

FACTSHEET

TITLE: CHANGE OF ZONE NO. 14007

BOARD/COMMITTEE: Planning Commission

APPLICANT: Eiger Corporation

RECOMMENDATION: Approval (6-0: Beecham, Cornelius, Corr, Hove, Lust and Sunderman voting 'yes'; Harris and Weber absent; Scheer declared a conflict of interest).

STAFF RECOMMENDATION: Approval

OTHER DEPARTMENTS AFFECTED: N/A

SPONSOR: Planning Department

OPPONENTS: None

REASON FOR LEGISLATION:

To change the zoning from AG Agricultural District to B-5 Planned Regional Business District, and from B-5 Planned Regional Business District to H-4 General Commercial District, on property generally located at South 91st Street and Pine Lake Road.

DISCUSSION / FINDINGS OF FACT:

1. This change of zone request and the associated Use Permit No. 140D (Bill #14R-130) were heard at the same time before the Planning Commission.
2. The purpose of this change of zone request is to expand the boundary of the associated use permit by approximately 14.6 acres, more or less, to allow apartments, and to remove approximately 6.3 acres, more or less, from the use permit and rezone to H-4 to allow mini-warehousing.
3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.4-5, concluding that the Comprehensive Plan designates this area for future commercial land uses, and it is also a designated location for a regional shopping center. It has been anticipated that the associated use permit would eventually be expanded to include all the area bounded by South 84th and South 91st Streets, from the south side of Pine Lake Road to Highway 2. High density residential, such as the proposed apartments, is an appropriate land use when sited in proximity to a major shopping center. Apartment residents will be close to a wide range of services, with good access being located near major arterial streets. The staff presentation is found on p.6-7.
4. The applicant's testimony is found on p.7.
5. There was no testimony in opposition.
6. On April 30, 2014, the Planning Commission agreed with the staff recommendation and voted 6-0 to recommend approval of this change of zone request.
7. On April 30, 2014, the Planning Commission also agreed with the staff recommendation and voted 6-0 to recommend conditional approval of the associated Use Permit No. 140D (Bill #14R-130).

POLICY OR PROGRAM CHANGE: ___ Yes X No

OPERATIONAL IMPACT ASSESSMENT: N/A

COST OF TOTAL PROJECT: N/A

RELATED ANNUAL OPERATING COSTS: N/A

SOURCE OF FUNDS: N/A

CITY: N/A

NON-CITY: N/A

FACTSHEET PREPARED BY: Jean Preister, Administrative Officer

DATE: May 5, 2014

REVIEWED BY: Marvin Krout, Director of Planning

DATE: May 5, 2014

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for April 30, 2014 PLANNING COMMISSION MEETING

NOTE: This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

PROJECT #: **Change of Zone #14007**
Use Permit #140D

PROPOSAL: **CZ#14007 - Change the zoning from AG to B-5 for approximately 14.6 acres, and from B-5 to H-4 for approximately 6.3 acres.**
UP#140D - To expand the boundary of the use permit by approximately 14.6 acres for apartments, and remove the approximately 6.3 acres being re-zoned to H-4 for mini-warehousing

LOCATION: South 91st Street and Pine Lake Road

LAND AREA: **CZ#15007 - Approximately 14.6 acres to B-5, and approximately 6.3 acres to H-4**
UP#140B - Area of expansion is 14.6 acres, the total area of use permit is approximately 158.18 acres (total area of use permit less that being re-zoned to H-4)

CONCLUSION: The Comprehensive Plan designates this area for future commercial land uses, and it is also a designated location for a regional shopping center. It has been anticipated the use permit would eventually be expanded to include all the area bounded by South 84th and South 91st Streets, from the south side of Pine Lake Road to Highway 2. High density residential, such as the proposed apartments, are an appropriate land use when sited in proximity to a major shopping center. Apartment residents will be close to a wide range of services, with good access being located near major arterial streets.

| | |
|-------------------------------------|------------------------|
| RECOMMENDATION: | |
| <u>Change of Zone #14007</u> | <u>Approval</u> |
| Use Permit #140B | Conditional Approval |
| Waivers: | |
| Waiver to allow tandem parking: | Approval |
| Waiver to height to 52' | Approval |

GENERAL INFORMATION:

LEGAL DESCRIPTION: CZ#14007 - See attached legal description.
UP#140D - See attached legal description.

