

04R-272



Introduce: 10-4-04

RESOLUTION NO. A- 84052

SPECIAL PERMIT NO. 2004

1 WHEREAS, Roger and Eldonna Schwisow and Hartland Homes, Inc. have  
2 submitted an application designated as Special Permit No. 2004 for authority to construct  
3 125,000 sq. ft. of Planned Service Commercial floor area, with requested variances to the  
4 rear and side yard setbacks, on property located at North 56th Street and Arbor Road, and  
5 legally described to wit:

6 ~~A portion of Lots 20 and 21 I.T., located in the East Half of~~  
7 ~~Section 32, Township 11 North, Range 7 East of the 6th P.M.,~~  
8 ~~Lincoln, Lancaster County, Nebraska, more particularly~~  
9 ~~described as follows:~~

10 ~~Commencing at the North Quarter corner of said Section 32;~~  
11 ~~thence on the north line of the Northeast Quarter of said~~  
12 ~~Section 32, on an assigned bearing of south 89 degrees 96~~  
13 ~~minutes 40 seconds east, a distance of 1317.99 feet to the~~  
14 ~~point of beginning; thence continuing on assigned bearing of~~  
15 ~~south 89 degrees 36 minutes 40 seconds east, a distance of~~  
16 ~~1214.15 feet to a point on the westerly right-of-way line of~~  
17 ~~North 56th Street; thence on said westerly right-of-way line;~~  
18 ~~south 02 degrees 09 minutes 17 seconds west, a distance of~~  
19 ~~695.35 feet to a point on the southerly line of said Lot 21;~~  
20 ~~thence on said southerly line for the next four courses, south~~  
21 ~~83 degrees 55 minutes 33 seconds west, a distance of~~  
22 ~~1200.35 feet; thence north 00 degrees 23 minutes 20 seconds~~  
23 ~~east, a distance of 830.13 feet to the point of beginning, said~~  
24 ~~tract containing an area of 916,988.18 square feet or 21.05~~  
25 ~~acres, more or less; See Page 1A~~

26 WHEREAS, the real property adjacent to the area included within the site  
27 plan for this planned service commercial area will not be adversely affected; and

Amended 9/25/06

**NORTHBANK JUNCTION**  
**SPECIAL PERMIT #2004**  
**LEGAL DESCRIPTION**

**ATTACHMENT "A"**

Lot 24 Irregular Tract and a portion of 17.11± Acres Lower Platte South Natural Resources District, located in the East Half of Section 32, Township 11 North, Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska, more particularly described as follows:

Commencing at the North Quarter Corner of Section 23;

Thence on the North line of the Northeast Quarter of said Section 32, on an assigned bearing of South 89°36'40" East, a distance of 1317.99 feet, to the POINT OF BEGINNING;

Thence continuing on assigned bearing of South 89°36'40" East, a distance of 1214.15 feet, to a point on the westerly right-of-way line of North 56<sup>th</sup> Street;

Thence on said westerly right-of-way line, South 02°09'17" West, a distance of 695.35 feet;

Thence South 83°55'33" West, a distance of 1200.35 feet;

Thence North 00°23'20" East, a distance of 830.13 feet, to the POINT OF BEGINNING, said tract containing an area of 916,988.18 square feet or 21.05 acres, more or less.

P+ L24 NE 1/4 -  
Pt NENE 1/4

1           WHEREAS, said site plan together with the terms and conditions hereinafter  
2 set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal  
3 Code to promote the public health, safety, and general welfare.

4           NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
5 Lincoln, Nebraska:

6           That the application of Roger and Eldonna Schwisow and Hartland Homes,  
7 Inc., hereinafter referred to as "Permittee", to construct 125,000 sq. ft. of Planned Service  
8 Commercial floor area, on the property legally described above, be and the same is hereby  
9 granted under the provisions of Section 27.63.470 of the Lincoln Municipal Code upon  
10 condition that construction and operation of said commercial floor are be in strict  
11 compliance with said application, the site plan, and the following additional express terms,  
12 conditions, and requirements:

13           1.     This permit approves 125,000 square feet of floor area and variances  
14 to the rear and side yard setback requirements from 50' to 20' and 10' respectively.

15           2.     Before receiving building permits:

16                 a.     The Permittee must submit an acceptable, revised final plan  
17 including seven copies.

18                 b.     The construction plans must conform to the approved plans.

19                 c.     Final plats within the area of this Planned Service Commercial  
20 area must be approved by the City.

21           3.     Before occupying, all development and construction must be  
22 completed in conformance with the approved plans.

23           4.     All privately-owned improvements must be permanently maintained

1 by the owner or an appropriately established property owners association approved by the  
2 City Attorney.

3 5. The site plan approved by this permit shall be the basis for all  
4 interpretations of setbacks, yards, locations of buildings, location of parking and circulation  
5 elements, and similar matters.

