

FACTSHEET

TITLE: CHANGE OF ZONE NO. 06063, North Forty Plaza Planned Unit Development, requested by North 47 Group, LLC, on property generally located southwest of the intersection of North 84th Street and Adams Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/11/06 and 10/25/06
Administrative Action: 10/25/06

STAFF RECOMMENDATION: Denial

RECOMMENDATION: Conditional Approval, with amendments (8-0: Krieser, Cornelius, Sunderman, Strand, Larson, Esseks, Carroll and Carlson voting 'yes'; Taylor absent).

FINDINGS OF FACT:

1. The North Forth Plaza PUD proposes a change of zone from AG to R-3 Residential and B-2 Planned Neighborhood Business District on 46.58 acres, and proposes to develop a Planned Unit Development consisting of approximately 140,000 sq. ft. of commercial floor area on 22.25 acres and 74 single family dwelling units on 24.33 acres, with an adjustment to the rear yard setback to 15' for Lots 14-19, Block 1, and Lots 1-7, Block 2. The proposed "Development Plan" is found on p.29-31.
2. The staff recommendation of denial is based upon the "Analysis" as set forth on p.5-7, concluding that the 2025 Comprehensive Plan does not designate commercial land uses for this site and the policies in the Plan do not support a neighborhood-sized center at this location. Additional information submitted by staff with regard to transportation improvement concerns is found on p.41-43. Staff is opposed to the commercial designation due to the traffic considerations.
3. The original public hearing was held on October 11, 2006, at which time the Planning Commission voted to defer for two weeks, pending public hearing and action by the Commission on the proposed 2030 Comprehensive Plan Update, which included a request to change the land use designation for this area from Urban Residential to Commercial. That public hearing was held on October 18, 2006, and on October 25, 2006, the Planning Commission unanimously approved the change from Urban Residential to Commercial.
4. The minutes of the public hearings before the Planning Commission are found on p.12-23.
5. Additional information submitted by the applicant is found on p.44-57, which includes a Development Coordination Agreement with the property owner across 84th Street to allow the relocation of Windmill Drive to the north to align with the location proposed in this plan.
6. The developer has reached agreement with the residential properties on Wemsha Street (the street bordering the proposed PUD to the south). That testimony in support is found on p.14-15 and p.22. The record also consists of two communications in support (p.58-64). The record also consists of a communication from Julie Kohrell, also on Wemsha Street, setting forth her concerns (p.65).
7. The only testimony in opposition was that of Randy Hoskins, Assistant City Engineer, and is found on p.15-16.
8. On October 25, 2006, the applicant submitted proposed amendments to the conditions of approval as set forth on p.66-67 (Also See Minutes, p.20-21). These amendments were an attempt to allow the applicant to continue to negotiate with staff about the transportation improvements. These amendments include striking the term "number" from the statement in Condition #4.1.1.1 about the location and number of street intersections and driveway entrances onto North 84th and Adams Streets. The applicant has since claimed that this amendment implied an endorsement of the driveway onto 84th Street by the Planning Commission. Staff disagrees with this claim.
9. On October 25, 2006, the Planning Commission disagreed with the staff recommendation and voted 8-0 to recommend conditional approval, with the amendments submitted by the applicant (Taylor absent). The conditions of approval are found on p.7-10.
10. The applicant and the staff have met since the Planning Commission hearing to further discuss road improvements in this vicinity. The right in-out driveway onto 84th Street continues to be a point of disagreement between the applicant and staff. The language on road improvements is satisfactory; however, both parties understand that there may be modifications depending on additional activity in this area.

FACTSHEET PREPARED BY: Jean L. Walker

REVIEWED BY: _____

REFERENCE NUMBER: FS\CC\2006\CZ.06063 PUD

DATE: November 13, 2006

DATE: November 13, 2006

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for October 11, 2006 PLANNING COMMISSION MEETING

****As revised and recommended for Conditional Approval
by Planning Commission: 10/25/06****

PROJECT #: Change of Zone #06063 - North Forty Plaza

PROPOSAL: A change of zone from AG to R-3 and B-2 PUD

LOCATION: Southwest of the intersection North 84th and Adams Streets

LAND AREA: Approximately 46.58 acres.

EXISTING ZONING: AG Agriculture

MODIFICATION REQUESTS:

1. Adjust the rear yard setback to 15' for Lots 14-19, Block 1, and Lots 1-7, Block 2.

CONCLUSION: There are over 2.2 million square feet of commercial floor area approved along the North 84th Street corridor between O and Adams Streets, with the majority of it unbuilt. Northwest of 84th and Holdrege Streets, the recently announced site of a new Hy-Vee grocery store, has more than 320,000 square feet of approved floor area alone. This request is difficult to support considering the amount of approved and unbuilt floor area, the Comprehensive Plan does not designate commercial land uses for this site and the policies in the Plan do not support a neighborhood-sized center at this location. Commercial floor area at this location places additional burden upon the transportation network, and creates excess commercially-zoned land beyond what the Comprehensive Plan concludes is necessary. Staff recommends denial of this change of zone, however recommended conditions of approval are included should the City Council vote to approve it.

RECOMMENDATION:

Change of Zone #06063	Denial
Waivers/Adjustments:	
Adjustment to rear yard setback	Denial

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal description.

EXISTING LAND USE: Recreation facility (North Forty Golf Course).

SURROUNDING LAND USE AND ZONING:

North:	Cemetery, Recreation Facility (Mahoney Golf Course)	P
South:	Residential	R-3
East:	Vacant (approved for Prairie Village Commercial Center)	B-2
West:	Residential	R-2

HISTORY: January 28, 1998 - The Planning Commission voted 7-0 to deny Comprehensive Plan Amendment #9423-18 to designate 15 acres of commercial land uses on this site. The application was withdrawn prior to consideration by the City Council or Board of County Commissioners.

January 29, 1997 - Special Permit #1672 was approved to allow a 62' tall wireless facility on this site.

January 15, 1997 - Special Permit #1306C was approved to allow a ground sign in the front yard setback.

March 24, 1995 - Special Permit #1306B was approved to allow an indoor driving range.

February 18, 1994 - Special Permit 1306A was approved allowing golf greens, walkways, and play equipment in the front yard setback.

October 31, 1988 - Special Permit #1306 was approved allowing a 9-hole golf course and an 18-hole miniature golf course.

May 8, 1979 - The zoning was changed from AA Rural to AG Agriculture with the 1979 zoning update.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F23 - The Land Use Map designates urban residential land uses for this site.

Page F31 - This site is within the Lincoln Future Service Limit.

Page F47 - Neighborhood Centers -

CENTER SIZE - Neighborhood Centers typically range in size from 150,000 to 250,000 square feet of commercial space. Existing centers may vary in size from 50,000 to 300,000 square feet.

DESCRIPTION - Neighborhood centers provide services and retail goods oriented to the neighborhood level, such as Lenox Village at S. 70th and Pioneers Boulevard, and Coddington Park Center at West A and Coddington. These smaller centers will not include manufacturing uses.

MARKET AREA - These centers typically serve the neighborhood level. It is anticipated that there will be one neighborhood center per one square mile of urban use. For areas of less than one square mile, the maximum size of the center will be reduced proportionally.

CENTER SPACING - Neighborhood Centers should be located approximately 3/4 to one mile apart, depending upon their size, scale, function and the population of the surrounding area.

CRITERIA - Neighborhood Centers are not sited in advance on the land use plan. However, in neighborhoods oriented to greater pedestrian activity and residential density, two neighborhood centers may be located within a square mile of urban residential use. Neighborhood Centers should generally not develop at corners of intersections of two arterial streets due to limited pedestrian accessibility and impact on the intersection – locations 1/4 to 1/2 mile from major intersections are encouraged, particularly if there is to be more than one commercial center within a square mile of urban residential use. There may be circumstances due to topography or other factors where centers at the intersection may be the only alternative. When a square mile of urban use contains a Community or Regional Center, and that center includes many of the uses found in a neighborhood

center, then a neighborhood center would not be approved within that square mile. This provision would not apply if the incentives listed below, including greater residential population, have been met.

PROPOSED LOCATIONS - During the planning period many additional neighborhood centers will be needed. These centers are not identified on the land use plan and will instead be located as part of plans for future neighborhoods based on the commercial guidelines.

SITING PROCESS - As part of development proposals that include a proposed Neighborhood Center, the exact location and land use composition of the Center should be determined. If the neighborhood center is in conformance with the Comprehensive Plan and is approved, the Planning Director may administratively update the Comprehensive Plan to reflect the specific location.

FLOOR AREA INCENTIVE - New Neighborhood Centers will typically range from 50,000 to 250,000 square feet of floor area per square mile of urban use. However, when neighborhood centers follow most, if not all, of the criteria listed below it would be appropriate to develop **two neighborhood centers** within a square mile of urban use, each center having a floor area up to approximately 200,000 square feet.

INCENTIVE CRITERIA - These criteria will serve as a guide to future actions until they are formalized and included in the zoning ordinance: The center shall be located in a neighborhood with greater residential density, than is typical for a suburban area, and the center itself contains higher density residential uses (density above fifteen dwelling units per acre) integrated within the development. This criteria is mandatory for any center proposing to utilize the incentive. Provide a significant mix of uses, including office, service, retail, residential and open space — far more than typical single use centers. Multi-story buildings are encouraged. Integrate some light industrial or manufacturing uses within the center (does not apply to neighborhood centers). Provide public amenities such as recreational facilities, significant open space, plazas, public squares and other types of public facilities or meeting areas. Are supported by a street network with significant traffic capacity in the future, rather than on streets that already have significant commercial development. Provide for even greater pedestrian orientation in their layout, physical arrangement of buildings and parking-buildings shall be oriented to pedestrians.

Provide for transit opportunities in the center design.

UTILITIES: A utility plan has not been submitted for review. However, utilities are generally available in the area and the site should be able to be served by water, sewer, cable T.V., gas, phone and electricity.

TRAFFIC ANALYSIS: South 84th Street is an improved four-lane arterial street, shown in the Comprehensive Plan as a six-lane facility. Adams Street is also designated as an arterial street, but is currently a two-lane paved asphalt street from approximately North 75th Street to North 84th Street. Improvements in Adams Street at the North 84th Street intersection are required by the annexation agreement for Prairie Village (the recently approved development east of North 84th Street) to accommodate that development. Beyond the intersection improvements, there are no funds in the current Capital Improvements Program (CIP) to improve Adams Street.

The proposed intersection at North 84th Street with Windmill Drive does not align with the intersection with North 84th Street on the east as approved with Prairie Village, and such an offset will not be approved by the Public Works Department. The site plan also shows a drive access midway between Adams Street and Windmill Drive which Public Works has noted must be removed.

A traffic study has been submitted, but has not yet been accepted by Public Works and Utilities. It is still under review and cannot be finalized until the access points are established. Public Works notes they object to the drive entrance to North 84th Street between Windmill and Adams, and that justification is required for the North 83rd Street/Adams Street intersection. Additional improvements in both Adams and North 84th Streets may be required by the traffic study to accommodate the 140,000 square feet of commercial floor area at this location.

REGIONAL ISSUES: The amount of commercial floor already approved along the North 84th Street corridor, and the lack of justification of need for more in this area.

ENVIRONMENTAL CONCERNS: Public Works and the residential neighbors to the south have noted drainage problems along South 84th Street near the south boundary of this site. Staff needs to review and approve a grading and drainage plan prior to final plat to ensure this development does not compound the problem.

AESTHETIC CONSIDERATIONS: Residents have become accustomed to the open space provided by the golf course, and the loss of the open space diminishes the aesthetic appeal of this major intersection.

ALTERNATIVE USES: The site could be developed entirely with residential uses, perhaps a mix that includes detached and attached single-family, and multiple-family dwellings.

ANALYSIS:

1. The land is zoned AG and is the site of the North Forty Golf Course. Special Permit #1306 was approved in 1988 allowing a recreation facility that includes a nine-hole golf course, and an 18-hole miniature course.
2. This request includes a change of zone from AG to R-3 Residential and B-2 Planned Unit Development (PUD). The entire site is 46.58 acres in area.
3. The site plan shows a commercial component with proposed B-2 zoning, and is approximately 22.25 acres in area. Approximately 140,000 square feet of commercial floor area is proposed, with a maximum P.M. peak hour vehicle trip generation cap of 1,366 trips.
4. The site plan shows a residential component with proposed R-3 zoning, and is approximately 24.33 acres in area. It includes 74 lots for single-family residences, and requests an adjustment to the rear yard setback to 15' for lots near the south boundary of the development.
5. The Comprehensive Plan designates this site for urban residential land uses.
6. In excess of 2.2 million square feet of commercial floor area have been approved along the North 84th Street corridor between O and Adams Streets, with the majority of it unbuilt. The Comprehensive Plan designates commercial land uses on both sides of North 84th Street from the south side of Holdrege Street to Adams Street, except for the area on the west side from just north of Leighton Avenue to Adams Street.
7. The Comprehensive Plan notes that neighborhood centers should be located approximately 3/4 to one mile apart, depending upon size, scale and function. This request is directly across the street from Prairie Village, approved for up to 285,000

square feet commercial floor area that could contain numerous neighborhood retail services. Additionally, there are approximately 300,000 square feet of commercial floor area approved northeast of the North 84th and Adams Street intersection

8. The Northern Lights Commercial Center northwest of North 84th and Holdrege Streets is part of a community center, and will provide many neighborhood services for this square-mile section. The total amount of floor area approved by UP#116 and SP#04016 is in excess of 320,000 square feet, with much of it unbuilt. This is the location for a new HyVee grocery store.
9. Page F47 of the Comprehensive Plan states “When a square mile of urban use contains a Community or Regional Center, and that center includes many of the uses found in a neighborhood center, then a neighborhood center would not be approved within that square mile. This provision would not apply if the incentives listed below, including greater residential population, have been met.” This plan does not meet the criteria.
10. Relative to the incentive criteria mentioned in #7 above, staff finds that:
 - a. The center is not located in a neighborhood with greater residential density than is typical for a suburban area, and the center itself does not contain higher density residential uses (density above fifteen dwelling units per acre) integrated within the development. This criteria is mandatory for any center proposing to utilize the incentive. The development bounded by North 70th and 84th Streets, and Holdrege and Adams Streets is developed almost exclusively with single-family dwellings.
 - b. A specific list of uses is not provided, and no limitation upon uses is proposed. From the information provided, the proposed center does not provide a significant mix of uses, including office, service, retail, residential and open space - far more than typical single use centers, and does not provide multi-story buildings which are encouraged.
 - c. A specific site layout has not been submitted, and public amenities such as recreational facilities, significant open space, plazas, public squares and other types of public facilities or meeting areas are not shown.
 - d. Greater pedestrian orientation in layout, physical arrangement of buildings and parking, and buildings oriented to pedestrians has not been demonstrated.
 - e. Transit opportunities have not been incorporated into the center design based upon the information provided.
11. Public Works notes that due to the lack of information provided with the application, they do not recommend approval of the street and lot layout shown, and that there are several other outstanding concerns that need to be addressed. The review also notes:
 - a. Windmill Drive does not align with Windmill Drive east of North 84th Street.
 - b. The right-in/right-out drive between Adams Street and Windmill Drive must be eliminated.
 - c. The full-access intersection at North 83rd Street to Adams Street must be justified.

- d. The drainage study should analyze ongoing drainage issues along North 84th Street.
 - e. The traffic study submitted has not been accepted because it has not been fully reviewed and access points have not been set.
12. Other noted corrections:
- a. Regent Drive must be extended to connect with Docs Drive.
 - b. Several errors with street names that must be corrected.
 - c. Additional LES easements are required.
 - d. Show the existing trail along North 84th Street and provide 9' separation between the curb and trail including turn lanes.
13. The provisions in Lincoln Municipal Code require the same information to be submitted for a PUD as for preliminary plat, even when the PUD is in lieu of the plat as is the case with this request. However, all required information was not submitted with this application. As a result, the applicant has added Note #33 to allow that information to be submitted at a later date subject to administrative approval by staff.
14. Drainage problems exist along North 84th Street south of this site. It is not clear what additional impact the proposed development may have because the drainage study has not been provided. This issue should be evaluated and satisfactorily resolved before this request is approved.
15. Staff recommends denial of this request, however recommended conditions of approval are included should the City Council vote to approve it.

CONDITIONS OF APPROVAL:

Site Specific:

1. This approval permits up to 74 dwelling units and 140,000 square feet of commercial floor area with an adjustment to the rear yard setback to 15' for Lots 14-19, Block 1 and Lots 1-7, Block 2.
2. Final plat(s) is/are approved by the City.

If any final plat on all or a portion of the approved planned unit development is submitted five (5) years or more after the approval of the planned unit development, the City may require that a new planned unit development be submitted, pursuant to all the provisions of section 26.31.015. A new planned unit development may be required if the subdivision ordinance, the design standards,

or the required improvements have been amended by the city; and as a result, the planned unit development as originally approved does not comply with the amended rules and regulations.

Before the approval of a final plat, the public streets, private roadway improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance.

General:

4. Before a final plat is approved:

4.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.

4.1.1 A revised site plan including 5 copies showing the following revisions:

- 4.1.1.1 Revise Note #33 to state "Site layout is conceptual. All information for a preliminary plat may be required to be submitted, including street and lot layout, street centerline profiles, grading plan, drainage study, utility plan, and landscaping, to be approved by administrative amendment prior to final plat approval, and may result in modifications to the site layout. This includes the location ~~and number~~ of street intersections and driveway entrances onto North 84th Street and Adams Streets." **(**Per Planning Commission, at the request of the applicant, 10/25/06**)**
- 4.1.1.2 Revise Note #18 to state "This PUD includes a change of zone from AG to R-3 and B-2 PUD.
- 4.1.1.3 Revise Note #26 to state "Final lot layout and individual lot landscape plans for lots in the B-2 to be submitted at the time of building permits.
- 4.1.1.4 Revise Note #32 by deleting broadcast tower as a permitted use, and a sentence that states "Otherwise, uses in the R-3 area as allowed by LMC Title 27, and uses in the B-2 area as allowed by LMC Title 27.
- 4.1.1.5 Show Regent Drive extended to connect with Docs Drive.
- 4.1.1.6 Revise street names to the satisfaction of the City.
- 4.1.1.7 Show additional easements as required by LES..

