

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 12009**, requested by Mike Eckert of Civil Design Group, to amend Title 27 of the Lincoln Municipal Code, the Zoning Ordinance, related to granting the Planning Director authority to approve certain amendments to community unit plans and planned unit developments relating to increased height for multi-family buildings.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUEST: Miscellaneous No. 12003 (12R-120)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 05/30/12
Administrative Action: 05/30/12

RECOMMENDATION: Approval (8-0: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius voting 'yes'; Weber absent).

FINDINGS OF FACT:

1. This proposed text amendment to Title 27, the City zoning ordinance, was heard by the Planning Commission in conjunction with Miscellaneous No. 12003, an associated text amendment to the City of Lincoln Design Standards (12R-120).
2. This is a proposal to amend Chapter 27.60 Planned Unit Development and Chapter 27.65 Community Unit Plan of the zoning ordinance to revise the administrative amendment language to: update the text, add criteria for approval of multi-family buildings over the zoning district height adjacent to single- or two-family uses and permit tandem parking in a driveway leading to a garage in apartment complexes.
3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-5, concluding that the proposed amendment requires a greater setback for any multi-family dwelling which exceeds the zoning district height when they are adjacent to future or existing single- or two-family dwellings. The increase in height would be limited to 10 feet administratively. The amendment attempts to find a balance between the increased height of multi-family buildings and the impact on adjacent lower density land uses. The staff presentation is found on 6-7.
4. The applicant's testimony is found on p.7.
5. There was no testimony in opposition.
6. On May 30, 2012, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of the proposed text amendments to Title 27 (Weber absent).
7. On May 30, 2012, the Planning Commission also voted 8-0 to recommend approval of the associated Miscellaneous No. 12003 (Bill #12R-120), the associated amendment to the City of Lincoln Designs Standards (Weber absent).

FACTSHEET PREPARED BY: Jean L. Preister

DATE: June 4, 2012

REVIEWED BY: Marvin Krout, Director of Planning

DATE: June 4, 2012

REFERENCE NUMBER: FS\CC\2012\CZ12009 Text+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for May 30, 2012 PLANNING COMMISSION MEETING

- PROJECT #:** Change of Zone No.12009
- PROPOSAL:** Amendment to revise Chapter 27.60 Planned Unit Development (PUD) and 27.65 Community Unit Plan (CUP) to revise the administrative amendment language to: update the text, add criteria for approval of multi-family buildings over the zoning district height adjacent to single or two family uses and permit tandem parking in a driveway leading to a garage in apartment complexes.
- LOCATION:** PUD and CUPs are found primarily in newer neighborhoods, but can be found throughout the city.
- CONCLUSION:** The amendment requires a greater setback for any multi-family dwelling which exceeds the zoning district height when they are adjacent to future or existing single or two family dwellings. The increase in height would be limited to 10 feet administratively. Coupled with the proposed Misc. #12003 it also provides appropriate screening and landscaping for apartments. The amendment tries to find a balance between the increased height of multi-family buildings and impact on adjacent lower density land uses.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2040 Lincoln and Lancaster County Comprehensive Plan identifies the importance of design standards in Chapter 4 "Placemaking" which includes the following "Guiding Principle" directly related to the current proposal:

Design standards should be developed, monitored, and revised as necessary to express and protect community values without imposing burdensome delays or restrictions on creativity. Well-crafted standards should add predictability and clarity to the development process, rather than imposing a design solution. (p.4.6)

The 2040 Plan also state in "Strategies for Developing Neighborhoods" on page 7.8:

"Encourage new development to achieve densities greater than five dwelling units per gross acre."

"Develop new design standards that encourage density, optimize infrastructure costs, and help lower the overall cost of property development."

ASSOCIATED APPLICATIONS: Misc. #12003 (text change to design standards for Community Unit Plans and Screening & Landscaping sections)

ANALYSIS:

1. This application is so that approved apartment complexes, in a Planned Unit Development (PUD) or Community Unit Plan (CUP) could add 10 feet to their height after appropriate administrative review. The applicant stated the reason as:

“Increasingly, our firm is seeing a trend of previously approved PUDs and CUPs with multi-family buildings that are exceeding the current height limits of 35’ in their respective previously approved plans. This trend in increased design heights is the direct result of several market and construction changes. They include: the elimination of garden level units due to ADA access regulations, increased construction spacing between floors for mechanical and electrical spacing as well as noise abatement, and a tenant desire for 9’ interior ceilings versus the 8’ interior ceilings.”