EXISTING LAND USE: Undeveloped, Commercial

SURROUNDING LAND USE AND ZONING:

| | | |
|--------|---|---------------------|
| North: | Vacant, Residential | AG, R-3 |
| South: | Vacant, Commercial | B-2, B-5, H-4 |
| East: | Apartments, Hospital, Office, Health Care Facility, Vacant | R-3, R-5, O-3, B-2, |
| West: | Undeveloped, Residential | AG, O-3 |

HISTORY:

- Sep 2001 - PP#01006 for Appian Way Regional Center with 28 commercial lots and 8 outlots was approved.
- Nov 2001 - ANN#01006 annexing 245 acres into the City of Lincoln was approved.
- Nov 2001 - CZ#3320 changed the zoning on 98.8 acres east of relocated South 91st Street from AG to R-3.
- Nov 2001 - CZ#3285 changed the zoning on 146.3 acres between South 84th and relocated South 91st Street north of Highway 2 from AG to B-5.
- Nov 2001 - UP#140 for 825,400 square feet of commercial space, with the option to expand to 940,000 square feet provided that the total p.m. peak hour trips does not exceed 2,925 was approved.
- Oct 2002 - UP#140A was approved adjusting the required parking for Menards from 877 spaces to 729 spaces.
- Apr 2005 - UP#140B was approved expanding the Appian Way use permit by 24 acres for a six-screen movie theater complex.
- Apr 2009 - UP#140C was approved granting an adjustment to the required number of parking spaces to 650 for the home improvement store use on Lot 2, Block 1, Appian Way Addition.

COMPREHENSIVE PLAN SPECIFICATIONS:

Pg 1.9 - The Future Land Use Map designates the are for commercial land uses.

Pg 5.6 - This area is designated for a regional shopping center.

Pg 6.2 - Mixed Use Guiding Principles - Mixed Use Redevelopment should:

- Occur on sites supported by adequate road and utility capacity.
- Be located and designed in a manner compatible with existing or planned land uses.
- Provide a diversity of housing types and choices throughout each neighborhood for an increasingly diverse population.
- Help to create neighborhoods that include homes, stores, workplaces, schools, and places to recreate.
- Encourage residential mixed use for identified corridors and redeveloping Regional, Community, Neighborhood, and Mixed Use Office Centers identified as nodes.
- Develop with substantial connectivity between developing or existing neighborhoods and developing or redeveloping commercial centers.

UTILITIES: All utilities are available to serve this area.

TRAFFIC ANALYSIS: Access to the proposed apartment sites is provided by a continuation of the internal street network. This includes building South 88th Street connecting Pine Lake Road to Eiger Drive on the west edge, and South 89th Street also connecting Pine Lake Road to Eiger Drive through the center of the apartment area. Access to Pine Lake Road is limited to South 88th and South 89th Streets, otherwise the apartment sites take direct access to the internal system of private roadways.

ANALYSIS:

1. This request has two parts: Change of Zone #14007 and Use Permit #140D. The goal is to re-zone the property to allow for the expansion of the use permit to accommodate two apartment complexes. Each application is discussed separately below.
2. CZ#14007 - A - This change of zone has two parts. The first seeks to re-zone a 14.6 acre tract adjacent to Pine Lake Road from AG to B-5. The revised site plan for the use permit shows a concept plan for approximately 722 multi-family dwellings in the northeast corner of the use permit. Multi-family dwellings are a permitted use in the B-5 zoning district.

B - The second part of the change of zone request seeks to re-zone Outlot C (a 6.3 acre tract) from B-5 to H-4. Mini-warehousing is proposed for this lot, and while it is an allowed use in the H-4 it is not allowed in the B-5. This outlot is directly south of the proposed apartment complex, and is currently part of the use permit for the shopping center. A use permit is required for the areas zoned B-5 per the Zoning Ordinance, but that is not the case with H-4 zoned tract. Once re-zoned to H-4, it must be deleted from the boundary of the use permit as H-4 is not a use permit district. However, the floor area in the H-4 will continue to be tracked in the land use table on the use permit for the purpose of tracking trip generation per the annexation agreement for this area.

