJ's Lounge. The deck is separated from the parking lot by the railings and there is a gate with steps to the parking lot for customers to access the restaurant. There is a taller opaque fence on the north side of the deck. The property owner that spoke in opposition is the same property owner in opposition today. The deck is just over 75' from the park. The property line to property line, corner to corner, from the person in opposition is approximately 185'. The building distance to the house in opposition is approximately 300', and from the house to the deck would be about 450'.

Esseks pointed out that the fence required by the Planning Commission last time would begin at ground level and go up 8'. He does not believe it would go that far above the railing of the existing deck if it were from the ground. Garrett concurred. However, the applicant has made it clear that he is not interested in totally enclosing the deck area and that is why he has reapplied.

Francis inquired whether there are any other examples of "beer gardens" that don't have much more fencing. And how are the persons operating the lounge going to see the patrons outside? She does not see any windows. She does not believe they will have good control of the patrons on that deck without some visual opportunities. Garrett believes that the door leading into the building has a double window. He does not know whether there will be staff policing the deck.

The applicant was not present.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: September 10, 2008

Esseks moved to approve the same resolution as adopted in 2007, including the 8' fence from the ground up around the perimeter of the deck, seconded by Cornelius.

Esseks stated that he drove over there this morning and the issue he remembers last time was what happens if the patrons get liquored up and wander over toward the park. The fence would be somewhat of an impediment to that. He saw dozens of cigarette butts so it looks as though patrons currently go over to the park. And it seems like the objection of the property owners who live adjacent to the park, including the family in opposition, has merit, particularly since we do have a provision in the ordinance which says there must be a certain separation between this property and the park or residential uses.

Cornelius agrees with Esseks. Further, this body came up with this resolution once and he does not see that the conditions have changed since then. He thinks it is prudent to make the same recommendation again.

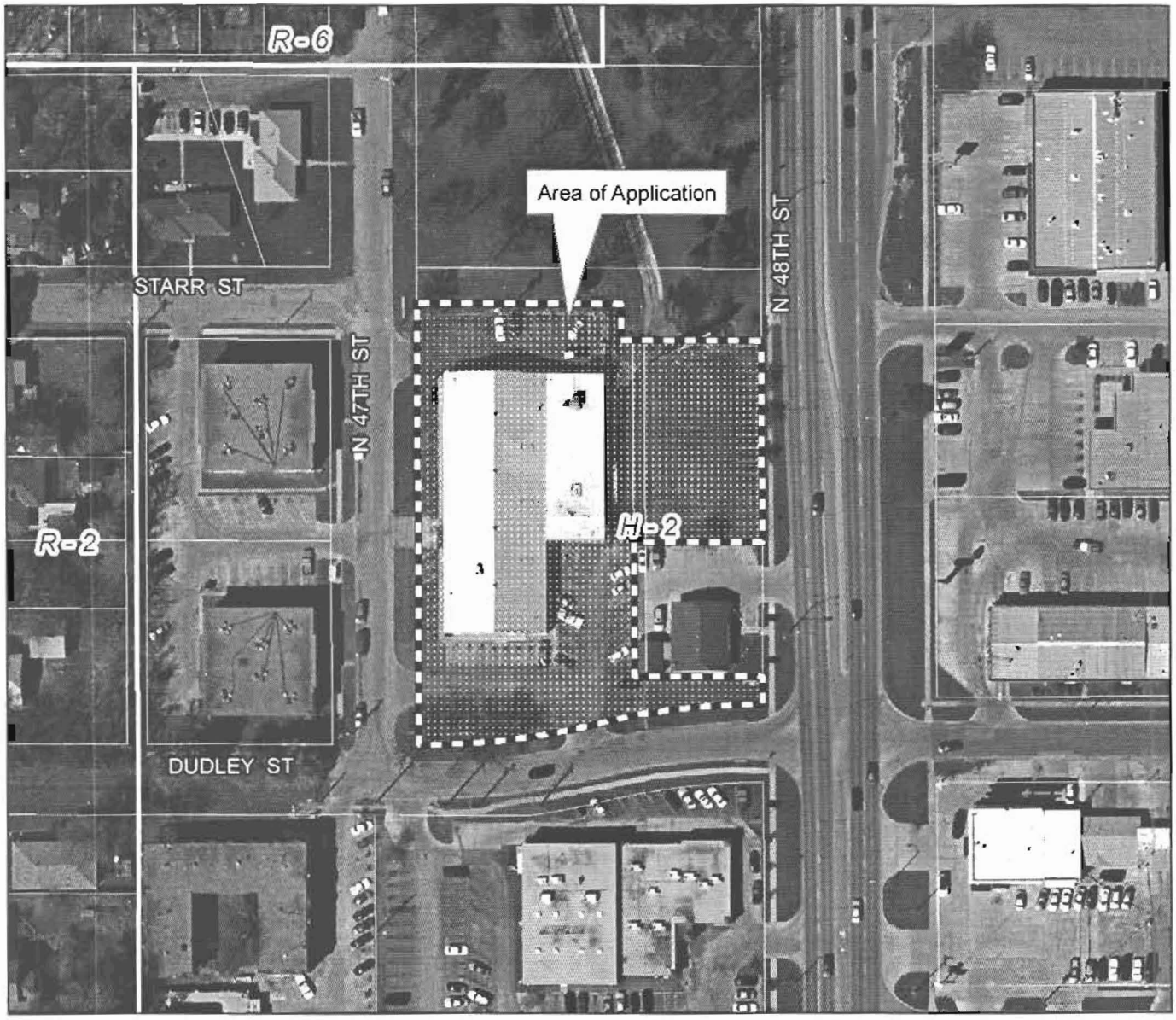
Carroll observed that the Planning Commission required the 8' fence previously, and the applicant has made it known that he does not want to put a fence there. Therefore, Carroll indicated that he is inclined to deny the special permit because the applicant does not want to follow the rules and because the applicant is not here today.

