

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for May 26, 2004 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #04033 and Use Permit #94B.

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.

PROPOSAL: To change the zone from O-3, Office Park to B-2, Neighborhood Business District and increase the boundary of existing use permit #94A to include the newly zoned portion.

LOCATION: Generally located south of Kensington Drive and west of N. 26th Street.

LAND AREA: 0.50 acres, more or less.

CONCLUSION: In conformance with the Comprehensive Plan and Zoning Ordinance.

<u>RECOMMENDATION:</u> Change of Zone #04033: Use Permit #94B:	Approval Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached.

EXISTING ZONING: O-3, Office Park.

EXISTING LAND USE: Undeveloped.

SURROUNDING LAND USE AND ZONING:

North:	Undeveloped	B-2, Neighborhood Business
South:	Undeveloped	O-3, Office Park
East:	Medical offices	B-2
West:	Residential, undeveloped	R-2, Residential

HISTORY:

Use Permit #94A to add 2 ground signs was approved by the City Council on **September 14, 1998.**

Use Permit #95 for 12,500 square feet was approved by City Council on **January 13, 1997.**

Use Permit #94 for 45,000 square feet of retail/commercial/medical center was approved by City Council on **January 13, 1997**.

Change of Zone # 2821 to change the zone from R-3 to B-2 and O-3 was approved by City Council on **October 24, 1994**.

The area was zoned A-2, Single Family until it was updated to R-3, Residential during the **1979** zoning update.

ASSOCIATED APPLICATIONS: Administrative Amendment #04040 requests to remove the parcel from the existing use permit #95 and reduce the floor area by 2000 square feet so it may be transferred to use permit #94B.

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan indicates commercial in this area (F-25).

TRAFFIC ANALYSIS: Kensington Drive and N. 26th Street are both classified as local streets (F-103).

ANALYSIS:

1. This is a request to change the zone on a parcel from O-3 to B-2 and increase the boundary of the existing B-2 use permit for a pharmacy. 2,000 square feet of floor area is being transferred from Use Permit #95 which allows a total floor area of 47,000 square feet in Use Permit #94B. The pharmacy use is not allowed in the O-3 zoning district and is why the applicant requests this change.
2. The Comprehensive Plan indicates this area as commercial. Planning and Public Works and Utilities Department staff determined that the change is negligible and does not object to the request. The overall approved floor area does not change, but simply will be transferred from one use permit to the other.
3. Use Permit #95 reduced the minimum front yard setback along N. 26th Street to 30', which was a typographical error and should have been reduced to 20'. The Law Department is taking forward an amendment to the resolution to correct the typographical error at this time. Planning staff does not object to maintaining the previously approved front yard setback reduction to 20' along N. 26th Street. Use Permit #95 also reduced the front yard along Kensington Drive, however, the developer does not wish to have the setback reduced and the site plan shows a 50' front yard setback.

4. Landscaping and screening is required in the B-2 and O-3 district based on building coverage. The B-2 district is required to have a 60% screen from 0'-10' when abutting residential, since the proposed change is not directly abutting the residential district this screening would not be required. Planning staff believes this additional screen should be required since there is a use impact by having the B-2 zoning closer to the residential. The additional screening is a condition of the approval of this permit.
5. There is a 50' wide strip of O-3 to the west of this request, which provides an open space buffer to the existing residential and discourages further expansion of this district. In combination with an added screen along the west side of the property line, there should be less impact on the existing residential neighborhood.

USE PERMIT CONDITIONS:

Site Specific:

1. This approval permits a total of 47,000 square feet of floor area and a reduction in the front yard setback along N. 26th Street from 50' to 20'.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
 - 2.1.1 A revised site plan showing the following revisions:
 - 2.1.1.1 Correct the typo in the "Existing Use Permit Legal Description".
 - 2.1.1.2 Combine the legal descriptions into one description.
 - 2.1.1.3 Provide a 60% screen from 0' to 10' along the west property line as it abuts the O-3 district. A note may fulfill this requirement stating that the landscape plan will be reviewed with the building permit.
 - 2.1.2 A permanent reproducible final site plan as approved.
 - 2.2 The construction plans comply with the approved plans.

