

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Special Permit #1926

DATE: August 8, 2001

PROPOSAL: Sale of alcoholic beverages (wine) for consumption off the premises from 7:30 a.m. to 6:00 p.m., Monday through Saturday.

WAIVER REQUESTS: **27.63.685(c)**, which requires the licensed premises be more than 100 feet from a residential use

LAND AREA: 45,093 square feet, more or less

CONCLUSION: This application meets most of the requirements stated in the ordinance: the premises are more than 150 feet from the closest residential district, access is via a major street, and parking is more than sufficient.

The premises lie approximately 68 feet from B-3 zoned residential uses across a heavily traveled principal arterial street, which provides a significant boundary between the uses on its east and west sides. The limited sales hours further reduce the impact on residents across S. 27th Street. For these reasons, a waiver of the separation requirement is acceptable.

<u>RECOMMENDATION:</u>	conditional approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 32, 33, 34, 35, and 36, except street, Block 1, Houtz place, located in the SE 1/4 of Section 25, T10N, R6E of the 6th P.M., Lincoln, Lancaster County, Nebraska.

LOCATION: S. 27th & "F" Streets

APPLICANT: Mark W. Lyon
Ideal Grocery
905 S. 27th Street
Lincoln, NE 68510
(402) 476-2177

OWNER: JTM's Ideal, a Nebraska Corporation
Jim Moore, President

CONTACT: Mark W. Lyon

EXISTING ZONING: B-3 Business

EXISTING LAND USE: Grocery Store

SURROUNDING LAND USE AND ZONING:

North: B-3 the non-conforming Paramount Laundry facility
South: B-3 commercial uses
East: B-3 across S. 27th Street, a commercial building with apartments on upper floors, a parking lot, two houses, and a gas station convenience store.
West: I-1 Kidwell Electric Company and other commercial uses

HISTORY: This area was converted from I Commercial to B-3 Commercial in the **1979 Zoning Update**.

COMPREHENSIVE PLAN SPECIFICATIONS: Commercial

UTILITIES: Available

TOPOGRAPHY: Flat and paved

TRAFFIC ANALYSIS: N. 27th Street is identified as a Principal Arterial

PUBLIC SERVICE: The closest fire station is at 1801 Q Street

REGIONAL ISSUES: None apparent

ENVIRONMENTAL CONCERNS: None apparent

AESTHETIC CONSIDERATIONS: None apparent

ALTERNATIVE USES: Continued use as a grocery store without alcohol sales

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS: 27.63.685 Alcoholic beverages may be sold for consumption off the premises in the B-1, **B-3**, H-1, H-2, H-3, H-4, and I-1 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the

requirements of the respective districts, all applicable ordinances, and the following conditions, which are waiveable by the City Council:

(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.

The parking provided exceeds the requirements of 27.67.020, which requires one parking space per 600 sf. of building area. The approximately 18,416 square feet of building require 31 parking spaces. 52 stalls are provided.

(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under Section 27.63.680 of this code.

No on-premise consumption is proposed with this Special Permit.

(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

The Ideal Grocery premises are approximately 68 feet from the B-3 zoned office and apartment building across S. 27th Street and to the house north of the apartment building. The grocery store building is 75 feet from the office/apartment building and 105 feet from the house. No mitigation is proposed, nor are traditional mitigation methods feasible. The concrete sidewalk stretches from the curb to the front of the premises and landscape screens or fences would force pedestrian traffic closer to the street. Principal arterial streets such as S. 27th Street create *edges* - the linear elements separating districts. S. 27th Street, with its average daily traffic volume of 23,700, presents a significant boundary between uses on its east and west sides, despite their having the same B-3 zoning. The application proposes conducting wine sales from 7:30 a.m. to 6:00 p.m. Monday through Saturday. The limited sales hours further reduce the impact on the residential uses across the street. For these reasons, a waiver of the separation requirement is acceptable.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

This is an existing facility, and lighting would have been verified when building permits were issued.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

No drive-through window is proposed.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

No such devices are proposed with this special permit.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

The R-4 Residential zoning district is located approximately 195 feet from the eastern edge of the grocery store premises.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access is via South 27th Street, which is a major street.