2. The second part of the application is to allow the Planning Director to approve parking in a driveway leading to a garage in an apartment complex. The applicant notes that:

“Additionally, a second design trend we are witnessing is towards garages that are attached to the multi-family buildings that are designed with a conforming parking stall in the driveway behind the garage.”

3. Currently only the Planning Commission has the authority to allow “tandem” parking for an apartment complex in a CUP. This authority was added in 2001 in order to facilitate tandem parking at a new apartment complex.
4. The proposed amendment would allow tandem parking to be approved administratively in a CUP or a PUD. When sufficient space is provided in the driveway leading to the garage, to allow for pedestrian movements, tandem parking is appropriate. The Planning Commission has approved tandem parking in the following additional projects:
 - a. December 2003, Change of Zone 2751A: Van Dorn Acres PUD, on the southwest corner of 84th and Van Dorn included tandem parking.
 - b. February 2010, Special Permit 1988B: Tamarin Ridge Apartments to the southwest of 27th and Pine Lake Road for 10% of the required parking.
 - c. July 2011, Change of Zone 11024: North Hills PUD at N. 14th & Fletcher Avenue included tandem parking.
 - d. August 2011, Use Permit 126C: Wilderness Woods Apartments at Executive Woods Drive & Yankee Hill Road included tandem parking.

5. The third minor change is to update the CUP section for administrative amendments to have it match more closely what is allowed in the PUD section. The PUD section on administrative amendments was updated in 2004, but the CUP section was not. These changes include an addition to the PUD section to add what is stated in the CUP text that administratively the Planning Director may not accept new public land, such as a park, not previously approved in the PUD.

6. This application is associated with Misc. 12003 that amends the CUP and Screening and Landscaping design standards. That proposal will:
 - a. Revise the CUP design standards to state that “A multi-family dwelling which exceeds the zoning district height shall be set back from all yard lines adjacent to an existing or planned single or two family dwelling a distance of 40 feet or the height of the multiple family dwelling whichever is greater.”
 - b. Revise the Screening and Landscaping section so that if a multi-family dwelling is above the district height and adjacent to single or two family dwelling, then the height of the landscaping will be increased. If in the 40 foot setback, garages or drives are approved, then the density of the landscaping would also increase.
7. The purpose of this amendment is to facilitate small increases in height for apartment complexes in a CUP or PUD. Currently, such increases often require a Planning Commission hearing and delay of 30 days. Past examples of approved height increases for apartment complexes include:
 - a. May 2001, Special Permit 1665A: Van Dorn Meadows at 72nd and Van Dorn Street for an increase from 35 to 38 feet in height for newer units.
 - b. May 2002, Special Permit 622'E': Lakeside Village at West S Street & Lakeside Drive for an increase from 35 to 36.5 feet in height due to higher ceilings in the newer units.
 - c. March 2003, Special Permit 1988: Tamarin Ridge Apartments at Helen Witt Drive & Jacobs Creek Dr., an increase from 35 to 45 feet in height with original application.
 - d. December 2003, Change of Zone 2751A: Van Dorn Acres PUD, on the southwest corner of 84th and Van Dorn an increase from 35 to 38 feet.
 - e. June 2004, Special Permit 1999: Wilderness Hills at S. 33rd and Yankee Hill Road an increase from 35 to 50 feet with the original application.
 - f. March 2006, Change of Zone 05054: Prairie Village North PUD at N. 84th and Fremont Street an increase from 35 to 45 feet in height.
 - g. April 2007, Change of Zone 05068: Woodlands at Yankee Hill PUD at S. 70th and Yankee Hill Road an increase from 35 to 45 feet with the original application.
8. Approval of these amendments is in conformance with the goals and policies of the Comprehensive Plan. The amendment balances the need for increased height of multi-family buildings and impact on adjacent lower density land uses. It provides for minor 10 foot increases in height, while increasing the setback and landscaping to provide an appropriate buffer to adjacent single or two family uses.
9. The Lincoln Airport Authority noted that “structure heights should not be allowed to exceed those surfaces described in 27.59 and will need to continue to follow all

requirements of that chapter.” That is the case with this change or any other height approval. Any property in the airport height zoning areas must be reviewed for the height in comparison to the approved airport heights. In this case, any change to add 10 feet administratively, say from 35 to 45 feet, would be highly unlikely to conflict with established airport maximums.

