

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for August 18, 2004 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #04043

PROPOSAL:

Revise language in the LMC §27.47.020, 27.47.035, 27.47.040, 27.49.020, 27.49.030, 27.49.050, 27.51.040, 27.51.060 to amend the I-1, I-2, I-3 Industrial zoning districts to allow churches as a conditional use in each of those districts.

CONCLUSION: Allowing churches to locate in industrial districts may create conflicts in regard to health, safety, and general welfare. These conflicts can be lessened or resolved if certain conditions, for the protection of the members of a church, are met.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

ANALYSIS:

1. This is a request to allow churches as a conditional use in the I-1, I-2, I-3 by amending various sections in the zoning ordinance. See attached.
2. This request is in response to an existing illegal church located within an I-1, Industrial Zoning District. Notifications of this violation were made by the Department of Building and Safety to the group occupying the facility. After discussion of this issue, it was felt that the preferred avenue was to proceed with a text amendment. This amendment, although preferred, does raise concerns regarding health, safety, and welfare.
3. Churches are allowed in the R-1, R-2, R-3, R-4, R-5, R-6, and R-7 Residential districts by permitted conditional use, the B-1 Local Business, B-3 Commercial districts, B-4 Lincoln Center Business District, AG Agricultural District, and AGR Agricultural Residential District as permitted uses, and O-3 Office Park District, RT Residential Transition District, B-2 Planned Neighborhood District, by use permit.
4. By approving these amendments to the I-1, I-2, I-3 Industrial Districts would leave only 3 districts, the B-5 Planned Regional Business District, H-1 Interstate Commercial District, and the H-4 General Commercial District, where such a use is not permitted. These districts could be considered less intensive districts as compared to the proposed amended districts.

5. Some uses presently allowed as a permitted use, conditional permitted use, or by special permitted use may not be compatible with large assemblies of people with which churches are normally associated. The handling and storage of hazardous materials presents potential risks to nearby uses in the event of accidents that result in fire, explosion, or emission. To offset these concerns the Lincoln-Lancaster County Health Department has made the following recommendations:

The applicant shall:

- 5.1. Within 48 hours of becoming aware that quantities of hazardous materials requiring a permit under the Lincoln Municipal Code are being stored, transported, dispensed, used or handled on property within 300 feet of the church, notify the Health Department of such condition.
 - 5.2. In the event quantities of hazardous materials requiring a permit under the Lincoln Municipal Code are being stored, transported, dispensed, used or handled on property within 300 feet of the church, Permittee shall work in cooperation and consultation with the Health Department to develop a plan to protect the health, safety, and welfare of persons using Permittee's property. Such plan may include, but not be limited to, the establishment of training programs for employees to detect the presence of hazardous materials and evacuate the premises, the installation of filtration systems in the HVAC system, or other precautionary measures.
 - 5.3. The church shall be equipped with no more than two emergency shut-off switches approved by the Health Department so the air intake systems can be immediately shut down in the case of a hazardous chemical spill in the area. The switches shall be located so they are easily accessible at all times to the Permittee's staff. Permittee's staff shall be trained on how to operate the switches."
6. In addition to the conditions of the permitted conditional use above, further assurances of health, safety, and welfare of people must be met regarding accessory uses customarily incidental to churches such as early childhood care facilities and schools. These accessory uses would place more vulnerable populations in conflict for longer time durations with potentially hazardous uses found in the industrial districts. As a part of this amendment, early childhood care facilities and schools are proposed to be excluded as accessory uses within each of the industrial districts.

Change of Zone #04043
Add Churches as a Conditional Use in Industrial districts

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Planner

Date: August 5, 2004

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ORDINANCE NO. _____

1 AN ORDINANCE amending Title 27 of the Lincoln Municipal Code to allow
2 churches as a permitted conditional use in the I-1, I-2 and the I-3 zoning districts by amending
3 Section 27.47.020 to delete churches from the general use regulations of the I-1 Industrial District;
4 amending Section 27.47.035 to add churches as a permitted conditional use in the I-1 Industrial
5 District and specifying conditions therefor; amending Section 27.47.040 to provide that early
6 childhood care facilities and schools are not a permitted accessory use to a church in the I-1
7 Industrial District; amending Section 27.49.020 to delete churches from the general use regulations
8 of the I-2 Industrial Park District; amending Section 27.49.030 to add churches as a permitted
9 conditional use in the I-2 Industrial Park District and specifying conditions therefor; amending
10 Section 27.49.050 to provide that early childhood care facilities and schools are not a permitted
11 accessory use to a church in the I-2 Industrial Park District; amending Section 27.51.040 to add
12 churches as a permitted conditional use in the I-3 Employment Center District and specifying
13 conditions therefor; amending Section 27.51.060 to provide that early childhood care facilities and
14 schools are not a permitted accessory use to a church in the I-3 Employment Center District; and
15 repealing Sections 27.47.020, 27.47.035, 27.47.040, 27.49.020, 27.49.030, 27.49.050, 27.51.040 and
16 27.51.060 of the Lincoln Municipal Code as hitherto existing.