(i) All other regulatory requirements for liquor sale shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

(1) Revocation or cancellation of the liquor license for the specially permitted premises; or

(2) Repeated violations related to the operation of the permittee's business.

2. The Department of Public Works & Utilities has no objections to the request as submitted.
3. The Lincoln Police Department has no objections to the sale of wine from 7:30 a.m. to 6:00 p.m. Monday through Saturday. The U-Stop located less than a block south of Ideal Grocery (905 S. 27th) has been selling alcohol for several years.

CONDITIONS:

1. This approval permits the sale of alcohol for consumption off the premises between the hours of 7:30 a.m. to 6:30 p.m. Monday through Saturday at the establishment known as Ideal Grocery, located at 905 S. 27th Street.
2. Specifically waived by the City Council is:
 - 2.1 27.63.685(c) - The requirement that there be a 100 foot separation between residential uses and the licensed premises.
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.
4. This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
5. The City Clerk shall file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.

Prepared by:

Jason Reynolds
Planner

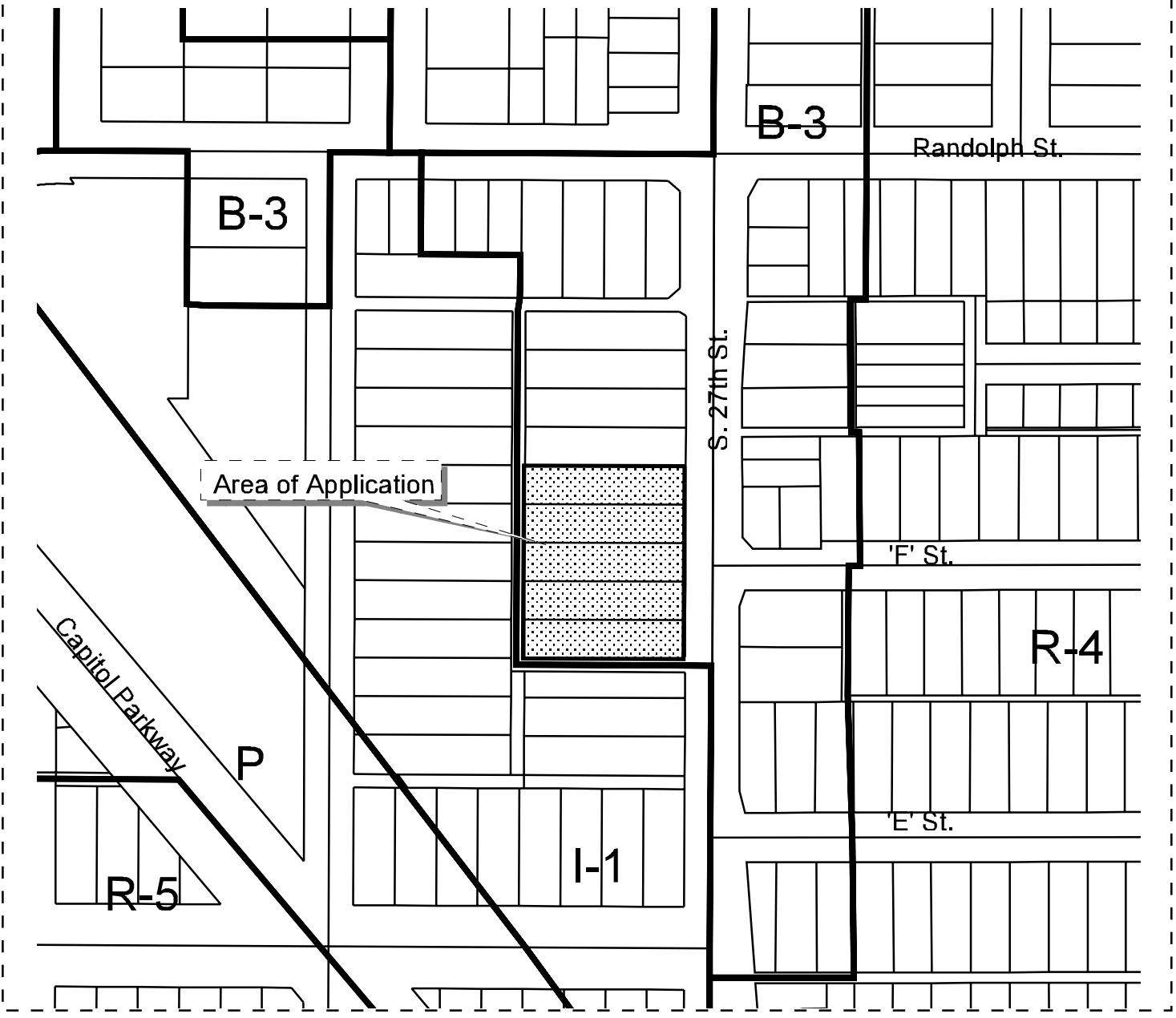


Special Permit #1926
27th & 'F' St.



Photograph Date: 1997

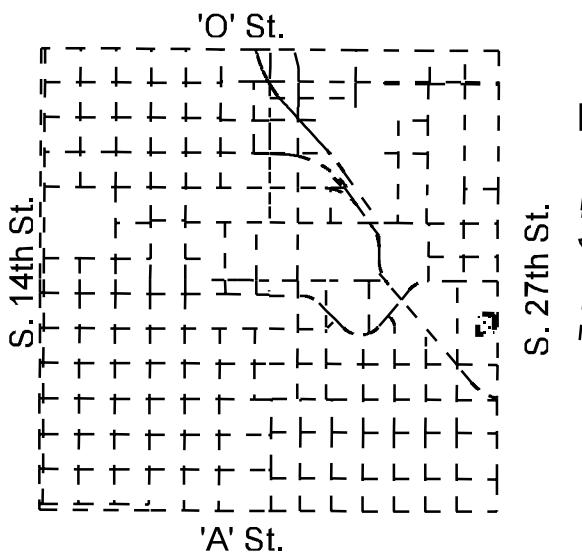
