

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for January 5, 2004 PLANNING COMMISSION MEETING

P.A.S.: Use Permit #132A - Willowbrook

PROPOSAL: Eliminate the restriction on the hours of operation for Lot 1, Willowbrook from 5:00 a.m. to midnight to allow 24 hour operation.

LOCATION: Southeast of the South 70th Street and Highway 2 intersection.

CONCLUSION: Some of the uses allowed in the B-2 Planned Neighborhood District are uses that may operate 24 hours a day. The limitation on hours was included by the developer at the request of surrounding property owners. Provided the developer and surrounding property owners have reached agreement on the elimination of the restriction, staff does not object.

| | |
|-------------------------------|----------------------|
| <u>RECOMMENDATION:</u> | Conditional Approval |
|-------------------------------|----------------------|

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 1-6 and Outlots A and B, Willowbrook Addition, Lancaster County, Nebraska.

EXISTING ZONING: B-2 Planned Neighborhood Business, O-3 Office Park

EXISTING LAND USE: Lots 2, 4, and 6 have been developed commercially. Lots 1, 3, and 5 are undeveloped. Outlot B is zoned O-3 and has been designated for future development, but no specific development plan has been approved.

SURROUNDING LAND USE AND ZONING:

| | | |
|--------|--------------------------|-----|
| North: | Hwy 2/Church | AGR |
| South: | Undeveloped, Residential | AGR |
| East: | Undeveloped, Residential | AGR |
| West: | Residential | AGR |

HISTORY: **December 4, 2000** - ANN#00005, CZ#3282, and UP#132 were approved for Willowbrook to allow a change of zone from AGR to B-2 and O-3 and up to 187,000 square feet of commercial floor area.

COMPREHENSIVE PLAN SPECIFICATIONS: Page F25 - This site is designated for commercial land uses and the location for a commercial center in the Comprehensive Plan.

ANALYSIS:

1. Several limitations upon the uses allowed within Willowbrook were approved as part of the use permit (see attached notes from UP#132 provided by the applicant). Note C limited the hours of operation of the shopping center from 5:00 a.m. to midnight. This request seeks to amend that note to allow 24-hour operation on Lot 1, but leave the restriction intact for the remaining lots in the development. The amendment is requested to allow a sit-down type restaurant which operates 24 hours a day.
2. Of the uses allowed in the B-2 district per Title 27 Chapter 27.31, some are uses that by their nature operate 24 hours a day. As a use permit district, the intent of the B-2 Planned Neighborhood Business District was to be compatible with residential areas and help provide commercial services to serve the surrounding neighborhood. The Environmental Performance Standards of the City of Lincoln Design Standards also apply to the B-2.
3. A sit-down restaurant is an allowed use in the B-2, and is compatible with this development.
4. The lot affected by this amendment is located in the northwest corner of the development at the intersection of South 70th Street and Highway 2. Proximity to the intersection makes it a less sensitive site than the others in the center.
5. The prohibition of uses with on-sale consumption of alcohol as the primary source of business remains in effect for the entire development.
6. During the public hearings on the use permit in 2000, concerns were raised over the impact of the development upon surrounding properties. Some of the limitations upon uses in the center as expressed in the notes were in response to those concerns.
7. During the review the applicant was informed that a restaurant is an allowed use in the B-2 and that staff did not object to the proposed amendment. However, staff also recommended that the applicant meet with the neighbors to address any concerns they may have and to reach agreement on the amendment prior to the public hearings.

CONDITIONS:

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

1.1 Revise the site plan to show:

1.1.1 Note C amended to read as follows: "THE HOURS OF OPERATION OF THE SHOPPING CENTER SHALL ONLY BE ALLOWED BETWEEN 5:00 A.M. TO 12:00 MIDNIGHT, EXCEPT FOR THOSE USERS LOCATED UPON LOT 1, WHICH ARE PERMITTED TO OPERATE 24 HOURS PER DAY."

