

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for January 7, 2004 PLANNING COMMISSION MEETING

P.A.S.: Waiver #03014

PROPOSAL: Waive the following requirements associated with Spilkers 4th Addition Final Plat #03014:

1. Dedication of the remainder of the half street of N. 33rd St.
2. Improvements to urban standards on N. 33rd St.
3. That each lot have access and frontage to a public or private road.
4. Construction of a public water main
5. Construction of a public sanitary sewer main

LOCATION: N. 33rd St. & Gladstone St.

LAND AREA: 26.26 acres, more or less

CONCLUSION: The purpose of the proposed final plat associated with this application is to create a lot for a broadcast tower. Constructing the required improvements in N. 33rd St. would be a hardship and an injustice because such improvements would be destroyed and not needed as part of the Antelope Valley project. The dedication of right-of-way is not a hardship or injustice in that the dedication does not overly restrict the use of the land. Allowing access to the lot whose use is associated to a broadcast tower meets the intent of access and frontage.

If the applicant wishes to withdraw the waiver to the dedication of the remainder of the half street of N. 33rd Street, this application would be final action at Planning Commission.

RECOMMENDATION:

- | | |
|--|----------------------|
| 1. Waiver to dedication of the remainder of the half street of N. 33 rd St. | Denial |
| 2. Waiver to improvements to urban standards of N. 33 rd St. | Conditional Approval |
| 3. Waiver that each lot have access and frontage to a public or private road. | Conditional Approval |
| 4. Waiver to construction of a public water main | Conditional Approval |
| 5. Waiver to construction of a public sanitary sewer main | Conditional Approval |

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 162 Irregular Tract, located in the SW 1/4 of Section 7, Township 10 N, Range 7 E, of the 6th P.M., Lancaster County, Nebraska

EXISTING ZONING: I-1, Industrial

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North:	I-1 Industrial	Undeveloped, Salt Creek
South:	I-1 Industrial	Undeveloped and Industrial buildings
East:	I-1 Industrial	Auto salvage yard
West:	B-5 Planned Regional Business District	Salt Creek and Commercial shopping center.

HISTORY:

October 3, 2003 Spilkers 4th Addition Final Plat #03044 was submitted to the Planning Department.

June 16, 2003 Special Permit #2015 for authority to construct a broadcast tower on a part of Lot 162 I.T. was approved by City Council.

December 30, 1991 Spilker Addition Final Plat, which platted the area southwest of N. 33rd St. & Gladstone St., was approved by the Planning Director.

February 11, 1991 Spilker Addition preliminary plat was approved by City Council.

April 2, 1979 Crescent Glen Industrial Park Final Plat, located northeast of N. 33rd St. & Gladstone St., was approved by City Council.

December 1890 Crescent Glen subdivision was created. Crescent Glen abuts N. 33rd St on the east side.

UTILITIES: There is no abutting sanitary sewer or public water.

TRAFFIC ANALYSIS: N. 33rd St. & Gladstone St. are local streets. N. 33rd St. abutting this area is platted as only ½ width.

ANALYSIS:

1. This request is to waive the following:
 - A. Sections 26.23.090, dedication of the remainder of a half-street;
 - B. Section 26.23.140(g), every lot shall have frontage and access to a public or private street;
 - C. Section 26.27.010, all streets abutting a new subdivision shall be paved with curb & gutters;
 - D. Section 26.27.020, sidewalks shall be constructed on the side of the street abutting the subdivision;
 - E. Section 26.27.030, all subdivisions within the corporate limits of the city or within the future urban area as designated in the comprehensive plan shall have a water distribution system constructed in conformance with the water main design standards of the city;
 - F. Section 26.27.040, all subdivisions within the corporate limits of the city or within the future urban area as designated in the comprehensive plan shall have a wastewater collection system constructed in accordance with the design standards of the city.
2. This application is associated with Spilker 4th Addition Final Plat #03044.
3. The proposed final plat shows two lots. One lot is proposed for the placement of a broadcast tower.
4. Although the Antelope Valley project shows a new street alignment through this property, when and if that street is built is unknown. In the event that the new street alignment is built, the City would be in the position of having the property owner dedicate right-of-way for the new street and the City vacating the right-of-way of N. 33rd St. The dedication of the remainder of N. 33rd St right-of-way in no way hinders the proposed final plat. The tract is not unusual in shape or size or surrounded by such development or unusual conditions that would result in actual difficulties or substantial hardship or injustice in the dedication of the west half of N. 33rd St. abutting this plat. Therefore, the requirement of dedicating the remainder of N. 33rd St. should not be waived.
5. Requiring the improvements of N. 33rd St. at this time would result in actual difficulties and substantial hardship or injustice since improvements may be destroyed when N. 33rd St. is relocated based on Antelope Valley project. Improvements to N. 33rd St.

