

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 15, 2006 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #06005

PROPOSAL: Waive requirement for side yards adjacent to walls with windows for dwelling units above the first floor in the B-4 Lincoln Center Business District.

LOCATION: 1401 "O" Street

LAND AREA: 7,100 square feet, more or less.

CONCLUSION: This application meets the requirements of the zoning ordinance and Comprehensive Plan.

<u>RECOMMENDATION:</u>	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Units D and E, Chapin Building Condominium, located in Section 25 T10N R6E, Lancaster County, Nebraska

EXISTING LAND USE AND ZONING: Commercial B-4 Lincoln Center Business

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-4 Lincoln Center Business
South:	Commercial	B-4 Lincoln Center Business
East:	Commercial	B-4 Lincoln Center Business
West:	Commercial	B-4 Lincoln Center Business

COMPREHENSIVE PLAN SPECIFICATIONS: The 2025 Future Land Use Plan shows this area as Urban Residential. (F 25)

Development in the existing and expanded Downtown will maintain the urban environment, including a mix of land uses and residential types. (F 49)

Encourage a variety of housing types in the Downtown and Antelope Valley area. (F 73)

ANALYSIS:

1. This application is to allow windows for dwelling units on the east side of the third floor of this three-story building without providing the required yard. This permit, if approved,

will apply to only the third floor of this building. The first and second floors are not part of this request.

2. The zoning code ordinarily requires no yards for buildings in the portion of the B-4 Lincoln Center Business District where this building stands, except adjacent to walls containing windows for dwelling units. The proposed dwelling units in this building have windows in the east wall, which is separated from the neighboring building by less than the required 10 feet. Windows in the south wall are across an alley from the Bennett Martin Library.
3. Lincoln Municipal Code §27.63.410 allows a special permit for dwelling units above the first floor when a required yard cannot be provided within the B-4 district, under the following conditions:

- a) **The proposed residential units shall be in buildings existing before January 1, 1990.**

The Chapin building was constructed in 1910.

- b) **The required windows for the dwellings shall be separated from any other building or structure by an open space of at least five feet.**

This building is separated from the adjacent building to the east by approximately 4.2 feet, and from the building to the south by approximately 16 feet. The residential units are located one floor higher than the roof of either adjacent building.

- c) **The application shall be accompanied by building plans and specifications, approved by the building official, indicating the construction would meet all applicable codes and regulations, if the special permit is issued.**

The Building and Safety Department has indicated approval of this permit is required before the building plans can be approved.

- d) **The permittee agrees, by acceptance of the special permit, to vacate the dwellings authorized by such special permit within sixty days of receipt of notification from the building official of development upon the adjacent property which in any manner reduces the required separation to less than five feet.**

This requirement recognizes that construction on adjacent properties may render the east or south walls unuseable for windows for dwellings. If such construction occurs, the dwelling may be vacated, or remodeled to conform to building code requirements. By accepting this provision, the permittee acknowledges his risk.

4. Departments reviewing this request had no objection to the special permit.
5. Planning staff recommends approval based on the following conditions.

CONDITIONS:

Site Specific:

1. This approval permits the development of residential units on the third floor of the existing building at 1401 "O" Street using windows on any or all walls without meeting the required yard setback..
2. The site plan is provided for purposes of illustration and does not govern parking stalls or any other matters beyond the property lines of the subject property.

General:

3. Before receiving building permits:
 - 3.1 The construction plans comply with approved plans.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying the dwelling units all development and construction is to comply with the approved plans.
 - 4.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, and locations of buildings.
 - 4.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 4.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Special Permit #06005
Chapin Building

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Prepared by

Greg Czaplewski, 441-7620, gczaplewski@lincoln.ne.gov

Date: February 1, 2006

APPLICANT: Devon Seacrest
and 2309 Lake Street
CONTACT: Lincoln, NE 68502
730.5500

OWNER: M&T Enterprises
PO Box 22833
Lincoln, NE 68542



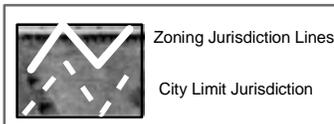
2005 aerial

Special Permit #06005 S 14th and 'O' Street

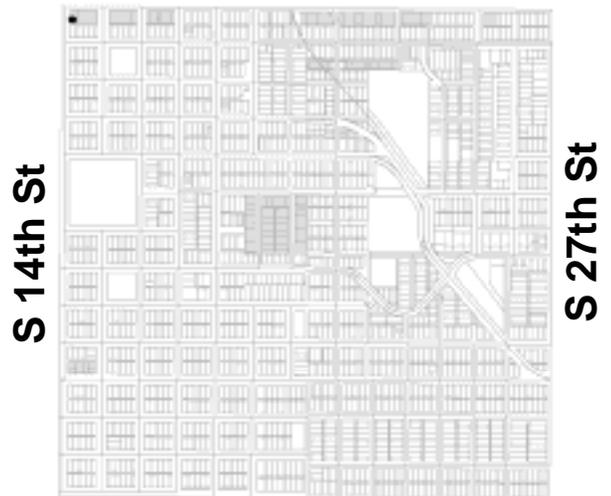
Zoning:

