

City Council Introduction: **Monday**, December 9, 2013
Public Hearing: **Monday**, December 16, 2013, at **5:30 p.m.**

Bill No. 13-163

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 13025**, requested by Advanced Chiropractic Solutions, from R-2 Residential District to R-T Residential Transition District, on property generally located at the northeast corner of South 10th Street and High Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: November 27, 2013
Administrative Action: November 27, 2013

STAFF RECOMMENDATION: Approval.

RECOMMENDATION: Approval (6-0: Beecham, Corr, Harris, Hove, Sunderman, and Weber voting 'yes'; Lust, Cornelius and Scheer absent).

ASSOCIATED REQUESTS: Use Permit No. 13010 (13R-290)

FINDINGS OF FACT:

1. This change of zone request and the associated Use Permit No. 13010 were heard at the same time before the Planning Commission.
2. This is a request for change of zone from R-2 Residential to R-T Residential Transition on property located at the northeast corner of South 10th Street/Highway 2 and High Street to allow office or medical office uses.
3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.4-5, concluding that office or medical office is a good transitional use, particularly in a location that is across the street from a gas station, adjacent to a State highway and adjacent to a single family neighborhood. The change of zone is in conformance with the Comprehensive Plan. The staff presentation is found on p.7-8.
4. The applicant's testimony is found on p.8.
5. There was no testimony in opposition.
6. On November 27, 2013, the Planning Commission agreed with the staff recommendation and voted 6-0 to recommend approval of this change of zone request.
7. On November 27, 2013, the Planning Commission also voted 6-0 to recommend conditional approval of the associated Use Permit No. 13010 (Bill #13R-290).

FACTSHEET PREPARED BY: Jean L. Preister

DATE: December 3, 2013

REVIEWED BY: Marvin Krout, Director of Planning

DATE: December 3, 2013

REFERENCE NUMBER: FS\CC\2013\CZ13025+

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT
for November 27th 2013 PLANNING COMMISSION MEETING

This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

- PROJECT #:** Use Permit No. 13010
Change of Zone No. 13025
- PROPOSAL:** To change the zoning district **from R-2 Residential to R-T Residential Transition District** with a Use Permit for an office/medical office.
- LOCATION:** Northeast corner of S. 10th Street and High Street
- LAND AREA:** 0.5 acre more or less
- EXISTING ZONING:** R-2 Residential

CONCLUSION: Medical office is a good transitional use particularly in a location that is across the street from a gas station, adjacent to a State Highway and adjacent to a single family neighborhood. Although the Use Permit proposes to allow for the reduction of some front yard setbacks, the reduction will be mitigated by additional landscape screening. The applicant has provided room for the potential future expansion of Highway 2 and has shown sidewalks and street trees where there are none today. The Change of Zone from R-2 Residential to R-T Residential Transition with the associated Use Permit is in conformance with the Comprehensive Plan.

USE PERMIT RECOMMENDATION:	Conditional Approval
<u>CHANGE OF ZONE RECOMMENDATION:</u>	<u>Approval</u>
<u>Waivers/modifications:</u>	
front yard setback reduction 25 feet to 23 feet for buildings along S. 10 th Street;	
front yard setback reduction 25 feet to 10 feet for parking along S. 10 th Street;	
front yard setback reduction 25 feet to 15 feet for buildings and parking along S. 11 th Street; front yard setback reduction 10 feet to 0 feet for parking along High Street.	

GENERAL INFORMATION:

LEGAL DESCRIPTION FOR USE PERMIT#13010 AND CHANGE OF ZONE #13025:
Lots 22, 23 & 24 Block 2, Barnes Addition to Lincoln located in the NE 1/4 of Section 2, Township 9 North, Range 6 East of the sixth Principal Meridian, Lincoln, Lancaster County, Nebraska.

EXISTING LAND USE: Multifamily (Apartments) and single family home

SURROUNDING LAND USE AND ZONING:

North and East : R-2 Residential - Single and two family dwelling units

South: H-3 Highway Commercial - Gas station

West: P Public - Highway 2 and Van Dorn Park

HISTORY:

May 1979 This property was re-zoned from A-2 Single Family Dwelling District to R-2 Residential with the 1979 zoning update.

