

## **FACTSHEET**

**TITLE:** CHANGE OF ZONE NO. 08057A, an amendment to the **University Place Planned Unit Development**, requested by Paul Marshall, to allow the sale of alcohol for consumption on the premises as a conditional use, on property generally located at North 48<sup>th</sup> Street from Colby Street to Adams Street.

**STAFF RECOMMENDATION:** Conditional Approval.

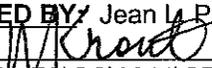
**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 05/18/11  
Administrative Action: 05/18/11

**RECOMMENDATION:** Conditional Approval (9-0: Taylor, Gaylor Baird, Partington, Esseks, Lust, Francis, Larson, Cornelius and Sunderman voting 'yes').

### **FINDINGS OF FACT:**

1. This is a request to amend the existing University Place Planned Unit Development (PUD) to allow the sale of alcohol for consumption on the premises as a conditional use, provided it meets all the requirements for a special permit pursuant to LMC § 27.63.680, except for parking. The applicant is the owner of Mo Java, a coffee shop located at 2649 North 48<sup>th</sup> Street within the University Place PUD, who is interested in adding beer, wine and spirits to complement the menu. The approval of this amendment would allow the sale of alcohol for consumption on the premises as a conditional use throughout the PUD.
2. This application also requests to modify the parking requirement (as previously modified by the PUD) from one parking space per 200 square feet of floor area so that the sale of alcohol for consumption on the premises of an existing use shall not be considered a change in use and thus no additional parking is required.
3. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.5-7, concluding that the University Place PUD was originally developed to provide flexibility with regard to adjusting certain requirements which may be deemed appropriate but otherwise not allowed, such as parking and signs. This request seeks to allow on-sale alcohol as a conditional use throughout the PUD, provided it meets all the requirements for a special permit for the sale of alcohol for consumption on the premises, with the exception of parking. In this regard, the inclusion of on-sale alcohol in conjunction with a legally existing use will not trigger the typical requirement to provide additional off-street parking. Being allowed as a conditional use is consistent with how alcohol has been treated in several mixed-use PUD's around the city such as Village Gardens, Van Dorn Acres, and Apples Way. Additionally, applying the reduced parking standards of the University Place PUD rather than the standard parking requirement is appropriate given the unique development pattern of the area, and would allow existing business to add alcohol to the menu. In the case of a new business coming into the district such as restaurant, it would also be allowed on-sale alcohol, but would be required to meet the applicable standards including the parking requirements of the PUD. The staff presentation is found on p.9-10, adding that the staff recommendation places a limitation on the hours of operation relative to the sale of alcohol (i.e. 8:00 a.m. to 11:00 p.m.) to further define and refine the intent of this application
4. The applicant's testimony is found on p.10, indicating the intent is not to transform the business into a bar.
5. The record consists of letters in support from the University Place Business Association and the University Place Community Organization (p.17-18).
6. There was no testimony in opposition.
7. Commissioner Esseks expressed concern about the sale of alcohol not being considered a change in use and the reduced parking (See Minutes, p.10-11).
8. On May 18, 2011, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend conditional approval as set forth in the staff report.

**FACTSHEET PREPARED BY:** Jean L. Preister  
**REVIEWED BY:**   
**REFERENCE NUMBER:** FS\CC\2011\CZ08057A PUD

**DATE:** May 26, 2011  
**DATE:** May 26, 2011

# LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

## for May 18, 2011 PLANNING COMMISSION MEETING

- PROJECT #:** Change of Zone No. 08057A
- PROPOSAL:** Amend the existing Planned Unit Development (PUD) to allow the sale of alcohol for consumption on the premises as a conditional use provided it meets all the requirements for a special permit per LMC 27.63.680, except for parking.
- LOCATION:** North 48<sup>th</sup> Street, Colby Street to Adams Street
- LAND AREA:** 41.44 acres, more or less
- EXISTING ZONING:** B-3 Commercial
- WAIVER REQUEST:** To modify the parking requirement of LMC 27.67.040(y) (as previously modified by the PUD) from one parking space per 200 square feet of floor area so that the inclusion of the sale of alcohol for consumption on the premises of an existing use shall not be considered a change in use, so no additional parking is required.
- CONCLUSION:** The University Place planned unit development was originally developed to provide flexibility with regard to adjusting certain requirements which may be deemed appropriate but otherwise not allowed, such as for parking and signs. This request seeks to allow on-sale alcohol as a conditional use throughout the PUD, provided it meets all the requirements for a special permit for the sale of alcohol for consumption on the premises with one exception, that being parking. In this regard, the inclusion of on-sale alcohol in conjunction with a legally existing use will not trigger the typical requirement to provide additional off-street parking. Being allowed as a conditional use is consistent with how alcohol has been treated in several mixed-use PUD's around the city such as Village Gardens, Van Dorn Acres, and Apples Way. Additionally, applying the reduced parking standards of the University Place PUD rather than the standard parking requirement is appropriate given the unique development pattern of the area, and would allow existing business to add alcohol to the menu. In the case of a new business coming into the district such as restaurant, it would also be allowed on-sale alcohol, but would be required to meet the applicable standards including the parking requirements of the PUD.

**RECOMMENDATION:**

Conditional Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See attached.

