

# PLANNING COMMISSION RECORD

## Briefing Session

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, March 16, 2005, 12:15, Room 113, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Jon Carlson, Eugene Carroll, Gerry Krieser, Roger Larson, Dan Marvin, Melinda Pearson, Mary Bills-Strand and Lynn Sunderman; (Tommy Taylor absent). Marvin Krout, Brian Will, Greg Czaplewski and Teresa McKinstry of the Planning Dept.

**STATED PURPOSE** Staff briefing on **Group Homes Legislation**

Greg Czaplewski stated that there is currently a three-tier grading system. The first tier is Family Homes for up to three residents and can go in any residential district or unit without any city regulations. The second tier is facilities that are defined as Group Homes for four to fifteen residents. The applicant has to get a use permit from the city and a state license. They have to show that they meet other zoning requirements such as parking and that they meet the required separation. The separation is either 1200 feet or ½ mile, depending on the zoning district. The third tier is Health Care Facilities with sixteen or more residents. There is no separation requirement for these but they do have to obtain and maintain a state license. Staff is proposing new additions to the current requirements. One is a Child Care Facility with sixteen or more children. These would be required to receive a special use permit from Planning Commission. The next is an Alternative to Imprisonment Facility. It would be a 4-15 resident facility for inhabitants under pre-release, work release, etc. These would also require a special use permit. Applications would be submitted to and reviewed by whoever has jurisdiction over the regulation at issue. The reviewing authority would make recommendations to the City Council. In case of zoning, the recommendation would be by Planning Commission. The City Council would either approve or deny the application. If there are no waivers, the health care facilities would be final action by the Planning Commission along with Family Homes and Group Homes.

Marvin wondered about final action items. Czaplewski responded that Group Homes are conditional use permits from Building and Safety and currently don't go before Planning Commission.

Marvin Krout stated that if you look at history and cases, most permits are approved without controversy and complications. The decision can be appealed to Planning Commission. Staff is trying to have a process that is the least onerous as possible. The Fair Housing Act must be considered.

Czaplewski continued that a recommendation from the Group Homes Task Force is to revise the definition of Group Homes to remove the stated purposes and Alternative to Imprisonment Facilities. A definition for Disability or Handicap is being added straight from the Fair Housing Act language. A definition is being added for Alternative to Imprisonment Facility. A definition for Child Care Facility is being added. Alternative to Imprisonment Facility and Child Care Facility are being added to the special use section. Finally, a process for reasonable accommodations is being added. It won't be in the zoning ordinance but Title 1 of the Lincoln Municipal Code. It is a short addition that does require if someone wants to make an application, they must specify why the accommodation is necessary and the City Council would need to make a finding that the accommodation is reasonable.

Carroll wondered if the city already has Alternative to Imprisonment Facilities. Czaplewski is not aware of any current facilities. He pointed out a map showing the locations of all Family Homes, Group Homes and Health Care Facilities.

Larson questioned if Group Homes can go into any residential area. Czaplewski replied that he was correct. Krout mentioned that the city is currently being sued by one of the providers for having zoning and building regulations that they believe violate the Fair Housing Act. These proposed regulations will be before Planning Commission on April 13, 2005.

Bills-Strand wondered if any controversy is expected. Krout expects that a number of providers will argue that these recommendations are still too restrictive.

Pearson thought there was something that allowed up to four unrelated family members to live together. Czaplewski replied that was part of a special permit for CUP in student housing.

The meeting was adjourned at 12:55 p.m.

Respectfully submitted,

Teresa McKinstry  
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Planning Department