Motion for conditional approval, with amendment to require the 8' fence, failed 3-5: Taylor, Esseks and Sunderman voting ‘yes’; Francis, Cornelius, Partington, Larson and Carroll voting ‘no’; Gaylor Baird absent.

Cornelius moved to deny, seconded by Taylor and carried 7-1: Taylor, Francis, Cornelius, Esseks, Partington, Larson and Carroll voting ‘yes’; Sunderman voting ‘no’; Gaylor Baird absent. This is final action, unless appealed to the City Council within 14 days.

LEGAL DESCRIPTION:

Lots One (1), Two (2), and Three (3), except the East Sixty (60) Feet thereof, ` together with the East Half (E½) of the Vacated Alley adjacent thereto; and the South Half of vacated Starr Street adjacent thereto; Lots Six (6) and Seven (7), except the East Sixty (60) Feet of Lot 6, and except that part of Lots 6 and 7 conveyed to the City of Lincoln, Nebraska, in Deed Book 698, Page 303, but including the vacated alley adjacent to Lots 6 and 7; all of Lots Eight (8), Nine (9), Ten (10), Eleven (11) and Twelve (12), and the West Half (W½) of the vacated alley adjacent to Lots 8, 9, 10, 11 and 12; and the South Twenty-Five (25) Feet of the South Half (S½) vacated Starr Street adjacent to Lot Twelve (12), all in Block Eight (8), Mount Forest, Lincoln, Lancaster County, Nebraska



Special Permit #08038
N 48th & Dudley 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-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

