

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3388

DATE: November 12, 2002

SCHEDULED PLANNING COMMISSION MEETING:

DATE: November 27, 2002

PROPOSAL: To change the zone from H-2, Highway Business to B-3, Commercial on Lot 110 Irregular Tract for the expansion of the outdoor sales area of Carpenter Motors at N. Cotner Boulevard and "O" Street.

LAND AREA: 11,700 square feet, more or less.

CONCLUSION: The request for a change of zone from H-2 to B-3 at this location is not in conformance with the Comprehensive Plan, or the purpose of the district and would be the only B-3 district within the general commercial zoning along "O" Street.

RECOMMENDATION:

Denial

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 110 Irregular Tract, in the SW 1/4 of Section 21-10-7.

LOCATION: Generally located on the northwest corner of O Street and N. Cotner Blvd.

**APPLICANT
& OWNER:** Todd Carpenter
5700 O Street
Lincoln, NE 68510
(402)466-2188

CONTACT: Mark Hunzeker
1045 Lincoln Mall, Suite 200
Lincoln, NE 68508
(402)476-7621

EXISTING ZONING: H-2, Highway Business District

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

| | | |
|--------|-------------------|---|
| North: | Commercial | H-2, Highway Business |
| South: | Commercial | H-2 |
| East: | Insurance company | B-5, Planned Regional Business District |
| West: | Car dealership | H-2 |

HISTORY: Change of Zone #3350 amended the text of Title 27 Zoning Ordinance relative to auto sales in the front yard setback of the H-2, H-3 and I-2 districts and was approved by the City Council on April 1, 2002.

Zoned H-1, Highway Business until it was changed to H-2, Highway Business during the 1979 zoning update.

COMPREHENSIVE PLAN SPECIFICATIONS: The 2025 Comprehensive Plan indicates this area as commercial (F-25).

Implementation of the Community Form indicates “each area designated as commercial in the land use plan may not be appropriate for every commercial zoning district. The appropriateness of a commercial district for a particular piece of property will depend on a review of all the elements of the Comprehensive Plan” (F-22).

The Guiding Principles of Commerce Centers indicates that “Buildings should be compatible in terms of height, building materials and setback” (F-42).

Guiding Principles for Existing Commercial Centers encourages “Renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area” (F-49).

TRAFFIC ANALYSIS: “O” Street is classified as an Urban Principal Arterial and N. Cotner Blvd. is classified as an Urban Minor Arterial in the 2025 Comprehensive Plan. Access is limited to this parcel by existing medians in both “O” Street and N. Cotner Boulevard. The “O” Street widening project recently purchased approximately 7' of additional right-of-way from this property.

ALTERNATIVE USES: Maintain the H-2 zoning and use the option available that allows the storage of vehicles for sale in all except the front 12' of the 25' required front yard and enhance the area with shrubs and grasses in the front 12' to somewhat match the landscaped front yard to the east.

The applicant may apply for a Board of Zoning Appeals asking for a variance to the front yard setback. The Planning Department supports some reduction of the setback with shrubs and grasses to enhance the front yard.

ANALYSIS:

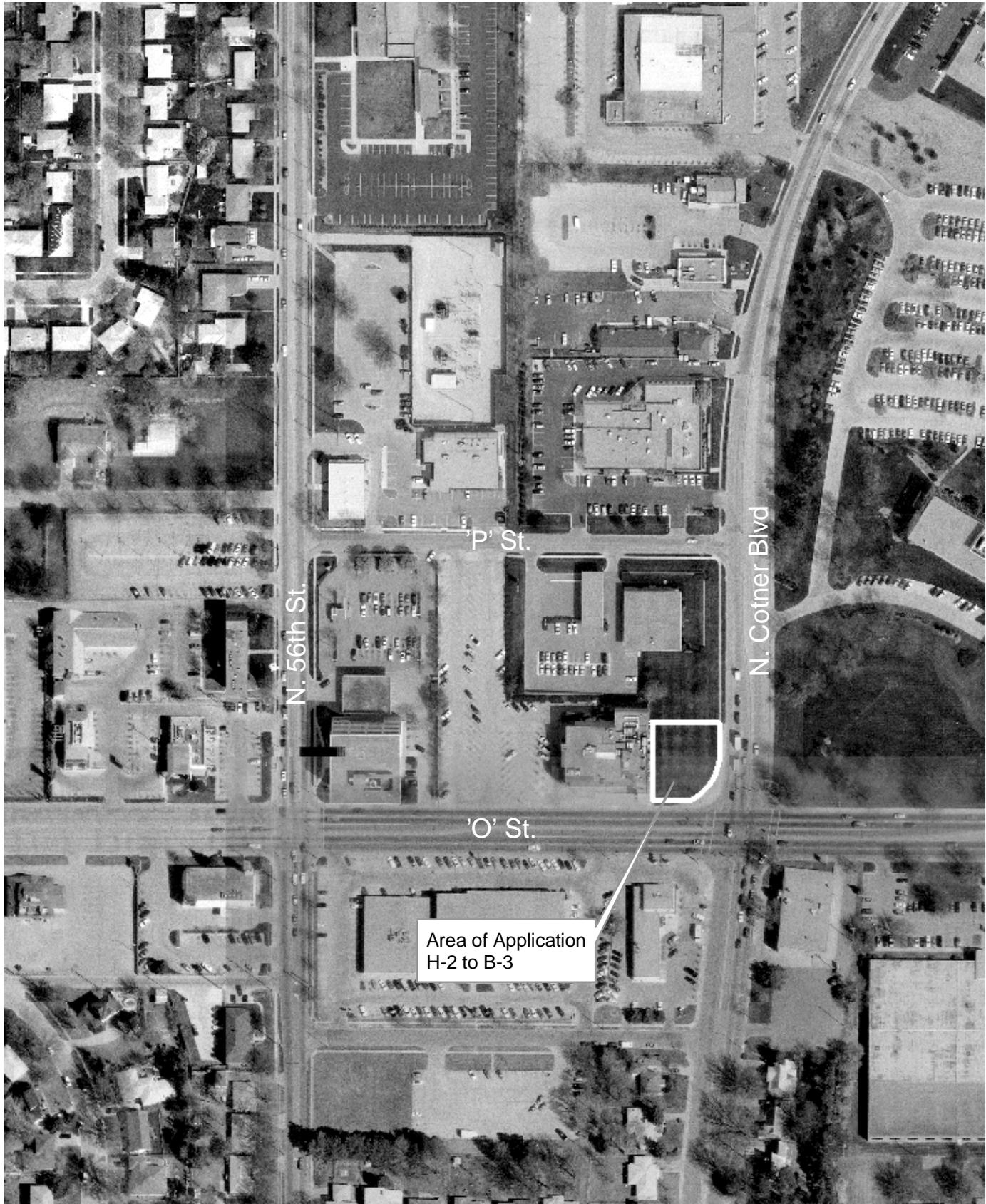
1. The purpose of this application is to circumvent the H-2 requirement that cars for sale in the front yard setback must be landscaped and setback from the street. The B-3, Commercial district is intended for local commercial uses in redeveloping neighborhoods, such as Havelock, College View and Union College. Very few areas in the city are appropriate for this type of zoning, and is why it is only found in former town centers such as Havelock, College View and Union College. The H-2, Highway Business District is intended to provide businesses and services oriented to major arterial streets, such as "O" Street.
2. The B-3 district was originally included in the text change CZ #3350(dealing with car lots), however it was eliminated because the district does not have a required front yard, except when it abuts residential. Uses allowed in H-2, Highway Commercial and B-3, Commercial districts are very similar, however setbacks differ. H-2 requires a 25' front yard, 5' side yard, 20' if abutting a residential district and the rear yard shall be 30' or 20% of depth, whichever is less. B-3 does not require any yards unless the district is abutting a residential district and in that case requires 5' side yard and 30' rear yard. The front yard shall be the same as the abutting residential district. Permitted signs are essentially the same, however, H-2 allows off premises signs up to 700 square feet and 35' in height subject to §27.63.035.
3. In 1997, a building permit was obtained by Carpenter Motors. The "O" Street widening project purchased approximately 7 feet of additional land along the frontage of this property for right-of-way. The new text allows the storage of vehicles for sale in the front yard except for the front 12'. The front 12' shall be devoted to shrubs and grasses.
4. Concerning spot zoning the Nebraska Supreme Court has stated:

Spot zoning is generally defined as the singling out of a small parcel of land for a use or uses classified differently from the surrounding area, primarily for the benefit of the owner of the property so zoned, to the detriment of the area and the other owners therein.
5. Allowing a B-3, Commercial zone is not compatible with the surrounding zoning districts and yard requirements and would serve only to accomplish the applicants desire to evade the setback requirements for auto dealerships in the H-2, Highway Commercial district. Additionally, the change of zone would constitute a spot zone as defined by the courts because this is a small parcel of land requested to be changed for the sole benefit of the applicant.
6. There is no other B-3 zoning found within the general commercial zoning along "O" Street.

