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INST. NO 2005

2005 MAY -4 A 11: 17

024014

LANCASTER COUNTY, NE

BLOCK

CODE

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EDITED

13

05R-68

Introduce: 3-28-05

RESOLUTION NO. A- 83262

USE PERMIT NO. 04003

1 WHEREAS, Muff-Stettinger, LLC has submitted an application in accordance  
2 with Section 27.31.100 of the Lincoln Municipal Code designated as Use Permit No. 04003 to  
3 develop 93,500 square feet of commercial floor area, including requested waivers to modify  
4 required side and front yard setbacks, to allow free standing signs for pad sites to be more than  
5 30 feet from the building, to allow lots that do not front upon a public street or private roadway,  
6 and to waive the preliminary plat process, on property generally located north of W. Huntington  
7 Ave. and east of N.W. 48th Street, legally described to wit:

8 Lot 1, Block 11, Ashley Heights Addition, Lincoln, Lancaster  
9 County, Nebraska; and

10 WHEREAS, the real property adjacent to the area included within the site plan  
11 for this construction of commercial buildings will not be adversely affected; and

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

15 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
16 Lincoln, Nebraska:

17 That the application of Muff-Stettinger, LLC, hereinafter referred to as  
18 "Permittee", to develop 93,500 square feet of commercial floor area be and the same is hereby  
19 granted under the provisions of Section 27.31.100 of the Lincoln Municipal Code upon condition  
20 that construction and operation of said commercial space be in strict compliance with said  
21 application, the site plan, and the following additional express terms, conditions, and require-  
22 ments:

23 1. This permit approves 93,500 square feet of commercial floor area.

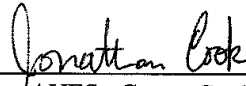
Teresa-city clerk

- 1                                2.     This permit approves the following waivers to the Zoning Code and Land
- 2     Subdivision Ordinance:
- 3                                a.     Internal side yard setbacks are waived.
- 4                                b.     Front yard setbacks are waived along W. Huntington Avenue
- 5                                         provided that those uses which encroach into the front yard
- 6                                         setback provide a 90% landscape screen from 2' to 4' height
- 7                                         along the entire perimeter of the encroachment.
- 8                                c.     The requirement that signs be located within 30 feet of the pad
- 9                                         site building is waived provided a specific sign envelope
- 10                                        acceptable to the Planning Director is indicated on the site plan.
- 11                                d.     The requirement that lots shall front upon public streets or private
- 12                                         roadways is waived.
- 13                                e.     The requirement of Lincoln Municipal Code § 26.11.020 that a
- 14                                         preliminary plat is required for a subdivision is waived, provided
- 15                                         that if any final plat on all or a portion of the approved use permit
- 16                                         is submitted five (5) years or more after approval of the use
- 17                                         permit, the City may require that a new use permit be submitted,
- 18                                         pursuant to all the provisions of § 26.31.015. A new use permit
- 19                                         may be required if the subdivision ordinance, the Design
- 20                                         Standards, the required improvements have been amended by
- 21                                         the City; and as a result, the use permit as originally approved,
- 22                                         does not comply with the amended rules and regulations.
- 23                                3.     Before receiving building permits:
- 24                                a.     The Permittee shall have submitted a revised and reproducible
- 25                                         final plan including 7 copies showing the following revisions and
- 26                                         the plans are acceptable:
- 27                                         i.     Grant an avigation and noise easement to the Lincoln
- 28     Airport Authority on all or that part of the land location
- 29     within the Airport Environs Noise District.
- 30                                         ii.    Show pedestrian walks to the satisfaction of the Planning
- 31     Department.
- 32                                         iii.   Remove the drive on the south side of the building on Lot
- 33     6 and reduce the encroachment of the drive way in the
- 34     front yard setback of Lot 4.
- 35                                         iv.    Make revisions to the satisfaction of the Public Works and
- 36     Utilities Department requested in the department memo
- 37     dated February 15, 2005.

AMENDED 4/4/05

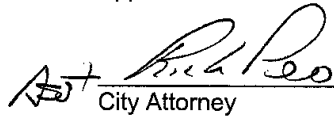
- 1 v. Show utility easements as requested by the Lincoln
- 2 Electric System memo dated October 19, 2004.
- 3 vi. Make revisions to the satisfaction of the Parks Department
- 4 requested in the department memo dated October 19,
- 5 2004.
- 6 b. The construction plans shall comply with the approved plans.
- 7 c. Final Plats shall be approved by the City.
- 8 4. Before occupying the commercial buildings all development and
- 9 construction shall have been completed in compliance with the approved plans.
- 10 5. All privately-owned improvements shall be permanently maintained by the
- 11 Permittee or an appropriately established property owners association approved by the City
- 12 Attorney. \*see next page for two new paragraphs
- 13 6. The site plan accompanying this permit shall be the basis for all
- 14 interpretations of setbacks, yards, locations of buildings, location of parking and circulation
- 15 elements, and similar matters.
- 16 7. This resolution's terms, conditions, and requirements bind and obligate
- 17 the Permittee, and Permittee's successors and assigns.
- 18 8. The applicant shall sign and return the letter of acceptance to the City
- 19 Clerk within 30 days following the approval of the special permit, provided, however, said 30-
- 20 day period may be extended up to six months by administrative amendment. The clerk shall file
- 21 a copy of the resolution approving the special permit and the letter of acceptance with the
- 22 Register of Deeds, filling fees therefor to be paid in advance by the applicant.

