

RESOLUTION NO. A-_____

USE PERMIT NO. 08003

1 WHEREAS, Waterford Estates, LLC has submitted an application in accordance
 2 with Section 27.31.100 of the Lincoln Municipal Code designated as Use Permit No. 08003 to
 3 develop 250,000 square feet of commercial floor area on property generally located at North
 4 98th Street and O Street, legally described as follows:

5 A portion of Outlot "D", Waterford Estates Addition, located in the Southeast
 6 Quarter of Section 23, Township 10 North, Range 7 East of the 6th P.M., City of
 7 Lincoln, Lancaster County, Nebraska, and more particularly described as follows:

8 Commencing at the southeast corner of said Outlot "D", said point being on the
 9 west right-of-way line of North 98th Street, and on the north right-of-way line of
 10 East "O" Street, said point being the true point of beginning; thence westerly
 11 along a south line of said Outlot "D", said line being a north line of said
 12 right-of-way on an assumed bearing of south 86 degrees 46 minutes 15 seconds
 13 west, a distance of 337.32 feet to a point; thence north 83 degrees 32 minutes 33
 14 seconds west along a south line of said Outlot "D", said line being a north line of
 15 said right-of-way, a distance of 217.45 feet to a point; thence north 00 degrees
 16 35 minutes 26 seconds east, a distance of 184.94 feet to a point; thence north 44
 17 degrees 20 minutes 49 seconds east, a distance of 155.57 feet to a point of
 18 curvature of a non-tangent curve in a clockwise direction having a radius of
 19 183.00 feet, a central angle of 37 degrees 57 minutes 29 seconds, an arc
 20 distance of 121.24 feet, a tangent length of 62.94 feet, a chord bearing of north
 21 18 degrees 23 minutes 19 seconds west, and a chord distance of 119.03 feet to
 22 a point; thence north 00 degrees 35 minutes 26 seconds east, a distance of
 23 136.72 feet to a point of curvature of a curve in a counter clockwise direction
 24 having a radius of 192.00 feet, a central angle of 71 degrees 41 minutes 27
 25 seconds, an arc length of 240.24 feet, a tangent length of 138.71 feet, a chord
 26 bearing of north 35 degrees 15 minutes 18 seconds west, and a chord distance
 27 of 224.87 feet to a point of reverse curvature, thence along a curve in a clockwise
 28 direction having a radius of 433.00 feet, a central angle of 63 degrees 36 minutes
 29 57 seconds, an arc length of 480.76 feet, a tangent length of 268.55 feet, a chord
 30 bearing of north 39 degrees 17 minutes 32 seconds west, and a chord distance
 31 of 456.45 feet to a point of reverse curvature, thence along a curve in a counter
 32 clockwise direction having a radius of 967.00 feet, a central angle of 27 degrees
 33 46 minutes 47 seconds, an arc length of 468.85 feet, a tangent length of 239.13
 34 feet, a chord bearing of north 21 degrees 22 minutes 27 seconds west, and a
 35 chord distance of 464.27 feet to a point of reverse curvature, thence along a
 36 curve in a clockwise direction having a radius of 533.00 feet, a central angle of
 37 35 degrees 29 minutes 07 seconds, an arc length of 330.11 feet, a tangent
 38 length of 170.54 feet, a chord bearing of north 17 degrees 31 minutes 17

