

**DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT
(North 84th Street and Holdrege Street)**

This Development and Conditional Zoning Agreement is hereby made and entered into this 16th day of JANUARY, 2008, by and between **HOOG GEBOUW EAST LLC**, herein referred to as "Developer", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City".

RECITALS

I.

Developer has petitioned the City for a Change of Zone (No. 07059) from O-3 to B-2 and B-2 to O-3 upon the following described Property generally located at North 84th Street and Holdrege Street. The Property is legally described as: Lot 6, Morning Glory Estates Addition, Block 7, Morning Glory Estate Second Addition and portions of Outlots "A" and "B" and Lot 2, Morning Glory Estates 5th Addition located in the Southwest Quarter of Section 14, Township 10 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska.

II.

The Developer has represented to the City that in consideration of the City rezoning the Property to B-2 Commercial District and O-3 Commercial District the Developer will enter into an agreement with the City subjecting the Property to restrictions on uses, lighting and signage in order to provide a compatible development with the adjacent residential neighborhood.

III.

The City desires an Agreement, to be assured that the Developer will develop the Property in a manner compatible with the adjacent residential neighborhood should the Property be zoned to B-2 Commercial District and O-3 Commercial District.

NOW THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. The City hereby agrees to grant Developer's petition to change the zoning map from O-3 Office to B-2 Commercial District and B-2 Commercial District to O-3 Office on the Property set forth above.

2. In consideration for the City re-zoning the Property to B-2 Commercial District and O-3 Office District the Developer agrees that the development of the Property shall be subject to the following restrictions.
 - a. Developer agrees that the hotel proposed for the east end of the subject property would be what is commonly referred to as an extended stay hotel such as a Staybridge or Hawthorn. Each of the rooms would have fully equipped kitchens (refrigerator, microwave, stove, sink, silverware, cookware, etc.) in each room and a working desk with chair. The hotel would have no more than 85 rooms and shall have available exercise room and guest laundry facilities and fax/copy/printing services. The room type/mix shall be similar to that as shown on Exhibit "A"; and the selected hotel chain shall be considered a mid-range or up-scale chain of extended stay hotels. No outdoor pool shall be allowed with the hotel. No windows shall be allowed on the east side of the hotel. The Developer agrees to construct an earthen berm 4-6 feet high on the east side of the hotel and hotel parking lot. Said berm shall contain landscaping sufficient enough to provide 100% screen no more than five years after installation of the landscaping materials.
 - b. Developer shall plant trees on the individual lots which abut the east right-of-way line of North 86th Street from Delphineum Street to Holdrege Street. Developer shall provide a plan to the abutting residential properties for these planting materials prior to the issuance of the hotel building permit. Future maintenance of said trees and/or landscaping will be the responsibility of the individual lot owner.
 - c. The Developer agrees that all exterior lighting shall utilize full cut off fixtures and be mounted level. Lighting shall be similar to the Assurity Life Insurance Building located at 48th and Pine Lake Road and shall be designed to minimize or eliminate trespass into the residential neighborhoods.
 - d. The building shall be oriented generally as shown on Exhibit "B" which is attached hereto and incorporated herein.
 - e. Developer shall do all things that are commercially reasonable to reduce the first floor elevation of the hotel to be a minimum of five feet below the nearest home finished for floor elevation.

f. Buildings in the proposed Use Permit No. 128 and 128 A shall adhere to the Morning Glory Estates Design Covenants which are filed with the Lancaster County Register of Deeds office and identified as Instrument No. 2004-065241. Developer shall allow neighborhood representatives to review the plans and specifications submitted for building permits to verify proposed development is consistent with the Morning Glory Estates Design Covenants.

g. Developer shall not allow activities or services such as deliveries, garbage service, satellite dish service, outdoor pool, or air-conditioner condensers or heat pump exchanges on the east side of the hotel building or parking lot. Further, the east side of the building shall have limited, if any, signage or lighting. All signage for the hotel shall be attached to the side of the hotel except that the hotel shall be allowed one ground sign along Holdrege Street. No signage shall be allowed on the east wall of the hotel.

h. Developer will donate to the City ten feet of it's property on the north side of Holdrege Street to allow for a twelve foot right turn lane off of Holdrege onto 84th Street to facilitate a ribbon style median cut at 86th Street. City will use it's best efforts to construct a ribbon style median cut at 86th Street as opposed to a solid raised median. Developer shall request and support a "right turn out" design for traffic exiting the southern most driveway along 86th Street servicing the property.

i. Developer agrees that the aforementioned conditions would be recorded as part of the plat and restrict the property for at least ten (10) years. Additionally, the property use shall not be allowed to change if the alternative use would cause the traffic counts to be exceeded.

3. This Agreement shall run with the land and shall be binding upon the parties hereto and their respective successors and assigns.

4. This Agreement, when executed by the parties hereto, shall be recorded by the City in the office of the Register of Deeds of Lancaster County, Nebraska, filing fees to be paid by Developer.

IN WITNESS WHEREOF, the parties herein have executed this Agreement on the day and year set forth above.

HOOG GEBOUW EAST LLC,
A Nebraska limited liability company,

Donald W. Linscott
_____, Managing Member

ATTEST:

CITY OF LINCOLN, NEBRASKA,
a municipal corporation

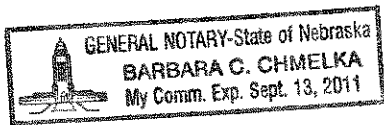
City Clerk

Mayor

STATE OF NEBRASKA)
)
COUNTY OF LANCASTER)

ss.

The foregoing instrument was acknowledged before me this 16th day of January, 2008, by Donald Linscott, Managing Member of **HOOG GEBOUW EAST LLC**, a Nebraska limited liability company.



Barbara C. Chmelka

Notary Public

STATE OF NEBRASKA)
)
COUNTY OF LANCASTER)

ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by Chris Buetler, Mayor of the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation.

Notary Public

EXHIBIT " B "