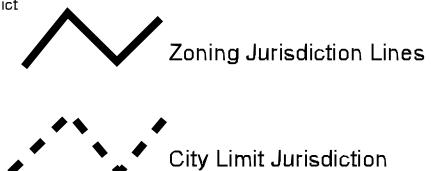
Lincoln City - Lancaster County Planning Dept.



Special Permit #1926
27th & 'F' 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 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 R6E



LEGAL DESCRIPTION PARENT PARCEL

Lots 32, 33, 34, 35, and 36, except street, Block 1, Houtz Place, located in Section 25, Township 10 North, Range 6 East of the 6th Principal Meridian, Lancaster County, Nebraska, being more particularly described as follows:

Referring to the Northwest corner of said Lot 36; thence easterly S 89°52'28" E, on the North line of Lot 36, 189.50 feet to a point of intersection of the West Right-of-Way line of 27th Street; thence southerly S 00°02'28" W, on said Right-of-Way line, 229.50 feet; thence southwesterly S 89°33'33" W, 8.54 feet; thence westerly N 89°52'28" W, 181.50 feet, to a point of intersection on the East line of a North-South alley; thence northerly N 00°02'28" E, on said East line, 232.50 feet, to the Point of Beginning for the described Parent Parcel.

Containing a total calculated area of

ZONING

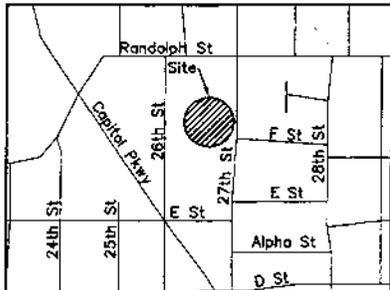
B-3: Commercial District

Setbacks:

Front: 0'
Side: 0'
Rear: 0'
Ht: 45'

Note: Subject property apparently falls within the confines of a Zone "A7" as determined by the FEMA-FIA Flood Rate Map 315273 0025 D. City of Lincoln, Nebraska revised 6-19-97. Flood EL: 1172'-NAVD 88

