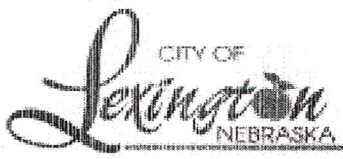


Shannon 325-3444



Application for Conditional Use Permit

- 1. Applicant's Name First United Methodist Church
- 2. Applicant's Address 201 E 8^m St
- 3. Applicant's Telephone Number 324-2397
- 4. Owner's Name Kent Gydesen (Council Chair)
- 5. Owner's Address 1001 N Grant
- 6. Owner's Telephone Number 325-1236
- 7. Purpose of Conditional Use Permit Daycare / Learning Facility
- 8. Present Zoning C2
- 9. Within City Limits Yes Within Zoning Jurisdiction Yes
- 10. Legal Description 0-0-0 00000031 Lots 1-10 + W 20 FT of Lot 11 + Vacated Alley
- 11. Street Address of Property or Approximate Location 201 E 8^m St Blk 170 T

12. Site Plan (if applicable) _____

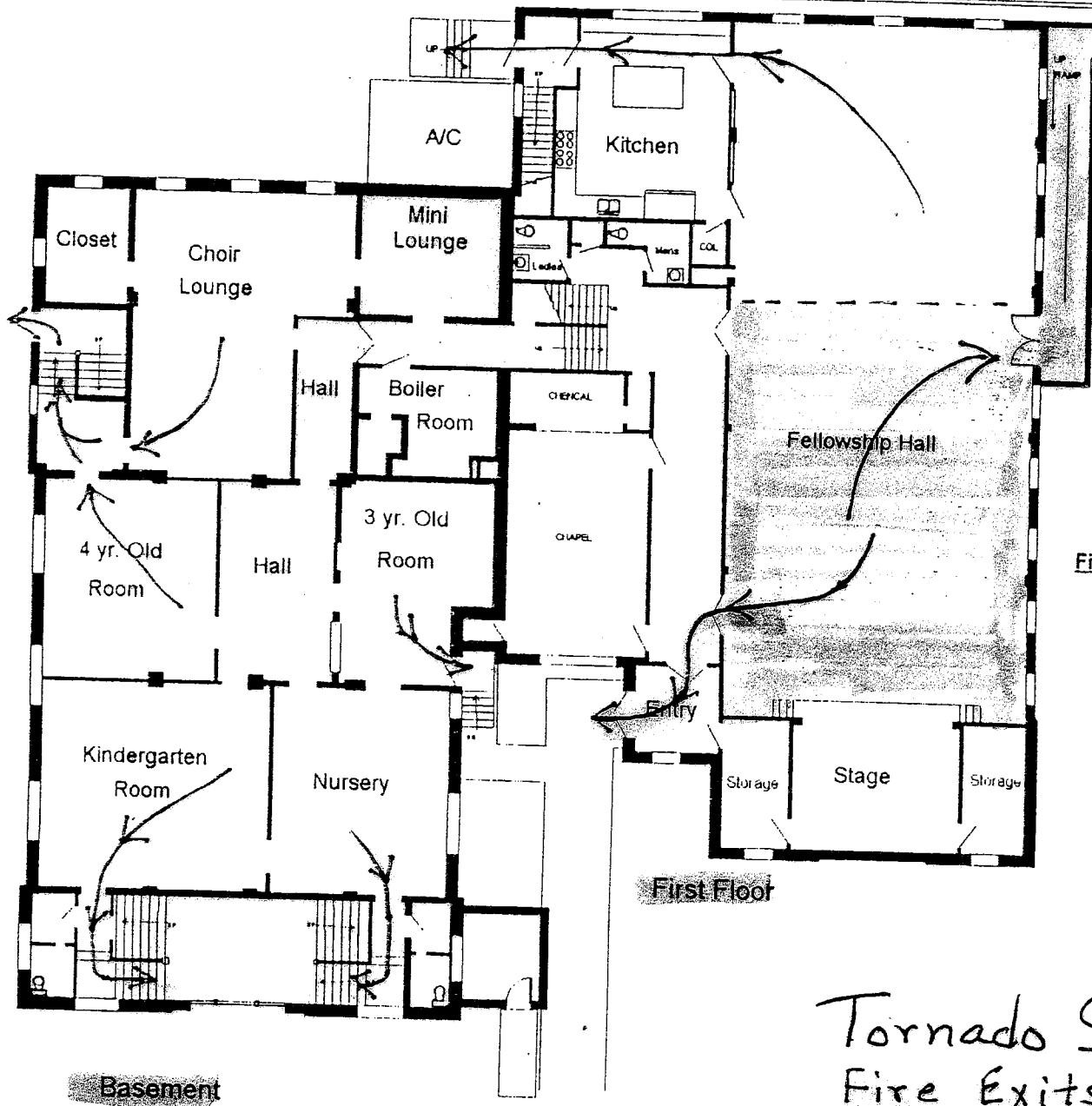
I/We the undersigned do hereby acknowledge that I/We do fully understand and agree to comply with the provisions and requirements for an application for a special use permit as described above. I/We the undersigned do hereby agree to allow City of Lexington employees or agents working for the City of Lexington, to enter the above referenced property as it pertains to this application.