could be waived at this time as long as Lot 2 is changed to an Outlot on the final plat of Spilkers 4th Addition, since no development may occur on an Outlot.

6. The proposed final plat shows Lot 1 as a lot with no access or frontage to a public or private street. The proposed access to Lot 1 is through a private access easement. Planning Department does not object to this waiver as long as the applicant signs a subdivision agreement tied to the final plat stating that Lot 1 will only be used for a broadcast tower and Lot 2 is created as an Outlot.
7. The applicant has also requested a waiver to Section 26.27.030 to have a water distribution system constructed in conformance with the water main design standards of the city and Section 26.27.040 to have a wastewater collection system constructed in accordance with the design standards of the city. The proposed waivers are acceptable with the stipulation that Lot 2 be changed to an Outlot and if either lot subdivides in the future the lots must connect to city water and sanitary sewer and a preliminary plat shall be required.
8. The proposed waivers must be associated with Spilkers 4th Addition and cannot be transferred to any future subdivisions of the area within Spilkers 4th Addition.
9. When the Planning Department recommends approval to a waiver(s), the waiver(s) are final action at Planning Commission. However, if the recommendation is denial, then the request must go to the City Council. Where multiple waivers have been requested under one application if any one waiver is recommended for denial then the entire application must go to the City Council.

Prepared by:

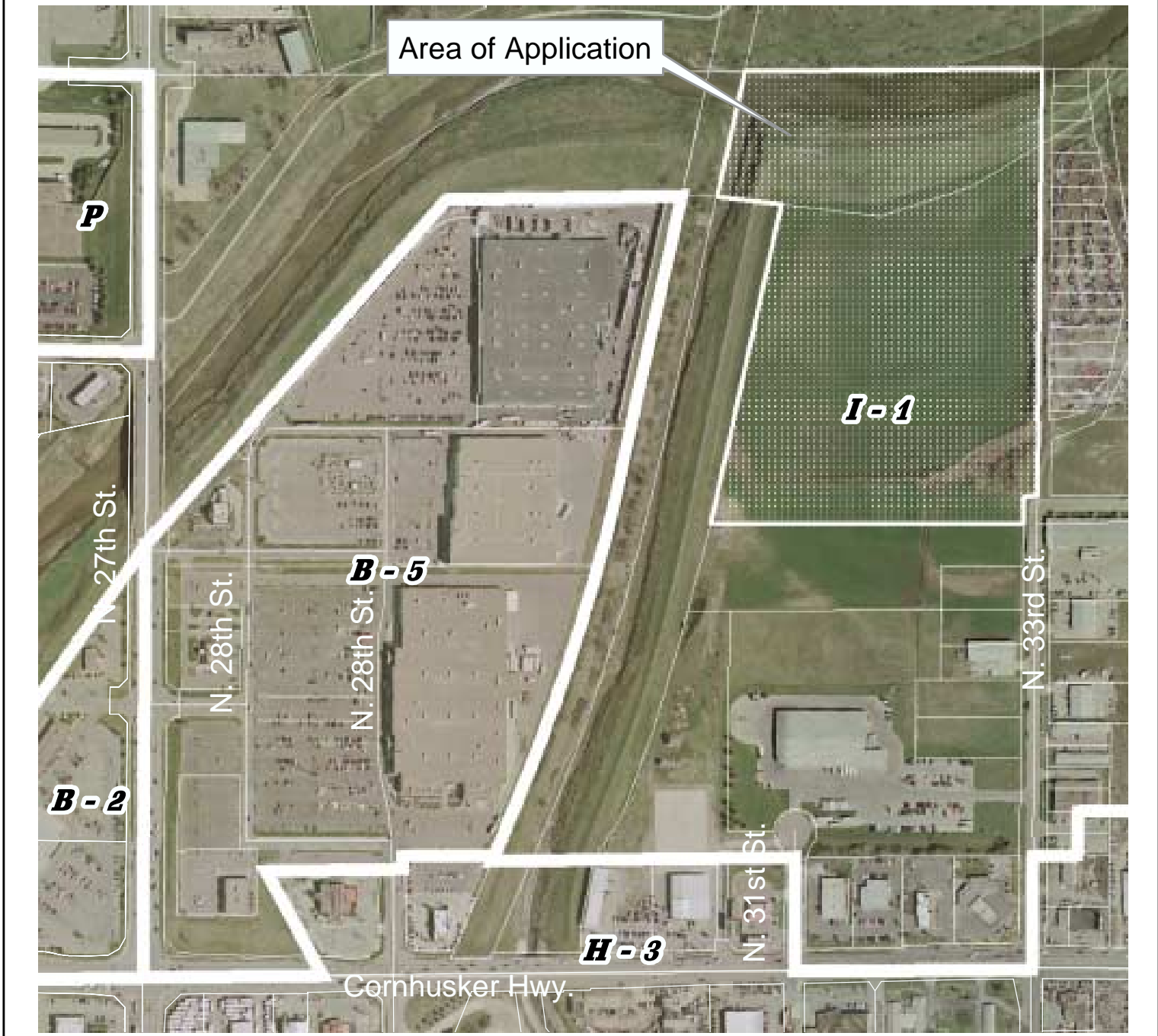
Tom Cajka
Planner

DATE: December 22, 2003

APPLICANT: Donald Spilker
1201 Fletcher Ave.
Lincoln, NE 68521
(402) 477-0387

OWNER: same as applicant

CONTACT: Lyle Loth
ESP
601 Old Cheney Rd. Suite A
Lincoln, NE 68512
(402) 421-2500



