

CITY OF LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Special Permit #2000

DATE: January 8, 2003

PROPOSAL: A special permit to allow the sale of alcoholic beverages for consumption on the premises.

SCHEDULED PLANNING COMMISSION MEETING: January 22, 2003

LAND AREA: Approximately 2.6 acres.

CONCLUSION: The premises is located approximately 90' from a residence, and the application does not include an acceptable mitigation plan for the adverse effects of the reduction in distance of less than 100' from a residence that may be associated with this use. Staff is recommending deferral to allow time for mitigation to be discussed with the applicant.

RECOMMENDATION:

Deferral

GENERAL INFORMATION

LEGAL DESCRIPTION: Lots 4, Delta Regency Addition, Lancaster County, Nebraska.

LOCATION: 3235 North 35th Street

OWNER: Delta Investments
PO Box 30618
Lincoln, NE 68521 (402)438-1200

**APPLICANT/
CONTACT:** Janet Crosby
5014 Valley Forge Road
Lincoln, NE 68521 (402)416-1701

EXISTING ZONING: I-1 Industrial

EXISTING LAND USE: Social Hall

SURROUNDING LAND USE AND ZONING:

North	Industrial	I-1
South	Industrial	I-1
East	Residential	I-1
West	Industrial	I-1

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates industrial land use for the subject property.

ANALYSIS

OVERVIEW:

The building on the site has been in use as a social hall since 1995. The applicant wants to continue using the building as a social hall, but with the sale of alcohol for consumption on the premises. Located in the I-1 district, the sale of alcohol for consumption on the premises is allowed by special permit. This request is for a special permit to allow the sale of alcoholic beverages for consumption on the premises, in conjunction with the use of the building as a social hall.

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)

27.63.680: Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which may be waived by the City Council:

(a) Parking shall be in accordance with LMC Section 27.67.020.

The design of the parking lot complies with the design standards, with the exception that it is not paved. To be found in accordance with LMC Section 27.67.020, the parking lot must be paved.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.

This application is for a special permit to allow the sale of alcohol for consumption on the premises. The sale of alcoholic beverages off the premises is not a part of this proposal and is not being requested.

(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

The premises is located approximately 90' away from a residence to the east. These uses are separated by North 35th Street which provides access to the social hall and mobile home park, as well as the other commercial and industrial uses in the area. Consistent with previous reviews, the Police Department is recommending denial because the use is less than 100' from either a residence, a residential district or a day care.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

Any parking lot lighting must comply with the applicable City of Lincoln Design Standards.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not being proposed.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

No such devices are proposed with this special permit.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no residential zoning in this area - the mobile home park on the east side of North 35th Street is also located in the I-1 district. So while there is no residential zoning in this area and this particular criteria is not applicable, the doors to the facility in fact open to the north and south and do not face the residences to the east.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

No residential streets are used to access this site. North 35th Street, which is adjacent to this site, serves an area of predominantly industrial uses and is not considered a residential street.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

(1) Revocation or cancellation of the liquor license for the specially permitted premises; or

(2) Repeated violations related to the operation of the permittee's business.

Planning Commission review and City Council approval is required for this use.

2. DEPARTMENT RESPONSES:

POLICE: The Police Department finds that the proposed use is less than 100' from a residence, and is therefore recommending denial.

PUBLIC WORKS: Public Works states that the layout of stalls and driving aisles for the parking lot meets Design Standards, but also notes that the parking lot must be paved to meet all the requirements of LMC.

The premises is less than 100' from a residence, and the finding is that the application does not include an acceptable mitigation plan for the adverse effects of the reduction in distance of less than 100' from a residence that may be associated with this use. Staff is recommending deferral to allow time for the applicant to develop a mitigation plan and discuss it with Planning and Police staff. This is in recognition of the special circumstances of this site being located in an area that is zoned I-1 and predominantly commercial/industrial in character. Mitigation may involve restriction on use, operating hours, landscape screening, and/or on-site security staff.

However, if after a public hearing the City Council approves this application, approval should be subject to the following conditions:

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 Submit certified information from an abstractor or an attorney indicating the current record owner(s) of all land within the limits of this application.