- 4.1.1.8 Show the existing trail along North 84th Street and provide 9' separation between the any relocated curb and trail including turn lanes. (****Per Planning Commission, at the request of the applicant, 10/25/06****)
- 4.1.1.9 Show the distance from street centerline to property line along both South 84th and Adams Streets.
- 4.1.1.10 Other corrections/revisions to the satisfaction of Public Works and Utilities.
- 4.1.1.11 No occupancy permits for commercial uses in excess of 30,000 aggregate sq. ft. or generating more than a total of 280 pm peak trips shall be issued until the following improvements to 84th Street and Adams Street west of 84th Street have been constructed:

1. Arterial Street Impact Fee Facility Improvements:

- (a) A modified arterial section at 84th Street with a single left-turn lane of permanent concrete pavement with curb and gutter from 84th Street west to the public street connection to Adams, together with appropriate turn lanes and a permanent concrete transition tapering down to the three-lane section provided for below.
- (b) A convertible three-lane section roadway of permanent concrete pavement with curb and gutter and associated storm sewer from approximately the public street connection to Adams west to 75th Street.
- (c) Eastbound right-turn lanes at 80th Street and at the public street connection to Adams.
- (d) Westbound left-turn lane at the public street connection to Adams.

2. Site-Related Improvements: Connections to 84th Street as shown on the site plan as well as the Windmill Road relocation and turn lane costs.

3. Directed Arterial Street Impact Fees: The Arterial Street Impact Fee Facility Improvements need not be constructed prior to the issuance of occupancy permits unless and until the City has entered into an agreement with the Owner to reimburse the costs of construction through the use of directed impact fees on terms and conditions substantially similar to other such agreements for the construction of these types of improvements.

(Per Planning Commission, at the request of the applicant,
10/25/06**)**

- 4.1.2 Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the planned unit development has been recorded.
- 4.2 The construction plans comply with the approved plans.
- 4.3 Final plat(s) is/are approved by the City.

Standard Conditions:

- 5. The following conditions are applicable to all requests:
 - 5.1 Before occupying the dwelling units and commercial buildings all development and construction is to comply with the approved plans.
 - 5.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
 - 5.3 The site plan accompanying this plan unit development shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 5.4 This ordinance's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 5.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the change of zone, provided, however, said 60-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the ordinance approving the change of zone and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.
- 6. All special permits previously approved are hereby rescinded with this ordinance at the time of final plat, except Special Permit #1672 which shall remain in effect.

Prepared by:

Brian Will, 441-6362, bwill@lincoln.ne.gov
Project Manager
September 28, 2006

APPLICANT/

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CHANGE OF ZONE NO. 06063, NORTH FORTY PLAZA PLANNED UNIT DEVELOPMENT

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 11, 2006

Members present: Cornelius, Larson, Taylor, Esseks, Strand, Krieser, Carroll, Sunderman and Carlson.

Staff recommendation: Denial.

Ex Parte Communications: None.

Staff presentation: **Brian Will of Planning staff** presented the proposal and the staff recommendation. This is a request for change of zone from AG to R-3 Residential and B-2 Planned Neighborhood Business District with a PUD designation to allow 74 residential lots in the underlying R-3 District and 140,000 sq. ft. of commercial uses in the underlying B-2 District. The staff has recommended denial based on a finding that the commercial floor area is not in conformance with the Comprehensive Plan.

As noted in staff report, the primary objection to the commercial floor area is the amount of already approved commercial floor area in this area today and the lack of justification for any more commercial floor area at this location. There is approximately 2,230,000 sq. ft. of commercial floor area north of 84th & O Streets. A vast majority of that floor area is actually between Holdrege Street and Adams Street, i.e. approximately 1.6 million square feet. Given that amount of floor area, staff finds no justification for an additional neighborhood center. The Northern Lights Commercial Center contains approximately 300,000 square feet of commercial floor area and serves as a commercial center for this area and as a neighborhood center for this square mile.

In addition to lack of need for an additional neighborhood center, there are concerns relative to access and traffic in this area. Will noted that Adams Street to the north of this development is currently a two-lane asphalt roadway and staff does not believe it is able to accommodate additional commercial development at this point. Staff would suggest that if this project is approved, the applicant should be required to make whatever necessary improvements are required in Adams Street, and that those improvements be advanced and the applicant reimbursed from directed impact fees.

Will pointed out that next week, the Planning Commission will be considering an update to the Comprehensive Plan. That update is going to include two things that staff believes impact this development: a Comprehensive Plan Amendment for the northeast corner of 84th & Adams to increase the amount of commercial floor area, and an amendment that affects this property. The staff suggests that the Planning Commission may want to consider delaying this application two weeks to allow the Commission to consider it in the broader context of that Comprehensive Plan Amendment and its implications.

Strand inquired what road improvements are anticipated. Will responded, stating that right now, Adams Street is improved to approximately 75th Street, so initially the staff would be suggesting 75th Street to 84th Street. The traffic study has been submitted but has not yet been accepted by the city. The Public Works Department is going to discuss potentially updating the City's transportation plan that may also impact this proposal, but today, it is difficult to be terribly specific.

Carroll inquired as to the size of the proposed grocery store on Holdrege. Will stated that the location of that grocery store is just north of Holdrege Street, west of the intersection of Holdrege and 84th. He did not recall the exact size of the grocery store, but he assumes it would be typical of the other HyVee stores. There is approximately 300,000+ square feet of commercial floor area just in that location alone. It was suggested that the grocery store would be about 80,000 square feet.

Will confirmed that the other commercial floor area to which he refers is already approved and zoned. Esseks wondered whether there could be a neighborhood commercial center on either side of 84th Street. Will agreed that could be possible, but the thought process for neighborhood center is to serve internal to that square mile. Staff is suggesting that the commercial center at the intersection to the south would serve this square mile. A neighborhood commercial center is anticipated to accommodate the uses and the residential uses within that square mile. Staff did not find that the proposal commercial center met the incentive criteria for an additional center.

Strand referred to all of the commercial uses between 40th on Pine Lake Road, half way up 27th Street, and all the way down to Yankee Hill Road, and asked for an explanation for that commercial development and how it is different. Will believes that gets to the broader issue of where we designate community and regional centers. Those are in areas of a regional center, i.e. South Pointe. The floor area being requested in this PUD is already within the square mile. The Comprehensive Plan directs us to the incentive criteria, and this case does not meet the test to justify another center.

Proponents

1. Peter Katt appeared on behalf of the applicant. He indicated that they began working on this project in the spring of this year. One of the long time investors in the North Forty Golf Course decided that it was time to stop the golf course and make the property available for development. The access points proposed are relocated Windmill Drive; right-in right-out drive off 84th midway between Adams and Windmill Drive; and approximately 83rd Street, the location of which was chosen to match up with the existing access drive for the city's golf course maintenance shop. It is a mix of low intensity development on the corner of approximately 140,000 sq. ft. buffering the existing neighborhood with a relatively low intensity residential development. There are two green space areas built into the design – a 60' green space buffer which they expect to deed to the adjacent lot owners on the south, and a 20' green space on the west side. The other design consideration we worked with has to do with relocation of Windmill Drive, which is proposed as the main intersection to this development. The current location of Windmill Drive on 84th Street, which is approved for a full commercial traffic signal, would dump out directly and put headlights and traffic into the back yard of those homes on the corner.

Katt noted that the staff is requesting 9' spacing between the bike path and the street, which is currently not there.

Katt advised that the applicant has met extensively with the neighbors, and they like this design and layout. The staff is envisioning 300 plus dwelling units and apparently no access to 84th or Adams, which would force all that residential traffic to the existing neighborhood.

Katt proposed amendments to Conditions #4.1.1.1 and #4.1.1.8 as follows:

- 4.1.1.1 Revise Note #33 to state "Site layout is conceptual. All information for a preliminary plat may be required to be submitted, including street and lot layout, street centerline profiles, grading plan, drainage study, utility plan, and landscaping, to be approved by administrative amendment prior to final plat

approval, and may result in modifications to the site layout. This includes the location ~~and number~~ of street intersections and driveway entrances onto North 84th Street and Adams Streets.”

- 4.1.1.8 Show the existing trail along North 84th Street and provide 9' separation between the any relocated curb and trail including turn lanes.

Condition #4.1.1.1 has to do with intersection access.

Condition #4.1.1.8 deals with the trail location. The applicant has no objection to the 9' separation, if and where we move 84th Street, but the applicant should not be required to incur the expense of relocating the trail.

Katt gave examples of 27th and Superior and 27th and Pine Lake Road with like intersections with right-in/right-out. Therefore, Katt does not believe the request for access being made in this development is unreasonable based on what else has been approved throughout the community. The applicant has no objection to further refining the location, but the number is not something about which they want to argue with staff.

2. Steve Oss, 8156 Wemsha Street (the street bordering to the south), testified on behalf of the neighbors in support of the proposal. The issues that Mr. Katt addressed are real concerns of the neighbors and the willingness of the applicant to work with the neighbors has led them to believe that this proposal as requested is in the best interest of the neighborhood. The improvement of the access is something that is a very real concern for the neighbors as to where that will be located in the future, as well as the traffic patterns with the limited access to the development if a different development plan is pursued. The neighbors appreciate the developer listening to their concerns, and this is demonstrated by the green space areas provided. He believes that a good partnership could be formed in maintaining the needs of the neighborhood with future uses.

From a neighborhood perspective, having been a resident for eight years, Oss stated that he is convinced that the developer is interested in pursuing this development in an aggressive manner to get it accomplished, unlike the other approved developments that have not come to fruition. He believes that this developer is interested in making it happen.

Esseks asked how many neighbors have been consulted, and how many households Mr. Oss is representing. Oss could not say how many households. There has been intense interest from all the neighbors that border the golf course; there has been a Web site formed; there have been several neighborhood-wide meetings held with somewhere between 60-70 people attending; there has been continuing ongoing dialog with the staff and with the developers, so the neighbors have been very active throughout the summer since the purchase of the property was announced. Of course, their preference would be that the golf course would stay, but they know and understand that is not going to happen. The neighbors believe this to be the best

plan and they believe the developer will work with the neighborhood. There is no opposition amongst the neighbors on Wemsha bordering the golf course. The vast majority are in support.

Strand asked Mr. Oss whether he is comfortable with the amount of commercial space in the area. Oss answered in the affirmative, adding that it is a concern and has been a concern, but with 84th and the traffic level that is there already, they believe that it is inevitable and that the green space is going to buffer the traffic. The neighbors believe that they have a say going forward with this developer on that issue.

3. Jason Hall, 8260 Wemsha Street (adjacent on the south side, backing up to the proposal commercial) testified in support, stating that the developers have been very up-front and open for discussion about their neighborhood concerns. He also believes this developer will help with some of the water and noise issues from 84th Street. He lives one house off of 84th and it is quite noisy now.

4. Randy Williams, 8236 Wemsha, inquired about the zoning on the land which is proposed to be deeded to the lot owners behind the golf course.

Opposition

1. Randy Hoskins, Assistant City Engineer, referred to the memorandum which the Planning Commission received from Karl Fredrickson, the Director of Public Works and Utilities. He noted that typically, the access issue being discussed with this development is not something that would be decided at this stage. The access makes a big difference in the decision of how the property should be zoned. Public Works and Utilities is opposed to any accesses to 84th Street, both the relocation of Windmill Drive as well as the proposed right-in/right-out. There is a controlled access that has been purchased for this property. Perhaps the relocation of Windmill is not as big an issue, but as far as the right-in/right-out is concerned, breaking the controlled access already purchased sets a bad precedent.

Another concern is the low volume of traffic proposed to use that driveway. That traffic could easily be handled by another location.

The next major concern of Public Works is in regard to the traffic on Adams. The staff has been trying to update the Long Range Transportation Plan, which shows a future 2+a for Adams as opposed to the two-lane street. Using the numbers of the traffic impact study prepared by the developer, in the year 2016 there would be nearly 2200 cars in the peak hour on Adams Street. To give you an example of what that might mean, 27th Street between South and Sheridan carries about 1800 cars in the peak hour, so we are already talking about an additional 400 trips that would be present if this proposal is approved. The Planning Commission is also going to be looking at a request to further increase the amount of commercial on the northeast corner of this intersection which could add another 300 cars per day onto this piece of Adams. By doing that, with 2500 cars in the peak hour, you are talking about the same volume that exists on 27th Street just south of Superior where there are six lanes. It probably could be handled with four lanes. As the Planning Commission reviews the LRTP, it is important to understand that 2+1 is not going to work under this scenario.

Public Works has requested to maintain accesses at 1/4 mile spacing. The 1/4 mile spacing could be done along Adams Street. Public Works is opposed to access on 84th Street. Hoskins does not believe this development has any right to access on 84th Street. The Windmill Drive location on the east side of 84th Street is roughly 1/4 mile. Hoskins believes Public Works "could give a little bit on

that", but they are trying not to get too far off of the 1/4 mile spacing. Dennis Bartels of Public Works clarified that the south line of this development is the 1/4 mile line. Public Works definitely does not want the northern access, and the preference is neither one.

Staff response

Will clarified that the proposed zoning for the portion adjacent to the houses on the south is R-3 Residential, which is consistent with the zoning to the south. There is R-2 Residential zoning to the west.

Staff did propose conditions of approval, should the Planning Commission choose to recommend approval. Condition #4.1.1.1 is written such that all of the detail is left to be approved administratively – site layout, road connections, etc. The motion to amend deleted one item from that relative to the number of street intersections.

Carroll inquired whether staff supports the motion to amend concerning the bike trail. Will believes that amendment is reasonable and acceptable to the staff. The intent would be that any future development or changes associated with this would meet the standard.

Carroll inquired whether it is the staff's position that this would be better as a mixed used development. Will suggested that the incentive criteria in the Comprehensive Plan suggests just that. The criteria includes pedestrian accessibility and orientation to the adjacent neighborhood. As it is, a specific mix of uses is not shown or proposed.

Carroll inquired whether the proposed grocery store (retail) next to residential is really not preferred. Will suggested that the intent would be for a neighborhood center to provide the services that serve the adjacent neighborhood, e.g. dry cleaner, video store, etc. Carroll suggested that there would usually be a buffer. Will concurred.

Esseks observed that it looks as though widening Adams west of 84th is a significant constraint on this commercial development. Is it the staff's understanding that the developer would finance the widening? Will indicated that staff is suggesting that that would be appropriate. If commercial development goes into this location, that would be what requires additional improvements in Adams Street.

Esseks also observed that the issue would be that the city would have to reimburse the developer for everything, or only a certain proportion? Will could not answer the question specifically. Those improvements that we would find necessary to support this development would be the responsibility of the developer. We are asking for those improvements to be made at the time this property develops.

Esseks noted that the LRTP calls for this stretch of Adams to be 2+1. If it ends up being four lanes, then that would mean that the city would have to spend some money here that they couldn't spend elsewhere. Will stated that the staff is anticipating that this would be a 3-lane urban facility. That is why Public Works is suggesting that this development, in the context of what may be approved across the street, may change. That is why the staff was suggesting that the approval of this proposal might be premature. The staff is suggesting that this application be delayed and wait for the Comprehensive Plan update. Then the applicant could come forward with a comprehensive plan amendment so that it can be viewed in its entirety.

Response by the Applicant

Katt suggested that no matter how this parcel is developed, it will need an access point on 84th Street. This developer has reached agreement with adjacent landowners. There will be a traffic signal; the distance moves from 1320 feet to 1158 feet from Adams, so it is less than 200 feet. It would be theoretically possible to move it closer to the south lot line, but then you get competing interest with the homeowners and the drainage area. We are trying to identify a location that accomplishes a lot of things. It is a good improvement.

With regard to Adams Street, the developer had requested and met with city Staff on June 21st. They did not like it and they did not want to talk to us anymore. With regard to the Adams Street improvements, when he met with his clients, he advised them that if they were expecting commercial to be approved, Adams Street would need to be improved and they are willing to do that. We have a fairly definitive roadway design cross-section for that roadway. There is a big added benefit to this property coming in today. His clients are willing to improve the Adams Street roadway to 2+1 up to their entrance point to their center. 83rd to 84th will need thought as to the design and what needs to happen. All of those are impact fee facilities and entitled to be reimbursed.

With regard to the Comprehensive Plan issues, staff originally said this could not go forward with the Comprehensive Plan Update. Katt did not agree that a comprehensive plan amendment was necessary, but he filed one nonetheless. There are changes in this area on the Comprehensive Plan. We are going up to two neighborhood centers, but the proposal on the east side is to convert the commercial center on the south side to an office mixed use center and modify that so there is less retail and more office, and then modify the community size center designation to the northeast so that it becomes a community size center capable of supporting two facilities. Katt suggested that, given those definitions, having a neighborhood center in that mix would meet the revised language in the proposed comprehensive plan amendment. Staff is apparently supporting the change in adding the traffic northeast of this site, and you have heard from neighbors that living next to 84th is not a very good experience. This is a good, blended mixed use project.

Katt would not object to include the requirement to pave Adams as 2+1.

Esseks thought that staff was saying that they needed it to be more than 2+1. He is sympathetic to giving the private sector more flexibility for commercial enterprises, but not if it is going to get choked up with traffic. This developer has to take some responsibility for expanding Adams beyond 2+1. Katt stated that the developer will pay the impact fee and will also build the improvements for the city at a higher level and get reimbursed over time. With this proposal, Katt believes that the developer is going above and beyond their responsibility that they have for the arterial street improvements necessitated by this development. The 2+1 design for Adams is in the Comprehensive Plan and that is the constraint for this development. The City Council has continued to affirm that the appropriate configuration for Adams is 2+1. That is a decision that the elected officials have made.

Carroll confirmed that the developer does not want to delay to catch up with the comprehensive plan amendment. Katt stated that he does not think a comprehensive plan amendment is needed. That is the Planning Commission's decision. The staff report does not indicate the need for a comprehensive plan amendment. The Comprehensive Plan says that neighborhood centers (150,000 square feet) are appropriate to come in as neighborhoods come forward.

