

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone 3335

DATE: August 8, 2001

PROPOSAL: Change of Zone from R-2 Residential to B-1 Local Business at South Folsom Street and W. "E" Street

LAND AREA: 1.39 acres, more or less

CONCLUSION: The proposed rezoning with covenants is not appropriate where other options exist - parking lots are allowed by special permit in the R-2 district. The Department of Public Works & Utilities notes that it appears the applicant could provide their desired four rows of parking through the special permit process.

The applicant owns approximately 17 acres of open I-1 zoned land which could be used for parking, even if some of that land is occupied by future building expansions.

The applicant has failed to demonstrate that their parking needs cannot be met through the special permit process.

RECOMMENDATION:

denial

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Lincoln Plating Addition, located in the SE 1/4 of Section 27, T10N, R6E of the 6th P.M., Lincoln, Lancaster County, Nebraska.

LOCATION: S. Folsom and W. "E" Street

APPLICANT: Kent Seacrest
Seacrest & Kalkowski, P.C.
1111 Lincoln Mall, Suite 350
Lincoln, NE 68508-3905
(402) 435-6000

OWNER: Lincoln Plating Company

CONTACT: Kent Seacrest

EXISTING ZONING: R-2 Residential

EXISTING LAND USE: Open space

SURROUNDING LAND USE AND ZONING:

North:	I-1 Industrial	Lincoln Plating buildings
South:	R-2 Residential	Single family housing
East:	R-2 and I-1	City owned building and vacant floodplain
West:	R-2	One residence and vacant land

HISTORY:

Oct. 7, 1998	Planning Commission approved the Lincoln Plating Preliminary Plat.
Feb. 22, 2000	City Council approved Street & Alley Vacation #99005, which vacated W. "E" Street from S. Folsom to SW 6 th Street.
Sept. 6, 2000	Planning Commission approved the Lincoln Plating Addition Final Plat, which provided a new location for W. "E" Street.
May 16, 2001	The Planning Director informed Kent Seacrest that the proposed B-1 zoning would not provide the same buffer that the existing R-2 would.

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Plan designates this area as Urban Residential. B-1 Local Business is a **commercial** zoning district.

UTILITIES: Available

TOPOGRAPHY: Flat

TRAFFIC ANALYSIS: S. Folsom is an Urban Collector; Capitol Parkway is a Principal Arterial

REGIONAL ISSUES: Buffering neighborhoods from commercial/industrial uses

ENVIRONMENTAL CONCERNS: Development in the flood plain

AESTHETIC CONSIDERATIONS: Parking lot separation from residential uses. The B-1 district allows parking in the front yard.

ALTERNATIVE USES: Open space, or a parking lot by Special Permit, which would provide a 25' front yard along West "E" Street.

ANALYSIS:

1. Parking is allowed in the R-2 Residential zoning district by special permit.
2. The record contains numerous references to following the special permit process for parking lots on this property, including testimony by the applicant's attorney at Planning Commission.
3. The applicant is proposing a change of zone from R-2 Residential to B-1 Business with covenants which limit permitted uses to parking lots and those allowed as permitted, conditional and special uses in the R-2 Residential district.
4. The covenants would allow the parking area to have a 5 foot setback from W. "E" Street. Ordinarily, B-1 zoning has a 20 foot front yard setback, with parking permitted in the front yard (0 foot parking setback).
5. Under the R-2 special permit, a parking lot would have a 25' front yard setback which would be devoted to landscape screening.
6. The staff report for the Lincoln Plating Preliminary Plat noted that using the property as parking or open space would be more suitable than dwellings because of its proximity to Lincoln Plating's industrial uses. The majority of uses in the R-2 residential district would not be appropriate adjacent to an industrial facility.
7. Lincoln Plating owns approximately 27 acres of land which is zoned I-1 industrial. Approximately 17 acres of the I-1 land is vacant and could serve as parking area, even if some of it were occupied by future building expansions. Furthermore, Department of Public Works & Utilities notes that they had previously suggested angled designs to the applicant which would accommodate four rows of parking under the existing zoning.