1.2 Revise the site plan to show a paved parking lot.

2. This approval permits the sale of alcohol for consumption on the premises at 3235 North 35th Street.

General:

3. Before the sale of alcohol for consumption on the premises, the parking lot shall be paved to City Design Standards.

Standard:

4. The following conditions are applicable to all requests:
 - 4.1 Before the sale alcohol for consumption on the premises all development and construction is to comply with the approved plans.
 - 4.2 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.
 - 4.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 4.4 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.

Prepared by:

Brian Will, AICP
Planner



Gladstone St.

Area of Application

N. 35th St.

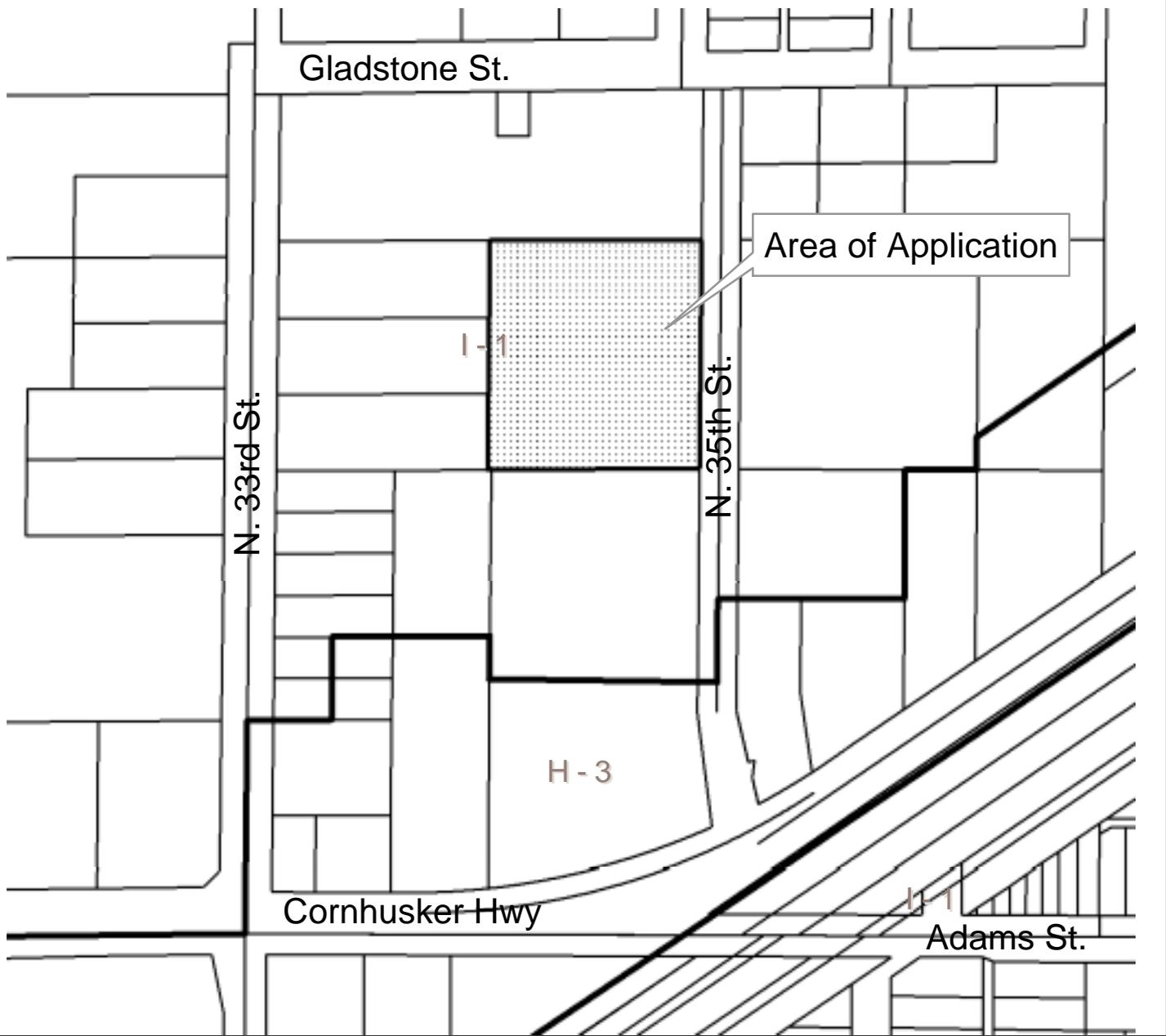
N. 33rd St.

