

## FACTSHEET

**TITLE:** TEXT AMENDMENT NO. 14021  
(Title 27 - To allow reduced setback in the B-3 and O-1 zoning districts)

**BOARD/COMMITTEE:** Planning Commission

**APPLICANT:** Derek Zimmerman

**RECOMMENDATION:** Approval (6-3: Weber, Sunderman, Harris, Scheer, Hove and Lust voting 'yes'; Corr, Cornelius and Beecham voting 'no').

**STAFF RECOMMENDATION:** Approval

**OTHER DEPARTMENTS AFFECTED:** N/A

**SPONSOR:** Planning Department

**OPPONENTS:** None

**REASON FOR LEGISLATION:** To amend Section 27.72.080 of the Lincoln Municipal Code relating to exceptions to front yard requirements to provide for a reduced commercial front yard setback in the O-1 Office District and the B-3 Commercial District where there is an abutting residential district along the same block face; and repealing Section 27.72.080 of the Lincoln Municipal Code as hitherto existing.

**DISCUSSION/FINDINGS OF FACT:**

1. The approval of this text amendment will implement a step back calculation for setbacks in the B-3 and O-1 zoning districts, thereby providing the flexibility developers need for redevelopment projects while preserving continuity for the majority of the residential block face. The step back calculation can be a reliable tool to provide a transitional area between commercial and residential.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-4, concluding that the proposed text change to allow a reduced setback on properties in the B-3 and O-1 zoning districts provides more site flexibility, encouraging infill and redevelopment while maintaining the integrity of surrounding neighborhoods. The staff presentation is found on p.5.
3. Testimony by the applicant is found on p.5.
4. There was no testimony in opposition.
5. The Planning Commission discussion is found on p.6. Commissioners Corr, Cornelius and Beecham would prefer this change come forward as part of the reFORM package. (See Minutes, p.6).
6. On January 7, 2015, the majority of the Planning Commission agreed with the staff recommendation and voted 6-3 to recommend approval (Corr, Cornelius and Beecham dissenting).

**FACTSHEET PREPARED BY:** Jean Preister, Administrative Officer

**DATE:** January 20, 2015

**REVIEWED BY:** David R. Cary Acting Director of Planning

**DATE:** January 20, 2015



# LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

## for January 7, 2015 PLANNING COMMISSION MEETING

- PROJECT #:** Text No.14021
- PROPOSAL:** To allow a reduced setback in the B-3 and O-1 Zoning district for Commercial Properties on a residential block face by amending 27.72.080(b).
- CONCLUSION:** The proposed text change to allow a reduced setback on properties in the B-3 and O-1 zoning district provides more site flexibility, encouraging infill and redevelopment while maintaining the integrity of surrounding neighborhoods.

**RECOMMENDATION:**

**Approval**

### **GENERAL INFORMATION:**

**ASSOCIATED APPLICATIONS:** CZ14029 Change of Zone at S. 48<sup>th</sup> and Pioneers Boulevard from O-2 Suburban Office District to B-3 Commercial District.

### **HISTORY:**

The provision for commercial districts to have the same front yard setback as the residential district on the same block face has been in the Zoning Ordinance since at least 1953.

This text amendment was originally proposed as part of the 2014 reForm discussion on design standards and zoning code updates.

### **COMPREHENSIVE PLAN SPECIFICATIONS:**

Some Guiding Principles for Mixed Use Redevelopment Page 6.2

- *Target existing underdeveloped or redeveloping commercial and industrial areas in order to remove blighted conditions and more efficiently utilize existing infrastructure.*
- *Be located and designed in a manner compatible with existing or planned land uses.*
- *Develop with substantial connectivity between developing or existing neighborhoods and developing or redeveloping commercial centers.*

Some Guiding Principles for Business and Economy Pages 5.1

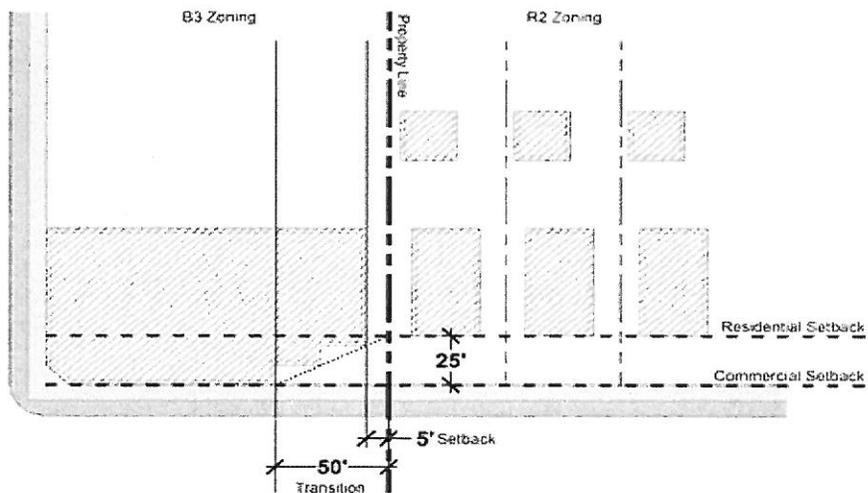
- *Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.*
- *Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.*
- *Seek to efficiently utilize investments in existing and future public infrastructure to advance economic development opportunities.*
- *Provide flexibility to the marketplace in siting future commercial and industrial locations.*
- *Strive for predictability for neighborhoods and developers.*