16

Kent L. Gydesen
Signature of Owner

[Signature]
Signature of Applicant

Administrative Use Only	
Date Submitted _____	Case Number _____
Filing Fee <u>\$100.00</u>	Accepted By _____
Cert. Of Ownership _____	Date Advertised _____
Date Sign Posted _____	Date of Public Hearing _____



NORTH

Fire Plan

FOR

First United Methodist Church

201 E. 8 th Street

Lexington, Ne. 68850

First Floor

Basement

Tornado Shelter
 Fire Exits
 Fire Exits



W 10TH ST

E 10TH ST

W 9TH ST

E 9TH ST

W 8TH ST

E 8TH ST

W 7TH ST

E 7TH ST

N LINCOLN ST

N TYLER ST

N WASHINGTON ST

N GRANT ST

N JACKSON ST

N JEFFERSON ST

R3 911
R3 909
R3 907
R3 905
R3 902
R3 111
R3 109
R3

R3
910 R3
908 R3
906 R3
902 R3
111 R3 109 R3

910 R3
908 R3
R3 903 R3
R3 101
R3 105

R3
R3 908
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R1 907
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R1 207
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R1 907
R1 905
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910 R1
908 R1
906 R1
904 R1
R1 401
R1 403
R1 405
R1 406
R1
R1 907
R1 905
R1 903
R1 901