General:

2. Before receiving building permits:

2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.

2.1.1 Submit six copies of a final site plan as approved.

2.2 The construction plans comply with the approved plans.

2.3 Final plat(s) is/are approved by the City.

Standard

3. The following conditions are applicable to all requests:

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

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

3.3 The site plan accompanying this permit shall be the basis for all interpretations

of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

- 3.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.
4. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by

Brian Will
Planner
December 20, 2004

APPLICANT/

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Lincoln, NE 68516
(402) 423-4477

CONTACT: Mark Hunzeker
PO Box 95109
Lincoln, NE 68509
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Use Permit #132A
70th & Hwy 2
Willowbrook

2002 aerial

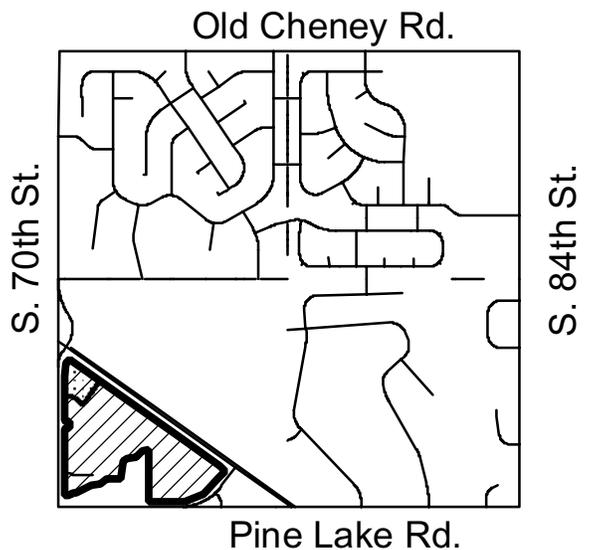
Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation 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. 15 T09N R07E



Zoning Jurisdiction Lines
 City Limit Jurisdiction



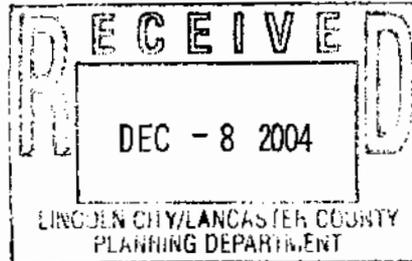
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December 8, 2004



Ray Hill
Planning Department
555 So. 10th Street, Room 213
Lincoln, NE 68508

Re: *Willowbrook Shopping Center Amendment to Use Permit No. 132*

Dear Ray:

On behalf of Livingston Investments, Inc. we are requesting an amendment to the City of Lincoln's Use Permit No. 132 which approved the Willowbrook Shopping Center at 70th and Highway 2. The specific amendment being requested is the removal of the hours of operation restriction upon Lot 1.

The removal of the hours of operation restriction on this lot will allow a quality sit-down restaurant to locate on a portion of the Lot. This nationally recognized chain has a business model which requires the ability to operate 24 hours a day. The amount of business generated by the facility between the hours of midnight and 5:00 a.m. would be extremely low.

Please also consider this letter a Certificate of Ownership that the Applicant, Livingston Investments, Inc. is the owner of the property upon which this amendment is sought.

Should you require any additional information, please feel free to contact me.

Sincerely,

Peter W. Katt
For the Firm
lawkatt@pierson-law.com

PWK:sb

Enclosure

(G:\WPData\PK\Livingston\Willowbrook 5053-800\Hill 12-8-4.ltr.wpd)