Carroll sought whether the green space would be deeded to the owners of the lots on the south side. Katt acknowledged that the details have not been flushed out. They have made the offer to either deed

it to them or maintain it as a common space. The neighbors have indicated that their preference would be that that space be added to their lots. Katt sees some potential width-to-depth issues that might require a waiver. But he does not know exactly how it will be handled at this point. He suggested condo-ing those back areas and adding it into their lots. Staff has been willing to be creative in the past. He does not believe this will be a serious problem. The adjacent landowners to the south want to be in control of their own destiny. The staff report indicates a waiver of the rear yard setback to 15'.

Carroll inquired as to why the development has not pursued more mixed use in the development versus mostly retail. Katt stated that the plan is conceptual at this point. Given the huge opposition from the staff, it was decided to move this forward to see if the neighbors, the Planning Commission and the elected officials would have the same vision. Therefore, specific uses have not been identified or targeted yet. It is a conceptual site plan. Those are issues that will be discussed in going back through on the administrative amendments.

Strand wondered whether a more mixed use development would change the zoning request. Katt did not know. The PUD provides a mix of commercial and the definition of that mix is not defined. He does not think it would need to be changed.

Strand inquired whether Katt would consider Adams Street from 84th to 83rd Street to be a residential area. Could that be four lanes in there and stop at 83rd? Hoskins stated that Public Works is already looking at that section as being 4 lanes. But the pieces he was talking about earlier are basically just east of 70th Street. Those will be too high to be handled by a 2+1.

Esseks inquired whether there needs to be at least four lanes between 70th and 84th. Hoskins suggested that, based on the volumes in the traffic study, we are at or above what 2+1 can handle. And Esseks confirmed that this is necessitated in part by the additional cars going to and from the proposed commercial areas. Hoskins agreed.

Strand believes that there will be traffic coming over from 70th Street anyway because there is not a grocery store in northeast Lincoln. It's going to be higher than we want anyway. Hoskins confirmed that the City Council has said they want 2+1. He is just stating that based on what the numbers have shown, and the types of traffic and volume that we are adding, we could be going beyond what a 2-lane road can carry.

Katt clarified that the Adams Street traffic study is based on the traffic volume if this all develops with 300+ dwelling units. The difference in trip counts is not a material number. You can't say that this development is driving all those trips on Adams.

ACTION BY PLANNING COMMISSION:

October 11, 2006

Carroll moved to delay for two weeks, with continued public hearing and action on October 25, 2006, seconded by Larson.

Carroll believes this will be discussed in the context of a comprehensive plan amendment next week. He would like to discuss them at the same time to allow the Commission to investigate the whole thing before voting yes or no.

Strand thinks this looks like a quality development. They have worked with the neighborhoods. It could not have been easy. The fact that they worked so diligently to reach a change of value and make a situation that the neighbors are happy with says a lot. Regardless of what is going to happen to the

northeast section of 84th & Adams, Strand believes this is a neighborhood that feels strongly about this change and she sees no reason not to go ahead and get it moving. It may change what she wants to put at the northeast corner.

Esseks wanted to know how much of the paving from 75th east will be the responsibility of this developer. Strand believes that they will have to work that out with Public Works. Esseks wondered whether the Comprehensive Plan update might call for 4+1. Strand does not believe this needs to wait for the Long Range Transportation Plan update.

Taylor believes that a two-week deferral is appropriate to allow staff as well as the developer to get together and reach a compromise.

Carlson supported the deferral. If there is some sentiment for allowing some commercial, he is interested in the delay. Even the staff report indicates that the staff would allow for some commercial area if it meets some criteria. He would prefer to see those things come before the Commission rather than being approved administratively.

Cornelius concurred with Carlson.

Esseks commented that this whole area is a hot spot. Let's look at it again as a whole. He is sympathetic to the developer and is impressed with the development.

Larson wants to look at the whole intersection. The commercial development on the east side of 84th has not been figured into the increased traffic along Adams Street and that is why he wants to amend the Comprehensive Plan to make it 4+1. Adams obviously is going to go on east and it will be a major arterial.

Marvin Krout, the Director of Planning, pointed out that a two week delay will be the same meeting at which the Planning Commission will be expected to take action on the Comprehensive Plan Update. In the meantime, the staff will work with the applicant on some of these issues. If the desire is to tie down commercial to something that is more mixed use, that is one of the fundamental issues that needs to be determined now.

Sunderman stated that he is in favor of the plan as it stands, but would like a better idea of what's going on with the traffic. He would prefer that this come up on the agenda before the one on the northeast corner. Krout noted that the northeast corner would be part of the Comprehensive Plan Update and the Commission would be designating something on this corner. The applicant wanted to move forward because there is certain language in the current plan that is not in the proposed Comprehensive Plan, but there can be some kind of coordinated decisions two weeks from today.

Motion to defer, with continued public hearing and action on October 25, 2006, carried 8-1: Cornelius, Larson, Taylor, Esseks, Krieser, Carroll, Sunderman and Carlson voting 'yes'; Strand voting 'no'.

Members present: Krieser, Cornelius, Sunderman, Strand, Larson, Esseks, Carroll and Carlson; Taylor absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

Additional information for the record: **Brian Will of Planning staff** submitted a letter from Julie Kohrell, 8242 Wemsha Street.

Proponents

1. Peter Katt appeared on behalf of the applicant and submitted revised proposed amendments to the conditions of approval:

4.1.1.1 Revise Note #33 to state "Site layout is conceptual. All information for a preliminary plat may be required to be submitted, including street and lot layout, street centerline profiles, grading plan, drainage study, utility plan, and landscaping, to be approved by administrative amendment prior to final plat approval, and may result in modifications to the site layout. This includes the location ~~and number~~ of street intersections and driveway entrances onto North 84th Street and Adams Streets."

4.1.1.8 Show the existing trail along North 84th Street and provide 9' separation between the any relocated curb and trail including turn lanes.

4.1.1.11 No occupancy permits for commercial uses in excess of 30,000 aggregate sq. ft. or generating more than a total of 280 pm peak trips shall be issued until the following improvements to 84th Street and Adams Street west of 84th Street have been constructed:

1. Arterial Street Impact Fee Facility Improvements:

(a) A modified arterial section at 84th Street with a single left-turn lane of permanent concrete pavement with curb and gutter from 84th Street west to the public street connection to Adams, together with appropriate turn lanes and a permanent concrete transition tapering down to the three-lane section provided for below.

(b) A convertible three-lane section roadway of permanent concrete pavement with curb and gutter and associated storm sewer from approximately the public street connection to Adams west to 75th Street.

(c) Eastbound right-turn lanes at 80th Street and at the public street connection to Adams.

- (d) Westbound left-turn lane at the public street connection to Adams.
2. **Site-Related Improvements:** Connections to 84th Street as shown on the site plan as well as the Windmill Road relocation and turn lane costs.
 3. **Directed Arterial Street Impact Fees:** The Arterial Street Impact Fee Facility Improvements need not be constructed prior to the issuance of occupancy permits unless and until the City has entered into an agreement with the Owner to reimburse the costs of construction through the use of directed impact fees on terms and conditions substantially similar to other such agreements for the construction of these types of improvements.

Katt has submitted these proposed amendments to Planning and Public Works, but there have been no discussions. What he is trying to accomplish in the additional Condition #4.1.1.11 is two-fold: the first section with regard to occupancy permits for commercial is similar to other situations to provide some opportunity for a limited amount of commercial space without having to incur the money to do all necessary road improvements. The other language sets out the commitment to construct the improvements both at 84th and Windmill as a site improvement type facility, which is generally not entitled to impact fee reimbursement dollars. That would be built privately at the cost of the developer and will be split with the developer to the east.

With regard to the Adams Street improvements, this language comes out of the annexation agreement that was negotiated with the Prairie Village North project in terms of the 2+1 roadway facility language from 82nd to 78th, shifting the 2+1 slightly north. This is language that Public Works at one point was willing to accept. 82nd to 84th will need to be designed and Katt expects it to be a full arterial cross-section. There is sufficient right-of-way that will be dedicated on the south side of Adams for that road cross-section. He knows Public Works has concerns about the details; however, Katt pointed out that Condition #4.1.1.10 in the staff report is the wild card for Public Works, where it states, "Other corrections/revisions to the satisfaction of Public Works and Utilities." Therefore, Katt believes there will be numerous opportunities through the administrative amendment process on this project to address the site specific issues.

Esseks asked Katt to discuss the "convertible three-lane section roadway" in Condition #4.1.1.11(1)(a). Katt submitted that when you build roadways and you look to the future, you probably don't want to make investments in roadways that don't have the opportunity to be flexible. This standard is an intent to accommodate and respect the 2+1 standard, without tearing up what the investment had been in that roadway, and accommodate additional through lanes in traffic.

Esseks recalled Katt indicating that there were 12 driveways going onto Adams at this point. Can this improvement on Adams be done in such a way as to minimize the harm to those 12 driveways? Katt advised that there will be no improvements past 75th. 2+1 exists from 75th to 70th. It is in that stretch that the existing driveways are located. Driveway improvements are only in the two-lane rural cross-section asphalt areas. There will be some design challenges on where you might make these transitions. It is those discussions that he believes the developer can have productively with city staff if they receive some direction from the Planning Commission and City Council that this is a good project.

Larson confirmed that this developer is willing to contribute the right-of-way on the north side of the development that will eventually allow a four-lane roadway. Katt concurred, i.e. all the way on the south side of the existing Adams Street right-of-way.

Larson inquired as to the street address on the west side. Katt advised that the west terminus would be about 81st Street, if there was a road. Included in this development proposal is property actually owned by Dr. Matson, and Dr. Matson understands the changes. He has agreed to submit his property as part of the approval process. The road south of Adams abuts Dr. Matson's property. This developer is making sure that in the future, Dr. Matson's property configuration can be accommodated well and he will continue to be able to live in his home. Katt added that during their discussions about this design, one of the issues that staff raised was the possibility of moving the entrance road further west, and this developer is willing to do that. The current location was selected because it was opposite the Mahoney Golf Course maintenance shed. Katt is hopeful to have productive conversations with staff on where that line can be moved. This developer is flexible and wants to accommodate the staff's issues. That is the purpose of the proposed Condition #4.1.1.11.

Carroll inquired whether the developer is still requesting the right-in right-out along 84th Street. Katt stated, "yes". The developer believes it is a good idea and is not ready to say no. They want to continue to work with staff. Remember the discussion we had is that it accomplishes diffusing the traffic into the development. It is not a traffic hazard to have a right-in right-out at that location.

Carroll confirmed that the applicant is still considering a 70,000 sq. ft. grocery store. Katt confirmed that to be the preferred anchor for that center.

Krieser commented that he likes the plan because we need some commercial in that area.

Carlson noted that the site plan is conceptual. In light of the Comprehensive Plan that has been adopted, he is hopeful that as this site plan solidifies, that it creates good connectivity within the neighborhood and good pedestrian orientation. Katt is hopeful that both of his clients will have projects of which everyone will be proud. The protection is that it puts some authority back on the staff to implement those things. To date, the staff has been very unwilling to have any creative discussions because they oppose the project. If the project is approved, he believes the staff will work hard with them. There is a large incentive for both staff and the developer to reach agreement on those principles.

2. Michael Rierden appeared on behalf of the 18 property owners along Wemsha Street, directly south of the proposed development. They have had conversations with the developer about their concerns such as buffering, drainage, traffic, etc. He has just recently been retained, but his clients are in support of the project, conditioned upon coming to an agreement in writing as far as covenants and a development agreement concerning those issues such as traffic, drainage, buffer along the south side, etc.

Strand understands from three of the homeowners that they are in 100% agreement with the plan. Rierden concurred.

There was no testimony in opposition.

Staff response

Brian Will of Planning staff observed that one of staff's concerns has been dealt with today, and that is the change to the Comprehensive Plan for this area. The other staff concern had to do with Adams Street and the staff had suggested some sort of transportation improvement agreement between the applicant and Public Works. He believes that the proposed amendment to Condition #4.1.1.1 and the additional Condition #4.1.1.11 are an attempt to get to that agreement. Staff agrees with the amendment to Condition #4.1.1.8.

Dennis Bartels of Public Works and Utilities acknowledged that the action taken on the Comprehensive Plan today gives direction that Adams Street would stay three lanes and that is what we have to work with, and the staff will work with the applicant to figure that out. The traffic study also identified things that could be done right at 70th and Adams – right turn lanes might be needed. Public Works does not believe the three lanes will work for an extended period of time, but if that is the decision that is made, the staff will work with that and try to offset it. The Comprehensive Plan calls for the potential widening of 84th Street to six lanes someday, so the plan they worked out earlier on the Prairie Village design had shown building what we could get in there today. The only other item that the study indicated was the desirability of additional right turn lanes on various directions at the 70th and Adams intersection. The intersections are the points where you are going to have the congestion.

Strand asked Bartels to confirm that he agrees with the language submitted by Katt. Bartels agreed.

ACTION BY PLANNING COMMISSION:

October 25, 2006

Strand moved approval, with conditions, with the amendments as requested by the applicant, seconded by Carroll and carried 8-0: Krieser, Cornelius, Sunderman, Strand, Larson, Esseks, Carroll and Carlson voting 'yes'; Taylor absent. This is a recommendation to the City Council.



2005 aerial

Change of Zone #06063 N 84th & Adams St

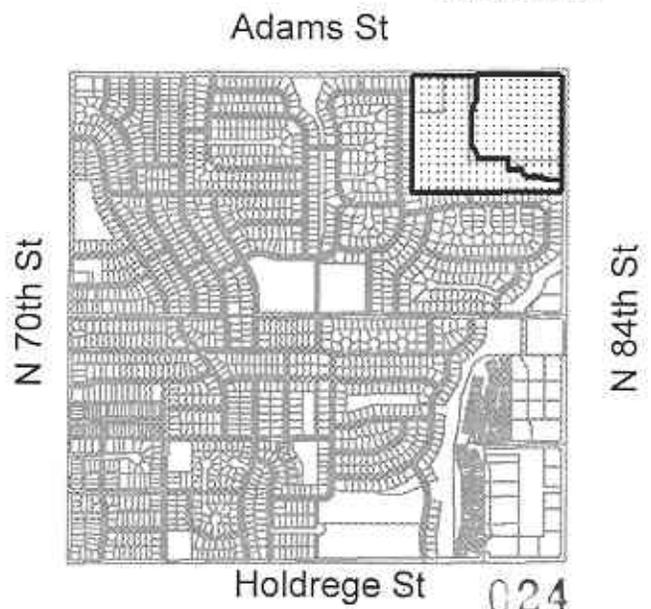
Zoning:

- 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

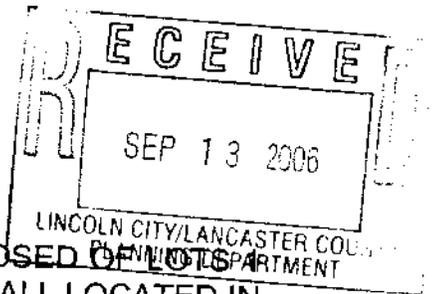
One Square Mile
Sec. 15 T10N R07E



Zoning Jurisdiction Lines
City Limit Jurisdiction



LEGAL DESCRIPTION
P.U.D.



A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOTS 1 AND 2 NORTH FORTY GOLF ADDITION, AND LOT 84 I.T., ALL LOCATED IN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 10 NORTH, RANGE 7 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 LOT 1, SAID POINT BEING 50.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHEAST QUARTER, SAID POINT ALSO BEING ON THE SOUTH LINE OF ADAMS STREET RIGHT-OF-WAY, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 1, SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY ON AN ASSUMED BEARING OF NORTH 88 DEGREES 59 MINUTES 56 SECONDS EAST, A DISTANCE OF 328.20 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, SAID POINT BEING A NORTHWEST CORNER OF SAID LOT 2, THENCE NORTH 88 DEGREES 59 MINUTES 51 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 2, AND A NORTH LINE OF SAID LOT 84 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,014.59 FEET TO A NORTH CORNER OF SAID LOT 84 I.T., THENCE SOUTH 85 DEGREES 16 MINUTES 56 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 84 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 100.33 FEET TO A NORTH CORNER OF SAID LOT 84 I.T., SAID POINT BEING 60.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHEAST QUARTER, THENCE NORTH 88 DEGREES 59 MINUTES 51 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 84 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 130.02 FEET TO A NORTHEAST CORNER OF SAID LOT 84 I.T., THENCE SOUTH 45 DEGREES 27 MINUTES 57 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 84 I.T., SAID LINE BEING A SOUTHWEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 28.02 FEET TO A NORTHEAST CORNER OF SAID LOT 84 I.T., SAID POINT BEING 60.00 FEET WEST OF THE EAST LINE OF SAID NORTHEAST QUARTER, SAID POINT ALSO BEING ON THE WEST LINE OF NORTH 84TH STREET RIGHT-OF-WAY, THENCE SOUTH 00 DEGREES 04 MINUTES 19 SECONDS WEST ALONG A EAST LINE OF SAID LOT 84 I.T., AND A EAST LINE OF SAID LOT 2, SAID LINE BEING 50.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER, SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,247.45 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2, THENCE SOUTH 89 DEGREES 10 MINUTES 29 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 2, A DISTANCE OF 1,264.37 FEET TO A SOUTH CORNER OF SAID LOT 2, THENCE SOUTH 89 DEGREES 10 MINUTES 10

SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 2, A DISTANCE OF 329.73 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2, THENCE NORTH 00 DEGREES 07 MINUTES 57 SECONDS EAST ALONG A WEST LINE OF SAID LOT 2, AND A WEST LINE OF SAID LOT 1, A DISTANCE OF 1,272.59 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 2,029,152.13 SQUARE FEET OR 46.58 ACRES, MORE OR LESS.