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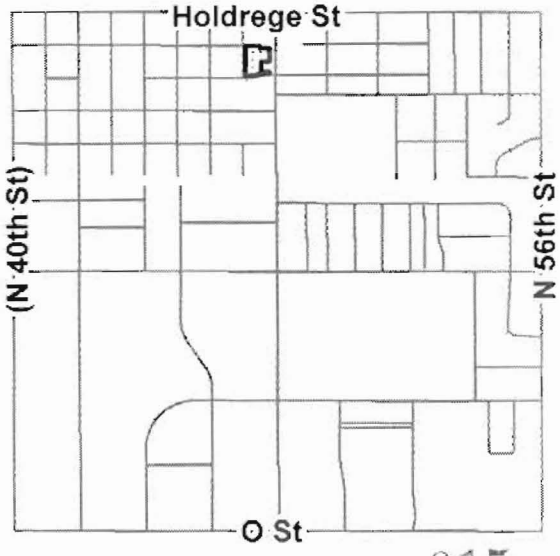
One Square Mile
Sec. 20 T10N R07E

N

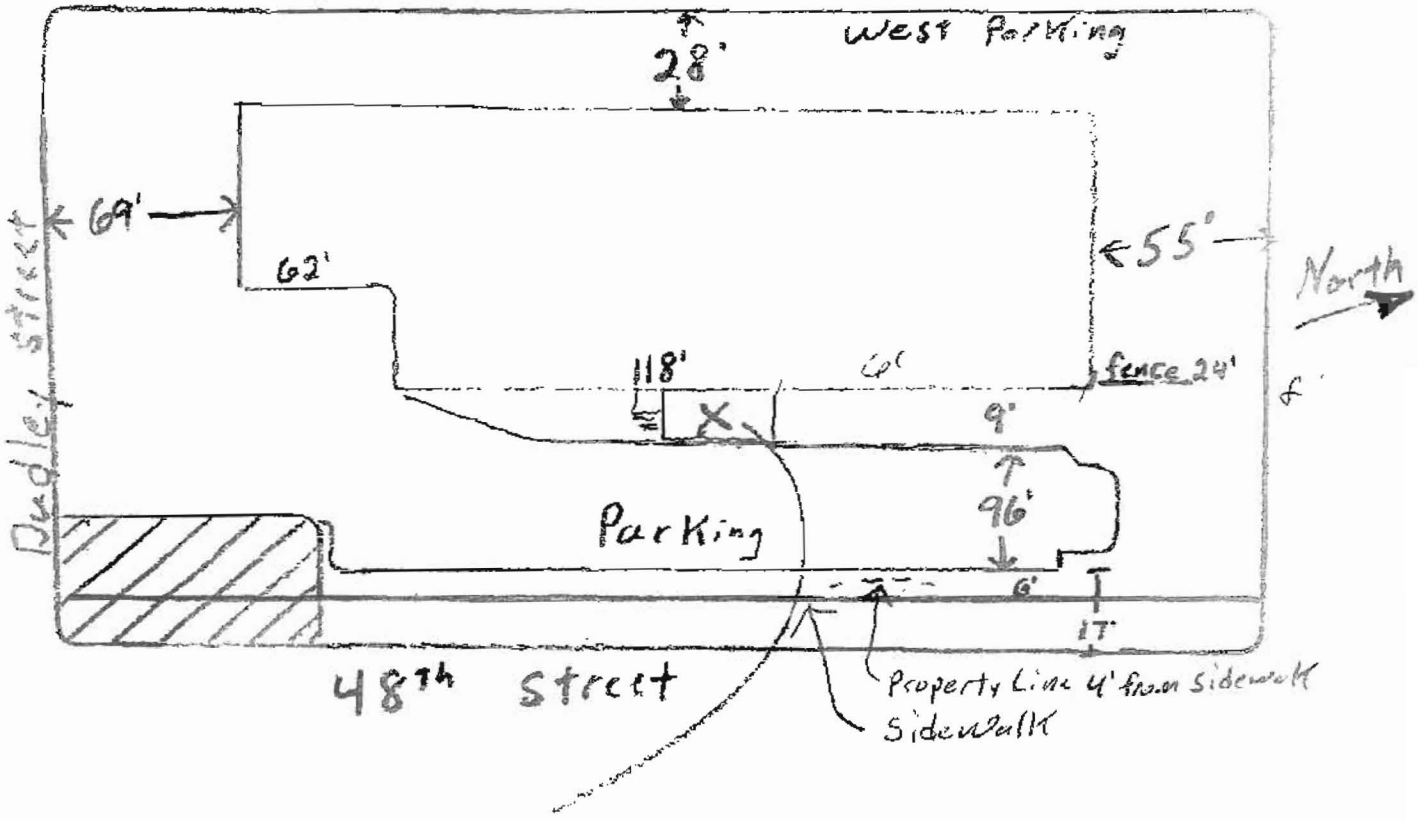
Zoning Jurisdiction Lines

City Limit Jurisdiction



SITE PLAN

