

City Council Introduction: **Monday**, June 3, 2002  
Public Hearing: **Monday**, June 10, 2002, at **1:30 p.m.**

Bill No. 02R-125

## FACTSHEET

**TITLE:** **SPECIAL PERMIT NO. 1974**, requested by Mission 3, L.L.C., for authority to sell alcohol for consumption off the premises at 110 West "O" Street.

**STAFF RECOMMENDATION:** Conditional Approval.

**ASSOCIATED REQUESTS:** None.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 5/15/02  
Administrative Action: 5/15/02

**RECOMMENDATION:** Conditional approval, with amendment (8-0: Taylor, Duvall, Larson, Bills-Strand, Newman, Carlson, Steward and Schwinn voting 'yes'; Krieser absent).

### FINDINGS OF FACT:

1. The staff recommendation to approve this special permit, with conditions, is based upon the "Analysis" as set forth on p.3-4, concluding that the request complies with the requirements of the Zoning Ordinance for the sale of alcohol for consumption off the premises and is an appropriate land use at this location.
2. The conditions of approval are found on p.5.
3. The applicant's testimony is found on p.6.
4. The staff agreed that Condition #1.1 should be revised to show the driveway onto West O Street as the future proposed drive access and not part of this special permit. This also changes Condition #3.1.1. (See Minutes. p.6).
5. There was no testimony in opposition.
6. The Planning Commission agreed with the staff recommendation and voted 8-0 to recommend conditional approval, with amendment to show the driveway onto West O Street as the future proposed drive access and not part of this special permit.
7. The Site Specific conditions of approval required to be completed prior to scheduling this application on the Council agenda have been submitted by the applicant and approved by the reviewing departments.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** May 20, 2002

**REVIEWED BY:** \_\_\_\_\_

**DATE:** May 20, 2002

**REFERENCE NUMBER:** FS\CC\2002\SP.1974

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

**P.A.S.:** Special Permit #1974

**DATE:** May 1, 2002

**\*\*As Revised by Planning Commission: 5/15/02\*\***

**PROPOSAL:** A special permit to allow the sale of alcoholic beverages for consumption off the premises.

**LAND AREA:** Approximately .9 acres.

**CONCLUSION:** This request complies with the requirements of the Zoning Ordinance for the sale of alcohol for consumption off the premises and is an appropriate land use at this location.

<b>RECOMMENDATION:</b>	Conditional Approval
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 3, Sun Valley Addition

**LOCATION:** 110 West O Street

**APPLICANT/  
OWNER:** Mission 3, LLC  
5810 Robin Court  
Lincoln, NE 68516 (402)730-6425

**CONTACT:** Mick Mandl  
5810 Robin Court  
Lincoln, NE 68516 (402)730-6425

**EXISTING ZONING:** I-1 Industrial District

**EXISTING LAND USE:** A convenience store is under construction on this site.

### **SURROUNDING LAND USE AND ZONING:**

North:	Heavy Equipment Sales	I-1
South:	Auto Sales	I-1
East:	Restaurant/Retail	I-1
West:	Auto Sales	I-1

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan designates industrial land use in this area.

**UTILITIES:** Utilities are available to serve this site.

**TOPOGRAPHY:** The land is flat across this site.

**ANALYSIS:**

**OVERVIEW:** This site is northwest of the intersection of West O and North 1<sup>st</sup> Streets in an industrially-zoned district. A convenience food store/service station with a detached car wash are under construction. The convenience store has a drive-thru window where goods including alcohol may be purchased. This special permit request is to allow the sale of alcoholic beverages from the convenience food store for consumption off the site.

**1. SPECIAL PERMIT REQUIREMENTS PER LMC 27.63.685:** Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1 and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which can be waived by the City Council:

**(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.**

The parking provided complies with the requirements of LMC Section 27.67.020. However, as noted in the Public Works and Utilities Department review, the site plan must be revised to show the driveway onto West O Street deleted, as it has not been approved pending an executed access agreement.

**(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under Section 27.63.680 of this code.**

This application is for a special permit to allow for sales of alcohol for consumption off the premises, and must be approved before sales are authorized.

**(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.**

There are no day care facilities, residences or residential districts within 100' of the premises. The nearest residential district is directly south at approximately the intersection of South 1<sup>st</sup> and L Streets in excess of 1,000' away. The People's City Mission is located approximately 550' to the north at 110 Q Street.

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

Any new lighting will be required to comply with the Design Standards for parking lot lighting (Design Standards Chapter 3.45, Section 3.8).

**(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 shown as part of the convenience food store, but is not located in a required setback from a residential district.

**(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.**

While there will be a speaker for the drive-thru, the nearest residential district is in excess of 1,000 feet away.