Thursday, September 07, 2006

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RTY PLAZA

DEVELOPMENT
SET

R-3 LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOT 1, NORTH FORTY GOLF ADDITION, A PORTION OF LOT 2, NORTH FORTY GOLF ADDITION, AND A PORTION OF LOT 84 I.T., ALL LOCATED IN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

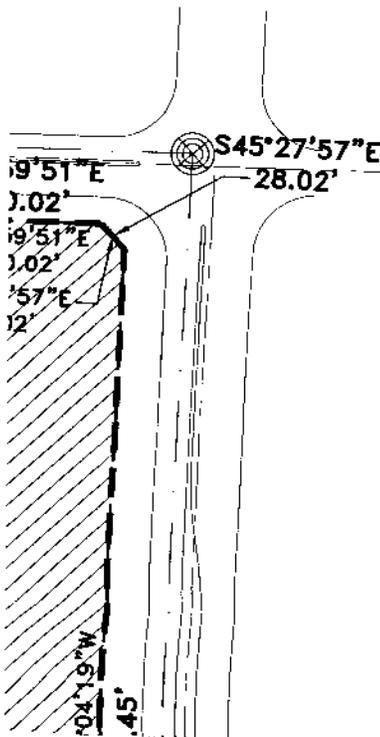
COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1, SAID POINT BEING 50.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHEAST QUARTER, AND ON THE SOUTH LINE OF ADAMS STREET RIGHT-OF-WAY, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 1, SAID LINE BEING THE SOUTH LINE OF SAID RIGHT-OF-WAY ON AN ASSUMED BEARING OF NORTH 88 DEGREES 59 MINUTES 56 SECONDS EAST, A DISTANCE OF 328.20 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, THENCE NORTH 88 DEGREES 59 MINUTES 51 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 2 AND A NORTH LINE OF SAID LOT 84 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 348.34 FEET TO A POINT, THENCE SOUTH 00 DEGREES 00 MINUTES 11 SECONDS WEST, A DISTANCE OF 296.12 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 77 DEGREES 26 MINUTES 20 SECONDS, A RADIUS OF 76.95 FEET, AN ARC LENGTH OF 104.00 FEET, A TANGENT LENGTH OF 61.69 FEET, A CHORD LENGTH OF 96.27 FEET, AND A CHORD BEARING OF SOUTH 15 DEGREES 42 MINUTES 51 SECONDS WEST TO A POINT, THENCE SOUTH 89 DEGREES 56 MINUTES 24 SECONDS WEST, A DISTANCE OF 23.71 FEET TO A POINT, THENCE SOUTH 00 DEGREES 03 MINUTES 36 SECONDS EAST, A DISTANCE OF 330.60 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 31 DEGREES 41 MINUTES 50 SECONDS, A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 82.98 FEET, A TANGENT LENGTH OF 42.58 FEET, A CHORD LENGTH OF 81.93 FEET, AND A CHORD BEARING OF SOUTH 15 DEGREES 54 MINUTES 31 SECONDS EAST TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 11 DEGREES 26 MINUTES 58 SECONDS, A RADIUS OF 675.00 FEET, AN ARC LENGTH OF 134.88 FEET, A TANGENT LENGTH OF 67.67 FEET, A CHORD LENGTH OF 134.66 FEET, AND A CHORD BEARING OF SOUTH 26 DEGREES 01 MINUTES 58 SECONDS EAST TO A POINT, THENCE NORTH 89 DEGREES 12 MINUTES 45 SECONDS EAST, A DISTANCE OF 309.41 FEET TO A POINT, THENCE SOUTH 00 DEGREES 47 MINUTES 15 SECONDS EAST, A DISTANCE OF 120.00 FEET TO A POINT, THENCE NORTH 89 DEGREES 12 MINUTES 45 SECONDS EAST, A DISTANCE OF 42.67 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 12 DEGREES 40 MINUTES 04 SECONDS, A RADIUS OF 495.00 FEET, AN ARC LENGTH OF 109.44 FEET, A TANGENT LENGTH OF 54.94 FEET, A CHORD LENGTH OF 109.22 FEET, AND A CHORD BEARING OF NORTH 82 DEGREES 52 MINUTES 43 SECONDS EAST TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 135 DEGREES 56 MINUTES 55 SECONDS, A RADIUS OF 76.87 FEET, AN ARC LENGTH OF 182.39 FEET, A TANGENT LENGTH OF 190.01 FEET, A CHORD LENGTH OF 142.52 FEET, AND A CHORD BEARING OF SOUTH 58 DEGREES 22 MINUTES 57 SECONDS EAST TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 07 DEGREES 30 MINUTES 18 SECONDS, A RADIUS OF 560.00 FEET, AN ARC LENGTH OF 73.35 FEET, A TANGENT LENGTH OF 36.73 FEET, A CHORD LENGTH OF 73.30 FEET, AND A CHORD BEARING OF SOUTH 73 DEGREES 07 MINUTES 03 SECONDS EAST TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 09 DEGREES 16 MINUTES 24 SECONDS, A RADIUS OF 133.50 FEET, AN ARC LENGTH OF 21.61 FEET, A TANGENT LENGTH OF 10.83 FEET, A CHORD LENGTH OF 21.58 FEET, AND A CHORD BEARING OF SOUTH 72 DEGREES 14 MINUTES 00 SECONDS EAST TO A POINT, THENCE SOUTH 67 DEGREES 35 MINUTES 49 SECONDS EAST, A DISTANCE OF 11.10 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 17 DEGREES 37 MINUTES 10 SECONDS, A RADIUS OF 166.50 FEET, AN ARC LENGTH OF 51.20 FEET, A TANGENT LENGTH OF 25.80 FEET, A CHORD LENGTH OF 51.00 FEET, AND A CHORD BEARING OF SOUTH 76 DEGREES 24 MINUTES 24 SECONDS EAST TO A POINT OF COMPOUND CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 05 DEGREES 47 MINUTES 14 SECONDS, A RADIUS OF 573.00 FEET, AN ARC LENGTH OF 57.88 FEET, A TANGENT LENGTH OF 28.96 FEET, A CHORD LENGTH OF 57.85 FEET, AND A CHORD BEARING OF SOUTH 88 DEGREES 06 MINUTES 36 SECONDS EAST TO A POINT, THENCE NORTH 88 DEGREES 59 MINUTES 47 SECONDS EAST, A DISTANCE OF 90.82 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID LOT 2, SAID POINT BEING ON THE WEST LINE OF NORTH 84TH STREET RIGHT-OF-WAY, SAID POINT BEING 50.00 FEET WEST OF THE EAST LINE OF SAID NORTHEAST QUARTER, THENCE SOUTH 00 DEGREES 04 MINUTES 19 SECONDS WEST ALONG A EAST LINE OF SAID LOT 2, SAID LINE BEING THE WEST LINE OF SAID RIGHT-OF-WAY, SAID LINE BEING 50.00 FEET WEST OF AND PARALLEL WITH THE SOUTHEAST CORNER OF SAID LOT 2, THENCE SOUTH 89 DEGREES 10 MINUTES 29 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 2, A DISTANCE OF 1,264.37 FEET TO A POINT, THENCE SOUTH 89 DEGREES 10 MINUTES 10 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 2, A DISTANCE OF 329.73 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2, THENCE NORTH 00 DEGREES 07 MINUTES 57 SECONDS EAST ALONG A WEST LINE OF SAID LOT 2, AND SAID LOT 1, A DISTANCE OF 1,272.59 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 1,059,754.14 SQUARE FEET OR 24.33 ACRES, MORE OR LESS.

DEVELOPER

ORTH 47 GROUP, LLC
201 N STREET, SUITE 102
NOLN, NE 68508
PHONE: 435-0000

NEER & PREPARER

SSON ASSOCIATES
111 LINCOLN MALL
NOLN, NE 68501
PHONE: 474-6311





B-2 LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF LOT 2, NORTH FORTY GOLF ADDITION, AND A PORTION OF LOT 84 I.T., ALL LOCATED IN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 1 NORTH FORTY GOLF ADDITION, SAID POINT BEING 50.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHEAST QUARTER, AND ON THE SOUTH LINE OF ADAMS STREET RIGHT-OF-WAY, THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 1, SAID LINE BEING THE SOUTH LINE OF SAID RIGHT-OF-WAY ON AN ASSUMED BEARING OF NORTH 88 DEGREES 59 MINUTES 56 SECONDS EAST, A DISTANCE OF 328.20 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, SAID POINT BEING THE NORTHWEST CORNER OF SAID LOT 2, THENCE NORTH 88 DEGREES 59 MINUTES 51 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 2, AND A NORTH LINE OF SAID LOT 84 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 348.34 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING EASTERLY ALONG THE NORTH LINE OF SAID LOT 84 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 666.25 FEET TO A NORTH CORNER OF SAID LOT 84 I.T., THENCE SOUTH 85 DEGREES 16 MINUTES 56 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 84 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 100.33 FEET TO A NORTH CORNER OF SAID LOT 84 I.T., SAID POINT BEING 60.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHEAST QUARTER, THENCE NORTH 88 DEGREES 59 MINUTES 51 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 84 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 130.02 FEET TO A NORTHEAST CORNER OF SAID LOT 84 I.T., THENCE SOUTH 45 DEGREES 27 MINUTES 57 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 84 I.T., SAID LINE BEING A SOUTHWEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 28.02 FEET TO A NORTHEAST CORNER OF SAID LOT 84 I.T., SAID POINT BEING 50.00 FEET WEST OF THE EAST LINE OF SAID NORTHEAST QUARTER, SAID POINT BEING ON THE WEST LINE OF NORTH 84TH STREET RIGHT-OF-WAY, THENCE SOUTH 00 DEGREES 04 MINUTES 19 SECONDS WEST ALONG A EAST LINE OF SAID LOT 84 I.T., AND A EAST LINE OF SAID LOT 2, SAID LINE BEING 50.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER, SAID LINE BEING THE WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,125.96 FEET TO A POINT, THENCE SOUTH 88 DEGREES 59 MINUTES 47 SECONDS WEST, A DISTANCE OF 90.82 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 05 DEGREES 47 MINUTES 14 SECONDS, A RADIUS OF 573.00 FEET, AN ARC LENGTH OF 57.88 FEET, A TANGENT LENGTH OF 28.96 FEET, A CHORD LENGTH OF 57.85 FEET, AND A CHORD BEARING OF NORTH 88 DEGREES 06 MINUTES 36 SECONDS WEST TO A POINT OF COMPOUND CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 17 DEGREES 37 MINUTES 10 SECONDS, A RADIUS OF 166.50 FEET, AN ARC LENGTH OF 51.20 FEET, A TANGENT LENGTH OF 25.80 FEET, A CHORD LENGTH OF 51.00 FEET, AND A CHORD BEARING OF NORTH 76 DEGREES 24 MINUTES 24 SECONDS WEST TO A POINT, THENCE NORTH 67 DEGREES 35 MINUTES 49 SECONDS WEST A DISTANCE OF 11.10 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 09 DEGREES 16 MINUTES 24 SECONDS, A RADIUS OF 133.50 FEET, AN ARC LENGTH OF 21.61 FEET, A TANGENT LENGTH OF 10.83 FEET, A CHORD LENGTH OF 21.58 FEET, AND A CHORD BEARING OF NORTH 72 DEGREES 14 MINUTES 01 SECONDS WEST TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 07 DEGREES 30 MINUTES 18 SECONDS, A RADIUS OF 560.00 FEET, AN ARC LENGTH OF 73.35 FEET, A TANGENT LENGTH OF 36.73 FEET, A CHORD LENGTH OF 73.30 FEET, AND A CHORD BEARING OF NORTH 73 DEGREES 07 MINUTES 04 SECONDS WEST TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 135 DEGREES 56 MINUTES 55 SECONDS, A RADIUS OF 76.87 FEET, AN ARC LENGTH OF 182.39 FEET, A TANGENT LENGTH OF 190.01 FEET, A CHORD LENGTH OF 142.52 FEET, AND A CHORD BEARING OF NORTH 58 DEGREES 22 MINUTES 58 SECONDS WEST TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 12 DEGREES 40 MINUTES 04 SECONDS, A RADIUS OF 495.00 FEET, AN ARC LENGTH OF 109.44 FEET, A TANGENT LENGTH OF 54.94 FEET, A CHORD LENGTH OF 109.22 FEET, AND A CHORD BEARING OF SOUTH 82 DEGREES 52 MINUTES 43 SECONDS WEST TO A POINT, THENCE SOUTH 89 DEGREES 12 MINUTES 45 SECONDS WEST A DISTANCE OF 42.67 FEET TO A POINT, THENCE NORTH 00 DEGREES 47 MINUTES 15 SECONDS WEST A DISTANCE OF 120.00 FEET TO A POINT, THENCE SOUTH 89 DEGREES 12 MINUTES 45 SECONDS WEST, A DISTANCE OF 309.41 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 11 DEGREES 26 MINUTES 58 SECONDS, A RADIUS OF 675.00 FEET, AN ARC LENGTH OF 134.88 FEET, A TANGENT LENGTH OF 67.67 FEET, A CHORD LENGTH OF 134.66 FEET, AND A CHORD BEARING OF NORTH 26 DEGREES 01 MINUTES 58 SECONDS WEST TO A POINT OF REVERSE CURVATURE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 31 DEGREES 41 MINUTES 50 SECONDS, A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 82.98 FEET, A TANGENT LENGTH OF 42.58 FEET, A CHORD LENGTH OF 81.93 FEET, AND A CHORD BEARING OF NORTH 15 DEGREES 54 MINUTES 31 SECONDS WEST TO A POINT, THENCE NORTH 00 DEGREES 03 MINUTES 36 SECONDS WEST A DISTANCE OF 330.60 FEET TO A POINT, THENCE NORTH 89 DEGREES 56 MINUTES 24 SECONDS EAST A DISTANCE OF 23.71 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION, HAVING DELTA ANGLE OF 77 DEGREES 26 MINUTES 20 SECONDS, A RADIUS OF 76.95 FEET, AN ARC LENGTH OF 104.00 FEET, A TANGENT LENGTH OF 61.69 FEET, A CHORD LENGTH OF 96.27 FEET, AND A CHORD BEARING OF NORTH 15 DEGREES 42 MINUTES 51 SECONDS EAST TO A POINT, THENCE NORTH 00 DEGREES 00 MINUTES 11 SECONDS EAST A DISTANCE OF 296.12 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 969,398.00 SQUARE FEET OR 22.25 ACRES, MORE OR LESS.

NORTH FORTY PLAZA

PLANNED UNIT DEVELOPMENT
SPECIAL DISTRICT

B-2 ZONE DESCRIPTION

A ZONE NUMBERED B-2, PART OF THE ZONING MAP OF THE CITY OF LINCOLN, NEBRASKA, IS HEREBY AMENDED TO READ AS FOLLOWS: B-2 ZONE (COMMERCIAL BUSINESS CENTER) - THIS ZONE IS INTENDED TO BE USED FOR COMMERCIAL BUSINESS PURPOSES. PERMITTED USES INCLUDE: OFFICE BUILDINGS, BUSINESS BUILDINGS, BANKS, INSURANCE COMPANIES, PROFESSIONAL OFFICES, CONSULTING FIRMS, AND OTHER COMMERCIAL BUILDINGS. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE.

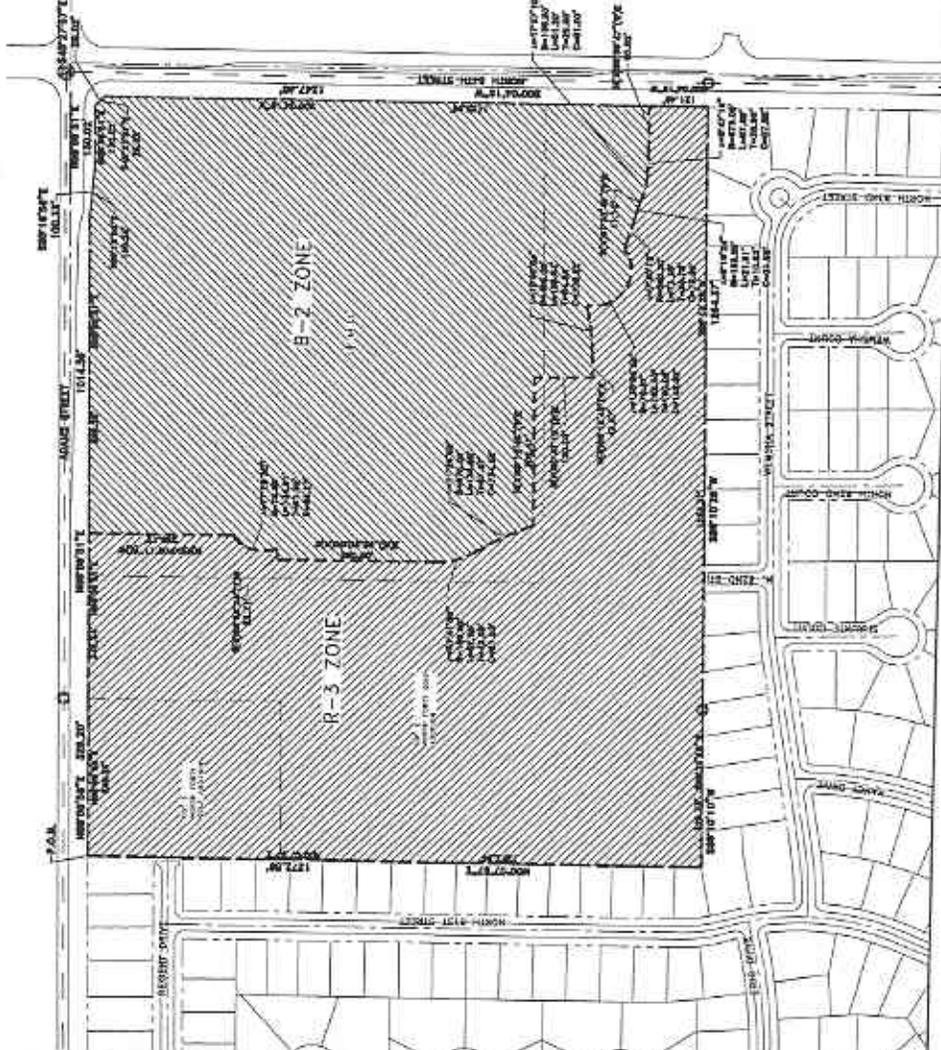


FIGURE 1
SITE PLAN

B-3 ZONE DESCRIPTION

A ZONE NUMBERED B-3, PART OF THE ZONING MAP OF THE CITY OF LINCOLN, NEBRASKA, IS HEREBY AMENDED TO READ AS FOLLOWS: B-3 ZONE (COMMERCIAL BUSINESS CENTER) - THIS ZONE IS INTENDED TO BE USED FOR COMMERCIAL BUSINESS PURPOSES. PERMITTED USES INCLUDE: OFFICE BUILDINGS, BUSINESS BUILDINGS, BANKS, INSURANCE COMPANIES, PROFESSIONAL OFFICES, CONSULTING FIRMS, AND OTHER COMMERCIAL BUILDINGS. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE.