1 seconds west, and a chord distance of 324.85 feet to a point; thence north 00
2 degrees 13 minutes 16 seconds east, a distance of 22.84 feet to a point; thence
3 south 87 degrees 19 minutes 39 seconds east, a distance of 209.80 feet to a
4 point; thence south 89 degrees 37 minutes 05 seconds east, a distance of
5 182.72 feet to a east corner of said Outlot "D", said point being the southwest
6 right-of-way corner of Waterford Estates Drive; thence continuing easterly along
7 said line, said line being a north line of said Outlot "D"; said line being a south
8 line of said right-of-way, a distance of 81.77 feet to a point, said point being on
9 the west right-of-way line of North 98th Street; thence south 27 degrees 38
10 minutes 04 seconds east along a east line of said Outlot "D", said line being a
11 west line of said right-of-way, a distance of 17.90 feet to a point; thence south 10
12 degrees 37 minutes 15 seconds east along an east line of said Outlot "D", said
13 line being a west line of said right-of-way, a distance of 44.87 feet to a point of
14 curvature of a non-tangent curve in a counter clockwise direction having a radius
15 of 1,560.00 feet, a central angle of 23 degrees 33 minutes 06 seconds, an arc
16 distance of 641.24 feet, a tangent length of 325.21 feet, a chord bearing of south
17 16 degrees 43 minutes 12 seconds east, and a chord distance of 636.74 feet to a
18 point of reverse curvature, thence along a curve in a clockwise direction having a
19 radius of 320.00 feet, a central angle of 08 degrees 16 minutes 09 seconds, an
20 arc length of 46.18 feet along a east line of said Outlot "D", said line being a west
21 line of said right-of-way, a tangent length of 23.13 feet, a chord bearing of south
22 24 degrees 21 minutes 41 seconds east, and a chord distance of 46.14 feet to a
23 point of reverse curvature, thence along a curve in a counter clockwise direction
24 having a radius of 318.00 feet, a central angle of 12 degrees 28 minutes 19
25 seconds, an arc length of 69.22 feet along a east line of said Outlot "D", said line
26 being a west line of said right-of-way, a tangent length of 34.75 feet, a chord
27 bearing of south 26 degrees 27 minutes 46 seconds east, and a chord distance
28 of 69.09 feet to a point of compound curvature of a curve in a counter clockwise
29 direction having a radius of 1,570.00 feet, a central angle of 03 degrees 46
30 minutes 57 seconds, an arc length of 103.64 feet along a east line of said Outlot
31 "D", said line being a west line of said right-of-way, a tangent length of 51.84 feet,
32 a chord bearing of south 34 degrees 35 minutes 24 seconds east, and a chord
33 length of 103.63 feet to a point; thence south 36 degrees 28 minutes 52 seconds
34 east along a east line of said Outlot "D", said line being a west line of said
35 right-of-way, a distance of 150.72 feet to a point; thence south 11 degrees 16
36 minutes 18 seconds west along a east line of said Outlot "D", said line being a
37 west line of said right-of-way, a distance of 15.00 feet to a point on the north
38 right-of-way line of Boathouse Road; thence south 61 degrees 35 minutes 01
39 seconds west along a south line of said Outlot "D", said line being a north line of
40 said right-of-way, a distance of 42.31 feet to a point of curvature of a non-tangent
41 curve in a clockwise direction having a radius of 451.00 feet, a central angle of
42 01 degrees 01 minutes 52 seconds, an arc distance of 8.12 feet along a south
43 line of said Outlot "D", said line being a north line of said right-of-way, a tangent
44 length of 4.06 feet, a chord bearing of south 73 degrees 10 minutes 37 seconds
45 west, and a chord distance of 8.12 feet to the northwest corner of said
46 right-of-way; thence south 16 degrees 18 minutes 27 seconds east along a east
47 line of said Outlot "D", said line being a west line of said right-of-way, a distance
48 of 98.00 feet to the southwest corner of said right-of-way, said point being a point
49 of curvature of a non-tangent curve in a counter clockwise direction having a

