

## **FACTSHEET**

**TITLE:** PRE-EXISTING USE PERMIT NO. 3AD  
(Gateway Shopping Mall)

**BOARD/COMMITTEE:** Planning Commission

**APPLICANT:** Chad Becwar

**RECOMMENDATION:** Conditional Approval (9-0:  
Beecham, Cornelius, Corr, Harris, Weber, Scheer,  
Sunderman, Hove and Lust voting 'yes'.

**STAFF RECOMMENDATION:** Conditional approval

**OTHER DEPARTMENTS AFFECTED:** N/A

**SPONSOR:** Planning Department

**OPPONENTS:** None

### **REASON FOR LEGISLATION:**

To amend the pre-existing use permit to allow banner signs in the parking lot at Gateway Shopping Mall, generally located at North 66<sup>th</sup> and O Streets.

### **DISCUSSION/FINDINGS OF FACT:**

1. This is a request to amend the pre-existing use permit at Gateway Shopping Mall by waiving the provisions of the sign ordinance to allow the installation of pairs of banners and banner hardware on eleven existing light poles in the south Gateway parking lot for two years.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.3-4, concluding that approval of the use of banner signs in the parking lot of the Gateway Regional Shopping Center on a limited basis is appropriate. Gateway is a unique shopping center with significant landscape setbacks to O Street. Adding limited banner signs in the south parking lot may provide a livelier appearance to an aging commercial center. The banners should not negatively impact adjacent properties or the adjacent right-of-way. This proposal is in conformance with the Comprehensive Plan. The staff presentation is found on p.7-8.
3. The applicant's testimony is found on p.8.
4. There was no testimony in opposition.
5. On September 3, 2014, the Planning Commission voted 9-0 to recommend conditional approval.

**FACTSHEET PREPARED BY:** Jean L. Preister

**DATE:** September 8, 2014

**REVIEW ED BY:** Marvin Krout, Director of Planning

**DATE:** September 8, 2014

**REFERENCE NUMBER:** f:\devreview\factsheets\CC\2014\PEUP3AD

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

## for September 3, 2014 PLANNING COMMISSION MEETING

- PROJECT #:** Pre-existing Use Permit No. 3AD
- PROPOSAL:** To allow 11 pairs of banner type signs mounted on light poles in the south parking lot of Gateway Shopping Center.
- LOCATION:** N. 66<sup>th</sup> Street and O Street
- EXISTING ZONING:** B-5 Planned Regional Business District.
- CONCLUSION:** Approval of the use of banner signs in the parking lot of the Gateway Regional Shopping Center on a limited basis is appropriate. Gateway is a unique shopping center with significant landscape setbacks to O street. Adding limited banner signs in the south parking lot may provide a livelier appearance to an aging commercial center. The banners should not negatively impact adjacent properties or the adjacent right of way. This proposal is in conformance with the Comprehensive Plan.

<b>RECOMMENDATION:</b>	Conditional Approval
Waivers/modifications: To allow more than one freestanding sign per building.	

### GENERAL INFORMATION:

**LEGAL DESCRIPTION:** Lot 4, Gateway Shopping Center Subdivision, located in the SW 1/4 of Section 21-10-7, Lincoln, Lancaster County, Nebraska

**EXISTING LAND USE:** Indoor Shopping Mall

### **SURROUNDING LAND USE AND ZONING:**

North: B-5 Planned Regional Business District.	Gateway -Retail and restaurants
South: B-1 Local Business District	Carwash, retail and restaurants
East: B-5 Planned Regional Business District.	Gateway -Retail and restaurants
West: B-5 Planned Regional Business District.	Ameritas Offices

### **HISTORY:**

- 1959** "Gateway" was zoned "G" Local Business and A-2 Residential in. The original Gateway mall was completed.
- 1968** The balance of R-2 zoning was changed to "G" and "G-1" Planned Commercial.
- 1979** During the 1979 zoning update, this area was converted to "B-5" Planned Regional Business and designated as Pre-Existing Use Permit #3. Numerous amendments have been made since that date.