**EXISTING LAND USE:** A variety of commercial uses.

**SURROUNDING LAND USE AND ZONING:**

North: P Public Use District: Huntington Elementary School.  
R-2 , R-4, R-5 & R-6 Residential District: a mix of single, two-family and multiple-family dwellings.

South: P Public Use District: University of Nebraska East Campus, and University Place Park.  
R-4, R-5 & R-6 Residential District: a mix of single, two-family and multiple-family dwellings  
B-3 Commercial District: commercial uses and post office.

East: P Public Use District: Nebraska Wesleyan University,  
R-2, R-4, R-5 & R-6 Residential District: a mix of single, two-family and multiple-family dwellings.

West: R-4 & R-6 Residential District: single- and multiple-family dwellings.  
B-3 Commercial District: commercial uses and post office.

**HISTORY:**

Sept. 21, 1987: Comprehensive Plan Amendment #8517 to adopt the “1987 University Place Neighborhood Plan” was approved by City Council.

October 26, 1998: Miscellaneous #98012 to declare the University Place Study Area blighted and substandard was approved by City Council.

December 7, 1998: Resolution #A-79200 to adopt the University Place Redevelopment Plan was approved by City Council.

Sept. 17, 2001: Miscellaneous #01009 to amend the University Place Redevelopment Plan to expand streetscape amenities was approved by City Council.

February 25, 2002: Comprehensive Plan Conformity #01006 to approve the intent to create a business improvement district for University Place was approved by City Council.

April 1, 2002: Ordinance #17977 to adopt the business improvement district was approved by City Council.

April 14, 2003: Comprehensive Plan Conformity #03001 to amend the University Place Redevelopment Plan to acquire blighted property including the Green’s Furnace & Plumbing Company site for redevelopment purposes was approved by City Council.

- June 7, 2004: Comprehensive Plan Amendment #04001 to adopt the "North 48<sup>th</sup> Street/University Place Plan: Neighborhood Revitalization & Transportation Analysis, 2004" was approved by City Council.
- June 21, 2004: Comprehensive Plan Conformance #04003 to acquire the Northeast Printers site for redevelopment was approved by City Council.
- April 25, 2005: Change of Zone #05021 to downzone approximately 18 blocks in the University Place area from B-3, R-6, R-5, and R-4 to R-5, R-4, and R-2 was approved by City Council.
- October 24, 2005: Comprehensive Plan Conformity #05009 to add the former Lincoln Telephone and Telegraph building and an adjacent residential property on the corner of N. 49<sup>th</sup> Street and Huntington Avenue for a police station was approved by City Council.
- October 9, 2006: Comprehensive Plan Amendment #06004 to show a redevelopment project southwest of 51<sup>st</sup> Street and Garland Street was approved by City Council.
- February 11, 2008: Comprehensive Plan Amendment #07002 to adopt the Deadmans Run Watershed Master Plan was approved by City Council.
- January 12, 2009: The University Place PUD was approved adjusting allowed land uses, parking regulations, and sign regulations.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

**Pg 19** - The area is designated as "commercial" on the future land use map.

**Pg 16** - 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.

**Pg 36** - Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented. As additional centers are built, the City and developers should be proactive in redevelopment of existing centers to make sure that redevelopment is sensitive to the surrounding neighborhood and happens quickly to reduce vacancies.

**Pg 41** - The commercial area included in the PUD is considered a Neighborhood Center.

**Pg 45** - Neighborhood centers provide services and retail goods oriented to the neighborhood level, with significant pedestrian orientation and access. A typical center will have numerous smaller shops and offices and may include one or two anchor stores. In general, an anchor store should occupy about a third to half of the total space. In centers meeting the incentive criteria, anchor store(s) may be larger noting that the goals of a Neighborhood Centers are to be diverse and not simply one store. Examples include such as Lenox Village at S. 70th and Pioneers Boulevard, and Coddington Park Center at West A and Coddington. These smaller centers will not include manufacturing uses.

**Pgs 48-49 - STRATEGIES FOR EXISTING COMMERCIAL CENTER**

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.

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

The priority in older areas should be on retaining areas for residential development. Prior to approving the removal of housing in order to provide for additional parking to support existing centers, alternatives such as shared parking, additional on street parking or the removal of older commercial stores should be explored.

Encourage mixed-use commercial centers, including residential uses on upper floors and at the rear of commercial buildings.

Encourage efforts to find new uses for abandoned, under utilized or "brownfield" sites that are contaminated. Brownfield sites should be redeveloped and the environmental hazards associated with them mitigated.

Develop and maintain an ongoing citywide floor area and land-use space survey and analysis for office, service and retail commercial uses. The survey and analysis should be used to monitor growth and measure vacancy rates and to provide baseline information for decision making.

Maintain and encourage ethnic commercial establishments that are convenient to existing neighborhoods.

**Pg 102** - North 48<sup>th</sup> Street, Adams Street, and Leighton Avenue are all classified as urban minor arterials in the Comprehensive Plan.

Two subarea plans have been added to the Comprehensive Plan: The N. 48<sup>th</sup> Street/University Place Plan, 2004 and the Deadmans Run Watershed Master Plan, 2007.