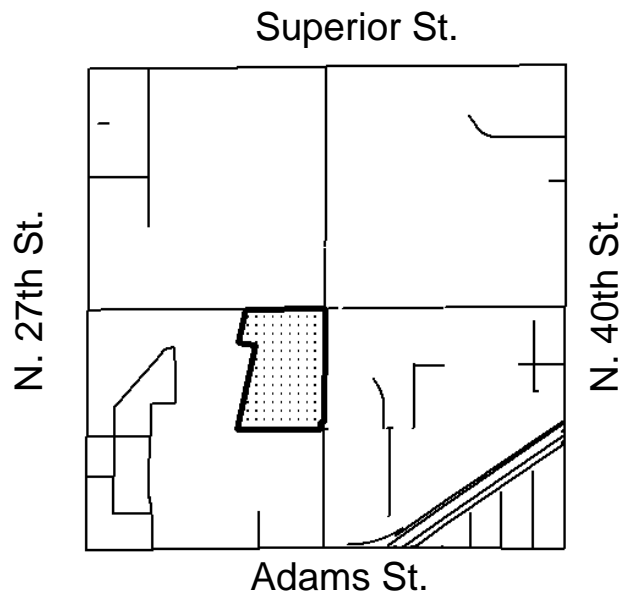
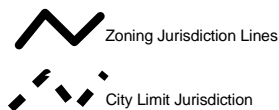
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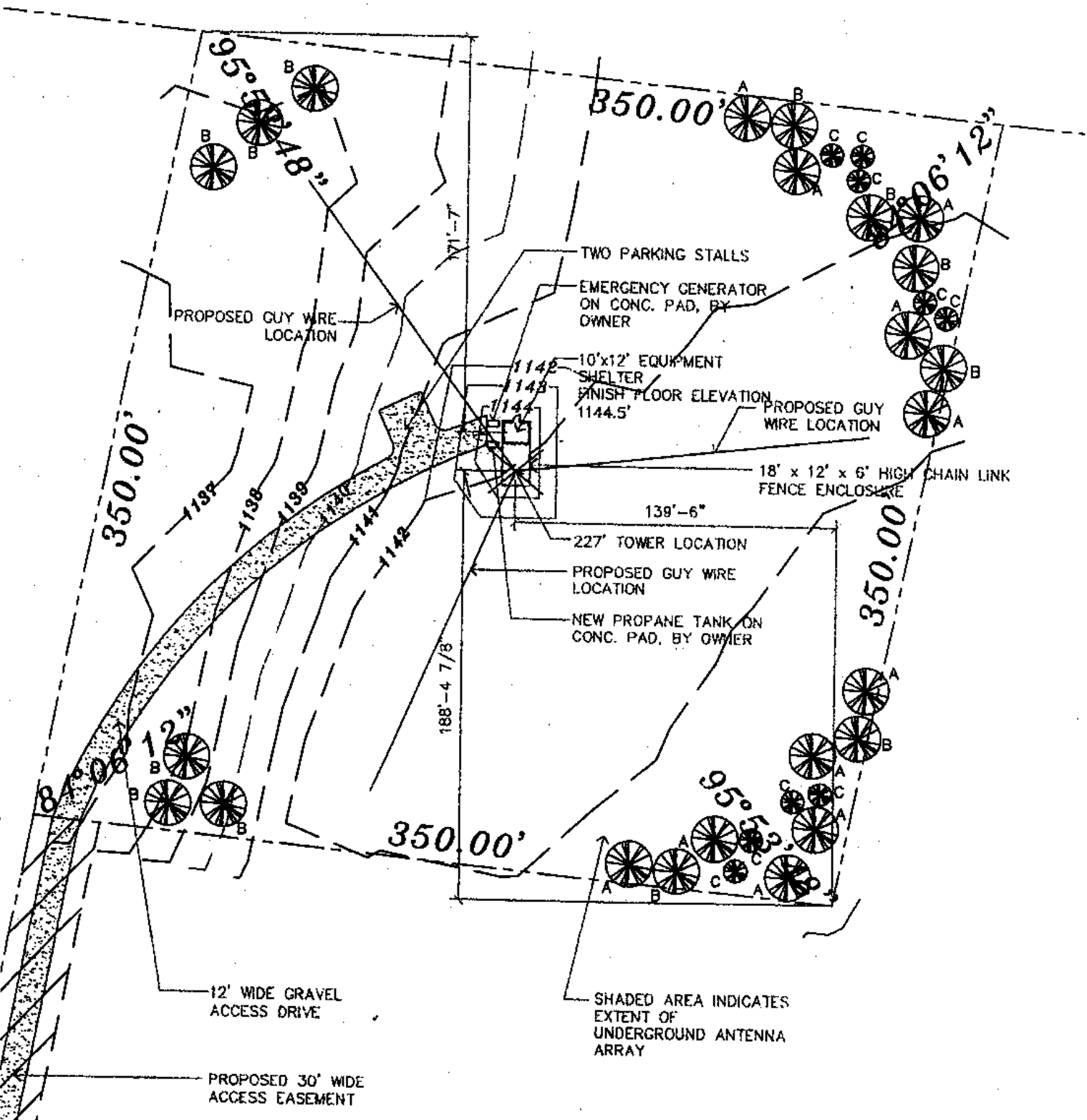
Waiver #03014 33rd & Glandstone

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation 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

One Square Mile
Sec. 7 T10N R7E





SITE PLAN
SCALE: 1" = 60'-0"

SHEET NO. A1.	DATE 8-23-03	REVISIONS
	COPYRIGHT ADA, 2003	PROJECT NO. 03-027

KLIN Radio Tower
Lincoln, NE.

SPILKER'S 4TH ADDITION

N 89°34'57" E
2592.99'(M)

N 89°34'57" E
875.20'(M)

SALT - CREEK

OUTLOT "A"

313,782. Sq. ft.
7.203 Ac.

