

FACTSHEET

TITLE: SPECIAL PERMIT NO. 10031, requested by U-Pull-It, Inc., to operate an auto salvage yard on I-1 Industrial zoned property generally located at North 70th Street between Fletcher Avenue and McCormick Drive.

STAFF RECOMMENDATION: Conditional Approval

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 11/17/10
Administrative Action: 11/17/10

RECOMMENDATION: Conditional Approval, with two amendments (6-0: Esseks, Cornelius, Partington, Gaylor Baird, Larson and Sunderman voting 'yes'; Lust, Francis and Taylor absent).

FINDINGS OF FACT:

1. This is a request for a special permit to operate an auto salvage yard on 18 acres, more or less, zoned I-1 Industrial, generally located along the east side of North 70th Street between Fletcher Avenue and McCormick Drive. The application also requests a waiver to reduce the setback on the east lot line abutting AG zoned property from 100 feet to zero, a waiver which requires approval by the City Council.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.3, concluding that the proposed use is suitable at this location. The property is surrounded by I-1 Industrial zoning on three sides, with AG Agricultural zoning to the east. The AG land is shown as industrial on the Future Land Use Map of the 2030 Comprehensive Plan. Therefore, based on that Future Land Use Map, the waiver to reduce the setback abutting the AG zoned property is acceptable. The staff presentation is found on p.6.
3. The applicant's testimony is found on p.7, including a request to delete Condition #2.1, which requires the removal of the north entrance shown on the site plan. The applicant explained that this is an entrance only for emergency access and agreed to show that notation on the site plan, and a notation that there would be no curb cut requested. The applicant agrees to revise the grading and drainage plan to the satisfaction of Public Works.
4. Other testimony in support by Kent Seacrest is found on p.7, including a request to add a condition to verify that the special permit meets the sight distance and sidewalk design standards (Also See p.16-21: Letter and Motion to Amend from Kent Seacrest on behalf of Cather Construction Company).
5. Testimony in opposition is found on p.8, including the issues of past performance by the applicant at sites in Omaha (See p.22-24); importing salvage vehicles to Lincoln as opposed to serving the Lincoln area; and the existence of other land for said use in the area.
6. On November 17, 2010, the Planning Commission agreed with the staff recommendation and voted 6-0 to recommend conditional approval as set forth in the staff report, with amendment to Condition #2.1 to show the north entrance with no curb cut and for emergency access only, and with amendment to add Condition #2.4 to show the sight triangle dimensions at the North 70th Street driveway to verify compliance with design standards (Lust, Francis and Taylor absent). The conditions of approval, as amended by the Planning Commission are found on p.4-5.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: November 29, 2010

REVIEWED BY: _____

DATE: November 29, 2010

REFERENCE NUMBER: FS\CC\2010\SP.10031

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for NOVEMBER 17, 2010 PLANNING COMMISSION MEETING

****As Revised and Recommended for Conditional Approval
by Planning Commission: 11/17/10****

PROJECT #: Special Permit No. 10031

PROPOSAL: A request per Section 27.63.500 for an auto salvage yard

LOCATION: N. 70th St. between Fletcher Ave. and McCormick Dr.

LAND AREA: 18 acres, more or less

EXISTING ZONING: I-1, Industrial

WAIVER /MODIFICATION REQUEST: Reduce the 100 feet setback to zero along the east boundary adjacent to AG zoned land.

CONCLUSION: The proposed auto salvage yard is a suitable use at this location. The property is surrounded by I-1 zoning on three sides and has agricultural zoning to the east. The agricultural zoned land is shown as industrial in the 2030 Comprehensive Plan future land use plan. Based on the future land use plan, the waiver is acceptable.

RECOMMENDATION:	Conditional Approval
WAIVER Reduce the setback on the east lot line abutting AG zoned land from 100 feet to zero.	Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: see attached

EXISTING LAND USE: Vacant/undeveloped

SURROUNDING LAND USE AND ZONING:

North: I-1, Industrial
South: I-1, Industrial
East: AG, Agricultural
West: I-1, Industrial

HISTORY:

July 19, 2004 Preliminary Plat #02005, Catherland Subdivision, was approved by the City Council.

June 22, 1992 Special Permit #1429 for a salvage yard located on the west side of N. 70th St. north of McCormick Dr. was approved by the City Council.

COMPREHENSIVE PLAN SPECIFICATIONS:

The Lincoln area Future Land Use Plan identifies this area as industrial. (p19)

Industrial: Areas where railroads, manufacturing, trucking and transportation facilities are the dominant land use. (p.16)

UTILITIES: Water and sanitary sewer mains are located in N. 70th St.

TRAFFIC ANALYSIS: N. 70th St. is classified as a minor arterial.

PUBLIC SERVICE: Station 5, is located at Touzalin Ave. and Fremont St., is the nearest fire station.

