

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for September 14, 2005 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #05044

PROPOSAL: To allow the sale of alcoholic beverages for consumption on the premises for a new restaurant.

CONCLUSION: Provided the site plan is modified as noted in the recommended conditions for approval, this request complies with all applicable criteria for a special permit for the sale of alcohol for consumption on the premises, and is an appropriate land use at this location.

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

LEGAL DESCRIPTION: Lot 2, Pine Lake Heights South 13th Addition.

LOCATION: South 27th Street and Jamie Lane

EXISTING ZONING: H-4 General Commercial

EXISTING LAND USE: Vacant

SURROUNDING LAND USE AND ZONING:

North:	Vacant	O-3
South:	Vacant	H-4
East:	Vacant	H-4
West:	Vacant	B-2

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

BACKGROUND: This request is to allow the sale of alcohol for consumption on the premises at a proposed sit-down Mexican-style restaurant. The site plan shows a proposed 6,700 square foot building located within the larger development known as Pine Lake Heights South Commercial Center. The center is under development, and the adjacent lots are still vacant.

ANALYSIS:

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. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use. 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 provided on-site at the ratio of one space per 100 square feet of gross floor area.

67 off-street parking spaces are required for the 6,700 square foot building shown. The site plan shows 86 spaces, 19 more than the number required.

(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 designated area specified in a license issued under the Nebraska Liquor Control Act 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 (except where such use is accessory to a golf course or country club).

There is no day care facility, park, church, state mental health institution, or residential district within 100' of this use. The nearest of any of these is the R-3 residential district in excess of 300' away to the north of the site.

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

Any new lighting associated with the parking lot is subject to compliance with the City of Lincoln Design Standards. Compliance with these standards is reviewed at the time of building permits.

(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.

There are no such devices 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, as noted previously the nearest residential district is in excess of 300' away from the site.

(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.

Access to the premises is from Jamie Lane which is not considered a "residential street" 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.

2. DEPARTMENT RESPONSES:

POLICE: The Police Department had no objection to this request.

PUBLIC WORKS: Public Works and Utilities had no objection to this request.

HEALTH: The Health Department had no objection to this request.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption on the premises of the restaurant as designated on the 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:
 - 2.1.1.1 The legal description.
 - 2.1.1.2 A north arrow.
 - 2.1.1.3 Label South 27th Street.