**2003** PEUP #3AA which made adjustments to on premises signs, had a partial recommendation of approval by Planning Commission on **October 30, 2002**. It was partially approved by City Council on January 27, 2003. PEUP #3AA was reconsidered and approved in total by the City Council on February 3, 2003, including a large sign on "O" Street. PEUP #3AA was vetoed by the Mayor on **February 11, 2003**. In **August of 2003** City Council approved an amendment PEUP3AB which did 3 things. First it reflected the overall sign package previously approved by Planning Commission and the first round of the City Council. The reconsidered sign package approved by Council included a large 250 square foot, 50 foot high pole sign. Such a large pole sign resulted in the Mayoral veto of PEUP #3AA. This request does not include the large pole sign that was an issue and cause of the veto. Second, Signs 1C, 1D, and 1E are adjustments of approved ground signs and were approved. Finally, sign 1A and 1B, 28 square foot ground signs, were deemed to be appropriate east entrance signs if located on the property, outside the sight triangles and no more than 25' ( ½ the distance) into the front yard setback.

## **COMPREHENSIVE PLAN SPECIFICATIONS:**

**Pg 1.8** - This site is designated for commercial land uses on the Future Land Use Map.

**Pg 5.1 - Guiding Principles** - Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.

**TOPOGRAPHY:** Slopes toward N. 66<sup>th</sup> and O Street

**TRAFFIC ANALYSIS:** O Street is a major arterial street. The proposed banner signs will be visible only from O Street.

## **AESTHETIC CONSIDERATIONS:**

Gateway is one of a handful of unique retail developments in the city that is characterized by dozens of tenants in a single building, with few buildings that are deeply setback from public streets, providing limited opportunity to advertise on the perimeter building walls, and with minimal free-standing "center" signs permitted along the large O Street frontage.

This is the largest retail parking area in the city. A modest array of colorful banners, spaced widely from each other, well set back from the O Street right of way, and softened by the extensive landscaping along the street frontage, will decorate/enliven the large expanses of paving without creating a cluttered appearance.

## **ANALYSIS:**

1. This application is for the installation of pairs of banners and banner hardware on 11 existing light poles in the south Gateway parking lot as shown on the site plan.
2. Chapter 27.69, the Sign Ordinance in the Lincoln Municipal Code considers Banners to be a type of temporary sign "*Temporary sign shall mean any outdoor sign or device including but not limited to banners, pennants, flags, or advertising display constructed of cloth, canvas, light fabric, cardboard, or other light materials, with or without frames, intended to be displayed for a limited period of time and which is not permanently affixed;*". Banners must be placed on building walls, limited to 60 days in a calendar year and 100 Square feet per facade.
3. Unlike the temporary banners mentioned above, the banners proposed for Gateway's south parking lot may be utilized year round, with the banner being changed out

seasonally. The banners will be placed on 11 different existing light poles in the parking lot. Each light pole will have a pair of banners, with each banner being a maximum 8 x 2 ½ feet in area. Banners will be affixed to the banner hardware along the top and bottom perimeters and to the poles in a way that they remain rigid.

4. Because these banner signs will not be temporary in nature, they will require a sign permit issued by Building and Safety. With the sign permit, the applicant will be required to provide information that is sufficient for Building and Safety to determine that the banners and hardware will withstand wind loads of 90 miles per hour.
5. The height of the banner will be limited to 18 feet tall. This is the same height limitation for freestanding signs in the B-5 District.
6. It is important that the well landscaped yard area along the O Street frontage remain in place and be replaced as required, not cleared to make banners more visible.
7. It is important that the banners be maintained and replaced as needed so that they do not present a torn or faded appearance. The applicant has indicated to staff that the banners would be changed out every 90 days, and potentially only used 90 days a year.
8. While there may be banners and other temporary signs in existence today on private property, throughout the City, many are not in compliance with the sign code. Banners such as what is proposed with this amendment have not been approved as part of any other commercial development. For that reason it is recommended that these banners be allowed to remain in place for a period of only two years after Council approval. After two years, the owner could submit a request to amend the Use Permit to extend the use of these banners for a specific or indefinite period of time, based on a finding that the impact of these additional signs have been consistent with the purpose of the sign code provisions to consider the commercial communication needs of the business served while maintaining the safety, property values and visual appearance of the area.

