

City Council Introduction: **Monday**, November 3, 2008
Public Hearing: **Monday**, November 10, 2008, at **5:30** p.m.

Bill No. 08R-282

FACTSHEET

TITLE: **USE PERMIT NO. 107C**, an amendment to the **Firethorn Office Park** use permit, requested by National Rural Electric Cooperative Association, to adjust the front yard setback, on property generally two blocks east of the intersection of South 84th Street and Firethorn Lane.

STAFF RECOMMENDATION: Conditional Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 10/22/08
Administrative Action: 10/22/08

RECOMMENDATION: Conditional Approval (8-0: Carroll, Sunderman, Cornelius, Gaylor Baird, Partington, Taylor, Larson, and Esseks voting 'yes'; Francis absent).

FINDINGS OF FACT:

1. This purpose of this request is to adjust the front yard setback from 20' to 6' to allow a ground sign on an existing retaining wall which identifies the office building on the lot, located approximately two blocks east of the intersection of South 84th Street and Firethorn Lane.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.3-4, concluding that without lettering, the sign structure is considered a retaining wall and is permitted in its current location. However, adding the name of the office building makes it a sign which is not allowed in the front yard. Located internal to the Firethorn Office Park and adjacent to a private roadway, surrounding properties are not significantly impacted. Provided the structure meets sight distance requirements, the setback adjustment to allow a sign on an existing retaining wall is appropriate.
3. On October 22, 2008, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On October 22, 2008, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend conditional approval, as set forth in the staff report (Francis absent).

FACTSHEET PREPARED BY: Jean L. Preister

DATE: October 27, 2008

REVIEWED BY: _____

DATE: October 27, 2008

REFERENCE NUMBER: FS\CC\2008\UP.107C

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for October 22, 2008 PLANNING COMMISSION MEETING

PROJECT #: Use Permit No. 107C - Firethorn Office Park

PROPOSAL: Amend the existing use permit by adjusting the front setback from 20' to 6' to allow a ground sign.

LOCATION: Approximately two blocks east of the intersection of South 84th Street and Firethorn Lane.

LAND AREA: Approximately 5.15 acres.

EXISTING ZONING: O-3 Office Park

CONCLUSION: Without lettering, the sign structure is considered a retaining wall and is permitted in its current location. Adding the name of the office building however, makes it a sign which is not allowed in the front yard. Located internal to the Firethorn office park and adjacent to a private roadway, surrounding properties are not significantly impacted. Provided the structure meets sight distance requirements, the setback adjustment to allow a sign on an existing retaining wall is appropriate.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Firethorn 25th Addition.

EXISTING LAND USE: Office

SURROUNDING LAND USE AND ZONING:

North:	Office, Vacant	O-3
South:	Golf Course/Open Space	R-3
East:	Vacant	O-3
West:	Vacant	O-3

HISTORY:

March, 2007 - UP#107B to eliminate floor area restrictions on individual lots was withdrawn by the applicant. AA#07028 approved the same month making minor adjustments to floor area allowed on individual lots was approved instead.

December, 1999 - UP#107A was approved adjusting the front setback to allow monument signs in the front yard for the Lincoln Benefit Life office complex.

April 1998 - UP#107 was approved allowing approximately 460,000 square feet of floor area for office use.

COMPREHENSIVE PLAN SPECIFICATIONS:

- Page 9 - Guiding Principles for the Urban Environment - Overall Form
 - Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods.
 - Preservation and renewal of historic buildings, districts and landscapes is encouraged. Development and redevelopment should respect historical patterns, precedents, and boundaries in towns, cities, and existing neighborhoods.
- Page 17 - Future Land Use Map
 - This land is designated as Commercial in the Land Use Plan.
- Page 35 - General Principles for all Commercial and Industrial Uses
 - Commercial and industrial districts in Lancaster County shall be located: within the City of Lincoln or incorporated villages; outside of saline wetlands, signature habitat areas, native prairie and floodplain areas (except areas of existing commercial and industrial zoning); where urban services and infrastructure are available or planned for in the near term; in sites supported by adequate road capacity - commercial development should be linked to the implementation of the transportation plan; in areas compatible with existing or planned residential uses; in areas accessible by various modes of transportation (i.e. automobile, transit, and pedestrian; so that they enhance entryways or public corridors when developing adjacent to these corridors; in a manner that supports the creation and maintenance of green space as indicated in the environmental resources section of this plan.
- Page 38 - Commercial and Industrial Development Strategy
 - The commercial and industrial development strategy presented below seeks to fulfill two notable objectives: (1) the approach is designed to provide flexibility to the marketplace in siting future commercial and industrial locations; while at the same time (2) offering neighborhoods, present and future home owners, other businesses, and infrastructure providers a level of predictability as to where such employment concentrations might be located. Balancing these two objectives in a meaningful way will require diligence, mutual understanding, and an ongoing planning dialogue.

