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9OR-9

Introduce: 1-8-90

RESOLUTION NO. A- 73294

PRE-EXISTING USE PERMIT NO. 3R

01 WHEREAS, Ameritas has submitted an application designated as Pre-  
02 Existing Use Permit No. 3R for authority to expand Gateway Shopping Center and  
03 adjust the parking requirements on property located at 61st and "O" Streets,  
04 and legally described to wit:

05 A portion of Lots 213, 214, 232, 233, and 257 I.T., and  
06 Lot 2, Gateway Terrace, all in the South Half of Section  
07 21, Township 10 North, Range 7 East of the 6th P.M.,  
08 Lincoln, Lancaster County, Nebraska; and (2)

09 WHEREAS, the real property adjacent to the area included within the  
10 plot plan for this expansion will not be adversely affected; and

11 WHEREAS, said plot plan together with the terms and conditions  
12 hereinafter set forth are consistent with the intent and purpose of Title 27  
13 of the Lincoln Municipal Code to promote the public health, safety, morals,  
14 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 Ameritas, hereinafter referred to as  
18 "Permittee", to expand Gateway Shopping Center and adjust the parking require-  
19 ments on the above-described property be and the same is hereby granted under  
20 the provisions of Section 27.37.070 of the Lincoln Municipal Code upon condi-  
21 tion that construction and operation of said expansion be in strict compliance  
22 with said application, the plot plan, and the following additional express  
23 terms, conditions, and requirements:

- 24 1. This permit approves <sup>1,290,251</sup>~~1,318,450~~ square feet of floor area  
25 including the redevelopment of the existing center and the north wing expan-  
26 sion and requires the removal of the convenience retail center to the north.

Amended 1/15/90

\*\*\*See amendment on page 2 (to go after line 26 on page 1.)

Amendment:

Such development and removal shall be in accordance with the Conceptual Construction Schedule dated January 12, 1990, as submitted by Permittee and as approved by the Planning Director.

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Amended 1/15/90.

2. The owner shall make a good faith effort to accommodate local retailers in the center.

3. Before receiving building permits:

a. The Permittee shall submit and receive approval for the following:

i) A coordinated development and occupancy schedule approved by the Planning Director.

ii) A landscape screen plan approved by the Planning Director with landscaping along "O" Street and parking lot landscaping exceeding minimum design standards.

iii) Revisions as requested by the Transportation Department report dated October 30, 1989, or as amended.

~~iv) Applicant shall be responsible for the construction of a right turn lane on the northbound leg of the intersection of Cotner and "R" Streets and a roadway improvements which are required as a direct result of the expansion of Gateway Shopping Center. Applicant shall also agree to make a reasonable contribution to the time of construction of this project.~~

~~Applicant shall be responsible for off-site traffic control improvements expansion in an amount to be agreed upon with the Departments of Transportation and Public Works in consultation~~

~~with the State of Nebraska Department of Roads. The current best estimate is \$2,195,600.~~

v) The Gateway signs shall be relocated outside of the new right-of-way line of "O" Street when needed to accommodate improvements with the approval of the Department of Roads.

b. The construction plans shall comply with the approved plans.

c. The required easements as shown on the site plan shall be recorded with the Lancaster County Register of Deeds Office.

Amended 1/15/90.

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- d. The City Council must approve:
  - i) Comprehensive Plan Amendment No. 85-45, /which the City agrees shall be vacated at no cost to the applicant
  - ii) The requested vacation of "Q" Street, /and
  - iii) A subdivision of the property to permit the exchange of land between JVJ and Sears.
- 4. Before occupying this new construction, all development and construction shall comply with the approved plans.
- 5. All privately-owned improvements, including landscaping, shall be permanently maintained by the owner.
- 6. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.
- 7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

AYES: Hempel, Johanns, Minnick,  
Seng, Wilson;  
NAYS: Gutgsell, Haar.

Introduced by:  
U. Theodore Hempel  
Staff Review Completed:  
[Signature]  
Administrative Assistant

Approved as to Form & Legality:  
William F. [Signature]  
City Attorney

**APPROVED**  
JAN 22, 1990  
Bill Harris  
MAYOR

**ADOPTED**  
JAN 15 1990  
By City Council

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SUBSTITUTE CONDITION OF APPROVAL FOR OFF-SITE  
TRANSPORTATION IMPROVEMENTS,  
GATEWAY SHOPPING CENTER EXPANSION PROJECT

For the purpose of controlling the flow of off-site traffic, Applicant shall pay to the City of Lincoln the sum of \$1,125,000, payable in ten annual installments of \$112,500 each. The first payment shall be made upon issuance of a building permit for any portion of the expansion approved by this use permit. The remaining nine payments shall be made on the successive anniversary dates of the first period. In addition to the foregoing amounts, beginning with the second payment, the amount of each annual payment shall be increased by an amount determined by the following computation:

- (a) The sum of \$112,500 shall be multiplied by a fraction, the numerator of which shall be the index number of the Consumer Price Index Urban published by the Bureau of Labor Statistics of the U.S. Department of Labor for the month immediately preceding the due date of such installment, the denominator of which shall be the index number of the same index for the month and year in which the first payment was made.
- (b) In the event that the base period for the Consumer Price Index Urban should be changed during the term of the agreement, the new index number for the month and year in which the first payment is made shall be substituted. In the event that the Consumer Price Index Urban shall be discontinued, the Applicant and the City of Lincoln shall mutually select comparable statistics, then available, published by a responsible and recognized financial periodical.