1 radius of 549.00 feet, a central angle of 08 degrees 21 minutes 54 seconds, an
2 arc distance of 80.15 feet along a north line of said Outlot "D", said line being a
3 south line of said right-of-way, a tangent length of 40.15 feet, a chord bearing of
4 north 69 degrees 30 minutes 36 seconds east, and a chord distance of 80.08 feet
5 to a point on the west right-of-way line of North 98th Street; thence south 65
6 degrees 03 minutes 00 seconds east along a north line of said Outlot "D", said
7 line being a south line of said of right-of-way, a distance of 27.37 feet to a point;
8 thence south 38 degrees 34 minutes 11 seconds east along a east line of said
9 Outlot "D", said line being a west line of said right-of-way, a distance of 41.11
10 feet to a point of curvature of a non-tangent curve in a clockwise direction having
11 a radius of 1,434.00 feet, a central angle of 11 degrees 33 minutes 31 seconds,
12 an arc distance of 289.29 feet along a east line of said Outlot "D", said line being
13 a west line of said right-of-way, a tangent length of 145.14 feet, a chord bearing
14 of south 25 degrees 05 minutes 29 seconds east, and a chord distance of 288.80
15 feet to a point of compound curvature of a curve in a clockwise direction having a
16 radius of 327.00 feet, a central angle of 16 degrees 04 minutes 15 seconds, an
17 arc length of 91.72 feet along a east line of said Outlot "D", said line being a west
18 line of said right-of-way, a tangent length of 46.16 feet, a chord bearing of south
19 11 degrees 16 minutes 35 seconds east, and a chord length of 91.42 feet to a
20 point of reverse curvature, thence along a curve in a counter clockwise direction
21 having a radius of 318.00 feet, a central angle of 10 degrees 10 minutes 03
22 seconds, an arc length of 56.43 feet along a east line of said Outlot "D", said line
23 being a west line of said right-of-way, a tangent length of 28.29 feet, a chord
24 bearing of south 08 degrees 19 minutes 29 seconds east, and a chord distance
25 of 56.36 feet to a point of reverse curvature, thence along a curve in a clockwise
26 direction having a radius of 1,418.00 feet, a central angle of 12 degrees 33
27 minutes 00 seconds, an arc length of 310.60 feet along a east line of said Outlot
28 "D", said line being a west line of said right-of-way, a tangent length of 155.92
29 feet, a chord bearing of south 07 degrees 08 minutes 00 seconds east, and a
30 chord distance of 309.98 feet to the point of beginning. Said tract contains a
31 calculated area of 824,666.50 square feet or 18.93 acres, more or less.

32 WHEREAS, on January 28, 2009 the Lincoln City – Lancaster County Planning
33 Commission (“Planning Commission”) adopted Resolution No. PC 01155 conditionally
34 approving Use Permit No. 08003; and

35 WHEREAS, on February 10, 2009 a letter of appeal was filed by the Director of
36 the Department of Public Works & Utilities appealing the Planning Commission approval in Use
37 Permit 08003 of a right-in, right-out drive to 98th Street between East O Street and Boathouse
38 Road as shown on the site plan; and

39 WHEREAS, pursuant to Lincoln Municipal Code § 27.31.100(g) the action of the
40 Planning Commission is deemed advisory and the City Council, in exercising its appellate

1 authority, in conformity with the provisions of the Zoning Code, may take final action on the
2 application; and

3 WHEREAS, the real property adjacent to the area included within the site plan for
4 this construction of commercial space will not be adversely affected; and

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

8 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
9 Lincoln, Nebraska:

10 That the application of Waterford Estates, LLC, hereinafter referred to as
11 "Permittee", to develop 250,000 square feet of commercial floor area be and the same is hereby
12 granted under the provisions of Section 27.31.100 of the Lincoln Municipal Code upon condition
13 that construction and operation of said commercial space be in substantial compliance with said
14 application, the site plan, and the following additional express terms, conditions, and
15 requirements:

16 1. This permit approves 250,000 square feet of commercial floor area with a
17 limitation of 50,000 square feet of restaurants, banks, convenience stores, and drive-through
18 uses and a restriction that Lot 1, Block 1 be restricted from having any restaurants, banks,
19 convenience stores, and drive-through uses.

20 2. The City Council must approve the associated request Change of Zone #08075.

21 3. Before a final plat is approved, the Permittee shall:

22 a. Cause to be prepared and submitted to the Planning Department a
23 revised and reproducible final plot plan including **5** copies with all required
24 revisions as listed:

25 i. Revise the site plan to show the adjacent preliminary platted lots
26 and street system north of this use permit.