- 2.3 The required easements as shown on the site plan are recorded with the Register of Deeds.

STANDARD CONDITIONS:

3. The following conditions are applicable to all requests:
 - 3.1 Before occupying the development, all development and construction is to comply with the approved plans.
 - 3.2 All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the owner or an appropriately established homeowners association approved by the City.
 - 3.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.5 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.
4. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

Becky Horner, 441-6373, rhorer@ci.lincoln.ne.us
Planner

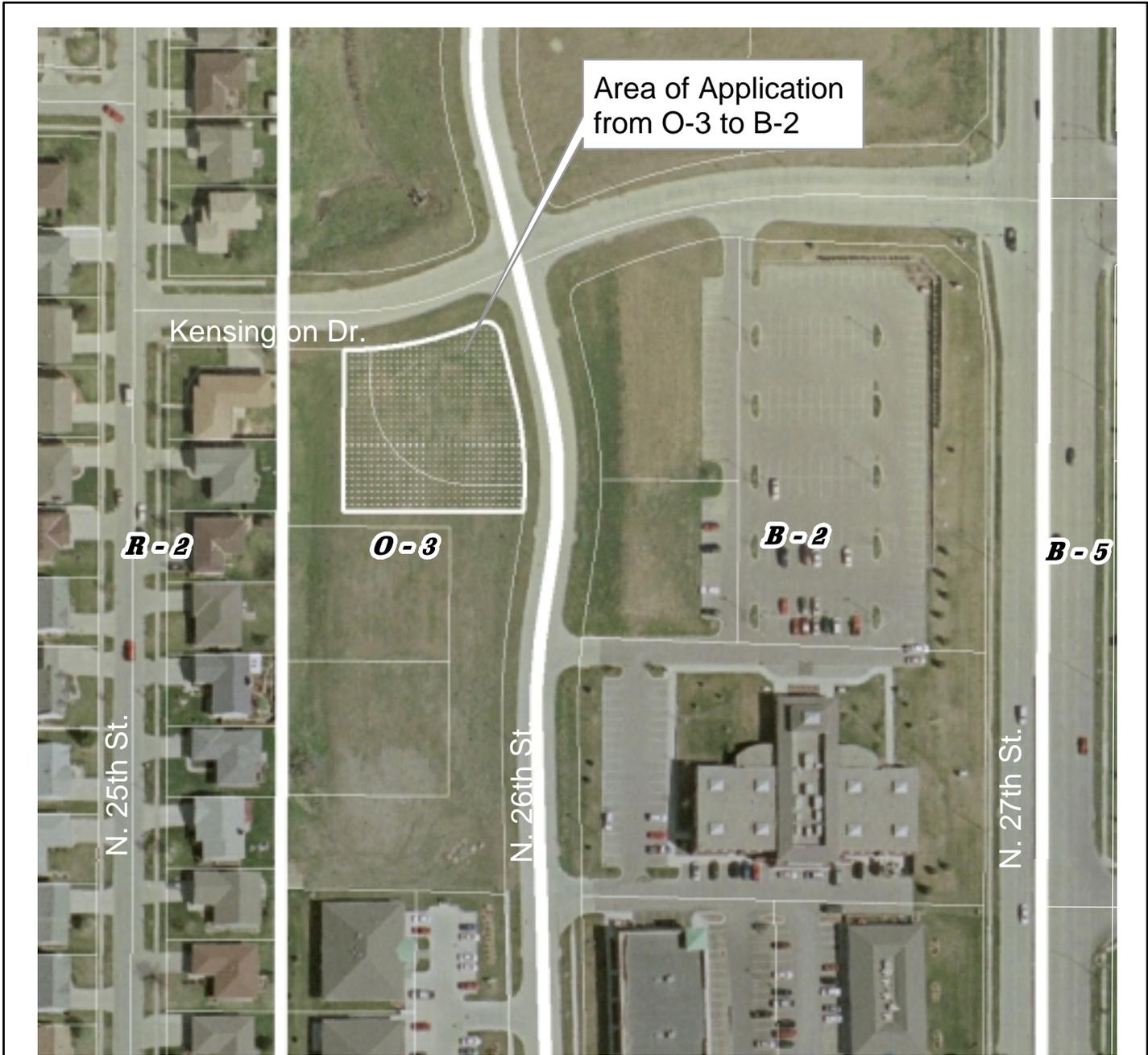
DATE: May 11, 2004

APPLICANT: St. Elizabeth Community Health Center
555 S. 70th Street

OWNER: Same

CONTACT: Cale Luckey
Olsson Associates
1111 Lincoln Mall
(402)474-6311

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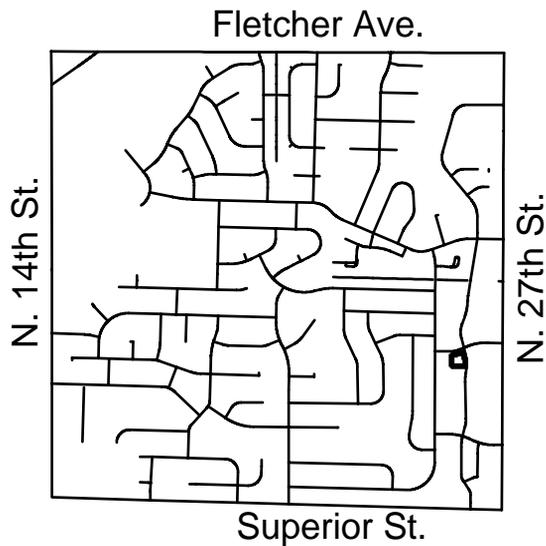
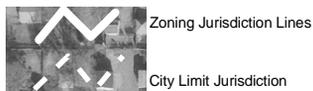
2002 aerial

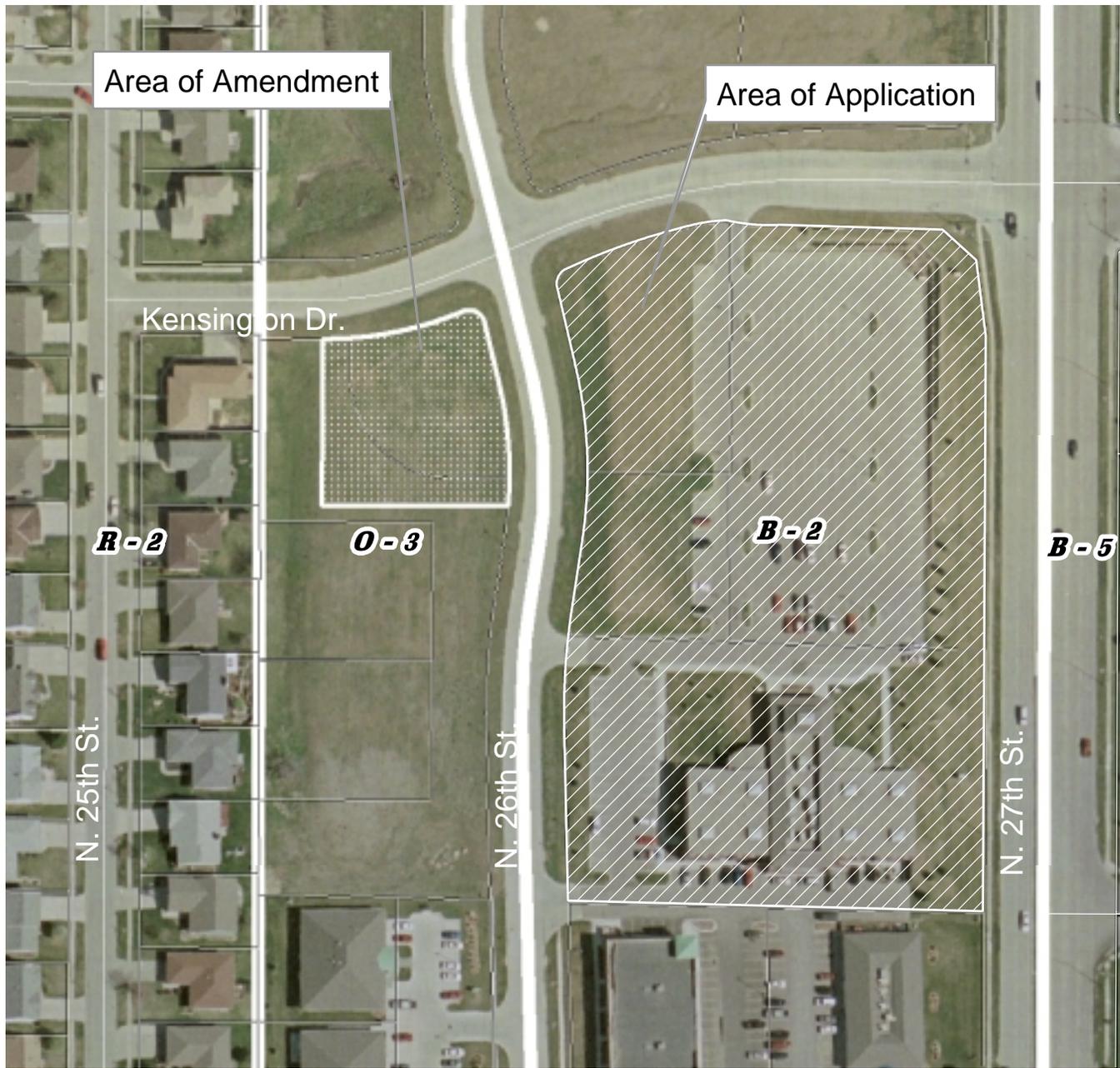
Change of Zone #04033 N. 26th & Kensington Dr.