Payment of the foregoing amounts shall be secured by an irrevocable letter of credit issued by a bank acceptable to the City of Lincoln and Applicant.

Funds paid to the City of Lincoln pursuant to this condition shall be deposited in an interest bearing escrow account. Such funds may be drawn upon for the construction of roadway

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improvements in the "O" Street corridor between Cotner Boulevard and approximately 73rd Street, as identified on attached Exhibit A. Funds may be drawn from such account to pay a prorata share of the local cost of each identified improvement based upon the ratio of \$1,125,000 to the then estimated local cost (deflated to 1989 dollars) of completion of all of the improvements identified in Exhibit A. To the extent that the improvements identified in Exhibit A have not been commenced within ten years of the date of the first payment, all sums remaining in such escrow account, including interest, shall be refunded to the Applicant.

If any paving, re-paving, business improvement, or other assessment district is created for the purpose of financing the local cost of the improvements identified in Exhibit A, or other improvements in addition to those identified in Exhibit A, Applicant shall waive any objection to the creation of such district, and shall waive any objection to an assessment up to and including the sum of \$1,125,000 (adjusted for inflation by the formula set forth above for adjustment of annual payments) made pursuant to such district. Any funds withdrawn from the escrow account created under this condition prior to assessment under such district shall be credited against Applicant's obligation for any assessment under such district, and any such assessment made prior to the withdrawal of any funds from the escrow account shall be payable from the escrow account.

(m1-11-0a)

EXHIBIT "A"

Intersection of Cotner and "O" Streets

- A. Additional east bound thru lane.
- B. Additional shared right turn/thru lane on northbound leg of intersection.
- C. Additional left turn lane on westbound leg of intersection.

Intersection of Lyncrest Drive and "O" Street

- A. Additional left turn lane on eastbound leg of intersection.
- B. Right turn lane on westbound leg of intersection.
- C. Additional eastbound thru lane.

Intersection of 63rd Street and "O" Street

- A. Additional left turn lane on east bound leg of intersection.
- B. Right turn lane on westbound leg of intersection.

Intersection of 66th and "O" Streets

- A. Additional eastbound thru lane.
- B. Additional left turn lane on eastbound leg of intersection.
- C. Additional left turn lanes on both southbound and northbound legs of intersection.
- D. Right turn lane on westbound leg of intersection.

Intersection of 70th & "O" Streets

- A. Additional left turn lane on both eastbound and westbound legs of intersection.
- B. Additional right turn and left turn lanes on both north and southbound legs of intersection.

The foregoing list incorporates the improvements illustrated on Figure 1 attached to a memorandum from Richard J. Haden to Ray Hill dated December 13, 1989, subject to Gateway Shopping Center Comprehensive Plan Amendment and Site Traffic Analysis, with the addition of the right turn lanes at Lyncrest Drive and 63rd for that segment of the "O" Street quarter between Cotner Boulevard and approximately 73rd Street.

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APPENDIX "A"

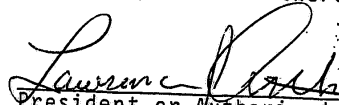
City Council  
City of Lincoln  
Lincoln, Nebraska

Re: Letter of Acceptance

Pre-Existing Use Permit No. 3R

TO THE CITY COUNCIL:

I, LAWRENCE J. ARTH, President or authorized representative of Ameritas, herein called Permittee under Pre-Existing Use Permit No. 3R granted by Resolution No. A- 73294, adopted by the City Council of the City of Lincoln, Nebraska, on January 15, 1990, 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.

  
\_\_\_\_\_  
President or Authorized Representative

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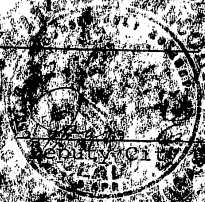
C E R T I F I C A T E

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 Pre-Existing Use Permit No. 3R approved by Resolution No. A-73294, application of Ameritas

as passed and approved by the City Council of the City of Lincoln, Nebraska, at its meeting held January 15, 1990 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 24th day of January, 1990.



LANCASTER COUNTY NEBR

*Dan Jels*

REGISTER OF DEEDS

90FEB 14 AM 8:58

ENTERED ON  
SERIAL INDEX  
FOR RECORD AS

INST. NO. 90-

4169

*\$411.00*

BLOCK  
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CASE  
*GATE*  
*[Handwritten initials]*

*Return to City Clerk*