Bench Mark: 12H
Top of bolt on the NW cor. of signal box base located at the NE cor. of intersection of 27th & Capital Pkwy. EL: 1175.63'-NAVD 88
All elevations are in NAVD 88 Datum



VICINITY MAP

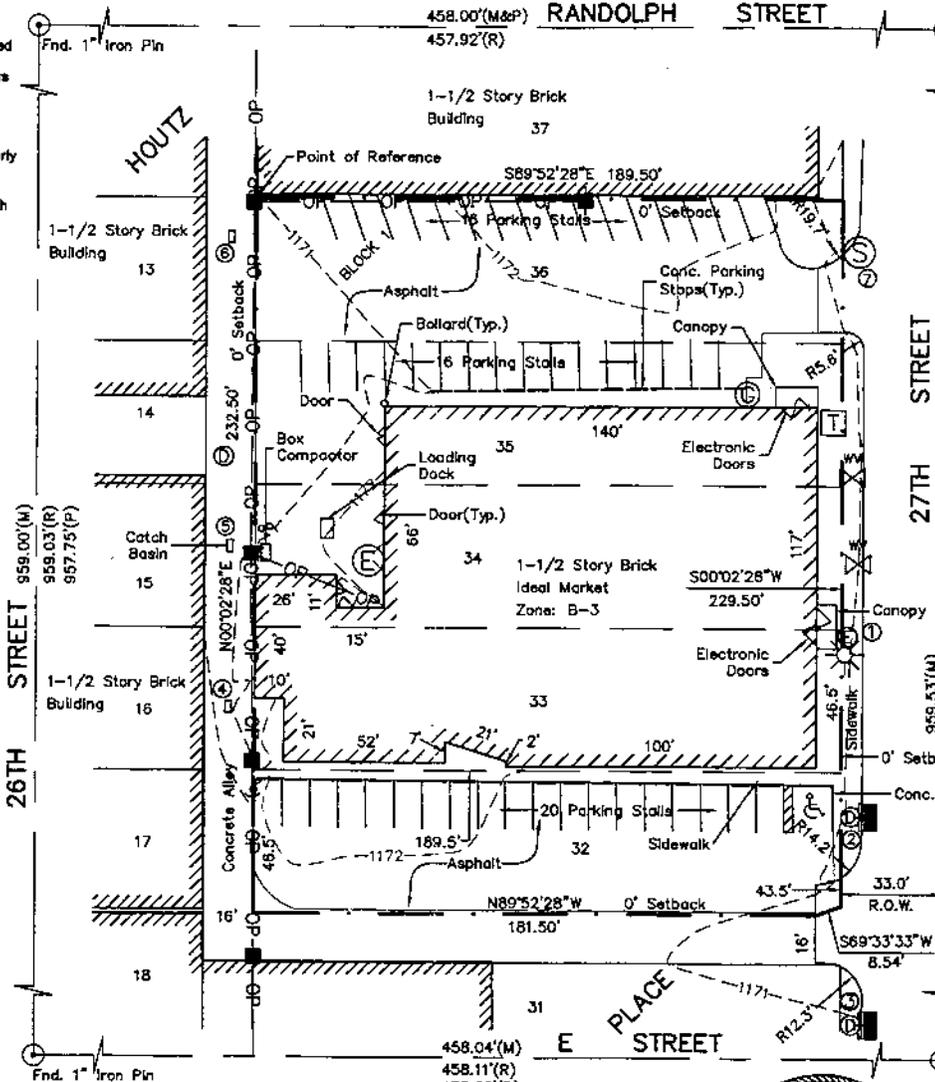


The USDS as shown on this drawing were developed from the information available. This is not intended to be the complete inventory of utilities in this area. It is the client's/contractor's responsibility to verify the location of all utilities (whether shown or not) and protect said utilities from any damage.