R1
R1
R1 906
R1 904
R1 902
R1

R3 807
R3 801

110 108 106 104
R3 R3 R3 R3
R3 807
C2 805
C2 C2 C2
111 109 107 101

810 R3 106 108
808 R3 R3 R3 R3
806 R3
800 C2 C2 C2
103 801

C2 C2
C2 C2

R3 R3 R3 R3
R3 301 R3 303 R3 307 R3 311
R3 306 R3 807

810 R3
806 R3
R3 R3 405 R3 409 R3 411

812 R3
806 R3
R3 R3 R3
501 503 505

R3 711
R3 707

110 106
C2 C2
C2 709
C2 707

700
C2

202 C2 C2 C2 C2
204 206 210
205 C2 211 C2

R3 300 R3 302 R3 R3 306 R3 308 R3 310
702 R3
301 R3 R3 303 307 R3 309 R3 705
R3 311

R3 R3 R3 406 R3
R3 709
R3 707

708 R3
706 R3
R3 R3
506
R3 R3
501 505 507

C2
201

C2
C2 705
C2 701
107

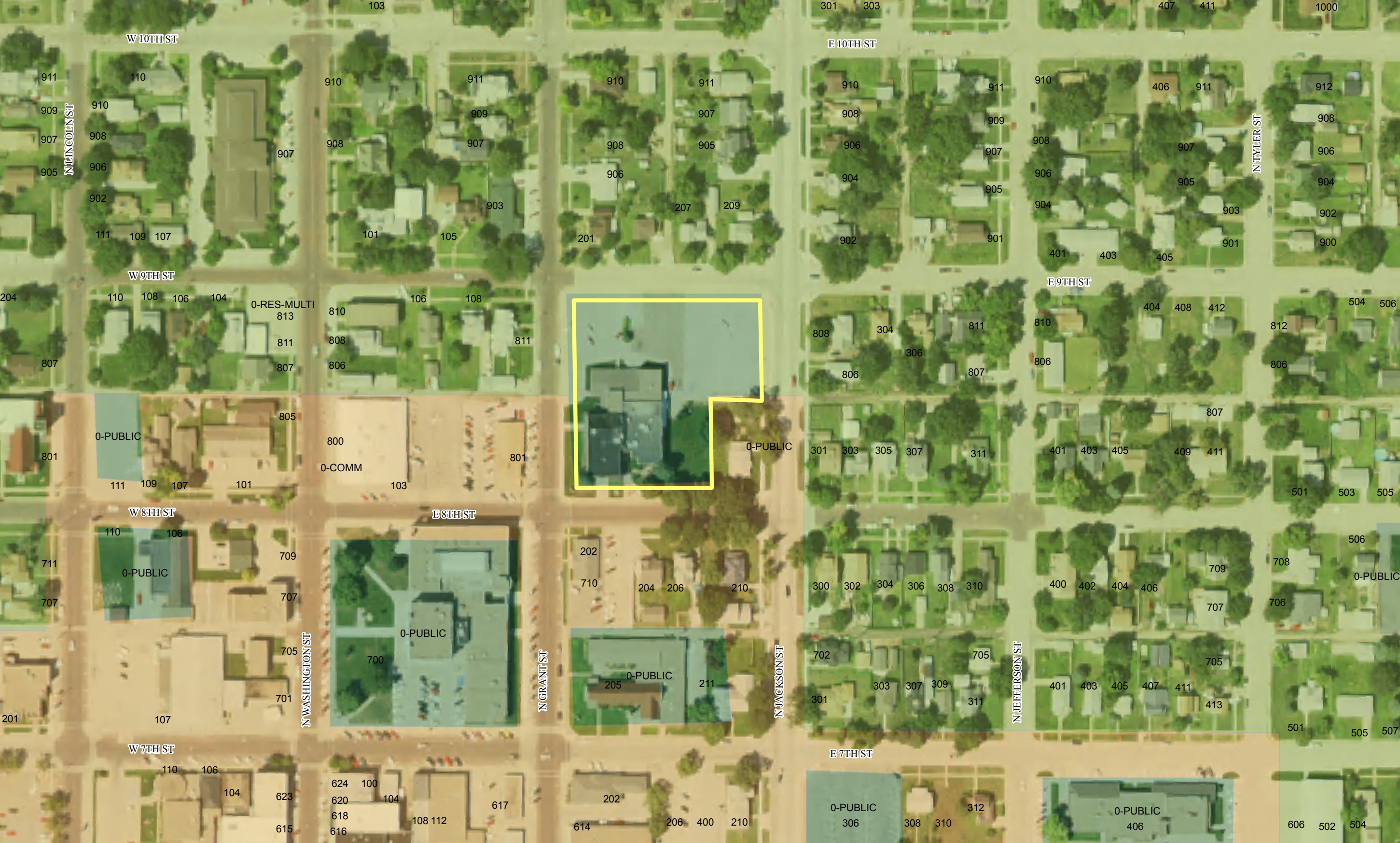
624 C2 100 C2
620 C2 104
618 C2 108 112
616 C2 C2 617
C2

614 C2
C2 206 400 210

C2 306 C2 308 310
C2 312

C2 406

R3 606 R3 502 R3 504



W 10TH ST

E 10TH ST

W 9TH ST

E 9TH ST

W 8TH ST

E 8TH ST

W 7TH ST

E 7TH ST

N LINCOLN ST

N TYLER ST

N WASHINGTON ST

N GRANT ST

N JACKSON ST

N JEFFERSON ST

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807

810 106 108
808 811
806

0-PUBLIC

808 304 811
806 306 807

810 404 408 412
806 401 403 405 409 411

812 504 506
806 501 503 505

801
111 109 107 101

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0-COMM 103 801

0-PUBLIC

301 303 305 307 311

401 403 405 409 411

501 503 505

110 106
0-PUBLIC
709 707

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0-PUBLIC

202 710 204 206 210

300 302 304 306 308 310

400 402 404 406 709 708
707 706

506 0-PUBLIC

705 701
107

700
0-PUBLIC

205 211
0-PUBLIC

702 705 301 303 307 309 311

401 403 405 407 411 413
705

501 505 507

110 106 104 623 615

624 100 620 104 618 616 108 112 617

202 614 206 400 210

0-PUBLIC 306 308 310 312

0-PUBLIC 406

606 502 504

ARTICLE 6: CONDITIONAL USE PERMITS

Section 6.01 General Provisions

The City Council may, by conditional use permit after a Public Hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The Council may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance. In granting a conditional use permit, the Council will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

