

DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT

This Development and Conditional Zoning Agreement ("Agreement") is hereby made and entered into this _____ day of _____, 2015, by and between William Schwartzkopf and First Nebraska Trust Company, Trustees of the Edward Schwartzkopf QTIP Marital Deduction Trust, under a Trust Agreement dated June 2, 2004, as amended, 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 from R-4 Residential District ("R-4") to H-3 Highway District ("H-3") upon property generally located east of Southwest 1st Street and south of West L Street and legally described as:

Lots 36-46, Block 1, Boyer and Davis Subdivision,
and the north 8 feet of the vacated alley adjacent
to Lot 36, Boyer and Davis Subdivision, Lincoln,
Lancaster County, Nebraska, (the "Property").

II.

Approval of this Change of Zone from R-4 to H-3 would allow the Developer to use the Property for a range of commercial and retail uses which would not be compatible with the surrounding neighborhood.

III.

The Developer has represented to the City that, in consideration of the City re-zoning the Property to H-3, the Developer will enter into an agreement with the City to restrict use on the Property to outdoor storage or for contractor services storage as long as the properties to the east adjacent to the vacated north/south alley are zoned residential.

IV.

The City desires an Agreement to be assured that Developer will develop the Property as represented should the Property be rezoned to H-3.

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-4 to H-3 District on the Property.

2. In consideration for the City rezoning the Property to H-3 Highway District, the Developer agrees that the development of the Property shall be subject to the following requirements:

- a. The Property shall be only used for outdoor storage or contractor services storage;
- b. There shall be no access to the Property from the abutting north/south alley;
- c. The Developer shall provide a 20 foot wide green space buffer along the entire east side of the Property. The buffer must include at least a 60% screen to 10 feet in height. The existing tree mass within the 20 foot wide area is to be preserved and may be counted as part of the required screen. The screen shall be installed by June 1, 2016.
- d. The Developer shall install an 8 foot black vinyl clad chain link fence with slats along the north property line of the Property adjacent to Schwartzkopf Park. The fence is to be installed by June 1, 2016.
- e. The Developer will address drainage concerns on the Property causing water to pond on Schwartzkopf Park to the satisfaction of the Director of the Parks and Recreation Department.

3. Conditions 2.a, 2.b, and 2.c shall remain in effect so long as the properties to the east of the north/south alley in said Block 1 (Lots 1-15, Block 1, Boyer and Davis Subdivision), are zoned residential (i.e. R-1 through R-8 Residential District).

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

5. 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 by Developer.

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

City of Lincoln, Nebraska
a municipal corporation

Chris Beutler, Mayor

**William Schwartzkopf and
First Nebraska Trust Company,
Trustees of the Edward Schwartzkopf
QTIP Marital Deduction Trust, under a
Trust Agreement dated June 2, 2004,
as amended**

By: _____
William Schwartzkopf, Trustee

By: First Nebraska Trust Co., Trustee

Name

Title

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Chris Beutler, Mayor of the City of Lincoln.

Notary Public

