

FACTSHEET

TITLE: **PRE-EXISTING USE PERMIT NO. 13D**, requested by Hoppe Hall, Inc., to reduce the number of required parking stalls on property generally located at South 48th Street and Briarpark Drive (Briarhurst Center).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 06/16/10
Administrative Action: 06/16/10

STAFF RECOMMENDATION: Conditional Approval.

RECOMMENDATION: Conditional Approval (9-0: Cornelius, Partington, Lust, Larson, Taylor, Esseks, Francis, Gaylor Baird and Sunderman'yes').

FINDINGS OF FACT:

1. This is a request to reduce the number of required parking stalls at the Briarhurst Center from 255 to 189, which reflects the actual number of existing usable parking stalls. The intent of this amendment to the pre-existing use permit is to show exactly how many stalls are currently provided on-site and to establish that the center has met its maximum commercial capacity for the parking that is provided. This will reflect the actual situation of the center and make it easier to review any future changes or adjustments to the use permit.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.4-5, concluding that the proposed reduction in the number of required parking stalls is appropriate because it reflects the number of stalls that actually exist and are being utilized by the center. This commercial center existed prior to the 1979 Zoning Ordinance which established the parking requirements we have today, and has continued to function as a successful center.
3. On June 16, 2010, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On June 16, 2010, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend conditional approval as set forth in the staff report dated June 3, 2010. The conditions of approval are found on p.6.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: June 21, 2010

REVIEWED BY: _____

DATE: June 21, 2010

REFERENCE NUMBER: FS\CC\2010\PEUP.13D

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for June 16, 2010 PLANNING COMMISSION MEETING

- PROJECT #:** Pre-Existing Use Permit No. 13D
- PROPOSAL:** To reduce the number of required parking stalls from 255 to 189.
- LOCATION:** S. 48th Street and Briarpark Drive
- LAND AREA:** 5.7 acres, more or less
- EXISTING ZONING:** B-2 Planned Neighborhood Business.
- CONCLUSION:** With conditions, the proposed reduction in the number of required parking stalls is appropriate because it reflects the number of stalls that actually exist and are being utilized by the center. This commercial center existed prior to the 1979 Zoning Ordinance which established the parking requirements we have today, and has continued to function as a successful center.

RECOMMENDATION: Waivers/modifications: Reduce the required number of parking stalls from 255 to 189 stalls.	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Briarpark Plaza Addition and Outlot C, Briarhurst Addition located in the SW ¼ of Section 08-09-07, Lincoln, Lancaster County, Nebraska.

EXISTING LAND USE: Neighborhood Commercial Center including but not limited to restaurants, retail and a garden center.

SURROUNDING LAND USE AND ZONING:

North:	Railroad tracks and Nebraska Highway 2	
South:	B-2 Planned Neighborhood	
	Business District	Briarpark Plaza Office Building
East:	I-1 Industrial	Commercial Center
West:	R-2 Residential	Community Unit Plan-Multifamily

HISTORY:

April 1967	Changed from L Heavy Industry to A-1 Single Family
May 1968	The area north of Briarpark Drive was changed to G-1 Planned Commercial
February 1969	Included as Commercial and Open Space in a Community Unit Plan
1976	Commercial Center was Constructed
May 1979	Converted from A-1 and G-1 to R-1 Residential and B-2 Planned Neighborhood Business with the approval of the 1979 Zoning Update
March 1982	An administrative amendment was approved to allow Earl May to construct a seasonal polyethylene enclosure for the purpose of protecting plant material from the elements.
February 1984	An administrative amendment was approved allowing the enclosure of an existing drive thru facility
March 1986	An administrative amendment was approved allowing an ATM.
September 1987	The portion south of Briarpark Drive was excluded from the Briarpark C.U.P. and zoned O-3 Office Park and approved for a restaurant
June 1989	An administrative amendment was approved allowing a 30' by 40' fireworks tent which covered approximately 8 to 10 parking stalls
October 1992	An administrative amendment was approved allowing for 21 stalls of the Briarpark Plaza development to be used for the Briarhurst Center parking requirement as part of the Earl May expansion.
February 1993	An administrative amendment was approved allowing an additional 2,000 square feet to the Earl May Building. At this time the parking lot was redesigned to allow for approximately 8 additional parking stalls
October 1993	An administrative amendment was approved adding a 200 square foot storage building. This building did not replace any existing parking.
November 1994	City Council approved a pole sign for the Sonic located south of Briarpark Drive
December 2009	An administrative amendment was approved allowing the expansion of the greenhouse at the northwest corner of the center and to provide additional parking by leasing 22 parking spaces off site from the Briar Park Plaza office building located at 5631 South 48th.