Section 6.02 Application for Conditional Use Permits

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

Section 6.03 Planning Commission Public Hearing

Before any proposal for a conditional use permit is considered by the City Council, the Planning Commission shall conduct a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Lexington, one time at least 10 days prior to such hearing and either notice posted on the property or mailed to property owners within 300 feet at least 10 days prior to such hearing.

Section 6.04 City Council Public Hearing

Before issuance of any conditional use permit, the Council will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Lexington, one time at least 10 days prior to such hearing and either notice posted on the property or mailed to property owners within 300 feet at least 10 days prior to such hearing.

Section 6.05 Decisions

A majority vote of the Council shall be necessary to grant a conditional use permit. Approved conditional use permits shall be in the form of a conditional use agreement signed by owner and City outlining the specific conditions placed upon the use by the City Council. The applicant shall have 12 months from the approval of the conditional use permit to commence the use, unless an extension is granted according to Section 6.05.01. If the use stated within the conditional use permit has not been commenced within 12 months, or approved time period, said permit shall become invalid and any activity shall be required to apply for a new conditional use permit. All decisions by the City Council and the recommendations of the Planning Commission shall be required to provide findings of fact for their decision for either approval or denial.

6.05.01 The Building Official has granted an additional six month administrative extension provided:

1. The character (including uses, parking conditions, traffic, and others) of the area in which the use(s) were approved has not changed significantly;
2. The applicant has made some effort to follow through with said permit or there were circumstances that slowed the applicants' progress; and
3. If the administrative extension of the second six month period has lapsed without establishment of said conditionally permitted use; or, if staff deems the character of the area has changed within the initial six month period, the applicant shall be required to reapply to both the Planning Commission and City Council for further approval(s).

Section 6.06 Transferability

Any approved conditional use permit is automatically transferable upon sale of the property from the original applicant to another party. However, the new owner shall assume the responsibility for complying with:

- 6.06.01 The conditions of the permit;
- 6.06.02 The use shall not change or be expanded unless a new conditional use permit is approved; and
- 6.06.03 Failure to comply with the conditions of the permit shall subject the new owner to the revocation process of this Article.

Section 6.07 Revocation

Any approved conditional use permit may be revoked for failure to comply with the conditions approved by the City Council. Revocation shall require that the City notify the applicant of any noncompliance, in writing, and provide the applicant 30 days to correct the issue(s).

Failure to comply with the notice shall cause a public hearing to be scheduled by the City Council, to review the permit and the approved conditions and the failure to act by the applicant. If the applicant is found to be noncompliant with the issued permit and conditions, the City Council shall revoke the permit and order the use to cease and desist.

Failure to follow a cease and desist order shall cause action to be filed the City Attorney in District Court.

Revocation may also occur, if the City documents that the use has ceased operations for 12 consecutive months. The City shall notify the applicant of the revocation in writing. The permit shall be invalid within 30 days.

Section 6.08 Standards

No conditional use permit shall be granted unless that Planning Commission or City Council has found:

- 6.08.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort or general welfare of the community.
- 6.08.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.08.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.08.04 Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- 6.08.05 Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 6.08.06 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.08.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- 6.08.08 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.
- 6.08.09 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.
- 6.08.010 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 6.08.011 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

**City of Lexington
Conditional Use Permit**

Conditional Use Permit for Child Care Center

This Conditional Use Permit issued this _____ day of _____, 2019, by the City of Lexington, a municipal corporation in the County of Dawson, Nebraska (“City”) to, First United Methodist Church (“Owner”), pursuant to the Lexington Zoning Ordinance.