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2040 Future Landuse Map shows this property as Urban Residential.

Strategies for Commercial Infill (page 5.14)

- Develop infill commercial areas to be compatible with the character of the area.
- Maintain and encourage businesses that conveniently serve nearby residents, while ensuring compatibility with adjacent neighborhoods.
- Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, are properly screened, fulfill a demonstrated need and are beneficial to health and safety.
- Ensure the priority in older areas is on retaining areas for residential development. Prior to approving the removal of housing in order to provide for additional parking to support existing centers, alternatives such as reduced parking requirements, shared parking, additional on-street parking, or the removal of other commercial structures should be explored.

Nebraska Highway 2 (Page 10.42)

One of the largest roadway projects in the first half of the prioritized capital road program is the Highway 2 widening to 6-lanes project from Van Dorn Street to Old Cheney Road.

This project needs to be studied closely to determine how best to improve this important facility. Also needed is a phasing plan based on the recommended improvements.

UTILITIES: Existing

TOPOGRAPHY: Relatively flat

TRAFFIC ANALYSIS: High Street and S. 11th Street are both local streets. State Highway 2 becomes S. 10th Street at this location and is a major intercity traffic route. The Comprehensive Plan shows Highway 2 to be a future 6 lane expressway at this location. Local funding for improvements to this highway between Van Dorn Street and S. 14th Street is shown in the Capital Improvement Program for 2017 and 2018, but not assured as priorities are reassessed. This project should not interfere with the proposed expansion of Highway 2 at this location. Nebraska Department of Roads had no comment on the application and the City of Lincoln Public Works and Utilities Department had no objection to a 23 foot building setback to S. 10th Street/ Highway 2.

AESTHETIC CONSIDERATIONS:

The R-T Residential Transition District Requires each building to have:

1. A two and one-half inch in twelve inch pitched roof or steeper;
2. A non reflective exterior siding material which is or simulates wood, stucco, brick or stone;
A non reflective roof material which is or simulates asphalt or wood shingles, tile or rock;
3. No air conditioners on the roof.

ALTERNATIVE USES: These lots could be used for single or two family dwelling units or it could continue as a non conforming multifamily (apartment) unit. There is an existing gas station across High Street with no required landscaping or buffering to soften the impact of the gas station directly across the street from the residential.

ANALYSIS:

1. The property is located at the northeast corner of S. 10th Street/ Highway 2 and High Street is across the street from a gas station, adjacent to a State Highway and adjacent to a single family neighborhood. It is currently being used as a one story apartment building and single family house.
2. The existing buildings on this site appear to be non standard, meaning they would not meet the setback requirements of the existing zoning district. The use as a multifamily dwelling unit is also nonconforming because multifamily is not allowed in the R-2 Residential Zoning district without a special permit.
3. Although the Comprehensive Plan shows this area as future urban residential on the 2040 Landuse Map, in practicality this is an ideal location for a transitional use. Office or medical office is generally a good transitional use between a commercial zoning district and a residential zoning district. These uses generally have fixed hours 8 to 5 Monday through Friday. The R-T Residential Transition District is a Use Permit district that requires a site plan for any use other than residential, in the district.
4. The use permit proposes to allow for the reduction of some front yard setbacks. The reduction of setbacks is to facilitate better building orientation and to maximize parking on site. The front yard setback along S. 11th Street is in line with the existing single family residence to the north. The setback reduction will be mitigated by additional landscape screening. A double row of landscaping of 90% from 0 to 3 feet will be required along High Street and S. 11th Street adjacent to the parking lot. The applicant's request to provide required parking lot screening in the right-of-way along High Street is acceptable since there is 80 feet of right-of-way width. It will be maintained by the lot owner even though it is in the right-of-way.
5. Street trees and sidewalks on S. 11th Street and High Street are required in order to mitigate reduction of the front yard setback. As a condition of approval a pedestrian easement should be granted to the City of Lincoln in the setback along S. 10th Street/ Highway 2 from the High Street right-of- way to the north property line. A note should be added to the site plan that a sidewalk shall be installed by the owner at no expense to the City at the time S. 10th Street/ Highway 2 is improved or sidewalk is installed on the east

side of 10th Street northwest of this property.