Pierson, Fitchett, Hunzeker, Blake & Katt

**SITE STATISTICS
WILLOWBROOK DEVELOPMENT**

| LOT # | PROPOSED TENANT TYPES (SEE SCHEDULE BELOW) | LOT AREA (+/-) | PROPOSED BUILDING AREA (SEE IN SQ. FT.) | MAXIMUM BUILDING HEIGHT (SEE NOTE D) | PARKING SPACE | PARKING RATIO |
|-------|---|-------------------|---|---|------------------|------------------|
| 1 | A THROUGH H (INCLUSIVE) | 55,458 | 22,220 | 40 FT. | NOTE B: | NOTE B: |
| 2 | BRANCH FINANCIAL FACILITY | 22,879 | 5,712 | 40 FT. | NOTE B: | NOTE B: |
| 3 | A THROUGH H (INCLUSIVE) | 24,572 | 6,125 | 40 FT. | NOTE B: | NOTE B: |
| 4 | RETAIL, HOME IMPROVEMENT CENTER | N/A | 144,615 | 40 FT. | 610 | 4.2 |
| 5 | A THROUGH H (INCLUSIVE) | 22,352 | 5,700 | 40 FT. | NOTE B: | NOTE B: |
| 6 | DRIVE THRU CAR WASH | 10,025 | 2,036 | 40 FT. | NOTE B: | NOTE B: |
| | SUB-TOTAL | N/A | 186,909 | 40 FT. | 610 | 4.2 |
| | TOTAL | N/A | 186,909 | 40 FT. | 610 | 4.2 |

* Includes the Garden Center Area

Note A: Schedule of Tenant Type per B-2 Zoning for each lot. Depending on size, one use as described would envelope each individual lot, unless adequate building area would permit multiple users:

1. Permit Uses of B-2 Business District

- A. Retail Sales of Goods
- B. Business Office
- C. Professional Office
- D. Banks or Financial Companies
- E. Restaurants (Maximum of one Fast Food Restaurant which must be located north of the Main Entrance along 70th Street)
- F. Dry Cleaners
- G. Alcoholic beverage Sales for On Premises Consumption Pursuant to Sec. 27.63.680. (No facility or business shall be allowed with on-sale alcohol as its primary source of business or service).
- H. The following uses will not be permitted along South 70TH Street for this project:
 - Automobile wash facilities
 - Tents or other temporary structures for temporary or seasonal sale of goods at retail (fireworks, Christmas trees, etc.)

Note B: Off Street parking shall be in conformance with Lincoln Municipal Code Chapter 27.67.

~~Note C: The hours of operation of the shopping center shall only be allowed between 5:00 a.m. to 12:00 midnight.~~

Note D: Maximum Building height shall be in conformance with Lincoln Municipal Code Section 27.31.090 (a) and 27.03.130.

Note E: All Buildings shall conform to the architectural design theme as shown on attached sheets 1.5a and 1.5b in the Appendix.

Note F: Lot signs permitted by Lincoln Municipal Code Section 27.69.046 will be shown on individual building permit site plans.

Note G: Two thirds of the parking lot lighting, except for security lighting, shall be shut off after business hours.

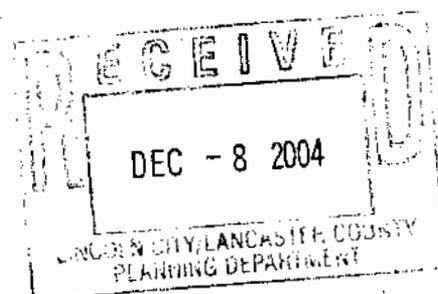
Note H: A blanket permanent easement for gas, power, cable, and telephone will be provided excluding building envelopes. Any relocation of existing utilities shall be done at the owners expense.

Note I: An administrative amendment shall be issued by the Planning Director for all drive through facilities before issuance of a building permit.

Note J: The seasonal swing area north of the home improvement garden center may be used for the display of landscape material only.

Note K: No service station or convenience store shall be allowed.

Note L: The Planning Director has the authority to approve administrative final plats based upon Use Permit No. 132.



* Amend Note C to read as follows:

Note C: The hours of operation of the shopping center shall only be allowed between 5:00 a.m. to 12:00 midnight, **except for those users located upon Lot 1, which are permitted to operate 24 hours per day.**