7. If the City Council approves this change of zone, nothing precludes other car dealers located in the H-2, Highway Commercial district from filing a change of zone to B-3, Commercial.

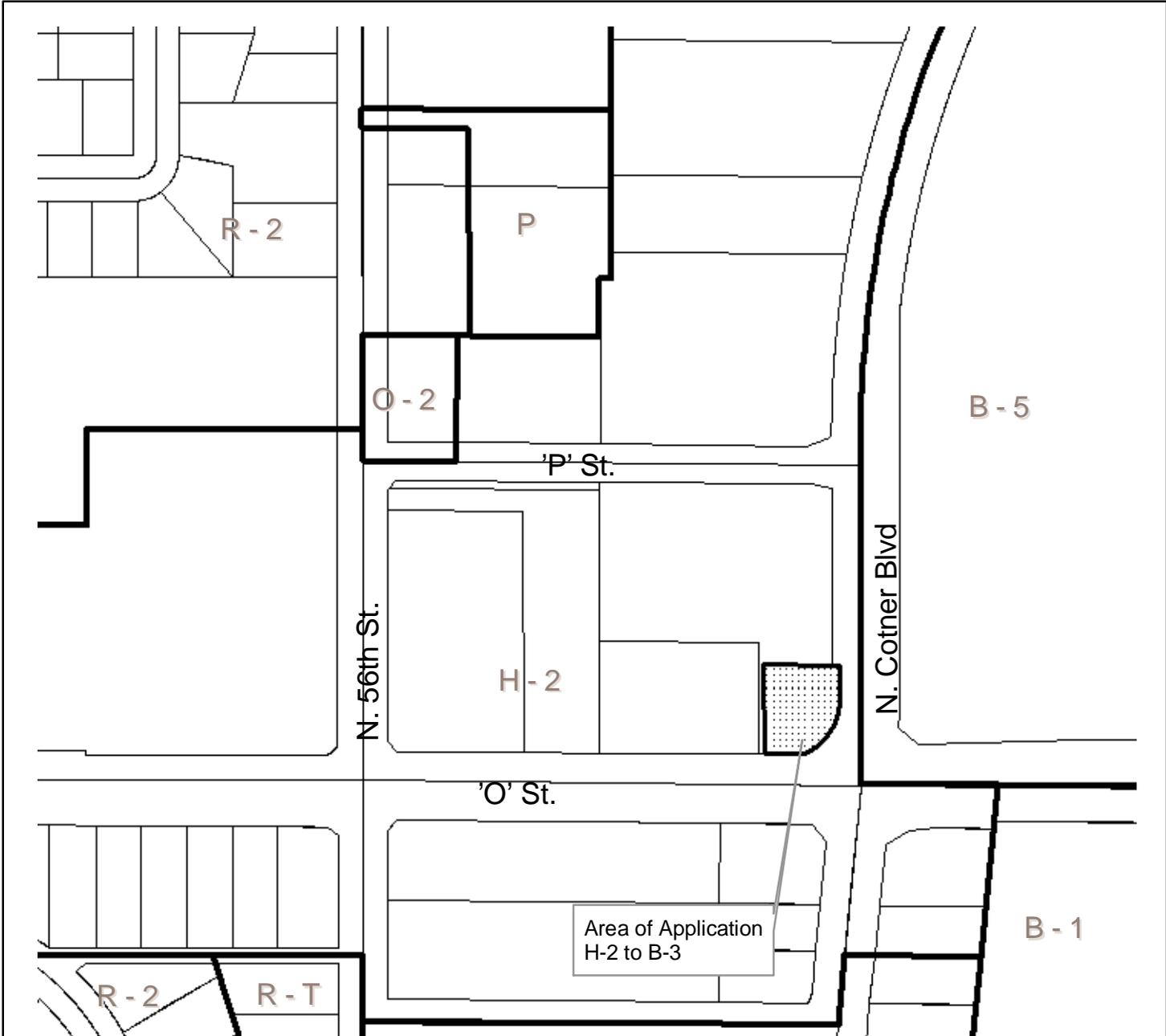
Becky Horner
Planner

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**Change of Zone #3388
Cotner Blvd & 'O' St.**