Thursday, September 21, 2006
City of Lincoln, Nebraska



Thursday, September 21, 2006
City of Lincoln, Nebraska

OLSSON ASSOCIATES



2006
PLANNED UNIT DEVELOPMENT
NORTH FORTY PLAZA
LINCOLN, NE

COVER SHEET

1 OF 2
SHEET

1. THE CITY OF LINCOLN, NEBRASKA, IS HEREBY AMENDING THE ZONING MAP OF THE CITY OF LINCOLN, NEBRASKA, TO ADD A NEW ZONE TO THE ZONING MAP OF THE CITY OF LINCOLN, NEBRASKA, TO BE KNOWN AS THE B-2 ZONE (COMMERCIAL BUSINESS CENTER). THE B-2 ZONE SHALL BE USED FOR COMMERCIAL BUSINESS PURPOSES. PERMITTED USES INCLUDE: OFFICE BUILDINGS, BUSINESS BUILDINGS, BANKS, INSURANCE COMPANIES, PROFESSIONAL OFFICES, CONSULTING FIRMS, AND OTHER COMMERCIAL BUILDINGS. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE.

2. THE CITY OF LINCOLN, NEBRASKA, IS HEREBY AMENDING THE ZONING MAP OF THE CITY OF LINCOLN, NEBRASKA, TO ADD A NEW ZONE TO THE ZONING MAP OF THE CITY OF LINCOLN, NEBRASKA, TO BE KNOWN AS THE B-3 ZONE (COMMERCIAL BUSINESS CENTER). THE B-3 ZONE SHALL BE USED FOR COMMERCIAL BUSINESS PURPOSES. PERMITTED USES INCLUDE: OFFICE BUILDINGS, BUSINESS BUILDINGS, BANKS, INSURANCE COMPANIES, PROFESSIONAL OFFICES, CONSULTING FIRMS, AND OTHER COMMERCIAL BUILDINGS. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE.

3. THE CITY OF LINCOLN, NEBRASKA, IS HEREBY AMENDING THE ZONING MAP OF THE CITY OF LINCOLN, NEBRASKA, TO ADD A NEW ZONE TO THE ZONING MAP OF THE CITY OF LINCOLN, NEBRASKA, TO BE KNOWN AS THE B-4 ZONE (COMMERCIAL BUSINESS CENTER). THE B-4 ZONE SHALL BE USED FOR COMMERCIAL BUSINESS PURPOSES. PERMITTED USES INCLUDE: OFFICE BUILDINGS, BUSINESS BUILDINGS, BANKS, INSURANCE COMPANIES, PROFESSIONAL OFFICES, CONSULTING FIRMS, AND OTHER COMMERCIAL BUILDINGS. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE.

4. THE CITY OF LINCOLN, NEBRASKA, IS HEREBY AMENDING THE ZONING MAP OF THE CITY OF LINCOLN, NEBRASKA, TO ADD A NEW ZONE TO THE ZONING MAP OF THE CITY OF LINCOLN, NEBRASKA, TO BE KNOWN AS THE B-5 ZONE (COMMERCIAL BUSINESS CENTER). THE B-5 ZONE SHALL BE USED FOR COMMERCIAL BUSINESS PURPOSES. PERMITTED USES INCLUDE: OFFICE BUILDINGS, BUSINESS BUILDINGS, BANKS, INSURANCE COMPANIES, PROFESSIONAL OFFICES, CONSULTING FIRMS, AND OTHER COMMERCIAL BUILDINGS. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE. PERMITTED USES SHALL BE LIMITED TO THOSE USES LISTED IN THE ZONING ORDINANCE.

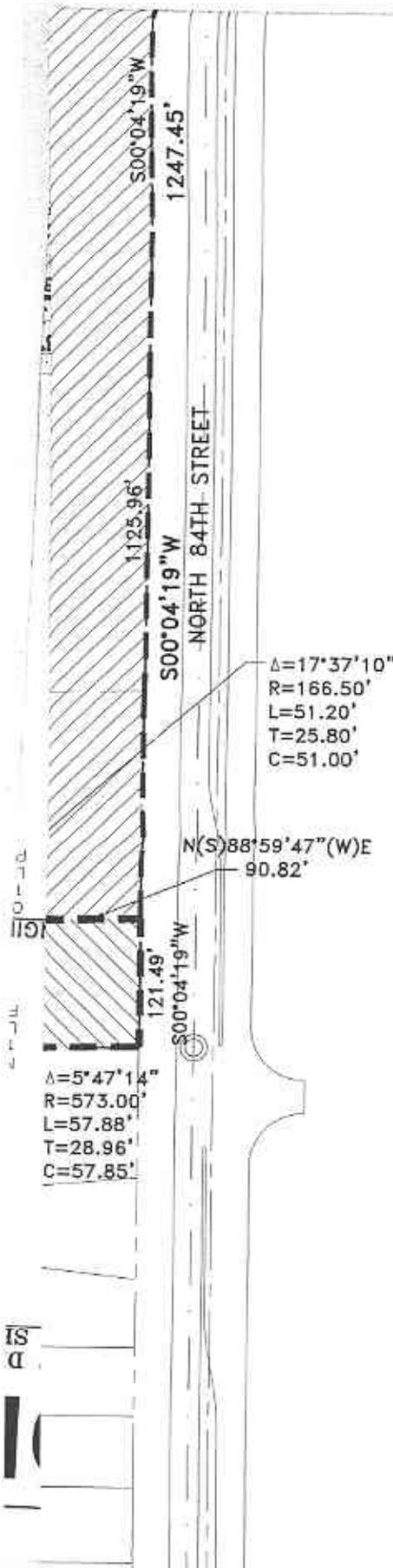
LINE OF SAID LOT 2, A DISTANCE OF 329.73 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2, THENCE NORTH 00 DEGREES 07 MINUTES 57 SECONDS EAST ALONG A WEST LINE OF SAID LOT 2, AND SAID LOT 1, A DISTANCE OF 1,272.59 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 1,059,754.14 SQUARE FEET OR 24.33 ACRES, MORE OR LESS.

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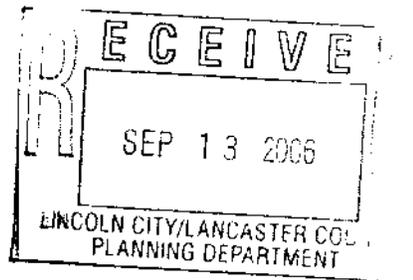
GENERAL SITE NOTES

1. SANITARY SEWER AND WATER LINES TO BE 8" PIPE AND 6" PIPE RESPECTIVELY AND TO BE BUILT TO CITY OF LINCOLN SPECIFICATIONS, UNLESS OTHERWISE SHOWN.
2. ALL SANITARY SEWERS & WATER MAINS TO BE PUBLIC.
3. ALL DIMENSIONS ALONG CURVES ARE CHORD DISTANCES.
4. ALL PAVING RADII TO BE 20' UNLESS OTHERWISE NOTED.
5. ALL INTERSECTION ANGLES SHALL BE 90° ±10° UNLESS OTHERWISE NOTED.
6. DIRECT VEHICULAR ACCESS TO ADAMS STREET AND N. 84TH STREET IS RELINQUISHED EXCEPT AS SHOWN.
7. ALL ELEVATIONS ARE BASED ON NAVD 1988.
8. SIDEWALKS TO BE BUILT ALONG BOTH SIDES OF STREETS.
9. ALL SIDEWALKS SHALL BE 4' WIDE MINIMUM AND ALL SIDEWALK EASEMENTS SHALL BE 10' WIDE. (UNLESS OTHERWISE NOTED)
10. ORNAMENTAL LIGHTING ALONG ALL PUBLIC STREETS SHALL BE IN ACCORDANCE WITH L.E.S. REGULATIONS.
11. THE DEVELOPER AGREES TO COMPLY WITH THE DESIGN STANDARDS OF THE CITY OF LINCOLN FOR EROSION CONTROL AND SEDIMENTATION DURING AND AFTER LAND PREPARATION AND FURTHER TO SUBMIT A SEEDING AND MAINTENANCE SCHEDULE BEFORE SITE GRADING IS COMPLETE.
12. THE DEVELOPER AGREES TO COMPLY WITH PROVISIONS OF THE LAND SUBDIVISION ORDINANCE REGARDING LAND PREPARATION.
13. CENTER ISLANDS IN CUL-DE-SAC'S AND ROUNDABOUTS SHALL BE LANDSCAPED.
14. AN OWNER'S ASSOCIATION SHALL BE ESTABLISHED TO MAINTAIN ALL OPEN SPACE AREAS INCLUDING THE PRIVATE ROADWAYS, MEDIANS AND ROUNDABOUTS.
15. LOTS MAY BE CREATED WITHOUT FRONTAGE TO A PUBLIC STREET IF THEY ABUT A PUBLIC ACCESS EASEMENT.
16. THE SEPTIC SYSTEMS WILL BE ABANDONED TO THE SATISFACTION OF THE HEALTH DEPARTMENT.
17. OUTLOT AND BLOCK DIMENSIONS SHOWN ARE APPROXIMATE AND MAY VARY.
18. THE PROPOSED P.U.D. IS CURRENTLY ZONED AG. A CHANGE OF ZONE TO R-3 AND B-2 P.U.D. HAS BEEN SUBMITTED.
19. ALL STREET DIMENSIONS ARE TO BACK OF CURB.
20. EXISTING AND PROPOSED EASEMENTS TO BE IDENTIFIED AND SHOWN AT TIME OF FINAL PLATTING.
21. EXACT LOCATIONS OF WATER, SEWER, DRAINAGE AND PAVING WILL BE SUBMITTED WITH INDIVIDUAL SITE PLANS AT TIME OF BUILDING PERMIT IN ACCORDANCE WITH CITY OF LINCOLN DESIGN STANDARDS.
22. THE YARD SETBACKS REGULATES STRUCTURAL WALLS ONLY AND DOES NOT RESTRICT OVERHANGS, PATIOS, DOOR SWINGS, WINDOW SWINGS, ETC. FROM ENCRDACHING INTO THE SETBACKS.
23. ALL DISABLED PARKING STALLS SHALL BE IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, (FEDERAL REGISTER/VOL. 58, NO. 144/RULES AND REGULATIONS).
24. A COMMON ACCESS EASEMENT WILL BE PROVIDED OVER ALL DRIVES AND PARKING STALLS, AS SUCH DRIVES AND PARKING STALLS MAY EXIST IN THE COMMERCIAL AREAS.
25. DETAILS OF ALL SIGNS, INCLUDING TYPE, HEIGHT AND SIZE, WILL BE SUBMITTED SEPARATELY FOR REVIEW WITH THE BUILDING PERMIT AND NEED NOT BE SHOWN ON THE PLAN. THEY WILL BE DESIGNED IN ACCORDANCE WITH THE CITY OF LINCOLN STANDARDS.
26. FINAL SITE LAYOUT AND INDIVIDUAL LANDSCAPE PLANS FOR COMMERCIAL BUILDINGS TO BE SUBMITTED AT TIME OF BUILDING PERMIT.
27. THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON OR OFF PREMISES IS PERMITTED IN THE B-2 ZONING PROVIDED IT MEETS THE REQUIREMENTS OF 27.31.040.
28. FENCES, DUMPSTERS, DECORATIVE STRUCTURES AND ACCESSORY BUILDINGS ARE NOT SHOWN ON THE PLANS IF THEY ARE 1000 SQUARE FEET OR SMALLER AND ARE OUTSIDE OF THE SIGHT TRIANGLES AND SETBACKS AND ARE IN CONFORMANCE WITH ALL APPLICABLE ORDINANCES AND CODES.
29. AT TIME OF FINAL DESIGN AND FINAL PLATTING THE ROUNDABOUT WILL BE DESIGNED TO ACCOMMODATE A WB-50 VEHICLE AS PER DESIGN STANDARDS. ADDITIONAL RIGHT-OF-WAY MAY BE REQUIRED IF A LARGER RADII IS NEEDED FOR THESE VEHICLES.
30. LAND USE NODES IN THE B-2 ZONE DESIGNATING COMMERCIAL FLOOR AREA SHALL NOT EXCEED A TOTAL OF 139,100 SQUARE FEET OVERALL. THE USES TO BE DESIGNATED WITHIN THE TOTAL SQUARE FOOTAGE APPROVED SHALL NOT EXCEED THE GENERATION OF A MAXIMUM OF 1,366 TRIPS DURING THE P.M. PEAK PERIODS.
31. STREET TREES TO BE REVIEWED AT TIME OF FINAL PLAT AND ASSIGNED BY PARKS AND RECREATION.
32. THE FOLLOWING PERMITTED SPECIAL USES SHALL BE A PERMITTED USE AND WILL NOT REQUIRE A SPECIAL PERMIT:
 - a. HEALTH CARE FACILITIES
 - b. RECREATIONAL FACILITIES
 - c. BROADCAST TOWER
33. STREET CENTERLINE PROFILES, GRADING, DRAINAGE STUDY, PROPOSED LANDSCAPE, AND PROPOSED UTILITIES SHALL BE APPROVED AMINISTRATIVELY PRIOR TO FINAL PLAT APPROVAL.



September 13, 2006

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



RE: North Forty Plaza P.U.D.
OA Project No. 2006-0759

Dear Mr. Krout:

On behalf of the Owner/Developer, North 47 Group, L.L.C., 1201 N Street, Suite 102, Lincoln, NE 68508, we are requesting a change of zone from AG to R-3 and B-2 P.U.D. The property shown on the enclosed site plan is located in the northeast quarter of Section 15, Township 10 North, Range 7 East, City of Lincoln, Lancaster County, Nebraska (approximately 46.6 acres). The P.U.D. consists of 74 residential lots located in the proposed R-3 PUD Zone and commercial lots located in the proposed B-2 PUD Zone. We expect to be scheduled on the Planning Commission Agenda for the 12th of October.

We met with the neighbors on numerous occasions, and have met with staff on another occasion to discuss the proposed site plan and gain preliminary comments. We have been able to address most of the concerns voiced at the meetings in our submission.

Enclosed please find the following for the above-mentioned project:

1. Application for a change of zone
2. Application fee (\$2,350)
3. Cover Sheet – 21 copies
4. Cover Sheet (8 ½ " x 11") – 1 copy
5. Site Plan – 21 copies
6. Site Plan (8 ½ " x 11") – 1 copy
7. Traffic study – 3 copies
8. Soils Report – 1 copy
9. Ownership Certificate – 1 copy
10. P.U.D. Legal Description

We are requesting the following waivers:

1. Reduce rear yard setback to 15' for lots 14-19, block 1, and lots 1-7, block 2 to accommodate the neighbors request to save the existing trees along the adjoining property line and allow these trees to be located in an outlot. Since this outlot will be 60' in width a reduced rear yard setback is justified.
2. Waive the preliminary plat process

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Gergen', with a long horizontal line extending to the right.

Tim Gergen, PE

Enclosures

cc: Bennie McCombs
Peter Katt

**Review Comments for
Application #: CZ06063
NORTH 40 PLAZA**

Comments as of: Thursday, September 28, 2006

Status of Review: Active

Reviewed By

ANY

Comments:

Status of Review: Denied

09/19/2006 1:02:28 PM

Reviewed By 911

ANY

Comments The east-west portion of the proposed Docs Dr alligns with and should be named WindMill Dr.

Status of Review: Active

Reviewed By Alltel

ANY

Comments:

Status of Review: Approved

09/15/2006 10:46:49 AM

Reviewed By Building & Safety

BOB FIEDLER

Comments approved

Status of Review: Denied

09/18/2006 9:59:13 AM

Reviewed By Building & Safety

Terry Kathe

Comments Show Regent Drive extending to cul-de-sac intersection on the north end of Docs Drive.

Change that portion of Docs Drive, from west cul-de-sac to roundabout, to Windmill Drive.

Status of Review: Complete

09/19/2006 4:07:53 PM

Reviewed By Fire Department

ANY

Comments We have no objection to the zone change. A consistent issue is the lack of Fire facilities in the area that does not allow us to provide the emergency service that our citizens have grown accustomed to.

034

Status of Review: Approved

09/22/2006 4:05:50 PM

Reviewed By: Health Department

ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION

TO: Brian Williams DATE: September 22, 2006

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File: SUBJECT: North Forty Plaza

EH Administration CZ #06063

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

The LLCHD notes that dry cleaning establishments are a permitted use within the B-2 zoning district. Due to the type of chemical that most dry cleaners use in large quantities, the LLCHD advocates for locating these establishments at least 300 feet from residential structures.

The LLCHD advises that noise pollution can be an issue when locating commercial uses adjacent to residential zoning. Note: automobile wash facilities are a permitted conditional use in the B-2 zoning district.

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. However, the LLCHD does have case history involving residential uses and abutting commercial uses in which the commercial source does comply with LMC 8.24, but the residential receptors still perceive the noise pollution as a nuisance. The LLCHD strongly advises the applicant to become familiar with LMC 8.24. The LLCHD advises against locating loading docks, trash compactors, etc. adjacent to residential zoning. Therefore, creative site design should be utilized to locate potential sources of noise pollution as far as possible from residential zoning.

All wind and water erosion must be controlled during construction. The Lower Platte South Natural Resources District should be contacted for guidance in this matter.

During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.

Storm water structure(s) and drainage way(s) must be designed, constructed, and maintained to minimize the harborage and breeding of mosquitos.

035

Status of Review: Active

Reviewed By Law Department

ANY

Comments

Status of Review: Complete

09/26/2006 8:58:11 AM

Reviewed By Lincoln Electric System

JULIE WISMER

Comments: September 25, 2006

TO: Brian Will, City Planning

FROM: Sharon Theobald (Ext. 7640)

SUBJECT: DEDICATED EASEMENTS L.L.E. L.L.C. #06063
PUD #28N-83E P.U.D.

Attached is the P.U.D. for North Forty Plaza.

In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

Windstream Nebraska, Inc., Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map, along with blanket utility easements over the Outlots and blanket utility easements, excluding building envelopes over the section identified as "Building Envelope".

Status of Review: Complete

09/28/2006 3:03:26 PM

Reviewed By Lincoln Police Department

NCSBJW

Comments: Mr. Will,

The Lincoln Police Department does not object to the North Forty Plaza Change of Zone (PUD) #CZ06063.