- 1 xvii. Correct the trail alignment to be shown south of Boathouse Road
2 crossing N. 98th Street parallel to N. 98th Street along the west side
3 down to O Street.
- 4 xviii. Add General Notes #27 to state: If necessary, the trail shall be
5 permitted and an easement will be granted in the front yard
6 setback of Lots 3 and 4, Block 2, along O Street.
- 7 xix. Add General Notes #28 to state: "A high pressure underground
8 natural gas pipeline is located along the southern edge of this
9 proposed development. The Lincoln-Lancaster County Health
10 Department calculated a hazard area of approximately 154 feet on
11 each side for this pipeline. Future owners and/or lessees of
12 dwellings or buildings located within the projected hazard area
13 shall be advised of the natural gas pipeline's location."
- 14 xx. Ornamental street lights for private roadways and pedestrian way
15 easements are to be approved by L.E.S.
- 16 b. Submit calculations to review head water and flood plain assumptions
17 used to determine flood plain and minimum building opening elevations.
- 18 c. Provide documentation from the Register of Deeds that the letter of
19 acceptance as required by the approval of the use permit has been
20 recorded.
- 21 4. Prior to the issuance of a building permit:
- 22 a. The construction plans must substantially comply with the approved
23 plans.
- 24 b. Final plats must be approved by the City.
- 25
26 If any final plat on all or a portion of the approved use permit is submitted
27 five (5) years or more after the approval of the use permit, the city may
28 require that a new use permit be submitted, pursuant to all the provisions
29 of section 26.31.015. A new use permit may be required if the subdivision
30 ordinance, the design standards, or the required improvements have
31 been amended by the city; and as a result, the use permit as originally
32 approved does not comply with the amended rules and regulations.
- 33 Before the approval of a final plat, the public streets, private roadway
34 improvements, sidewalks, public sanitary sewer system, public water
35 system, drainage facilities, land preparation and grading, sediment and
36 erosions control measures, storm water detention/retention facilities,
37 drainageway improvements, street lights, landscaping screens, street
38 trees, temporary turnaround and barricades, and street name signs, must
39 be completed or provisions (bond, escrow or security agreement) to
40 guarantee completion must be approved by the City Law Department.
41 The improvements must be completed in conformance with adopted

1 design standards and within the time period specified in the Land
2 Subdivision Ordinance. A cash contribution to the City in lieu of a bond,
3 escrow, or security agreement may be furnished for sidewalks and street
4 trees along major streets that have not been improved to an urban cross
5 section. A cash contribution to the City in lieu of a bond, escrow, or
6 security agreement may be furnished for street trees on a final plat with
7 10 or fewer lots.

8 c. The Planning Director may approve final plats after the Permittee has
9 signed an agreement that binds the Permittee and Permittee's
10 successors and assigns:

11 i. to complete the street paving of public streets, and temporary
12 turnarounds and barricades located at the temporary dead-end of
13 the streets shown on the final plat within two (2) years following
14 the approval of the final plat.

15 ii. to complete the paving of private roadway, and temporary
16 turnarounds and barricades located at the temporary dead-end of
17 the private roadways shown on the final plat within two (2) years
18 following the approval of this final plat.

19
20 iii. to complete the installation of sidewalks along both sides of the
21 streets and private roadways and along the south side of
22 Waterford Estates Drive as shown on the final plat within four (4)
23 years following the approval of the final plat.

24 iv. to complete the installation of sidewalks along N. 98th Street and O
25 Street as shown on the final plat within two (2) years following the
26 approval of this final plat.

27 v. to complete the public water distribution system to serve this plat
28 within two (2) years following the approval of the final plat.

29 vi. to complete the public wastewater collection system to serve this
30 plat within two (2) years following the approval of the final plat.

31
32 vii. to complete the enclosed public drainage facilities shown on the
33 approved drainage study to serve this plat within two (2) years
34 following the approval of the final plat.

35 viii. to complete the enclosed private drainage facilities shown on the
36 approved drainage study to serve this plat within two (2) years
37 following the approval of the final plat.