### **ANALYSIS:**

1. This request has been submitted by the owner of Mo Java, a coffee shop located at 2649 North 48<sup>th</sup> Street and within the University Place PUD. He is interested in adding beer, wine and spirits to complement the menu. This property, as well as all others within the PUD, is zoned B-3.
2. It should be noted that the original PUD was a collaborative effort between University Place Community Organization (UPCO), the University Place Business Association, Nebraska Wesleyan University, property owners, and the City of Lincoln Urban Development and Planning Departments. The primary intent of the PUD was to provide flexibility with regard to allowing certain uses and activities which may be deemed appropriate but otherwise not allowed, including reduced parking requirements.

The reduced parking allowed by the PUD acknowledges the historical land uses and development pattern in one of Lincoln's oldest business districts. It also recognized the significant number of parking stalls in city-owned lots which are available for use by all patrons of the district, and are not dedicated for use by any particular business. The B-3 district has one of the lowest parking requirements in the Zoning Ordinance at one space per 600 square feet of floor area. The PUD further reduced that requirement by 50%, or one space per 1,200 square feet of floor area, while authorizing the Planning Director to make further minor reductions on a case by case basis where justified. The parking requirement for other uses which have special parking requirements, like on-sale alcohol or restaurants, were also reduced by 50%.

3. The B-3 district is one of several commercial zoning districts where a special permit is required to be allowed to sell alcohol for consumption on the premises. The requirements of the special permit for on-sale are listed under LMC Section 27.63.680, and include a

parking requirement which references a standard in the parking ordinance, LMC 27.67.040(y). That standard requires parking to be provided at the ratio of one parking space per 100 square feet of floor area.

4. For the applicant to be allowed to add alcohol to the menu, a special permit is required. Approximating the floor area of the business at 2,000 square feet, 10 dedicated parking spaces would be required. The reality for this business and others within the PUD is that they either have few or no dedicated parking spaces. Their customers use both on-street parking spaces and one of several public parking lots scattered throughout the district. In this case, one of those public parking lots is immediately adjacent to the west. So while this premises meets all other requirements for a special permit, it cannot meet the parking requirement.
5. It should be noted that the business otherwise legally exists, and the applicant's premise of this request is that just merely adding alcohol to the menu of an existing use should not require additional parking. He argues it likely not would not increase the number of customers during peak hours, but would rather increase their numbers during the non-peak hours.
6. As proposed, the amendment would allow the sale of alcohol for consumption on the premises as a conditional use throughout the PUD. This has been done in other mixed-use developments around the city. Three examples of PUD's which conditionally allow on-sale are Village Gardens (S. 56<sup>th</sup> and Pine Lake Rd) and Van Dorn Acres (S. 84<sup>th</sup> & Van Dorn), and Apple's Way (S. 66<sup>th</sup> & Hwy 2). They typically allow the sale of alcohol as a conditional use provided it meets the applicable requirements, as is the case with this request. Additionally, both on and off-sale alcohol are allowed as conditional uses in the B-2 and B-5 zoning district under the Zoning Ordinance today.
7. It seems reasonable that if an existing, legally established use meets all the requirements of the PUD, that adding alcohol to the menu should not automatically warrant additional parking to be provided at the standard rate. There must be caution not to extend this comparison to other parts of the city because each area is unique, and a key issue behind the creation of this PUD was the need to make an adjustment to the parking requirements for the University Place business district based upon its unique characteristics. Applying today's parking standards does not allow public stalls to be counted, and the inability of many uses to provide required parking served to inhibit rather than to encourage a dynamic business climate in the area.
8. The language proposed by the applicant should be modified to include limits on the hours of operation. These limits are: 1 - Hours for the sale of alcohol shall not commence prior to 8:00 a.m. and shall end no later than 11:00 p.m.; 2 - Hours of outdoor operation (beer garden, etc.) shall not commence prior to 8:00 a.m. and shall end no later than 10:00 p.m. These limits on hours of operation are also identical to the conditions for a special permit for on-sale associated with a restaurant where the establishment is allowed to within 25 feet of a residential zoning district. They were included in the special permit because they are typically consistent and compatible with the hours of operation for restaurants, but are typically not conducive to the operation of bars, or establishments where the majority of revenue is generated by alcohol sales. The applicant has said he does not object to this amendment and that it would not pose a problem for his business. The proposed revised

development plan is attached at the end of this report, with the proposed addition (Item #1b) underlined.

9. Prior to submitting this request, the applicant met with the University Place Business Association (UPBA) and the University Place Community Organization (UPCO). Additionally, the Planning Department contacted staff at Wesleyan University to ensure they understood the request. Letters in support of this request from UPBA and UPKO are attached to this report.
10. If approved, the sale of alcohol for consumption on the premises will be allowed as a conditional use, provided it meets all the applicable requirements for a special permit, except parking. For existing use, there is no additional parking requirement. For new uses coming into the district, they also must meet the same applicable requirement, except they also must comply with parking requirements of the PUD.
11. The Planning Department finds this to be an appropriate amendment to the University Place PUD. It maintains all the criteria for a special permit, and both simplifies the approval process and makes an accommodation for the unique development and land use pattern in University Place with regard to parking, a uniqueness that was recognized previously by the approval of the original PUD. This amendment provides a more level playing field for this business district when compared to others around the city, which by virtue of their more contemporary development patterns are often able to satisfy all of today's requirements. It is a goal of the Comprehensive Plan to revitalize and sustain the older commercial districts located throughout the city, and this amendment helps achieve that goal.

