

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 2, 2005 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #05001

PROPOSAL: To allow the sale of alcoholic beverages for consumption off the premises at a Gas'n Shop convenience store.

CONCLUSION: This request complies with all applicable criteria for a special permit for the sale of alcohol for consumption off the premises.

<u>RECOMMENDATION:</u>	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached ownership certificate.

LOCATION: South of the intersection of Sunvalley Blvd and West O Street.

EXISTING ZONING: I-1 Industrial

EXISTING LAND USE: Vacant

SURROUNDING LAND USE AND ZONING:

North:	Commercial/Vacant	H-3
South:	Vacant	I-1
East:	Salt Creek	I-1
West:	Industrial	I-1

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates industrial land uses in this area.

BACKGROUND: This request is to allow the sale of alcohol for consumption off the premises at a proposed Gas'n Shop convenience store. The site plan shows an approximately 7,000 square foot building, with 4,582 square feet of floor area designated for Gas'n Shop, and 2,317 shown as lease space for a tenant other than Gas'n Shop.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)
27.63.685: Alcoholic beverages may be sold for consumption off the premises in the B-1, B-

3, H-1, H-2, H-3, H-4, I-1, 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:

(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.

The parking requirement for this use is either two spaces per three employees per shift, or one space per 1,000 square feet of floor area, whichever is greater. Information regarding the number of employees was not provided with this application, however the plans submitted for building permits show 41 spaces, an amount that should be in excess of what is required. The site plan must be revised to show both the parking calculations (and indicate the largest number of employees on a shift), and the parking lot layout.

(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.

This application is for a special permit to allow the sale of alcohol for consumption off the premises. The sale of alcoholic beverages for consumption on 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, park, church, state mental health institution, or a residential district.

The licensed premises is located in the I-1 district, a district which in this area also includes the Salt Creek and West O Street corridors, as well as the Burlington Northern-Sante Fe rail yard. The nearest zoning district other than I-1 is H-3 to the north across West O Street.

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

Lighting is required to be reviewed at the time of building permits and must comply with all lighting regulations including the Parking Lot Lighting Standards of the 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 shown as part of this application.

(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 shown as part of this application.

(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 potential for access doors being located within 150' of a residential district. The nearest residential district is in excess of 700' away southeast of the site.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, 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.

Access to the subject premises is from West O Street, and there are no "residential streets" at this location.

(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.

(3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.

Planning Commission approval is required for this use.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption off the premises as shown on the attached site plan.

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 for review and approval.
 - 2.1.1 Submit six copies of a revised site plan that includes:
 - A. Dimensions.
 - B. Property lines.
 - C. Scale.
 - D. Clearly delineates the licensed premises.
 - E. Parking calculations.
 - F. Parking lot layout.

Standard:

3. The following conditions are applicable to all requests:
 - 3.1 Before the sale of alcohol for consumption off the premises, all development and construction is to comply with the approved plans.
 - 3.2 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.

- 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 3.4 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:

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Planner
November 23, 2004

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701 Marina Bay Place
Lincoln, NE 68528
(402) 499-8614

APPLICANT: Gas'n Shop, Inc.
701 Marina Bay Place
Lincoln, NE 68528
(402) 475-1101

CONTACT: Dave Cap
PO Box 81463
Lincoln, NE 68501
(402) 499-8614



2002 aerial

Special Permit #05001 West 'O' & Sunvalley Blvd

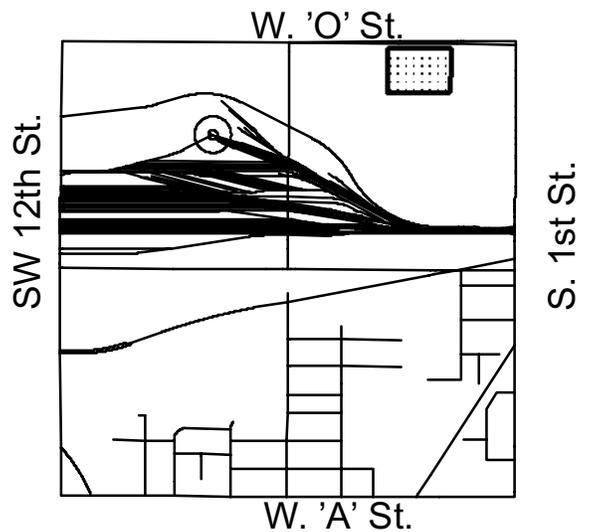
Zoning:

- 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. 27 T10N R6E



Zoning Jurisdiction Lines
City Limit Jurisdiction



Purpose Statement

In the Lincoln Municipal Code §27.43.040(o) the Zoning Department can grant a Special Use Permit in an area zoned H-3 for sale of alcoholic beverages for consumption off premises.

I understand that staff of the Zoning Department has met with Dave Cap, Chief Operations Officer for Gas 'N Shop, Inc., and personnel from BD Construction already. You have seen the plans for the proposed building and are aware that they meet the parking requirements as well as those required for obtaining a license to sell alcoholic beverages (not within 150' of a church, not in a residential area, etc.).

If further information is needed, please contact Dave Cap at the number listed on the application.

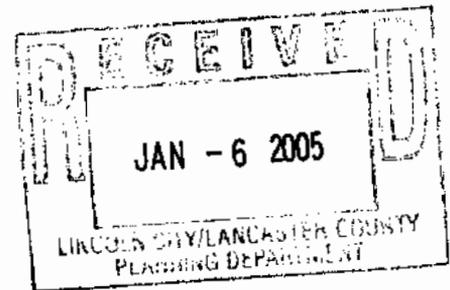


EXHIBIT "A"

A tract of land out of and a part of Lot 98, Irregular Tracts in the Northeast Quarter of Section 27, Township 10 North Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska, and being more particularly described by metes and bounds as follows to wit; Beginning at a 5/8 inch x 30 inch rebar for the Northeast corner of the tract herein described on the South right of way line of West "O" Street, said point also being the Northeast corner of said Lot 98, Irregular Tracts, and being South 89 degrees 28 minutes 18 seconds West 754.10 feet, and South 00 degrees 31 minutes 42 seconds East 92.32 feet from the Northeast corner of the aforesaid Section 27; thence South 00 degrees 09 minutes 09 seconds East (assumed bearing) a distance of 79.10 feet along and with the East line of said Lot 98, Irregular Tracts to the point of curvature of a curve to the right, having a central angle of 07 degrees 40 minutes 00 seconds, a radius of 2172.01 feet, an arc length of 290.63 feet, and a chord bearing South 03 degrees 41 minutes 00 seconds West 290.42 feet; thence Southwesterly along and with the arc of said curve, a distance of 290.63 feet to the point of tangency thereof; thence South 07 degrees 31 minutes 00 seconds West, continuing along the aforesaid East line of Lot 98, Irregular Tracts, a distance of 150.79 feet, to a point thereon for the Southeast corner of the tract herein described; thence North 89 degrees 54 minutes 00 seconds West, a distance of 708.04 feet, to the Southeast corner of Lot 70, Irregular Tracts and being the Southwest corner of the tract herein described; thence North 00 degrees 06 minutes 00 seconds East, a distance of 518.50 feet along and with the East line of said Lot 70, Irregular Tracts, to the Northeast corner thereof and the Northwest corner of the tract herein described, on the South right of way line of "O" Street; thence South 89 degrees 53 minutes 55 seconds East, a distance of 745.31 feet along and with the said South right of way line to the place of beginning.