Cornhusker Hwy

Adams St.

Special Permit #2000 N. 35th & Cornhusker Hwy





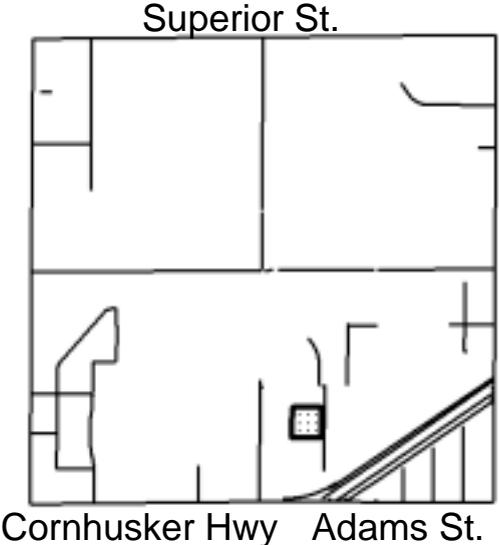
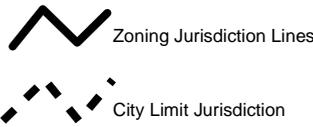
Special Permit #2000

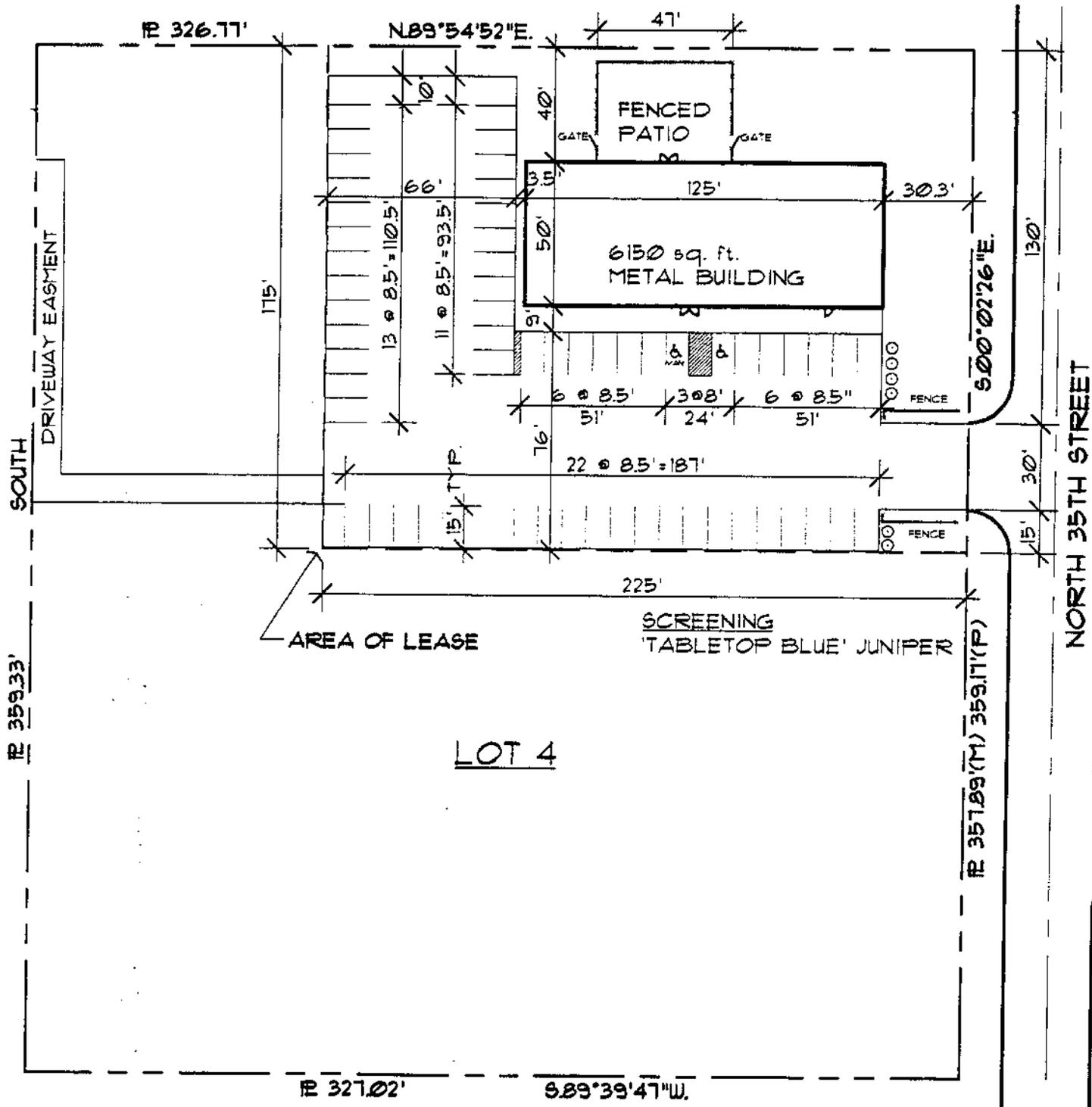
N. 35th & Cornhusker Hwy

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. 7 T10N R7E





R 359.33'

SOUTH

DRIVEWAY EASMENT

R 326.11'

N89°54'52"E.

47'

175'

13 @ 8.5' = 110.5'

11 @ 8.5' = 93.5'

50'

125'

30.3'

S 00° 02' 26" E.

130'

NORTH 35TH STREET

AREA OF LEASE

225'

SCREENING
'TABLETOP BLUE' JUNIPER

LOT 4

R 327.02'

S 89° 39' 47" W.

R 357.89'(M) 359.17'(P)

15'

30'

ZONING: I-1
PARKING: 62 STALLS

LEGAL DESCRIPTION
LOT 4 OF
DELTA REGENCY ADDITION

3235 No. 35th Street
Lincoln, Nebraska

SITE PLAN

SCALE: 1" = 50'-0"



Purpose Statement For Simply Paradise 3235 No. 35th St. Lincoln, Nebraska 68504

The property use is as follows:

The said property will be used as a social hall. The property will host wedding receptions, family gatherings and possible business meetings. The property will be applying for a liquor license after this special permit is granted. Hours of operation will be mostly on the weekends, usually late afternoons to no later than 1:00 a.m. Business meetings during the week will most of the time be hosted without alcohol. The number of employees will be determined on an event by event status. One employee per 50 people will be a standard. Our maximum capacity is 350 based on an inspection that has already been done by the Fire Marshall. A certificate of occupancy has been granted. The above property has been under operation as a Social Hall since 1995. The Runza Corporation Previously retained this facility. During the time of their occupancy, there was never a problem with traffic, noise or any other complaints from any residents and or businesses nearby. The majority of the land surrounding this facility is commercial property, and they are not open for business at the time of events happening at this facility. This said facility will operate with the utmost respect for the law, and will comply with all city regulations regarding this property.