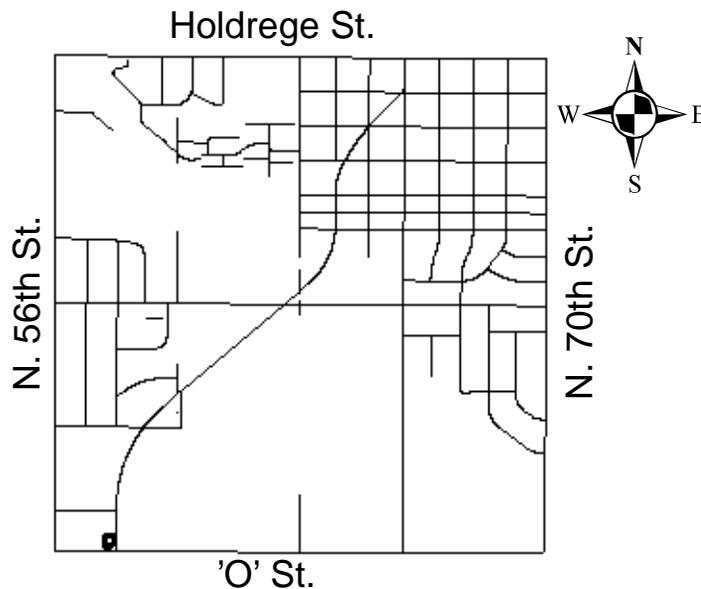
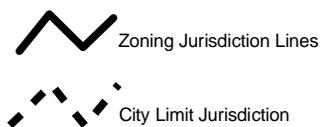
Change of Zone #3388

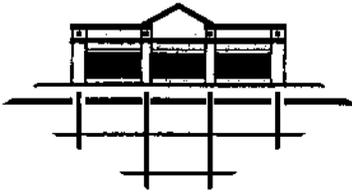
Cotner Blvd & 'O' St.

Zoning:

One Square Mile
Sec. 21T10N R7E

- 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





BRIAN D. CARSTENS AND ASSOCIATES
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

October 30, 2002

Mr. Marvin Krout
Director of Planning
City of Lincoln/ Lancaster County
555 South 10th Street
Lincoln, NE 68508

RE: CHANGE OF ZONE FROM H-2 TO B-3
NORTHEAST CORNER OF NORTH COTNER AND 'O' STREETS

Dear Marvin,

On behalf of the owner, we submit the following change of zone for your review. Todd Carpenter purchased this property on July 2, 2002, to expand the vehicle display area for Carpenter Motors. Todd was in the process of applying for a building permit to expand his outdoor display area, when it was discovered that the zoning ordinance had been changed to allow "the storage of vehicles for sale and resale is permitted in the front yard, except for the front twelve feet". This requirement has a major effect on the use of this property.

The subject lot contains 10,742.39 square feet. The net loss of the front 12 feet of this lot equals 2,151 square feet. The site is probably too small for any other type of use, due to it's size, after right of way was taken for the recent 'O' Street widening project.

Please note that this lot is allowed one curb-cut. If this site is allowed to be used in connection with the adjacent Carpenter Motors, the curb-cut will not be needed. However, if the site is re-sold to another user, a curb-cut will be necessary.

The proposed change of zone to 'B-3' is the only zoning district that allows the display of vehicles for sale in the entire front yard setback. The expansion of the current automobile sales is the logical use for the parcel. The existing Carpenter Motors displays vehicles up to the front yard setback, as it was constructed in 1997, and was existing prior to the adoption of the revised zoning language as noted above.

Please feel free to contact Mark Hunzeker at 476-7621 or myself if you have any further questions.