17 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

18 Section 1. That Section 27.47.020 of the Lincoln Municipal Code be amended to read
19 as follows:

1 **27.47.020 Use Regulations.**

2 (a) General regulations. No building shall be erected, converted, reconstructed, or
3 structurally altered for use as a church, library, school (except a private school authorized pursuant
4 to Section 27.63.075), hospital, indoor theater, or residence, except for resident watchmen and
5 caretakers or supervisory personnel employed and residing on the premises or as permitted in
6 accordance with Chapter 27.63 of this title. Those special permitted uses in Section 27.47.030 below
7 shall be limited by the restrictions placed thereon.

8 (b) Permitted uses. Subject to the foregoing, a building or premises may be used for any
9 commercial or industrial purpose not in conflict with any other ordinances or regulations of the City
10 of Lincoln.

11 Section 2. That Section 27.47.035 of the Lincoln Municipal Code be amended to read
12 as follows:

13 **27.47.035 Permitted Conditional Uses.**

14 A building or premises may be used for the following purposes in the I-1 Industrial District
15 in conformance with the conditions prescribed herein:

- 16 (a) Recycling center, authorized by Chapter 5.41 of the Lincoln Municipal Code:
- 17 (1) The building area of such center shall not exceed 8,000 square feet;
 - 18 (2) Adequate traffic stacking shall be provided on site as determined by the city;
 - 19 (3) All required parking shall be provided on site;
 - 20 (4) The facility shall not be designed to receive nor shall it accept shipments by
21 semi-trailer trucks;
 - 22 (5) Construction and operation of such center shall comply with all applicable
23 health and fire codes.

1 (b) Vehicle body repair shop:

2 (1) All salvage material including vehicles being salvaged shall be kept inside a
3 building;

4 (2) All vehicles stored outside a building shall be repaired to an operating state
5 within thirty days;

6 (3) All vehicles stored outside a building waiting repair shall be screened in
7 accordance with the screening requirements for salvage and scrap processing operations;

8 (4) Construction and operation of such shop shall comply with all applicable
9 health and fire codes;

10 (5) Vehicle body repair shops lawfully existing on the effective date of this
11 ordinance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2),
12 (3), and (4) above.

13 (c) Church:

14 (1) Within 48 hours of becoming aware that quantities of hazardous materials
15 requiring a permit under the Lincoln Municipal Code are being stored, transported, dispensed, used,
16 or handled on property within 300 feet of the church, the church shall notify the Health Department
17 of such condition.

18 (2) In the event quantities of hazardous materials requiring a permit under the
19 Lincoln Municipal Code are being stored, transported, dispensed, used, or handled on property
20 within 300 feet of the church, the church shall work in cooperation and consultation with the Health
21 Department to develop a plan to protect the health, safety, and welfare of persons using the church.
22 Such plan may include, but not be limited to, the establishment of training programs for employees

1 to detect the presence of hazardous materials and evacuate the premises, the installation of filtration
2 systems in the HVAC system, or other precautionary measures.

3 (3) The church shall be equipped with no more than two emergency shut-off
4 switches approved by the Health Department so the air intake systems can be immediately shut down
5 in the case of a hazardous chemical spill in the area. The switches shall be located so they are easily
6 accessible at all times to the church's staff. Church staff shall be trained on how to operate the
7 switches.

8 Section 3. That Section 27.47.040 of the Lincoln Municipal Code be amended to read
9 as follows:

10 **27.47.040 Accessory Uses.**

11 Accessory uses permitted in the I-1 Industrial District are accessory buildings and uses
12 customarily incident to the permitted uses, except that early childhood care facilities and schools are
13 not a permitted accessory use to a church in the I-1 Industrial District.

14 Section 4. That Section 27.49.020 of the Lincoln Municipal Code be amended to read
15 as follows:

16 **27.49.020 Use Regulations.**

17 (a) General regulations.

18 (1) No building shall be erected, converted, reconstructed, or structurally altered
19 for ~~church~~, library, school, except industrial trade school, hospital, theater, or residential purposes,
20 except for motels, or for resident foremen, caretakers, or supervisory personnel employed and
21 residing on the premises.