Respectively submitted,

A handwritten signature in cursive script, appearing to read "Janet L. Crosby".

Janet L. Crosby

Memorandum

To: Brian Will, Planning Department
From: Charles W. Baker, Public Works and Utilities *CBH*
Subject: Alcohol Sales Special Permit #2000
Date: January 2, 2003
cc: Randy Hoskins
Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for the proposed Alcohol Sales Special Permit located at 3235 North 35th Street. Public Works finds the site plan parking layout meets design standards, provided all stalls and drive aisles are paved. A parking lot plan must be submitted to Dept. of Bldg Safety for permits.

Memorandum



To: Mr. Brian Will
From: Sergeant Michael S. Woolman #737
Date: January 8, 2003
Re: Simply Paradise SP 2000

Mr. Will,

I have reviewed the Alcohol Sales Permit for the Simply Paradise (SP 2000). Section 27.63.680 of the Lincoln Municipal Code states that the licensed premises of any building approved for such activity must be no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved through the Planning Director.

Simply Paradise is located at 3235 No. 35th Street. "Heritage Place LLC", a mobile home court, is located at 3100 No. 35th Street, which is directly east of Simply Paradise. Sergeant Richards and myself took measurements from the east edge of the Simply Paradise building to the west side of the mobile homes located in Heritage Place.

East side of the Simply Paradise building to the west side of the mobile homes #4A and #4B located at 3100 No. 35th Street = 90 feet.

The Lincoln Police Department is recommending denial based on the criteria that the proposed location is within 100 feet of a residential district/residential use.

Michael S. Woolman