## **CONDITIONS:**

### **Site Specific**

1. Revise the University Place Planned Unit Development Plan by adding the following paragraph (b) to Section 1 - Land Uses:  
  
(B) - Alcohol for sale for consumption on the premises is permitted as a conditional use provided:
  - i. It meets all the requirements of LMC 27.63.680, except for parking. With regard to parking, the parking requirements of the PUD apply, and the inclusion of the sale of alcohol for consumption on the premises in conjunction with an existing use is not considered a change in use.
  - ii. The hours for the sale of alcohol shall not commence prior to 8:00 a.m. and shall end no later than 11:00 p.m.
  - iii. The hours of outdoor operation (beer garden, etc) shall not commence prior to 8:00 a.m. and shall end no later than 10:00 p.m.

## General

2. The development plan as approved with this ordinance voids and supersedes all previously approved plans, however all ordinances approving previous permits remain in full force and effect unless specifically amended by this ordinance.

Prepared by:

Brian Will, 441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)

Planner

May 4, 2011

### **APPLICANT/**

### **CONTACT:**

Paul Marshall  
2649 North 48<sup>th</sup> Street  
Lincoln, NE 68504  
402-770-2516

**CHANGE OF ZONE NO. 08057A,  
AN AMENDMENT TO THE  
UNIVERSITY PLACE PLANNED UNIT DEVELOPMENT,**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 18, 2011

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

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

Staff presentation: **Brian Will of Planning Department** explained that this proposal is an amendment to the University Place Planned Unit Development (PUD), which was approved back in 2008. The boundary of the PUD incorporates most all of the commercial properties within the University Place Business Center.

The applicant is the owner of the MoJava coffee shop at the corner of N. 48<sup>th</sup> Street and St. Paul Avenue. The request is to add the sale of alcohol for consumption on the premises as a conditional use, with a request to modify the parking requirement so that no additional parking is required. The staff finding is that the inclusion of the sale of alcohol for consumption on the premises of an existing use shall not be considered a change in use, thus no additional parking is required.

Will explained that the sale of alcohol for consumption on the premises is normally regulated by special permit. For this particular premises to be able to come forward and apply for a special permit, it is required that all criteria for the special permit must be met, including the 100' separation from residential use or residential district, location of outside speaker, drive-thru facilities, etc., including off-street parking. In order to apply for that special permit you have meet all those requirements.

The applicant, MoJava, meets all of those requirements and criteria, with one exception, that being off-street parking. The special permit requires that any premises applying for on-sale alcohol must provide one space per 100 sq. ft. of floor area. The PUD is a mechanism whereby certain signs and parking can be adjusted. In this situation, the special permit for on-sale alcohol is not feasible by virtue of the fact that there is a PUD overlay. Therefore, this application is being brought forward as an amendment to the existing PUD. The staff is recommending that the development plan be modified to allow on-sale alcohol as a conditional use, provided the premises meets all of the requirements of the special permit for on-sale, with the exception of parking. In other words, by amending the entire PUD overlay, any existing use would be able to add on-sale if it meet all the conditions, with the exception of parking. No additional parking is required. Any new uses coming in would need to meet all of the other applicable standards including the parking requirements of the PUD.

In summary, Will stated that the staff is recommending approval, finding that all of the criteria and conditions of a special permit still apply, but it takes into account the unique character of the PUD in granting parking adjustments.

Gaylor Baird sought clarification of the parking requirements that would be required of any new business that would be located within this unique geographic area. Will explained that any new business would be required to meet the parking requirements of the PUD. We assume that those uses that exist today are there legally and meet all of the requirements, thus adding alcohol should not increase the parking requirements. Any new use coming in would need to meet the parking requirements of the PUD. We are suggesting that it does not make sense to have a higher parking standard just by adding on-sale alcohol to an existing use like MoJava.

Esseks asked staff to review the rationale for this PUD. This PUD covers an area where most of the ground is already built upon, so there must have been some type of rationale for a PUD when dealing with existing buildings. Will explained that University Place was developed prior to our fascination with the automobile and a fair number of businesses do not have the off-street parking required by the ordinance today. He believes that was the rationale and logic of the original PUD, coupled with there being several public parking facilities throughout University Place. There is parking throughout the area but it is not designated to a single user. Also, the PUD acknowledges the historic development pattern.

Esseks expressed concern because he believes that alcohol is an important change in use. Will stated that he does not consider the sale of alcohol a use, but rather an activity. A restaurant or a bar is a use, but the sale of alcohol is more of an activity. On-sale alcohol has one of the highest parking requirements (one space per 100 sq. ft.) because its operating character is considered like a restaurant or bar. In the case of this proposal, Will suggested that the fact that you are adding additional items to the menu doesn't really change the nature or operating characteristic of that use. The applicant is suggesting that it does not change the nature of the use.

Will pointed out that the staff has recommended a limitation on the hours of operation relative to the sale of alcohol, i.e. 8:00 a.m. to 11:00 p.m. The outdoor beer garden must cease operation at 10:00 p.m. This helps further define and refine the intent of this application.

