

**NW Corner of S. 33rd and A Street
DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT**

This Development and Conditional Zoning Agreement is hereby made and entered into this 25th day of March, 2011, by and between MembersOwn Credit Union, hereinafter referred to as "Developer," and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City."

RECITALS

I.

Developer has petitioned the City for a change of zone No.11006 from R-2 to B-3 upon property generally located at the northwest corner of S. 33rd Street and A Street and legally described as: Lots 18 and 19, Block 1, Ellendale Addition, Lincoln, Lancaster County Nebraska.

II.

Approval of this change of zone from R-2 Residential to B-3 Commercial District would allow Developer to use Lots 18 and 19, Block 1, together with Lots 14-17, Block 1, Ellendale Addition, for a range of commercial and retail uses including car washes, automobile repair and sales, and similar uses which would not be compatible with the adjacent residential neighborhood. Lots 14-19, Block 1, Ellendale Addition, are hereinafter referred to as the "Property."

III.

The Developer has represented to the City that in consideration of the City re-zoning Lots 18 and 19, Block 1, Ellendale Addition to B-3, the Developer will enter into an agreement regarding development of the Property with the City to control access to A Street and to restrict uses, lighting and signage in order to provide a compatible development with the adjacent residential neighborhood.

IV.

The City desires to enter into the Agreement, to be assured that the Developer will develop the Property in a manner compatible with the adjacent residential neighborhood as represented with the attached site plan should Lots 18 and 19, Block 1, Ellendale Addition, be rezoned to B-3 Commercial District.

NOW THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. The City hereby agrees to grant Developer's petition to change the zoning map from R-2 Residential District to B-3 Commercial District on Lots 18 and 19, Block 1, Ellendale Addition.

2. In consideration for the City rezoning Lots 18 and 19, Block 1, Ellendale Addition, to B-3 Commercial District, the Developer agrees that the development of the Property shall be subject to the following requirements:

- a. The Property shall be developed in accordance with the site plan attached hereto as Exhibit "A" and incorporated herein by this reference.
- b. No vehicular access to the Property will be permitted along A Street and all vehicular access will come from the east-west combined alley driveway as shown on the site plan.
- c. Menu boards and off-premises signs are prohibited;
- d. Developer agrees to plant street trees along S. 33rd Street and A Street, abutting the Property, within one year of occupancy and agrees that existing street trees along Chautauqua and A Street will be preserved during construction and replanted if they die in the future. Developer further agrees that the existing trees located in the front yard setback to the northeast of Chautauqua and A Street will also be preserved during construction and replanted if they die in the future.
- e. Developer agrees to move the sidewalk a minimum of 8.5 feet from the curb on S. 33rd Street. Developer agrees to grant the City a public pedestrian access easement over the 5-foot sidewalk that will be located on Lot 14, Block 1, Ellendale Addition.
- f. Developer agrees to restrict parking and provide open green space (1) in the westernmost 20 feet adjacent to Chautauqua Ave, (2) in the 8 feet west of the new sidewalk along S. 33rd Street, and (3) in the 10 feet along A Street as shown on the site plan.
- g. Developer agrees that the building will meet the following requirements (based on the R-T zoning district):
 - (1) A two and one-half inch in twelve inch pitched roof or steeper;
 - (2) A nonreflective exterior siding material which is or simulates wood, stucco, brick, or stone;
 - (3) A nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
 - (4) No air conditioners on the roof.

3. As further consideration for granting the B-3 zoning on the Property, Developer agrees that the following permitted uses in the B-3 zoning district are prohibited:

- (a) Service Stations including automobile repair sales and repair facility;
- (b) Automobile wash facility;
- (c) Motor vehicle sales;

- (d) Vehicle body repair shop;
- (e) Tire stores and tire sales, including vulcanizing;
- (f) Sale of alcoholic beverages for consumption on or off the premises;
- (g) Restaurants with drive thru facilities;
- (h) Picture Arcades.

4. The sign area of an Electronic changeable Copy shall be limited to no more than 50 square feet

5. This Agreement shall run with the land and shall be binding upon the parties hereto and their respective successors and assigns.

6. This Agreement, when executed by the parties hereto, shall be recorded by the City in the office of the Register of Deeds of Lancaster County, Nebraska, filling fees to be paid in advance by Developer.

IN WITNESS WHEREOF, the parties herein have executed this Agreement on the day and year set forth above.

MembersOwn CREDIT UNION

By: 
Kenneth H. Miller, President

ATTEST:

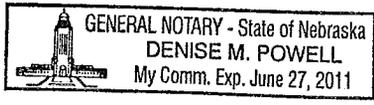
CITY OF LINCOLN, NEBRASKA
a municipal corporation

City Clerk

By: _____
Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 25th day of March, 2011, by Kenneth H. Miller, President of MembersOwn Credit Union, on behalf of said credit union.



Denise M. Powell

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

Notary Public