

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Special Permit #1985

DATE: August 20, 2002

PROPOSAL: A Special Permit to allow reconstruction and expansion of a non-conforming use (27.63.280).

WAIVER REQUEST: Waiver of screening along side yards
Waiver of pavement on the parking lot

LAND AREA: Approximately 2.51 acres.

CONCLUSION: The proposed reconstruction and expansion of Athey Painting, Inc., a nonconforming use, does not conform with the directives in the Comprehensive Plan. If approved, this Special Permit will in effect perpetuate a nonconforming use in the midst of an existing residential area.

<u>RECOMMENDATION:</u>	Denial
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 67, Irregular Tract in the Southwest Quarter of Section 23, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska.

LOCATION: 9400 Yankee Hill Road, Cheney, Nebraska

APPLICANT: Alonzo A. and Marijane J. Athey
5044 Rentworth Drive
Lincoln, NE 68515

OWNER: Alonzo A. and Marijane J. Athey
5044 Rentworth Drive
Lincoln, NE 68515

CONTACT: Brian Carstens
Brian Carstens and Associates
601 Old Cheney Road, Suite 'C'
Lincoln, NE 68521

EXISTING ZONING: R-2 and AG

EXISTING LAND USE: The existing building was destroyed by a fire.

SURROUNDING LAND USE AND ZONING:

North:	Highway 2 and Agricultural uses- farm utility buildings, residential	AG
South:	Residential	R-2
East:	Agricultural and residential	R-2 and AG
West:	Residential	R-2

HISTORY: This property was converted from AA Rural and Public Use District to AG Agriculture District during the 1979 Zoning Update. The west 110.0 feet of the site was converted from AG Agriculture District to R-2 Residential District with the approval of Change of Zone #2795 on March 11, 1994. The property has had several different nonconforming uses including a trucking/excavating company, a bus facility for a tour and travel company, and most recently Athey Painting. Building and Safety Department has stated that Athey Painting is considered 'General Commercial Use,' a nonconforming use under L.M.C. 27.61.010.

COMPREHENSIVE PLAN SPECIFICATIONS: The recently adopted 2025 Land Use Plan designates this area and surrounding area as Urban Residential. The Southeast Lincoln/Highway 2 Subarea Plan designates this area as Urban Residential.

P. F11. Housing Opportunities: A range of affordable housing types should be identified, with opportunities ranging from urban lofts, flats, townhouses, and condominiums in the urban core to residential acreages in rural parts of the County.

P. F11. Small Business: Recruitment and promotion of our community must include the role of businesses with 50 or fewer employees. We need to foster new, and maintain existing small businesses.

P. F15. Quality of Life Assets: Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan... The Comprehensive Plan is the basis for

zoning and land development decisions. It guides decisions that will maintain the quality and character of the community's established neighborhoods.

P. F18. Residential Neighborhoods: Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood.

P. F38. General Principles For All Commercial and Industrial Uses:

Commercial and industrial districts in Lancaster County shall be located:

- within the City of Lincoln or incorporated villages
- outside of saline wetlands, signature habitat areas, native prairie and floodplain areas (except for areas of existing commercial and industrial zoning)
- where urban services and infrastructure are available or planned for in the near term
- in sites supported by adequate road capacity – commercial development should be linked to the implementation of the transportation plan
- in areas compatible with existing or planned residential uses
- in areas accessible by various modes of transportation (i.e. automobile, transit and pedestrian)
- so that they enhance entryways or public way corridors, when developing adjacent to these corridors
- in a manner that supports the creation and maintenance of green space as indicated in the environmental resources section of this Plan

P. F65. Residential: Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership.

A safe residential dwelling should be available for each citizen.

UTILITIES: This site is outside the city corporate limits and therefore does not receive City of Lincoln utility service. It is serviced by Cheney S.I.D. #5, and receives Lancaster County rural water service.

TOPOGRAPHY: The property slopes slightly to the north.

TRAFFIC ANALYSIS: In both the “Existing” and the “Future Street and Road Network Functional Classification” Yankee Hill Rd. is classified as a Rural Minor Collector at the this site.

PUBLIC SERVICE: This site is outside the city corporate limits and therefore does not receive City of Lincoln services. Services that are received include Lancaster County Engineering, Rural Fire services, and services from the Lancaster County Sheriff.

REGIONAL ISSUES: Cheney is a residential area. It is also an entryway into the City of Lincoln. The approval of this Special Permit will be similiar to approving a spot Change of Zone to commercial. The approval will also discourage residential development on the abutting land.

