City Council Introduction: **Monday**, January 11, 2016
Public Hearing: **Monday**, January 25, 2016, at 5:30 p.m.

Bill No. 16-1

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 15030**

APPLICANT: MAPCO, Inc. on behalf of Dan Dallman

STAFF RECOMMENDATION: Conditional Approval

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission

RECOMMENDATION: Conditional Approval, subject to a zoning agreement (8-0: Lust, Sunderman, Beecham, Cornelius, Corr, Harris, Scheer, and Hove voting 'yes'; Weber Absent).

OTHER DEPARTMENTS AFFECTED: N/A

OPPONENTS: 2.

REASON FOR LEGISLATION:
To change the zoning on approximately 0.45 acre, more or less, from R-2 Residential District to B-3 Commercial District, on property generally located at the southeast corner of South 7th Street and South Street.

DISCUSSION/FINDINGS OF FACT:

1. Approval of this change of zone request with certain conditions will allow for the development of a 4,000 square foot building used for contractor services and a paved parking lot.

2. The staff recommendation of approval, subject to a zoning agreement, is based upon the "Analysis" as set forth on p.3-4, concluding that this is a transition area of South Street that is zoned R-4 Residential. There is a block and a half of property zoned R-4 that is located between B-3 Commercial zoning east of South 7th Street. Over time, it is likely that the remaining residential uses between the B-3 and I-1 districts will transition to non-residential uses as has occurred along South Street east of South 9th Street. The change of zone to B-3 Commercial zoning, with certain conditions, will be a transition from the industrial uses to the west and should address some of the impacts on adjacent residential uses to the east. The staff presentation is found on p.6-7.

3. The applicant's testimony is found on p.7-9. The proposed Development and Conditional Zoning Agreement (Bill #16R-7) addresses concerns of the neighbors, by specifically providing for limited use of this property, requiring a 12-foot landscaping buffer, and prohibiting access to this property from the abutting north/south alley on the east.

4. There was testimony in opposition by two adjacent property owners, which can be found on p.8.

5. On November 18, 2015, the Planning Commission voted 8-0 to recommend conditional approval, as set forth in the revised staff report dated November 4, 2015, and subject to the conditional zoning agreement.

6. The associated Development and Conditional Zoning Agreement is also being introduced on January 11, 2016, as Bill #16R-7.

FACTSHEET PREPARED BY: Geri Rorabaugh **DATE**: January 4, 2016

REVIEWED BY: David R. Cary, Acting Director of Planning **DATE**: January 4, 2016

REFERENCE NUMBER: FS\CC\2016\CZ15030

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for November 18, 2015 PLANNING COMMISSION MEETING
****As Revised and Adopted by Planning Commission**
for Conditional Approval: November 18, 2015

PROJECT #: Change of Zone #15030

PROPOSAL: To rezone property from R-4 Residential to B-3 Commercial

LOCATION: 711 and 725 South Street, generally located on the southeast corner of S. 7th Street and South Street

LAND AREA: 0.45 acres, more or less

EXISTING ZONING: R-4 Residential

CONCLUSION: This is a transition area of South Street that is zoned R-4, Residential. There is a block and a half of property zoned R-4 that is located between B-3 Commercial zoning east of S. 8th Street and I-1 Industrial zoning west of S. 7th Street. Over time it is likely that the remaining residential uses between the B-3 and I-1 districts will transition to non-residential uses as has occurred along South Street east of S. 9th Street. The change of zone to B-3 Commercial zoning, with certain conditions, will be a transition from the industrial uses to the west and should address some of the impacts on adjacent residential uses to the east.

RECOMMENDATION: Approval, subject to a zoning agreement.

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal description.

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North: Single-Family Dwellings/R-4
South: Window Manufacturer/I-1
East: Single-Family Dwellings/R-4
West: Various Industrial Uses/I-1

HISTORY:
This property was rezoned from Two-Family Residential District to R-4, Residential District with the 1979 Zoning Update.

COMPREHENSIVE PLAN SPECIFICATIONS:

P. 1.8 - This property is shown as Urban Residential on the Future Land Use Map.

P. 5.14 - Strategies for Commercial Infill: Develop infill commercial areas to be compatible with the character of the area.

P. 5.14 - 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.

P. 5.18 - Industrial zoning districts should be primarily for industrial uses.

P. 5.18 - Risk Reduction: In areas where industrial and residential uses are already close, efforts should focus on changes in the quantity and type of hazardous materials used and on increasing the distance between to where hazardous materials are stored and residential districts.

SOUTH STREET REDEVELOPMENT PLAN:

The South Street Redevelopment Plan was adopted in July 2007, and the plan boundary included this property. A number of known redevelopment projects were included in the plan at the time is was adopted. The plan supports redevelopment throughout the corridor but did not specifically call for commercial development at this location. Over time the plan recognizes and reacts to redevelopment proposals that were not in the original plan.

UTILITIES: This site is served by existing utilities.

TOPOGRAPHY: The site generally drains to the west.

TRAFFIC ANALYSIS: South Street is classified as a minor arterial and S. 7th Street is a local street.

ANALYSIS:

1. This request is to rezone property located at 711 and 725 South Street from R-3 Residential to B-3 Commercial. Dallman Drywall owns the property and would like to use the property for contractor services. Development on the property would include an approximately 4,000 square foot building and paved parking lot. This property was previously occupied by dwellings, but those structures have been demolished.

2. The zoning pattern of this area is mixed with a combination of residential, commercial and industrial. The block face from S. 7th to S. 8th Street is completely occupied by R-4 zoning as well as the ½ block to the east. The block and a half of R-4 zoning is located between B-3 Commercial to the east and I-1 Industrial to the west. R-2 is located to the southeast along S. 8th Street. Given the existing zoning pattern the R-4 area is recommended to transition to commercial zoning over time. These blocks also front on South Street which is classified as a minor arterial street. Redevelopment from residential to commercial is appropriate at this location along an arterial street.