2.1.1.4 Designate the licensed premises by cross-hatching or shading.

2.2 The construction plans comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:

3.1 Before the sale of alcohol for consumption on 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:

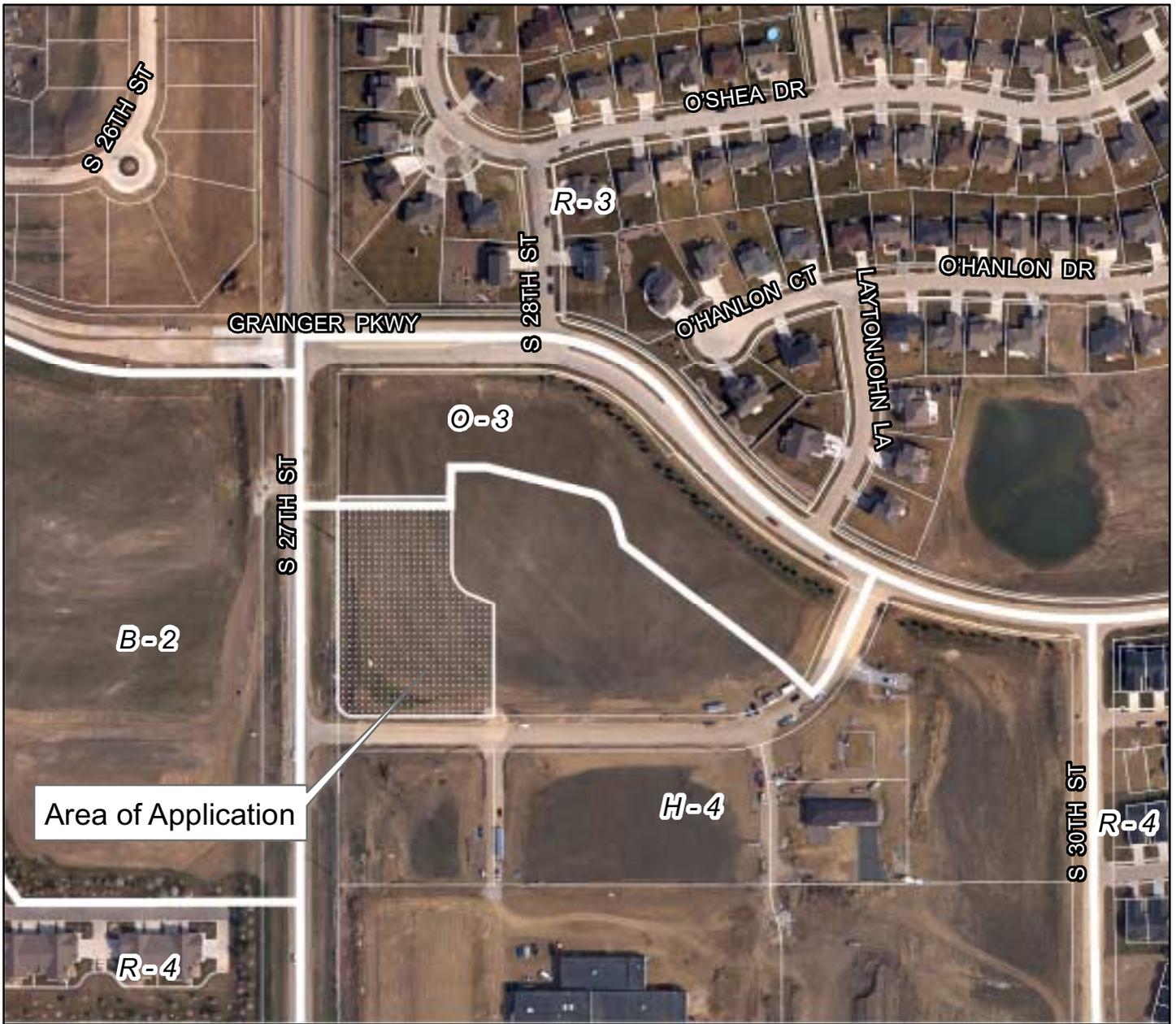
Brian Will, AICP, 441-6362, bwill@lincoln.ne.gov
Planner
August 31, 2005

OWNER/

APPLICANT: El Rincon, LLC
211 North 70th Street
Lincoln, NE 68505
(402) 464-7201

APPLICANT/

CONTACT: Randy Ewing
PO Box 95109
Lincoln, NE 68509
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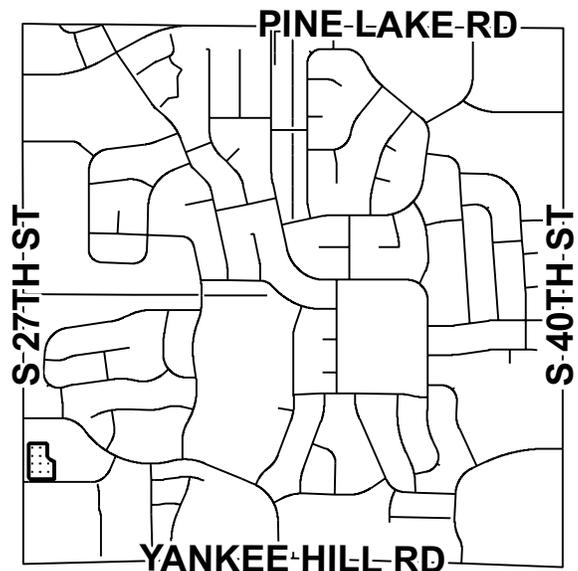
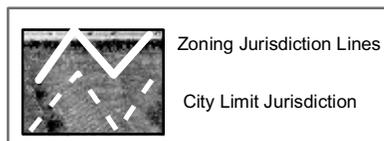
2005 aerial