ANALYSIS:

1. This request seeks to adjust the front setback from 20' to 6' to allow a ground sign on an existing retaining wall which identifies the office building on the lot.

2. The zoning ordinance allows “one internal direction sign not exceeding 50 square feet and eight feet in height located adjacent to and parallel to the private street.” However, this provision does not allow the ground sign in the front yard setback, which in this case is 20’.
3. A building permit for the retaining wall has been approved and the wall has been constructed. Subsequent to that approval, a sign permit was submitted for a 40 square foot sign on a portion of the wall. It was during this review that it was noted that the portion of the structure designed to contain the sign encroached into the front yard 14’ and was not allowed.
4. Without the sign face, the structure is considered a retaining wall and is permitted as built. However, if the structure is used for the purpose of identifying the building, it is considered a sign and must meet all applicable sign requirements, including the 20’ front yard setback.
5. The sign requirements for the O-3 zoning district include a provision that allows the City Council to adjust them in conjunction with a use permit, and allows for such adjustment to be reviewed in the larger context of the overall development.
6. Based upon the information presented, it appears the sign will comply with the applicable site distance requirements. Public Works notes that the sight distance information should be annotated on the site plan to confirm compliance.
7. The location of the proposed sign is internal to the development, is wholly surrounded by other lots also zoned O-3, and is adjacent to a private roadway. If the adjustment is approved, the impact upon surrounding properties and the larger neighborhood is not significant.

This approval adjusts the front yard from 20’ to 6’ to allow a ground sign on Lot 1, Firethorn 25th Addition.

CONDITIONS OF APPROVAL:

Site Specific:

1. The developer shall submit to the Planning Department a revised and reproducible final plot plan including **5** copies with all required revisions and documents as listed below upon approval before receiving a sign permit.
 - 1.1 Label the subject lot on the site plan as Lot 5, and remove the parking lot detail showing individual parking spaces.
 - 1.2 Revise General Note #12 to state "The front setback on Lot 5 is adjusted from 20’ to 6’ to allow a ground sign as shown. Otherwise, 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".

1.3 Label Montello Road as Firethorn Lane.

1.4 Indicate the lines of sight distance to demonstrate compliance with the requirements of the Design Standards.

2. Prior to the issuance of a building permit:

2.1 The construction plans substantially comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:

3.1 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.

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

3.3 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

4. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions/ordinances approving previous permits remain in force unless specifically amended by this resolution.

Prepared by

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

October 8, 2008

**APPLICANT/
CONTACT:**

August Ponstingl
7501 O Street Ste 105
Lincoln, NE 68510
402.486.3232

OWNER:

National Rural Electric Cooperative Association
4301 Wilson Blvd CE011-102
Arlington, VA 22203