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. 1 T10N R6E





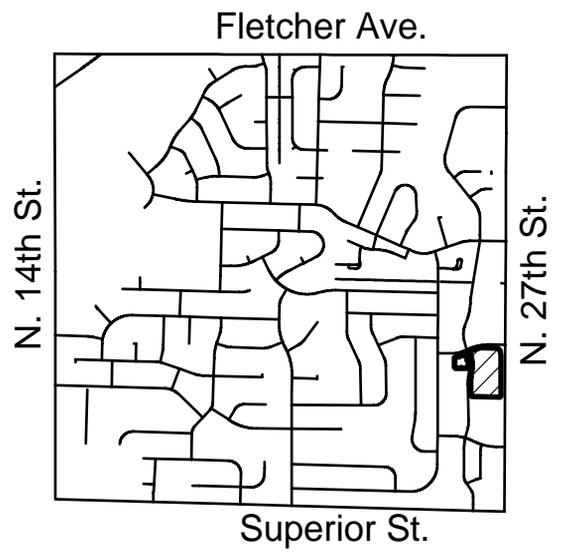
2002 aerial

Use Permit #94B N. 26th & Kensington Dr.

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. 1 T10N R6E





SCALE: 1"=30'

$\Delta=4'16'.39"$
 $R=307.93$
 $L=22.99$
 $T=11.50$
 $C=22.98$
 $CB=N87'59'.22"E$

$\Delta=18'35'.39"$
 $R=307.93$
 $L=99.93$
 $T=50.41$
 $C=99.49$
 $CB=N76'33'.13"E$

KENSINGTON

$N89'54'.06"E$
27.68'
P.O.C.
P.O.B.