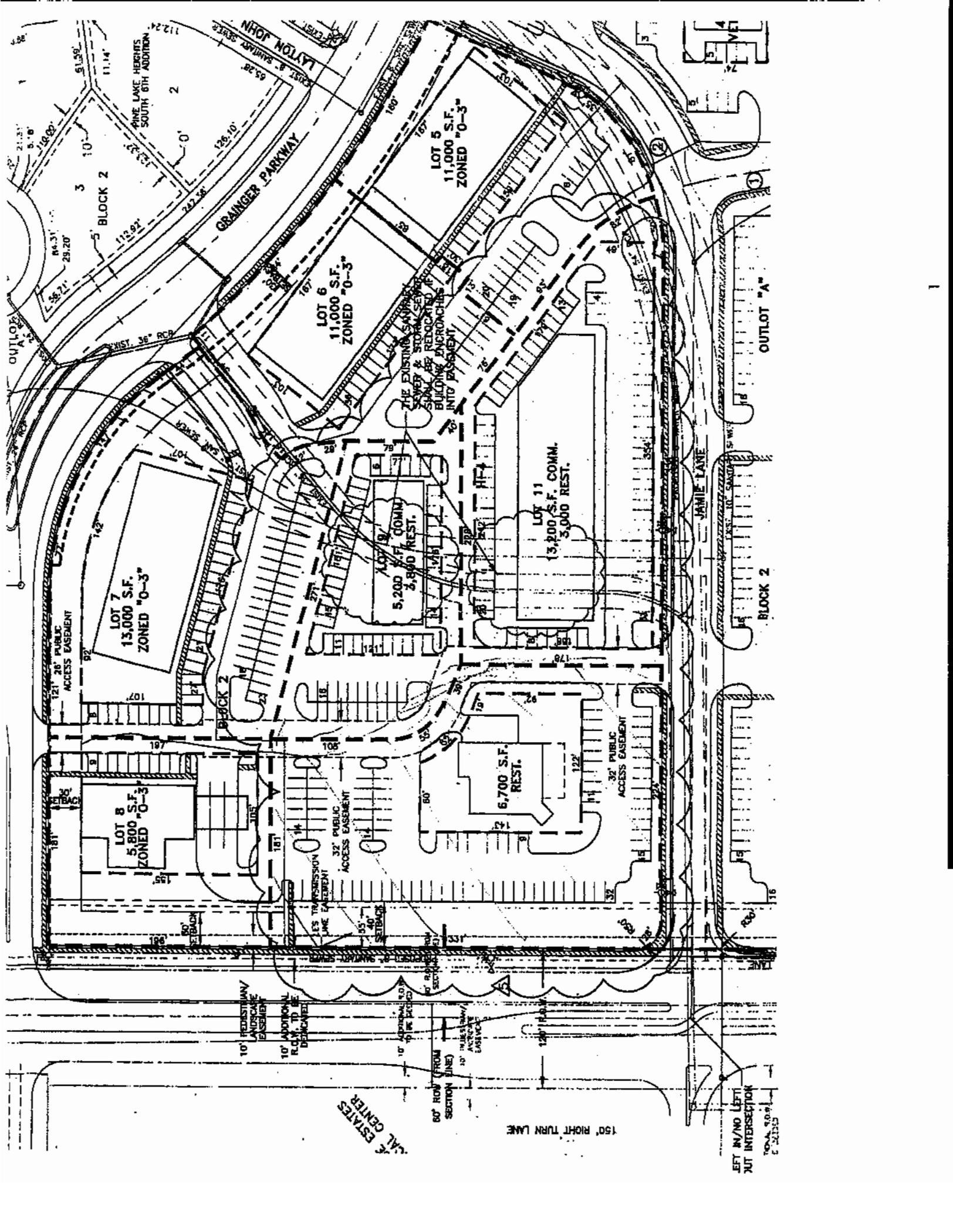
Special Permit #05044 S. 27th & Jamie Lane