### Proponents

**1. Paul Marshall**, 2284 Sheldon Street, 68503, testified as the applicant. He has owned and operated MoJava Café in University Place for the last 17 years and feels the time has arrived to take his business to another level by offering the sale of alcoholic beverages. Business tends to suffer in the summer due to college letting out and schedules changing. He is hoping that adding alcohol to his menu helps create more business during these months. He will obtain a liquor license. He believes this will create more jobs and tax dollars. His intent is not to transform the business into a bar but just to fill in some of the slower times during the day and evening. He has live music Friday and Saturday evenings that ends at 10:00 p.m. He believes that being able to offer customers a glass of wine or beer will be acceptable. The limited hours of operation will define that the business is not a bar – no bar could survive these hours. His food menu consists of a limited sandwich menu. He has built the business around coffee and lunch clientele, which also has extended into smaller dinner options – hot and cold sandwiches, soups, salads, pizzas and coffee drinks.

There was no testimony in opposition.

Esseks referred to the issues the Planning Commission dealt with on the CVS Pharmacy at 16<sup>th</sup> & South Streets. Is this really any different? Staff purports that this does not change the use. **Rick Peo of the City Law Department** explained that this is a PUD which is an overlay zoning district, and, in a sense, the properties within that overlay can establish their own zoning district regulations. The PUD ordinance allows the City Council to modify the district regulations. By changing the development plan to accommodate this reduced parking requirement, it is a district wide change.

Peo also pointed out that there is another provision in the zoning code that currently allows properties in B-3 that have a change of use which cannot meet the parking requirements, to go to the City Council for a reduction in that parking. By amending this PUD ordinance, you make that decision only one time so that you don't have to make the decision on each individual property. He believes the PUD accommodates and recognizes those parking concerns.

**ACTION BY PLANNING COMMISSION:**

May 18, 2011

Francis moved to approve the staff recommendation of conditional approval, seconded by Gaylor Baird.

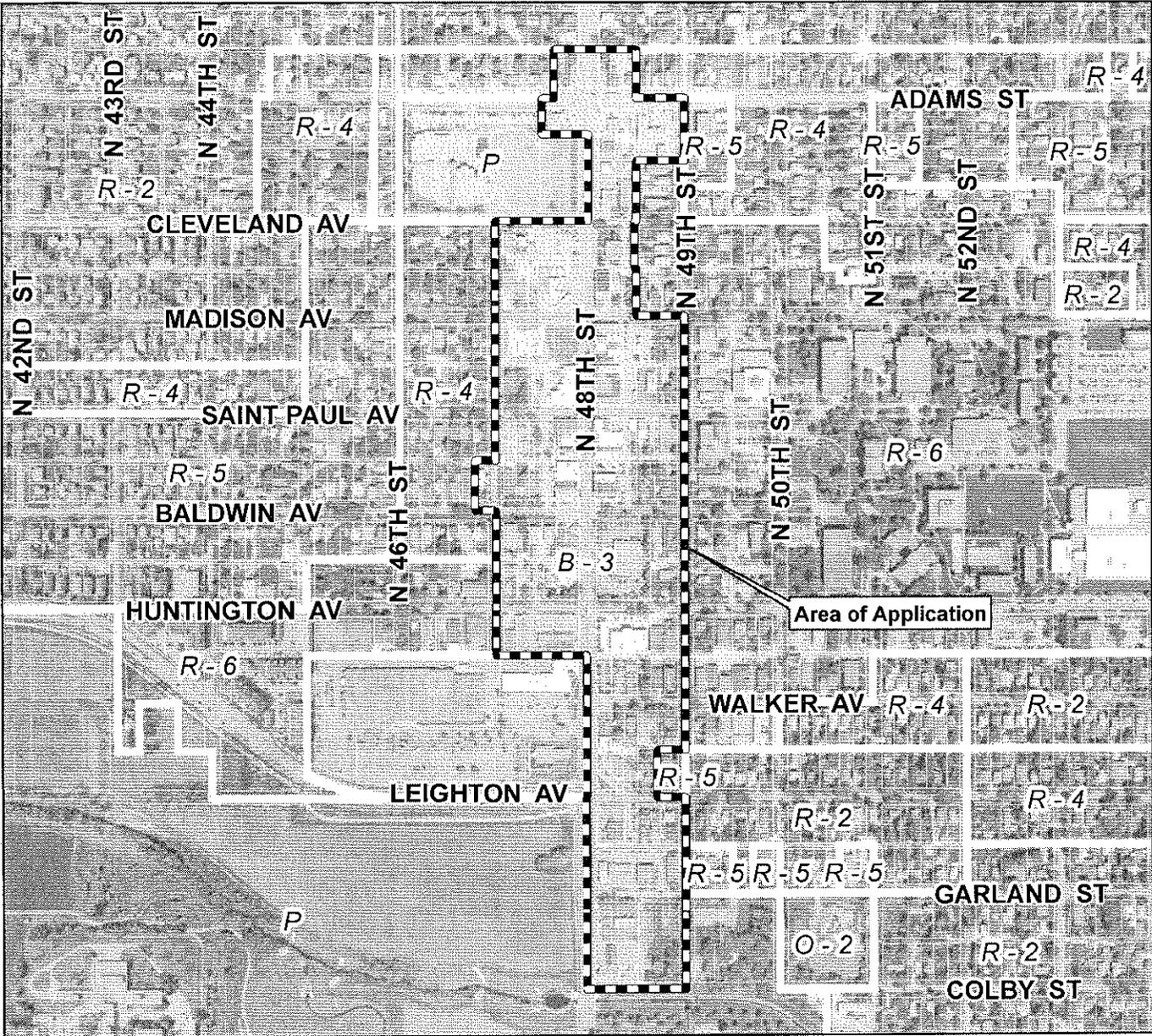
Francis thinks this is a great opportunity for the business to expand and grow. It is an appropriate use.