CONDITIONS OF APPROVAL:

This approval permits 4,700 square feet of office/ medical office with front yard setback reductions including: 25 feet to 23 feet for buildings along S. 10th Street and 25 feet to 10 feet for parking along S. 10th Street; 25 feet to 15 feet for buildings and parking along S. 11th Street and 10 feet to 0 feet for parking along High Street.

Site Specific Conditions for Use Permit #13010:

1. The City Council approves associated request: Change of Zone #13025.
2. 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.
 - 2.1 Change General Note # 1 to state “This Use Permit is approved for 4,700 square feet of office or medical office.”
 - 2.2 Change General Note #2 to state “Zoning is R-T.”
 - 2.3 Show only the building envelope on the site plan not the specific building footprint.
 - 2.4 Add to General Note # 5 (last Line) “Front yard setback adjacent to High Street shall be 0' for parking except a 2 foot parking overhang is required and can not cross the lot line.”
 - 2.5 Add to Note 14: “A pedestrian easement will be granted to the City of Lincoln and sidewalk installed by the owner at no expense at the time of South 10th Street is improved or sidewalk is installed on the east side of 10th Street northwest of this property.”
 - 2.6 Add a note that a double row of landscaping will be provided along High Street and S. 11th Street to compensate for the reduced parking setback.
 - 2.7 The required easements as shown on the site plan are recorded with the Register of Deeds.
3. Prior to the issuance of a building permit:
 - 3.1 The construction plans substantially comply with the approved plans.

Standard Conditions:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying buildings all development and construction is to substantially comply with the approved plans.
 - 4.2 All privately-owned improvements, including landscaping, are to be permanently maintained by the owner.
 - 4.3 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.

- 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. 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 therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.

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

DATE: November 14, 2013

OWNER: Donald E. Ganow
2904 S. 59th Street
Lincoln, NE 68506

CONTACT: Marcia Kinning
ESP
601 Old Cheney Rd., Suite A
Lincoln, NE 68512

APPLICANT: Travis Bangert
Advanced Chiropractic Solutions
3700 S. 9th Street
Lincoln, NE 68502

**CHANGE OF ZONE NO. 13025
and
USE PERMIT NO. 13010**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 27, 2013

Members present: Beecham, Corr, Harris, Hove, Sunderman and Weber; Lust, Cornelius and Scheer absent.

Staff recommendation: Approval of the change of zone and conditional approval of the use permit.

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** explained that the change of zone is from R-2 to R-T, which is a transitional zoning district between commercial and residential properties. The subject property is located on High Street and South 10th Street where Hwy 2 turns into S. 10th Street. It is across the street from a gas station with residential to the east, Van Dorn Park to the west and more commercial southeast of the gas station.

Today, the property currently consists of one single-family residence as well as an apartment complex. It is a one-story 6-plex located in R-2 zoning which makes it a nonconforming use. Today, the applicant is requesting a use permit that would allow an office or medical office on this site. The applicant has submitted a site plan showing both parking and landscaping, as well as the building they are requesting.

The application also includes a request to reduce setbacks, including a small reduction along South 10th Street to facilitate parking; to reduce the setback to zero along High Street to facilitate necessary parking; and a small reduction on South 11th Street. The residential houses just north have setbacks that are less than 25 feet. The house to the north has a 15' front yard setback, so this applicant is proposing to have that same setback. It will be landscaped in accordance with the parking lot design standards plus additional landscaping in order to help mitigate the reduced setback on both High Street and South 11th Street. The landscaping on High Street would be placed in the right-of-way. There is a large amount of right-of-way located on South 10th Street at this location. South 10th Street is not an arterial street, yet there is still 100' of right-of-way to facilitate the additional landscaping.

Eichorn also explained that the R-T zoning district can allow some small retail. In this case, it is allowing a certain amount of square footage for office/medical office. In the future, if the owner sells the building, the use permit does stay with the property and it would need to remain an office or medical office.