NORTH

$S13'52'.18"E$
60.58'

$N67'12'.24"E$
22.87'

$N 00'12'.13" E 130.32'$

OUTLOT "B"

LOT 1

PARK

BLOCK 1

OUTLOT "B"

$N 90'00'.00" W 159.38'$

LOT 2

OUTLOT "B"

NORTH

STREET

26TH

$\Delta=97'41'.05"$
 $R=13.50$
 $L=23.02$
 $T=15.44$
 $C=20.33$
 $CB=S63'43'.43"E$

$\Delta=17'12'.43"$
 $R=317.00$
 $L=95.23$
 $T=47.98$
 $C=94.87$
 $CB=S05'01'.33"E$

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Surveyor's Seal and Signature Area



OLSSON ASSOCIATES
ENGINEERS • PLANNERS • SCIENTISTS • SURVEYORS

29 April 2004

Mr. Marvin S. Krout, Director
Lincoln Lancaster Planning Department
County-City Building
555 South 10th Street, Suite 213
Lincoln, NE 68508

Re: Elizabeth Park North, 26th & Kensington Drive
Amendment to Use Permit # 94 and Change Of Zone
OA Project No. 2004-0437

Dear Mr. Krout,

We are requesting an "Amendment to the Use Permit" to expand the Elizabeth Park Use Permit #94 to include lot 1 and a portion of outlot "B", block 1 Elizabeth Park North. This property was formerly part of the Block 1, Elizabeth Park North Use Permit #95. We are also requesting a change of zone from O-3 "Office Park District" to B-2 "Planned Neighborhood Business District".

We are requesting this Amendment and Change of Zone to locate a 2,000 square foot drive thru pharmacy on this property.

We have not been able to attain the complete Autocad drawing files for the approved Use Permit. We have attained the most recent site plan. However, it did not include the general notes, waivers, meets and bounds legal description, etc. Our submittal consists of the site plan that we were able to attain plus the amended area.

We are requesting a waiver of the required setback for the front yard along North 26th Street, from 50' to 20'. The existing portion of the Use Permit #94 shows 20' of setback along North 26th street. The previous O-3 zoning also allowed for a 20' setback for this area. We will maintain the required 50' setback along Kensington Drive and where the proposed B-2 zoning abuts the residential area to the west.

Enclosed please find the following:

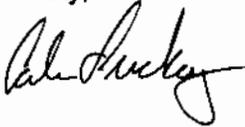
1. Site Plan, Sheet 1; 21 copies
2. City of Lincoln Zoning Application; "Use Permit; Amendment"
3. Change of Zone Application and exhibits
4. Filing fee for "Use Permit & Change of Zone"; \$1,110.00.
5. Certificates of Ownership for the lots being rezoned
6. 8 1/2" x 11" Reduced Drawings of the Site Plans

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Mr. Marvin S. Krout
29 April 2004
Page 2

Please give me a call if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Cale Luckey". The signature is fluid and cursive, with a long horizontal stroke at the end.

Cale Luckey

cc Don Linscott
DaNay Kalkowski

Kraut-M.Letter404.doc

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Change of Zone
LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOT 1 BLOCK 1, AND A PORTION OF OUTLOT "B", ELIZABETH PARK NORTH, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID OUTLOT "B", THENCE ON AN ASSUMED BEARING OF NORTH 89 DEGREES 54 MINUTES 06 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "B", SAID LINE ALSO BEING A SOUTH LINE OF KENSINGTON DRIVE RIGHT-OF-WAY, A DISTANCE OF 27.68 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 307.93 FEET, ARC LENGTH OF 22.99 FEET, DELTA ANGLE OF 04 DEGREES 16 MINUTES 39 SECONDS, A CHORD BEARING OF NORTH 87 DEGREES 59 MINUTES 22 SECONDS EAST ALONG A NORTH LINE OF SAID OUTLOT "B", SAID LINE ALSO BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, AND A CHORD LENGTH OF 22.98 FEET TO THE NORTHEAST CORNER OF SAID OUTLOT "B", SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID LOT 1, SAID POINT BEING THE **TRUE POINT OF BEGINNING**, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 307.93 FEET, ARC LENGTH OF 99.93 FEET, DELTA ANGLE OF 18 DEGREES 35 MINUTES 39 SECONDS, A CHORD BEARING OF NORTH 76 DEGREES 33 MINUTES 13 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 1, SAID LINE ALSO BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, AND A CHORD LENGTH OF 99.49 FEET TO A POINT, THENCE NORTH 67 DEGREES 12 MINUTES 24 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 1, SAID LINE ALSO BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 22.87 FEET TO A POINT OF CURVATURE OF A NON TANGENT CURVE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 13.50 FEET, ARC LENGTH OF 23.02 FEET, DELTA ANGLE OF 97 DEGREES 41 MINUTES 05 SECONDS, A CHORD BEARING OF SOUTH 63 DEGREES 43 MINUTES 43 SECONDS EAST ALONG A NORTH EAST LINE OF SAID LOT 1, SAID LINE ALSO BEING A SOUTHWEST LINE OF SAID RIGHT-OF-WAY, AND A CHORD LENGTH OF 20.33 FEET TO A POINT, THENCE SOUTH 13 DEGREES 52 MINUTES 18 SECONDS EAST ALONG A EAST LINE OF SAID LOT 1, SAID LINE ALSO BEING A WEST RIGHT-OF-WAY LINE OF NORTH 26TH STREET, A DISTANCE OF 60.58 FEET TO A POINT OF CURVATURE OF A NON TANGENT CURVE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 317.00 FEET, ARC LENGTH OF 95.23 FEET, DELTA ANGLE OF 17 DEGREES 12 MINUTES 43 SECONDS, A CHORD BEARING OF SOUTH 05 DEGREES 01 MINUTES 33