Prepared by:

Jason Reynolds
Planner



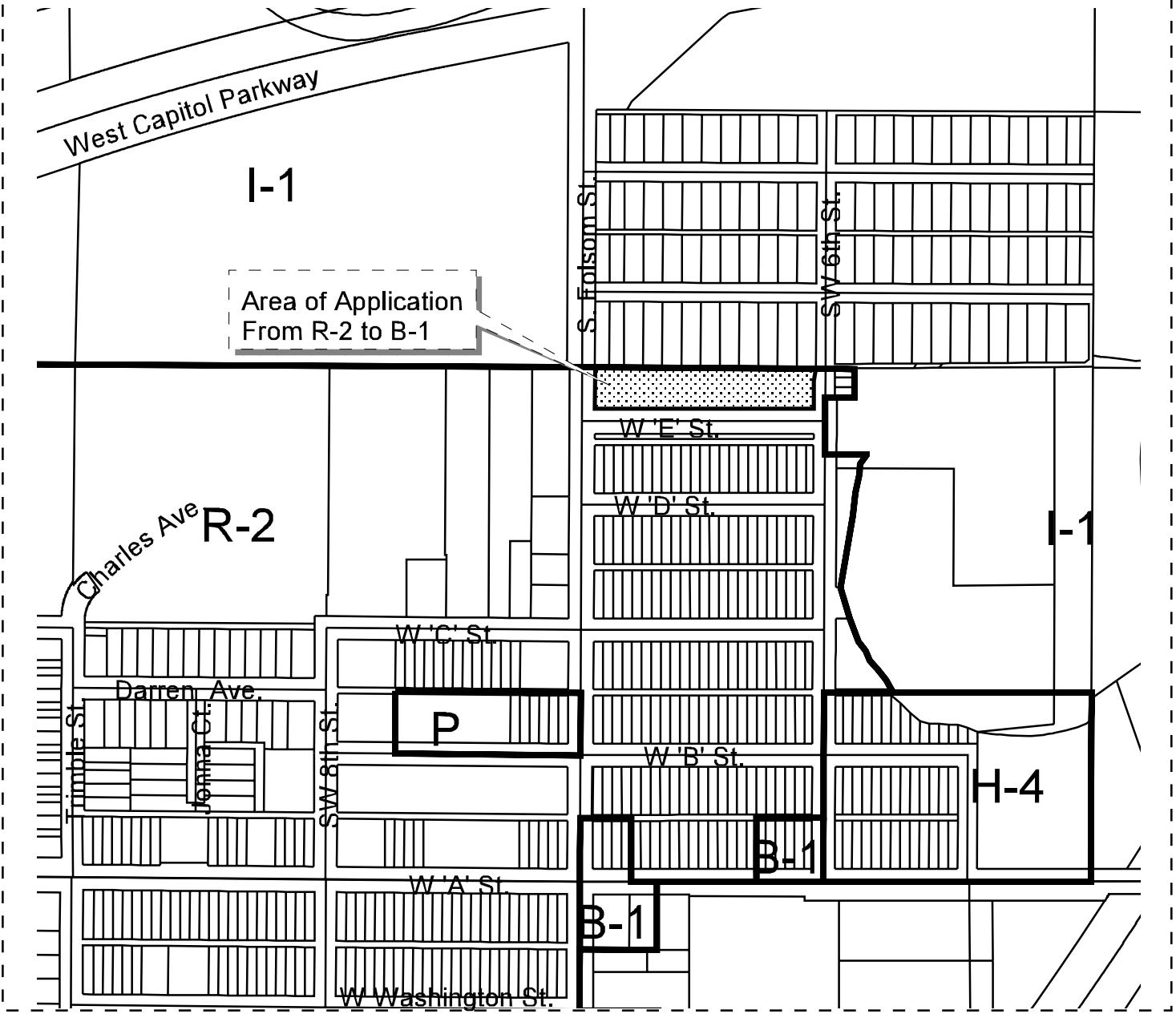
Area of Application
From R-2 to B-1

Change of Zone #3335
600 W. 'E' St.



Photograph Date: 1997

Lincoln City - Lancaster County Planning Dept.