10. The Health Department didn't have any objections to the application.

Prepared by:

Stephen Henrichsen,
Development Review Manager

DATE: May 18, 2012

APPLICANT: Mike Eckert, Civil Design Group
8535 Executive Woods Drive, Suite 200
Lincoln, NE 68512
402- 434 - 8494

CONTACT: same as above

**CHANGE OF ZONE NO. 12009
and
MISCELLANEOUS NO. 12003**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 30, 2012

Members present: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius; Weber absent.

Staff recommendation: Approval.

There were no ex parte communications disclosed.

Staff presentation: **Steve Henrichsen of Planning staff** introduced the proposed text amendments on behalf of the applicant, indicating that this proposal is certainly something that is part of implementing the Comprehensive Plan because this change will help to streamline the process. The staff has worked with the applicant to try to address several changes in addition to the heart of the matter for the applicant, i.e. to potentially allow for minor increases in the height for apartment complexes (multi-family) in existing community unit plans (CUP) and planned unit developments (PUD) administratively. This is not a city-wide change in terms of the apartment height. This would affect apartment complexes that are already inside an approved CUP or PUD.

This amendment also addresses how we approve tandem parking, suggesting that it is appropriate to make this an administrative process to allow parking in the driveway leading up to a garage in an apartment complex. There is also an amendment that would increase the amount of screening whereby an apartment complex above the height limit would be required to increase both the height of the screening that is required and, if there are garages or parking in that setback, to increase the density of the screening as well.

The proposed amendments to the Design Standards for CUP's provides measurable standards in the placement of taller buildings.

Henrichsen then discussed Analysis #4 on page 2 of the staff report which sets forth situations where the Planning Commission approved tandem parking. On all of those occasions there was no controversy. Developers have been more than willing to provide the minimum 22 feet of space between the garage door and the driving aisle. People will have to plan for this in advance.

Henrichsen then referred to Analysis #7 on page 3 of the staff report, which sets forth the situations where the Planning Commission has approved minor increases in height. In a lot of these cases, the height limit was approved and there was not any controversy in regard to having the apartment buildings a little bit higher.

The heart of these amendments is to allow existing apartment complexes in a CUP or PUD to add up to 10 feet in height administratively, if they can meet all screening conditions, site plan conditions and buffering.

Esseks inquired whether there is any recourse if the administrative amendment is denied. Henrichsen explained that if an administrative amendment is deemed not appropriate by the Planning Director, the applicant would have the ability to appeal the administrative amendment to the Planning Commission or submit a full amendment to the Planning Commission.

Lust asked for the definition of a two-family dwelling. Henrichsen stated that it is in the zoning ordinance and recognized as a duplex – two dwelling units within one single family lot.

Proponents

1. Mike Eckert, Civil Design Group, appeared as the applicant. He indicated that he had approached the Planning Department on this issue awhile back because in working on multi-family complexes, there has been a shift from single-family to two-family developments and it has become increasingly more difficult to get by with the 35' height limits in existing CUP's and PUD's. The garden level style apartments are just not done anymore because of ADA accessibility requirements. Sprinkler systems are now required in all multi-family which also plays a part in the need for increased height. There is also a market demand, whether single-family or multi-family, to move from 8.5' ceilings to 9' ceilings. Most are coming in at around 38' to 42' in height. This legislation is restricted to existing approved CUP's and PUD's.

With regard to the tandem parking stalls, Eckert pointed out that apartment buildings now have attached garages. The Planning Commission currently has authority to decide if the stalls or a percentage could be counted toward the overall parking requirement. Because it is becoming more and more common, it would be helpful to make this an administrative approval. These are common and changes that are widely accepted today.

There was no testimony in opposition.

Henrichsen reapproached to clarify the definition of two-family dwelling. It also includes townhomes or single-family attached – two units, each on their own lot attached to each other.

Henrichsen also informed the Commission that this proposed legislation was discussed with Jon Carlson of Stronger Safer Neighborhoods and was presented to the Mayor's Neighborhood Roundtable, with no negative feedback.