3. The Lincoln-Lancaster County Health Department does not object to the approval of this application. The proposal doesn't expand the I-1 zoning closer to the residential uses to the east. The B-3 zoning would become a transition from the I-1 on the south and west to the R-4 and R-2 on the east.

4. This request is similar to a recent application that was recommended for approval by the Planning Commission and approved by the City Council. A change of zone was requested on S.W. 1st Street near W. L Street. That property was zoned R-4 and was across the street from I-1 zoning and industrial uses. The request was to rezone property from R-4 Residential to H-3 Highway Commercial. Given the proximity to industrial zoning and uses it was no longer an appropriate location for residential development. That change of zone application was supported by City staff with an accompanying zoning agreement that addressed land uses and buffering between the nearby residences and public park.

   The property located at the southeast corner of S. 9th & South Street was approved for redevelopment in 2007. A change of zone from R-4 Residential to B-3 Commercial was approved on that property as well. A conditional zoning agreement accompanied the change of zone request in order to protect nearby residential properties.

5. The requested change of zone to B-3 will facilitate the eventual conversion of the property to commercial uses which is consistent with the long-term vision for South Street. There are a few items in regards to the use of the property that the B-3 zoning district alone does not address. The zoning agreement will accompany the change of zone. The draft agreement (attached) requires the following:

   - The property shall only be used for offices, personal services, adult day services, neighborhood support services, kennels/veterinary facilities (per the conditional use conditions), and contractor services (per the conditional use conditions, except that no open and unenclosed storage of materials and equipment shall be allowed).

   - Provide a 12 foot wide landscaping buffer along the entire east side of the property that includes at least a double row of the 60% screen from the ground elevation to a height of 10 feet. A fence may be used with the screening, but a fence alone does not eliminate the requirement for a double row of landscaping.

   - Access to the property is restricted to S. 7th Street and the east/west alley on the south.

   - Conditions a and b shall remain in effect as long as the property to the east (729 South Street) is zoned residential.

6. The Watershed Management Division reviewed the proposed drainage plan for this development and notes that changes in the grading plan or other improvements may be needed to address the increased runoff with this development.

7. The applicant will be holding a neighborhood meeting on November 5th and will provide neighborhood feedback at the November 18th Planning Commission hearing.

<u>CONDITIONS OF APPROVAL:</u>

1. Sign the zoning agreement before the City Council approves the change of zone.

   1.1 Revise the site plan to:

1.1.1 Add a note to the plan that states "The east/west alley must be paved adjacent to the property if the east/west alley will be used to access the site."

1.1.2 Change the landscape buffer to 12 feet.

1.1.3 Add a note to the plan that states "The location of the fence is flexible and should be located ~~Shift the location of the fence~~ so the landscaping can be easily maintained."

1.1.4 Remove the sign on the site plan and add a note that states, "Signs need not be shown on this plan but are permitted per Chapter 27.69 and must be approved through the Building and Safety Department."

1.1.5 Remove "Sound Proof" from the fence description.

1.1.6 Note on the plan the type of curb or barrier to the existing alley.

1.1.7 Revise the plan to the satisfaction of the Public Works & Utilities Watershed Management Division.

Prepared by:

Paul Barnes, Planner
402-441-6372
pbarnes@lincoln.ne.gov

DATE: November 4, 2015 **REVISED: November 18, 2015**

APPLICANT/OWNER: Dan Dallman
622 South Street
Lincoln, NE 68502

CONTACT: Gus Ponstingl
PO Box 30581
Lincoln, NE 68503

CHANGE OF ZONE NO. 15030

CHANGE OF ZONE NO. 15030
FROM R-4 RESIDENTIAL TO B-3 COMMERCIAL DISTRICT
WITH A CONDITIONAL ZONING AGREEMENT AND SITE PLAN
GENERALLY LOCATED AT 711 - 725 SOUTH STREET
PUBLIC HEARING BEFORE PLANNING COMMISSION **November 18, 2015**

Staff recommendation: Approval, Subject to a Zoning Agreement.

There were no ex parte communications disclosed.

Staff Presentation: Paul Barnes of the Planning Department came forward to present the Staff Report. This property is just under a half an acre and the owner is proposing to construct a 4,000 square foot building. They operate Dallman Drywall across the street to the north and would like to use this area for contractor services. The building would be used for storage of materials and some parking for vehicles related to that business. Along South Street, there is approximately a block and a half of R-4 zoning surrounded by I-1 and B-3 zones. These properties front to an arterial street, so there is substantial traffic.

The proposal to rezone is supported, along with the Conditional Zoning Agreement. This is an area of transition, but there still needs to be sensitivity to the residential area that remains. The zoning agreement limits uses on this property to lighter, more transitional uses so not all of the B-3 uses are allowed. The agreement also doubles the landscape requirement to 12 feet and asks for a privacy fence to create a more significant buffer. Access is off of 7th Street and off of an east/west alley which limits the impact of heavy traffic. The site plan and the conditions become part of the zoning agreement so the development would have to be in conformance with what is shown today.

Sunderman asked if the small notch in the southeast corner will be used for parking. Barnes said the notch in the building is in response to the requirement for rear yard setback, which is adjusted to the residential properties. There needs to be a 30-foot setback. As far as use, we show some landscape, but parking or other uses are not identified there. Sunderman wants to make sure there would not be large vehicles or unloading in that area. Barnes said that because of the zoning agreement, traffic moving that far east in the alleyway is limited. Sunderman asked if materials could be stored in that area. Barnes said that a certain amount of outdoor storage is generally part of the conditions that contractor services are allowed in B-3, but the zoning agreement restricts that use in this case.

Scheer said that the site plan includes a note regarding a 10-foot double landscape buffer and soundproof fence. He commented that soundproof fence is a concrete, massive structure such as seen along a highway. He wondered if the note needed to be changed. Barnes said that the note was revised to remove the word “soundproof” for that very reason. Generally a 6-foot wood privacy fence is adequate.