Cornelius noted that the Commission has received letters of support from the local business association and the local neighborhood association. Further, the Commission has heard that the parking is not really a problem for the reasons of the historic character of the existing PUD and also the existence of a variety of parking opportunities. There is a limitation on the hours during which alcohol can be served, which should serve to reinforce the owner's assertion that this is not going to be a bar but rather support for ongoing activities occurring today.

Taylor commented that the proposal is consistent with what is going on in the neighborhood. It is something that is established – almost like it is grandfathered – and the community has not changed to a point where the usage is inconvenient or causes problems to the rest of that community.

Sunderman also believes this fits nicely. It may help increase the business in that area.

Motion for approval, with conditions, carried 9-0: Partington, Esseks, Francis, Cornelius, Gaylor Baird, Taylor, Larson, Lust and Sunderman voting 'yes'. This is a recommendation to the City Council.



**Change of Zone #08057A  
University Place PUD**

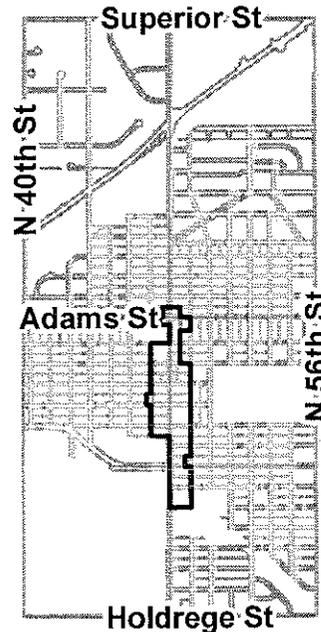
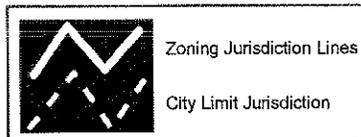
2010 aerial

**Zoning:**

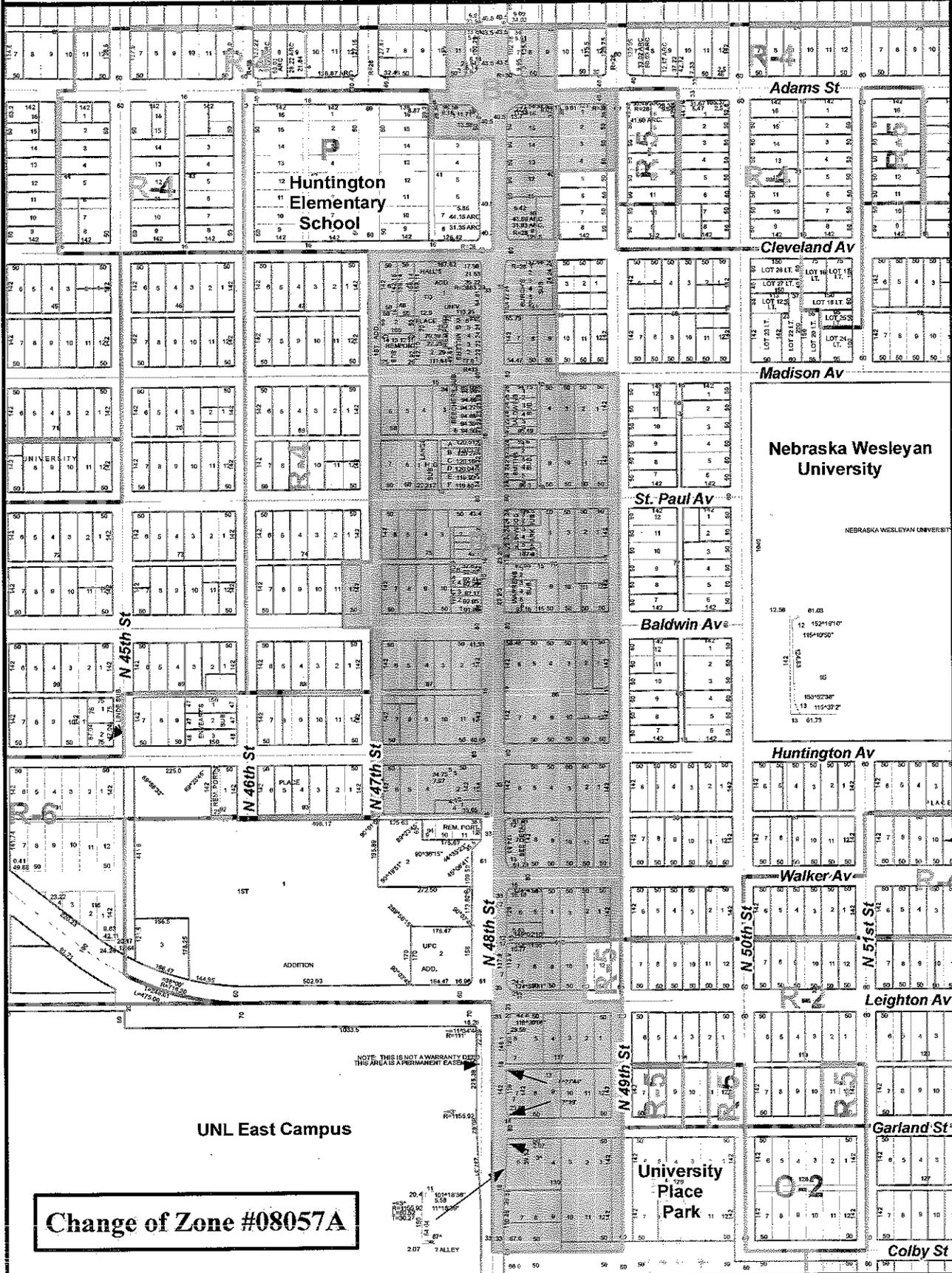
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial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