S 00°29'14"
197.95'(I)
197.89'(I)

Fnd. 1" Pin
on SW side
4"x7.0' pipe
corner for
center

N 88°36'21" W
188.95'(M)
190.00'(P)

283.85'(M)
283.73'(R)

N62°05'54"E
254.41'

N70°54'22"E
271.20'

Fnd. 1"
Pipe
(old)

S 83°56'38" E
350.00'

Fnd. 1"
Pipe
(old)

100.0'

1

121,857. Sq. ft.
2.797 Ac.

TOTAL AREA =
26.266 Ac.

2

708,509. Sq. ft.
16.265 Ac.

S 00°30'26" W
1034.60'(M)

33RD ST.

LOT 38 I.T.
(FORMERLY C & NW R.R. R.O.W.)

LOT 177 I.T.

N 11°55'41" E
968.45'(M)

40' R.O.W.

S 89°07'20" W
39.88'(M)
40.00'(P)

S 00°29'23" W
80.00'(P&M)

GLADSTONE

Fnd. 1" Pipe

S 89°21'40" W
913.89'(M) 914.20'(P)

Fnd. 1/2" Pipe

Fnd. 1" In monu

S. Ctr. 1/16
Sec. 7 (10-7)
Position is
0.38' W. of
N-S Sec. line

S 1/4 Cor. Sec.
7 (10-7)
Fnd. 1" Pin
In monument well



Memorandum

To:	Tom Cajka, Planning Department
From:	Dennis Bartels, Engineering Services
Subject:	Spilker's 4th Addition Waivers
Date:	November 21, 2003
cc:	Randy Hoskins Bruce Briney

Engineering Services has reviewed the requested waivers to Spilker's 4th Addition and has the following comments:

1. Public Works objects to the waivers requested especially if Lot 2 is shown as a buildable lot. It is not appropriate to plat Lot 2 as a buildable lot without an approved preliminary plat showing appropriate improvements meeting design standards. There is no abutting pavement except the right angle 90° intersection frontage of Gladstone and 33rd. A driveway for an industrial lot is inappropriate. A minimum use driveway providing access to the proposed tower lot can probably be approved. The justification for waivers addresses Lot 1. The letter provides no justification for the Lot 2 requirements.
2. Engineering Services suggests that rather than waive subdivision improvement requirements, both lots be platted as outlots with provisions made to allow the tower to be constructed on the outlot shown as Lot 1. Neither lot has the improvements required for subdivision or the improvements necessary for the uses allowed per the zoning code.



File No. 03-0007
November 18, 2003

Marvin S. Krout
Director of Planning
Planning Department
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Lincoln, NE 68508

LYLE L. LOTH, P.E./L.S.

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Lincoln, NE 68512

Phone (402) 421-2500
Fax (402) 421-7096

Email: lyle@espeng.com

Re: Waivers Requested for Spilker's 4th Addition Final Plat

Dear Mr. Krout:

On behalf of the Owner, Don Spilker, we respectfully request the following waivers to allow for the processing of the referenced final plat:

1. Waiver of Land Subdivision Title Section 26.23.090 requiring the dedication of the remainder of a half street adjoining a new subdivision. The Antelope Valley Redevelopment study shows the proposed new roadway between Adams and Superior Streets to be located in this general vicinity but not along the exact alignment of North 33rd Street. Consequently, any right-of-way dedication and improvements to North 33rd Street at this time would undoubtedly need to be removed.
2. Waiver of Land Subdivision Title Section 26.23.140(g) requiring that every lot shall front upon and have access to a public street. Access to this plat will be provided by a private access easement filed with the plat at the Register of Deeds, so access and frontage to a public street is not necessary.
3. Waiver of Land Subdivision Title Section 26.27.030 requiring the construction of and connection to the City's water distribution system. The proposed radio tower improvement to be constructed on Lot 1 will be an uninhabited facility that does not require water service.
4. Waiver of Land Subdivision Title Section 26.27.040 requiring the construction of and connection to the City's wastewater collection system. The proposed radio tower improvement to be constructed on Lot 1 will be an uninhabited facility that does not require wastewater service.

E-S-P
Engineering-Surveying-Planning


Lyle L. Loth, P.E.
For the Firm

Cc: Don Spilker
Bill Frost