Madsen Bowling and Billiards
1316 North 47th Street
Lincoln, NE 68503



32' x 9' sidewalk café

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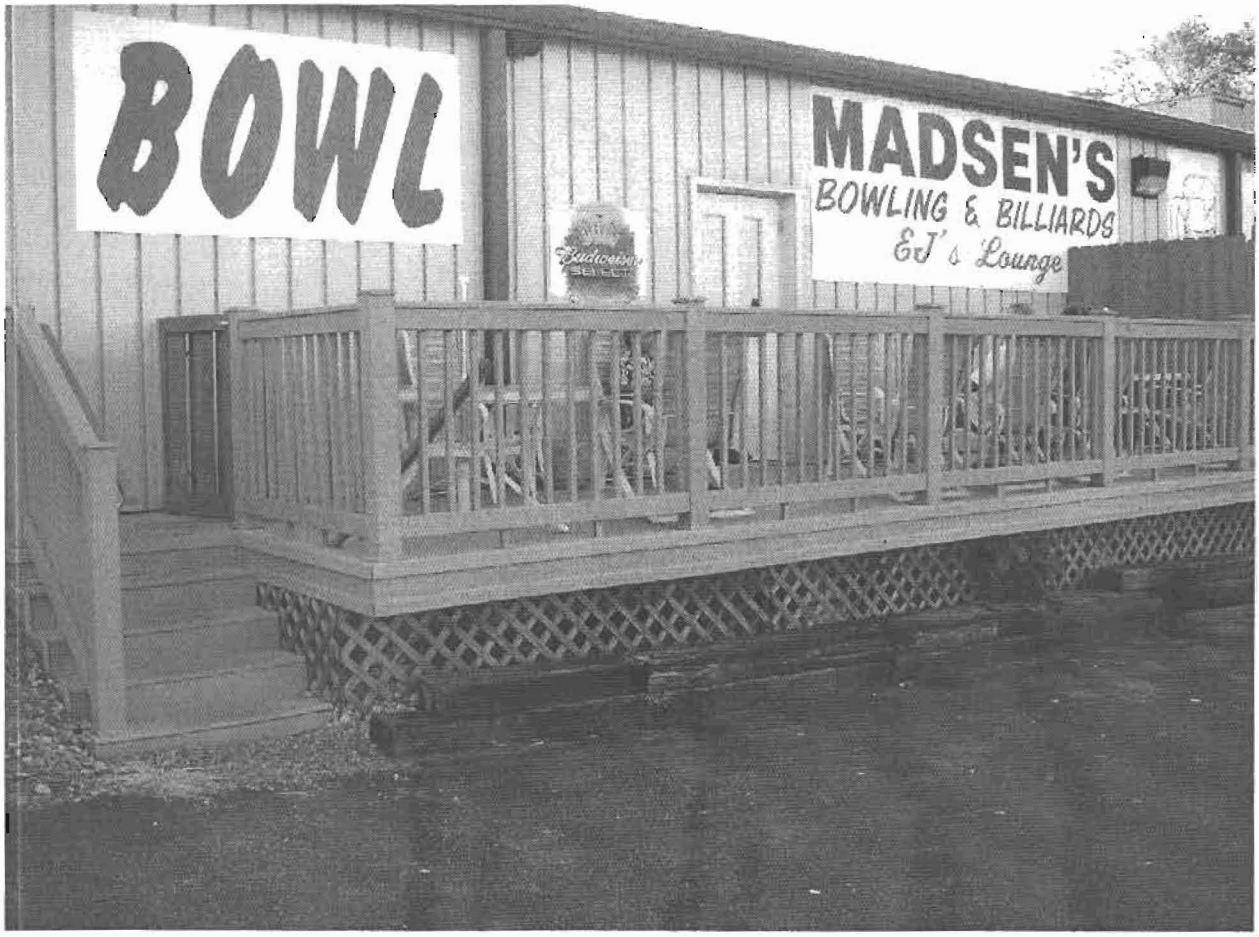
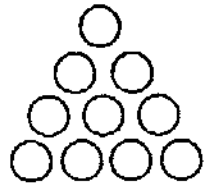
MAY 16 2007