- *Encourage and provide incentives for mixed uses in future developments.*

**ANALYSIS:**

1. Today’s zoning ordinance requires that commercial zoning districts located on the same block face as a residential zoning district have the same setback as the abutting residential zoning district. This includes districts that might otherwise have no front yard setback requirements such as the B-3 and O-1 zoning districts. This particular regulation could require a setback from the property line anywhere between 20 and 30 feet depending on the setback of the adjacent residential district.
2. The setback is required even if the houses in the residential district are setback less than what is required by the residential zoning district.
3. Many older areas already have buildings that are located less than 20 feet from the property line (a typical front yard setback for a commercial zoning district) because they were developed prior to the existing zoning ordinance. Requiring a residential setback for commercial redevelopment projects causes disruption with the existing commercial streetscape which is often more pedestrian oriented than commercial buildings with larger setbacks.
4. Most non-use permit zoning districts, such as the B-3 and O-1, are located in areas of Lincoln where it is typical to find both residential and commercial zoning on a single block face. Unlike use permits, which allow for setback reductions under the right circumstances, these older zoning districts do not have any mechanism to ask for relief of a setback even if it could be beneficial to the development and the neighborhood.
5. A step back calculation can be a reliable tool to provide a transitional area between commercial and residential. The city already uses a step back calculation for increasing height in some districts. In the case of a height increase, the further the building is away from the residential zoning district the taller height is allowed.

This text proposes that for every two feet a building is setback from a residential lot line it can move one foot closer to the street. (See figure A below)



6. This application only applies the step back transition to the B-3 and O-1 zoning districts because, if not for the residential setback requirement, they would have a zero foot front yard setback. Most other non-use permit districts, with the exception of the I-1, have a minimum 20 foot front yard setback. The B-4 is another zoning district with a zero foot front yard requirement but there is no B-4 zoning on the same block face as residential zoning.
7. This transition will provide the flexibility developers need for redevelopment projects while preserving continuity for the majority of the residential block face.

*Note:* Although the applicant only requested the change to the B-3 district, the Planning Department has requested that the O-1 district be added to the text change since both have similar characteristics.

Prepared by:

Christy Eichorn, Planner  
[ceichorn@lincoln.ne.gov](mailto:ceichorn@lincoln.ne.gov)  
402-441-7603

**DATE:** December 22, 2014

**APPLICANT / CONTACT:** Derek Zimmerman  
Baylor, Evnen, Curtiss, Gruit & Witt, LLP  
Wells Fargo Center  
1248 O Street, Suite 600  
Lincoln, NE 68508  
402-475-1075

# TEXT AMENDMENT NO. 14021

## PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Sheer, Hove and Lust.

Staff recommendation: Approval

Corr disclosed that she attended the Mayor's Neighborhood Roundtable meeting on November 10, 2014, where this text amendment was discussed.

Staff presentation: **Christy Eichorn of Planning staff** referred to an application on today's agenda to which this text amendment would apply (Change of Zone No. 14029). Both of the applications are by the same applicant but they are different because the text amendment will affect future developments – not just the development being proposed today.

Eichorn explained that approval of this application will provide a mechanism to allow us to improve development in commercial areas that do not have a lot of depth in the commercial area, such as areas like University Place, i.e. 150' or less of commercial zoning along arterial streets, making it difficult to develop those sites with residential zoning adjacent. Over the last few years, we have talked about a mechanism that can be utilized to meet that burden.

Eichorn further explained that today, when you have a commercial development on the same block face as residential, that commercial development is required to have the same front yard setback as the adjacent residential. This regulation has caused problems in the past. To maximize redevelopment, this text amendment creates the 2:1 step-back method. This has been used in our zoning code for increases in height. The applicant did work with staff to develop the proposed language.

Eichorn also noted that this was one part of reFORM which was discussed in order to help facilitate redevelopment.

## Proponents

**1. Derek Zimmerman, Baylor Evnen**, 1248 O Street, Suite 600, appeared as the applicant. He acknowledged that he worked with city staff on this amendment. This is something that has been looked at previously. There are already a number of mechanisms for setback reductions in other zoning districts or with PUD's or CUP's. The problem is that they require more acres than this development.

There was no testimony in opposition.

Eichorn reapproached to clarify that this text amendment applies only in the B-3 and O-1 zoning districts because both of those districts today, by right, would have zero front yard setbacks if they weren't on the same block face. The applicant had only requested the B-3 and staff believes that the O-1 would also benefit from this change.