Two Square Miles  
Sec. 08 T10N R07E  
Sec. 17 T10N R07E



# University Place Planned Unit Development



- Uni Place PUD
- Parks
- Parcels

- Zoning
- Landbase



LINCOLN - LANCASTER COUNTY  
**PLANNING DEPARTMENT**  
 1000 S. 10th Street  
 Lincoln, Nebraska 68508  
 Phone: 402.475.4444

**Change of Zone #08057A**

## LEGAL DESCRIPTION

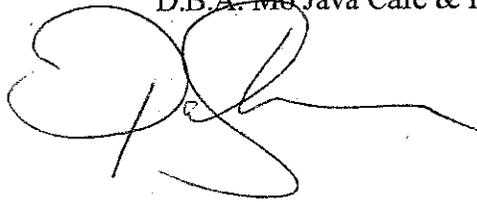
The remaining portions of Lots 11 and 12, Block 41, Imhoff's Addition to University Place, located in the SW 1/4 of Section 8-10-7; remaining portions of Lots 7-9, Block 22, University Place, located in the SE 1/4 of Section 8-10-7; remaining portions of Lots 1 and 2, Block 41, University Place, and Lot 6, Block 48, University Place and Lots 1 and 2 Everett's Subdivision 1<sup>st</sup> and remaining portions of Lots 1-6 and 11-14, W.G. Miller's Subdivision and vacated north-south alley adjacent thereto and Lots 1 and 2, Halls Addition to University Place, and Lots 3-8 and vacated north-south alley adjacent thereto, Block 68, University Place and Lots 1-6, Beecher's Subdivision and Lots A-I, Lang's Subdivision, and Lots 1-10, Block 75, University Place and Lots 1-6, Winter's Subdivision, and Lot 12, Block 74, University Place, and Lots 1-12, Block 87, University Place, and Lots 1-6, Block 94, University Place, located in the NW 1/4 of Section 17-10-7; Lots 3 and 4 and remaining portions of Lots 1 and 2 and Lots 9-16, Block 40, University Place, and remaining portions of Lots 1-4 and Lots 5 and 6, Burch's Subdivision, and Lots 7-9, Block 49, University Place, and Lots 1-6, Baldwin's Subdivision and Lots 1-6, Smith's Subdivision and Lots 1-4 and 9-12, Block 67, University Place, and Lots 1-6, Ellinwood & Shanks Subdivision and Lots 1-6, Warren's Subdivision and vacated north-south alley adjacent thereto and Lots 1-4 and 9-12, Block 76, University Place, and Lots 1-12 and vacated east-west alley adjacent thereto, Block 86, University Place, and Lots 1-6 and 8-12 and remaining portion of Lot 7, Block 95, University Place, and Lots 1-5 and 8-10 and remaining portions of Lots 6 and 7 and the west 1/2 of Lot 11, Block 112, University Place, located in the NE 1/4 of Section 17-10-7; Lots 1-5 and 8-12 and remaining portions of Lots 6 and 7, Block 117, University Place, and Lots 1-5 and 8-12 and remaining portions of Lots 6 and 7 and vacated east-west alley adjacent thereto, Block 130, University Place and west 1/2 of vacated N. 49<sup>th</sup> Street, north 1/2 of vacated Colby Street, and northwest 1/4 of vacated intersection of Colby Street and N. 49<sup>th</sup> Street adjacent to Block 130, University Place, located in Section 17-10-7, Lancaster County, Nebraska, generally located at N. 48<sup>th</sup> Street and St. Paul Avenue, and for approval of a modification of the development plan which modifies the standards of the underlying zoning district, subdivision ordinance and design standards.