Both change of zone components are appropriate and consistent with the land use designation in the Comprehensive Plan. The location of the mini-storage facility is

internal to the development, and is a low impact use with respect to trip generation and nuisance.

Allowing for the apartment complexes injects a residential component into an otherwise all-commercial development. Such mixing of uses is recommended, provided done in a manner which protects the residential component. Placing high-density residential in proximity to a major commercial center with good access to major transportation facilities is also supported by the Comprehensive Plan.

Prepared by:
Brian Will
Planner
April 16, 2014

**APPLICANT/
CONTACT:**

Tim Gergen
Clark Enersen Partners
1010 Lincoln Mall
Lincoln, NE 68508
402-477-9291

OWNER:

Eiger Corporation
16934 Pella Road
Adams, NE 68301
402-788-2572

**CHANGE OF ZONE NO. 14007
and
USE PERMIT NO. 140D**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 30, 2014

Members present: Beecham, Sunderman, Corr, Hove, Cornelius and Lust; Harris and Weber absent; Scheer declared a conflict of interest.

Staff recommendation: Approval of the change of zone and conditional approval of the amendment to the use permit.

There were no ex parte communications.

Staff presentation: **Brian Will of Planning staff** showed the subject area which started out as the Appian Way Shopping Center at 84th & Hwy 2. Today's application is for the area northeast of the intersection called Prairie Lakes Shopping Center. This is a major amendment to the existing use permit.

Will explained that the change of zone has two components. At the northeast corner of the center, the portion not included in the use permit changes from AG to B-5 so that it can be included, and then it changes the zoning on a portion within the use permit to H-4, and taking it out of the use permit.

The site plan shows 720 dwelling units of apartment complexes. A hotel is shown in the very western portion of the development, just south of the intersection of Eiger Drive and 84th Street, and the applicant is requesting a waiver of the height restriction to 52'. The use permit is surrounded by arterial streets on all sides so the impact on adjacent properties is insignificant. This proposal would allow for more efficient use of the property within the development.

Will further advised that there is a provision in the zoning ordinance that allows for tandem parking in association with a parking complex in residential zoning districts. This will allow the parts of the development in B-5 to have tandem parking in their driveways behind the garages.

Lust asked for the definition of "tandem parking." Will suggested that it is "one behind the other", just like you can do in your driveway. However, that does not count in an apartment complex because the tenants really don't have a driveway. There must be a special provision that allows for tandem parking for apartment complexes. The zoning ordinance did not contemplate that apartments are a permitted use in the B-5, thus the request for a waiver to allow the tandem parking.

Hove inquired about the area being changed from B-4 to H-4 and being removed from the use permit. Will stated that the plan is for mini-warehousing/storage, which is not allowed in the B-5 district. The change of zone to H-4 would allow it. Thus, there will be a "hole in the donut."

Corr noted that sidewalks were waived to be on one side in the original use permit. She wondered whether the development will be required to have sidewalks on both sides of the street when 88th Street and 89th Street are constructed. Will concurred. There was a waiver with the original use permit with sidewalks on only one side, the rationale being that the size of the commercial center would not have the amount of pedestrian traffic; however, given the apartment complexes, Planning is suggesting that that waiver should not apply to the private roadways.

The apartment complex is in the northeast corner of the development. The hotel is going to be on the very western edge, just southeast of the intersection of Eiger Drive and 84th Street.

Lust thought some time ago that the weird dog leg that Pine Lake Road and Eiger Drive have in this area was discussed. At some point, wasn't Pine Lake Road going to be straightened out? Will responded, "no, this is the end result."

Proponents

1. Tim Gergen, Clark Enersen Partners, appeared on behalf of the developer, **Eiger Corp.**, to answer any questions. He agreed with all conditions of approval.

There was no testimony in opposition.

CHANGE OF ZONE NO. 14007

ACTION BY PLANNING COMMISSION:

April 30, 2014

Beecham moved approval, seconded by Sunderman.

Lust believes this is a good development for the area.

Motion for approval carried 6-0: Beecham, Sunderman, Corr, Hove, Cornelius and Lust voting 'yes'; Harris and Weber absent; Scheer declared a conflict of interest. This is a recommendation to the City Council.