Corr asked for more information regarding limiting access in the north/south alley. Barnes said that it is desirable to limit use to 7th Street or the east/west alley. The alley does make a T-formation and run north/south in a small area. That is where traffic should be limited.

Corr went on to ask how the B-3 zoning was chosen for this property instead of something like R-T. She wondered if it was due to proximity to the residential area. Barnes said the B-3 with the conditional zoning agreements accommodates what the landowner has requested. R-T would not have done that. B-3 makes sense in this area. There is also B-3 on both sides of South Street. It would be likely that B-3 would continue in the future farther to the east.

Harris asked for clarification regarding the letter from the applicant which mentioned installing a fence. She wondered if the fence is optional with the additional required landscape. Barnes said the design standards are specific about the requirement for between zero and ten feet of landscape. Generally that is accommodated through a 6- foot privacy fence. In this case, the conditional zoning agreement says the 6-foot fence is not appropriate. Harris asked if that committed them to both. Barnes said both. It will be noted on the site plan that they are required to comply with, as well as in the zoning agreement.

Proponents:

Gus Ponstingl, 601 Q Street, came forward as applicant to state that this is part of a transitional zoning area on a busy street. The property to the west and south are industrial. There is a garage structure to the southeast and a residential property to the east. The property is currently two vacant lots that used to have two dilapidated residential structures that have been removed. The fencing along the east side is a newer composite material that is 98 percent soundproof, according to manufacturer specifications. It is as thin as a wooden fence and is attractive and economical. We have been working with the neighbors, and they prefer that the fence would be closer to the building. They were initially against too much landscaping. We are willing to make it as pleasant as possible. We feel we can achieve the same buffering with ten feet, so we hope to change that.

Ponstingl went on to say that they also do not want to adversely impact neighbors. Drainage options on the site are still being confirmed. There will be a minor uptake in the amount of runoff due to hard surfaces there, but currently, the site drains quickly anyway. There are two curb inlets on South Street which would almost mitigate all of the water onsite. The City is looking into that now. It looks promising. Otherwise, water will be routed into 7th Street to avoid creating any runoff to the south.

Beecham asked how close the property is to the house on the east. Ponstingl said he believed it was around ten feet from the property line. She went on to ask if they had considered placing the landscaping on the west side that faced the industrial area in the southeast corner notch to serve as a buffer. It would be better to see the landscaping used as a buffer to the residential rather than facing the industrial. Ponstingl said there is a large garage structure that extends well beyond the residential properties in that corner.

Corr asked if the southeast square area will be paved or remain grass. Ponstingl replied that the notch is there because the building is not legally allowed there, but they have not filled in that blank yet. Since it overlaps slightly with the residential, the area will probably not be used and will be the lowest possible maintenance material possible.

Lust asked for more information about the landscaping buffer. Ponstingl said that the amount was based on City requirements. The 10-foot area is enough space to put in a lot of landscape material in addition to the fence so, to us, it seems like overkill for addressing that issue. Lust went on to say that the language notes that a fence may be used and could eliminate need a double row of

landscaping. She asked if they are asking to eliminate a row. Ponstingl said they are asking for a reduction from 12 feet to 10. Scheer asked if the reduction is being requested because the applicants believe it is possible to install an adequate amount of landscape materials in the ten feet. Ponstingl said that they feel that is enough space to meet the spirit of that requirement.

Opponents:

1. Nico Shafer, 729 South Street, came forward stating he is the property owner of the adjacent property. The structure that has been referred to as a garage during the testimony is his mother-in-law's house. He said they preferred that the fence be placed closer to the applicant's new building so that it still feels like a house without a fence up against it. The alley is worn away so the right angle shown on the site plan is not so clear. It has been used as alley access and we would like it to remain. At a meeting, he said he would make a right of way in order to leave this area alley so that neighbors would not feel that they were trespassing if they drove over the corner. He is worried that he will not be able to get to his garage from that side anymore.

Beecham asked if he has any concerns about maintenance of the landscaping if it is closer to the houses. Shafer said there should be enough room for it to be maintained easily. Beecham asked if he was comfortable with the request by the applicant to reduce the landscape requirement to ten feet. Shafer said he would like the most that can done to separate the neighborhood. He is also curious about the southeast notch area.

Sunderman asked if he is understanding correctly that the only way to get to the garage is through the alley. Shafer said yes. He also clarified that the larger metal garage is privately owned as part of a residential property and not a business.

2. John Spencer, 2120 S. 7th Street, stated he submitted letters and has not had his concerns about the drainage in the area addressed. He also hopes the alley will be paved because gravel will not hold up.

Lust said that one condition is that the alley will be paved. Corr said it may not have been mentioned in today's testimony, but it is in the report received by Commissioners.

Staff Question:

Barnes said that it is a design standard that when there are properties of substantially different character located side-by- side, that they have a minimum of landscaping between them; generally that is 6-feet wide. In this case because it is contractor service next to single-family residential, our recommendation was to double that amount. Also, the 12- foot area provides two more feet of separation.

Beecham asked Barnes to address the mother-in-law quarters that are right up against this property and whether it is possible to have the fence closer to the new building. Barnes said that staff would support shifting the fence to the west. The intent is to soften the visual impact of the building, so if it is moved, the screening would still be there.

Lust referred to the mother-in-law quarters and asked if accessory dwelling units are allowed in R-4 zoning. Barnes said that this area of town was developed many years ago and this property has two dwelling units on one lot, which would probably not be allowed today. This was probably done under an old code. This is existing and can continue to exist but would not be allowed under new construction today.

Harris asked Barnes to address concerns about the alley access. Barnes said this was brought up at the neighborhood meeting. T-intersection alleys such as this are not a good idea. From the City's point of view, this is a change of zone request. If this were for a preliminary of final plat, we would be looking at whether right-of-way could be considered. We encourage the owners to continue working with neighbors to provide that access, but that is not a condition of approval. The City cannot require that. That alley does provide access to 8th Street farther east.