458.00'(M&P) RANDOLPH STREET
457.92'(R)

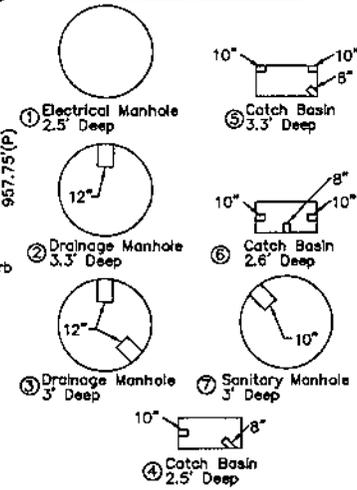
Fnd. City P.O.T.



LEGEND

- (M) MEASURED DISTANCE
- (P) PLAT DISTANCE
- (D) DEED DISTANCE
- (R) RECORDED DISTANCE
- FOUND CORNER
- SET CORNER
- CENTER LINE
- GAS METER
- ELECTRIC METER
- GUY WIRE
- POWER POLE
- PAY PHONE
- WATER VALVE
- ELECTRIC MANHOLE
- DRAINAGE MANHOLE
- SANITARY MANHOLE

MANHOLE DETAILS



Surveyor's Certificate

I, Jayme M. Malone, a Professional Registered Land Surveyor under the laws of the State of Nebraska, certify the above survey is correct to the best of my knowledge and belief. Distances are measured in feet and decimals of a foot.

Signed this 5th day of April, 2001.
Jayme M. Malone
NEBRASKA 8440

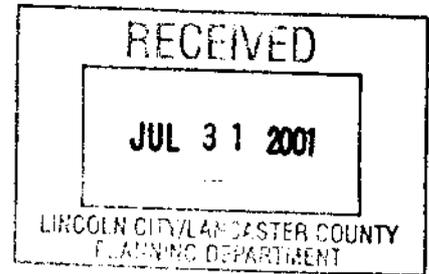


COMPLETION
LAND SURVEYING
DATE: APR 10 2001
BY: JAYME M. MALONE
PROJECT NO.: 100-100-100
SCALE: 1"=40'
SHEET NO.: 1 OF 1

TOPOGRAPHIC SURVEY FOR
IDEAL GROCERY AND MARKET
LINCOLN, NEBRASKA

MANAGER:
FIELD DATA:
DATE:
PROJECT NO.
SHEET:

M e m o r a n d u m



To: Jason Reynolds, Planning Department

From: Gary Lacy, Public Works and Utilities

LLI

Subject: Special Permit #1926, Off Sale, Ideal Grocery

Date: July 30, 2001

cc: Roger Figard
Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Special Permit #1926 Off-Sale at Ideal Grocery. Public Works has no objections to this request.

Memorandum



To: Jason Reynolds
From: Sergeant M. Woolman #737
Date: August 3, 2001
Re: Ideal Grocery Off Sale SP #1926

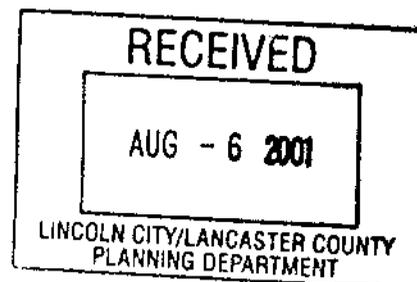
Jason,

The Lincoln Police Department has **no** objections to the "Ideal Grocery Off Sale SP #1926" for the sale of "Wine Only" from 07:30 a.m. to 6:00 p.m. Monday through Saturday. The U-Stop located at 946 S 27th street, which is located less than a block to the south of Ideal Grocery (905 S 27th), has had an alcohol permit for several years.

I have attached the "Calls for service" at Ideal Grocery for the past 10 years for your review. If you have any other questions you can reach me at 441-7215.

A handwritten signature in black ink, appearing to read "Michael S. Woolman".