ANALYSIS:

1. This application is for an auto salvage yard. The area is zoned I-1 and is adjacent I-1 zoning on the north, south and west. There is AG zoned land to the east.
2. Section 27.63.500 (f) states that salvage material kept outside a building or buildings shall be located 100 feet from the boundaries of I-1 or I-2 zoning district. A portion of the east lot line is the I-1 boundary. The adjacent property is zoned AG, Agricultural. The applicant has requested a waiver to reduce the setback to zero. The Land Use Plan in the 2030 Comprehensive Plan identifies the AG land as industrial. Due to the future land use being industrial, Planning does not object to the waiver.
3. The Design Standards require 90% screening from ground level to 6 feet in height. Applicant proposes to meet this requirement with a minimum 10 feet tall privacy fence.
4. The Lincoln-Lancaster County Health Department notes that the applicant must also obtain a salvage operation permit from the Health Department in accordance with LMC 5.41 Salvaging, Recycling and Composting Operations. Also, the Public Works and Utilities Department has a few changes to the site plan and grading plan.
5. The site is not in the 100 year floodplain nor adjacent to an entryway corridor.

Per Section 27.63.500 this approval permits a salvage yard with a waiver to reduce the setback to zero at the I-1 boundary.

CONDITIONS OF APPROVAL:

Site Specific Conditions:

1. The City Council approves associated request:
 - 1.1 Waiver to reduce the setback on the east lot line adjacent AG zoned land from 100 feet to zero.
2. Before receiving building permits 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:
 - 2.1 ~~Remove~~ Show the north entrance with no curb cut and for emergency access only. **(**Per Planning Commission, 11/17/10**)**
 - 2.2 Move the gates east at the 2 driveway entrances to provide room for stacking at least one vehicle between the gates and property line.
 - 2.3 Revise the grading and drainage plan to the satisfaction of Public Works & Utilities Department.
 - 2.4 Show sight triangle dimensions at the North 70th Street driveway to verify compliance with design standards. **(**Per Planning Commission, 11/17/10**)**
3. Before receiving building permits provide the following documents to the Planning Department:
 - 3.1 Verification from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.
4. Prior to the issuance of a building permit:
 - 4.1 The construction plans must substantially comply with the approved plans.

Standard Conditions:

5. The following conditions are applicable to all requests:
 - 5.1. Before occupying buildings or starting the operation all development and construction shall substantially comply with the approved plans.
 - 5.2 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.

- 5.3 The operation and use is to comply with Chapter 5.41 (Salvaging, Recycling and Composting Operations) and Chapter 8.26 (Nuisances) for nuisance of the Lincoln Municipal Code, as amended.
- 5.4 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.
- 5.5 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, filling fees therefor to be paid in advance by the Permittee.

Prepared by

Tom Cajka
Planner

DATE: November 4, 2010

APPLICANT: U-Pull-It
Bob Neussendorfer
5702 S. 60th St.
Omaha, NE 68117

OWNER: Robert Cather
6400 N. 70th St.
Lincoln, NE 68507

CONTACT: same as applicant

SPECIAL PERMIT NO. 10031

PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 17, 2010

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

Ex Parte Communications: None

Staff recommendation: Conditional approval, including approval of the waiver to reduce the 100' setback to zero along the east lot line.

This item was removed from the Consent Agenda due to the Motion to Amend submitted by Kent Seacrest on behalf of Cather Construction Company.

Staff presentation: **Tom Cajka of Planning staff** explained that this is a proposal for a special permit for an auto salvage yard located on the east side of 70th Street a little bit north of Cornhusker Highway. The property is zoned I-1, and there is I-1 zoning to the north, south and west, with AG zoning to the east of the subject property.

The applicant has requested a waiver to the setback on the east lot line. The special permit regulations require the 100' setback when the property abuts a different zoning district. Staff has recommended approval of the waiver based on the Future Land Use Plan in the Comprehensive Plan which shows the AG zoned area as industrial for future development.

With regard to screening, Cajka explained that the City design standards require a screen of 90% from the ground to 6' above the ground. The site plan shows a 10' high privacy fence pretty much all the way around the property. Attorney Kent Seacrest has submitted a motion to amend on behalf of Cather Construction, which owns property to the north, to add a condition of approval as follows:

- 2.4 Relocate the ten foot high privacy fence along North 70th Street to provide a sight triangle at the North 70th Street driveway (Cather Construction Company) located immediately north of the site to provide proper sight distance for North 70th Street roadway and sidewalk pursuant to City of Lincoln Driveway Design Standard, Chapter 4.00, Appendix A.

There is a private driveway entrance and Cather is concerned that the 10' fence may block the sight view on 70th Street. The Planning Department does not object to the requested motion to amend. The applicant will be required to get a building permit from Building & Safety for the fence, and it would be reviewed for sight distances at that time, also.

Cajka also advised that the area of application is not located in the floodplain and it is not in any entryway corridor.

Partington expressed his concern about what effect this use might have on the soil erosion. **Dennis Bartels of Public Works & Utilities** stated that historically, there is drainage that comes

in from the south and from the north which drains across this property. He has visited with the engineer for the applicant and believes they are agreeable to some minor changes to correct that. The grading will require a permit from the city and an erosion sediment control plan will be required before they do the grading. Therefore, Bartels anticipates the construction activity should be protected. The area where they would be performing the salvage operation drains to where it drains today at the far east end. They are showing a stormwater detention facility in the southeast portion of the site which should handle the similar drainage that is going there now.