Hove asked if it would be paved. Barnes said the condition to pave the alley is based on the owner taking access off of it, as we believe there would be trucks utilizing the alley, so that would require paving.

Corr asked how far the alley would be paved. Barnes said staff would recommend that it be paved in the area they are having an impact on, so at the most, it would go to the western side of the north/south alley.

Beecham asked Barnes to address the drainage questions. Barnes mentioned that Ben Higgins of Watershed Management is on hand to answer more detailed questions. He said staff met with the owner and Mr. Spencer on site. It is his understanding that there are ways the paving can be sloped to direct runoff into the street and then into storm drains. The condition in the report states those designs must be resolved with Watershed Management before plans are approved.

Corr said it looked like the squares in the parking lot will slope down. Barnes said he was unsure. That was discussed in concept, but those details should be worked out with Watershed. Corr confirmed that those plans would have to be approved by Watershed before construction can begin. Barnes said that is correct.

Applicant Rebuttal:

Ponstingl stated that the water can be directed to the inlets to reduce runoff and will not run towards the building to the south. He does not believe it will be a big challenge.

Corr asked if the paving for the lot will be level to the alley or if there will be curbing. Ponstingl said one thing considered was to pave it up and around the corner so that if someone were driving, they could drive over it easily. Corr asked if the owner would be upset if there were no curb and neighbors drove through the area to access their own properties. Ponstingl replied that he thinks they can live with some use. The corner is not frequently used.

CHANGE OF ZONE NO. 15030
ACTION BY PLANNING COMMISSION: **November 18, 2015**

Beecham moved approval retaining the 12-foot buffer but moving the fence to the west edge, seconded by Corr.

Beecham said this is a tricky one because there is more than one residential property here. The properties will likely continue to transition over the next years, but it is important to keep buffers as that transition happens. She stated she would love to see Urban Development get involved again to keep the neighborhood strong as part of the South Street Plan.

Lust said that she will not support the amendment to the condition. It causes maintenance problems for the owner. The configuration of the fence should not be a detail that this body is concerned with. Otherwise, she supports the project.

Corr said she has concerns with the small southeast area and about whether it will be green space or paved. People may park there, but then again, maybe it provides better access. It is a tough area.

Cornelius stated that he tends to agree with Lust. He supports the application but is not sure of asking for that level of detail due to maintenance. The application is problematic because of the configuration of the alley. That could be mitigated by 8th Street access and by the owner's efforts. Many of the concerns raised by neighbors were addressed in the staff report. He stated he would vote no, but would have supported a cleaner motion.

Scheer said he would support the motion as made by Beecham. The idea of moving the fence to the west, though untraditional, is better here because of the fact that the residential property can have that 12 feet as visually an extension of their own yard. The developer is still responsible for that area and that is problematic, but that more expansive feel is worth it.

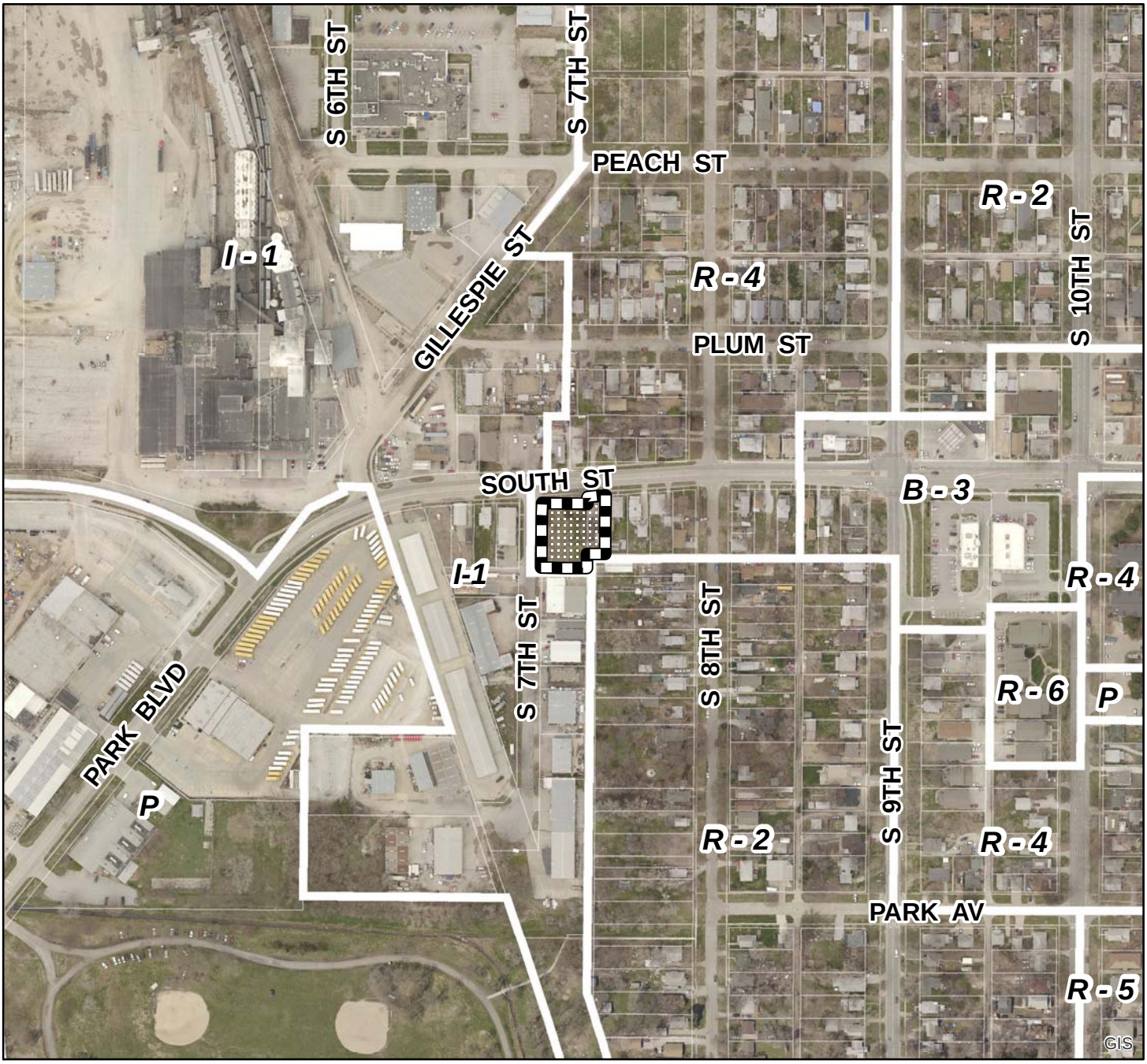
Harris wondered if we did not mention the fence, could it still be put in that space by the Planning Director; does he still have that discretion. Barnes approached to say that there is some flexibility. Point 1.1.3 talks about shifting the location of the fence. The applicant is saying that they are willing to move it. Staff is saying it should be shifted for maintenance. Harris said that there is flexibility even if it is not mentioned. Sheer asked if there is an ability to have the residential owner and the builder come together to get that done. Beecham asked if she could withdraw her motion and make a motion to leave it flexible. Barnes stated he believes so and he feels that those conversations are taking place.