USE PERMIT NO. 107C

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

October 22, 2008

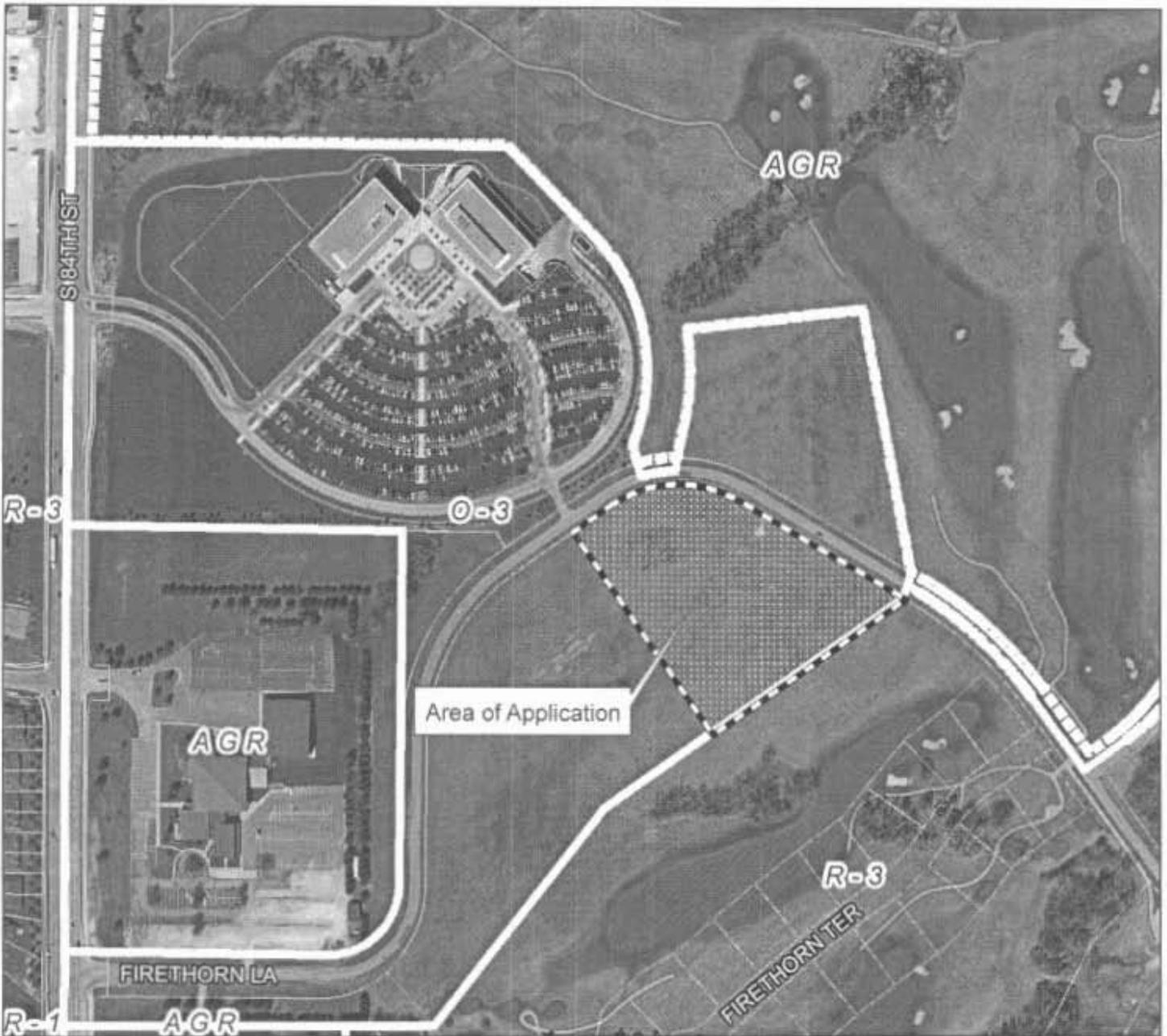
Members present: Gaylor Baird, Carroll, Cornelius, Esseks, Larson, Partington, Sunderman and Taylor; Francis absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 08052, USE PERMIT NO. 107C and SPECIAL PERMIT NO. 08036, Hartland Estates 1st Addition Community Unit Plan.**

Ex Parte Communications: None

Item No. 1.3, Special Permit No. 08036, was removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved to approve the remaining Consent Agenda, seconded by Sunderman and carried 8-0: Gaylor Baird, Carroll, Cornelius, Esseks, Larson, Partington, Sunderman and Taylor voting 'yes'; Francis absent.

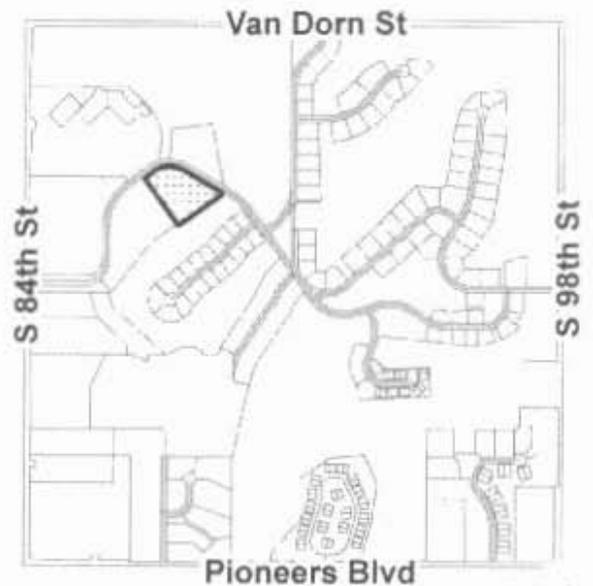
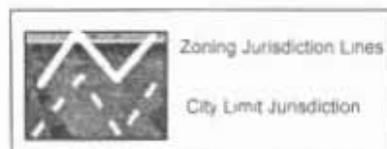