22 (2) No raw galvanized or other raw metal sheeting shall be used for the exterior
23 construction of any building.

1 (3) Scrap processing operations and salvage yards shall not be permitted.

2 (4) Storage of explosives shall be prohibited.

3 (5) No floor area which is used for the retail sale of goods, excluding eating
4 facilities, shall be permitted except at the rate of twelve and one-half square feet per acre of I-2
5 Industrial Park zoned land located within any single I-2 Industrial Park District at the time the re-
6 quired acreage is at least fifty percent occupied for permitted industrial uses.

7 (6) Those special and conditional uses permitted in Sections 27.49.030 and
8 27.49.040 below shall be limited by the restrictions placed thereon.

9 (b) Permitted uses. Subject to the general regulations of Section 27.49.020(a) above, any
10 commercial or industrial use is permitted in the I-2 Industrial Park District in compliance with all
11 applicable ordinances and regulations including but not limited to the environmental performance
12 standards relating to noise, emission, dust, odor, glare, and heat approved by resolution of City
13 Council.

14 Section 5. That Section 27.49.030 of the Lincoln Municipal Code be amended to read
15 as follows:

16 **27.49.030 Permitted Conditional Uses.**

17 A building or premises may be used for the following purposes in the I-2 Industrial Park
18 District in conformance with the conditions prescribed herein:

19 (a) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable
20 liquids and chemicals:

21 (1) Shall be adequately screened from public view;

1 (2) Shall be for storage of such materials for use on the premises and not for
2 resale, except that resale of such stored material at retail only shall be permitted in conjunction with
3 the operation of a service station or similar retail outlet;

4 (3) Shall be located, constructed, maintained, and operated in compliance with
5 all codes and regulations of the City of Lincoln.

6 (b) Liquified petroleum gas and similar gas used for fuel stored above ground:

7 (1) Tanks may not exceed 30,000 gallon capacity;

8 (2) Such gas shall be for use on the premises, and not for resale;

9 (3) Such tanks shall be adequately screened from public view by a fire-resistant
10 ventilated barrier which shall be at least six feet in height;

11 (4) Must be in full compliance with all codes and regulations of the City of
12 Lincoln;

13 (c) All other combustible material: To be stored in such a way as to permit free access
14 of fire-fighting equipment.

15 (d) Open storage of any other material: Only in areas enclosed or otherwise adequately
16 screened from public view with an enclosure or screen at least six feet in height.

17 (e) Neighborhood recycling center:

18 (1) Building area of such center shall not exceed 8,000 square feet;KEYBOARDQ

19 (2) There shall be no outdoor storage of materials or equipment;

20 (3) The operation of such center shall not include dismantling or disassembling
21 of vehicles or major appliances;

22 (4) No hazardous or explosive materials shall be accepted at such center;

23 (5) Adequate traffic stacking shall be provided on site as determined by the city;

1 (6) All required parking shall be provided on site;

2 (7) There shall be no processing of materials by heat, including, but not limited
3 to, melting, smelting, or burning;

4 (8) The facility shall not be designed to receive nor shall it accept shipments by
5 semi-trailer trucks;

6 (9) Construction and operation of such center shall comply with all applicable
7 health and fire codes.

8 (f) Vehicle body repair shop:

9 (1) All salvage material, including vehicles being salvaged, shall be inside a
10 building;

11 (2) All vehicles stored outside shall be repaired to an operating state within thirty
12 days;

13 (3) All vehicles stored outside waiting repair shall be screened in accordance with
14 the screening requirements for salvage and scrap processing operations;

15 (4) Construction and operation of such shop shall comply with all applicable
16 health and fire codes;

17 (5) Vehicle body repair shops lawfully existing on the effective date of this ordi-
18 nance shall have until January 1, 1987 to be brought into compliance with conditions (1), (2), (3),
19 and (4) above.

20 (g) Church:

21 (1) Within 48 hours of becoming aware that quantities of hazardous materials
22 requiring a permit under the Lincoln Municipal Code are being stored, transported, dispensed, used,

1 or handled on property within 300 feet of the church, the church shall notify the Health Department
2 of such condition.

3 (2) In the event quantities of hazardous materials requiring a permit under the
4 Lincoln Municipal Code are being stored, transported, dispensed, used, or handled on property
5 within 300 feet of the church, the church shall work in cooperation and consultation with the Health
6 Department to develop a plan to protect the health, safety, and welfare of persons using the church.
7 Such plan may include, but not be limited to, the establishment of training programs for employees
8 to detect the presence of hazardous materials and evacuate the premises, the installation of filtration
9 systems in the HVAC system, or other precautionary measures.