**(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.**

The front door does not face a residential district, the nearest of which is in excess of 1,000 feet away.

**(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 this site at this time will be from North 1<sup>st</sup> Street, and there are no residential streets in this area. As noted previously, the driveway onto West O Street must be deleted.

**(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.**

**Planning Commission review and City Council approval is required for this use.**

**2. POLICE RESPONSE:** Initially, there was a concern over the proximity to the Peoples City Mission located two blocks north. However, after meeting with City Mission staff and finding no concern on their part, the Police Department has no objections to this special permit request.

**3. PUBLIC WORKS RESPONSE:** As noted previously, the site plan must be revised to delete the driveway onto West O Street.

**CONDITIONS:**

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

1.1 Revise the site plan to show the driveway onto West O Street ~~deleted~~as the future proposed drive access and not part of this special permit. (\*\*Per Planning Commission: 5/15/02\*\*)

2. This approval permits the sale of alcohol for consumption off the premises from the convenience store as shown on the site plan.

General:

3. Before receiving building permits:

3.1 The permittee shall have submitted a revised and reproducible final plan with 5 copies showing the following revisions and the plans are acceptable:

3.1.1 ~~Delete~~ Show the driveway onto West O Street as the future proposed drive access and not part of this special permit. (\*\*Per Planning Commission: 5/15/02\*\*)

3.2 The construction plans shall comply with the approved plans.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:

4.1 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.

4.2 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

4.3 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  
Planner

# SPECIAL PERMIT NO. 1974

## **PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 15, 2002

Members present: Taylor, Duvall, Larson, Bills-Strand, Newman, Carlson, Steward and Schwinn; Krieser absent.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda at the request of Buss Whitehead and had separate public hearing.

### Proponents

1. **Buss Whitehead** believes the applicant has met the conditions of approval as requested by the Building & Safety Department.

Brian Will of Planning staff clarified that Condition #1.1 should be revised. The applicant has met with Public Works and it has been agreed that Condition #1.1 should read:

Revise the site plan to show the driveway onto West O Street ~~deleted as the future proposed~~ drive access and not part of this special permit.

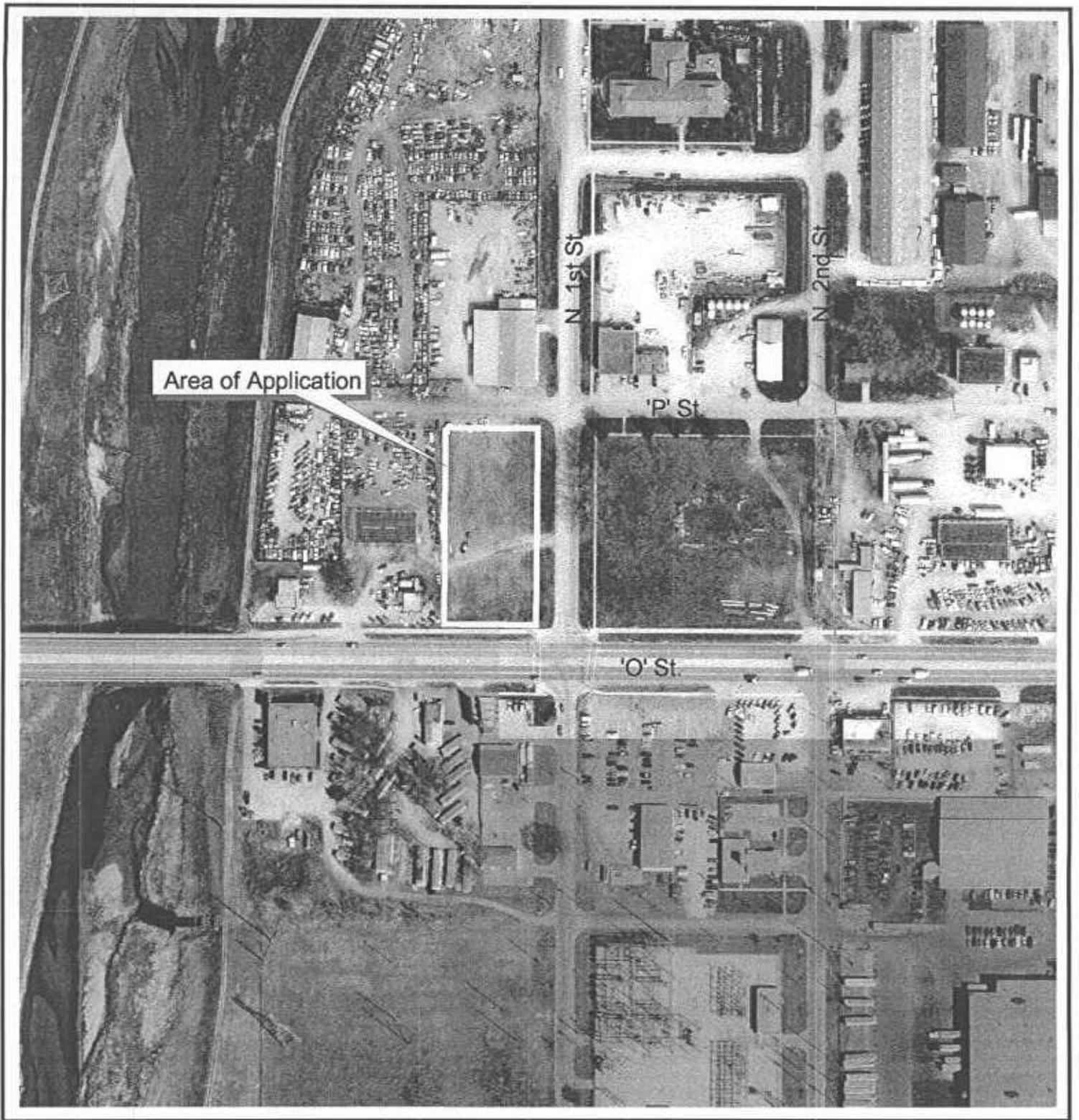
There was no testimony in opposition.