USE PERMIT NO. 140D

ACTION BY PLANNING COMMISSION:

April 30, 2014

Hove moved to approve the staff recommendation of conditional approval, seconded by Cornelius.

Cornelius commented that the staff report finds this to be in conformance with the Comprehensive Plan and that there will be no adverse impact on the surrounding area.

Motion for conditional approval carried 6-0: Beecham, Sunderman, Corr, Hove, Cornelius and Lust voting 'yes'; Harris and Weber absent; Scheer declared a conflict of interest. This is a recommendation to the City Council.



2013 aerial

**Change of Zone #: CZ14007
Prairie Lakes Shopping Center
S 91st St & Pine Lake Rd**

Zoning:

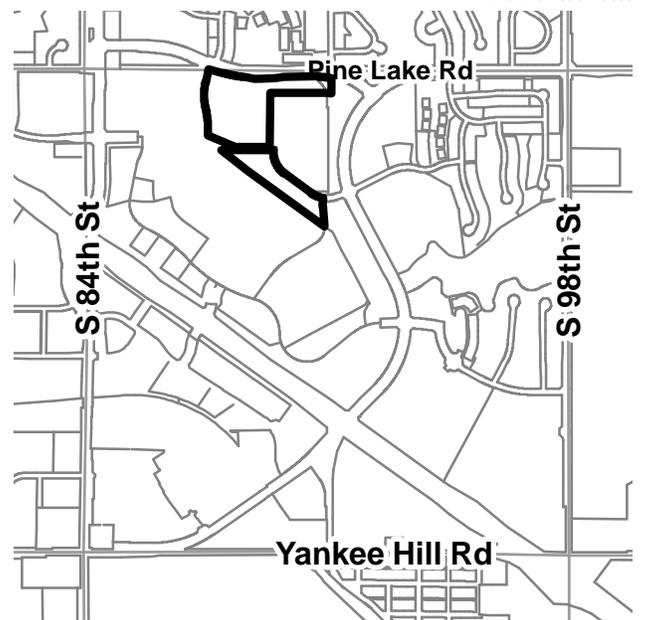
One Square Mile:
Sec.14 T09N R07E

- 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

Area of Application

Zoning Jurisdiction Lines

Lancaster County Jurisdiction



LEGAL DESCRIPTION

CHANGE OF ZONE B-5 TO H-4

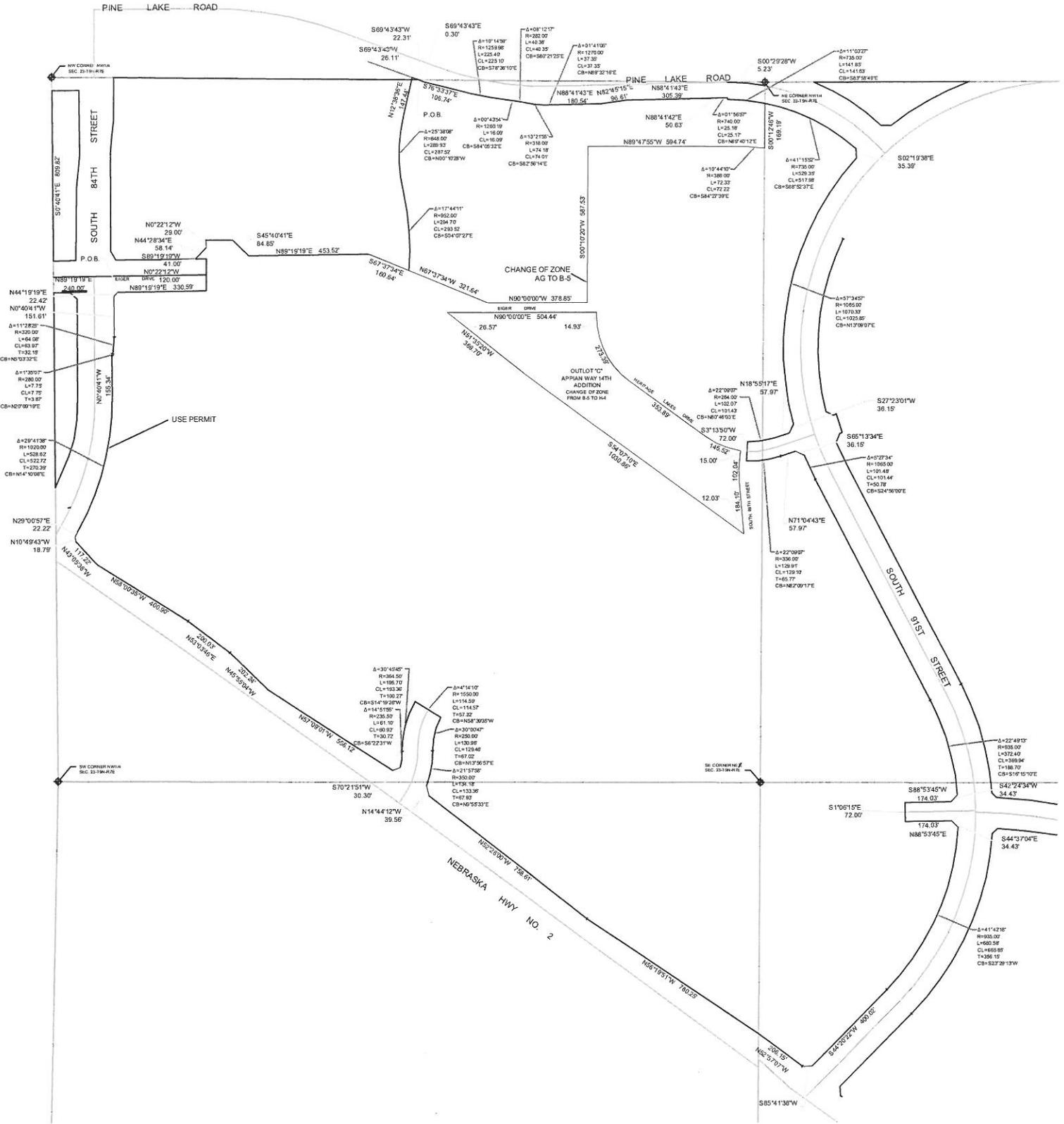
OUTLOT 'C', APPIAN WAY 14TH ADDITION, LOCATED IN THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, SAID TRACT CONTAINS A CALCULATED AREA OF 271,828 SQUARE FEET OR 6.24 ACRES, MORE OR LESS.