Beecham withdrew her initial motion, and subsequently moved approval, adding that the location of the fence be flexible and not required to be at the eastern edge of the property. Seconded by Corr.

Harris said she will support the motion.

Beecham said that she thinks this is important because putting that fence right outside of a home is invasive.

Motion for approval subject to the zoning agreement carried 8-0: Beecham, Cornelius, Corr, Harris, Hove, Lust, Scheer, and Sunderman voting 'yes'; Weber absent. <u>This is a recommendation to the City Council.</u>



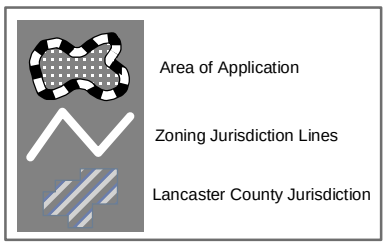
2013 aerial

Change of Zone #: CZ15030
R-4 to B-3
S 7th & South St

Zoning:

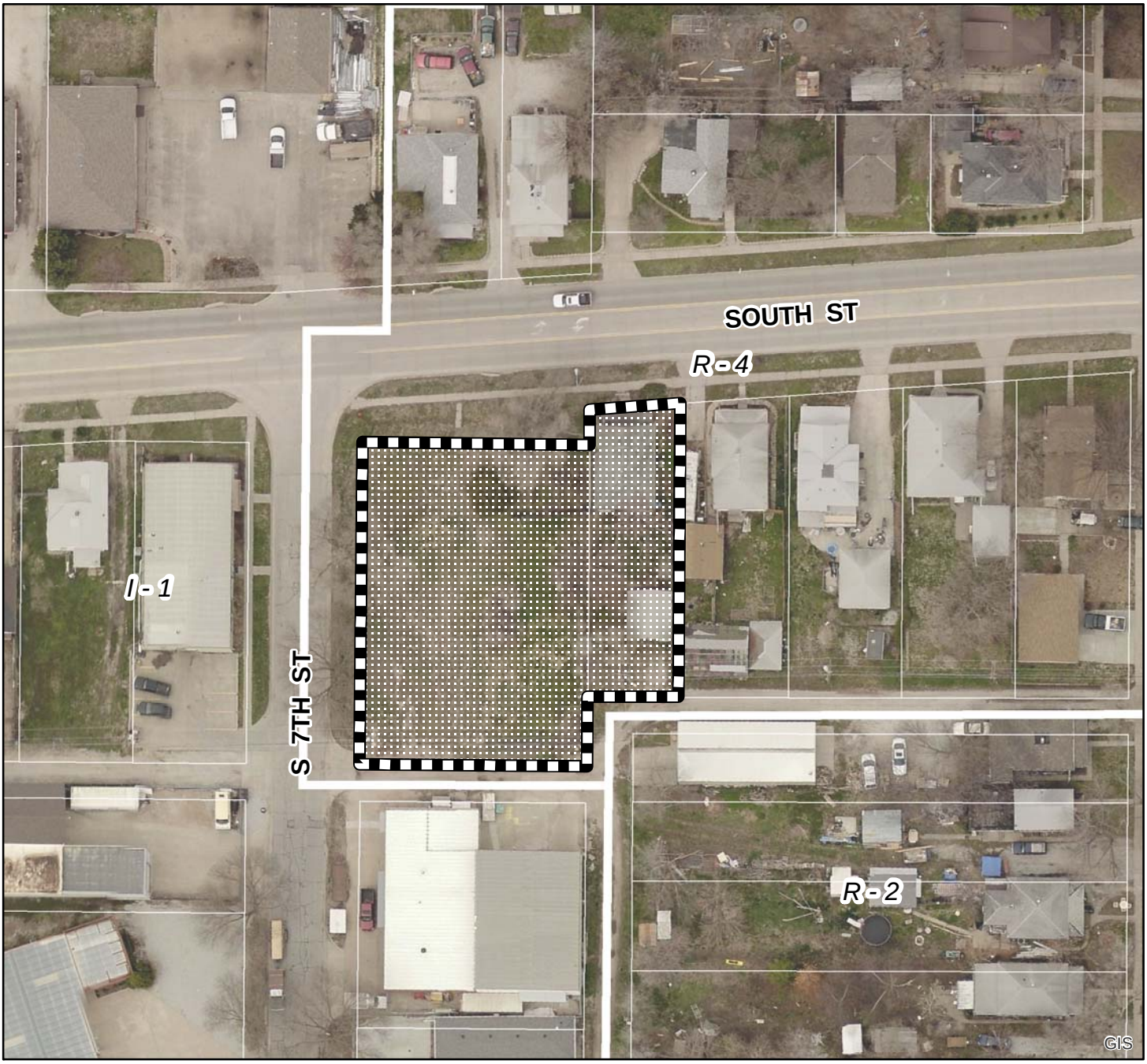
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	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.35 T10N R06E



