

RESOLUTION NO. A-_____

USE PERMIT NO. 13011

1 WHEREAS, Brehm Enterprises, Inc. has submitted an application
2 designated as Use Permit No. 13011 to develop approximately 50,200 sq. ft. of
3 commercial space, with a request to waive the required front yard setbacks for buildings
4 and parking lots along North 84th Street, O Street, Russwood Parkway and College
5 Park Drive, on property generally located at North 84th Street and O Street, and legally
6 described as:

7 Lots 3 and 4, Russwood Park Addition, Lincoln, Lancaster
8 County, Nebraska;

9 WHEREAS, the real property adjacent to the area included within the site
10 plan for this commercial development will not be adversely affected; and

11 WHEREAS, said site plan together with the terms and conditions
12 hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln
13 Municipal Code to promote the public health, safety, and general welfare.

14 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
15 Lincoln, Nebraska:

1 That the application of Brehm Enterprises, Inc., hereinafter referred to as
2 "Permittee", to develop approximately 50,200 sq. ft. of commercial floor area on the
3 property legally described above be and the same is hereby granted under the
4 provisions of Section 27.31.030 and Section 27.64.010 of the Lincoln Municipal Code
5 upon condition that construction and operation of said commercial development be in
6 substantial compliance with said application, the site plan, and the following additional
7 express terms, conditions, and requirements:

8 1. This permit approves approximately 50,200 sq. ft of commercial floor area
9 with a modification to the front yard setback along North 84th Street, O Street,
10 Russwood Parkway and College Park Drive, and adopts site design standards and
11 building design standards.

12 2. Before receiving building permits:

13 a. The Permittee shall cause to be prepared and submitted to the
14 Planning Department a revised and reproducible final plot plan
15 including five copies with all required revisions as listed below:

16 i. Remove the text, "right-of-way to be dedicated for credit for
17 street impact fees" and replace with "Area to be dedicated as
18 right-of-way".

19 ii. Add to the General Notes, "Signs need not be shown on this
20 site plan, but need to be in compliance with chapter 27.69 of
21 the Lincoln Zoning Ordinance, and must be approved by
22 Building & Safety Department prior to installation".

23 iii. Delete the text "Amended Use Permit #53A" and replace it
24 with "Use Permit #13011".

25 iv. Delete notes 11, 12 and 13, which are not necessary.

26 v. Correct the misspelling of the word 'Eaves' in Note 14.

- 1 vi. Show the sidewalk along 'O' Street to be relocated 8 feet
2 from the back of curb as stated in Note 15.
- 3 vii. Add a dashed line to the plan that shows 70 feet from
4 centerline of N. 84th Street. Dimension the 10' setback for the
5 grocery store and parking lot from the dashed line.
- 6 viii. Show the appropriate location for the sidewalk within the
7 future 140 foot right-of-way along N. 84th Street.
- 8 ix. Show the location of the dumpster and screening.
- 9 x. Revise the right-of-way dedication to 20 feet along N. 84th
10 Street. Revise the right-of-way dedication along 'O' Street to
11 align with the right-of-way to the west.
- 12 xi. Adjust the setback measurements for the building and
13 parking lot. The setbacks should be measured from the
14 future right-of-way line.
- 15 xii. Add the Site Design Standards and Building Design
16 Standards, as shown in Revised Exhibit 1 to the General
17 Notes. Update the dimensions on the plan as needed.
- 18 xiii. Add a note to the plan that states, "A landscape plan will be
19 approved by the Director of Planning, prior to approval of the
20 final plat, or prior to a building permit being issued."
- 21 b. Submit a grading and drainage plan to be approved by the Public
22 Works and Utilities Department.
- 23 c. Provide documentation from the Register of Deeds that the letter of
24 acceptance as required by the approval of the special permit has
25 been recorded.

26 3. The easternmost access on College Park Drive may be constructed
27 without a median or without a right-in, right-out design, only if the western driveway is
28 constructed at the same time. A median or other design to limit access to right-in, right-
29 out will be constructed immediately in the eastern driveway, at the expense of the
30 Permittee, if either of the following conditions are present:

- 1 (1) If two separate crashes occur within a 12 month period
2 which would otherwise have been prevented by a right-in,
3 right-out driveway; or
4 (2) The City receives a report or observes two or more
5 instances in a 30-day time period, where traffic is backing up
6 into the N. 84th Street and College Park Drive intersection, as
7 a result of driveway induced congestion.

8 4. Dedicate the right-of-way, as shown on the site plan, along N. 84th Street
9 and 'O' Street at time of final plat. If a final plat is not submitted then dedicate the right-
10 of-way prior to obtaining a building permit.

11 5. Replace Exhibit 1 (the recommended additions/deletions to the General
12 Notes on the site plan) with the attached Revised Exhibit 1.