Michael S. Woolman
Planning Sergeant
Lincoln Police Department



LPD CONTACT LISTING FOR:
 IDEAL GROCERY

/
 THESE ARE CONTACTS ONLY, NOT ARRESTS

: V = VICTIM MP = MISSING PER
 : I = INTERVIEWED W = WITNESS
 :OW = OWNER O = OTHER
 :PD = PEDESTRIAN S = SUSPECT
 :PR = PERSON RESP. TL = TAXI LICENS
 :RP = REPORTNG PERS D = DRIVER

V-----<:

CASE#	DATE	STATUS/REPORT	OFFICER	CASE STATUS
* PRESS NEXT KEY FOR MORE *				
90-011877	02-10-1990	V FORG	IR 382 MACK	
90-011876	02-10-1990	V FORG	IR 382 MACK	
90-011869	02-10-1990	V FORG	IR 382 MACK	
90-011868	02-10-1990	V FORG	IR 382 MACK	
90-011867	02-10-1990	V FORG	IR 382 MACK	
90-011866	02-10-1990	V FORG	IR 382 MACK	
90-011817	02-10-1990	V FORG	IR 382 MACK	
90-006118	01-22-1990	OW ACC INJ	ACC 565 EHLERS	
90-001476	01-06-1990	V FORG	IR 213 BURKHART	
90-000967	01-04-1990	V FORG	IR 189 HENNESSEY	

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CASE#	DATE	STATUS/REPORT	OFFICER	CASE STATUS
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* PRESS NEXT KEY FOR MORE *

92-011253	02-04-1992	V FORG	IR 871 LOPEZ IV	FOLLOW UP
92-011252	02-04-1992	V FORG	IR 871 LOPEZ IV	FOLLOW UP
92-011239	02-04-1992	V FORG	IR 871 LOPEZ IV	INACTIVE
91-101256	10-18-1991	V VAND	IR 597 BURDA	INACTIVE
91-027152	03-28-1991	V LAR SL	IR 273 BLASE	CLEARED
91-017339	02-26-1991	V FORG	IR 216 DOETKER	CLEARED
90-103907	11-01-1990	V BURG	IR 511 BASSETT	
90-048896	06-04-1990	V BURG	IR 720 MCANDREW	
90-044982	05-24-1990	V BURG	IR 802 JOHNSTON	
90-011879	02-10-1990	V FORG	IR 382 MACK	

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CASE#	DATE	STATUS/REPORT	OFFICER	CASE STATUS
* PRESS NEXT KEY FOR MORE *				
93-036090	04-24-1993	V LAR SL	IR 719 STAHLHUT	CLEARED
93-029886	04-06-1993	V FRAUD	IR 744 BUTLER	CLEARED
93-025892	03-24-1993	V LAR SL	IR 791 KINGHORN	CLEARED
93-025875	03-24-1993	V LAR SL	IR 511 BASSETT	CLEARED
93-024778	03-20-1993	V LAR SL	IR 791 KINGHORN	CLEARED
93-023938	03-18-1993	V FORG	IR 189 HENNESSEY	CLEARED
92-093086	09-17-1992	V FORG	IR 693 WOOLMAN	INACTIVE
92-093085	09-17-1992	V FORG	IR 693 WOOLMAN	FOLLOW UP
92-074175	07-29-1992	V ARSON	IR 213 BURKHART	INACTIVE
92-069853	07-17-1992	V FORG	IR 744 BUTLER	FOLLOW UP

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CASE# DATE STATUS/REPORT OFFICER CASE STATUS

* PRESS NEXT KEY FOR MORE *

95-006673	01-20-1995	V FORG	IR	956 EHRHORN	INACTIVE
95-003567	01-11-1995	V LAR SL	IR	960 COOPER	CLEARED
94-115711	11-02-1994	V LAR SL	IR	720 MCANDREW	CLEARED
94-104585	10-05-1994	V LAR SL	IR	924 JINDRICK	CLEARED
94-035251	04-18-1994	V ATT BURG	IR	949 BLASNITZ	INACTIVE
94-035248	04-18-1994	V LAR	IR	949 BLASNITZ	INACTIVE
94-027055	03-25-1994	V LAR SL	IR	576 LAIRD	CLEARED
94-023540	03-15-1994	V LAR SL	IR	688 HESKETT	CLEARED
94-003546	01-13-1994	V VAND	IR	386 JONES	INACTIVE
93-066485	07-14-1993	V LAR SL	IR	737 WOOLMAN	CLEARED