PDF: F:\Boards\PC\Internet\out\

File: F:\DevReview\PlannerPacket\MXD\Agendadrawings.mxd (CZ15030)



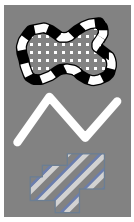
2013 aerial

Change of Zone #: CZ15030 (R-4 to B-3)
S 7th & South 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.35 T10N R06E



Area of Application

Zoning Jurisdiction Lines

Lancaster County Jurisdiction

PDF: F:\Boards\PC\Internet\out\

File: F:\DevReview\PlannerPacket\MXD\Agendadrawings.mxd (CZ15030)

CZ15030 Legal Description

Lots 1 and 2, Block 1, Moulton's Subdivision, Lincoln, Lancaster County, Nebraska, and the west 40 feet of Lot 4, Block 4, South Park, Lincoln, Lancaster County, Nebraska, except that portion more particularly described as follows:

Beginning at the northwest corner; thence south 4.80 feet; thence northeast to a point 13.00 feet east of northwest corner; thence west 13.00 feet to place of beginning, and except

Beginning at a point on the north line of said Lot 4, 47.75 feet west of the northeast corner thereof; thence south along a line which is parallel to and 47.75 feet west of the east line of said Lot 4, a distance of 14.31 feet; thence westerly along a line which deflects 85 degrees 43 minutes 00 seconds right, a distance of 40.01 feet to a point on the west line of said Lot 4; thence north along the said west line a distance of 17.35 feet to the northwest corner of said Lot 4; thence east along the north line of said Lot 4, a distance of 40.00 feet to the point of beginning (the "Property").

October 21, 2015

Paul Barnes
555 S 10th St, Ste 213
Lincoln, NE, 68508 USA
Work 402-441-7491

Dear Paul,

We are pleased to submit the following application for Change of Zone to City of Lincoln for the property at 711-725 South St..

During our pre-application meeting, it is our impression that the city is in favor of approving this type of project because this area is in transition from residential to commercial. It is a type of transitional use zone. The City has supported similar 'transitional use zones' recently, for example one recently approved is near W. J St./SW. 1st St..

The City has alerted us that it would like a conditional zoning agreement – including a landscape plan and a layout plan showing parking and the building boundary. We have included a site plan for you to review. Please not a wider screening buffer along the east edge of the property. This buffer is 10 foot wide with 6' fence and landscaping both sides. We feel this is more than enough considering the codes's main requirement is for a 60% screening of the vertical plane 10 foot high along that side of the property. We are proposing this be done with a 6 foot high fence that is 100% opaque - which would meet the code by it self, but we have also doubled the amount of landscape to include a very dense and lush screen on the neighbor's side of the fence as well as landscaping on the commercial side as well.

Parking is shown in the front yard setback, which is allowed in the B3 zoning, and an 8 foot wide landscape buffer is provided from the back of curb to the property line. Please see this on our plan as well.

Other issues:

We have spoke with our neighbors, included the neighbor adjacent to the east lot. Generally the neighbors are very agreeable to the development. Several have written letters stating they approve of the change of zone. There one who wasn't in favor of the development because he feels the new building would adversely affect his land value. He has spent quite a bit of money on his project recently and wants to get that money back. We feel he can benefit from the change of zone for his property.

August Ponstingl
President
MAPCO, INC.
402 770 2272

Included:
- $330 Application Fee
- Application
- Neighbor Support Letters
- Site Plan for Conditional Zoning Agreement

EXHIBIT "A"

DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT

This Development and Conditional Zoning Agreement ("Agreement") is hereby made and entered into this 8TH day of DECEMBER, 2015, by and between Danniel L. Dallman, Trustee of the Danniel L. Dallman Revocable Trust and Rebecca L. Dallman, Trustee of the Rebecca L. Dallman Revocable Trust, hereinafter referred to as "Developer", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City."

RECITALS

I.

Developer, as owner of the below described property, has petitioned the City for a change of zone ("Change of Zone 15030") from R-4 Residential District ("R-4") to B-3 Commercial District ("B-3") upon property generally located at 711-725 South Street and legally described as:

> Lots 1 and 2, Block 1, Moulton's Subdivision, Lincoln, Lancaster County, Nebraska, and the west 40 feet of Lot 4, Block 4, South Park, Lincoln, Lancaster County, Nebraska, except that portion more particularly described as follows:
>
> Beginning at the northwest corner; thence south 4.80 feet; thence northeast to a point 13.00 feet east of northwest corner; thence west 13.00 feet to place of beginning, and except
>
> Beginning at a point on the north line of said Lot 4, 47.75 feet west of the northeast corner thereof; thence south along a line which is parallel to and 47.75 feet west of the east line of said Lot 4, a distance of 14.31 feet; thence westerly along a line which deflects 85 degrees 43 minutes 00 seconds right, a distance of 40.01 feet to a point on the west line of said Lot 4; thence north along the said west line a distance of 17.35 feet to the northwest corner of said Lot 4; thence east along the north line of said Lot 4, a distance of 40.00 feet to the point of beginning (the "Property").

II.

Approval of this Change of Zone from R-4 to B-3 would allow the Developer to use the Property for a range of commercial and retail uses which would not be compatible with the surrounding neighborhood.

III.

The Developer has represented to the City that, in consideration of the City re-zoning the Property to B-3, the Developer will enter into an agreement with the City to restrict use on the Property to those uses listed in paragraph 2.a below as long as the property to the east (i.e. 729 South Street) is zoned residential.

IV.