**CONDITIONS OF APPROVAL:**

This approval permits 11 banner signs in the south parking lot of Gateway Mall as shown on the site plan.

**Site Specific Conditions:**

1. The permittee 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 before a sign permit is granted:

Add the following notes to the site plan:

- 1.1 The approval is for the installation of banners and banner hardware on 11 existing light poles in the parking lots that are under Gateway's ownership and control as indicated on this site plan.
- 1.2 Each light pole may have a pair of banners, with each banner being a maximum 8 x 2 ½ feet in area.

- 1.3 Banners must be affixed to the banner hardware along the top and bottom perimeters and to the poles in a way that they remain rigid.
- 1.4 The height of the banner shall not exceed 18 feet.
- 1.5 Existing landscape materials along the O Street frontage shall remain in place and be replaced as required to maintain the current level of screening.
- 1.6 The applicant must submit information to Building & Safety with the sign permit that is sufficient for that office to determine that the banners and hardware will withstand wind loads.
- 1.7 Banners shall be maintained and replaced as needed so that they do not present a torn or faded appearance; if any banners fall out of compliance with this condition and after appropriate notice to bring any banners into compliance, Building & Safety may order the permanent removal of all banners.
- 1.8 No additional building or wall signs may be added except by amendment or administrative amendment to the pre-existing use permit.
- 1.9 The banners may remain in place for a period of two years after Council approval. The owner may submit a request to the Planning Director that can be approved administratively to extend the use of these banners for a specific or indefinite period of time.

**Standard Conditions:**

2. The following conditions are applicable to all requests:
  - 2.1 Before granting any sign permits all development and construction is to substantially comply with the approved plans.
  - 2.2 All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City.
  - 2.3 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.
  - 2.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 2.5 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, filing 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:** August 22, 2014

**APPLICANT/CONTACT:** Chad Becwar  
#5 Gateway Mall  
Lincoln, NE 68505  
402-464-3196

**OWNER:** Starwood Retail Partners  
#5 Gateway Mall  
Lincoln, NE 68505

# PRE-EXISTING USE PERMIT NO. 3AD

## PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 3, 2014

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

Staff recommendation: Conditional approval.

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** presented the proposal which is specific in regard to signage at Gateway Mall generally located at Street 66th Street and O Street. Gateway is a pre-existing use permit, which means there was a development on the site prior to the 1979 zoning ordinance update, thus deemed to have a use permit when zoned B-5 back in 1979.

Gateway is a very, very large use permit that has had many changes over the years. This application is for one small change to a very small portion of the overall site plan of that pre-existing use permit.

Eichorn explained that use permits allow the Planning Commission and the City Council to make some adjustments to signs because we can show them specifically and approve them specifically on site plans associated with use permits or special permits. In this case, we are talking specifically about banner signs, which are cloth-like instruments that have to be attached to a building and which are considered temporary in nature under the code today. Fortunately, the applicant has come to the city to do some banner signs in the south parking lot to add some visual interest to the parking lot. Because these signs can be seen from the street is why they are considered signs. If they were on the light poles, they would not be considered signs. The applicant intends to use these banner-type features in the parking lot with the tenants' names on the banners. The banners would be attached to light poles.

Eichorn further explained that this amendment to the pre-existing use permit proposes to treat these signs in a similar fashion to a free-standing sign, which is a permanent sign you see out in front of a building either on a pole or with some brick foundation, and which can be 50 to 100 square feet in size, and required to be placed at least 50' apart. The applicant is proposing 11 of these signs to be attached to light poles within the south parking lot. The signs would be more than 50 feet apart; the banner signs are almost all internal to the center in that there is a significant amount of landscaping that comes around the parking lot and a lot of the landscaping actually obscures some of the banner signs from the street.