Sergeant Don Scheinost, #798
Lincoln Police Department
Management Services
(402) 441-7215

Status of Review: Active

Reviewed By Nebraska Department of Roads

ANY

Comments

036

Status of Review: Denied

09/20/2006 10:30:15 AM

Reviewed By: Parks & Recreation

ANY

- Comments:
1. All outlot areas shall be the responsibility of the developer and/or future homeowners association.
 2. Maintenance of all medians, traffic circles, roundabouts and islands is the responsibility of the developer and/or future homeowners association.
 3. A 9' separation is required between the curb of the street and the edge of the trail. Due to the proposed turn lane, the trail needs to be shifted into the area identified as greenspace. The new trail shall be 5" thick and 8" thick at the locations where the road crosses over the trail.
 4. The heavily treed area on the south end of the property shall be the developer and/or future homeowners maintenance responsibility.
-

Status of Review: Routed

Reviewed By: Planning Department

COUNTER

Comments:

Status of Review: Active

Reviewed By: Planning Department

RAY HILL

Comments:

Status of Review: Active

Reviewed By: Planning Department

BRIAN WILL

Comments:

037

Comments: Memorandum I.

To: Brian Will, Planning Department
From: Dennis Bartels, Engineering Services
Subject: North 40 Plaza PUD
Date: September 27, 2006
cc: Randy Hoskins
Roger Figard

Development Services has reviewed the PUD for North 40 Plaza at the southwest corner of 84th and Adams and has the following comments:

1.1 The application is lacking the required information for a full review of the application. The plans show commercial and residential lots but does not include sewer, water, storm sewer, grading, detention, street grades, etc. Any approval therefor of this change of zone request to a PUD is only for general land use. Development Services is not reviewing and therefore not approving any portion of the lot and street system shown. This review cannot be finalized until all the information is submitted and is satisfactory.

2. Engineering Services has a number of concerns that will need to be addressed with the preliminary plan information.

a. Windmill Drive does not align with the existing Windmill Drive on the east side of 84th and shown with approved preliminary plat on the east side. When 84th Street was paved a median opening and paving was constructed to provide access to the area of this PUD. The owner of the North 40 petitioned away the right to this access with a street vacation petition. This office is researching whether control of access was acquired with the widening of 84th Street. The original median opening was immediately south of the 1/4 mile point at the appropriate location per design standards for a median opening. Engineering Services objects to the reopening and moving the opening closer to Adams Street. If it is approved despite our objections, it needs to be recognized that the spacing between the new Windmill Drive and Adams will likely create signal timing and phasing problems along 84th Street creating more congestion and hastening the need for a six lane 84th Street as identified in the Comprehensive Plan.

b. The right-in right-out driveway shown between Windmill and Adams must be eliminated.

c. More justification must be given for the Adams Street full access intersection at 83rd Street. This intersection also does not meet the desired 1/4 mile spacing from 84th. The traffic study identifies a potential signal at this street and as noted for 84th, the substandard spacing increases potential congestion and hastens the need for street widening.

d. There has been an ongoing drainage problem along the west side of 84th Street south from this PUD to the culvert crossing of 84th near Leighton. The drainage study should analyze the drainage along 84th Street to the box culvert.

3.1 A traffic study has been submitted and is under review. Upon acceptance of this study, agreement will need to be reached concerning improvements to 84th and Adams prior to development of this property.
North 40 Plaza PUD tdq.wpd

Status of Review: Active

Reviewed By: Public Works - Long Range Planning

ANY

Comments

Status of Review: Active

Reviewed By: School District

ANY

Comments:

Status of Review: Active

Reviewed By: US Post Office

ANY

Comments

INTER-DEPARTMENT COMMUNICATION



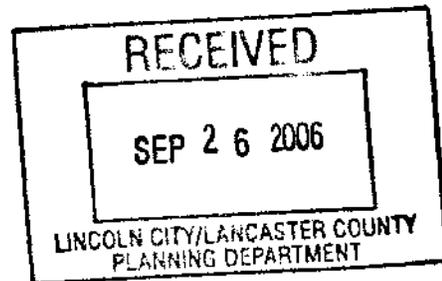
DATE September 25, 2006
TO: Brian Will, City Planning
FROM: Sharon Theobald (Ext. 7640) *Stt*
SUBJECT: DEDICATED EASEMENTS
DN #28N-83E

CZ#06063

Attached is the P.U.D. for North Forty Plaza.

In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

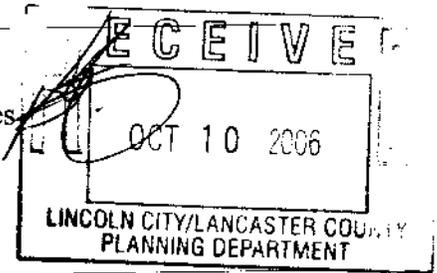
Windstream Nebraska, Inc., Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map, along with blanket utility easements over the Outlots and blanket utility easements, excluding building envelopes, over the section identified as "Building Envelope".



ST/ss
Attachment
c: Terry Wiebke
Easement File

Memorandum

To: Planning Commission
From: Karl A. Fredrickson, P.E., Director of Public Works/Utilities
Date: October 10, 2006
Subject: North 40 Plaza



The Public Works and Utilities Department has major concerns with the requested change of zone for the North 40 Plaza site, located at 84th and Adams. These concerns consist mainly with site access and the volume of traffic that will be generated along Adams Street.

While not a germane part of the change of zone request, access points to this development will be a major issue. The City and County purchased control of access along 84th Street that would limit access in order to maintain a safe and efficient street. Control of access is a legal deed restriction, purchased at a fair market value, and indicates to a property owner where they will be restricted from gaining access to their property. Access locations were set at quarter mile points in order assure that development could occur along 84th Street while protecting the corridor as a major traffic moving street in the future. The property in question petitioned away their right to access 84th Street when the subdivision to the south was constructed. Any changes in location of the access (Windmill Drive) will affect the flow of traffic along 84th Street forever. Since 84th Street is the only through arterial on the east side of the City, it is important to maintain safe and efficient flow along the corridor.

Based upon the low number of vehicles shown to be using the right in, right out driveway along 84th Street, there is no justification for that driveway even if there were no control of access along 84th Street. That traffic could just as easily use the Windmill Drive access, as there would still be less traffic using that location with both driveways combined than on the proposed north driveway onto Adams Street.

Another concern is the volume of traffic along Adams Street. As shown in the Traffic Impact Study prepared for this site, in the year 2016, nearly 2200 vehicles would be expected to be on Adams east of 70th Street. As a comparison, less than 1800 vehicles use 27th Street between South and Sheridan during the PM peak hour. Since most motorists consider 27th Street to be overloaded, trying to get an additional 400 vehicles on Adams in the same amount of time would not be feasible.

In addition to the projected volumes along Adams Street, Prairie Village North will shortly be coming before the Planning Commission asking for an increase in the amount of commercial that they will be able to add to the northeast corner of the 84th & Adams intersection. This addition of commercial square footage could add an additional 10,000 vehicle trips per day to this area. Assuming roughly one-third of those arrive at the site via Adams, that would be around 2500 peak hour trips, which is similar to the volume along the six lane section of 27th Street south of Superior.

We would ask that you take these facts into consideration as you make your decision on the North 40 Plaza change of zone and not allow any commercial zoning on this site.

Memorandum

To: Planning Commission
From: Randy Hoskins, Assistant City Engineer
Date: October 17, 2006
Subject: Adams Street Impacts

Engineering Services has reviewed the information put together on the proposed developments at the intersection of 84th and Adams. Using information from the Traffic Impact Studies prepared for the Prairie Village North and North 40 developments, concern arose as to the impacts of all the traffic along Adams between 70th and 84th. Adams Street is proposed to be designated as a 2+1 arterial in the Comprehensive Plan. A 2+1 arterial can carry a maximum volume of 1800 vehicles in a peak hour.

The attached graph shows the expected volume of traffic on Adams Street just east of 70th Street. Based on previously approved development in this area of town, by the year 2016 Adams Street is projected to carry nearly 1700 vehicles in the PM peak hour, which is about 950 more vehicles than the street currently carries.

If Prairie Village North is approved as a community center, the increased traffic over the existing neighborhood center would bring the PM peak hour traffic volume to 1950 vehicles. If only the North 40 development were approved as submitted, the volume would increase to 2150 vehicles. Either of these developments would push Adams Street beyond its maximum capacity as a 2+1 street and would require additional capacity to be added to Adams Street. Approving both of these developments would generate nearly 2450 PM peak hour trips on Adams.

It should be noted that these volume estimates appear to be conservative. Assumptions were made in the North 40 study that 25% of the commercial on the Prairie Village site would not be built out if North 40 is approved. The studies also do not take into account that traffic volumes will continue to grow beyond the year 2016. Finally, the non-residential land uses that were incorporated into the 2030 traffic model, upon which the 2030 transportation plan was based, were considerably less than what has been approved in this area to date (482,000 square feet modeled vs. 706,000 square feet approved).

Marvin S Krout/Notes

10/13/2006 01:39 PM

To Planning_PC Members

cc lawkatt@pierson-law.com, Brian J Will/Notes@Notes,
david.kohrell@preservenorth40.org, Karl A
Fredrickson/Notes@Notes, Stephen S

bcc

Subject North 40 comments

Commissioners: the North 40 tract seems to be in some kind of Twilight Zone -- with the PUD application having been heard and continued for two weeks, and a separate hearing to amend the land use for this tract in the 2030 Plan on for hearing next Wednesday. Hopefully it will all come back together on October 25. In the meantime, I think this is a good time, while it's still relatively fresh, for me to add a few comments on the testimony heard this week on the PUD application.

We always appreciate it when applicants meet with their neighbors prior to public hearings, to explain their vision for their property and try to be responsive to expressed concerns. But unfortunately, staff is not always asked to be a third leg of the stool of participation. In this case, the applicant has made a couple of representations to neighbors, as well as to you at the hearing earlier this week, that are not accurate.

1. The applicant's agent characterized staff's vision for this tract as high density residential, 300+ dwelling units, on the 40 acres. No one in Planning admits to that vision. The traffic model assumed about 1/2 that number of dwelling units. There is no reason for neighbors to assume that the alternative to the proposal they have been reviewing is a residential project at that density. Development of this site with a moderate density mix of housing could just as easily preserve the tree buffer/drainage area along the south side of the parcel as the proposed commercial plan, and do a better job of preserving treed areas on the rest of this attractive parcel, by preserving more of the existing grades.

2. The agent told you at the hearing, as apparently he told the neighbors, that there is no significant difference between traffic generated by their proposal as opposed to the staff "vision." That is not accurate. Even if this tract was developed with 300 dwelling units, it would only generate about 300 pm peak hour trips, as opposed to about 1400 trips with the commercial in the applicant's proposal.

I am very concerned about the direction that the Planning Commission appeared to be moving on this proposal. Please remember: planning is largely about the act of balancing land use and transportation. You have requests this Wednesday to amend the Comp Plan to approve commercial on the North 40 parcel as well as to expand commercial on the east side of 84th Street. It appears that either one of these proposals would increase future traffic volumes along Adams to the point that the 2+1 designation would need to be changed, and changed as far west as 70th Street or farther. The western portion of this mile of Adams is inside the area you have tentatively designated in the new Plan as the "established area" of the city in which widening beyond the 2+1 standard is discouraged. Property owners in that western portion of Adams have not been notified about the prospect of approving a zoning case or Comp Plan amendment that will trigger another amendment to change the road standard and require widening in front of their homes.

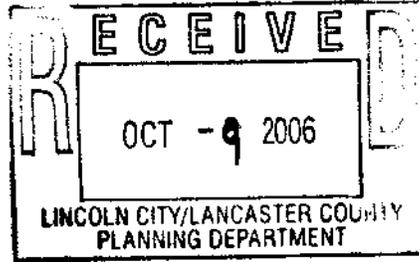
We hope to sit down with Public Works early next week, so that on Wednesday afternoon, we are better able to better address for you the implications of approving commercial for North 40, in terms of the cross-sections and extent of improvements that would be needed along Adams Street -- both along the frontage of North 40 as well as further west. But it seems premature to approve any more commercial zoning at 84th and Adams or to redesignate Adams -- formally or tacitly -- until more information is available and the potentially affected owners further to the west are invited to participate in a broader discussion about land use in this area and its potential impacts.

Marvin S. Krout, Director
Lincoln-Lancaster County Planning Department
tel 402.441.6366/fax 402.441.6377

cc by mail to: Steve Oss, 8156 Wemshaw, 68507
Jason Hall, 8260 Wemshaw, 68507
Randy Williams, 8236 Wemsha, 68507

MEMORANDUM

TO: Planning Commission
FROM: Peter W. Katt
DATE: October 9, 2006
RE: North 40 Plaza PUD



Toward the latter part of April this year, I began working with Jim Tomasek, Bill Langdon and Bennie McCombs regarding the redevelopment of the North 40 golf course. During our preliminary discussions there was interest in pursuing a mix of uses on the site. One of the first hurdles to overcome before any project on the site could be viable was to determine how to provide an 84th street connection.

The 84th street connection as proposed would be accomplished with the relocation of Windmill Drive north about two hundred feet, from approximately 1,320 feet to 1,158 feet south of the Adams street intersection. A copy of an Agreement with the owner of the Property to the east is attached for your review. Relocation of this intersection benefits the owner on the property on the east side of 84th street by sharing the intersection construction cost 50/50 rather than paying for the whole thing. The residential lots immediately west of the current intersection location will benefit by eliminating cars and headlights at night from shining into their back yards. The City will benefit by having 100% of the intersection used rather than only 75%. While the road may be able to be located closer to the south lot line of the Property, the proposed location provides a substantial green space buffer to the abutting residential lots as well as an area that can be used to help solve the existing drainage problems along the rear of the residential lots.

The biggest potential hurdle to be overcome was to determine whether or not the neighbors felt the same as my clients that a mixed use redevelopment was preferable to an entirely residential development with much higher (300+) dwelling units. Before we could even meet with the neighbors a website was launched: www.preservenorth40.org. The announced goal of the website is to: 'preserv(e) the North 40 golf area in Lincoln Nebraska'. We were at the time and continue to be in contact with the neighborhood leadership. We met with the entire neighborhood twice during the summer. The letters inviting the neighborhood to the meetings are attached. We have had very productive meetings with the neighbors. We expect their representatives to be at Wednesday's meeting and support the proposed development. At a meeting with the leadership last Friday, they prefer the proposed project over the Alternate Uses suggested by the Planning Staff. We are working to finalize an agreement with them prior to this going forward to City Council.

In stark contrast to our productive meetings with the neighbors, our efforts with City staff led only to a dead end. In mid June, I contacted Planning staff to arrange a pre-submittal meeting. The emails are attached. We met with City staff in my office on June 21. They indicated they would oppose the project if it included any amount of commercial space. Accordingly there was no need to involve City staff after that date as they indicated they would be opposed no matter what. An offer to meet with Staff and discuss specific concerns and identify conditions of approval was re-extended on October 4th along with an offer to continue the hearing on the 11th but the Staff was not interested in having any further discussions.

The Staff's opposition to this project can be summarized by simply saying northeast Lincoln does not need any more commercial space and this additional space may adversely affect the road network. We do not agree with that assessment. First, look at the map of northeast Lincoln, east of 56th street and north of Vine. Look for commercial centers. Where are they? As noted by Staff it is heavily concentrated along 84th street. The reason for this is that no other locations exist unless we plan on going into developed areas to tear down housing and build new or expand existing outdated commercial centers. The northeast area of Lincoln is under served with commercial centers and has seen very little new construction within the developments approved by the City. Given the location of my client's property (the west side of 84th) and its connection to existing residential development will be a superior location and likely to develop well in advance of some of the other sites. The approved commercial opportunities to date have not excited those that need to invest in and build out a commercial center.

The proposed commercial at this corner is very limited, it being approximately 140,000 square feet and with a cap of no more than 1,336 PM peak hour vehicle trips. Based upon the Traffic Study which was submitted to the City, this is the number of trips that can be safely accommodated with the proposed intersections. The size of this proposed center is in the current Comprehensive Plan and in the proposed draft Plan to fit well within the Neighborhood Center definition and standards. Neighborhood Center locations do not need to be specifically located or identified on the land use plan. If the proposed amendments to the Comprehensive Plan by the Staff are approved, it appears that the commercial center directly across 84th street will become a 'mixed-use office center' and the center north of 84th & Adams will become a 'community center'. With this change, the siting of this Neighborhood Center across from the mixed-use office center clearly satisfies all of the Comprehensive Plan spacing and siting criteria.

This is a very good proposal brought forward by the (soon to be) owner of the property that is supported by the neighbors bordering the property. This project is good for the City. I would ask that each of you support the project by giving a recommendation of approval to the City Council.

DEVELOPMENT COORDINATION AGREEMENT

This Development Coordination Agreement ("Agreement") is entered into this 1st day of JUNE, 2006 by and between North 47 Group, LLC, a Nebraska limited liability company ("N47") and Dubois, LLC, a Nebraska limited liability company ("Dubois").

AGREEMENT

1. N47 Property. N47 is the contract purchaser of the real estate described as follows:

Lot 2, North 40 Golf Addition, Lincoln, Lancaster County, Nebraska; and,

Irregular Tract 84. (I.T. 84) located in the Northeast Quarter (NE1/4) of Section 15, Township 10 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska

("N47 Property").

2. Dubois Property. Dubois is the owner/developer of the real estate described as follows:

Irregular Tract 103 (I.T. 103) located in the Northwest Quarter (NW1/4) of Section 14, Township 10 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska

("Dubois Property").

The Dubois Property is within the boundaries of an approved development plan for Prairie Village North ("PVN PUD") authorizing among other things the construction of certain public improvements, including Windmill Drive and the public sanitary sewer (which the City of Lincoln is to relocate at its expense from its current location into the right-of-way ("collectively "Windmill Improvements").

3. Development. The N47 Property is currently improved as a 9 hole golf course open to the public. N47 plans to obtain approval on the N47 property from the City of Lincoln for a mixed use residential-commercial project with approximately 18 acres or commercially zoned property and 29 acres of residential on or before December 31, 2006 ("North 40 Plaza"). Development of the North 40 Plaza will require access to 84th street and Adams street at approximately 82nd street.