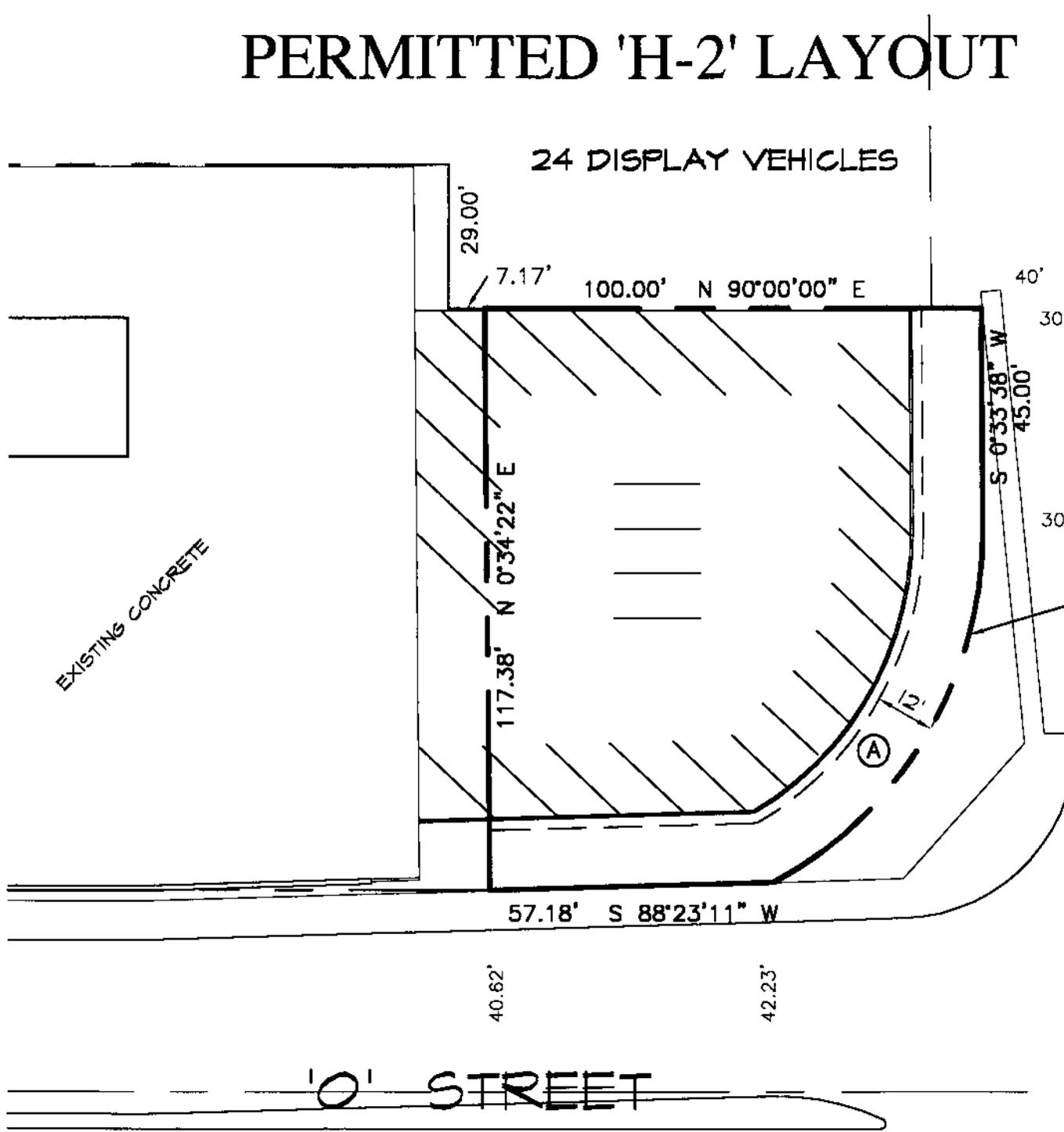
Sincerely,

Brian D. Carstens

cc: Mark Hunzeker
Todd Carpenter- Carpenter Motors

ENCLOSURES: Application for a Change of Zone
Application fee of \$290.00
Exhibit of area of Change of Zone
Proposed Site Plans

PERMITTED 'H-2' LAYOUT



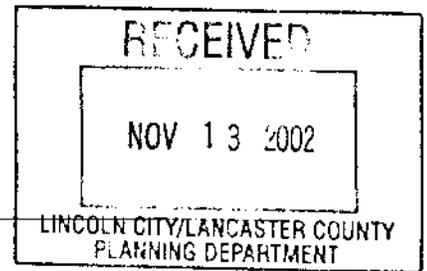
SUBJECT SITE



SCALE: 1" = 30'

1 OF 2

M e m o r a n d u m



To: Becky Horner, Planning Dept.
From: ^{BB} Bruce Briney, Public Works and Utilities
Subject: Change of Zone Request #3388, Carpenter Motors, 5740 'O' Street
Date: November 12, 2002
cc: Nicole Fleck-Tooze
Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the request for Change of Zone #3388 from H-2 to B-3 for Carpenter Motors at 5740 'O' Street. Public Works has the following comments:

- The single curb cut allowed for the property in question is applicable only if the use of this property is different from the use of the adjacent properties. The use proposed with this application is the same use as the property adjacent to the west. Therefore, the single allowed curb cut is not applicable. The single allowed curb cut for this property is undesirable under any circumstance due to this property's close proximity to the intersection of Cotner and 'O' Street.
- The request for Change of Zone #3388 does not raise any concerns regarding Public Works Engineering issues.