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CASE#	DATE	STATUS/REPORT	OFFICER	CASE STATUS
* PRESS NEXT KEY FOR MORE *				
96-113300	10-02-1996	OV FORG	IR 283 STARR	INACTIVE
96-072375	07-02-1996	V FRAUD	IR 189 HENNESSEY	CLEARED
96-063823	06-13-1996	V FRAUD	IR 189 HENNESSEY	CLEARED
96-056868	05-29-1996	V FORG	IR 956 EHRHORN	INACTIVE
96-056836	05-30-1996	V FORG	IR 956 EHRHORN	INACTIVE
96-026486	03-13-1996	V FORG	IR 1117 NOLTE	FOLLOW UP
96-006855	01-20-1996	V FORG	IR 1102 MEYER	INACTIVE
95-067031	06-30-1995	V FORG	IR 869 UNVERT	FOLLOW UP
95-037008	04-16-1995	V VAND	IR 202 LARSEN	INACTIVE
95-029829	03-28-1995	V FORG	IR 189 HENNESSEY	CLEARED

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98-072381	07-08-1998	V VAND	IR 221 ROBERTS	INACTIVE
98-072322	07-07-1998	OV FORG	IR 1211 CARNES	INACTIVE
98-024910	03-11-1998	V FORG	IR 189 HENNESSEY	CLEARED
98-024909	03-11-1998	V FORG	IR 189 HENNESSEY	CLEARED
98-024908	03-11-1998	V FORG	IR 189 HENNESSEY	CLEARED
98-024907	03-11-1998	V FORG	IR 189 HENNESSEY	CLEARED
98-024906	03-11-1998	V FORG	IR 189 HENNESSEY	CLEARED
97-091950	08-19-1997	V LAR SL	IR 290 ZIMMER	INACTIVE
97-031731	03-27-1997	V FORG	IR 189 HENNESSEY	INACTIVE
96-120320	10-18-1996	V LAR SL	IR 883 WEINMASTER	CLEARED

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* PRESS NEXT KEY FOR MORE *				
A1-029050	03-22-2001	V LIQ INV	IR 843 FOSLER	CLEARED
A1-026118	03-14-2001	V LAR SL	IR 769 MOORE	CLEARED
A1-008506	01-26-2001	V FRAUD	IR 273 BLASE	CLEARED
A0-006240	01-19-2000	V FORG	IR 189 HENNESSEY	INACTIVE
99-087316	08-16-1999	OW ACC H&R	ACC 763 HOEFER	
99-085227	08-10-1999	V PH THREATS	IR 405 HUBKA	INACTIVE
98-137103	12-17-1998	V FORG	IR 886 CLARK	CLEARED
98-101305	09-17-1998	V FORG	IR 286 NAUGHTON	CLEARED
98-092473	08-26-1998	V FORG	IR 189 HENNESSEY	INACTIVE
98-081300	07-30-1998	V FORG	IR 306 DUDEN	CLEARED

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CASE#	DATE	STATUS/REPORT	OFFICER	CASE STATUS
* PRESS NEXT KEY FOR MORE *				
A1-038956	04-16-2001	V FORG	IR 189 HENNESSEY	CLEARED
A1-038954	04-16-2001	V FORG	IR 189 HENNESSEY	CLEARED
A1-038953	04-16-2001	V FORG	IR 189 HENNESSEY	CLEARED
A1-038952	04-16-2001	V FORG	IR 189 HENNESSEY	CLEARED
A1-038949	04-16-2001	V FORG	IR 189 HENNESSEY	CLEARED
A1-038948	04-16-2001	V FORG	IR 189 HENNESSEY	CLEARED
A1-034717	04-06-2001	V FORG	IR 1101 BARRETT	CLEARED
A1-034715	04-06-2001	V FORG	IR 1101 BARRETT	CLEARED
A1-031271	03-28-2001	V FORG	IR 643 FLUITT	CLEARED
A1-031241	03-28-2001	V FORG	IR 643 FLUITT	CLEARED

