

CITY OF LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S. Special Permit #1953

DATE: January 22, 2002

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

LAND AREA: Approximately 15,500 square feet

CONCLUSION: Being 47' from the R-4 zoning district, this use does not provide the 100' separation to a residential district, and the proposed screening and landscaping are not adequate to mitigate the adverse effects of this use.

RECOMMENDATION:	Denial
------------------------	--------

GENERAL INFORMATION

LEGAL DESCRIPTION: Lots 10 and 11, Block 3, Young's Hyland Park Addition, Lancaster County, Nebraska.

LOCATION: 3301 O Street

OWNER: Ho-Chunk, Inc.

APPLICANT: Bill Harrison
3301 O Street
Lincoln, NE 68510 (402)496-3005

CONTACT: Bill Harrison
3301 O Street
Lincoln, NE 68510 (402)496-3005

EXISTING ZONING: B-1 Local Business District

EXISTING LAND USE: Convenience Store/Service Station

SURROUNDING LAND USE AND ZONING:

North	Commercial	B-1
South	Single-family Residential	R-4
East	Commercial	B-1
West	Woods Park	P

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land use in this area.

ANALYSIS

OVERVIEW:

The site is a former Standard Oil Company service station, and has been converted for use as a convenience store with service station. This request is for a special permit to allow the sale of alcoholic beverages for consumption off the premises.

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, which may be waived by the City Council:

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

The parking lot on this site is paved, and the number of off-street parking spaces provided is in excess of the amount required by LMC.

(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 off the premises.

(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 convenience store is within 47' of the R-4 zoning district adjacent to the south. In an attempt to mitigate any adverse effects, the applicant is proposing additional screening by installing a six-foot tall privacy fence with shrubs beginning where the neighbor's privacy fence ends and extending west to South 33rd Street. The applicant is unable to install a screen entirely on his property along the length of the property line due to the existing fence and trees on the neighbor's property. As a result, only 43% of the screen across the rear property line is located on the applicant's property.

This special permit only regulates the applicant's property, and therefore can only ensure continued maintenance of improvements located there. For this reason, it is imperative that the required screen be located on the site of the use that requires mitigation, and that improvements on surrounding properties not be used as a substitute.

Consistent with previous reviews, the Police Department finds that the screen does not mitigate the effect of this use located within 47' of a residential district and recommends denial.

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

No additional lighting associated with this application is indicated.

(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.

The doors face west and north and do not face a residential district.

(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.

(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 screen does not mitigate the adverse effects of the proposed use on the adjacent residential district 47' to the south, and is therefore recommending denial.

PUBLIC WORKS: Public works has no objections to this request.

This special permit is less than 100' from a residential district and fails to demonstrate an adequate screen to mitigate the adverse effect of this use on that district. However, if after a public hearing the City Council approves this application, approval should be subject to the following conditions:

CONDITIONS:

1. This approval permits the sale of alcohol for consumption off the premises at the establishment located at 3301 O Street.
2. The site plan shall be revised to show the proposed fence and landscaping on the applicant's property, and in compliance with LMC and the City of Lincoln Design Standards. This revised site plan shall accompany this permit and shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
3. This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
4. Construction plans shall comply with the approved plans.
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.

Prepared by:

Brian Will, AICP
Planner

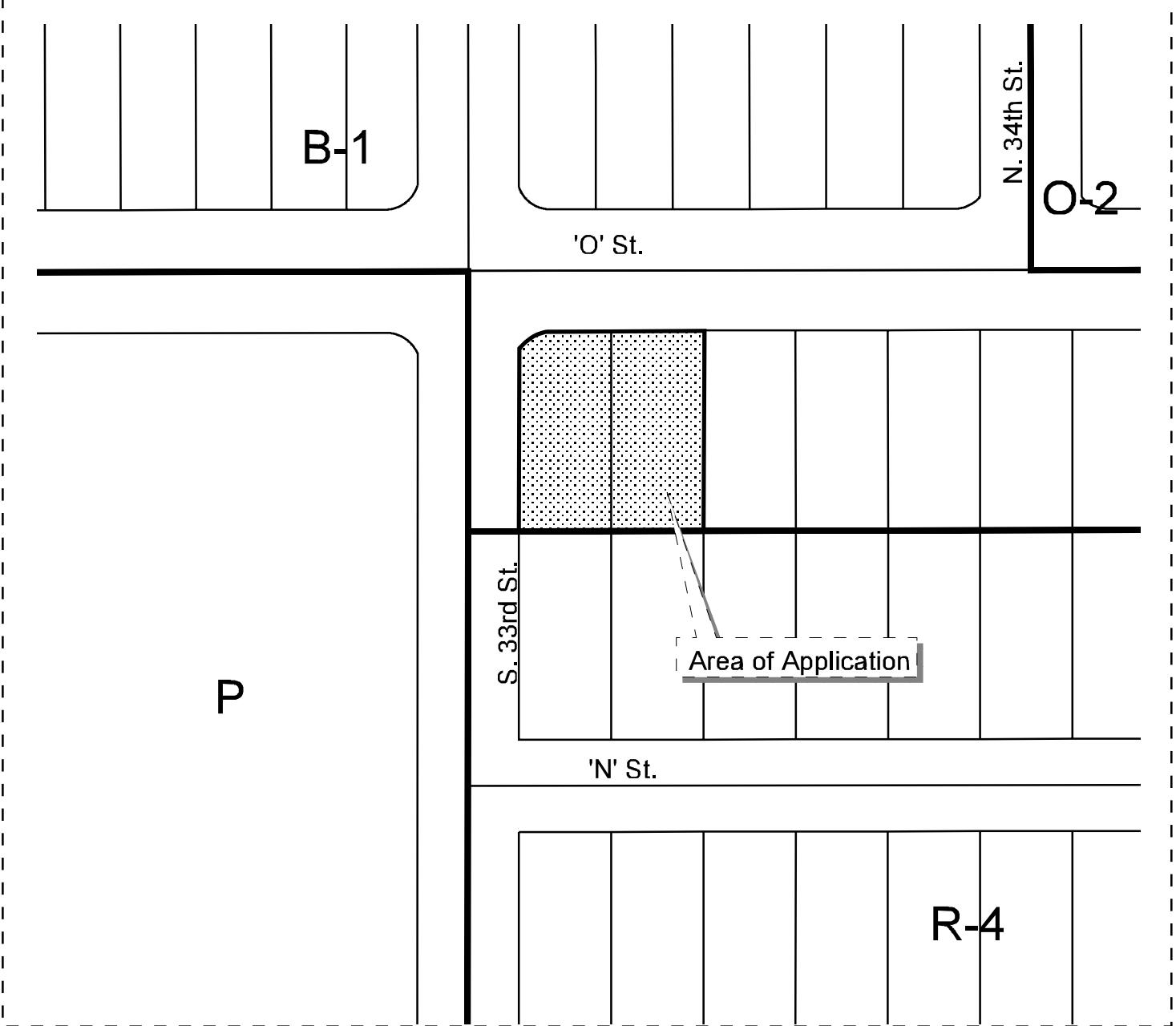


**Special Permit #1953
33rd & 'O' St.**



Photograph Date: 1997

Lincoln City - Lancaster County Planning Dept.

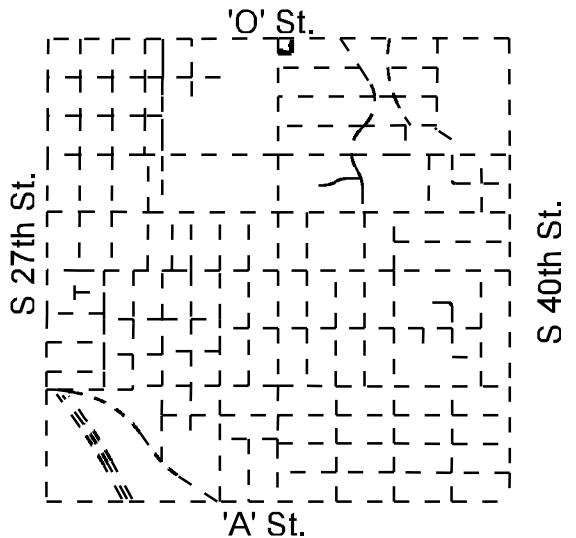


Special Permit #1953 33rd & 'O' St.