ENVIRONMENTAL CONCERNS: The Lancaster County Health Department has responded with concerns about potential environmental hazards associated with the nonconforming use. The comments are as follows:

- The LLCHD has concerns regarding the storage or use of hazardous materials and/or chemicals on this property. The applicant indicates that the use of the property will consist of contractor’s offices and ware-yards only. There is no mention of what types or quantities of chemicals/materials will be stored on-site.
- While the LLCHD does recognize the previous uses of this property, the LLCHD requests, in writing, a complete list of chemicals, paints, and hazardous materials and their quantities that will be stored on-site. Therefore, at this time, the LLCHD cannot make an accurate assessment of possible negative public health impacts and requests that action on the special permit be delayed until we have the opportunity to conduct a risk assessment based upon what will be stored on-site.

AESTHETIC CONSIDERATIONS: The structure required for this nonconforming use is commercial in nature and does not coincide with the adjacent residential aesthetics. It will be a large warehouse in the center of a residential area.

ALTERNATIVE USES: The alternative uses for this site are the uses permitted by the zoning districts R-2 and AG.

ANALYSIS:

OVERVIEW: The applicant has requested a special permit for the reconstruction and expansion of a non-conforming use. Two waivers are requested, a waiver of screening along

side yards, and a waiver of pavement on the parking lot. In addition, a request to include in the conditions of the special permit that future use shall be limited to “contractors offices and ware-yards only” has been requested.

This site is a pre-existing, non-conforming general commercial use located in the midst of a residential area. It is not in conformance with the Lincoln Lancaster County Comprehensive Plan, as the area is delineated as urban residential, not commercial. As a non-conforming use that has been destroyed by fire this request is not the only option for the applicant. In addition, granting this special permit will allow a non-conforming use to continue indefinitely and which is refuted by 27.61.050, “Restoration after Damage...When the use of a building is nonconforming as defined in this chapter and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty percent of its fair market value, it shall not be restored except in conformity with the regulations of the district in which the building is located, or in conformance with the provisions of Chapter 27.75 or Section 27.63.280,” (page 27-138).

The approval of this Special Permit would perpetuate the nonconforming use, and this is refuted by the very definition of a “nonconforming use” as “the use of any building... which was existing and lawful immediately prior to the effective date of this title and which does not conform with the provisions of this title..” (P. 27-11, Title 27 of L.M.C.).

The intent of the nonconforming definition in the zoning code is to identify that a use is not permitted in a specific district, yet since it was there previous to a zoning district update by the City it is allowed until such circumstances occur to destroy or eliminate the use, its existing structures, and the business therein. When those circumstances do occur, as they have with the fire at Athey Painting, the right for a nonconforming use to be conducted there is withdrawn, thereby encouraging a permitted use of the district to be conducted on the site.

The negative impacts on the adjacent residential area of this nonconforming use far surmount any reason to approve this Special Permit. Future residential development on this site will be discouraged, as will residential development adjacent to this site.

1. SPECIAL PERMIT REQUIREMENTS FOR EXPANSION OF A NON-CONFORMING USE PER L.M.C. 27.63.280:

In all zoning districts, except the B-5 zoning district, a special permit may be granted to authorize the issuance of a building permit to permit the enlargement, extension, conversion, reconstruction or structural alteration of any building located upon premises, the use of which constitute a nonconforming use. In consideration of applications for such special permits, the following criteria shall be given specific consideration:

(a) Effects on adjacent property, traffic, city utility service needs:

The approval of the reconstruction, and expansion of this non-conforming use does not add to the value of the adjacent properties. Truck traffic resulting from employees and customers of Athey Painting will continue, and perhaps increase as a result of the expansion of the structure.

(b) Density of land use zoning for the subject property and adjacent property:

The area in which the subject property is located is identified as a high density area of land use, specifically urban residential. It is important to note that the approval of this special permit would allow the continuation of a non-conforming use into the future. As L.M.C. 27.61.010 of Chapter 27.61 "Nonconforming Uses and Nonstandard Uses" states, the permitted future uses would include general commercial, retail sales and service, office buildings, multiple-family residential, and single-and two-family residential. The paint operation could be converted to any general commercial, retail sales and service, or office building without a public hearing. Retail use generates a substantial amount of traffic. Approval of the special permit would not be in conformance with the density guidelines of the Comprehensive Land Use Plan.

(c) The degree of hardship upon the applicant which would be caused by failure to grant such a permit. (p.27-152).

The applicant has stated in writing that the denial of this special permit would be an extreme hardship. "To relocate my business in Lincoln is not an option due to the amount of equipment I need to store. It would be an incredible burden to take on the debt necessary to purchase a parcel large enough to run my business. I am 55 years old, too young to retire and too old to take on a huge debt."

Special Permits are assigned to the land and are not restricted to the present applicant. To be economically fair to other similar businesses this business should be located on land that is zoned appropriately.