COMPREHENSIVE PLAN SPECIFICATIONS:

This area is shown as commercial on the future land use map (19) and as a Neighborhood Center on the Existing commercial Centers map (41)

Commerce Centers should develop as compact clusters or hubs with appropriate site design features to accommodate shared parking, ease of pedestrian movement, minimize impacts on adjacent areas, and possess a unique character.(35)

Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented. As additional centers are built, the City and developers should be proactive in redevelopment of existing centers to make sure that redevelopment is sensitive to the surrounding neighborhood and happens quickly to reduce vacancies.(36)

UTILITIES: Existing

TRAFFIC ANALYSIS: S. 48th Street is an urban Minor arterial. This pre-existing use permit is intersected by Briarpark Drive, a local street, and bounded to the north by Nebraska Highway 2 and railroad tracks.

ALTERNATIVE USES: An alternative to the above request is to not reduce the required parking and require the applicant to continue to lease parking stalls from Briarpark Plaza in order to meet their parking requirement.

ANALYSIS:

1. Briarhurst Center is a commercial area that was established in 1976 prior to the 1979 Zoning update which required this commercial center to have a use permit. If this center was a new center, they would be required to provide 255 parking stalls. The last approved site plan for this use permit showed 228 stalls. This amendment would reduce the required number of stalls to 189 which reflects the actual number of existing usable stalls.
2. In 1992 Earl May expanded within this shopping center which required the center to have an additional 21 stalls to meet that expansion. Since there was no place on site to accommodate the additional 21 stalls, the stalls were located on a separate property to the south approximately 250 feet in Briarpark Plaza office complex. Last year Earl May covered a portion of their outdoor retail area which required them to have an additional 22 stalls even though they were not adding more overall retail area. The pre-existing use permit was once again amended to add the additional 22 stalls to Briarpark Plaza. It has become clear to the developer that the stalls at Briarpark Plaza are not being used by the employees or the customers at Briarhurst Center, likely because it is a substantial walk and one must cross thru the Sonic parking area and then a local street to get to the shopping center. (See Exhibit A)

3. The reduced parking doesn't appear to impact the residential uses to the west. The City is not aware of any formal complaints about parking problems at this location. If not enough parking stalls are provided the likely impact and mitigation of that impact will be on the Commercial Center. Today, there are some stalls marked as 15 minute parking only. This center has a long history of operation with parking below required amount.
4. The existing use permit site plan shows stalls where stalls do not exist or are not being utilized for parking such as along the south and east side of the Earl May plant display area where for much of the year these 12 stalls are used for outdoor sales and a loading and unloading area.
5. The intent of this amendment is to show exactly how many stall are currently provided on site and establish that the center has met its maximum commercial capacity for the parking that is provided. This will reflect the actual situation of the center and make it easier to review any future changes or adjustment to the Use Permit.

This approval permits the reduction of parking from 255 stalls to 189 stalls.

CONDITIONS OF APPROVAL:

Site Specific Conditions:

1. The developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including **5** copies with all required revisions and documents as listed below upon approval before receiving building permits.
 - 1.1 Add a note to the site plan stating the Ordinance number approving the parking reduction from 255 to 189. In that note add that 6 of the 189 parking stalls are reserved for handicap stalls.
 - 1.2 Remove from the site plan the 6 stalls south of Earl May that are being used for seasonal sales.
 - 1.3 Show that the 18 stalls in the northeast corner of the parking lot can be re-stripped to meet design standards.
 - 1.4 Add to the General Notes, "Signs need not be shown on this site plan, but need to be in compliance with chapter 27.69 of the Lincoln Zoning Ordinance, and must be approved by Building & Safety Department prior to installation".
 - 1.5 Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.
 - 1.6 Show the Sonic property as part of the use permit but note that this property is not included as part of the 189 stalls of required parking.

2. Prior to the issuance of a building permit:

2.1 The construction plans substantially comply with the approved plans.

Standard Conditions:

3. The following conditions are applicable to all requests:

3.1 Before occupying buildings all development and construction is to substantially comply with the approved plans.

3.2 All privately-owned improvements, including landscaping, are to be permanently maintained by the owner or an appropriately established association approved by the City.