The City desires an Agreement to be assured that Developer will develop the Property as represented should the Property be rezoned to B-3.

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 R-4 Residential District to B-3 Commercial District on the Property.

2. In consideration for the City rezoning the Property to B-3 Commercial District, the Developer agrees that the development of the Property shall be subject to the following requirements:

   a. The Property shall be only used for the following uses: offices, personal services, adult day services, neighborhood support services, kennels/veterinary facilities (per the conditional use conditions), and contractor services (per the conditional use conditions, except that no open and unenclosed storage of materials and equipment shall be allowed). Development of the Property shall be in substantial compliance with the attached site plan.

   b. The Developer shall provide a 12 foot wide landscaping buffer along the entire east side of the Property. The buffer must include at least a double row of the 60% screen from the ground elevation to a height of 10 feet, required under Section 7.5 of Chapter 3.50 of the City of Lincoln Design Standards. A fence may be used with the screening, but the fence does not eliminate the requirement for a double row of landscaping. The screening plan shall be submitted to and approved by the Planning Department prior

to issue of the building permit for the New Building shown on the attached site plan. Plant material shall be installed prior to occupancy of the New Building, unless the Developer provides the City with a bond, escrow or security agreement in the amount necessary (as determined by the City) to guarantee the timely purchase and planting of the above required landscape screen in the next appropriate planting season (spring or fall, depending on the particular plant material) following initial occupancy of the New Building.

c. There shall be no access to the Property from the abutting north/south alley on the east. Access shall be restricted to South 7th Street and the east/west alley on the south abutting that portion of the Property legally described as Lots 1 and 2, Moulton's Subdivision.

3. Conditions 2.a and 2.b shall remain in effect so long as the property to the east known as 729 South Street and legally described as Lot 4, Block 4, South Park Addition, except the west 40 feet and except for the north part for street, is zoned residential (i.e. R-1 through R-8 Residential District).

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

5. 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, filling fees to be paid by Developer.

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

City of Lincoln, Nebraska
a municipal corporation

_____
Chris Beutler, Mayor

Danniel L. Dallman Revocable Trust,
an undivided ½ interest

By: _____ Trustee
Danniel L. Dallman, Trustee

Rebbeca L. Dallman Revocable Trust,
an undivided ½ interest

Rebecca Dallman TRUSTEE

By: Rebecca L. Dallman, Trustee

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Chris Beutler, Mayor of the City of Lincoln.

_____
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 8TH day of DECEMBER, 2015, by Danniel L. Dallman, Trustee of the Danniel L. Dallman Revocable Trust.

Tanya A Conroy
Notary Public

GENERAL NOTARY - State of Nebraska
TANYA A. CONROY
My Comm. Exp. Sept. 13, 2016

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 8TH day of DECEMBER, 2015, by Rebecca L. Dallman, Trustee of the Rebecca L. Dallman Revocable Trust.