Use Permit #107C
Adjust Front Yard Setback
S 84th St & Firethorn Lane
Zoning:

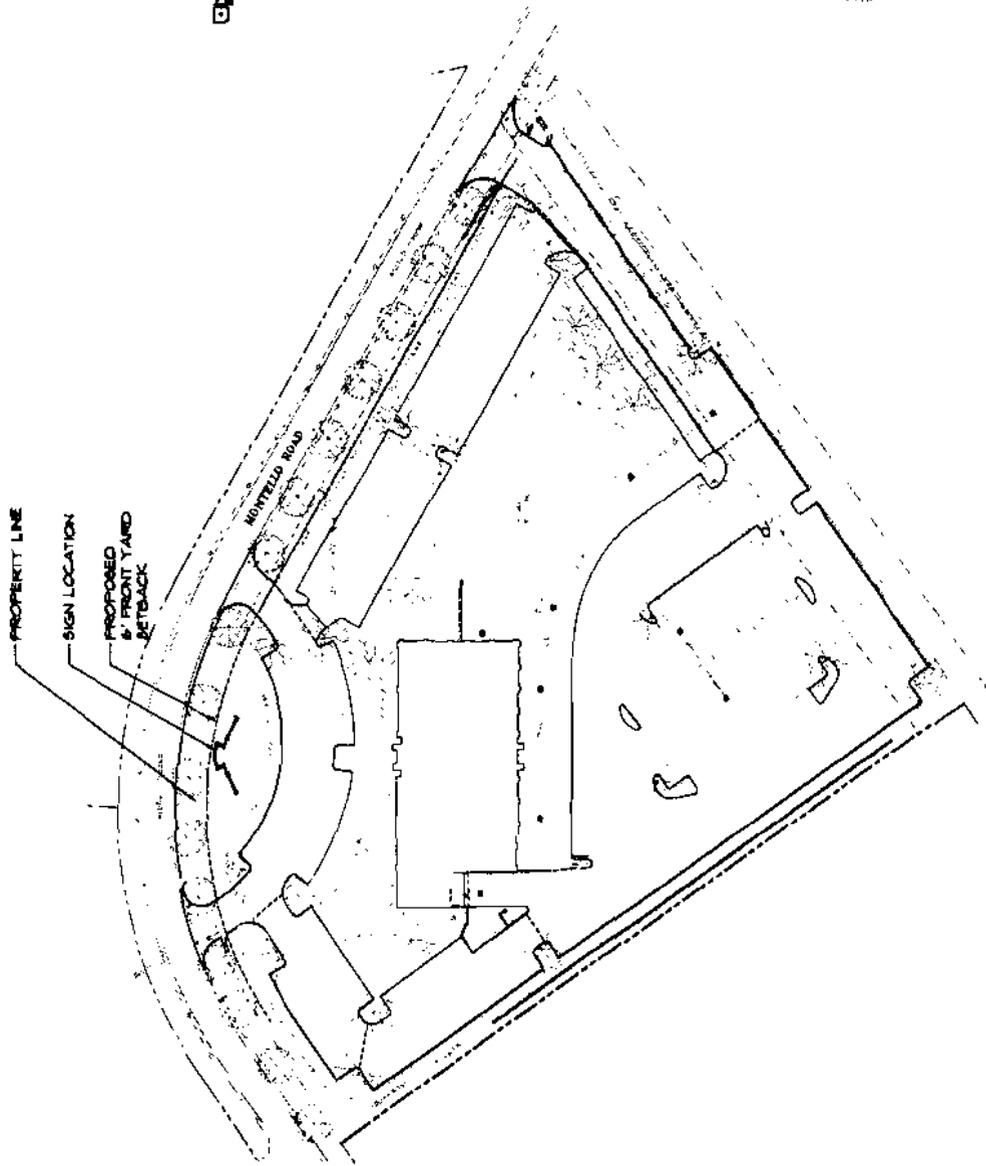
2007 aerial

One Square Mile
 Sec. 02 T09N R07E

- R-1 to R-4 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



SIGNAGE EXHIBIT



SIGNAGE DETAIL



SIGNAGE ELEV.