38 ix. to complete land preparation including storm water
39 detention/retention facilities and open drainageway improvements
40 to serve this plat prior to the installation of utilities and
41 improvements but not more than two (2) years following the
42 approval of the final plat

- 1 x. to complete the installation of public street lights along Boathouse
2 Road and Waterford Estates Drive within this plat within two (2)
3 years following the approval of the final plat.
- 4 xi. to complete the installation of private street lights along N. 97th
5 Street within this plat within two (2) years following the approval of
6 the final plat.
- 7 xii. to complete the planting of the street trees along N. 97th Street,
8 Boathouse Road, and Waterford Estates Drive within this plat
9 within four (4) years following the approval of the final plat.
- 10 xiii. to complete the installation of street trees along the north side of
11 O Street and the west side of N. 98th Street as shown on the final
12 plat within two (2) years following the approval of this final plat.
- 13 xiv. to complete the installation of the street name signs within two (2)
14 years following the approval of the final plat.
15
- 16 xv. to complete the installation of the permanent markers prior to
17 construction on or conveyance of any lot in the plat.
- 18 xvi. to complete any other public or private improvement or facility
19 required by the Land Subdivision Ordinance in a timely manner
20 which inadvertently may have been omitted from the above list of
21 required improvements.
- 22 xvii. to submit to the Director of Public Works a plan showing proposed
23 measures to control sedimentation and erosion and the proposed
24 method to temporarily stabilize all graded land for approval.
- 25 xviii. to comply with the provisions of the Land Preparation and Grading
26 requirements of the Land Subdivision Ordinance.
- 27 xix. to complete the public and private improvements shown on the
28 Use Permit.
- 29 xx. to keep taxes and special assessments on the outlots from
30 becoming delinquent.
- 31 xxi. to maintain the outlots and private improvements in a condition as
32 near as practical to the original construction on a permanent and
33 continuous basis.
- 34 xxii. to maintain the plants in the medians and islands on a permanent
35 and continuous basis.
- 36 xxiii. to maintain the street trees along the private roadways and
37 landscape screens on a permanent and continuous basis.

1 xxiv. to maintain and supervise the private facilities which have
2 common use or benefit in a condition as near as practical to the
3 original construction on a permanent and continuous basis, and to
4 recognize that there may be additional maintenance issues or
5 costs associated with providing for the proper functioning of storm
6 water detention/retention facilities as they were designed and
7 constructed within the development and that these are the
8 responsibility of the land owner.

9 xxv. to retain ownership of and the right of entry to the outlots in order
10 to perform the above-described maintenance of the outlots and
11 private improvements on a permanent and continuous basis.
12 However, Permittee may be relieved and discharged of such
13 maintenance obligations upon creating in writing a permanent and
14 continuous association of property owners who would be
15 responsible for said permanent and continuous maintenance
16 subject to the following conditions:

17 (1) Permittee shall not be relieved of Permittee's maintenance
18 obligation for each specific private improvement until a
19 registered professional engineer or nurseryman who
20 supervised the installation of said private improvement has
21 certified to the City that the improvement has been
22 installed in accordance with approved plans.

23 (2) The maintenance agreements are incorporated into
24 covenants and restrictions in deeds to the subdivided
25 property and the documents creating the association and
26 the restrictive covenants have been reviewed and
27 approved by the City Attorney and filed of record with the
28 Register of Deeds

29 xxvi. to relinquish the right of direct vehicular access from Lots 1-4,
30 Block 1 and Lots 1, 2, and 4, Block 2 to N. 98th Street and from
31 Lots 3 and 4, Block 1 to O Street.

32 5. Before occupying the buildings all development and construction are to
33 substantially comply with the approved plans.

34 6. All privately-owned improvements, including landscaping are to be permanently
35 maintained by the Permittee or an appropriately established association approved by the City.

36 7. The physical location of all setbacks and yards, buildings, parking and circulation
37 elements, and similar matters must be in substantial compliance with the location of said items
38 as shown on the approved site plan.

1 8. The terms, conditions, and requirements of this resolution shall run with the land
2 and be binding upon the Permittee, its successors and assigns.

3 9. The Permittee shall sign and return the letter of acceptance to the City Clerk
4 within 60 days following the approval of the use permit, provided, however, said 60-day period
5 may be extended up to six months by administrative amendment. The City Clerk shall file a
6 copy of the resolution approving the use permit and the letter of acceptance against Outlot D,
7 Waterford Estates Addition, Lincoln, Lancaster County, Nebraska, with the Register of Deeds,
8 filling fees therefor to be paid in advance by the Permittee.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2010:

Mayor