Beecham inquired whether medical office is normally allowed in R-2. Eichorn stated that it is not. The applicant was specifically asking for office or medical office and it just made sense for a use permit at this time. Beecham wondered why there were concerns about office uses when the R-2 district regulations were crafted. Eichorn responded that this is a change to R-T, which does allow a small amount of other uses besides office and medical uses. It depends on the user. That is why R-T is a use permit district with limited uses and design standards, which none of the

other zoning districts have, to help the transition from commercial to residential, including pitched roof, nothing on the rooftops, etc. The requirement is a 5,000 sq. ft. or less building footprint.

Beecham inquired about the buffer between the complex and the residence to the north. Eichorn stated that the office building actually backs itself to the residential, which was by design so that the parking and traffic coming into the office would come off High Street and close to the intersection of 11th & High. A fence is required.

Beecham inquired whether the applicant or staff has heard anything from the neighbors. Eichorn has not heard anything specific from the neighbors, but a representative of the Indian Village neighborhood did indicate there was no objection from their board. There has been nothing received in writing and no phone calls.

Proponents

1. **Lyle Loth** appeared on behalf of **Advanced Chiropractic Solutions**, the applicant. Loth had no additional information to share. He did point out that he had also sent a letter to the neighbors and received no comments whatsoever. In regard to the landscaping and buffering, there is significant landscaping along the north property line – there is double landscaping along both High Street and 11th Street.

Corr expressed appreciation to the applicant for reaching out to the neighbors.

There was no testimony in opposition.

CHANGE OF ZONE NO. 13025

ACTION BY PLANNING COMMISSION:

November 27, 2013

Corr moved approval, seconded by Sunderman.

Corr commented that this is a good change in the zoning. We already have a nonconforming use and it will help put it back into conforming. R-T is pretty new to us, but it puts a nice buffer between residential and commercial.

Hove believes this is a better use for the property with the traffic on Hwy 2.

Motion for approval carried 6-0: Beecham, Corr, Harris, Hove, Sunderman and Weber voting yes; Lust, Cornelius and Weber absent. This is a recommendation to the City Council.

USE PERMIT NO. 13010

ACTION BY PLANNING COMMISSION:

November 27, 2013

Weber moved to approve the staff recommendation of conditional approval, seconded by Beecham and carried 6-0: Beecham, Corr, Harris, Hove, Sunderman and Weber voting yes; Lust, Cornelius and Weber absent. This is a recommendation to the City Council.



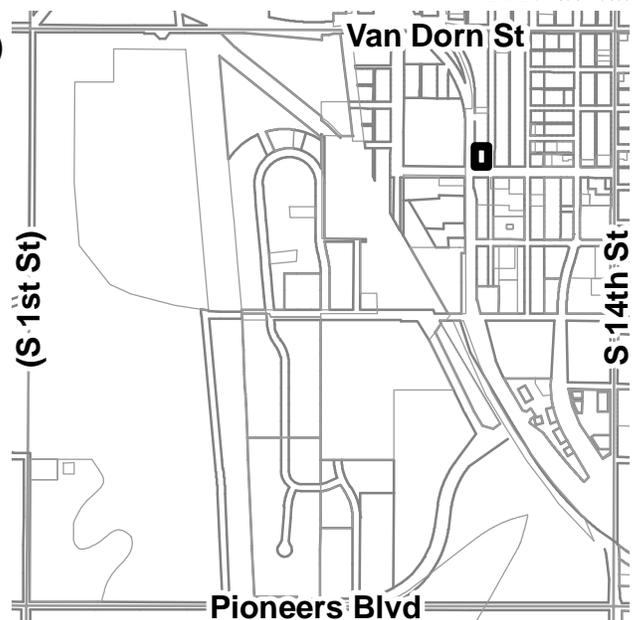
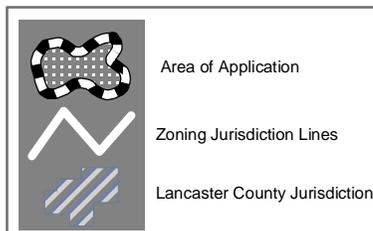
2013 aerial