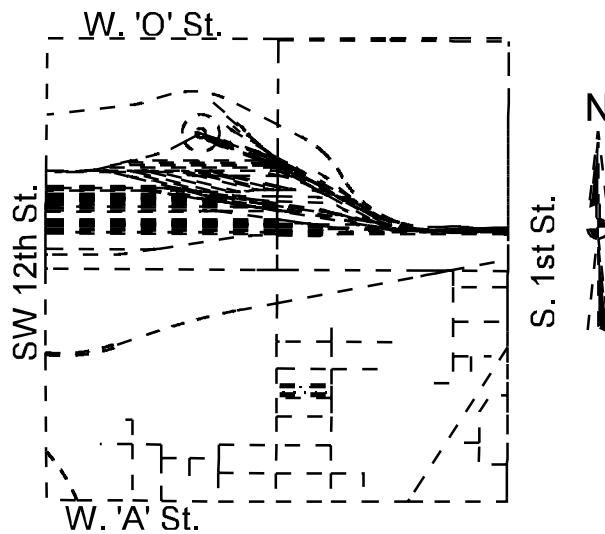


**Change of Zone #3335
600 W. 'E' St.**

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 Business 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. 27 T10N R6E



Sheet ___ of ___
Date:

SEACREST & KALKOWSKI, P.C.

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

TELEPHONE (402) 435-6000
FACSIMILE (402) 435-6100
E-MAIL: sk@sklaw.inetnebr.com

KENT SEACREST
DANAY KALKOWSKI

July 19, 2001



Kathleen Sellman, Director
Planning Department
County-City Bldg.
555 South 10th Street
Lincoln NE 68508

RE: Lincoln Plating Company

Dear Kathleen:

Our office represents Lincoln Plating Company ("Lincoln Plating") who is the owner of the property at 600 West "E" Street. We have had the opportunity to meet with City Staff on several occasions to discuss Lincoln Plating's campus master plan and next phase of improvements.

Specifically, Lincoln Plating's next phase is a proposed building expansion immediately east of South Folsom Street and north of the present building and the proposed construction and expansion of Lincoln Plating's parking lot south of the current administrative building. Enclosed please find a site plan that shows the proposed location of the expanded parking lot. In order to accommodate the desired four rows of parking, Lincoln Plating is proposing to change the existing R-2 zoning to B-1, Local Business District, with covenants, to restrict the land use and setback south of the current administrative building to landscaped parking and other permitted R-2 land uses.

In our presubmittal meetings with City Staff, your staff has recommended that Lincoln Plating eliminate the fourth row of parking and seek a special permit for a parking lot in the R-2 zone in lieu of proposing a rezoning to B-1 with covenants.

With the completion of the next phase, Lincoln Plating's parking study recommends a minimum of 285 parking stalls to accommodate expected employees, shift changes and vendor and guest parking. Lincoln Plating currently has 162 parking stalls. The implementation of the next phase and resulting traffic flow will cause a loss of approximately 51 existing parking spaces. The net 111 existing spaces along with the proposed four rows of new parking (182 stalls) would produce a total parking supply of 293 stalls which barely satisfies the minimum

Kathleen Sellman

July 19, 2001

Page 2

parking demand of 285 parking stalls. Elimination of the fourth row of parking would be a loss of approximately 51 parking stalls which represents a parking lot reduction of 28%.

In various meetings and conversations with neighborhood residents, Lincoln Plating has pledged to be a good neighbor and provide more than enough parking on its site so Lincoln Plating employees and visitors do not have any reason to travel on or park on the neighborhood residential streets. The loss of the fourth row of parking would mean that approximately 43 employees, vendors and/or guests may seek to park in the residential neighborhood, which is unsatisfactory to the neighborhood and Lincoln Plating.

In our last neighborhood mailing and meeting, Lincoln Plating outlined to the neighborhood with text and a map the proposed next phase improvements, the four row parking lot and Lincoln Plating's proposed B-1 rezoning request with covenants. Compared to well attended prior neighborhood meetings, only four people attended and no one expressed opposition to the plans or the rezoning. Those in attendance expressed support for Lincoln Plating and its goal to provide enough parking on its property to prevent overflow parking into the neighborhood.

Enclosed herein please find Lincoln Plating's rezoning request, application check and a copy of the proposed covenants to restrict the use of the proposed rezoned property to landscaped parking and other permitted R-2 land uses. We appreciate your consideration of our request.

Sincerely,



KENT SEACREST

For the Firm

cc with enclosures: Marc LeBaron
Paul Connolly
Larry Chilese
Jonathan Cook
Ray Hill, Planning Department ✓
Gary Bredehoft, Olsson Associates

B-1 COVENANTS

These B-1 Covenants ("Covenants") are made and entered into as of this ____ day of _____, 2001, by and between the **City of Lincoln, Nebraska**, a municipal corporation ("City") and **Lincoln Plating Company**, a Nebraska corporation ("Declarant").