10 (3) The church shall be equipped with no more than two emergency shut-off
11 switches approved by the Health Department so the air intake systems can be immediately shut down
12 in the case of a hazardous chemical spill in the area. The switches shall be located so they are easily
13 accessible at all times to the church's staff. Church staff shall be trained on how to operate the
14 switches.

15 Section 6. That Section 27.49.050 of the Lincoln Municipal Code be amended to read
16 as follows:

17 **27.49.050 Accessory Uses.**

18 Accessory uses permitted in the I-2 Industrial Park District are accessory buildings and uses
19 customarily incident to the permitted uses, except that early childhood care facilities and schools are
20 not a permitted accessory use to a church in the I-2 Industrial Park District.

21 Section 7. That Section 27.51.040 of the Lincoln Municipal Code be amended to read
22 as follows:

1 **27.51.040 Permitted Conditional Uses.**

2 A building or premises may be used for the following purposes in the I-3 Employment Center
3 District in conformance with the conditions prescribed herein:

4 (a) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable
5 liquids and chemicals. Such use shall:

6 (1) Be adequately screened from public view;

7 (2) Be for storage of such materials for use on the premises and not for resale,
8 except that resale of such stored material at retail only shall be permitted in conjunction with the
9 operation of a service station or similar retail outlet pursuant to Section 27.51.070;

10 (3) Be located, constructed, maintained, and operated in compliance with all
11 codes and regulations of the City of Lincoln;

12 (b) Liquified petroleum, gas and similar gas used for fuel stored in tanks above ground,
13 provided:

14 (1) Such tanks may not exceed 30,0000 gallon capacity;

15 (2) Such gas shall be used for use on the premises, and not for resale;

16 (3) Such tanks shall be adequately screened from public view by a fire-resistant
17 ventilated barrier which shall be at least six feet in height;

18 (4) Such use must be in full compliance with all codes and regulations of the City
19 of Lincoln;

20 (c) All other combustible materials:

21 (1) Combustible materials shall be stored in such a way as to permit free access
22 of fire-fighting equipment;

1 (2) Such use must be in full compliance with all codes and regulations of the City
2 of Lincoln;

3 (d) Motels and hotels, provided that the total square footage of such use shall not exceed
4 ten percent (10%) of the buildable square footage of the tract of land included within the boundaries
5 of the use permit assuming a floor-to-area ratio of one to four.

6 Accessory uses operated by a concessionaire or lessee of an employer may occupy no more
7 than five percent (5%) of the floor area of the permitted use.

8 (e) Church:

9 (1) Within 48 hours of becoming aware that quantities of hazardous materials
10 requiring a permit under the Lincoln Municipal Code are being stored, transported, dispensed, used,
11 or handled on property within 300 feet of the church, the church shall notify the Health Department
12 of such condition.

13 (2) In the event quantities of hazardous materials requiring a permit under the
14 Lincoln Municipal Code are being stored, transported, dispensed, used, or handled on property
15 within 300 feet of the church, the church shall work in cooperation and consultation with the Health
16 Department to develop a plan to protect the health, safety, and welfare of persons using the church.
17 Such plan may include, but not be limited to, the establishment of training programs for employees
18 to detect the presence of hazardous materials and evacuate the premises, the installation of filtration
19 systems in the HVAC system, or other precautionary measures.

20 (3) The church shall be equipped with no more than two emergency shut-off
21 switches approved by the Health Department so the air intake systems can be immediately shut down
22 in the case of a hazardous chemical spill in the area. The switches shall be located so they are easily

1 accessible at all times to the church's staff. Church staff shall be trained on how to operate the
2 switches.

3 Section 8. That Section 27.51.060 of the Lincoln Municipal Code be amended to read
4 as follows:

5 **27.51.060 Accessory Uses.**

6 Accessory uses permitted in the I-3 Employment Center District are accessory buildings and
7 uses customarily incident to the permitted uses, except that early childhood care facilities and
8 schools are not a permitted accessory use to a church in the I-3 Employment Center District.

9 Accessory uses involving the open storage of materials or other articles shall only be allowed in areas
10 enclosed or otherwise adequately screened from public view with an enclosure or screen at least six
11 feet in height.

12 Section 9. That Sections 27.47.020, 27.47.035, 27.47.040, 27.49.020, 27.49.030,
13 27.49.050, 27.51.040 and 27.51.060 of the Lincoln Municipal Code as hitherto existing be and the
14 same are hereby repealed.

15 Section 10 That this ordinance shall take effect and be in force from and after its
16 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2004:

Mayor