Esseks inquired about the “processing building (fluid draining)” as shown on the site plan at the north end of the proposed salvage facility. Bartels explained that when they haul in the salvage cars, they are required to drain the fluids out of the vehicles and that is where they intend to do it. This would be covered by the Health Department and state regulations.

Proponents

1. Rick Onnen, E & A Consulting Group, testified on behalf of the applicant, **U-Pull-It Auto Parts**, and referred to the conditions of approval.

Condition #2.1 requires that the north entrance shown on the site plan be removed. He explained that this entrance is identified as an emergency access, and they would agree to clarify on the site plan that it is for emergency access only and that they would not request a curb cut permit. The idea is strictly emergency access. There is a fire hydrant located on 70th Street and one of the thoughts would be that if there was a need for fire protection, that gate would provide access for the Fire Department. Onnen requested that Condition #2.1 be deleted.

Onnen then indicated that the applicant will comply with Condition #2.2 to move the gates at the two driveway entrances to provide room for stacking of at least one vehicle between the gates and the property line. Onnen also stated that the owner has considered eliminating the fence along 70th Street along that stretch.

Condition #2.3 requires revision to the grading and drainage plan to the satisfaction of Public Works & Utilities. Onnen has visited with Public Works and believes they can revise the grading plan accordingly to provide a buffer strip.

With regard to the request by Kent Seacrest to add Condition #2.4 to move the fence, Onnen stated that the current plan does meet the sight triangle requirements. The right-of-way is 19.5 feet back of the curb, and the fence is shown another ½ foot back from that. Onnen does not see any reason to relocate the fence, especially since they will be required to get a building permit for the fence.

2. Kent Seacrest appeared on behalf of **Cather Construction Company**, in support of the proposed land use, with one minor issue related to the sight distance. Cather Construction is the neighbor to the north, operating an asphalt processing facility with a lot of big, slow trucks. The only entrance into the Cather plant is immediately north of the applicant’s north property line. We need to be able to insure that the truck drivers can see safely around that 10' high fence on 70th Street. The proposed amendment to add Condition #2.4 simply suggests that the site plan be revised to verify that the applicant is meeting the sight distance standard and the sidewalk standard. This applicant is required to show a sidewalk and we want to be sure the trucks can also see the sidewalk. Seacrest understands that the applicant believes they meet that

standard, but Seacrest is suggesting that it would be appropriate that the applicant be required to submit a revised plan showing the actual dimensions so that we can be sure that the standard is met. Seacrest does not know how the city would interpret the sidewalk triangle. Cather Construction welcomes this business to the area.

Opposition

1. Mark Hunzeker appeared on behalf of **Wapiti Enterprises**, the owner of the property just up the street on 70th at Salt Creek. Wapiti owns property which is currently licensed for a salvage yard and which has a special permit for a salvage yard, but which is not currently being operated as a salvage yard. The property has been offered to multiple local salvage operators for a year. Hunzeker suggested that the proposed operation is an operation which will be geared toward bringing in salvage vehicles from the region as opposed to serving Lincoln. The parcel that is licensed and approved north of this location is less than one mile away, along Salt Creek, and is already screened with trees on three sides and along the creek. It is available and it is a little over half the size (10+ acres). Therefore it appears that there is at least no crying need to create a new special permit for a salvage yard which appears to be importing salvage vehicles to Lincoln as opposed to serving the Lincoln area.

2. Del Stork, President of Bestorq, Incorporated, located immediately west of the proposed facility, testified in opposition based on the performance of this applicant in the past at other locations. This proposal puts this retail site right in the middle of an industrial site. This site will most likely look like the U-Pull-it site in Omaha, with the fence in disrepair and overgrown vegetation. Stork showed and submitted photographs and a list of complaints and negative public comments about the U-Pull-It facility in Omaha which he Googled on the internet. Stork does not want this type of operation in this nice area. He suggested that the applicant could use what already exists. He does not believe this is the place for a retail establishment.

Esseks inquired how a complaint could be filed if there were problems or unsatisfactory use of this property under this special permit. And is there a process whereby such problems could be resolved? Cajka pointed out that one of the pictures shown by the opposition shows a chain link fence, which is not an approved screening for this special permit. The fence is required to be a solid privacy fence and that is what they are showing on the plan. If that fence came into disrepair or it was removed, the applicant would be in violation of the special permit. Those complaints should be sent to Building & Safety, who would then inspect to determine whether or not the permittee is in violation. Ultimately, the city can revoke the special permit, if necessary; however, it could end up in court if it went that far.

Cornelius asked for the staff's position on the applicant's request to delete the requirement to remove the north entrance (Condition #2.1). Cajka stated that the Planning Department would not object to leaving the emergency access in place as long as there is no curb cut. Bartels stated that since the gate is in the fence, it is not a problem. Public Works just did not want another driveway on 70th Street as it is an arterial. Fire Prevention did not want the access, so that is why Public Works made the recommendation.