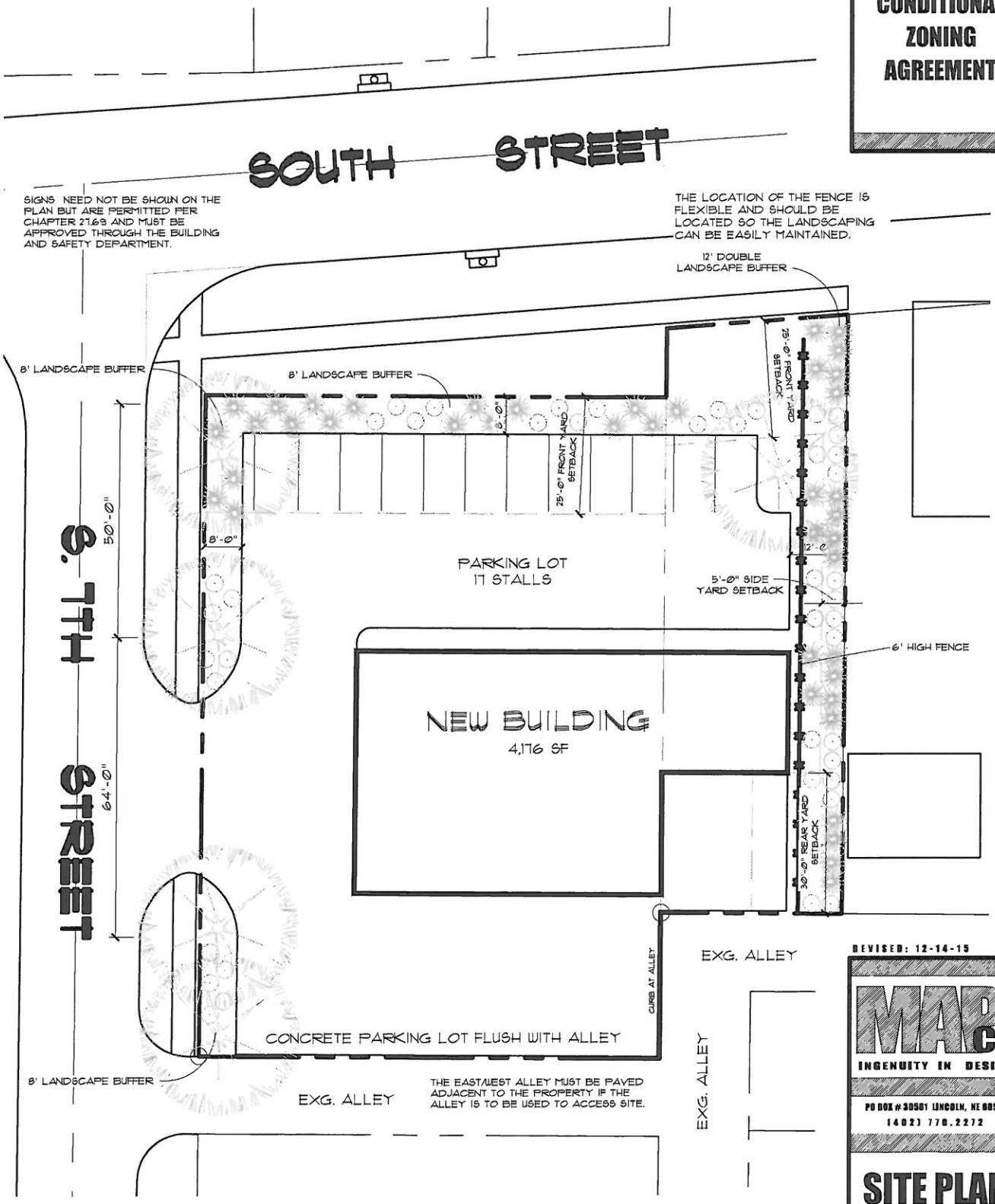
Tanya A Conroy
Notary Public

GENERAL NOTARY - State of Nebraska
TANYA A. CONROY
My Comm. Exp. Sept. 13, 2016

DATE: 10/28/2015

PROJECT NAME:

DALLMAN: CONDITIONAL ZONING AGREEMENT



REVISED: 12-14-15

MAPCO

INGENUITY IN DESIGN

PO BOX # 30501 LINCOLN, NE 68503

(402) 770.2272

SITE PLAN

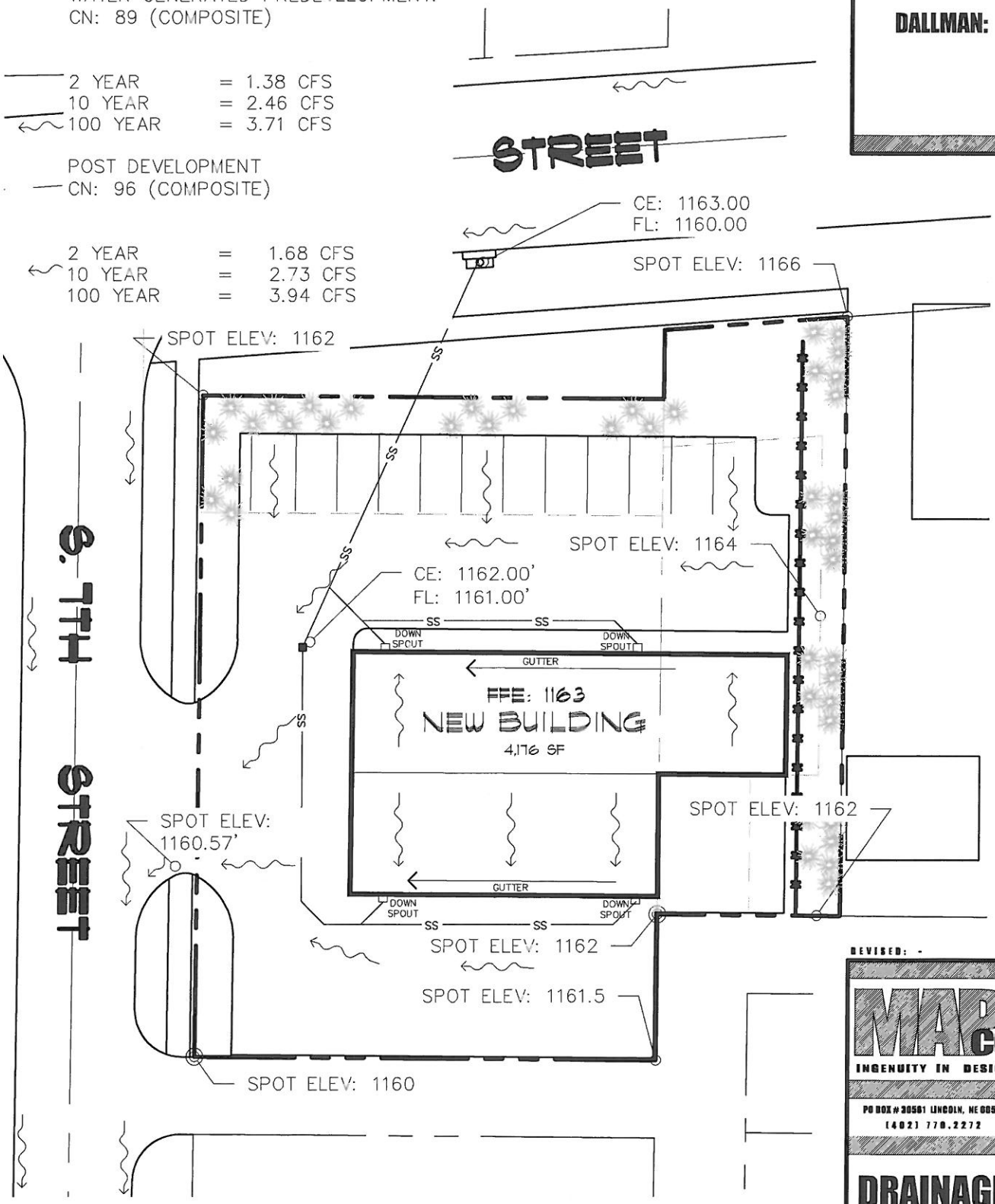
SITE AREA: = 0.44 ACRES
SLOPE (AVERAGE) = 2.1%
MAX DISTANCE = 189'

WATER GENERATED PREDEVELOPMENT:
CN: 89 (COMPOSITE)

2 YEAR = 1.38 CFS
10 YEAR = 2.46 CFS
100 YEAR = 3.71 CFS

POST DEVELOPMENT
CN: 96 (COMPOSITE)

2 YEAR = 1.68 CFS
10 YEAR = 2.73 CFS
100 YEAR = 3.94 CFS



DATE: 10/20/2013

PROJECT NAME:

DALLMAN:

REVISED: -

MAPCO
INGENUITY IN DESIGN
PO BOX # 30561 LINCOLN, NE 68503
(402) 770.2272

DRAINAGE