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

2. CITY-COUNTY HEALTH DEPARTMENT RESPONSE: The accompanying documentation indicates that the property in question has been a non-conforming use since 1979. The LLCHD agrees with this statement concerning the current zoning and the past uses of this property.

- The LLCHD has concerns regarding the storage or use of hazardous materials and/or chemicals on this property. The applicant indicates that the use of the property will consist of contractor's offices and ware-yards only. There is no mention of what types or quantities of chemicals/materials will be stored on-site.

- While the LLCHD does recognize the previous uses of this property, the LLCHD requests, in writing, a complete list of chemicals, paints, and hazardous materials and their quantities that will be stored on-site. Therefore, at this time, the LLCHD cannot make an accurate assessment of possible negative public health impacts and requests that action on the special permit be delayed until we have the opportunity to conduct a risk assessment based upon what will be stored on-site.
3. PUBLIC WORKS RESPONSE: The Public Works and Utilities Department has no objections to waiving the side yard screening requirements. They have no objection to waiving the requirement for parking lot paving due to the fact that Yankee Hill Road at this location is currently a gravel road.
4. CITY PARKS AND RECREATION RESPONSE: The Parks and Recreation Department recommends that street trees and screening be provided along Highway 2.
5. COUNTY ENGINEER RESPONSE: The County Engineer has no objections to this special permit.
6. BUILDING AND SAFETY DEPARTMENT RESPONSE: We believe this use should be classified as a General Commercial category of use under Section 27.61.010 LMC. Even if any prior uses were less restrictive, Section 27.61.010 requires that if a nonconforming use has been changed to a more restrictive use, it shall not thereafter be changed to a less restrictive use.
7. WAIVERS: The applicant requests two waivers. A waiver of screening along side yards, and a waiver of pavement on the parking lot. The Parks and Recreation Department recommend recommends that street trees and screening be provided along Highway 2. The Planning Department recommends screening in accordance with the City of Lincoln Design Standards, Title 3.50. Therefore both departments recommend denial of waiving the screening.

The Planning Department recommends paving the parking lot, in accordance with the City of Lincoln Design Standards, Chapter 3.45, Section 3.5.

CONDITIONS:

Should the Planning Commission choose to recommend approval the following are suggested conditions:

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office 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:

1.1.1 Symbols that are not as similar to each other as they are currently in the legend on page 1 of 2 for existing wood and chain-link fences

1.1.2 A 25' Front Yard Setback on the north lot line

1.1.3 Parking lot conforms to design standards

1.1.4 Add utility easements required by L.E.S.

1.2 Revise the landscape plan to show:

1.2.1 Adequate screening and landscaping to meet the City of Lincoln Design Standards

2. This approval permits the reconstruction and expansion of a nonconforming use.
Denial of waiver to parking lot design standards
Denial of waiver to landscape screening

General:

3. Before receiving building permits:

3.1 The construction plans shall comply with the approved plans.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:

4.1 Before occupying the building all development and construction shall have been completed in compliance with the approved plans.

4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.

- 4.3 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.
- 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 4.5 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:

Abigail Davis
Planner

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Area of Application

First St.

Smith St.

Showers St.

Second St.

Third St.

Lincoln St.