SIGNAGE PLAN



GENERAL NOTES

- ▲ 1. SANITARY SEWER AND WATER LINES ARE PRIVATE UNLESS OTHERWISE SHOWN AND ARE BUILT TO CITY OF LINCOLN SPECIFICATIONS.
2. ALL PAVING RAOIR TO BE 20' UNLESS OTHERWISE NOTED.
3. THE DEVELOPER AGREES TO COMPLY WITH THE DESIGN STANDARDS OF THE CITY OF LINCOLN FOR EROSION CONTROL AND SEDIMENTATION DURING AND AFTER LAND PREPARATION AND FURTHER TO SUBMIT A SEEDING AND MAINTENANCE SCHEDULE BEFORE SITE GRADING IS DONE.
4. PUBLIC UTILITIES ARE LOCATED IN ADJACENT PUBLIC STREETS.
- ▲ 5. THE PROPERTY DESIGNATED AS GOLF COURSE IS CURRENTLY ZONED AGR, AND OUTLOT "M", "N", "O", "P", AND LOTS 1 THROUGH 6 ARE CURRENTLY ZONED O-3.
6. ALL DIMENSIONS ALONG CURVES ARE CHORD DISTANCES.
7. DIRECT VEHICULAR ACCESS TO S. 84TH ST., S. 98TH ST., VAN DORN ST., AND PIONEERS BLVD. HAVE BEEN RELINQUISHED EXCEPT AS SHOWN ON THE PLAT.
- ▲ 8. ALL DRIVE AND PARKING PAVEMENTS TO BE BUILT TO CITY OF LINCOLN STANDARDS.
9. ALL ROADWAYS SHALL BE 27' WIDE TYPICAL UNLESS OTHERWISE NOTED.
10. LOT DIMENSIONS SHOWN ARE APPROXIMATE AND MAY VARY UP TO 20 FEET.
11. THE APPLICANT SHALL COMPLY WITH ENVIRONMENTAL PERFORMANCE STANDARDS OF THE CITY OF LINCOLN.
12. DETAILS OF ALL SIGNS, INCLUDING TYPE, LOCATION, HEIGHT & SIZE, WILL BE SUBMITTED SEPARATELY FOR REVIEW WITH THE BUILDING PERMIT.
13. ALL DISABLED PARKING STALLS SHALL BE IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, (FEDERAL REGISTER/VOL. 56, NO. 144/RULES AND REGULATIONS).
14. ALL ELEVATIONS ARE TO CITY OF LINCOLN DATUM.
15. ALL LANDSCAPING WILL BE LOCATED OUTSIDE OF THE CRITICAL SITE TRIANGLE.
16. ALL STREET INTERSECTIONS ARE AT 90° UNLESS OTHERWISE NOTED.
17. A COMMON ACCESS EASEMENT HAS BEEN GRANTED OVER ALL DRIVES & PARKING STALLS ON OUTLOT "M", AS SUCH DRIVES & PARKING STALLS MAY EXIST AND LOTS 1, 2, AND 3 NOT BE REQUIRED TO ABUT OR FRONT PRIVATE OR PUBLIC STREETS. A PUBLIC ACCESS EASEMENT WILL BE DEDICATED OVER OUTLOT "S".
18. OUTLOT USAGES:
 - "M" - PARKING LOT/OFFICE BUILDING
 - "N" - GREEN SPACE
 - "O" - GREEN SPACE
 - "P" - GOLF COURSE/DETENTION CELL
 - "Q" - GOLF COURSE/DETENTION CELL
 - "R" - GREEN SPACE
 - "S" - ROADWAY "T" - ROADWAY
- ▲ 18. LOTS WILL NOT BE SOLD FOR SPECULATIVE OFFICE SPACE.
- ▲ 20. AT LEAST 35,000 SQUARE FEET OF FLOOR AREA OR 50% OF THE TOTAL FLOOR AREA OF EACH BUILDING, WHICHEVER IS GREATER, SHALL BE OCCUPIED BY A SINGLE TENANT.
- ▲ 21. THE STORAGE FACILITY WILL HOLD UP TO 48 HOURS (WHICH WOULD REQUIRE A 16,000 GALLON STORAGE FACILITY) OF STORAGE FOR PROJECTED FLOWS. THE SEWAGE WILL BE PUMPED TO THE CITY SEWER DURING OFF PEAK PERIODS. THE SYSTEM IS DESIGNED TO ALLOW THE CITY TO REGULATE THE DISCHARGE, AND THE CITY CANNOT BE HELD LIABLE FOR THE INABILITY TO ACCEPT FLOW FROM THIS SYSTEM IN THE EVENT OF HIGH FLOWS IN THE DOWNSTREAM SYSTEM.
- ▲ 22. LOTS #1 AND #2 WILL HOUSE DIESEL FUEL POWERED GENERATORS TO PROVIDE BACK UP POWER TO OFFICE BUILDINGS #1 AND #2 RESPECTIVELY. GENERATORS ARE 1000 KW GENERATORS WITH 2000 GALLON FUEL TANKS EACH. BUILDINGS ARE APPROXIMATELY 1023 S.F. EACH.
- ▲ 23. REVISED LANDSCAPING FOR LOTS 4-8 WILL BE SUBMITTED AT TIME OF BUILDING PERMIT.