Because there is not currently a provision to address this type of signage on private property in the sign ordinance, the applicant has come forward and wants to try this and the staff wants to help. These signs would be allowed as free-standing signs requiring a sign permit through the Building & Safety Department. Building & Safety will check to make sure the signs are safe. The signs would have a two-year life span. After two years, there is an opportunity for the City to determine whether this was a good or bad thing and whether it should be included in the sign chapter of the zoning ordinance.

Eichorn pointed out that there are other conditions in the staff report requiring that the signs be changed out after three or four months because they are made of cloth and the elements will take their toll. They must be kept looking fresh for aesthetics of the community and for the tenants.

Cornelius suggested hypothetically, that if the parking lot were located well below the street level with retaining walls so the signs were not visible from the street, we would not be having this conversation. Eichorn agreed.

### Proponents

**1. Chad Becwar**, 7405 N. 15<sup>th</sup> Street, testified as the applicant. The real reason for this request is two-fold. Gateway is the only enclosed mall within a 60-mile radius of Lincoln, and the competitive landscapes have changed quite a bit. With an interior mall, you do not know what is inside the mall. Gateway is bringing in some new retail and they want people to come into town from the rural market and actually see what's going on in Lincoln. There is currently a lot of pre-planning going on for some development in Gateway and they would like to implement this signage with some of that planning as well. The banners will change the landscape on the south side. This is a great opportunity to change the aesthetics of the mall.

Becwar also acknowledged that this is a test. If it does not work well in two years, the applicant will understand. It is a competitive approach. It gives the retailers a great opportunity to shop their name to the community and anyone coming into the community.

Hove inquired whether the signs will be rented to the retailers. Becwar responded that this is a marketing campaign. The signs will not be rented to the tenants. They will focus on the top 25 tenants to get those names out there so that people understand what is inside the mall. This is not an attempt to gain revenue. It is strictly to attract people to the mall. It is part of a bigger picture of marketing that Gateway is going to do in Lincoln.

There was no testimony in opposition.

### Staff questions

Beecham noted that the information talks about the banner hardware being attached to light poles. What is the plan if this does not work? Is there something that would require that the light poles be put back to the original condition? Eichorn responded that they will have to take out sign permits. She was not sure what all is entailed in that permit, but generally a sign with footings and hardware is required to be removed when the sign is no longer in use. After two years, unless they come in and request to make it a permanent fixture, the hardware would have to come down as well as the signs.

Lust wondered whether the applicant could put green, yellow and red signs with no words in this parking lot at the present time without a sign permit. Eichorn stated that they could not put up color flags that flapped in the wind. If there were no language on these banners, then it gets to that level where it is difficult to interpret what is a sign and what is not a sign. She commended the applicant for coming to the city rather than erecting something illegal.

Harris inquired about the review process after the two years have passed. Eichorn explained that after two years, the responsibility for checking on this particular signage is going to fall on



the applicant and the Planning and Building & Safety Departments. The City would either send the applicant a letter to remove the signs, or the staff would need to work with the applicant to amend the permit to make them permanent.

There was no further response by the applicant.

**ACTION BY PLANNING COMMISSION:**

September 3, 2014

Hove moved to approve the staff recommendation of conditional approval, seconded by Weber.

Cornelius stated that he is comforted by the sunset that is built into this, giving us time to see how it works and review it. It can be put aside or we can incorporate it into the code if it turns out well. This is a chance to test something that was unforeseen and he will support it.

Lust commented that she is always a little hesitant when there is something outside of the sign code because a lot of work went into the current sign code, but this seems like a great thing to articulate the parking lot and attract businesses and it does not seem obtrusive in any way.

Motion for conditional approval carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Scheer, Sunderman, Weber and Lust voting 'yes'. This is a recommendation to the City Council.