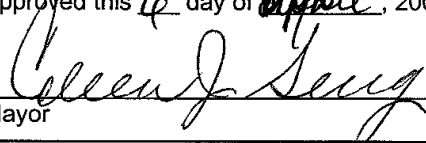
Introduced by:

  
\_\_\_\_\_  
AYES: Camp, Cook, Friendt,  
McRoy, Newman, Svoboda,  
Werner; NAYS: None.

- vii. Add a Note 12 to the General Notes to read as follows:
  - 12. Owners agree that Owners shall be responsible for all costs associated with design and construction of the temporary traffic signal and turn lane improvements located at the intersection of NW 48<sup>th</sup> Street and West Huntington Avenue (as shown on the Site Plan). The turn lane improvements shall be completed prior to occupancy of any building.
- viii. Add a Note 13 to the General Notes to read as follows:
  - 13. The construction of the temporary traffic signal shall only occur when (1) Either Warrant #1 (eight hour vehicle volume), Warrant #2 (four hour vehicular volume) and/or Warrant #7 (crash experience) are met as identified in the "Manual on Uniform Traffic Control Devices"; and (2) the traffic signals are recommended by the City of Lincoln for installation.

Approved as to Form & Legality:

  
City Attorney

Approved this 16 day of April, 2005:  
  
Mayor

See further Council Proceedings  
on next page.

**ADOPTED**  
APR 04 2005  
BY CITY COUNCIL

## MOTION TO AMEND NO. 1

I hereby move to amend Bill No. 05R-68 in the following manner:

1. On page 3, between lines 5 and 6, insert two new conditions to read as follows:

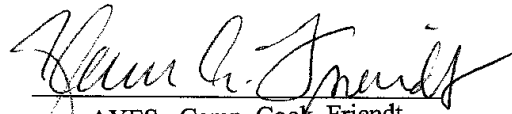
VII. Add a Note 12 to the General Notes to read as follows:

12. Owners agree that Owners shall be responsible for all costs associated with design and construction of the temporary traffic signal and turn lane improvements located at the intersection of NW 48th Street and West Huntington Avenue (as shown on the Site Plan). The turn lane improvements shall be completed prior to occupancy of any building.

VIII. Add a Note 13 to the General Notes to read as follows:

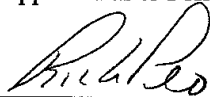
13. The construction of the temporary traffic signal shall only occur when (1) Either Warrant #1 (eight hour vehicular volume), Warrant #2 (four hour vehicular volume) and/or Warrant #7 (crash experience) are met as identified in the "Manual on Uniform Traffic Control Devices"; and (2) the traffic signals are recommended by the City of Lincoln for installation.

Introduced by:



AYES: Camp, Cook, Friendt,  
McRoy, Newman, Svoboda,  
Werner; NAYS: None.

Approved as to Form & Legality:



Chief Assistant City Attorney

Requested by: Department of Public Works & Utilities

Reason for Request: To define required street improvements associated with the Use Permit.

**ADOPTED**

APR 04 2005

BY CITY COUNCIL

**05R-68 act**

4/4/05 Council Proceedings:

FRIENDT Moved to Amend Bill No. 05R-68 on page 3, between lines 5 and 6, insert two new conditions to read as follows:

- vii. Add a Note 12 to the General Notes to read as follows:
  - 12. Owners agree that Owners shall be responsible for all costs associated with design and construction of the temporary traffic signal and turn lane improvements located at the intersection of NW 48<sup>th</sup> Street and West Huntington Avenue (as shown on the Site Plan). The turn lane improvements shall be completed prior to occupancy of any building.
- viii. Add a Note 13 to the General Notes to read as follows:
  - 13. The construction of the temporary traffic signal shall only occur when (1) Either Warrant #1 (eight hour vehicle volume), Warrant #2 (four hour vehicular volume) and/or Warrant #7 (crash experience) are met as identified in the "Manual on Uniform Traffic Control Devices"; and (2) the traffic signals are recommended by the City of Lincoln for installation.

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

COOK Moved to adopt the resolution as amended.

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

**LETTER OF ACCEPTANCE**

City of Lincoln  
Lincoln, Nebraska

RE: Use Permit No. 04003

To The City Clerk:

The undersigned, "Permittee" under **Use Permit 04003** granted by **Resolution A-83262**, adopted by the City Council of the City of Lincoln, Nebraska, on **April 4, 2005**, 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 3 day of May, 2005.

M+S Construction Inc. Permittee  
By: Paul Mull  
Title: President



STATE OF NEBRASKA       )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, an individual.

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

STATE OF NEBRASKA       )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, general partner of \_\_\_\_\_, a Nebraska general partnership.

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

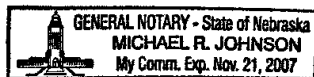
STATE OF NEBRASKA       )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, 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 3rd day of May, 2005, by Paul Muff, President of M&S Construction, Inc., a Nebraska corporation.



  
\_\_\_\_\_  
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 **Use Permit 04003** approved by **Resolution A-83262** adopted by the City Council on **April 4, 2005** 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 4<sup>th</sup> day of May, 2005.

*Teresa J. Meier*  
Deputy City Clerk