6 6. The terms, conditions, and requirements of this resolution shall be  
7 binding and obligatory upon the Permittee, and the Permittee's successors, and assigns.  
8 The building official shall report violations to the City Council which may revoke the special  
9 permit or take such other action as may be necessary to gain compliance.

10 7. The Permittee shall sign and return the City's letter of acceptance to  
11 the City Clerk within 30 days following approval of the special permit, provided, however,  
12 said 30-day period may be extended up to six months by administrative amendment. The  
13 City Clerk shall file a copy of the resolution approving the special permit and the letter of  
14 acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the  
15 Permittee.

See further Council Proceedings  
on next page.

Approved as to Form & Legality:

  
City Attorney

**ADOPTED**  
SEP 25 2006  
BY CITY COUNCIL

Introduced by:



AYES: Camp, Cook, Eschliman,  
McRoy, Newman, Svoboda;  
NAYS: None; ABSTAINING:  
Marvin.

Approved this <sup>uk</sup> 27 day of Sept., 2004:

  
Mayor

See further Council Proceedings  
on next page.

**04R-272**

10/11/04 Council Proceedings:

COOK Placed Bill No. 04R-272 on pending.

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

9/11/06 Council Proceedings:

Request to remove from Pending for P.H. 9/18/06, with Action 9/25.

9/18/06 Council Proceedings:

MARVIN Moved to waive the rules to remove Bill No. 04R-272 from Pending to have Public Hearing this date, 9/18/06, and to continue Public Hearing with Action on 9/25/06.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

9/25/06 Council Proceedings:

SVOBODA Moved to amend Bill No. 04R-272 in the following manner:

1. On page 1, lines 6 through 25, delete the legal description and insert in lieu thereof the attached legal description marked Attachment "A".

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

04R-272

MOTION TO AMEND NO. 1


I hereby move to amend Bill No. 04R-272 in the following manner:

1. On page 1, lines 6 through 25, delete the legal description and insert in lieu thereof the attached legal description marked Attachment "A". (See Page 1A)

Introduced by:



Approved as to Form & Legality:

  
Asst City Attorney

AYES: Camp, Cook, Eschliman,  
Marvin, McRoy, Newman,  
Svoboda; NAYS: None.

Requested by: Law Department

Reason for Request: The legal description for the special permit has been revised.

**ADOPTED**  
SEP 25 2006  
**BY CITY COUNCIL**

**LETTER OF ACCEPTANCE**

City of Lincoln  
Lincoln, Nebraska

RE: **Special Permit No. 2004**

To The City Clerk:

The undersigned, "Permittee" under **Special Permit 2004** granted by **Resolution A-84052**, adopted by the City Council of the City of Lincoln, Nebraska, on **Sept. 25, 2006**, hereby files this Letter of Acceptance and certifies to the City of Lincoln that the Permittee is fully aware of and understands all the conditions of said Resolution and that Permittee consents to and agrees to comply with the same.

Permittee further certifies that the person whose signature appears below has the authority to bind Permittee to the terms and conditions of this Letter of Acceptance, including Permittee's financial obligations under said Special Permit.

Dated this 9<sup>th</sup> day of Oct, 2006.

HARLAND Homes, Permittee

By: [Signature]

Title: [Signature]

Roger Schwisow, Permittee

By: Roger Schwisow

Title: Trustee

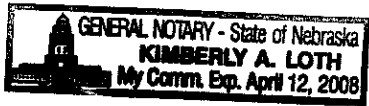
Eldonna Schwisow, Permittee

By: Eldonna Schwisow

Title: Trustee

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this 11 day of October, 2006, by Roger Schwisow, an individual.



Kimberly A. Loth  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by \_\_\_\_\_, general partner of \_\_\_\_\_, a Nebraska general partnership.

\_\_\_\_\_  
Notary Public

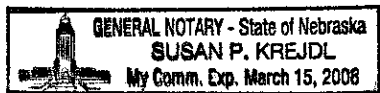
STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by \_\_\_\_\_, Member, on behalf of \_\_\_\_\_, a Nebraska limited liability company.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this 9 day of October, 2006, by Doree L. Hartman, President of Hartland Homes, Inc., a Nebraska corporation.



Susan P. Krejdl  
Notary Public



STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 11 day of October, 2006, by Eldonna Schwisow, an individual.



Kimberly A. Loth  
Notary Public

# CERTIFICATE

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

I, Teresa J. Meier, Deputy City Clerk of the City of Lincoln, Nebraska, do hereby certify that the above and foregoing is a true and correct copy of **Special Permit 2004** approved by **Resolution A-84052** adopted by the City Council on **Sept. 25, 2006** 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 3<sup>rd</sup> day of October, 2006.

*Teresa J. Meier*  
Deputy City Clerk