Architectural Design Associates P.C.

October 2, 2008

Marvin Krout
555 South 10th St., room 213
Lincoln, Nebraska 68508

Re: Lot 1, Firethorn 25th addition. CBA Office Building

Dear Marvin:

On behalf of National Rural Electric Cooperative Association we are requesting an amendment of the existing 20 foot front yard setback along Firethorn Lane to 6 feet. This will allow a 42 SF sign, as shown on Exhibit A, to be placed on the existing Decorative Retaining wall – also shown on Exhibit A.

We feel this is a reasonable request because this sign, as an internal development sign, faces another lot in the O-3 district. Currently 50 SF “direction signs” (which, according to Building and Safety, means Name or Logo signs) are allowed, but just not within the current 20’ Front Yard Setback. We are requesting a change to 6’ – due to the location of the already constructed retaining wall, which is 14’ within the current setback. Our intention has always been to put the sign on the retaining wall. We were not made fully aware of the conflict of the location of the sign with the setback at the time the building permit was issued for the retaining wall. This was discovered later, when a separate permit was sought for the sign. We would still like to place the sign on the retaining wall, so we are here to explain why making this change for our project will not impact the adjacent property.

The reason there is no impact on the adjacent nearby residential uses is because the closest residential buildings are approximately ¼ mile, in direct viewing distance, from the proposed sign. Also, another reason this is a no impact change to the existing use permit is the code currently allows a 50 SF sign to be placed at nearly the same location, just 14 feet further back from the proposed 6’ front yard setback – at the existing 20’ front yard setback. Also, the view of the CBA building and site, to the nearby residents is often obscure, and the sign on the retaining wall is not visible. Therefore, we feel the sign is not going to impact any of the nearest neighbors.

In closing, the retaining wall is an attractive wall and is made with high quality finish material, including brick and stone, but was unfortunately permitted and constructed within the 20’ setback. Changing the setback to allow adding a sign to the face of it will be a ‘no impact’ change to the use permit and therefore we hope this request is approved. We hope you will agree and approve this amendment to the existing setback. If you have any questions, please let me know.

Sincerely



August Ponstingl
Architectural Design Associates



Status of Review: **Complete**

Reviewed By **Building & Safety**

Terry Kathe

Comments:

Status of Review: **Routed**

Reviewed By **Planning Department**

BRIAN WILL

Comments:

Status of Review: **Active**

Reviewed By **Planning Department**

PLANNER

Comments:

Status of Review: **FYI**

09/26/2008 2:05:09 PM

Reviewed By **Planning Department**

RAY HILL

Comments: **Update street name to Firethorn Lane**

Status of Review: **Complete**

10/06/2006 4:18:29 PM

Reviewed By **Public Works - Development Services**

SIETDQ

Comments: **Memorandum**

To: Brian Will, Planning Department
From: Charles W. Baker, Public Works and Utilities
Subject: Firethorn Commercial Use Permit #107C
Date: October 6, 2008
cc: Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Firethorn Commercial Use Permit #107C to add a retaining wall with a sign between the driveways for Lot 2, Firethorn 25th Addition. Public Works has the following comments:

• It appears that the proposed retaining wall will not adversely affect the sight triangle for vehicle safety departing the driveways. Show the sight triangles to meet design standards.

012