Esseks wondered about allowing the gate without a curb cut. Bartels agreed, but suggested that there is less chance of abusing it or using it for other than emergency situations if the gate is not

in place. They could provide another emergency gate on the south side just north of the parking lot and accomplish the same thing.

With regard to the proposed motion to amend to add Condition #2.4 about the sight triangles, Gaylor Baird suggested that Seacrest is just interested in at least verifying that the sight triangles are being respected. She wondered whether the requirement to relocate the fence is really necessary as stated in the proposed Condition #2.4. Bartels explained that Public Works would expect the applicant to dimension the sight triangles on the site plan for that driveway location as well as their own driveways. There would be no change in the location of the fence if it meets the criteria.

Response by the Applicant

Onnen agreed that the sight distance dimensions could be put on the site plan.

In terms of operating the business, Onnen submitted that there are a lot of additional permits that are required to run this type of business, i.e. Health Department regulations, State regulations for stormwater runoff, etc., so there are a lot of safeguards in place.

In terms of the condition of some of the sites in Omaha, Onnen stated that the applicant is not confident that the one photo shown was actually a U-Pull-It site. The U-Pull-It sites in Omaha are sites that they purchased in the past so some of those conditions were inherited. They would be starting from scratch at this site.

As far as land use, Onnen submitted that the salvage yard is an approved use by special permit under the existing zoning. The applicant is just asking for the right to use it.

Larson referred to the west side of the property across the road from the opposition, and inquired whether there will be some sort of buffer. Onnen advised that there is a 10' privacy fence around the processing yard and the storage yard. The parking lot and parts building may not be fenced, with just a driveway into the parking lot.

Gaylor Baird asked the applicant to explain why they are choosing not to accomplish the emergency access by using the southern portion. Onnen believes that Bartels was referring to a secondary gate in another location on the south. There are two hydrant locations along 70th Street. Public Works is also requiring a fire hydrant internal to the site. He understands that the Fire Department would allow a dry hydrant. The internal hydrant would be charged from the hydrant on 70th Street. Therefore, he believes that the emergency access gate would facilitate bringing emergency equipment in and out for emergency purposes.

Esseks inquired where there would be the greatest possibility of a fire on this property. Onnen suggested that it would probably be the processing building where they remove gasoline, oil, and other fluids from the vehicles. If there is a fire there, it is probably not a fire they would want to fight with water; however, the applicant is required to show a road that they can navigate with the fire trucks.

Esseks wondered how important it is to the applicant to have the pipe coming from the hydrant. Onnen suggested that it is more important to the Fire Department as a condition of the building permit. The fire code requires a hydrant within so many feet of the building.

ACTION BY PLANNING COMMISSION:

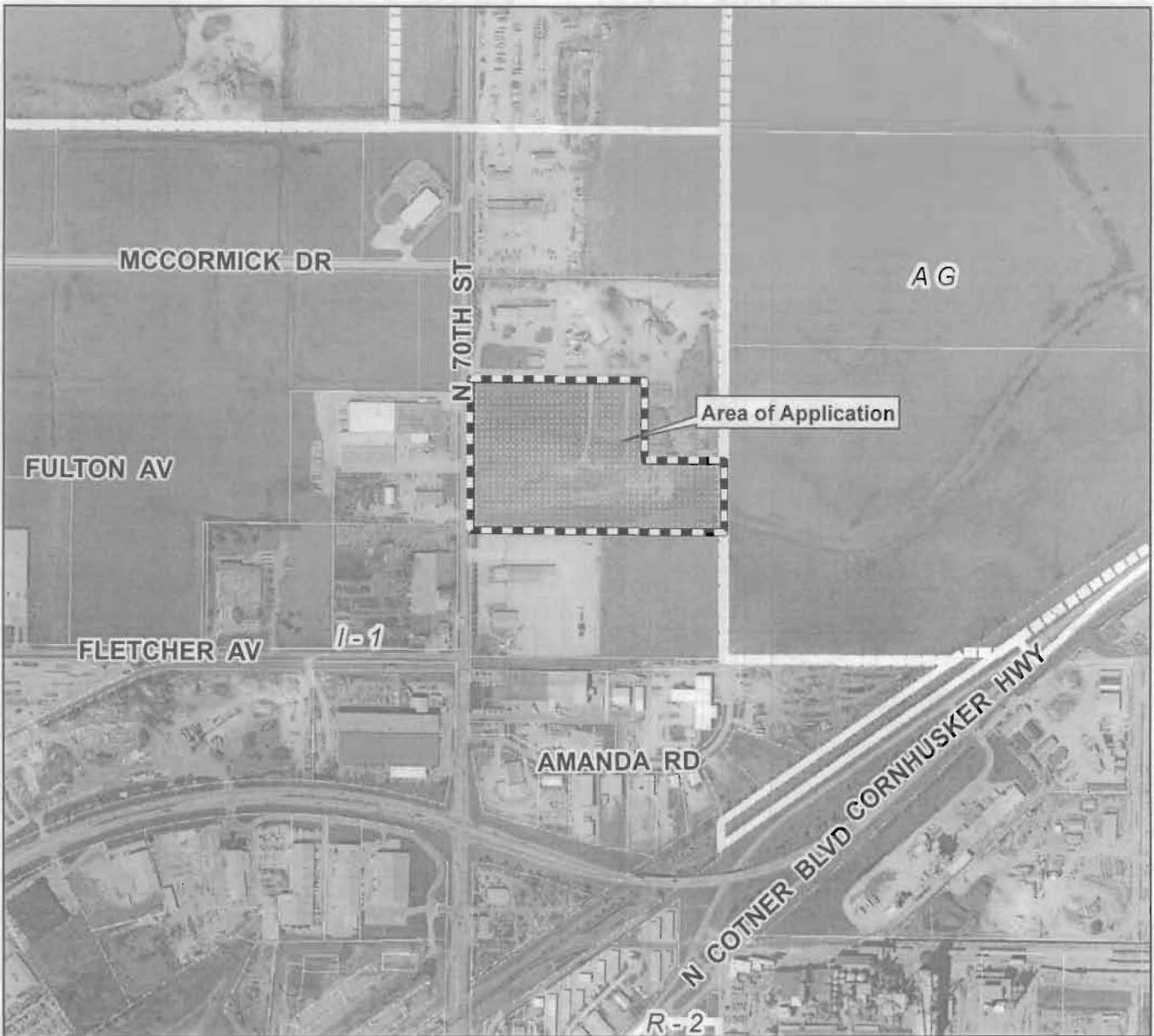
November 17, 2010

Larson moved to approve the staff recommendation of conditional approval, with amendment removing Condition #2.1 and adding Condition #2.4. Upon further discussion, Larson agreed that his motion amends Condition #2.1 to show the north entrance with no curb cut and for emergency access only, and that Condition #2.4 be added to provide the sight dimensions that show compliance with sight triangles as set forth in the design standards, seconded by Cornelius.

Larson stated that he is in favor of the amendments because they are both in the interest of safety, they don't materially affect anything else and they are logical conditions.

Sunderman commented that he believes this application is appropriate. There are good conditions in place. There is nothing wrong with the alleged regional draw because it brings more business to Lincoln.

Motion for conditional approval, as amended, carried 6-0: Esseks, Cornelius, Partington, Gaylor Baird, Larson and Sunderman voting 'yes'; Lust, Francis and Taylor absent. This is a recommendation to the City Council.



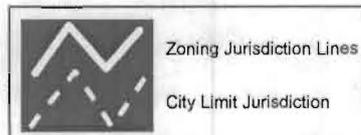
**Special Permit #10031
N 70th St & Cornhusker Hwy**

2007 aerial

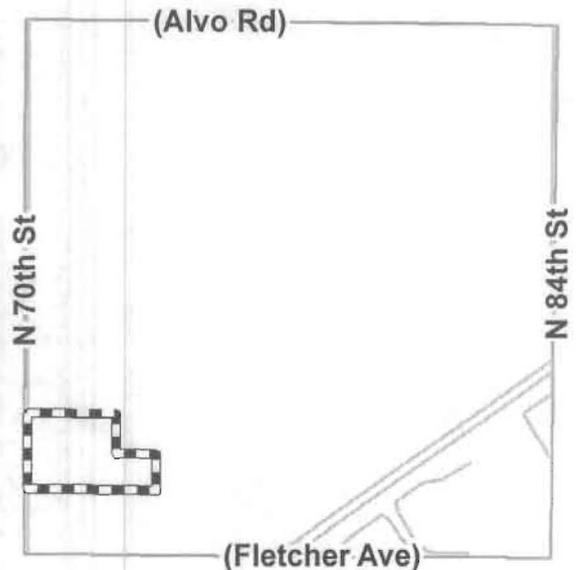
Zoning:

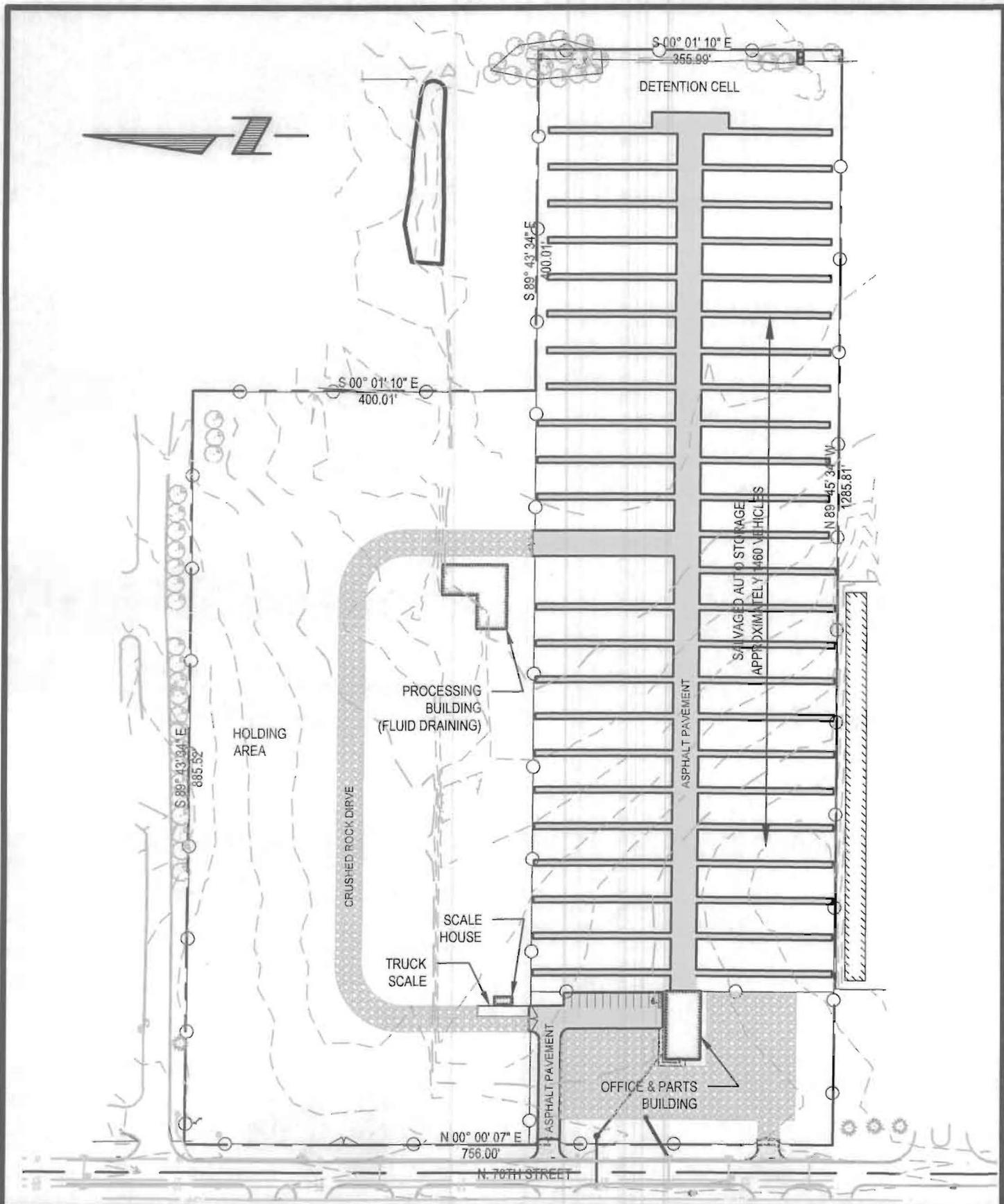
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial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

One Square Mile
Sec. 34 T11N R07E



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E&A CONSULTING GROUP, INC.
 ENGINEERING • PLANNING • FIELD SERVICES
 7130 SOUTH 29TH STREET, SUITE D LINCOLN, NE 68516-5841 PHONE: (402) 420-7217

U-PULL-IT
SITE EXHIBIT

012

Job No.: P2010.087.003 Date: 11/01/10 Drawn by: RPO



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FAX: 402.420.7218

PARCELA

A tract of land located in part of the SW ¼ of Section 34, Township 11 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of said SW ¼ of Section 34; thence N00°00'07"E (assumed bearing) along the West line of said SW ¼ of Section 34, a distance of 633.00 feet; thence S89°43'34"E parallel to the South line of said SW ¼ of Section 34, a distance of 33.00 feet to a point on the East right-of-way line of North 70th Street, said point also being the Point of Beginning; thence N00°00'07"E parallel to said West line of said SW ¼ of Section 34, along said East right-of-way line of North 70th Street, a distance of 756.00 feet to a point on said East right-of-way line of North 70th Street; thence S89°43'34"E parallel to said South line of said SW ¼ of Section 34, a distance of 885.52 feet; thence S00°01'10"E parallel to the East line of said SW ¼ of Section 34, a distance of 400.01 feet; thence S89°43'34"E parallel to said South line of said SW ¼ of Section 34, a distance of 400.01 feet; thence S00°01'10"E along said East line of said SW ¼ of Section 34, a distance of 355.99 feet to a point on a line 633.00 feet distant North from and parallel to said South line of said SW ¼ of Section 34; thence N89°43'34"W along said line 633.00 feet distant North from and parallel to said South line of said SW ¼ of Section 34, a distance of 1285.81 feet to the Point of Beginning.

Said tract of land contains an area of 811,948 square feet or 18.640 acres, more or less.

Special Permit #10031

Public Works Comments

The 8' public sanitary sewer tap unto the trunk sewer in 70th Street must end in the ROW rather than being extended into the private property. An executive order is needed to authorize its construction.

Gates are shown at the 70th Street ROW line at the 2 driveway entrances. The gates must be moved east to provide room for stacking at least one design for this site between the gate and property line. Sight triangles must be provided at the driveway to meet design standards. This may require angling the privacy fence at the driveways. An emergency access gate is shown to the holding area in the 70th Street frontage. Access would require another driveway and Public Works will not approve another driveway to 70th in addition to the two already shown.

Plats along 70th have been required to build sidewalks. Sidewalks will be required with this site with the required building permit.