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SECONDS EAST ALONG A EAST LINE OF SAID LOT 1, SAID LINE ALSO BEING A WEST LINE OF SAID RIGHT-OF-WAY, AND A CHORD LENGTH OF 94.87 FEET TO A POINT, THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 159.38 FEET TO A POINT, THENCE NORTH 00 DEGREES 12 MINUTES 13 SECONDS EAST, A DISTANCE OF 130.32 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 22,180.72 SQUARE FEET OR 0.5092 ACRES, MORE OR LESS.

April 29, 2004

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APR 29 2004
LINC...
LINC...
LINC...

Memorandum

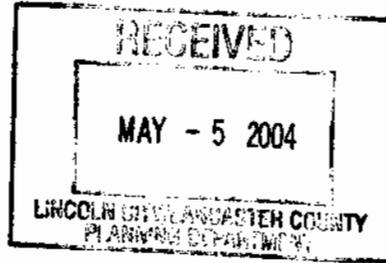
To:	Becky Horner, Planning Dept.
From:	Bruce Briney, Public Works and Utilities
Subject:	Administrative Amendment #04040 to Use Permit #95 Elizabeth Park North
Date:	May 12, 2004
cc:	Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the application for Administrative Amendment #04040 to Use Permit #95 for Elizabeth Park North located at North 26th Street and Kensington Drive. Administrative Amendment #04040 removes Lot 1 from the use permit, adjusts the lot line between Lots 2 and 3, and increases the number of parking stalls. Public Works has no objection to the application.

SEACREST & KALKOWSKI, P.C.

1111 LINCOLN MALL, SUITE 350
LINCOLN, NEBRASKA 68508-3905

TELEPHONE (402) 435-6000
FACSIMILE (402) 435-6100



KENT SEACREST
E-MAIL: kent@sk-law.com
DANAY KALKOWSKI
E-MAIL: danay@sk-law.com

May 4, 2004

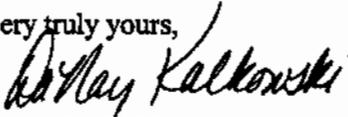
Dear Neighbor:

Our office represents Saint Elizabeth Community Health Center ("St. Elizabeth"), the owner of Lot 1, Block 1, Elizabeth Park North, Lincoln, Lancaster County, Nebraska ("Lot 1"). Lot 1 is currently zoned O-3 Office Park District and is part of Use Permit No. 95. St. Elizabeth has submitted an application to the City Planning Department proposing to change the zone of Lot 1 from O-3 to B-2 Neighborhood Business District, to allow the construction of a free standing 2,000 square foot pharmacy on the lot. This change will also require an Amendment to the Use Permit. Enclosed please find a site plan which shows how the pharmacy would be situated on Lot 1. Also enclosed is a rendering showing what the proposed pharmacy will look like.