13 6. Prior to the issuance of a building permit:

- 14 a. The construction plans must substantially comply with the approved
15 plans.
16 b. Final plat(s) shall be approved by the City (if subdividing is
17 required).

18 If any final plat on all or a portion of the approved use permit is
19 submitted five (5) years or more after the approval of the use
20 permit, the city may require that a new use permit be submitted,
21 pursuant to all the provisions of section 26.31.015. A new use
22 permit may be required if the subdivision ordinance, the design
23 standards, or the required improvements have been amended by
24 the city; and as a result, the use permit as originally approved does
25 not comply with the amended rules and regulations.

26 7. Before the approval of a final plat, the public streets, private roadway
27 improvements, sidewalks, public sanitary sewer system, public water system, drainage
28 facilities, land preparation and grading, sediment and erosions control measures, storm

1 water detention/retention facilities, drainageway improvements, street lights,
2 landscaping screens, street trees, temporary turnaround and barricades, and street
3 name signs, must be completed or provisions (bond, escrow or security agreement) to
4 guarantee completion must be approved by the City Law Department. The
5 improvements must be completed in conformance with adopted design standards and
6 within the time period specified in the Land Subdivision Ordinance. Permittee agrees to
7 enter into an agreement with the City wherein Permittee as Subdivider shall agree:

- 8 a. To complete the installation of sidewalks along N. 84th Street,
9 College Park Drive, Russwood Parkway and 'O' Street as shown on
10 the final plat within two (2) years following the approval of the final
11 plat.
- 12 b. To complete the enclosed public drainage facilities shown on the
13 approved drainage study to serve the plat within two (2) years
14 following the approval of the final plat.
- 15 c. To complete the enclosed private drainage facilities shown on the
16 approved drainage study to serve the plat within two (2) years
17 following the approval of the final plat.
- 18 d. To complete land preparation including storm water
19 detention/retention facilities and open drainageway improvements
20 to serve the plat prior to the installation of utilities and
21 improvements but not more than two (2) years following the
22 approval of the final plat
- 23 e. To complete the installation of street trees along the streets as
24 shown on the final plat within two (2) years following the approval of
25 the final plat.
- 26 f. To complete the planting of the landscape screen within the plat
27 within two (2) years following the approval of the final plat.
- 28 g. To complete the installation of the permanent markers prior to
29 construction on or conveyance of any lot in the plat.
- 30 h. To complete any other public or private improvement or facility
31 required by Chapter 26.23 (Development Standards) of the Land

- 1 Subdivision Ordinance in a timely manner which inadvertently may
2 have been omitted from the above list of required improvements.
- 3 i. To submit to the Director of Public Works a plan showing proposed
4 measures to control sedimentation and erosion and the proposed
5 method to temporarily stabilize all graded land for approval.
- 6 j. To comply with the provisions of the Land Preparation and Grading
7 requirements of the Land Subdivision Ordinance.
- 8 k. To complete the public and private improvements.
- 9 l. To keep taxes and special assessments on the outlots from
10 becoming delinquent.
- 11 m. To maintain the outlots and private improvements in a condition as
12 near as practical to the original construction on a permanent and
13 continuous basis.
- 14 n. To maintain the landscape screens on a permanent and continuous
15 basis.
- 16 o. To maintain and supervise the private facilities which have common
17 use or benefit in a condition as near as practical to the original
18 construction on a permanent and continuous basis, and to
19 recognize that there may be additional maintenance issues or costs
20 associated with providing for the proper functioning of storm water
21 detention/retention facilities as they were designed and constructed
22 within the development and that these are the responsibility of the
23 Permittee.
- 24 p. To retain ownership of and the right of entry to the outlots in order
25 to perform the above-described maintenance of the outlots and
26 private improvements on a permanent and continuous basis.
27 However, Permittee may be relieved and discharged of such
28 maintenance obligations upon creating in writing a permanent and
29 continuous association of property owners who would be
30 responsible for said permanent and continuous maintenance
31 subject to the following conditions:
- 32 (1) Permittee shall not be relieved of Permittee's maintenance
33 obligation for each specific private improvement until a
34 register professional engineer or nurseryman who
35 supervised the installation of said private improvement has
36 certified to the City that the improvement has been installed
37 in accordance with approved plans.

1 (2) The maintenance agreements are incorporated into
2 covenants and restrictions in deeds to the subdivided
3 property and the documents creating the association and the
4 restrictive covenants have been reviewed and approved by
5 the City Attorney and filed of record with the Register of
6 Deeds.

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

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

12 10. The terms, conditions, and requirements of this resolution shall run with
13 the land and be binding upon the Permittee, its successors and assigns.

14 11. The Permittee shall sign and return the letter of acceptance to the City
15 Clerk. This step should be completed within 60 days following the approval of the
16 special permit. The City Clerk shall file a copy of the resolution approving the use
17 permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be
18 paid in advance by the Permittee. Building permits will not be issued unless the letter of
19 acceptance has been filed.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2014:

Mayor