Public hearing was closed.

## **ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 15, 2002

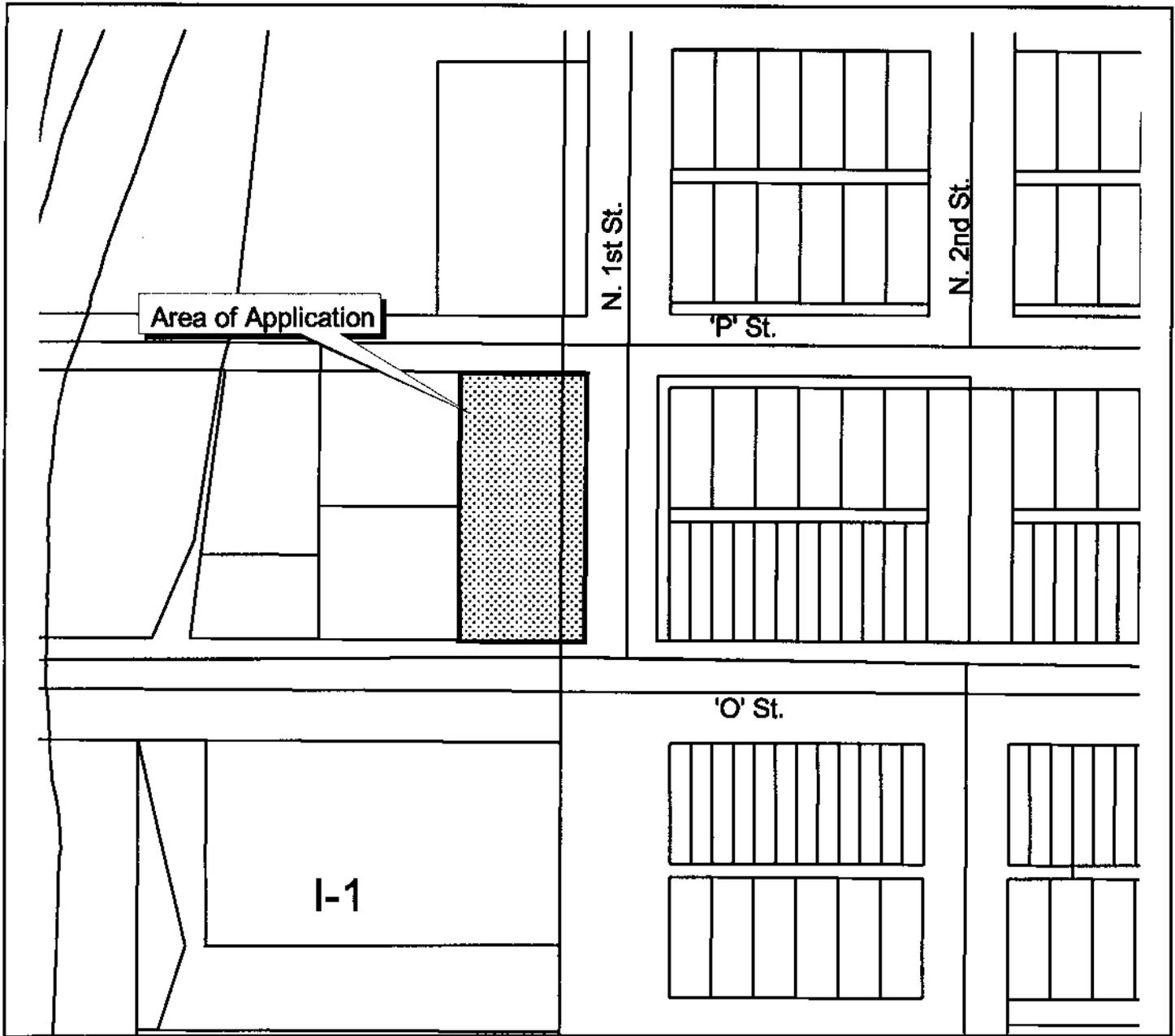
Larson moved to approve the staff recommendation of conditional approval, with the amendment to Condition #1.1, seconded by Bills-Strand and carried 8-0: Taylor, Duvall, Larson, Bills-Strand, Newman, Carlson, Steward and Schwinn voting 'yes'; Krieser absent.