3.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.

3.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

3.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant

3.6 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions/ordinances approving previous permits remain in force unless specifically amended by this resolution.

Prepared by

Christy Eichorn, Planner
402-441-7603
ceichorn@lincoln.ne.gov

DATE: June 3, 2010

APPLICANT / OWNER: Hoppe Hall Inc.
5631 S. 48th ST., Suite 290
Lincoln, NE 68516

CONTACT: Jeff L. Luthy
5631 S. 48th ST., Suite 280
Lincoln, NE 68516
402-441-4085

PRE-EXISTING USE PERMIT NO. 13D

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

June 16, 2010

Members present: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 10003, PRE-EXISTING USE PERMIT NO. 13D, STREET AND ALLEY VACATION NO. 10006 and MISCELLANEOUS NO. 10003.**

Ex Parte Communications: None

Taylor moved to approve the Consent Agenda, seconded by Esseks and carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'.



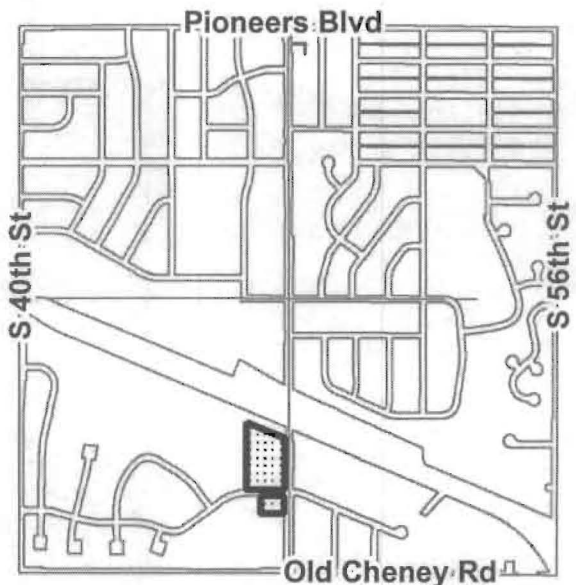
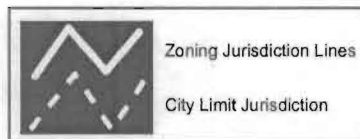
**Pre-Existing Use Permit #13D
S 48th St & Briarpark Dr**

2007 aerial

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential 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. 8 T09N R07E



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EXHIBIT A

WOODLAND AV

S 49TH ST

S 50TH ST

S 51ST ST

S 52ND ST

BOECKNER AV

NEBRASKA HWY 2

S 48TH ST

BRIARHURST CENTER

BRIARPARK DR

RENTWORTH DR

BRIARPARK PLAZA

RENTWORTH CT

S 49TH ST

OLD CHENEY RD.