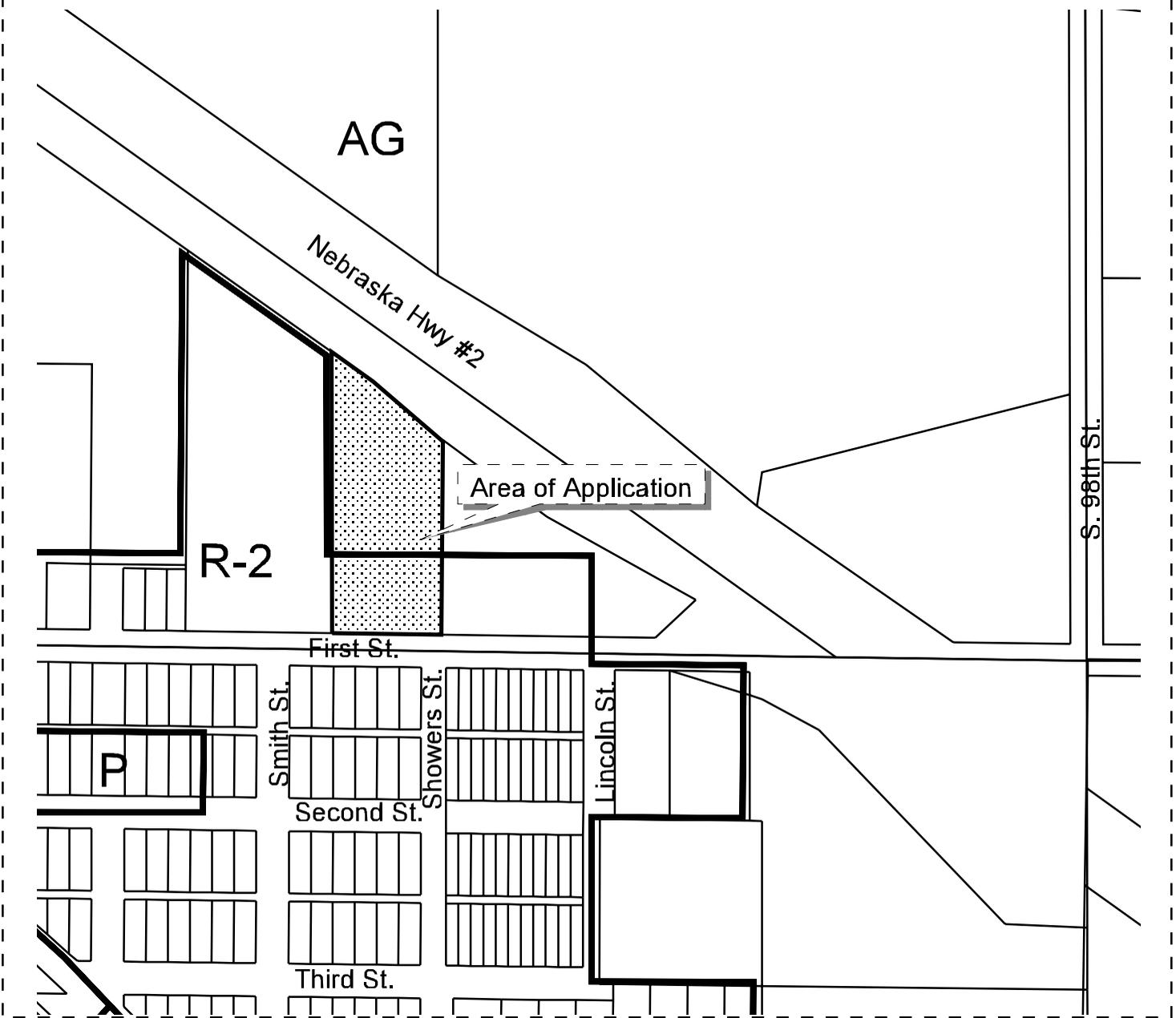
S. 98th St.

**Special Permit #1985
S. 94th & Yankee Hill Rd.**



Photograph Date: 1999

Lincoln City - Lancaster County Planning Dept.

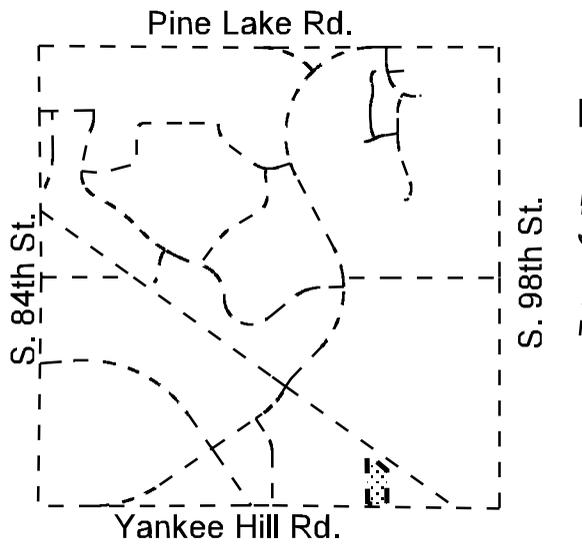


Special Permit #1985
S. 94th & Yankee Hill Rd.

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. 23 T9 N R7E



HIGHWAY

NO. 2

108.54'

191.58'

30' REAR YARD SETBACK

LOT 67
2.51 AC

35
PROPERTY

EXISTING GRAVEL PARKING

PROPOSED BUILDING

60.00

EXISTING BUILDING
48 x 125'

30.00

EXISTING SHED
20 x 25

EXISTING AUSTRIAN PINE
TO BE REMOVED

EXISTING AUSTRIAN PINE
TO REMAIN

224.91

EXISTING ASH
TO REMAIN

EXISTING DECIDUOUS
TREE MASS TO REMAIN
(ELMS & HACKBERRIES)

LOT 65

SCHWARTZ PROPERTY
EXISTING SINGLE
FAMILY RESIDENCE

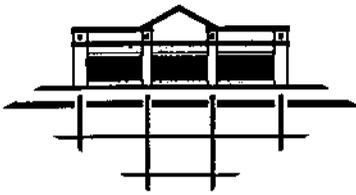
RECEIVED

AUG - 8 2002

LANCASTER CITY/LANCASTER COUNTY
PLANNING DEPARTMENT

YANKEE

HILL ROAD



BRIAN D. CARSTENS AND ASSOCIATES
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