4. Purpose - Intent. The purpose of this Agreement is to permit N47 to seek to obtain access to the North 40 Plaza from 84th street via a four way intersection with Windmill Drive by relocating it from its present location to a new location with its center line approximately 170.66 feet north of the south lot line of the N47 Property. This proposed realignment is shown on the attached Exhibit "A". Dubois agrees to cooperate in this relocation subject to the terms, conditions and requirements of this Agreement.

5. Payment of Costs for Relocation Approval. N47 shall be responsible for paying the entire cost of obtaining approval from the City of Lincoln and Nebraska Department of Roads ("NDOR") for the relocation of the Windmill improvements. 'Entire cost' shall include the cost of all engineering work necessary to construct the Windmill Improvements and of obtaining amendments to the PVN PUD. The cost of constructing the Windmill Improvements, should approval for the relocation be obtained, shall continue to be the responsibility of Dubois or the City as the case may be; provided, should any of the Windmill Improvements be constructed prior to obtaining approval for their relocation, the cost of any reconstruction of the Windmill Improvements shall be borne solely by N47.

6. Shared Cost for Windmill Drive Intersection. In the event N47 is successful in obtaining approval for the relocation of Windmill Drive, N47 shall construct at its cost and expense, the 84th & Windmill Drive intersection in accordance with the requirements of the City of Lincoln's executive order process. Upon completion, Dubois shall pay to N47 50% of the cost of construction, less any impact fee facility reimbursement payable to N47 upon issuance of a building permit to a business located upon the Dubois Property.

7. Adams Street 82nd to 84th Street Improvements. Dubois and/or related entities, pursuant to the terms of an Annexation Agreement to be approved as a condition of approval for the PVN PUD, calls for the construction of certain improvements to Adams street on the north boundary of the N47 Property between 82nd and 84th street (estimated to cost \$150,000). These improvements are fully reimbursable to the party constructing them as impact fee facility improvements. Upon approval of the North 40 Plaza, N47 agrees to construct these improvements in accordance with the requirements of the City of Lincoln's executive order process at its sole cost and expense with the right to obtain reimbursement from the City of Lincoln.

8. [CONFIDENTIAL - omitted]

9. Termination. This Agreement shall terminate in the event the North 40 Plaza project is denied or does not include a four way 84th street intersection shared with the Dubois Property. In the event the North 40 Plaza project is approved with a four way 84th street intersection shared with the Dubois Property, this Agreement shall terminate upon completion of construction of the improvements provided for in paragraphs 6, 7 and 8 above, and the payment of the shared cost obligation to Dubois to N47 as provided for in paragraph 6 of this Agreement.

10. Legal Representation and Waiver of Conflict of Interest. The law firm of Pierson, Fitchett, Hunzeker, Blake & Katt ("Pierson") primarily through Peter W. Katt has been retained to represent N47 to obtain approval for the North 40 Plaza project. The parties understand and agree that Pierson represents Dubois and other various business

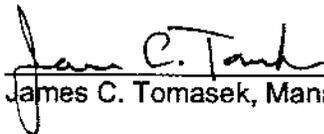
interests of Steve M. Champoux in connection with the PVN PUD, among other things the purpose of securing development approvals and other related matters, including, but not limited to, zoning, use permits, special permits, subdivision, annexation, sale, lease, and other matters related to the development and sale of the real estate. N47 waives any conflict of interest with respect to such representation as it may affect this Agreement or the subject matter of this Agreement. The parties shall retain the right to terminate the services of Pierson and seek other counsel should unforeseen conflicts arise after the execution of this Agreement, but waive any right to assert a claim that Pierson should withdraw from representing Dubois or any of Steve M. Champoux's business or personal interests except as it relates to the enforcement, interpretation or application of this Agreement.

11. Further Assurances. Each of the parties, their affiliated companies and members shall cooperate in good faith with the others and shall do any and all acts and execute, acknowledge, and deliver any and all documents in order to satisfy the conditions of this Agreement and to carry out the intent and purpose of this Agreement.

12. Entire Agreement/Binding Effect. This Agreement contains the entire agreement of the parties and shall not be modified except in writing executed by both parties. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of Dubois and N47.

Dated: June 1, 2006.

North 47 Group, LLC
a Nebraska limited liability company


James C. Tomasek, Manager

Dubois, LLC
a Nebraska limited liability company

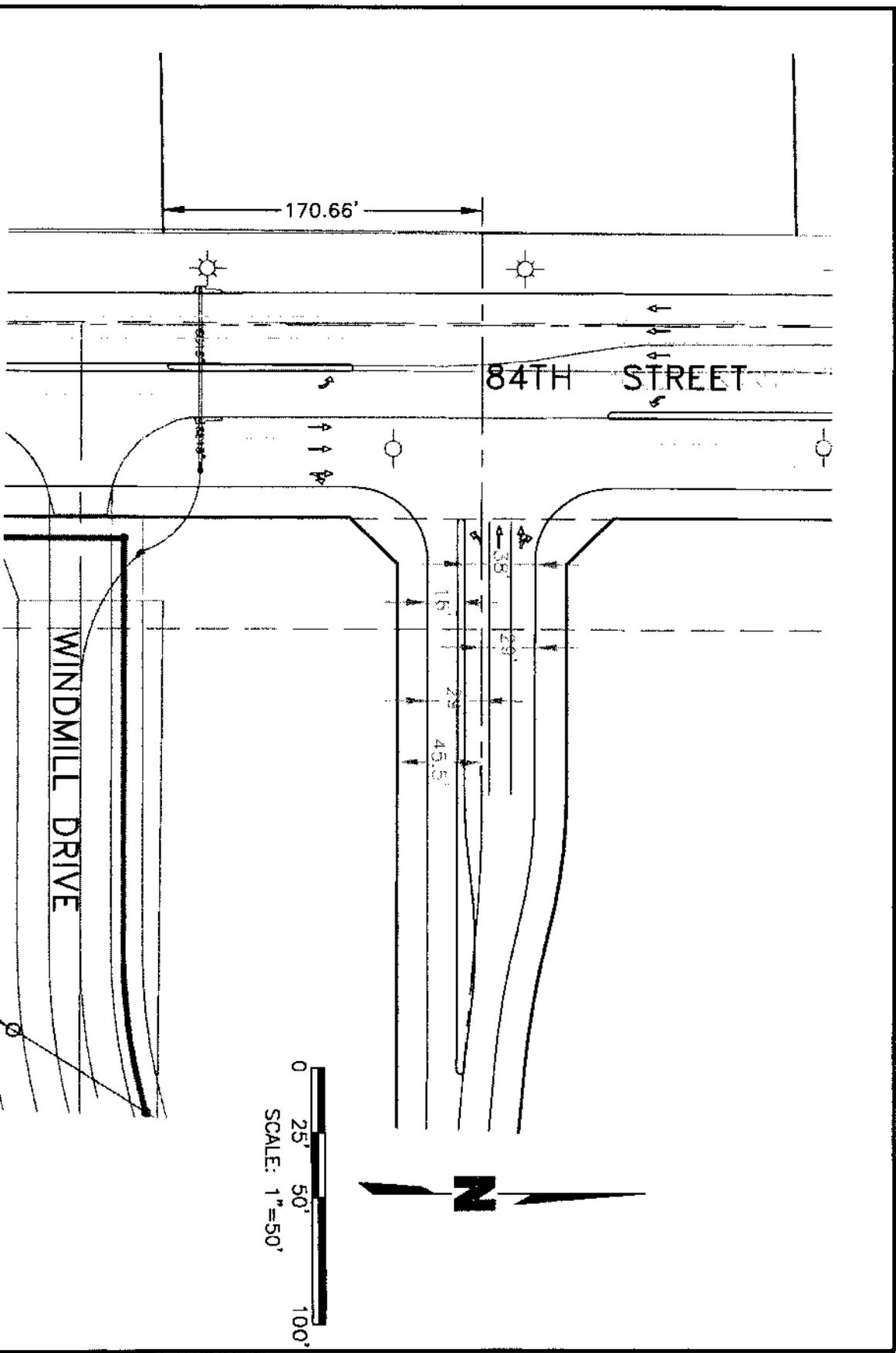

Steve M. Champoux, Manager



**WINDMILL DRIVE
REALIGNMENT EXHIBIT 'A'
LINCOLN, NE**

Drawn By: BT
Dwg.: Wgdn/D051106
Date: 05/12/06
Job#: 06-026

**SHEET
1 OF 1**



Writer's email address:
lawkatt@pierson-law.com

June, 2006

FIELD(Name)
FIELD(Address)

Re: *North 40 Plaza Development Proposal/Concept*
North 47 Group, LLC

Dear Property Owner:

This office represents the contract purchaser of the North 40 golf course, *North 47 Group, LLC*. Your property is either adjacent or in the immediate vicinity of the North 40 golf course property and undoubtedly will have an interest in the development which will occur on this property.

My client has not yet filed any formal request with the City for its project. I have enclosed a copy of the concept they are considering for you review and comment. The concept proposes approximately 18 acres of commercial development at the corner of 84th & Adams with 67 new homes surrounding the commercial development. The anchor for the commercial center would be a neighborhood sized grocery store. The residential lots on the perimeter of the project generally match the size of the adjacent lots.

There will be many public opportunities for you to provide your thoughts on this request. My clients wanted an opportunity to hear your concerns and issues with regard to this proposal and make every effort to address them before proceeding with a specific development proposal. Since I do not want to unnecessarily extend the length of this letter, I am hopeful that you will be able to join us at a neighborhood meeting scheduled by some of your neighbors for Thursday, June 29, 2006 from 7:30 - 9:00 p.m. at Faith Lutheran Church 8701 Adams Street, just east of the project. If you are unable to attend the meeting and have any specific questions that you would like answered, please feel free to email me those I will do my best to provide you with a response. I look forward to meeting with you on the 29th and making this a project that the neighborhood will support.

Sincerely,

Peter W. Katt
For the Firm

PWK:sb
cc: Greg Czaplewski, Planning Dept.

(G:\AF\5000-5099\5044.007 North 47--84th & Adams\Neighborhood Meeting Notice for 6-29-06 ltr.frm)

050

Pierson|Fitchett
LAW FIRM

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Thomas J. Fitchett
Mark A. Hunzeker
William G. Blake
Peter W. Katt
William C. Nelson
David P. Thompson
Patrick D. Timmer
Randy R. Ewing
Shanna E. Cole
Jason L. Scott

August 11, 2006

Gary L. Aksamit
of Counsel

FIELD(Name)
FIELD(Address)
FIELD(City), FIELD(State) FIELD(Zip)

Re: *North 40 Plaza Development Proposal/Concept*
North 47 Group, LLC

Dear Property Owner:

As you know, this office represents the contract purchaser of the North 40 golf course, *North 47 Group, LLC*. Your property is adjacent to the North 40 golf course property. Since our meeting with you on June 29th, the Developer has been busy gathering additional information and revising the concept to address many of the concerns raised by the neighborhood. We are now ready to meet with you again and present the revised concept and update you on their efforts. The goal is to submit this proposal to the City on Thursday, August 17th.

We have scheduled a meeting with those property owners west of 82nd street from 6:00-6:45 at the North 40 golf course club house for Tuesday night, August 15th. We are hopeful you can join us then. Since we directed the engineer on the project to make additional changes yesterday, a drawing will not be available until the meeting.

There will continue to be many public opportunities for you to provide your thoughts on comments on this development. My clients made a commitment to you to hear your concerns and issues with regard to this proposal and make every effort to address them throughout this process. Accordingly, should you be unable to attend the meeting and have any specific questions that you would like answered, please feel free to email me and I will do my best to provide you with a response. You may also call either Bill Langdon (435-0011) or Jim Tomasek (430-6246) to discuss any issues with them directly by phone.

I look forward to meeting with the neighborhood again in hopes of making this a project that the neighborhood can support.

Sincerely,

Peter W. Katt
For the Firm
lawkatt@pierson-law.com

PWK:sb

cc: Greg Czaplowski, Planning Dept.
(G:\AFS000-5099\5044.007 North 47--84th & Adams\Neighborhood Meeting Notice for 8-11-06 ltr.frm)

Pierson, Fitchett, Hunzeker, Blake & Katt

051

Peter Katt

From: Peter Katt
Sent: Friday, June 16, 2006 2:38 PM
To: 'Greg Czaplewski (gczaplewski@lincoln.ne.gov)'
Subject: North 40 Plaza
Contacts: Greg Czaplewski

Greg:

I called this afternoon and left you a voicemail message about the above project. My clients would like to come in and get your reaction to the concept plan. Do you have anytime on Wednesday, the 21st preferably or Thursday the 22nd?

Dennis Bartels has information about the 84th street access so it might be helpful if he could attend.

I will have my runner deliver to you today the concept plan my client is working with.

Peter W. Katt
Pierson, Fitchett, Hunzeker, Blake & Katt
1045 Lincoln Mall
P.O. Box 95109
Lincoln, NE 68509
Phone: 402-476-7621
Fax: 402-476-7465
E-Mail: lawkatt@pierson-law.com

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052

10/9/2006

Peter Katt

From: Peter Katt
Sent: Friday, June 16, 2006 3:16 PM
To: 'GCzaplewski@ci.lincoln.ne.us'
Subject: North 40 Plaza-Potential Issues to Discuss

Greg: My issues to talk about at a meeting:

1. Submit as a B-2/R-3 PUD?
2. Are there any comprehensive plan issues?
3. Any traffic study requirements?
4. Relocation of Windmill Road/84th street intersection to serve this development.
 - a. Why wasn't a quarter mile access point provided to the west neighborhood?
 - b. Was access relinquished? To whom?
 - c. State road project? NDOR involvement?
5. What is a projected timeline for staff review/comment? (Submit by July 6th for August 6th PC agenda)

Peter W. Katt
Pierson, Fitchett, Hunzeker, Blake & Katt
1045 Lincoln Mall
P.O. Box 95109
Lincoln, NE 68509
Phone: 402-476-7621
Fax: 402-476-7465
E-Mail: lawkatt@pierson-law.com

Peter Katt

Subject: North 40 Plaza Pre-Submittal Meeting with City Staff
Location: Pierson Fitchett Conference Room-1045 Lincoln Mall Suite 200

Start: Wed 6/21/2006 11:00 AM
End: Wed 6/21/2006 12:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Bill Langdon; Bennie McCombs

City Staff to attend: Ray Hill, Dennis Bartels and Greg C.

North 47: Jim Tomasek, Bennie and Bill



Jean L Walker/Notes
10/16/2006 02:31 PM

To
cc
bcc

Subject Fw: Entering the North 40 Twilight Zone

----- Forwarded by Jean L Walker/Notes on 10/16/2006 02:31 PM -----



"Peter Katt"
<LawKatt@Pierson-Law.com>
>
10/16/2006 02:31 PM

To "Jean Walker" <JWalker@ci.lincoln.ne.us>
cc <BWill@ci.lincoln.ne.us>, <david.kohrell@preservenorth40.org>, <KFredrickson@ci.lincoln.ne.us>, <SHenrichsen@ci.lincoln.ne.us>, <RHill@ci.lincoln.ne.us>, <BWill@ci.lincoln.ne.us>, <MKrout@ci.lincoln.ne.us>, <Hall500@jneb.rr.com>, <SOss@ameritas.com>, "Mimi Mann" <mman1@unl.edu>

Subject RE: Entering the North 40 Twilight Zone

Dear Planning Commissioners:

While I am reluctant to enter the Twilight Zone, the unprecedented email from the Planning Director has left me little choice. I had been under the impression that projects that were brought forward to you had Staff Reports followed by public comment and discussion by all (including any Staff that were so moved to participate) at your public hearing. I am hopeful that this new Twilight Zone add on will not become routine. Please note that I have also added to this email the two neighbors that testified at your hearing as well as a third that attended but did not testify.

As to the Director's comments:

1. After the City Staff's meeting with my client and me on June 21st there really was no reason to believe that Staff had any interest in being " a third leg of the stool of participation ". At that meeting, Ray Hill from the Planning Department advised there was no reason to involve them if the project involved any amount of commercial space as they would be opposed no matter what. Further, Public Works stated that if the project involved any access to 84th street they would be opposed as well. Does that sound like a participatory leg or a buzz saw wanting to topple the stool?

2. As to the Staff's vision for this site it is nice to finally learn that it assumes about 150 dwelling units. I don't know where that number came from exactly but when combined with an admitted 'no access to 84th street' intersection and 'more justification' for the Adams street intersection and a more realistic and Comprehensive Plan and Staff goal of density at 5-6 DU's acre on the 50 acre tract results in the 300 DU's and greater impacts on the adjoining neighborhoods than that which has been proposed. While in a theoretical planning model it may be physically possible to dream of "moderate density mix of housing [that would] just as easily preserve the tree buffer/drainage area along the south side of the parcel" the practical and economic realities of this site would not allow that luxury for an all residential development.

3. The driver for this development and the rest of the 84th street projects is the fact that northeast Lincoln does not have modern and convenient shopping opportunities like the rest of Lincoln. Attached is a blown up portion of the map from page 41 of the Comp Plan with the circle at 70th & Adams. Assuming the updated Comp Plan is right that up to two (2) Neighborhood Centers are appropriate per square mile, you can see that there is a deficit of 6-8 centers in the general area and a deficit of one (1) within the square mile this project is located. This translates into a deficit of nearly a million square feet of commercial space. It is the people that live in this area that go to shop and work that generate trips on the roads. They can go to 84th & Adams 48th & O or 27th & Superior ... They will generate the same number of trips on city streets they will simply be forced to drive further away and impact other intersections if shopping opportunities are not provided in or near their neighborhood.

4. Staff has repeatedly encouraged more rather than less commercial development on at least the east side of the 84th & Adams intersection. Why is Planning Staff only now expressing its concern (and not one word in the Staff Report) about "the potentially affected owners further to the west [and making sure that they]are invited to participate in a broader discussion about land use in this area and its potential impacts" ??? Nearly two years ago development of a community sized center for the property at the northeast corner was supported by Staff for a comprehensive Plan amendment, Planning Commission was not supportive and only four (4) not the needed five (5) on the City Council supported that change in its designation. During this Comp Plan staff contacted the owner again and asked that a change in its designation be sought again. For good reasons. None of the claimed 2.2 million square feet of commercial floor area space on North 84th street will accommodate big boxes, other than at this location even though those users are what will drive development in this area for the foreseeable future. One must remember that only as many square feet of space will be built as the market believes can be supported.

