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92R-90

Introduce: 3-30-92

RESOLUTION NO. A- 74755

USE PERMIT NO. 56

1 WHEREAS, Noddle Development Company has submitted an application in  
 2 accordance with Section 27.31.100 of the Lincoln Municipal Code designated as  
 3 Use Permit No. 56 for authority to construct a 425,000 square foot retail center  
 4 on the northeast corner of North 27th Street and Cornhusker Highway, and legally  
 5 described to wit:

6 A tract of land composed of Lot 161 I.T., Lot 178 I.T. and  
 7 a portion of Lot 181 I.T., located in the Southwest  
 8 Quarter of Section 7, Township 10 North, Range 7 East of  
 9 the 6th P.M., Lancaster County, Nebraska, and more partic-  
 10 ularly described as follows:

11 Commencing at the southwest corner of said Southwest  
 12 Quarter; thence northerly along the west line of said  
 13 Southwest Quarter on an assumed bearing of north 0 degrees  
 14 00 minutes 00 seconds east, a distance of 74.51 feet;  
 15 thence north 90 degrees 00 minutes 00 seconds east, a  
 16 distance of 50.00 feet to a point on the east right-of-way  
 17 line of North 27th Street, said point being the true point  
 18 of beginning; thence south 42 degrees 49 minutes 07  
 19 seconds east along the south line of said Lot 178 I.T., a  
 20 distance of 28.15 feet; thence south 80 degrees 07 minutes  
 21 59 seconds east, a distance of 38.89 feet to a point which  
 22 is 45.0 north of the south line of said Southwest Quarter;  
 23 thence north 88 degrees 50 minutes 00 seconds east, a  
 24 distance of 203.44 feet to a point which is 45.0 feet  
 25 north of the south line of said Southwest Quarter; thence  
 26 north 85 degrees 11 minutes 14 seconds east, a distance of  
 27 183.51 feet to a point which is 56.7 feet north of the  
 28 south line of said Southwest Quarter. Said point also  
 29 being the southeast corner of said Lot 178 I.T.; thence  
 30 north 28 degrees 59 minutes 01 seconds west along the east  
 31 line of said Lot 178 I.T., a distance of 288.05 feet;  
 32 thence south 88 degrees 50 minutes 00 seconds west along  
 33 the south line of said Lot 181 I.T., a distance of 409.24  
 34 feet; thence north 01 degrees 10 minutes 00 seconds west,  
 35 a distance of 37.50 feet; thence north 88 degrees 50  
 36 minutes 00 seconds east, a distance of 258.24 feet to a  
 37 point on the west line of the abandoned C. & N.W. Railroad  
 38 Right-of-way; thence north 22 degrees 02 minutes 36  
 39 seconds east along said right-of-way, a distance of 109.10 feet  
 40 to a point of curvature; thence along a curve to the left  
 41 having a delta angle of 10 degrees 07 minutes 54 seconds,  
 42 an arc distance of 1004.33 feet, a radius of 5679.58 feet  
 1004.33

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1 and a chord of north 16 degrees 58 minutes 39 seconds  
2 east, a distance of 1003.02 feet; thence north 11 degrees  
3 54 minutes 42 seconds east, a distance of 893.04 feet to  
4 the northeast corner of said Lot 161 I.T.; thence south 88  
5 degrees 19 minutes 00 seconds west, a distance of 670.72  
6 feet; thence south 40 degrees 37 minutes 00 seconds west  
7 along the northwesterly line of said Lot 161 I.T., a  
8 distance of 1257.19 feet to a point which is 50.0 feet  
9 east of the west line of said Southwest Quarter; thence  
10 south 0 degrees 00 minutes/east along the east right-of- /\* "00 seconds"  
11 way line of North 27th Street, a distance of 460.59 feet;  
12 thence south 45 degrees 00 minutes 0 seconds east, a  
13 distance of 35.36 feet; thence south 90 degrees 00 minutes  
14 00 seconds east, a distance of 25.00 feet; thence south 0  
15 degrees 00 minutes 00 seconds east, a distance of 80.00  
16 feet; thence south 90 degrees 00 minutes 00 seconds west,  
17 a distance of 25.00 feet; thence south 45 degrees 00  
18 minutes 00 seconds west, a distance of 35.36 feet; thence  
19 south 0 degrees 00 minutes 00 seconds east, a distance of  
20 664.93 feet to the point of beginning, containing 49.68  
21 acres, more or less,

22 WHEREAS, the real property adjacent to the area included within the  
23 plot plan for this retail center will not be adversely affected; and

24 WHEREAS, said plot plan together with the terms and conditions  
25 hereinafter set forth are consistent with the intent and purpose of Title 27  
26 of the Lincoln Municipal Code to promote the public health, safety, morals,  
27 and general welfare.