August 8, 2002

Mr. Mike Dekalb
Interim Planning Director
Planning Department
City of Lincoln/ Lancaster County
555 South 10th Street
Lincoln, NE 68508

RE: ATHEY PAINTING, INC. 9400 YANKEE HILL ROAD- CHENEY, NE
SPECIAL PERMIT - RECONSTRUCTION & EXPANSION OF NON-CONFORMING USE

Dear Mike,

On behalf of Alonzo A. & Marijane J. Athey, of Athey Painting, Inc. we submit the following Special Permit for your review. As you may be aware, Athey Painting's building was struck by lightning on July 26th. The building was totally destroyed by fire. Please refer to attached pictures.

The subject property has been a pre-existing, non-conforming use since the implementation of the Zoning Ordinance in 1979. Athey Painting purchased the property in October of 1996. The building has had several uses over the years, ranging from a trucking/ excavating company, as well as a bus facility for a local tour and travel company, immediately prior to Athey Painting currently located at the site.

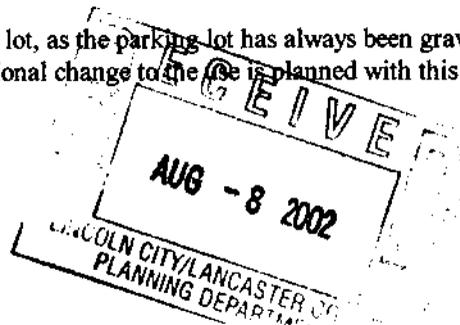
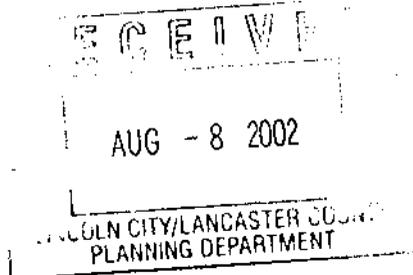
The property is currently zoned 'R-2'. We had talked with several neighbors in the area, as well as Cheney representatives, and they have no objections to Athey Painting rebuilding at the site. They do not want any additional uses on the property, other than Athey Painting. Therefore, we have limited the use of the property to contractor's offices and ware-yards only. No other retail type of uses can occupy the land. We feel this restriction will protect the adjacent property owners, as well as the Village of Cheney.

We did look at preserving the existing structure and reconstructing a new roof structure. However, we feel a new building will be far better for the adjacent neighbors than a rehabilitated building.

We are preparing to hold a meeting with the residents of Cheney prior to the Planning Commission public hearing, and gather further comments as well as consider any additional suggestions from them.

We are requesting the following waivers with this applications:

1. Waiver of screening along the side yards, as the site is currently existing in this manner. There are mature deciduous trees along most of the fence line on the east and west property lines
2. Waiver pavement on the parking lot, as the parking lot has always been gravel. Yankee Hill Road is currently a gravel road. No additional change to the site is planned with this special permit.



Please contact me if you have any further questions or comments.

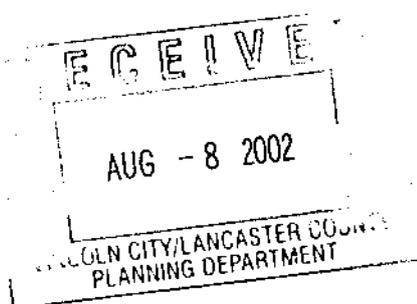
Sincerely,



Brian D. Carstens

cc: Lonnie Athey, Athey Painting

ENCLOSURES: 16 Copies of Sheet 1 of 2
6 Copies of Sheet 2 of 2
Application for a Special Permit
Certificate of Ownership
8 1/2" x 11" Reductions
Application fee of \$585.00
Pictures of Building (prior and after fire)



August 15, 2002

To whom it may concern:

My name is Lonnie Athey. My wife and I have owned and operated Athey Painting for 35 years. A little over five years ago I was fortunate enough to purchase about two acres of ground in Cheney, Nebraska to relocate my business. Abutting my property to the east is a farm house and barn, to the north Hwy 2, to the west several acres of vacant ground, then the Catholic church and parsonage, a nice large commercial building and new home. Across the street is Saxton's Market with some new self storage buildings. Since moving to Cheney my business has grown to include 21 vans, four bucket trucks, a scissor lift, a sand blaster & compressor, a spray booth, shop, offices and thirty employees.

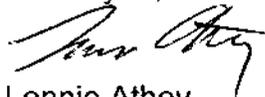
On Friday July 26, 2002 our business was struck by lightening. My building was nearly a total loss, not to mention the thousands of dollars in contents and inventory.