1. **Definitions.** Unless defined elsewhere in these Covenants, the following terms are defined below:

"Final Approval" shall mean approval by the City which has not been appealed from within the time periods provided by law for such appeals, or that any such appeal has been conclusively denied or discussed.

"Owner" shall mean Declarant and its designated successors or assigns.

"Property" shall mean the real property legally described on Exhibit "A", which is attached hereto and incorporated herein by this reference, that is or will be zoned B-1 Local Business District under the Lincoln Municipal Code.

2. **Declaration.** Owner is the present titleholder of the Property. Owner does hereby declare that the Property shall be held, transferred, sold, conveyed, and owned subject to the covenants and restrictions set forth, which shall run with the Property.

3. **West E Street Setback.** No part of any building, structure or parking spaces shall be placed on the Property within five (5) feet from the right-of-way line of West E Street; provided that, the following improvements are excluded from this set back restriction:

- a. Existing utilities and easements of record;
- b. Underground utilities and infrastructure;
- c. Sidewalks and trails;
- d. Planters, walls, fences, hedges and landscaping;
- e. Driveways providing ingress and egress from the Property to West E Street.

4. **Use Restrictions.** The use of the Property shall be limited to a landscape parking lot and those uses that are permitted uses, permitted conditional uses and permitted special uses in the R-2 Residential District under the Lincoln Municipal Code, as may be amended from time to time. No other uses shall be allowed.

5. **Enforcement.** These Covenants shall run with the land and Property and shall be binding upon and enforceable by the Owner and the City and all persons claiming under the

Owner and the City. The enforcement of these Covenants may be by proceedings at law or in equity against any person or persons violating or attempting to violate any provision hereof.

6. **Severability.** The invalidation of any one of these Covenants shall not effect the validity of the remaining provisions hereof.

7. **Amendments to the Covenants.** The provisions contained in these Covenants may not be amended without the written consent of the City of Lincoln and the Owner. Notwithstanding any contrary provision herein, the Owner reserves the right to establish and file of record additional restrictions on the Property without the City's approval

The parties understand and agree that, notwithstanding any contrary provision herein, the City Council, on its own motion or at the request of any party, may, in the exercise of its lawful legislative authority: (i) amend the Comprehensive Plan; (ii) change the municipal corporate boundaries; (iii) rezone or revise the zoning map or text designations applicable to all or any portion of the Property; or (iv) approve or amend plats, dedications, use permits, special permits, developments, community unit plans, building permits or other land use controls, as future circumstances may warrant.

8. **Termination of the Covenants.** These Covenants shall continue and remain in full force and effect at all times as against the Owner of any lot comprising the Property, regardless of how he or she acquired title, until these Covenants are terminated by the written consent of the Owner and the City of Lincoln at which time these Covenants shall terminate and end, and thereafter be of no further legal or equitable effect on such lots or any titleholder thereof.

Notwithstanding any contrary provision herein, the City Council, on its own motion or at the request of any party, may, in the exercise of its lawful legislative authority change the B-1 Local Business District zoning map designation to another zoning map designation on all or any portion of the Property as future circumstances may warrant and such change in zoning map designation shall without further notice or approval automatically terminate these Covenants on that portion of the Property that received the City Council's Final Approval of another zoning map designation and these Covenants shall continue in force and effect on any remaining portion of the Property that continues to have a B-1 Local Business District zoning map designation.

Dated as of the date written above.

CITY OF LINCOLN, NEBRASKA,
a municipal corporation

ATTEST:

City Clerk

By: _____
Don Wesley, Mayor

Approved as to form and legality:

By: _____
City Attorney

LINCOLN PLATING COMPANY,
a Nebraska corporation

By: _____
Marc LeBaron, President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