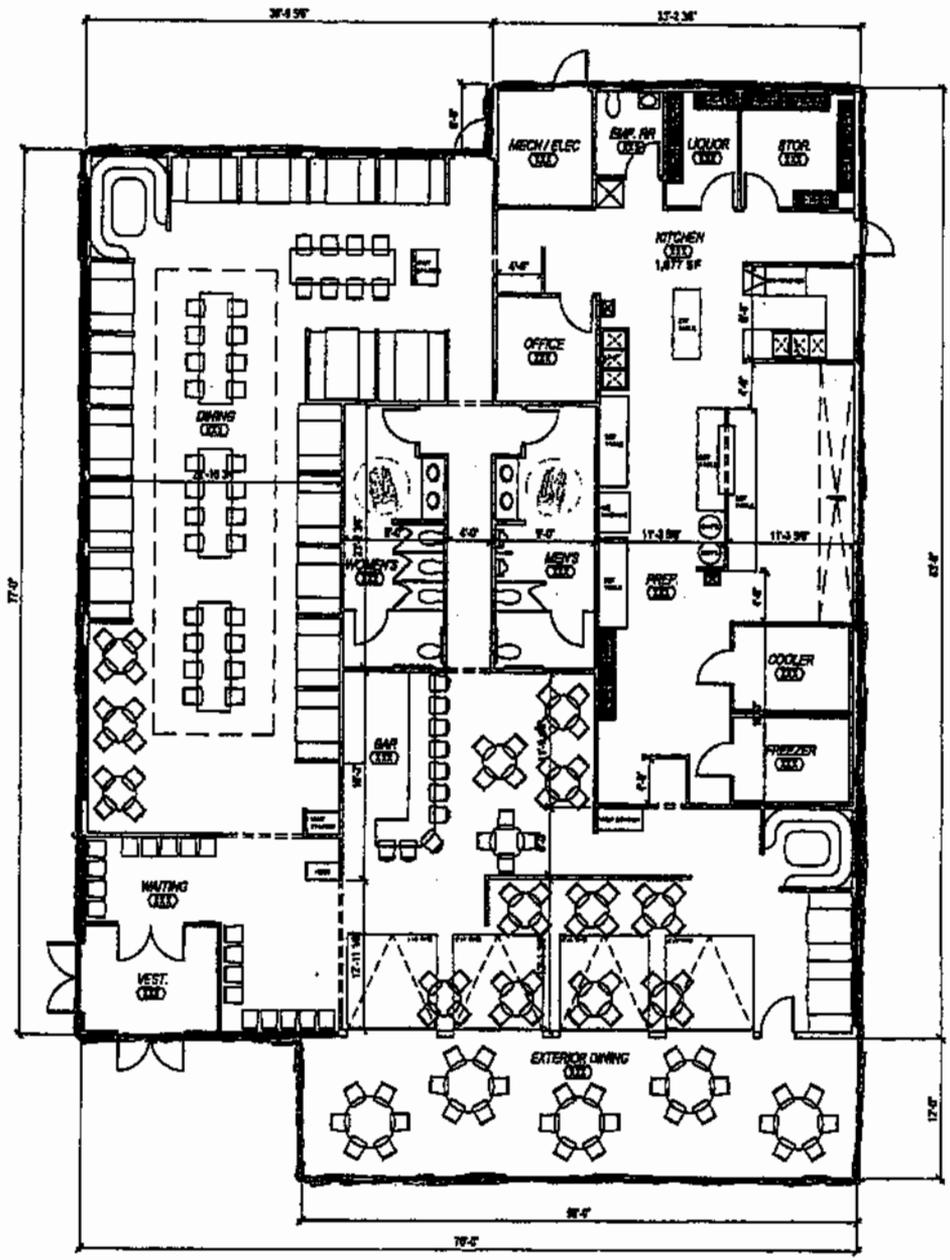
Zoning:

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. 19 T9N R7E








A 2
A2.01
FLOOR PLAN
 SCALE: 1/8" = 1'-0"

Licensed Area is a one story, irregular shaped building, approximately 70' by 83' and an outdoor seating area approximately 50' by 12' as indicated above.

EXHIBIT

A-2

tabbles

Pierson|Fitchett
LAW FIRM

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August 9, 2005

Gary L. Aksamit
of Counsel

City Planning Dept.
555 So. 10th Street
Lincoln, NE 68508

VIA HAND DELIVERY

Re: *Application for Special Use Permit*

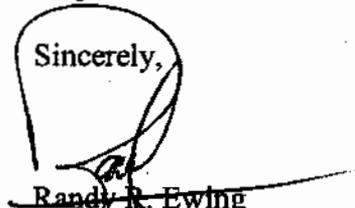
Enclosed please find the following documents:

1. Special Use Permit Application form;
2. Application fee in the amount of \$740;
3. Six (6) 11 x 17 copies of the site plan;
4. One (1) 8.5 x 11 copy of the site plan;
5. Six (6) copies of the building floor plan and final plat; and
6. Ownership Certificate.

The Special Permit Application is submitted in connection with the property described in the Application, which the owner intends to use for the construction and operation of a sit down Mexican Restaurant that will serve alcoholic beverages on the premises. All of the requirements of § 27.63.680 of the Lincoln Municipal Code are met by this Application.

Should you have any questions or concerns, please do not hesitate to contact this office.

Sincerely,



Randy R. Ewing
For the Firm
rewing@pierson-law.com

RRE:lt

Enclosures

(G:\WPData\RE\Morales, Abram\El Rincon Management Company, Inc\City Planning 8-9.Ltr.wpd)