To relocate my business in Lincoln is not an option due to the amount of equipment I need to store. It would be an incredible burden to take on the debt necessary to purchase a parcel large enough to run my business. I am 55 years old, too young to retire & too old to take on a huge debt.

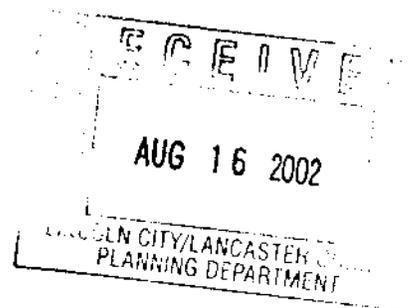
I have visited with my neighbors and they have indicated they would sooner see me build a new building, which would cost less than to rebuild. I did have some insurance, however not nearly enough to cover the cost to rebuild.

I am anxious to continue operating my business. Therefore, I am respectfully requesting a "Special Permit to reconstruct and expand a non-conforming use". If I would not be able to rebuild in my present location, it would be a tremendous hardship on me and my business.

Thank you,



Lonnie Athey
Athey Painting



ATHEY PAINTING INC

9400 YANKEE HILL RD LINCOLN NE 68526-9482 VOICE: (402) 421-2612 FAX: (402) 421-2620

August 27, 2002

Mr. Chris Schroeder
Lincoln-Lancaster County Health Department
3410 'N' Street
Lincoln, NE 68510

RE: ATHEY PAINTING- SPECIAL PERMIT #1985

Dear Chris,

I have compiled a list of paints, chemicals and hazardous chemicals that we use in our daily operation, as per your request in your letter dated August 16, 2002.

INTERIOR-

5-10 gallons of lacquer sealer/ finish
6-8 gallons of stain- stored in metal fire cabinet
20-25 gallons of waterborne paint

EXTERIOR-

55 gallons of mineral spirits
55 gallons of lacquer thinner
55 gallon drum for solvent waste
Static ground cable and posted flammable material signage

Our hazardous waste material is disposed through:

W.S. Supplies
P.O. Box 114
Woodbine, IA 51579.

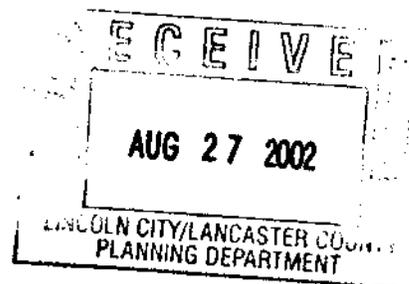
Please note that our painters pick up paints, stains, lacquers/ sealers used on the job sites, on the way to the job sites. Some supplies are also delivered directly to the job site by the supplier. The items listed above are for the times we paint or finish doors or trim at the shop and not at the construction site.

Please contact me if you have further questions.

Sincerely,



Lonnie Athey



**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Abby Davis

DATE: August 16, 2002

DEPARTMENT: Planning

FROM: Chris Schroeder

ATTENTION:

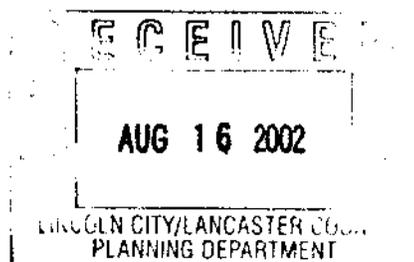
DEPARTMENT: Health

CARBONS TO: Bruce Dart, Director
EH File
EH Administration

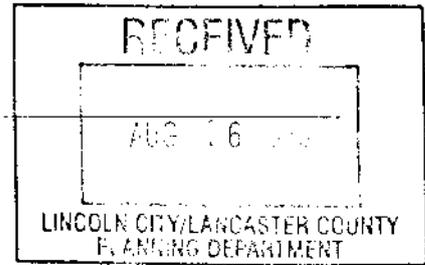
SUBJECT: Athey Painting, Inc.
SP #1985

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the application for special permit #1985 with the following noted:

- The accompanying documentation indicates that the property in question has been a non-conforming use since 1979. The LLCHD agrees with this statement concerning the current zoning and the past uses of this property.
- The LLCHD has concerns regarding the storage or use of hazardous materials and/or chemicals on this property. The applicant indicates that the use of the property will consist of contractor's offices and ware-yards only. There is no mention of what types or quantities of chemicals/materials will be stored on-site.
- While the LLCHD does recognize the previous uses of this property, the LLCHD requests, in writing, a complete list of chemicals, paints, and hazardous materials and their quantities that will be stored on-site. Therefore, at this time, the LLCHD cannot make an accurate assessment of possible negative public health impacts and requests that action on the special permit be delayed until we have the opportunity to conduct a risk assessment based upon what will be stored on-site.



M e m o r a n d u m



To: Abby Davis, Planning Dept.