28 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
29 Lincoln, Nebraska:

30 That the application of Noddle Development Company, hereinafter  
31 referred to as "Permittee", to construct a 425,000 sq. ft. retail center on  
32 the above-described property be and the same is hereby granted under the  
33 provisions of Section 27.31.100 of the Lincoln Municipal Code upon condition  
34 that construction and operation of said retail center be in strict compliance  
35 with said application, the plot plan, and the following additional express  
36 terms, conditions, and requirements:

1           1. This permit approves a 425,000 square foot retail shopping  
 2 center, which includes a total of eight (8) building pad sites and related  
 3 parking. The permittee shall have three (3) years from the date of the letter  
 4 of acceptance of this use permit to develop, and be issued a certificate of  
 5 occupancy for, each building pad site, otherwise that portion of this permit  
 6 associated with any unbuilt pad site or sites shall lapse; provided, however,  
 7 that the three (3) year time frame may be extended by the City Council, after  
 8 a public hearing. Notwithstanding any contrary provision herein, any unbuilt  
 9 pad site or sites shall not lapse in the event<sup>(a)</sup> the permittee has obtained  
 10 certificates of occupancy on forty (40) percent or more of the 425,000 sq. ft.  
 11 retail shopping center within the three-year time period or within the  
 12 extension period, if any, or (b) Permittee has paid the full amount of its  
 13 cost responsibilities as set forth in the "Agreement for Installation of Off-Site Transportation Improvements" which is

- 14           2. Before receiving building permits: attached hereto.
- 15           A. The grading plan shall show finish floor elevations at  
 16           least one foot above base flood elevation.
  - 17           B. The Lower Platte South Natural Resources district shall  
 18           approve the design of the storm sewer outlets draining  
 19           into Dead Man's Run.
  - 20           C. All signs shall conform to Chapter 27.69 of the Lincoln  
 21           Municipal Code.
  - 22           D. The permittee shall submit sign and exterior construction  
 23           details to be approved by the Planning Director.
  - 24           E. All construction shall comply with the approved use permit  
 25           plans.
  - 26           F. A coordinated development and occupancy schedule shall be  
 approved by the Planning Director.

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1 G. The required easements as shown on the site plan must be  
2 recorded with the Register of Deeds for Lancaster County,  
3 Nebraska.

4 H. The City Council must approve:

5 (1) A Comprehensive Plan amendment which designates this  
6 area as a site for a regional multi-use center.

7 (2) Change of Zone 2657.  
The City hereby approves the waiver of the front

8 I. ~~(3) A waiver of the front yard setback to a minimum of~~  
9 ~~yard setbacks as shown on the plot plan.~~  
10 ~~forty (40) feet, or as indicated on the approved Site~~  
~~Plan, if requested by the applicant.~~

11 3. The developer agrees to comply with § 27.55.030 of the Lincoln  
12 Municipal Code with regard to the placement of fill in the flood plain.

13 4. The relocation of any existing utilities and other facilities  
14 shall be at the developer's cost.

\*\*See Paragraphs 5, 6, and 7 on Motion to Amend #1\*\*

15 5. The developer agrees to take precautions to save as many of the  
16 existing <sup>8.</sup> trees as possible and to protect such trees from construction activi-  
17 ties and to use appropriate methods to prevent serious damage to the root  
18 system of such trees.

19 6. Before occupying this shopping center, all development and  
20 construction <sup>9.</sup> shall comply with the approved plans.

21 7. All privately-owned improvements, including landscaping and  
22 recreational facilities, shall be permanently maintained by the owner or an  
23 appropriately established property owner's association approved by the City.

24 8. The terms, conditions, and requirements of this resolution  
25 shall be binding and obligatory upon the Permittee, its successors and assigns.  
26 The building official shall report violations to the City Council which may

1 revoke this use permit or take such other action as may be necessary to gain  
2 compliance.  
3 .9. The Permittee shall sign and return the City's letter of  
4 acceptance to the City Clerk within 30 days following approval of this use  
5 permit, provided, however, said 30-day period may be extended up to six months  
6 by administrative amendment. The City Clerk shall file a copy of the resolu-  
7 tion approving this use permit and the letter of acceptance with the Register  
8 of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by:

Ken Haar

AYES: Haar, Johnson, Minnick,  
Seng, Wilson, Young; NAYS: None.

Approved as to Form & Legality:

William H. Hester  
City Attorney

Staff Review Completed:

Mary A. Johnson  
Administrative Assistant

4/6/92 Council Proceedings:

MINNICK Moved to delay Bill #92R-90  
for one week until 4/13/92.

Seconded by Hempel and  
carried by the following vote:

AYES: Haar, Hempel, Johnson,  
Minnick, Seng, Wilson; NAYS: None;  
ABSENT: Young.

4-13-92 Council Proceedings:

MINNICK Moved to Amend Bill 92R-90 as  
shown on the attached Motion to Amend #1.

Seconded by Seng and carried by  
the following vote: AYES: Haar, Johnson,  
Minnick, Seng, Wilson, Young; NAYS: None.

MINNICK Moved to amend Bill 92R-90 as shown  
on the attached Motion to Amend #2.

Seconded by Seng and carried by the  
following vote: AYES: Haar, Johnson,  
Minnick, Seng, Wilson, Young; NAYS: None.