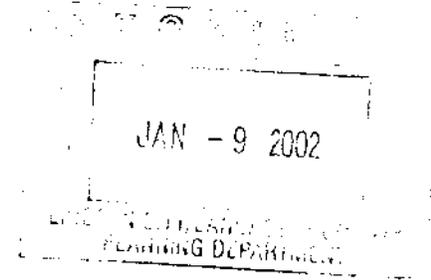
Zoning:

- | | |
|------------|--|
| 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. 30 T10N R7E



Bill Harrison
Heritage Express
3301 "O" Street
Lincoln, NE 68510
Phone # 402-474-9444
Fax # 402-474-9450



Mr. Brian Will
Lincoln/Lancaster County Planning Department
555 S. 10th Street Room #213
Lincoln, Nebraska 68508
Phone # 402-441-7491
Fax # 402-441-6377

January 8, 2002

Mr. Will,

In regards to the application for Liquor Sales Special Permit for Heritage Express, 3301 "O" Street, Lincoln, Nebraska 68510, this will address Section 27.63.685 of the application.

Section (a)

B-1 zoning requires one (1) parking stall per 300 sq. feet of floor area. The outside building measurements are 28 feet by 50 feet. This makes the total sq. feet of the building 1400. This size requires four (4) total stalls. We have five (5) stalls plus one (1) Special needs stall. This exceeds the required number of stalls needed.

* See attached diagrams*

Section (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 lesser distance, must mitigate any adverse effects of the effects of the reduction in distance through landscaping, screening, or other methods by the Planning Director.

The area in question is the south side of the property.

There is a retaining wall approximately four (4) feet tall and two (2) feet wide extending across the whole south border. (See Illustration #1)

Two (2) feet south of the retaining wall is the property line.

Directly south of the wall is a row of trees that stand at least 25 feet tall.

(See Illustration #1 & Illustration #3)

Directly to the south of the trees is a six-foot privacy fence.

(See Illustration #1 & Illustration #2)

The privacy fence extends from the east to the power pole. (Approximately 75 feet long)

Directly to the west of the fence and the tree line is a 12-foot tall by 25-foot long billboard.

(See Illustration #2 & #3)

We will install a six (6)-foot privacy fence from the tree line west to nine (9)-feet from the west property line. I spoke with Mr. Scott Opfer at the Lincoln Traffic Engineers office, and he informed me of the distance needed for the clearance for traffic. The fence will be fifty two (52) feet long.

With the tall tree line and the privacy fence covering the whole south property line, this would provide an adequate screening.

Please feel free to contact me with any additional questions or needed information.