Cornelius inquired whether there is any movement toward changing the maximum height limit in the ordinance as it stands, instead of making this subject to administrative approval on a case-by-case basis. Henrichsen indicated that to have been the first discussion, but that would be a much bigger step and would have a more global city-wide impact. This proposal seems to get to the heart of 95% of the cases where it may be an issue. However, it does not preclude staff from looking at that in the future. Cornelius observed that there are not as many new multi-family developments coming forward. Henrichsen agreed that this issue is occurring more in existing CUP's or PUD's where there is additional land providing opportunity to add more units.

CHANGE OF ZONE NO. 12009

ACTION BY PLANNING COMMISSION:

May 30, 2012

Lust moved approval, seconded by Francis.

Francis appreciates the explanation and believes it certainly makes sense. She is glad to see someone from the public wanting Planning to implement this to make things more streamlined.

Cornelius does see the applicability of this legislation to the implementation of the Comprehensive Plan, i.e. streamlining the process for infill development.

Motion for approval carried 8-0: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius voting 'yes'; Weber absent. This is a recommendation to the City Council.

MISCELLANEOUS NO. 12003

ACTION BY PLANNING COMMISSION:

May 30, 2012

Lust moved approval, seconded by Francis and carried 8-0: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius voting 'yes'; Weber absent. This is a recommendation to the City Council.



Civil Design Group, Inc.

Consulting Engineers & Land Use Planners
Civil Design • Site Development • Planning & Zoning

www.civildg.com

April 18, 2012

Mr. Marvin Krout
Director of Planning
City of Lincoln /Lancaster County
555 South 10th Street, Room 213
Lincoln, NE 68508

**Re: Text Amendment to modify:
Chapter "27.60.060 Planned Unit Development: Amendments"
Chapter "27.65.060, Community Unit Plan Amendments"**

- 1) To add a provision for allowing administrative amendments to PUDs and CUPs by the Planning Director to allow for a waiver of height of multi-family buildings of up to 10 additional feet with conditions.
- 2) To add a provision for allowing administrative amendments to PUDs and CUPs by the Planning Director to allow a percentage of parking spaces located on a driveway behind a garage attached to a dwelling unit to be considered as required parking stalls.

Dear Mr. Krout:

This application is for a text amendment to the sections of the zoning codes that govern PUD and CUP amendments, specifically, LMC sections 27.60.060 and 27.65.060. Increasingly, our firm is seeing a trend of previously approved PUDs and CUPs with multi-family buildings that are exceeding the current height limits of 35' in their respective previously approved plans. This trend in increased design heights is the direct result of several market and construction changes. They include: the elimination of garden level units due to ADA access regulations, increased construction spacing between floors for mechanical and electrical spacing as well as noise abatement, and a tenant desire for 9' interior ceilings versus the 8' interior ceilings. Therefore, we are requesting a text amendment to allow for administrative amendments to existing PUDs and CUPs by the Planning Director under the following conditions:

- Multi-family buildings can be approved for height increase of up to 10' provided that the multi-family buildings maintain a setback from adjacent single family homes equal to the height of the building.
- That the setback area to single family homes may contain parking stalls or drive aisles provided that additional landscape screening is provided to the satisfaction of the Planning Director.

Additionally, a second design trend we are witnessing is towards garages that are attached to the multi-family buildings that are designed with a conforming parking stall in the driveway behind the garage. Currently, in a CUP, the Planning Commission has the sole authority to allow these types of parking stalls to count toward the required parking total. Therefore, we are requesting a text amendment to LMC sections, 27.60.060 and 27.65.060 that would allow the Planning Director to administratively approve the inclusion of these parking stalls in the number of required parking stalls for multi-family complexes, with the following condition

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- That parking stalls located on a driveway behind a garage attached to a dwelling unit may be considered for a percentage of required parking spaces so long as the stalls maintain a length of 22' feet from the front face of the garage to the sidewalk and the percentage of these stalls does not exceed 50% of the total required parking.

In conjunction with this submittal we submit the following information:

- Zoning application fee for Text Change of \$300

I hope that this letter provides you with enough information to review this text amendment zoning change. In an effort to facilitate the review process, please call me at (402) 434-8494 if you questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Eckert". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mike Eckert, AICP