From: Bruce Briney, Public Works and Utilities

Subject: ^{BS} Special Permit #1985, Athey Painting
Waiver of Design Standards to Expand and Reconstruct a Nonconforming Use

Date: August 15, 2002

cc: Nicole Fleck-Tooze
Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Application for Special Permit #1985 for Athey Painting to waive design standards at 9400 Yankee Hill Road and has the following comments:

- Public Works has no objection to waiving the side yard screening requirements.
- Public Works has no objection to waiving the requirement for parking lot paving due to the fact that Yankee Hill Road at this location is currently a gravel road.

Lancaster

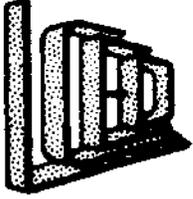
DON R. THOMAS - COUNTY ENGINEER

County

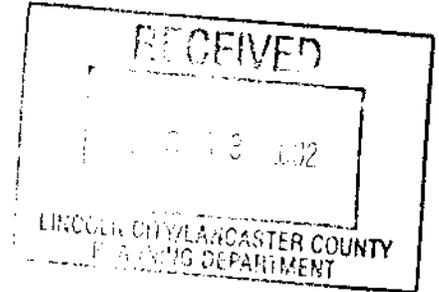
Engineering

Department

DEPUTY - LARRY V. WORRELL
COUNTY SURVEYOR



DATE: August 12, 2002
TO: Mike DeKalb
Planning Department
FROM: Larry V. Worrell 
County Surveyor
SUBJECT: Special Permit No. 1985
Athey Painting, Inc. - 9400 Yankee Hill Road



Upon review, this office has no direct objections to this submittal.

LVW/bml



Rick Peo
<rpeo@ci.lincoln.ne.us>
s>

To: ADavis@ci.lincoln.ne.us
cc:
Subject: Re: SP1985, Athey Painting, Inc.

08/19/02 03:17 PM

If this is a special permit to expand a nonconforming use the future use of the nonconforming use is governed by L.M.C. sections 27.61.010-050. We cannot restrict future use by the special permit.

ADavis@ci.lincoln.ne.us wrote:

> Rick,
>
> I need a written legal opinion on whether we can place a limit on the use
> of the property to contractor's offices and ware-yards with the issuance of
> this special permit. This is regarding the rebuild and expansion of Athey
> Painting, Inc. on Hwy 2 and Yankee Hill Rd. The neighbors have requested
> that the applicant do this to ensure the same use in the near future when
> Athey retires.
> Thanks,
> Abby

Memo



To: Abby Davis, Planning Department

From: Mark Canney, Parks & Recreation

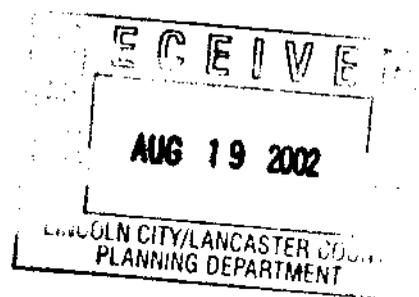
Date: August 19, 2002

Re: Athey Painting, Inc.

Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and have compiled the following comments:

1. We recommend that street trees and screening be provided along Highway 2.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248. Thank you.





Rodger P Harris

08/21/02 08:22 AM

To: Abigail P Davis/Notes@Notes

cc:

Subject: Re: SP1985, Athey Painting, nonconforming use 

Abby: We believe this use should be classified as a General Commercial category of use under Section 27.61.010 LMC. Even if any prior uses were less restrictive, Section 27.61.010 requires that if a nonconforming use has been changed to a more restrictive use, it shall not thereafter be changed to a less restrictive use.

Abigail P Davis



Abigail P Davis

08/20/2002 10:15
AM

To: Rodger P Harris/Notes@Notes

cc:

Subject: SP1985, Athey Painting, nonconforming use

Under the continuation of a nonconforming use (27.61.010), would Athey Painting be considered light industrial or general commercial?



INTER-DEPARTMENT COMMUNICATION

DATE August 20, 2002
TO Abby Davis, City Planning
FROM Sharon Theobald
(Ext. 7640)
SUBJECT DEDICATED EASEMENTS
DN #84S-94E

Attached is the Special Permit request for Athey Painting, Inc.

In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

ALLTEL, Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map.