- 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. 25 T10N R06E



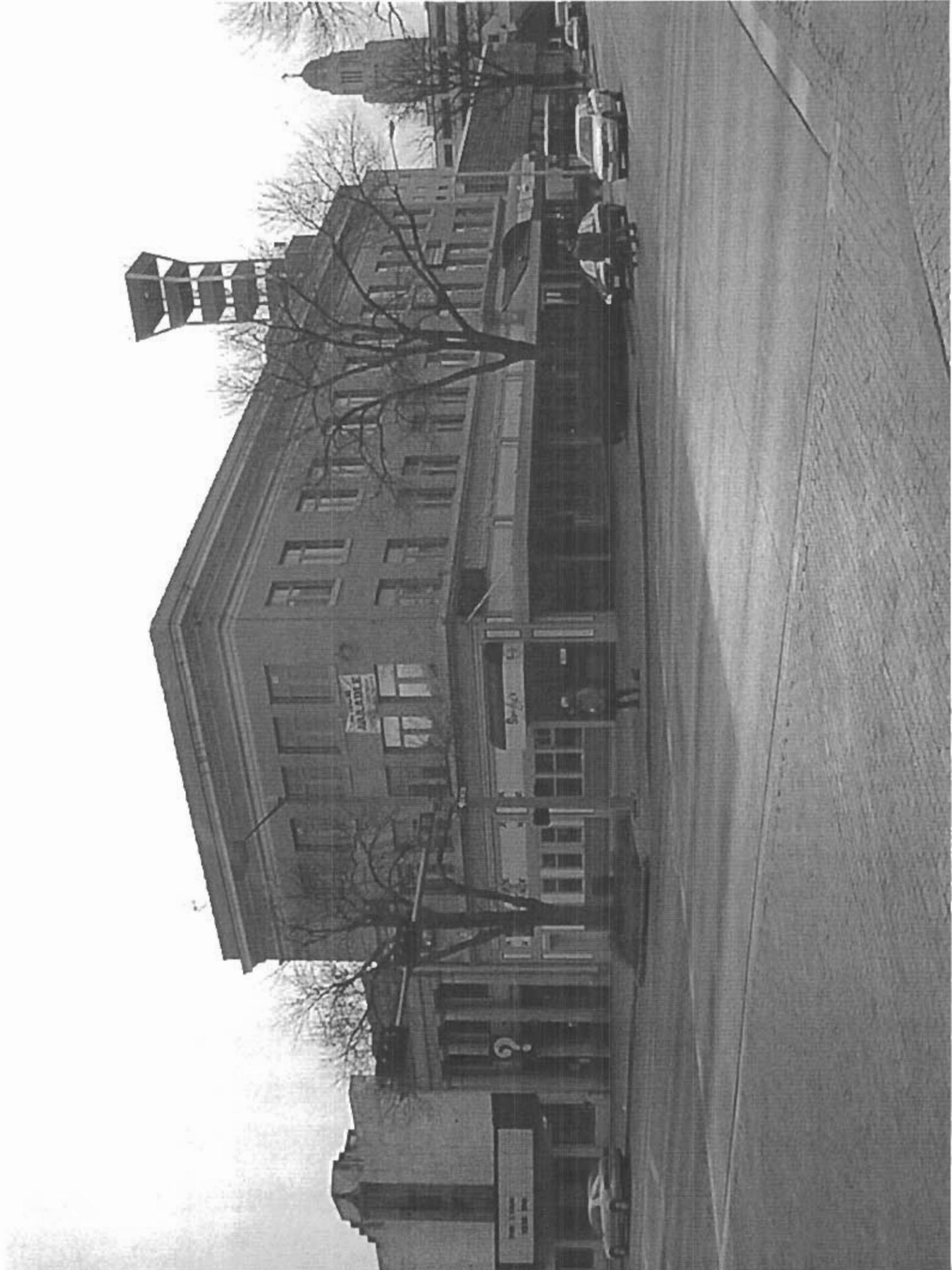
'O' St



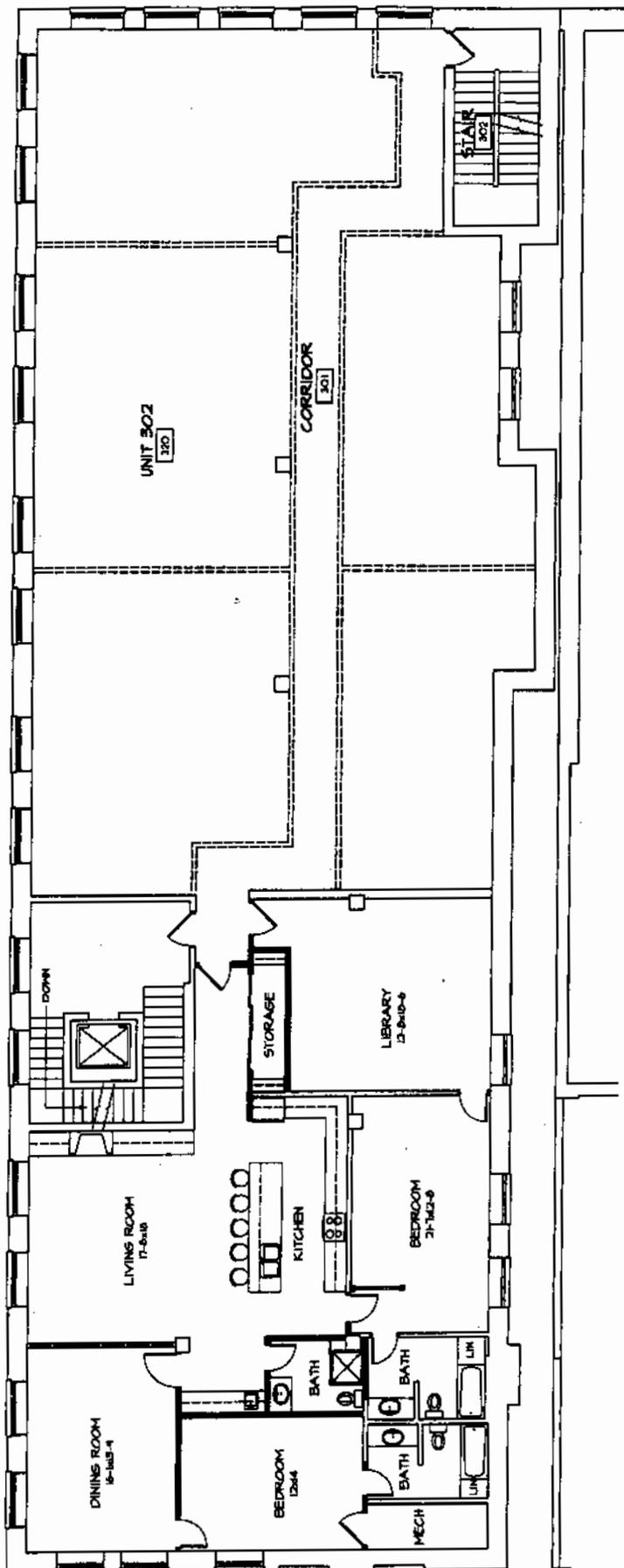
S 14th St

S 27th St

'A' St







Scale: 1/8" = 1'-0"
 Date: 15 JAN 06
 Project: 98026.dwg
 Dwg: darOlp.dgn

A·2

RECEIVED
 JAN 19 2006
 CITY OF LINCOLN
 PLANNING DEPARTMENT

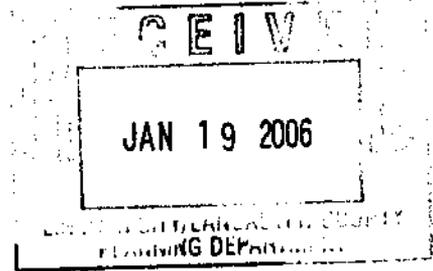
THIRD FLOOR - CHAPIN BUILDING
 SCALE 1" = 0'

DEVON SEACREST RESIDENCE
 1401 "O" Street - Suite 301, Lincoln, Nebraska

January 19, 2006

HAND DELIVERY

Mr. Marvin Krout
Planning Department, City of Lincoln
County-City Building
555 South 10th Street
Lincoln, NE 68508



RE: Special Permit No. 27.63.410

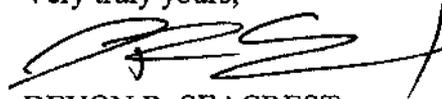
Dear Marvin:

On November 23, 2006, I, Devon R. Seacrest executed a Purchase and Sale Agreement with M & T Enterprises, LLC for the southern half of the third floor of 1401 "O" Street (referred to hereinafter as "Chapin Building"). Upon executing my due diligence it was brought to my attention that the City of Lincoln Zoning Ordinance 27.35.070 requires a ten (10) foot side yard for residential use in a building zoned B-4. Because the exterior portion of Mickey's Irish Pub, located at 1409 "O" Street, is 4' 2" from the exterior portion of Chapin Building, I would be required to apply for a special permit under section 27.63.410 of the Municipal Zoning Ordinance.

I therefore am requesting the City of Lincoln grant M & T Enterprises, LLC (Rick Taylor, managing partner) a special permit for residential use of the third floor of the Chapin Building with the existing conditions. The approval of such special permit would satisfy conditions set forth in the above mentioned Purchase and Sale Agreement and would further assist myself in closing on this deal. After closing, M & T Enterprises, LLC would transfer the rights of such special permit to myself.

Please contact me if you have any questions or require additional information.

Very truly yours,


DEVON R. SEACREST

I, Rick Taylor, hereby
authorize Devon R. Seacrest
to apply for special permit
on my property.
Enclosures

cc: Rick Taylor