OLD CHENEY RD

S 45TH ST

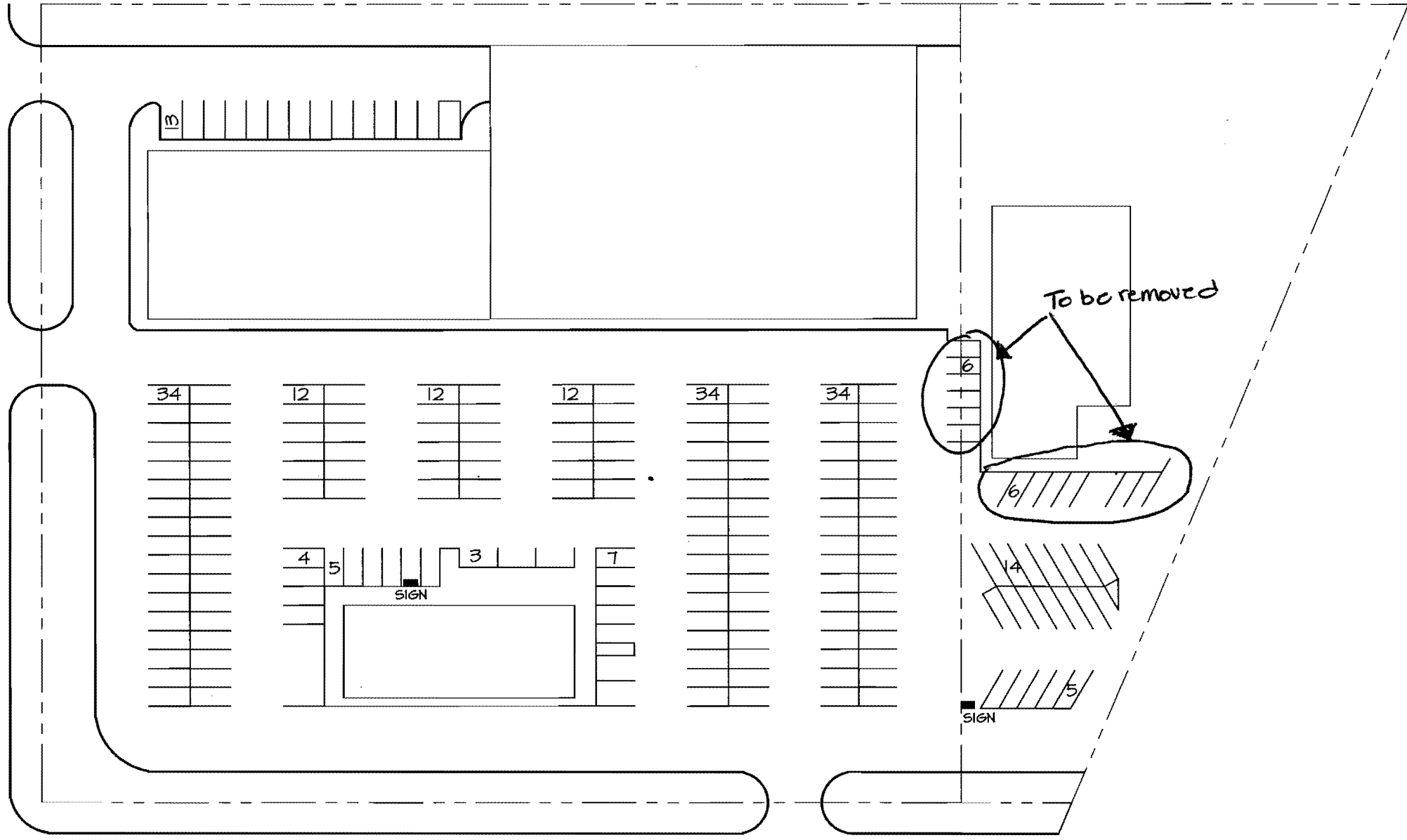
PRINCESS MARGARET DR

S 50TH ST

QUEENS DR

S 52ND ST

JACQUELYN DR



EXISTING - 201 PARKING STALLS

Christy,

Per our conversation and your request the Owners are now asking for the parking reduction at the Briarhurst Center to be 189 stalls. The revised parking lot blueprint showed 201 current stalls less twelve (12) stalls adjacent to Earl May not approved by the City. The final number would be (189).

Please let me know if further information is required.

Best Regards,

Jeff L. Luthy

Jeff L. Luthy
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Licensed Real Estate Professional
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"Some grin and bear it, others smile and fix it"

April 26, 2010



City of Lincoln
Planning Department
C/O Marvin Krout
555 South 10th Street
Room 213
Lincoln, NE 68508

RE: Briarhurst Center application for a parking reduction

Dear Marvin,

Per my conversation with Brian Will, please find enclosed the Use Permit application and appropriate fee for the proposed parking reduction at the Briarhurst Center located at 5555 South 48th Street, Lincoln, Nebraska, 68516. The Briarhurst Center currently has 255 parking stalls, 43 of which were borrowed from the Briarpark Plaza over the past few years to meet code. The Owners would like to reduce the current amount of parking stalls from 255 to 212 at the Briarhurst Center. The 43 stall reduction is to alleviate the borrowing of stalls from the Briarpark Plaza. Also enclosed is a parking calculation summary document dated January 1, 2008 for both Centers. The square footage and tenant usage at the Briarhurst Center and Briarpark Plaza as described on this document remains the same today.

If you have any questions or concerns, feel free to call me.

I look forward to your reply.

Respectfully,

A handwritten signature in black ink, appearing to read "Jeff L. Luthy", written in a cursive style.

Jeff L. Luthy
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jll/enclosure:

RECEIVED

APR 27 2010

Lincoln/Lancaster Co.
Planning Department