Sharon Theobald



ST/ss
Attachment
c: Terry Wiebke
Easement File



Lancaster County

County Assessor
Parcel Photo

InterLinc

Parcel 16-23-400-009-000

Comments



31-Jul-2000

480x640

[Property Information](#) [Property Mini-Sheet](#)



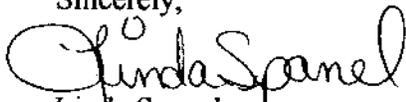
August 24, 2002

CHENEY COMMUNITY

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. **Please take a few moments to provide your thoughts.**

My concerns on the reconstruction and expansion of Athey Painting in Cheney are based on the work of this community during the planning of the New Subarea Plan for Southeast Lincoln/Highway 2. The community did a petition drive that clearly stated the land use we requested as Urban/Residential. This zoning was approved by the Planning Department and City Council on the acceptance of the new Subarea Plan. I realize that the fire that destroyed Athey Painting's building was very unfortunate and out of his control. I also know that Mr. Athey purchased this property under a grandfather clause that clearly stated he would be unable to rebuild if this type of tragedy occurred. To allow an expansion of this size would not be in the best interest to our community. It lengthens the life of the grandfather clause and also allows a larger business to come in and operate in the larger facility if or when Mr. Athey decides to retire or sell. Mr. Athey told us at a community meeting that was held on August 20, 2002 that he doesn't plan on retiring for at least 10 years. Yet several weeks ago Mr. Athey addressed the City Council on a matter that I believe involved his personal residence where he told City Council that he would be retiring within a few years and moving. So where does this leave our community? We have a larger new building with a grandfather clause that allows numerous types of business in an area that is designated for Urban development. The city has already approved plans that remove the main entrance to our community, they have approved the Andermatt development, and also allowed large utility lines that the 84th Street community did not want along their street to be put along our community. I'm concerned about the development and growth occurring around our community. I am asking you the Planning Department and the City Council to help us in our efforts to keep the community an Urban/Residential place to live. Thank you for your time and consideration.

Sincerely,

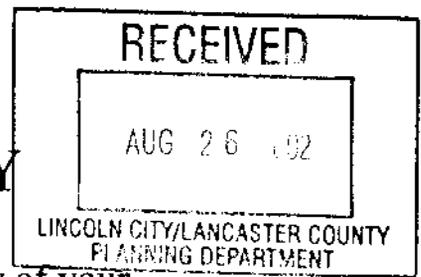


Linda Spanel

Cheney Community Resident

8440 So 91st St

CHENEY COMMUNITY



This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. **Please take a few moments to provide your thoughts.**

We approve of Mr. Athey's plans to rebuild and keep his business in Cheney. He is a good citizen, keeps his place of business neat.

We also approve of his enlarging from the original dimensions. There is plenty of space and a well-kept building is better than an unused area.

There seem to be a few people in the community who want to keep any businesses out of the area. Considering the building going on across highway #2 from us, we think such an attitude is very unrealistic. A neat, well-run business is far superior to unkept lots, illegal dumping and late night vehicles coming and going.

We would "vote" yes on all Mr. Athey's plans for development.

Angi Ganzel + Maria Ganzel

CHENEY COMMUNITY

RECEIVED

AUG 26 2002

LINCOLN CITY/LANCASTER COUNTY
PLANNING DEPARTMENT

This comment form is intended for you to provide a few of your thoughts regarding the reconstruction and expansion of Athey Painting in Cheney. Please take a few moments to provide your thoughts.

ATHEY PAINTING HAS NOT BEEN ANY DISRUPTION
TO THE COMMUNITY, I FEEL THAT HE SHOULD BE
ALLOWED TO REBUILD AND/OR EXPAND THE BLDG.
TO ENHANCE HIS BUSINESS, AS LONG AS THE RESTRICTIONS
ON LAND AND BUILDING LIMIT THE NEXT BUSINESS
IN THE EVENT OF HIS RETIREMENT, OR ANY
REASON HE MAY SELL, THESE LIMITS SHOULD
NOT CAUSE ANY MORE DISRUPTION THAN ATHEY
PAINTING, I WOULD SUPPORT RESTRICTIONS
TO ENSURE THESE LIMITS,

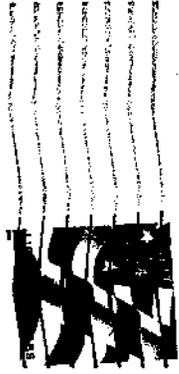
Sincerely
Ernest J. Pester

Lela Bade
8501
~~101~~ Showers R. F. D. 8
Lincoln, Nebraska 68506

Planning Commission

Re - special permit # 1985
S 94th St + Yankee Hill Rd.

I am in favor of Atkey's painting
rebuilding on their property that
burned. However I am not in
favor of expanding the building
larger than it was. There is
vacant property along that street
and I feel it would only encourage
more large businesses. I line
across the road on the street.
and would not like to have
that across from my home. Thanks
for your consideration. Lela Bade
8501 Showers.



RECEIVED
AUG 27 2002
LINCOLN CITY/ANCASTER COUNTY
PLANNING DEPARTMENT

Lincoln State Planning Dept.

555 So 10th

#213

Lincoln, NE

68508

RE Abby Davis