WHEREAS, Owner wishes to locate and operate a child care center upon the property commonly known as 201 E. 8th Street, Lexington, NE 68850, being a portion of the following legally described property of land within the City of Lexington zoning jurisdiction:

Lots 1 thru 10 and the west 20’ of lot 11 & the vacated alley block 17

WHEREAS, Owner has applied for a conditional use permit for the purpose of developing a child care center located in a C-2 Downtown Commercial District; and

WHEREAS, the Mayor and City Council of the City of Lexington make the following findings of fact in regards to the issuance of a conditional use permit: the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area, and such use is not in violation of any the standards set forth in Section 6.08 of the Lexington Zoning Ordinance dated February 11, 2014, and amended December 8, 2015; and

WHEREAS, the Mayor and City Council of the City of Lexington, based on the above findings of fact, are agreeable to the issuance of a conditional use permit to the Owner for such purposes, subject to the appropriate conditions, safeguards, and time limits hereinafter provided.

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area of the property described herein for a child care center, said use hereinafter being referred to as “Permitted Use or Use”.

Conditions of Permit

The conditions to which the granting of this permit is subject are:

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City or unless exempted herein.
2. In respect to the proposed Use:
 - a. The Owner, and staff, must operate and furnish child care services in compliance with applicable Federal, State, and local laws and regulations pertaining to licensure and any other relevant health and safety requirements, including but not limited to such regulations set forth by the Department of Health and Human Service
 - b. A Certificate of Occupancy must be obtained before the premise may be occupied.
 - c. The Owner waives any right to a hearing or otherwise the Owner agrees not protest any liquor license application pursuant to the Nebraska Liquor Control Act for adjacent property owners.
 - d. Continued compliance with the standards set forth in Section 6.08 of the Lexington Zoning Ordinance.

3. The applicant's right to maintain the use as approved pursuant to these provisions shall be based on the following:
 - a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval;
 - b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the applicant has fully complied with the terms of approval;
 - c. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use;
 - d. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed at owner's expense within twelve (12) months of cessation of the conditional use.
4. Environmental Hazards. In the event of the owner's failure to promptly remove any safety or environmental hazard from the premises, or the expiration or termination of this permit and the owner's failure to promptly remove any permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the owner or any third party to exercise said option) cause the same to be removed at owner's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable) and the owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right to enter the premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the premises as necessary or appropriate to carry out any other provision of this permit.

Revocation of Permit

1. Revocation for Non-Compliance. Revocation shall require that the City notify the Owner of any non-compliance, in writing, and provide the Owner 30 days to correct the issue(s). Failure to comply shall cause a public hearing to be scheduled before the City Council, to review the permit and the approved conditions and the failure to act by the Owner. If the Owner is found to be non-compliant, the City Council shall revoke the permit and the order the use to cease and desist. Failure to follow a cease and desist shall cause action to be filed in the District Court and the Owner shall be responsible for all damages, including costs and reasonable attorney fees, or any such other remedies as allowed by Nebraska law.
2. Revocation for Abandonment. Revocation may also occur if the City documents that the use has ceased operations for 12 consecutive months. The City shall notify the Owner in writing and the permit shall be invalid within 30 days of such notice.

Miscellaneous

1. Entire Understanding. This Conditional Use contains the entire agreement of the parties relating to this matter. It supersedes any prior agreements or understandings among them and shall not be modified or altered or amended in any manner except in writing and signed by both parties
2. Binding. This Conditional Use, and all conditions stated herein, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legatees, devisees, personal representatives, successors and permitted assigns.

3. Waiver. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this permit.
4. Indemnification. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the owner, his/her agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the premises of any environmental or safety law, rule or regulation.
5. Severability. If any provision, or any portion thereof, contained in this agreement is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.
6. Notice. Any notice to be given by City shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed to the owner as follows:

Contact Name and Address:

**First United Methodist Church
P.O. Box 276
Lexington, NE 68850**

Effective Date:

This permit shall take effect upon the filing hereof with the City Clerk a signed original hereof.

THE CITY OF LEXINGTON

By _____
John Fagot, Mayor

Attest:

Pam Baruth, City Clerk

CONSENT AND AGREEMENT

The undersigned does hereby consent and agree to the conditions of this permit and that the terms hereof constitute an agreement on the part of the undersigned to fully and timely perform each and every condition and term hereof, and the undersigned does hereby warrant, covenant and agree to fully and timely perform and discharge all obligations and liabilities herein required by owner to be performed or discharged.

Owner:

By: _____

Title: owner/operator _____

Date: _____