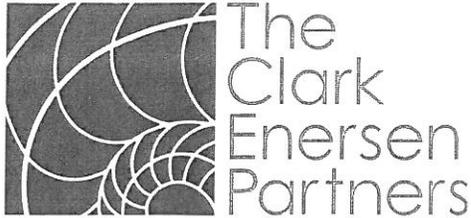
LEGAL DESCRIPTION

CHANGE OF ZONE AG TO B-5

THAT PART OF OUTLOT "B", APPIAN WAY 14TH ADDITION AND OUTLOT "O" APPIAN WAY ADDITION, LOCATED IN SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH. P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE WESTERLY ON THE NORTH LINE OF SAID NORTHWEST QUARTER ON AN ASSIGNED BEARING OF N 89°30'32"W, A DISTANCE OF 1310.84', TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF RELOCATED PINE LAKE ROAD; THENCE EASTERLY ON THE SOUTH LINE OF SAID RELOCATED RIGHT-OF-WAY, S 69°43'43"E 22.31', TO THE POINT OF BEGINNING; THENCE EASTERLY ON SAID RELOCATED RIGHT-OF-WAY FOR THE NEXT FOURTEEN (14) COURSES, S 69°43'43"E 0.30'; THENCE S 76°33'37"E 106.74' TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 10°14'59", A RADIUS OF 1,259.98', AN ARC LENGTH OF 225.40'; THENCE ON SAID CURVE, HAVING A CHORD OF S 78°36'10"E 225.10', TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 0°43'54", A RADIUS OF 1,260.19', AN ARC LENGTH OF 16.09'; THENCE ON SAID CURVE, HAVING A CHORD OF S 84°05'32"E 16.09', AND TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 8°12'17", A RADIUS OF 282.00', AN ARC LENGTH OF 40.38'; THENCE ON SAID CURVE, HAVING A CHORD OF S 80°21'25"E 40.35', TO A POINT OF REVERSE CURVATURE FOR A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 13°21'55", A RADIUS OF 318.00', AN ARC LENGTH OF 74.18'; THENCE ON SAID CURVE, HAVING A CHORD OF S 82°56'14"E 74.01', TO A POINT OF COMPOUND CURVATURE FOR A CURVE IN A COUNTER CLOCKWISE HAVING A CENTRAL ANGLE OF 1°41'06", A RADIUS OF 1,270.00', AN ARC LENGTH OF 37.35'; THENCE ON SAID CURVE, HAVING A CHORD OF N 89°32'16"E 37.35'; THENCE N 88°41'43"E 180.54'; THENCE N 82°45'15"E 96.61'; THENCE N 88°41'43"E 356.02', TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 1°56'57", A RADIUS OF 740.00', AN ARC LENGTH OF 25.18'; THENCE ON SAID CURVE, HAVING A CHORD OF N 89°40'12"E 25.17'; THENCE S 00°29'28" W 5.23', TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 11°03'27", A RADIUS OF 735.00', AN ARC LENGTH OF 141.85'; THENCE ON SAID CURVE, HAVING A CHORD OF S 83°58'49"E 141.63'; THENCE S 00°12'46"W 169.19', TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 10°44'10", A RADIUS OF 386.00', AN ARC LENGTH OF 72.33'; THENCE ON SAID CURVE, HAVING A CHORD OF N 84°27'39"W 72.22', TO A POINT ON THE NORTH LINE OF LOT 117 IRREGULAR TRACT IN SAID SECTION; THENCE WESTERLY THE NORTH LINE OF SAID LOT 117, N 89°47'55"W 594.74', TO THE NORTHWEST CORNER OF SAID LOT 117; THENCE SOUTHERLY ON THE WEST LINE OF SAID LOT 117, S 0°10'20"W 587.53', TO A POINT LOCATED 36.00' NORTH OF THE SOUTH LINE OF SAID OUTLOT "B"; THENCE WESTERLY PARALLEL TO AND 36.00' NORTH OF SAID SOUTH LINE OF OUTLOT "B", S 90°00'00"W 378.85'; THENCE NORTHWESTERLY, N 67°37'34"W 321.64', TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 17°44'11", A RADIUS OF 952.00', AN ARC LENGTH OF 294.70'; THENCE ON SAID CURVE, HAVING A CHORD OF N 04°07'27"W 293.52', TO A POINT OF COMPOUNDING CURVATURE FOR A CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 25°38'08", A RADIUS OF 648.00', AN ARC LENGTH OF 289.93'; THENCE ON SAID CURVE, HAVING A CHORD N 00°10'28"W 287.52'; THENCE N 12°38'36"E 147.44'; THENCE S 69°43'43"E 26.11', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 634,159.27 SQUARE FEET OR 14.558 ACRES, MORE OR LESS.





March 19, 2014

Mr. Brian Will
Planning Department, City of Lincoln
County-City Building
555 So. 10th Street
Lincoln, NE 68508

RE: Change of Zone and Use Permit Amendment for Appian Way

Dear Mr. Will:

Enclosed please find the following for the above-mentioned project:

1. Zoning Application
2. Application fee
 - a. Change of Zone AG to B-5 & B-5 to H-4 (\$792.00)
 - b. Amendment to the Use Permit, 14.13 Ac (\$792.00+\$1,865.16)
3. Site Plan

On behalf of the Developer, Eiger Corporation, 16934 Pella Road, Adams NE., we are requesting a change of zone from AG to B-5 and an expansion of the current Use Permit boundaries for a proposed apartment development. In addition, we are requesting a change of zone from B-5 to H-4 to allow a potential development of mini-warehousing (storage units) within the Use Permit.

Also, within the existing boundaries of the Use Permit an 88-room hotel is being proposed with a waiver of the height of up to 52 feet.

Please let me know if you need additional information.

Sincerely,



Tim Gergen

Enclosures

cc: Kelvin Korver, Eiger Corp.
File

011

Architecture + Landscape Architecture + Engineering + Interiors

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