If fire hydrants are needed in this site due to distance between the processing building and 70th Street, a meter and backflow preventor located within a structure will be required.

Previous applications for this site have shown offsite drainage from the north and south flowing into this property. The grading plan shows filling this site above the elevation of abutting property. Comparing existing and proposed grades at the property lines leads me to conclude that water flow will be forced to drain in a different pattern than presently exists and the grades are so flat that drainage problems will occur. I conclude therefore that the grading plan is unsatisfactory and must be revised.

Health Department comments:

The land owner(s)/operator(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.

Before salvage operations begin, the applicant shall obtain a salvage operation permit from the Lincoln-Lancaster County Health Department in accordance with Lincoln Municipal Code 5.41 SALVAGING, RECYCLING AND COMPOSTING OPERATIONS.

The applicant should also contact the Lincoln-Lancaster County Health Department's Water Quality section for information regarding storm water management.

SEACREST & KALKOWSKI, PC, LLO

RECEIVED

1111 LINCOLN MALL, SUITE 350
LINCOLN, NEBRASKA 68508-3910

TELEPHONE (402) 435-6000
FACSIMILE (402) 435-6100

NOV 15 2010

Lincoln/Lancaster Co.
Planning Department

KENT SEACREST
E-MAIL: kent@sk-law.com

DANAY KALKOWSKI
E-MAIL: danay@sk-law.com

November 15, 2010

HAND DELIVERY

Marvin Krout
Planning Director
Lincoln-Lancaster County Planning Department
555 South 10th Street
Lincoln, NE 68508

Re: Special Permit No. 10031, N. 70th Street between Fletcher Avenue and McCormick Drive

Good day Marvin:

Our law firm represents Cather Construction Company who occupies the property immediately north of the proposed Special Permit No. 10031 site. Cather Construction Company is not opposed to the proposed land use. Our request is to modify the proposed northern portion of the ten feet privacy fence along North 70th Street to provide the proper site triangles to meet the City's design standards. As you can see from the attached aerial photo, Cather Construction's North 70th Street driveway (as shown by the arrow) is located immediately north of the northwest corner of the proposed special permit U-Pull-It site.

Cather Construction Company has many large and slow moving trucks entering and exiting its site along the North 70th Street arterial. It is imperative that the site triangle at Cather Construction Company's driveway not be blocked by a 10 feet high privacy fence along our neighbors North 70th Street property line. We believe that Section 27.71.080(b) of the Lincoln Municipal Code and Chapter 4.00, Driveway Design Standards, Appendix A, requires the proposed special permit applicant and property owner to maintain Cather Construction Company's site triangle. Section 27.71.080(b) prohibits fences in the triangular area required for sight distance of vehicles entering and exiting a property. The required triangular area is defined in Chapter 4.00, Driveway Design Standards, Appendix A, which is shown below.

We believe the site triangle can continue to be maintained by shifting the proposed ten feet high privacy fence by angling the privacy fence the proper distance to accommodate the: (1) site distance for roadway; and (2) site distance for the required sidewalk as shown on Chapter 4.00, Driveway Design Standards, Appendix A.

I spoke with Terry Kathe with Building and Safety and reviewed this fact pattern with him. Terry indicated that he also believes that the City Zoning Ordinance and Design Standards require the applicant's privacy fence to be angle back to provide my client's driveway a site triangle.

Therefore, we would request that the Planning Commission amend the Staff Report conditions to require the Special Permit request to have the ten feet high privacy fence on the North 70th Street property line be modified to provide Cather Construction Company's abutting driveway the proper Chapter 4.00, Driveway Design Standards, Appendix A site triangles for driveway site distance for roadway and driveway site distance for the sidewalk.

I have a call into the applicant's attorney, Kathleen Foster to review this request with her and see if her client will concur with our requested amendment. On behalf of Cather Construction Company, we appreciate your consideration of our request. If you have any questions, please feel free to contact me.

Best regards,



KENT SEACREST
For the Firm

cc: Tom Cajka, Planning Department
Terry Kathe, Building and Safety
Dennis Bartels, Public Works
Tom Petsch, Cather Construction Company
Kathleen Foster



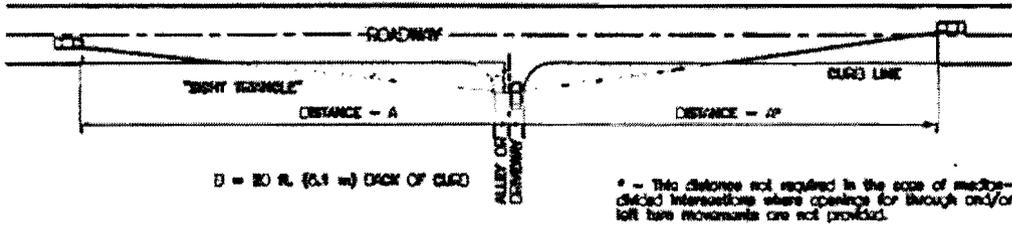
ROAD

THROUGH STREET DESIGN SPEED mph	DESIGN SPEED (km/h)	DISTANCE ft. (m)
25	(40)	250 ft. (76 m)
30	(48)	370 ft. (113 m)
35	(56)	470 ft. (143 m)
40	(64)	570 ft. (174 m)
45	(70)	700 ft. (213 m)
50	(80)	830 ft. (253 m)
55	(90)	920 ft. (280 m)