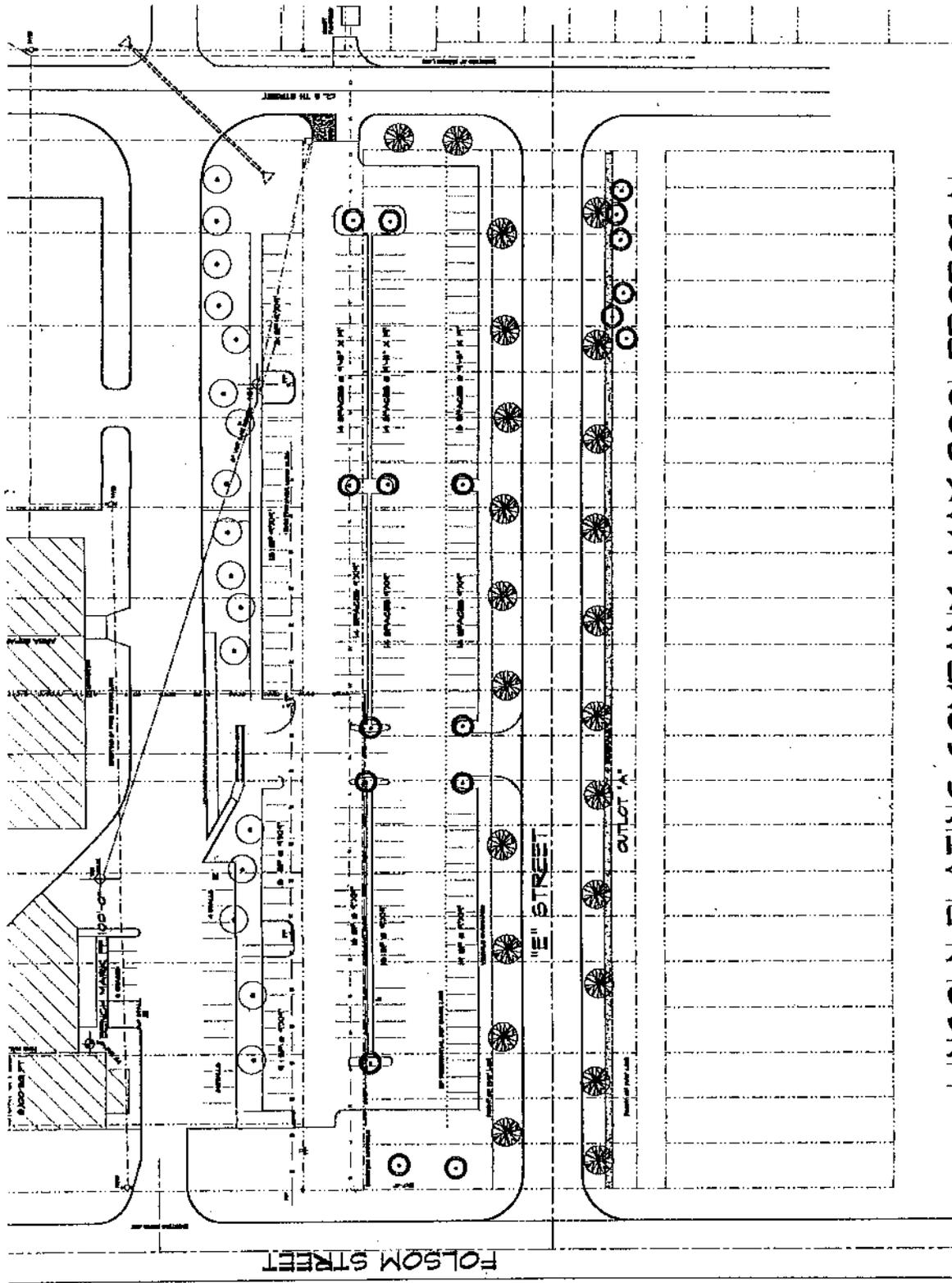
The foregoing instrument was acknowledged before me this ____ day of _____, 2001 by Don Wesley, Mayor of the **City of Lincoln, Nebraska**, on behalf of the City of Lincoln, Nebraska.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2001 by Marc LeBaron, President of **Lincoln Plating Company**, a Nebraska corporation, on behalf of the corporation.