APPROVE

APR 21 1992

Ken Haar  
MAYOR

ADOPTED

APR 13 1992

By City Council

6.  
A. 74755  
92R-90

#1

MOTION TO AMEND

I hereby move to amend Bill No. 92R-90 in the following manner:

- (a) On page 1 line 39 by adding the word "feet" after the number "109.10";
- (b) On page 1 line 42 by deleting the number "10004.33" and inserting in lieu thereof the number "1004.33";
- (c) On page 2 line 10 after the word "minutes" by inserting "00 seconds";
- (d) On page 4 by deleting all of lines 8, 9 and 10, and inserting the following new paragraph I.:

"I. The City hereby approves the waiver of the front yard setbacks as shown on the plot plan.";

- (e) On page 4 between lines 14 and 15 by adding the following new paragraphs 5, 6 and 7:

\*\* "5. The proposes shelter and related bike paths (approximately 475 lineal feet) providing access to the proposed shelter, as shown on the plot plan, are deleted.

6. A second Bonanza entrance ground sign, along the southern property line of said shopping center, east of the northwest driveway entrance to Bonanza is approved, provided that the sign shall be located outside of the sight triangle restrictions of the City's Design Standards.

- 7. The City hereby approves:
  - A. A waiver of the front yard setbacks to permit setbacks as shown on the site plan.
  - B. A waiver of the City's Design Standards to permit the ring road adjacent to building sites A, B, C and D to be constructed at

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0% slope to maintain similar grade in the front of the building sites; provided that there will be a 1.5% or more cross slope to provide adequate drainage to the west." \*\*

(f) On pages 4 and 5 the remaining paragraphs are renumbered accordingly.

Introduced by:

AYES: Haar, Johnson, Minnick, Seng, Wilson, Young; NAYS: None.

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant

Requested by: Applicant (Noddle Development Company)

Reason for Request: To correct the legal description; City Parks and Recreation Department does not want the ongoing maintenance of the proposed shelter and related bike paths; Bonanza's 29th Street entrance will be blocked by a median in 29th Street and, therefore, Bonanza has requested an additional entrance ground sign to help the public find the entrance to the Bonanza Restaurant; Planning Commission recommended this waiver of the front yard setbacks; and the property is very flat and this design will still adequately drain the site.

**ADOPTED**

APR 18 1992

By City Council

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92R-90

A-ALWAYS

#2

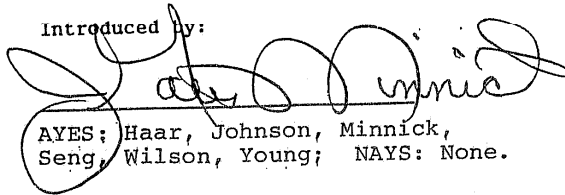
#70  
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MOTION TO AMEND

I hereby move to amend Bill No. 92R-90 in the following manner:

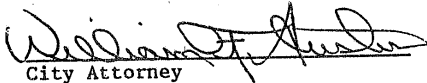
- (1) On page 3, line 9 by adding "(a)" after the word event; and
- (2) On page 3, line 12 by deleting the period at the end of the sentence and adding the phrase ", or (b) Permittee has paid the full amount of its cost responsibilities as set forth in the "Agreement for Installation of Off-Site Transportation Improvements" which is attached hereto."

Introduced by:



AYES: Haar, Johnson, Minnick,  
Seng, Wilson, Young; NAYS: None.

Approved as to Form & Legality:

  
City Attorney

Staff Review Completed:

\_\_\_\_\_  
Administrative Assistant

Requested by: City and the Permittee

**ADOPTED**

APR 13 1992

By City Council



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LETTER OF ACCEPTANCE

City Council  
City of Lincoln  
Lincoln, Nebraska

TO THE CITY COUNCIL:

I, Harlan J. Noddle, ~~President~~ or authorized representative of Noddle Development Company, herein called "Permittee" under Use Permit No. 56, granted by Resolution No. A-74755 adopted by the Lincoln City Council on April 13, 1992, do hereby certify that I have thoroughly read said resolution, understand the contents thereof, and do hereby accept without qualification all of the terms, conditions, and requirements therein.

Harlan J. Noddle  
President/Authorized Representative

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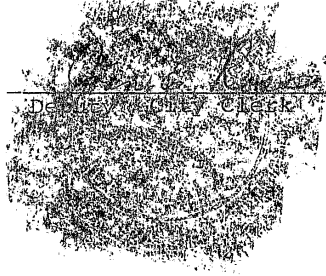
C E R T I F I C A T E

STATE OF NEBRASKA )  
COUNTY OF LANCASTER ) ss:  
CITY OF LINCOLN )

I, Joan E. Ross, Deputy City Clerk of the City of Lincoln, Nebraska, do hereby certify that the above and foregoing is a true and correct copy of Use Permit No. 56 approved by Resolution No. A-74755

as passed and approved by the City Council of the City of Lincoln, Nebraska, at its meeting held April 13, 1992, as the original appears of record in my office, and is now in my charge remaining as Deputy City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska, this 24 day of April, 1992.



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LANCASTER COUNTY, NEB  
MAY 14 8 34 AM '92

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INST. NO. 92 21479

*Return to City Clerk*