**ACTION BY PLANNING COMMISSION:**

January 7, 2015

Scheer moved approval, seconded by Harris.

Cornelius expressed that he is troubled because when the Commission was working on the reFORM initiative and the revisions to the Comprehensive Plan, there was general consensus that these items needed to be brought forward as a package. There were balancing acts that went on between making it easier to redevelop in the city and also protect neighborhoods. This is a component of all of that which we reviewed in the reFORM initiative. Cornelius is concerned about “chipping away” at what was intended to be a balanced package. He has reservations about this.

Corr commented that she did have the same reservations based on bringing reFORM together as a package. This is piece-mealing it and she is worried about the effects it might have on the rest of the reFORM package.

Beecham agreed that “balanced” is the key word. Only bringing one piece of the equation together does not feel balanced. It can set a precedent where we might have ramifications down the road that we are not seeing right now. Personally, she would like more time to think about it.

Lust stated that she will support the application, while having the same reservations. She believes reFORM is a very important package “as a package”. That said, she always hates for “perfection to be the enemy of the good.” In looking at this, we have to weigh whether this particular text amendment makes sense, in general, because that’s what is before us. ReFORM is not before us. There is a definite project that appears to be of benefit to the city in a place that is hard to redevelop. In this context, the applicant should have the ability to move a project forward and have that be reviewed upon its merits, and this text amendment has been one of the elements of reFORM that has always made sense. Even though she would rather see reFORM move forward, she is still going to support this application.

Sunderman pointed out that the Commission was working on reFORM last summer and fall, and it got delayed to maybe later this year, but there is no definite date. We cannot just sit back and wait for something that may happen in the future before we move along with city business.

Corr recalled that reFORM was supposed to go forward in December, but because of some “push-backs” we decided to delay it. Had we moved forward, this may not be an issue now.

Beecham acknowledged that everyone has a good point. If she has concerns, this is the mechanism to voice her concern.

Motion for approval carried 6-3: Weber, Sunderman, Harris, Scheer, Hove and Lust voting ‘yes’; Corr, Cornelius and Beecham voting ‘no’. This is a recommendation to the City Council.



RANDALL L. GOYETTE\*  
STEPHEN S. GEALY  
GAIL S. PERRY  
DALLAS D. JONES  
JILL GRADWOHL SCHROEDER  
DAVID A. DUDLEY  
BRENDA S. SPILKER  
W. SCOTT DAVIS  
MARK A. HUNZEKER  
WILLIAM G. BLAKE  
PETER W. KATT

WILLIAM F. AUSTIN  
DARLA S. IDEUS  
JARROD S. BOITNOTT  
TIMOTHY E. CLARKE\*  
ANDREW M. LOUDON  
CHRISTINA L. BALL\*\*  
JENNY L. PANKO  
CAROLINE M. WESTERHOLD\*  
JARROD P. CROUSE  
ANDREA D. SNOWDEN  
DEREK C. ZIMMERMAN

PAUL T. BARTA\*  
COLIN A. MUES\*  
TORREY J. GERDES\*  
ROBERT B. SEYBERT\*  
BRETT E. EBERT  
NOAH J. HEFLIN\*  
SARA M. HUGHES\*  
STEPHEN J. SCHUTZ  
THOMAS B. SHIRES♦  
EMILY R. MOTTO\*

OF COUNSEL  
WALTER E. ZINK II  
DONALD R. WITT  
ROBERT T. GRIMIT

ALSO ADMITTED IN:  
\*IOWA  
\*\*KANSAS  
♦ IOWA ONLY

December 10, 2014

*Via Hand Delivery*

Mr. David Cary  
Planning Department  
555 S. 10<sup>th</sup> Street, Ste. 213  
Lincoln, NE 68508

**RE: Text Amendment Application – Ironwood Properties, LLC**

Dear Mr. Cary:

Attached with this correspondence is the text amendment application for Section 27.72.080(b) of the Lincoln Municipal Code. The purpose of the text amendment application is to provide the possibility of reduced commercial front yard setbacks in the B-3 district where there is an abutting residential district along the same block face. The setback reduction is incremental and will still provide an adequate buffer for the residential district.

If you have any questions or need additional information, do not hesitate to contact me.

Sincerely,

Derek C. Zimmerman  
For the Firm  
dzimmerman@baylorevnen.com

Enclosures

1064835

OMAHA OFFICE  
ONE PACIFIC PLACE

1125 S. 103<sup>RD</sup> STREET SUITE 400 OMAHA, NE 68124  
PHONE 402.934.5468

LINCOLN MAIN OFFICE  
WELLS FARGO CENTER

1248 O STREET SUITE 600 LINCOLN, NE 68508  
PHONE 402.475.1075 · FAX 402.475.9515

SYRACUSE OFFICE

920 12TH STREET SYRACUSE, NE 68446  
PHONE 402.269.3200

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