Sincerely,

Bill Harrison

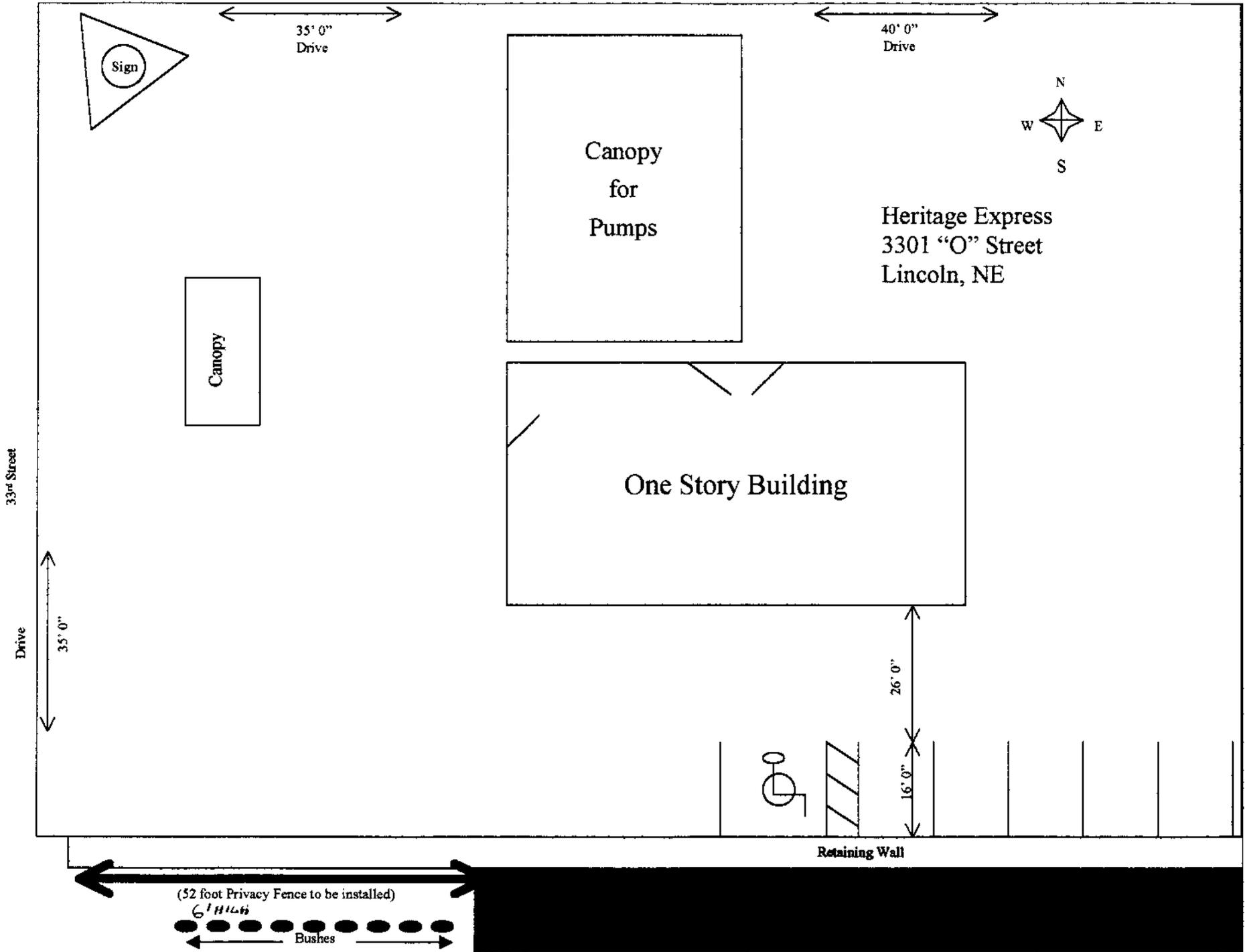




Illustration #1



Illustration #3



Illustration #2

Memorandum



To: Mr. Brian Will
From: Sergeant Michael S. Woolman #737
Date: January 23, 2002
Re: 3301 "O" Street – Liquor Permit

Mr. Will,

I have reviewed the revised Liquor Sales Special Permit for Heritage Express located at 3301 "O" Street. Section 27.63.685 states that 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 through the Planning Director. The south side of the building of 3301 "O" Street is 91' from 3300 "N" Street and 87' from 3310 "N" Street. The Lincoln Police Department feels that the proposed bushes and the proposed fence do not adequately mitigate the 100 feet from a residential district-zoning ordinance.

A handwritten signature in black ink, appearing to read "Michael S. Woolman".

Michael S. Woolman

M e m o r a n d u m

24

To: Brian Will, Planning Department

From: Charles W. Baker, Public Works and Utilities *CBK*

Subject: Special Permit # 1953, Alcohol Sales

Date: December 21, 2001

cc: Roger Figard
Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for the proposed Special Permit # 1953 for Alcohol Sales at the gas/convenience store located at 33rd and "O" Street. Public Works has no objections.