BOWL
MADSEN'S
BOWLING & BILLIARDS
EJ's Lounge

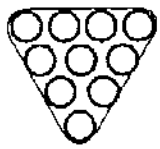
MADSEN'S

with EJ's Lounge
467-3263



Have a Ball-with your friends . .

BOWLING



BILLIARDS

Here's your cue to enjoyment!

8-7-08

MY REASON FOR THIS APPLICATION

TO HAVE THE RIGHT TO SERVE

ALCOHOL BEVERAGES ON MY SMOKING DECK.

I WANT OUR CUSTOMERS TO HAVE THE SAME

CONVENIENCE TO HAVE THEIR DRINKS WITH THEIR SMOKES

JUST AS ALL THE OTHER BARS ARE DOING AT THIS TIME.

THIS WOULD BE A BIG PLUS (AFTER THE SMOKING BAN)

TO HELP MY BUSINESS TO COMPETE WITH OTHER BARS

IN THE AREA. I WILL ALSO INSTALL SIGNS TO

INFORM ALL CUSTOMERS NOT TO LOITER NEXT TO THE

DECK OR THE STEPS TO THE DECK.

THANK YOU

Located 1 Block South of 48th & Holdredge St
On the Web @ ~~www.tomsqstix.com~~ & ~~goforthedeal.com~~
Phone 402-466-6078 Fax 402-466-8998

Review Comments for Application #: SP08038

MADSEN'S EXPANSION OF LIQUOR

Comments as of: Monday, August 25, 2008

Status of Review: Active

Reviewed By: Building & Safety — ANY

Comments:

Status of Review: Complete

Reviewed By: Building & Safety — Terry Kathe

Comments:

Status of Review: FYI — 08/22/2008 3:19:38 PM

Reviewed By: Fire Department — ANY

Comments: We have no issues from the perspective of our department.

Status of Review: Approved — 08/21/2008 12:01:14 PM

Reviewed By: Health Department — ANY

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

TO: Brandon Garrett DATE: August 21, 2008

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Madsons Expansion
EH Administration of a Non-Conforming
Use SP #08038

The Lincoln-Lancaster County Health Department requires approved outdoor smoking areas to provide at least 20% net open space relative to the total square footage of the ceiling and all walls (excluding square feet of walls above 8 feet tall) This open space must permanent and non-closable. The use of any building material in this open space must be subtracted from the available open space. The applicant must also provide detailed floor plan and elevations of the smoking area clearly depicting the provided open space with accompanying calculations to confirm the percentage of provided net open space

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019

Status of Review: Active
Reviewed By: Lincoln Police Department — ANY
Comments:

Status of Review: Approved
Reviewed By: Parks & Recreation — ANY
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: Planning Department — BRANDON GARRETT
Comments:

Status of Review: Complete — 08/18/2008 3:32:26 PM
Reviewed By: Public Works - Development Services — SIETDQ
Comments: Memorandum:

To: Brandon Garrett, Planning Department
From: Charles W. Baker, Public Works and Utilities
Subject: Madsens Expansion of a Non-Conforming Use Special Permit #08038
Date: August 18, 2008
cc: Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Madsens Expansion of a Non-Conforming Use Special Permit #08038 for a sidewalk cafe located at 1316 North 47th Street. The proposed addition is located in the green area on the east side of the existing building and does not affect the use of the parking lot. Public Works has no objections.

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

08/20/2008 08:38 AM

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

cc

bcc

Subject Madsen's Expansion of a Non-conforming Use-SP#08038

Mr. Garrett,

The Lincoln Police Department does not object to the Madsen's expansion of a non-conforming use-SP#08038.

Sergeant Don Scheinost
Management Services
Lincoln Police Department
575 South 10th Street
Lincoln, NE 68508
402.441.7215
mail to: lpd798@cjis.lincoln.ne.gov

Jean L Preister/Notes
09/08/2008 09:05 AM

To
cc
bcc
Subject Fw: Special Permit No. 08038

----- Forwarded by Brandon M Garrett/Notes on 09/08/2008 08:09 AM -----

Connie Sykas
<conniesykes49@yahoo.com>
09/05/2008 04:25 PM
Please respond to <conniesykes49@yahoo.com>

To <bgarrett@lincoln.ne.gov>
cc
Subject Special Permit No. 08038

September 5, 2008

Mr. Garrett, I protested the special permit that Madsen's applied for previously for the same type of outdoor cafe. In that hearing, my attorney, James Zalewski presented my concerns for the neighborhood. There are many low income people, old and poor, that live in the Mt. Forest neighborhood. My family home is located at 47th and Holdrege. The neighborhood has fallen on hard times but families are reclaiming the neighborhood a house at a time. I'm in the process of remodeling and updating the property that I own,
my 83 year old father resides there at the moment. My daughter is planning on moving from New Orleans to Lincoln to change the house back to the original form it was in when my grandparents were alive. Could it also be that the Madsen's want me to incur legal expenses everytime they let their application expire. Is that how this system works?

I don't understand why the Madsen's have such a problem with the fenced in aspect that was granted to them the last time that they applied. Keep the alcohol on the premise, in order to do that, people will have to be fenced in or they can or could leave the premise with alcohol in their hands. There is a city park , (Ecco park) adjacent to the property that is in question. Madsen's can't depend on their wait staff to police people. How do you know someone won't give some kid something to drink, just being funny. People who consume too much alcohol have a tendency to do some crazy things.

I am truly concerned about the noise factor, the freedom of people to come and go from their homes safely, without having to concern themselves with people with open containers of alcohol, children being able to play in their front yards or in the park with out
their parents having to worry. They maybe poor but they deserve their safety. Closing time at Madsen's is not a safe time to try and get in your car if you are parked near 47th and Holdrege. I can't count the number of times someone in my family has almost been hit. LPD can't be expected to keep police officers at the site watching for inebriated customers who drive or wonder into the park to urinate or engaging in indecent exposure.

My plea to the Lincoln City/Lancaster County Planning Commission is please, if you allow an

outdoor beer garden type atmosphere, for the neighborhood's sake, make them fence it in. My property taxes on my home have risen dramatically the past few years and I don't consider their establishment a plus to the value of my property. If anything, a determent.

I apologize for not being able to appear before the commission in person but I am in Florida playing with the hurricanes. My husband and I reside in Amelia Island, Florida but 4639 Holdrege is and has been my birth home and my personal home, since my grandmother's death and in the family for 83 years. My heart is there always.

Thank you for considering my protest of this Special Permit.

Sincerely,

Connie L Sykes
904-491-5514
conniesykes49@yahoo.com