**Use Permit #: UP13010 &
Change of Zone #: CZ13025 (From R-2 To R-T)
S 11th & High St**

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

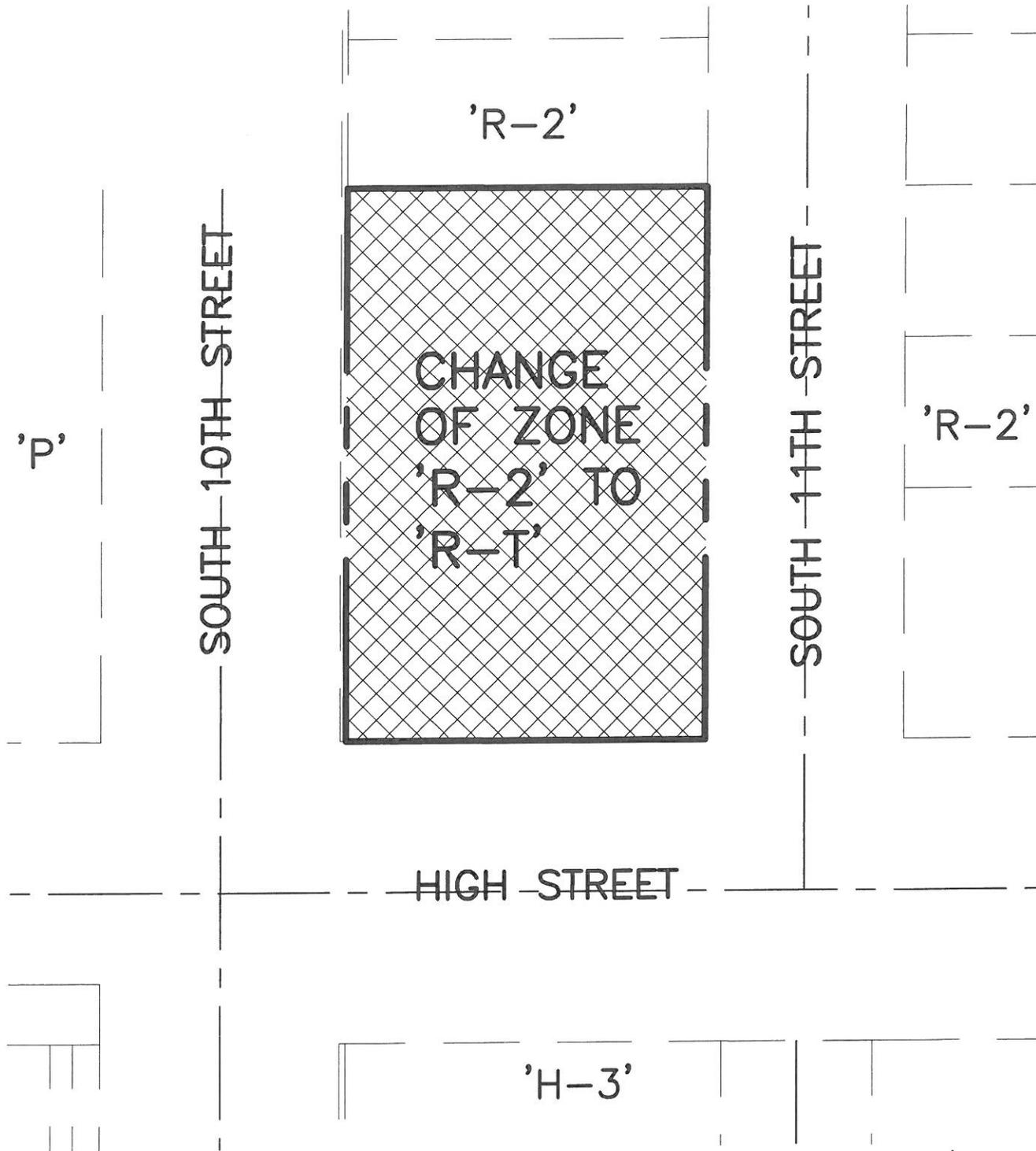
One Square Mile:
Sec.02 T09N R06E



ADVANCED CHIROPRACTIC SOLUTIONS

CHANGE OF ZONE EXHIBIT

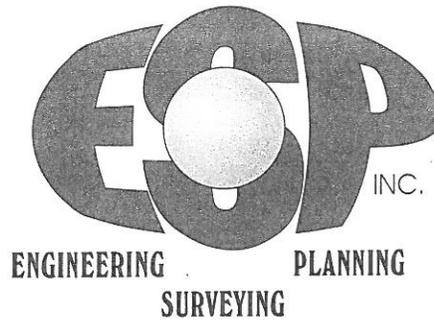
'R-2' TO 'R-T'