Notary Public



LINCOLN PLATING COMPANY MAY 2001 PROPOSAL
 SITE PLAN 4 ROWS PARKING SOUTH LOT SCHEME



M e m o r a n d u m

[REDACTED]

To: Jason Reynolds, Planning

From:  Dennis Bartels, Engineering Services

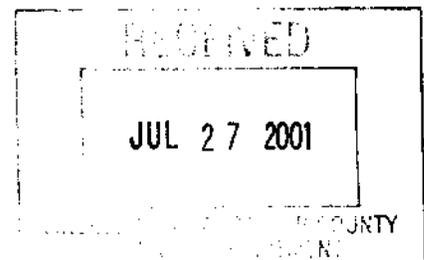
Subject: Change of Zone, R2 to B1 for Lincoln Plating

Date: July 26, 2001

cc: Roger Figard
Nicole Fleck-Tooze

Engineering Services has reviewed the proposed change of zone from R2 to B1 by Lincoln Plating for property east of Folsom Street north of West "E" Street and has the following comments:

1. The proposed parking lot described in the application has not been shown. At a previous meeting with the applicant, Public Works suggested designs to accommodate 4 rows of parking utilizing existing zoning. Nothing has been submitted to indicate why this cannot be done.
2. B1 does not appear to be appropriate at this location. Unless better justification can be provided for why B1 is needed or appropriate, Public Works recommends denial of this request.





April 19, 2001

Kent Seacrest
Seacrest & Kalkowski
1111 Lincoln Mall, Suite 350
Lincoln, Ne., 68508-2095

RE: Parking lot for Lincoln Plating @ W. "E" & Folsom

On April 18, 2001, Kent Seacrest, Gary Bredehoff, Larry Chilease, Paul Connolly, Dennis Bartels, and Ray Hill attended the meeting. The following is a summary of our meeting:

1. The proposal is to expand the plant and to construct a parking lot to the south of the plant on R-2 zoned land.
2. The owners wants 90° angle parking spaces. However there is not enough land to provide four rows of parking and stay out of the 25' front yard along W. "E" Street.
3. Dennis Bartels & Ray Hill suggested angular parking which does not take as much distance per parking space and aisle.
4. A special permit has no authority to locate parking in the front yard.
5. The owner could request a change of zone, however Ray could not support a change of zone when parking could be located on the land by a special permit.
6. Kent Seacrest wanted to know if the sidewalk along the north side of "E" Street could be waived. Ray informed the group that sidewalks were required with the approval of the subdivision. A waiver would have to be reviewed by the Planning Commission and approved by the City Council following public hearings.

If you find the summary is not correct please contact me immediately at 441-6371.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ray Hill".

Ray Hill
Land Use Manager

cc: Gary Bredehoff, Olsson Associates
Larry Chilese, Architect
Paul Connolly, Lincoln Plating
Kathleen A. Sellman, Director of Planning
Dennis Bartels, Public Works
File

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PRELIMINARY PLAT NO. 98024 LINCOLN PLATING

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 7, 1998

Members present: Krieser, Schwinn, Wilson, Bleed, Duvall, Bayer and Hopkins;
Wallace and Steward absent.

Planning staff recommendation: Conditional approval.

Proponents

1, **DaNay Kalkowski** presented the application on behalf of **Lincoln Plating Company** along with Gary Bredehoft of Olsson Associates. This is a plat that creates West E Street, providing a connection between Folsom and S.W. 6th St. The new road is located north of residential and south of existing Lincoln Plating. The plat contains one outlot to the south to be used for open space and landscaping to provide a screen between the road and the residential neighborhood to the south. The lot to the north of the street may potentially be used for expanded parking through a special permit by Lincoln Plating.

Ms. Kalkowski believes that the creation of West E Street is positive for the neighborhood, providing easy access to some industrial zoned property east of S.W. 6th Street. E Street is being built to accommodate truck traffic.

The applicant met with the neighbors in May with regard to the new road and proposed development east of S.W. 6th. The neighbors were supportive and did not express any concerns about the road or its location. Most of their comments dealt with the development east of S.W. 6th. They did receive one call from a neighbor opposed to moving the street and opposed to any development in this area at all.

Ms. Kalkowski noted that the staff is recommending conditional approval. Ms. Kalkowski submitted a motion to amend, deleting Condition #1.1.5 and adding language to Condition #2.2.10. This would relinquish all vehicular access to Folsom except the existing driveway. Ms. Kalkowski also submitted a handout from the driveway design standards regarding distance onto a collector from the intersection of a major and minor street. The minimum requirement is 55' and the desired distance is 200'. The distance between the proposed street in this plat and the existing driveway is 210'. Therefore, the applicant contends that they should not be required to remove the driveway since it does meet the recommended distance requirements.

2. **Marc LeBaron, President of Lincoln Plating**, testified in support and discussed the entrance. Lincoln Plating has about 25-30 acres of industrial property in several parcels just east of their location. They are proposing a new entranceway to the whole