5. Finally Adams street from 75th to 84th is a two lane rural asphalt road. With or without the North 40 project this road is inadequate to meet the traffic needs. The City has not scheduled or proposed any funding to meet this need. This project is willing to advance the funds necessary to make these needed improvements. The improvements will allow the road network to function more efficiently than if the two lane roadway continues with out the addition of this project. While even more road network capacity may be desirable, this project, even with its added trips at this location would nonetheless result in an overall improvement in the City's road network.

I would expect to have more comments and information for you on Wednesday. See you then.

Peter W. Katt
Pierson, Fitchett, Hunzeker, Blake & Katt
1045 Lincoln Mall
P.O. Box 95109
Lincoln, NE 68509
Phone: 402-476-7621
Fax: 402-476-7465
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=====
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=====

-----Original Message-----

From: MKrout@ci.lincoln.ne.us [mailto:MKrout@ci.lincoln.ne.us]
Sent: Friday, October 13, 2006 1:39 PM
To: Planning_PC_Members%NOTES@ci.lincoln.ne.us
Cc: Peter Katt; BWill@ci.lincoln.ne.us;
david.kohrell@preservenorth40.org; KFredrickson@ci.lincoln.ne.us;
SHenrichsen@ci.lincoln.ne.us; RHill@ci.lincoln.ne.us;
BWill@ci.lincoln.ne.us
Subject: North 40 comments

Commissioners: the North 40 tract seems to be in some kind of Twilight Zone

-- with the PUD application having been heard and continued for two weeks, and a separate hearing to amend the land use for this tract in the 2030 Plan on for hearing next Wednesday. Hopefully it will all come back together on October 25. In the meantime, I think this is a good time, while it's still relatively fresh, for me to add a few comments on the testimony heard this week on the PUD application.

We always appreciate it when applicants meet with their neighbors prior to public hearings, to explain their vision for their property and try to be responsive to expressed concerns. But unfortunately, staff is not always asked to be a third leg of the stool of participation. In this case, the applicant has made a couple of representations to neighbors, as well as to you at the hearing earlier this week, that are not accurate.

1. The applicant's agent characterized staff's vision for this tract as high density residential, 300+ dwelling units, on the 40 acres. No one in Planning admits to that vision. The traffic model assumed about 1/2 that number of dwelling units. There is no reason for neighbors to assume that the alternative to the proposal they have been reviewing is a residential project at that density. Development of this site with a moderate density mix of housing could just as easily preserve the tree buffer/drainage area along the south side of the parcel as the proposed commercial plan, and do a better job of preserving treed areas on the rest of this attractive parcel, by preserving more of the existing grades.

2. The agent told you at the hearing, as apparently he told the neighbors, that there is no significant difference between traffic generated by their proposal as opposed to the staff "vision." That is not accurate. Even if this tract was developed with 300 dwelling units, it would only generate about 300 pm peak hour trips, as opposed to about 1400 trips with the commercial in the applicant's proposal.

I am very concerned about the direction that the Planning Commission appeared to be moving on this proposal. Please remember: planning is

largely about the act of balancing land use and transportation. You have requests this Wednesday to amend the Comp Plan to approve commercial on the North 40 parcel as well as to expand commercial on the east side of 84th Street. It appears that either one of these proposals would increase future traffic volumes along Adams to the point that the 2+1 designation would need to be changed, and changed as far west as 70th Street or farther. The western portion of this mile of Adams is inside the area you have tentatively designated in the new Plan as the "established area" of the city in which widening beyond the 2+1 standard is discouraged. Property owners in that western portion of Adams have not been notified about the prospect of approving a zoning case or Comp Plan amendment that will trigger another amendment to change the road standard and require widening in front of their homes.

We hope to sit down with Public Works early next week, so that on Wednesday afternoon, we are better able to better address for you the implications of approving commercial for North 40, in terms of the cross-sections and extent of improvements that would be needed along Adams Street -- both along the frontage of North 40 as well as further west. But it seems premature to approve any more commercial zoning at 84th and Adams or to redesignate Adams -- formally or tacitly -- until more information is available and the potentially affected owners further to the west are invited to participate in a broader discussion about land use in this area and its potential impacts.

Marvin S. Krout, Director
Lincoln-Lancaster County Planning Department tel 402.441.6366/fax
402.441.6377



NE Lincoln Center Deficit.pdf



Mimi Mann
 <mman1@unl.edu>
 10/17/2006 10:10 AM

To MKrout@ci.lincoln.ne.us
 cc Jean Walker <JWalker@ci.lincoln.ne.us>, BWill@ci.lincoln.ne.us, David Kohrell <david.kohrell@preservenorth40.org>, bcc

Subject Re: Entering the North 40 Twilight Zone

Mr. Krout,

I am a homeowner abutting the North 40 on it's south side. As a grandmother and former elementary school teacher, I have no acumen in things business nor do I possess sophisticated jargon for such discussions, but I felt compelled to share the viewpoint of my family and close neighbors.

Mr. Krout, your comment about the leg of the stool surprises me. Your leg of the stool has been invited to one meeting our neighborhood leadership had in my home, your leg has been represented at our big neighborhood meetings several times, and I have personally called Greg C, MANY times before all our meetings started to get his wisdom in how to fight this development. He was most helpful in advising us to work with the developers early and how this process worked. When he left, our neighborhood leader, David Kohrell took over the communication with our new person, Brian Will. I know that he had several conversations with him as well.

Now, we realized that we were the little guys in this fight and we were up against the big guys, so we were distrustful, angry, hostile and downright mean to these developers and their mouthpiece, Peter Katt, who I personally hated for relaying his messages that we WERE going to lose this golf course view. So we sought out many people to help us fight them. During this process, we were forced to talk to the developers themselves and I was gradually aware that maybe they weren't so bad after all. They seemed to listen to us and be willing to work with us to give us what we wanted. We weren't so stupid to trust them, of course, but over time, realized that maybe they WERE willing to make this transition less painful for us and we secured legal counsel to make sure that they made good on their promises.

Before going any further, let me commend you and your staff for looking out for the best interests of our city. Of course we need to have a plan and good people such as yourself to make sure that we don't have urban blight etc. But perhaps no one can look out for the neighbors' best interest better than the neighbors themselves. There are 18 of us who own property along Wemsha and 100% of us are agreeable to the developers' plans to give us 60' of our beloved trees behind each of our lots to care for, in repayment for the \$10,000 property value loss we stand to take for no longer being on a golf course. Personally my family prefers the developers' plans as they stand because we would have residential behind us, blocking upcoming commercial, but I embrace the commercial development for the potential services we could enjoy from the tenants.

I personally thanked Mary Bills Strand(?) for her realization that northeast Lincoln is so very underrepresented with the commercial opportunities that the southwest part of the city enjoys. Folks out there can go mere minutes to wonderful restaurants, grocery stores of their choice, shopping centers and things that make their lives easier. I have attended community meetings and abhor the frequent comment that, "The city doesn't care about northeast Lincoln because we aren't rich. All the good things are given to south Lincoln and

we are always forgotten." Marvin, this is Exhibit A. We appreciate your interest in keeping our quadrant of Lincoln beautiful and controlled, but please, fella, give us some services! Some of us in our neighborhood are nearing retirement and having a choice of nice restaurants close by would be wonderful! Yes, you have platted areas that commercial development can buy on 84th and Holdrege, but they aren't and we have been looking at brown clay for eight years! Where's the planning here?!

Our neighborhood meetings have discussed 84th and Adams as being like a gateway to Lincoln when folks come to the city and we want it to look nice and inviting. The trees on the North 40 provide that now, so we have been fighting to keep trees in that area. We will keep some, but I don't want residential units on that corner, fearing that the units would be so undesirable that they will be of low value and quality. I would like to see upscale homes along our lotlines, and upscale commercial on that corner. I keep harping on having a small "Williamsburg-type" commercial area, where all the buildings look alike and have a theme. This requirement is in our proposal that our attorney will present to the developers. But we have talked to the developers about this for many months anyway. I don't want MORE townhomes out here and if we get them, the folks who wail about our quadrant being "the poor relation" in Lincoln will have a renewed battle call. Conversely, when we had a big neighborhood meeting, with around 60 far reaching neighbors attending, they politely listened to our plight of losing our view, but truth be told, they were DYING to have this commercial component be built close to them. All residential gives us nothing; upscale residential abutting us and upscale commercial for our convenience on the corner is a win/win for everyone!

Finally, we have had much discussion about the traffic on 84th. Our daughter and her young family live at 2542 North 83 Street, backing onto 84th Street. Darci and her neighbors are very hopeful that the Windmill Road will be permitted to be a major intersection, in hopes of having traffic lights there. If that happens, it slows down 84th traffic, giving them less noise as heavy traffic whizzes by. And as we discuss traffic, making a better roadway doesn't diminish value in the area, it increases it. We can predict that we will always have more traffic on 84th and on Adams as the years go by. We can live with that. Make the roadway able to handle it. But don't block traffic from this parcel of land or they will start using our residential street for access to the area. 83rd Street and Wemsha currently are a main drag and cars drive by fast, three times not making the curve and driving up onto our front lawn, damaging the turf. So we need a larger thoroughfare on the edge of this area which can channel traffic out of our neighborhood.

This has been a most interesting process to me and I would never have dreamed that we would come to work so closely with the developers. My attitude has done a 180! I never dreamed that the average Joe Citizen could come up against developers and have a voice that was heard, let alone a group that would be willing to deed us land, free, and even help us get our surveying done! We all agree that leaving this area as a golf course is our first choice. But the owner has a right to sell it and we are just gratified that the folks who plan to buy it are so accommodating to our requests.

If you ever feel that you are left out of any discussions, all you merely need to do is let us know that you would like to be informed of our meetings, and we will invite you. We would be happy to meet with you anytime if you want information from the neighbors. And I'll bring you a brownie.

Mimi Mann
8230 Wemsha Street

059



Jean L Walker/Notes
10/17/2006 02:41 PM

To

cc Marvin S Krout/Notes@Notes, Ray F Hill/Notes@Notes,
Brian J Will/Notes@Notes, Karl A Fredrickson/Notes@Notes,
Randy W Hoskins/Notes@Notes

bcc

Subject Change of Zone No. 06063: North 40 Plaza PUD

Dear Commission Members:

Peter Katt requested that I forward the comments from Steve Oss to you in relation to the North 40 Plaza Planned Unit Development.

Peter,

Our neighborhood group is meeting with Mr. Rierden on Wednesday morning. We are aware of the need to have resolution on the legal items by next Wednesday's Planning Commission Meeting. David Kohrell is really the point person here, but I am sure that I am not out of line in stating that we can provide you with an update after our meeting with Mr. Rierden.

In regards to your request for an honest evaluation, I can only give you my evaluation, but I personally do not feel that it would be accurate to imply that you have misled us. I can assure anyone that the members of our group have been more than dilligent in considering the impact of the development not only on us personally as the immediate neighbors but also on a larger scale. Traffic considerations in our neighborhood and around our neighborhood, including Adams St. have been discussed among ourselves and others. In addition, our group has consulted with members of the Planning Staff.

That again is my personal perspective. I am sure that the other members of the Wemsha Street group who recieved this message will also respond and give you their perspective.

Thank you for your message. I do plan on being at the meeting next Wednesday and I am sure that others from our group will be there too. Let us know if you have any other questions.

Steve Oss

-----"Peter Katt" <LawKatt@Pierson-Law.com> wrote: -----

To: <SOss@ameritas.com>
From: "Peter Katt" <LawKatt@Pierson-Law.com>
Date: 10/16/2006 06:20PM
cc: <david.kohrell@preservenorth40.org>, <hall500@neb.rr.com>, "Mimi Mann" <mmannl@unl.edu>
Subject: RE: Basis for Your Support for the North 40 Plaza Development

Steve:

As you and the others read Marvin's correspondence and my reply, I would appreciate your honest evaluation as to whether or not you feel misled by me (or my client for that matter) in working with you to obtain your support of the project. I think that is what is not so indirectly implied in Mr. Krout's message. I have tried to be as open

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and honest as possible as to all aspects of my client's plans for this property.

While we have not discussed the road/traffic issues in great depth, the point I had tried to make about little traffic difference between 300 homes and this project was not that 300 vs. 1400 makes no difference but rather that qualitatively with signalized access to 84th street and likely Adams, traffic would be drawn to those points and away from the existing residential areas and further that with the commercial, Adams would be improved to 2+1 and not remain in its current substandard condition.

Accordingly, even though the PM peak trips may be greater with the project as proposed, the net noticeable impact on the road network would be positive for our neighbors and the City. I know I explained it better in this message, but do you think what I told Planning Commission would be considered misleading?

Finally, have you heard back from Mr. Rierden yet? Do any of you expect to be at Planning Commission for the Comprehensive Plan hearing this Wednesday?

Thanks again for your commitment and involvement to this project. I would appreciate any comments you would care to share.

Peter

From: SOss@ameritas.com [mailto:SOss@ameritas.com]
Sent: Monday, October 16, 2006 3:15 PM
To: Peter Katt
Subject: RE: Entering the North 40 Twilight Zone

Peter,

Thank you for sharing your response. I have not had the chance to read it yet, but look forward to doing so.

One additional piece of information for you is that I received a hard copy of the e-mail message composed by Mr. Krout via U.S. mail on Saturday, October 14, 2006. I do not know if other neighbors received it or not, but thought that you might like knowing about the hard copy delivery.

Thanks,

Steve Oss

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JAK
<jakstarliteblue@gmail.com>
10/25/2006 12:18 PM

To plan@lincoln.ne.gov, Julie_Kohrell@gallup.com
cc
bcc

Subject North 40 golf course development

Hello,

I was unable to attend the previous hearing, or today's hearing about the proposed development on the North 40 golfcourse but would appreciate your consideration of my opinions.

I am a resident on Wemsha Street (8242) where the proposed development immediately north of my home would be converted into a business/commercial area.

Although I understand that negotiations will lead to some sort of 'buffer' in between my home and this commercially-developed area, I would like you to please keep in mind my concerns:

1) Obviously when we originally purchased the home in 1999, we paid additional money for the home and land (relative to what other similar homes would have sold for) because of the aesthetic beauty the golf course provides. I would not have purchased the home if I knew of the impending development into businesses, and would lose the beauty of the course.

2) Marge Davenport lives at 112th and O Streets. She was also not able to attend the meeting but wanted me to know her frustration with the situation at North 40 and her own situation a couple of years ago. She said the NRD came in and took 110 of her 135 acres a couple of years ago, and the primary reason they gave was that the city would need MORE GREEN SPACE for when Lincoln grows even further out that direction. However, here on 84th Street, we ALREADY HAVE GREEN SPACE right in town that enhances the city's appearance when drivers enter the city through 84th Street, but that will no longer be the case if the land is changed to a busy business zone.

3) I am concerned that a business zone being developed right in my backyard will increase safety issues and various types of pollution that I do not want to subject my children and family to.
My concerns include safety for the children (and pets!) in the area having to deal with increased traffic in the area behind our homes, but also along Wemsha and 81st Streets.

No matter the 'buffer' added, I do not see how any buffer could keep out all of the added:

- noise pollution (including night time delivery trucks, customer traffic, etc.),
- light pollution (including car headlights in my windows, street lights, lights from the businesses themselves, etc.),
- litter/trash pollution from pedestrians and cars, and
- the potential for increased crime, vandalism, and disturbances, with the various businesses proposed bringing in many different people at many different times of the day and night.

4) While I am willing to work with the developers on this matter, I do not see how any businesses on the North 40 green will help our neighborhood or the city, when my understanding is that 1.1 million acres in the surrounding area have already been zoned for business use, and there is currently a large surplus of homes already available in Lincoln's 'buyers market.' I believe we have a beautiful space existing that could be used for more beneficial community purposes, and it should not include businesses.

Thank you for your review of my concerns.
-Julie

Julie Kohrell
8242 Wemsha Street

Lincoln, NE 68507-3381
(402) 325-9325

005

PROPOSED AMENDMENTS TO THE CONDITIONS OF APPROVAL
Change of Zone #06063 - North Forty Plaza PUD

Amend condition 4.1.1.1 by deleting the words "and number" from the last sentence.

- 4.1.1.1. Revise Note #33 to state "Site layout is conceptual. All information for a preliminary plat may be required to be submitted, including street and lot layout, street centerline profiles, grading plan, drainage study, utility plan, and landscaping, to be approved by administrative amendment prior to final plat approval, and may result in modifications to the site layout. This includes the location and number of street intersections and driveway entrances onto North 84th Street and Adams Streets.

Amend 4.1.1.8 to clarify 9' separation shall only be provided in areas of relocated curbing.

- 4.1.1.8 Show the existing trail along North 84th Street and provide 9' separation between the any relocated curb and trail including turn lanes.

Add a new section 4.1.1.11 to provide for road improvements to 84th and Adams.

- 4.1.1.11 No occupancy permits for commercial uses in excess of 30,000 aggregate sq. ft. or generating more than a total of 280 pm peak trips shall be issued until the following improvements to 84th Street and Adams Street west of 84th Street have been constructed:

(1) Arterial Street Impact Fee Facility Improvements.

(a) A modified arterial section at 84th Street with a single left-turn lane of permanent concrete pavement with curb and gutter from 84th Street west to the public street connection to Adams together with appropriate turn lanes and a permanent concrete transition tapering down to the three lane section provided for below.

(b) A convertible three-lane section roadway of permanent concrete pavement with curb and gutter and associated storm sewer from approximately the public street connection to Adams west to 75th Street.

(c) Eastbound right-turn lanes at 80th Street and at the public street connection to Adams.

(d) Westbound left-turn lane at the public street connection to Adams.

(2) Site-Related Improvements.

Connections to 84th street as shown on the site plan as well as the Windmill Road relocation and turn lane costs.

(3) Directed Arterial Street Impact Fees.

The Arterial Street Impact Fee Facility Improvements need not be constructed prior to the issuance of occupancy permits unless and until the City has entered into an agreement with the Owner to reimburse the costs of construction through the use of directed impact fees on terms and conditions substantially similar to other such agreements for the construction of these types of improvements.