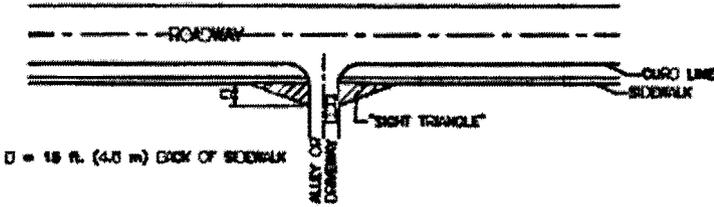
NOTE
Use driver eye height of 3.5 ft. (1.07 m) above pavement surface
and object height of 4.25 ft. (1.30 m) above pavement surface.

**FIGURE SD-4
DRIVEWAYS OR ALLEYS**

a. Sight Distance for Roadway



a. Sight Distance for Sidewalk



Jean Preister

To: Jean Preister
Subject: FW: Special Permit No. 10031 -- Proposed Motion to Amend
Attachments: Motion to Amend - Planning Commission 11-16-10.doc

From: Seacrest, Kent [<mailto:kent@sk-law.com>]
Sent: Tuesday, November 16, 2010 2:44 PM
To: Tom J. Cajka; Dennis D. Bartels; Terry A. Kathe
Subject: Special Permit No. 10031 -- Proposed Motion to Amend

Fax to Kathleen M. Foster (402) 330-0936
Fax to Tom Petsch (402) 464-6759

Good day everyone:

I spoke with Tom Cajka and Terry Kathe today and it was suggested that I prepare a Motion to Amend for the Planning Commission to consider regarding providing Cather Construction Company the proper site triangle for its driveway in regards to Special Permit #10031 application.

Enclosed, please see our requested Motion to Amend. If you have questions or revisions, please let me know. Kathleen, would your client support this Motion to Amend?

Best regards,

Kent

Kent Seacrest
Seacrest & Kalkowski, PC, LLO
1111 Lincoln Mall, Suite 350
Lincoln, NE 68508
(402) 435-6000 Tel
(402) 435-6100 Fax
kent@sk-law.com

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MOTION TO AMEND

I hereby move to amend Special Permit No. 10031 as follows:

CONDITIONS OF APPROVAL:

Site Specific Conditions:

2. Before receiving building permits the developer shall cause to be prepared and submit to the Planning Department a revised and reproducible final plot plan including five (5) copies with all required revisions and documents as listed below:

2.1 Remove the north entrance.

2.2. Move the gates east at the two driveway entrances to provide room for stacking at least one vehicle between the gates and property line.

2.3 Revise the grading and drainage plan to the satisfaction of Public Works & Utilities Department.

2.4 Relocate the ten foot high privacy fence along North 70th Street to provide a site triangle at the North 70th Street driveway (Cather Construction Company) located immediately north of the site to provide proper site distance for North 70th Street roadway and sidewalk pursuant to the City of Lincoln Driveway Design Standard, Chapter 4.00, Appendix A.

Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Requested by: SEACREST & KALKOWSKI, PC, LLO on behalf of Sundance, LLC

**THIS IS THE TRACK RECORD of U-Pull-It Omaha South
Operated by the same manager Mr Thomas Hansen that is to run the
proposed 70th street Lincoln site.**

Review comments U-Pull-It Omaha - South

- 1. This is just big pile of cars.**
- 2. There is no service; no advice; no one answers the phone; and they have no idea what they even have because the numbers and turnover are large.**
- 3. The yard is a mud field with a little gravel. There is no muddier place on earth after a rain.**
- 4. Bring everything else you need to identify and remove what you need with absolutely no assistance, using your own tools, caring for your OWN SAFETY.**
- 5. End of story- take it or leave it. They are very clear about all this,**
- 6. the toxic waste is a big concern and we do need to find a way to clean up**
- 7. the "my way or the highway" business model and little or no service**
- 8. u-pull-it south (Omaha) is a shame. They rip you off your metal, as well as kick people out, with out valid cause.**
- 9. U-Pull-It Auto & Truck Parts: These people had no idea what they were talking about! Every question I had was "I don't know"I will never go back there again!**

In addition to all the negative reviews and the appalling maintenance demonstrated by U-Pull-It there are the following concerns:

The current zoning and use is for Industrial use and this is a RETAIL ESTABLISHMENT with lots of traffic and lots of people.

There are huge safety concerns for this retail traffic directly on the industrial area of 70th street. 70th street is projected to be a 4 lane road in the master plan and this would make the problem far worse.

U-Pull-It Auto & Truck Parts: South
5900 South 60th Street, Omaha, NE -
(402) 734-6029



U-Pull-It Auto & Truck Parts: South
5900 South 60th Street, Omaha, NE -
(402) 734-6029