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October 25, 2013

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

RE: ADVANCED CHIROPRACTIC SOLUTIONS
USE PERMIT & CHANGE OF ZONE FROM 'R-2' TO 'R-T'
South 11th Street & High Street

Dear Marvin,

On behalf of Advanced Chiropractic Solutions, we request a Change of Zone from 'R-2' to 'R-T' and submit a Use Permit on 0.50 acres located at South 11th Street and High Street for your review. The use permit consists of a proposed 4,639 square foot medical office building with associated parking. The building will be constructed as a 3,274 square foot building with a future expansion area of 1,365 square feet.

Currently the property consists of 1 single family residence and 2 buildings with multi-family dwellings. The removal of all structures, pavement and numerous driveways to High Street and South 10th Street are being proposed. The proposed one-way parking lot will access South 11th Street with two single lane drives.

A 23 foot building setback has been shown along South 10th Street to allow expansion of the right-of-way in the future. Until that time of expansion, parking and driving aisles have been shown with the 23 foot setback. The owner/developer agrees to remove any obstructions within the setback at the time of the future street expansion.

011

LYLE L. LOTH, P.E./L.S.
lyle@espeng.com

JOHN FINKNER, E.I.
john@espeng.com

DALE SMITH, P.E.
dale@espeng.com

We are requesting the following waivers to the zoning ordinance:

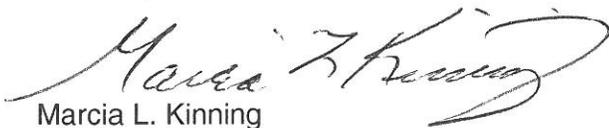
1. Front yard setback adjacent to South 11th Street from 20 feet to 15 feet. (Zoning Ordinance, Chapter 27.72, Table 27.72.030(a))
The adjacent neighborhood currently has existing residences closer to the front lot line than 20 feet. Through discussions with City departments, the front yard setback line should not be any less than the house located on the property to the north of this application. The house structure of the property to the north is 15 feet from the front lot line. With this adjustment, the proposed development will match the surrounding area better and allow the designed building to fit within the setbacks of South 10th and South 11th Streets.

2. Front Yard Setback adjacent to High Street from 10 feet to zero feet. (Zoning Ordinance, Chapter 27.72, Table 27.72.030(a))
The current right-of-way of High Street is 100 feet with the pavement width being 31 feet. There are no plans of widening High Street in the near or distant future. Instead of requesting a street vacation of 10 feet along High Street we are requesting a zero yard setback to allow enough area for the required parking lot. A 2 foot space between the lot line and back of curb of pavement will be maintained for the overhang of vehicles to remain within the lot. The landscape screening will be placed within the right-of-way of High Street. An increased amount of landscaping has been shown along High Street to compensate for the reduced setback.

3. Parking lot setback from residential zoning from 20 feet to 15 feet. (Zoning Ordinance, Chapter 27.72.030(b)(1)(i))
The future removal of the parking lot within the 23 foot setback along South 10th Street and a 20 foot parking setback along South 11th Street would only allow 19 parking stalls for the development. To keep the required parking stalls needed with the future addition onto the proposed building, the reduction of the setback to residential zoning is needed. An increased amount of landscaping has been shown along South 11th Street to compensate for the reduced setback.

Please contact me if you have any questions or comments.

Sincerely,



Marcia L. Kinning

Cc: Travis Bangert
Enclosures: Change of Zone Application
Change of Zone Application Fee of \$330.00
COZ Exhibit
COZ Legal Description
Use Permit Application
User Permit Application Fee of \$858.00