We would like to invite you to attend an informal meeting to discuss the proposed change of zone and use for Lot 1. Please mark your calendars for **Tuesday, May 18, 7:00 P.M. at Campbell Elementary School in the Multi-Purpose Room, 2200 Dodge**. We welcome your comments and questions, and look forward to seeing you at the meeting.

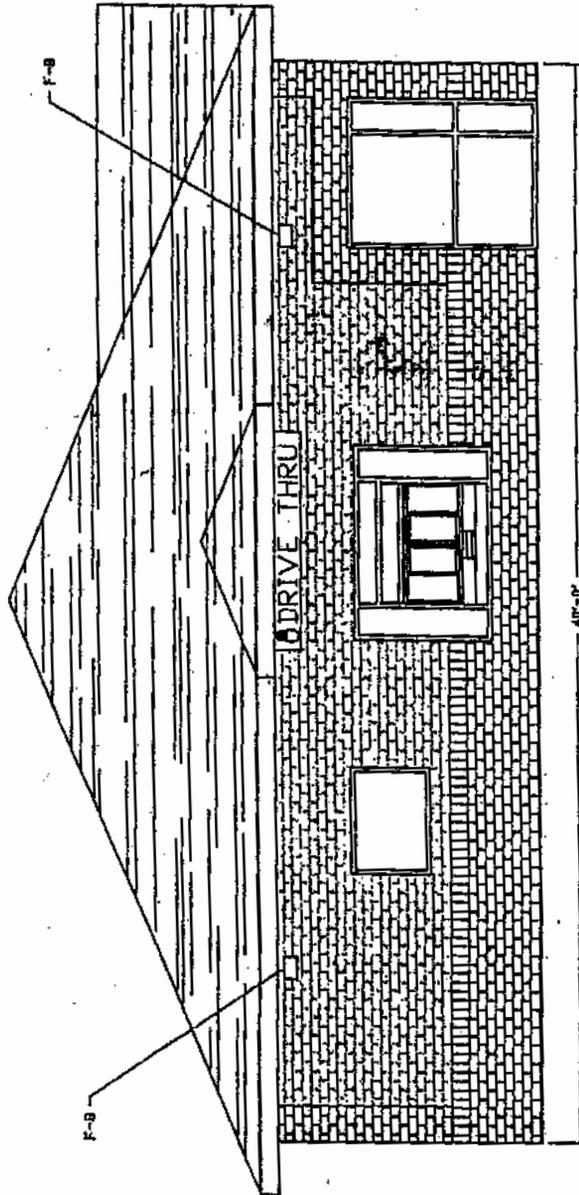
If you have any questions regarding the enclosed or are unable to attend the meeting, please feel free to give me a call.

Very truly yours,


DANAY KALKOWSKI
For the Firm

Enclosures

cc: Becky Horner, Planning Department
Don Linscott, Mega Commercial Corporation



MEDICAP PHARMACY 50x40 PROTO-TYPE	DRIVE THRU ELEVATION	REVISED:	PAGE #13
	DATE: 7/1/03		
	SCALE: 3/16"=1'0"		

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Becky Horner

DATE: May 6, 2004

DEPARTMENT: Planning

FROM: Chris Schroeder

ATTENTION:

DEPARTMENT: Health

CARBONS TO: EH File
EH Administration

SUBJECT: Flat Iron Crossing
SP #04023 CZ #04031

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed development with the following noted:

- The LLCHD notes the proposed residential development will be located adjacent to industrial zoning (I-1 zoning district). The LLCHD has historically advocated against locating residential populations adjacent to industrial zoning due to concerns regarding potential exposure to hazardous chemicals from current or potential future uses within the I-1 zoning district. Therefore, the LLCHD cannot support this proposed development given the current zoning adjacent to the proposed development.
- Noise pollution is also a concern when locating residential populations adjacent to industrial zoning. Lincoln Municipal Code (LMC) 8.24 Noise Control Ordinance does address noise pollution by regulating source sound levels based upon the receiving land-use category or zoning. LLCHD encourages the application to review LMC 8.24.