12-01-2010

I own a coffeehouse in University Place that has been in operation for 16 years. In an effort to maximize profits and expand our offerings it is my intent to amend the P.U.D. to allow for a new on-sale Liquor license in my existing café. My shop currently serves Coffee beverages, sandwiches, soups and salads. My desire is to expand my menu to offer Beer, Wine and spirits, including Micro Brewed and or imported beers, Wines by the glass and bottle, and spirits which would complement coffee based beverages. This is in no way an effort to transform my business into a Bar but to expand our offerings and reach out to a wider range of clientele. We have the support of the University Place Business Association as well as the University Place Neighborhood Association. University place is growing and I feel the area as a whole truly welcomes this venture. I beg the planning department to consider my request at the earliest convenience. Thank you for your consideration.

Paul Marshall  
Yo Java Inc.

D.B.A. Mo Java Café & Roasting co.

A handwritten signature in black ink, appearing to be 'PM', written over a faint circular stamp or watermark.

This request is to amend the University Place PUD CZ#08057 by adding the following note to the PUD:

“ALCOHOL FOR SALE FOR CONSUMPTION ON THE PREMISES IS PERMITTED PROVIDED IT MEETS ALL THE REQUIREMENTS OF LMC 27.63.680 EXCEPT FOR PARKING. IN THIS REGARD, THE PARKING REQUIREMENTS OF THE PUD APPLY, AND THE INCLUSION OF THE SALE OF ALCOHOL FOR CONSUMPTION ON THE PREMISES IS NOT CONSIDERED A CHANGE IN USE.”

# University Place Planned Unit Development Plan

CZ#08057A

## General Notes

All new construction or changes in use within the boundaries of the PUD shall adhere to B-3 zoning except where modified by the PUD as follows:

### 1. Land Uses:

- (a) Dwellings are permitted on the first floor except within 50' of the right of way of N. 48<sup>th</sup> Street.
- (b) Alcohol for sale for consumption on the premises is permitted as a conditional use provided:
  - i. It meets all the requirements of LMC 27.63.680, except for parking. With regard to parking, the parking requirements of the PUD apply, and the inclusion of the sale of alcohol for consumption on the premises in conjunction with an existing use is not considered a change in use.
  - ii. The hours for the sale of alcohol shall not commence prior to 8:00 a.m. and shall end no later than 11:00 p.m.
  - iii. The hours of outdoor operation (beer garden, etc) shall not commence prior to 8:00 a.m. and shall end no later than 10:00 p.m.

### 2. Parking:

- (a) Parking requirement may be met within 600' of the property line.
- (b) Due to the availability of on-street parking and City-owned off-street parking lots, an overall ratio reduction of 50% shall apply to all nonresidential uses within the PUD, including all nonresidential uses with special parking requirements listed under 27.67.040. Additional minor amendments in the ratio may be approved administratively by the Planning Director, based on changes in land use and parking within and near to the PUD.
- (c) Residential uses with special parking requirements listed under 27.67.040 shall adhere to the parking requirements of the ordinance. The 50% ratio reduction does not apply.
- (d) Residential parking requirement is 1 space per dwelling unit if part of a mixed-use development on a single premises. The 50% ratio reduction does not apply.
- (e) Residential uses not part of a mixed-use development shall have a parking requirement of 1.75 spaces per dwelling unit. The 50% ratio reduction does not apply.
- (f) If the ratio reduction for a use still results in inadequate parking, an additional option is a joint parking agreement. Joint parking is currently permitted in the B-3 district by 27.67.040(dd). The PUD makes the following modifications to the joint parking ordinance:



University Place Business Association

2701 N. 48<sup>th</sup> St. suite #12

Lincoln, NE 68504

RECEIVED

APR 4 - 2011

Lincoln/Lancaster Co.  
Planning Department

April 1, 2011

Lincoln/Lancaster County Planning Department

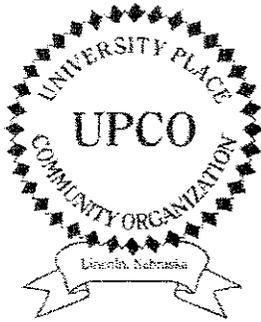
555 S. 10<sup>th</sup> Street, Ste 213

Lincoln, NE 68508

The University Place Business Association was made aware at our March meeting of the application by the Mo Java Café to obtain a permit for the sale of alcohol. The Association members present at the meeting voted unanimously to support this application by Mo Java. Mo Java has been an anchor in the University Business neighborhood for many years. We are confident that they will be responsible in the serving of alcohol. We believe this step will enhance the University Place Business community's efforts to develop the neighborhood as a destination for shopping, art galleries and dining.

We hope you will approve this application for a permit for on-sale alcohol at the Mo Java Café.

Charles Yost, Secretary/treasurer for the UPBA



**University Place Community Organization, Inc.**

2723 North 50th Street  
Lincoln, Nebraska 68504  
(402) 466-1906

April 19, 2011

To whom it may concern,

I am writing on behalf of the University Place Community Organization's (UPCO) Board of Directors in support Paul Marshall, owner of Mo Java and their liquor license application.

The UPCO board feels that the expansion of small business is vital to the University Place neighborhood. Mo Java has been a good neighbor since opening and the board feels that they will continue to operate responsibly within the neighborhood. Mo Java has become a vibrant part of First Fridays in University Place and their expansion will further their influence in the neighborhood. Therefore, we offer our support of their application.

Thank you,

Malinda Burk, President