**Special Permit #1974**  
**N 1st & West 'O' St.**  
**Mission 3, L.L.C.**



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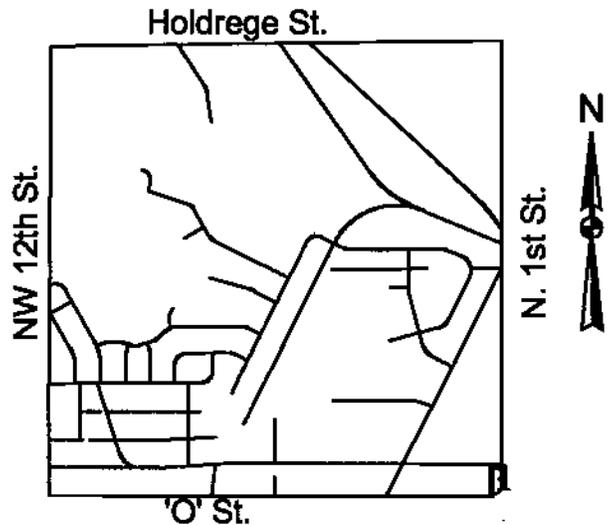
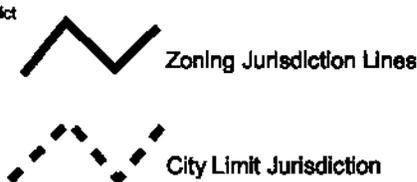


**Special Permit #1974**  
**N 1st & West 'O' St.**  
**Mission 3, L.L.C.**

**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. 22 T10N R6E



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PURPOSE STATEMENT:

24 hours a day seven days a week are hours of operation. Number of employees approximately 12-15. Convenience store with liquor. Traffic expected to be generated will be approximately 1,000 customers a day. There will be a car wash. This will be a Convenience store with groceries, fuel, suddries, car wash.





**MICHAEL WOOLMAN**  
<lpd737@CJIS.CI.LIN  
COLN.NE.US >

04/29/2002 03:14 PM

To: Brian Will <BWill@ci.lincoln.ne.us>  
cc:  
Subject: Mission 3, LLC

Mr. Brian Will,

After reviewing the plans for the Mission 3, LLC Alcohol Sales Special Permit #1974 the Lincoln Police Department originally had concerns. We were concerned that the proposed location was within 2 blocks of the Peoples City Mission and the sale of alcohol would cause additional problems for the Mission and the surrounding area.

On April 29, 2002 I met with the Director of the Peoples City Mission Ron Buchinski and the Assistant Director David Traster. We discussed the off-sale of the alcohol at the proposed convenience store and Mr. Buchinski and Mr. Traster felt that it would not affect the mission. They stated that they breathe test any one suspected to be under the influence that attempts to enter the facility and they do not feel that the convenience store will cause them any concerns for them and their staff.

After meeting with the Directors of The Peoples City Mission and hearing that they are not concerned with the sale of alcohol at 110 West "O" Street The Lincoln Police Department has no objections to the Mission 3, LLC SP 1974.

Michael S. Woolman  
Planning Sergeant  
Lincoln Police Department

# M e m o r a n d u m

[REDACTED]

**To:** Brian Will, Planning Department  
**From:** Charles W. Baker, Public Works and Utilities *BWB*  
**Subject:** Special Permit # 1974, Alcohol Sales  
**Date:** May 1, 2002  
**cc:** Roger Figard  
Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for Alcohol Sales at the proposed convenience store located at 110 West "O" Street. Public Works has the following comment:

- The drive location onto West "O" Street has not been approved as of this date. Public Works will not approve the driveway until an access agreement across the frontage of the lots to the west is accomplished and the existing driveway west is closed. The site plan needs to be revised to remove the driveway or show it as a future proposed drive access and not a part of this permit.