PC99 07-31-2001 07:48 NO LSO CONTACTS

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CASE#	DATE	V-----<: STATUS/REPORT	OFFICER	CASE STATUS
* PRESS NEXT KEY FOR MORE *				
A1-078786	07-18-2001	V ARSON	IR 643 FLUITT	INACTIVE
A1-071579	07-02-2001	V FORG	ACI 452 VARGA, JR.	INACTIVE
A1-068368	06-25-2001	V FORG	IR 1101 BARRETT	INACTIVE
A1-062903	06-14-2001	OW ACC	ACC 1121 BOURG	
A1-060391	06-06-2001	V FORG	IR 452 VARGA, JR.	INACTIVE
A1-060390	06-06-2001	V FORG	IR 452 VARGA, JR.	CLEARED
A1-050841	05-14-2001	V FORG	IR 1101 BARRETT	INACTIVE
A1-047983	05-07-2001	V FORG	IR 189 HENNESSEY	INACTIVE
A1-040696	04-20-2001	V LAR SL	IR 1106 STUTZMAN	CLEARED
A1-039660	04-18-2001	V FORG	IR 747 SCHELLPEPER	INACTIVE

ideal GROCERY AND MARKET, LTD.

905 South 27th St. • Lincoln, Nebraska 68510
Ph: 402.476.2177 • Fax: 402.476.6901
E-mail: idealgrocery@alltel.net
www.idealgrocery.com

July 26, 2001

Lincoln/ Lancaster County
Planning Department
555 south 10th Street Suite 213
Lincoln, NE 68508

Dear Planning Department,

We, Ideal Grocery and Market, LTD, would like to apply for our first ever liquor license. We would like to sell a variety of wines to compliment our stock of imported cheeses and other fine quality gourmet items. This license would be for off sale only of wine, no beer or so called hard liquor. Our hours of operation are from 7:30 Am. to 6:00 p.m. Monday through Saturday. We would like to sell from medium to upper high end quality wines.

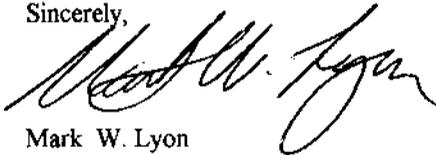
We have read and understand the material presented by the state and city regarding the application for such license. We are planning on having a professional consulting firm advise us on the proper way of stocking, handling, pricing, selling, and carrying out the product for our customers to their vehicles.

We realize that by being bordered on the north by Paramount Laundry, on the east by Stinson Hardware store, on the west by Kidwell Electric and on the east by U-Stop Convenience store and McMaster apartment building that we are not in an area zoned for commercial retail of alcohol. However, we feel that not only will we provide a good service and product that many of our customers have repeatedly asked for, but we can be good, responsible stewards to our community by up holding the laws of Lincoln and the State of Nebraska.

We therefore ask that you consider our application at this time. If you have any questions or need any further information, please don't hesitate to contact us here at Ideal Grocery.

Thank you for your time and consideration on this matter.

Sincerely,



Mark W. Lyon
Partner

ideal GROCERY AND MARKET, LTD.

905 South 27th St. • Lincoln, Nebraska 68510
Ph: 402.476.2177 • Fax: 402.476.6901
E-mail: idealgrocery@alltel.net
www.idealgrocery.com

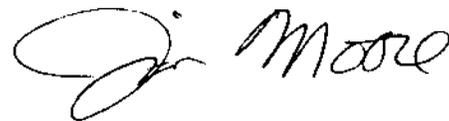
July 12, 2001

Jason Reynolds, Planner
Planning Department
555 South 10th Street Suite 213
Lincoln, NE 68508

Dear Mr. Jason Reynolds,

We, JTM Corporation, owners of the building that Ideal Grocery and Market, LTD leases, hereby acknowledges that Ideal Grocery has applied for a wine only liquor licence. JTM Corporation grants approval to Ideal Grocery to carry wine on the premises for off sale only.

Sincerely,

A handwritten signature in black ink that reads "Jim Moore". The signature is written in a cursive, flowing style.

Jim Moore
President JTM Corporation