

FACTSHEET

TITLE: TEXT AMENDMENT NO. 14006

BOARD/COMMITTEE: Planning Commission

APPLICANT: Robert Weigel, Realty Trust Group,
and the Director of Planning

RECOMMENDATION: Approval (7-0: Scheer, Cornelius,
Corr, Hove, Harris, Lust and Sunderman voting 'yes';
Beecham and Weber absent).

STAFF RECOMMENDATION: Approval

OTHER DEPARTMENTS AFFECTED: N/A

SPONSOR: Planning Department

OPONENTS: None.

REASON FOR LEGISLATION:

To amend Title 27 of the Lincoln Municipal Code by amending the Retail Sales and Services Use Group Table in Section 27.06.130 to show veterinary facilities as a permitted conditional use in the O-1, O-2, O-3, and R-T zoning districts; amending Section 27.62.100 to allow kennels and/or veterinary facilities in those zoning districts where such use is designated as a permitted conditional use under a Use Group Table in Chapter 27.06; repealing Section 27.63.780, Outdoor Exercise Area Associated with a Veterinary Facility or Kennel; amending Section 27.63.790 to clarify that veterinary facilities are allowed as a permitted special use in the AG and AGR districts and that veterinary facilities and/or kennels which do not comply with the requirements for a permitted conditional use under Section 27.62.100 may be allowed by special permit under specified conditions; and repealing Sections 27.06.130, 27.62.100, and 27.63.790 of the Lincoln Municipal Code as hitherto existing.

DISCUSSION / FINDINGS OF FACT:

1. This proposed amendment will allow Veterinary Facilities as a conditional use in the R-T Residential Transition District, and the O-1, O-2 and O-3 Office Districts. The Planning Director is requesting to make additional amendments as a part of this application to clarify the Veterinary Facility and Kennel requirements and their applicability in the zoning code by reorganizing several existing sections.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-6, concluding that Veterinary Facilities with no outdoor area are similar to a medical office, which is currently an allowed use in the R-T and O Office Districts. Veterinary Facilities in the R-T and O Office Districts with outdoor areas will still be required to comply with the same conditions as all other districts and should have no significant impact on surrounding properties. The staff presentation is found on p.7-8.
3. There was no testimony in opposition.
4. On July 23, 2014, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval of this proposed text amendment.

FACTSHEET PREPARED BY: Jean Preister, Administrative Officer

DATE: August 4, 2014

REVIEWED BY: Marvin Krout, Director of Planning

DATE: August 4, 2014

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for July 23, 2014 PLANNING COMMISSION MEETING

PROJECT #: Text Amendment No. 14006

PROPOSAL: Amend the Use Groups table in Section 27.06.130 to show Veterinary Facilities as a Conditional Use in the R-T, O-1, O-2 and O-3 zoning districts; amend Section 27.62.100 to allow Veterinary Facilities in the R-T, O-1, O-2 and O-3 zoning districts as a Conditional Use; amend Section 27.63.790 to clarify that veterinary facilities are allowed as a permitted special use in the AG and AGR districts and that veterinary facilities and/or kennels which do not comply with the requirements for a permitted conditional use under Section 27.62.100 may be allowed by special permit under specified conditions; repeal Section 27.63.780 "Outdoor Exercise Area Associated with a Veterinary Facility or Kennel" entirely; and repeal Sections 27.06.130, 27.62.100, and 27.63.790 of the Lincoln Municipal Code as hitherto existing.

CONCLUSION: The proposed changes will allow Veterinary Facilities as a conditional use in the R-T, Residential Transition, and O-1 through O-3 Office Districts. Veterinary Facilities with no outdoor area are similar to a medical office, which is currently an allowed use in the R-T and O Districts. Veterinary Facilities in the R-T and O Districts with outdoor areas will still comply with the same conditions as all other districts and should have no significant impact on surrounding properties. This amendment will also clarify the Veterinary Facility and Kennel requirements and their applicability in the zoning code by reorganizing several existing sections.

<u>RECOMMENDATION:</u>	Approval
-------------------------------	----------

GENERAL INFORMATION:

HISTORY:

June 4, 2007

The City Council approved an amendment to the zoning code that defined indoor animal hospitals, kennels and outdoor exercise areas; allowed animal hospitals and indoor kennels as permitted conditional uses; and, created a new special permit for indoor animal hospitals and indoor kennels not meeting specified conditions. Title 6 of the Municipal Code was also amended to allow commercial boarding kennels within the City of Lincoln.

June 25, 2012

The City Council approved an ordinance that reformatted and streamlined the zoning code into 14 Use Groups. The amendment combined Conditional Use and Special Permit sections for Kennels and Veterinary Facilities.

COMPREHENSIVE PLAN SPECIFICATIONS:

P. 5.1. Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.

P. 5.2. Provide flexibility to the marketplace in siting future commercial and industrial locations.

P. 5.2. Strive for predictability for neighborhoods and developers.

P. 5.2. Encourage commercial centers to encompass a broad range of land uses within the integration of compatible land use types.

P. 5.14. Strategies for Commercial Infill:

- Develop infill commercial areas to be compatible with the character of the area.
- Maintain and encourage businesses that conveniently serve nearby residents, while ensuring compatibility with adjacent neighborhoods.
- Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, are properly screened, fulfill a demonstrated need and are beneficial to health and safety.

P. 6.2. Help to create neighborhoods that include homes, stores, workplaces, schools, and places to recreate.

ANALYSIS:

1. This request is a text amendment to amend the zoning ordinance to allow veterinary facilities as a permitted conditional use in the R-T zoning district. The All Feline Hospital would like to relocate to a location that is zoned R-T where the use is currently not permitted. Since this is a text amendment to the zoning code, the proposed change would have an impact on veterinary facilities across the City.

The Planning Department is proposing additional changes with this amendment to allow veterinary facilities as a conditional use in the O-1, O-2 and O-3 zoning districts. The Planning Department also proposes an amendment to clarify several complicated sections of the zoning code having to do with veterinary facilities and kennels. This amendment does not propose kennels as a permitted conditional use in the R-T, O-1, O-2 or O-3 districts.

2. Veterinary facilities and kennels are defined separately in the zoning code. A veterinary facility is essentially a medical clinic for animals that may include boarding of animals as an accessory use. A kennel is a facility that has a primary use of boarding animals.
3. Currently, veterinary facilities are a conditional use in the B1, B-2, B-3, H-2, H-3 and H-4 zoning districts. A veterinary facility can be located in these districts as long as they comply with the stated conditions which only apply to the outdoor area for a veterinary facility or kennel. The conditions are:

(1) Any associated outdoor area must be located no closer than 200 feet from any residential district.

(2) No more than 3 animals are permitted in the outdoor area at any one time.

If the two conditions above cannot be met, the applicant may apply for a special permit to have an outdoor area less than 200 feet from any residential district or to allow more than 3 animals in the outdoor area at any one time. Under the proposed amendment, veterinary facilities not meeting these conditions in the R-T, O-1, O-2 or O-3 districts would be able to apply for a special permit as well.

4. Some veterinary facilities are indoor only and do not include an outdoor area. The All Feline Hospital is an example of a veterinary facility that does not have an outdoor area. If a veterinary facility does not have an outdoor area then the conditions stated above in Item #3 do not apply. The veterinary facility use would otherwise be in compliance with the zoning code.
5. The R-T zoning district is a transitional district typically located between commercial and residential uses. The R-T district allows certain residential, office and civic uses by right. A few uses are permitted conditional uses such as banks and service and repair facilities, and a few uses are permitted special uses such as residential healthcare facilities. R-T zoning may only be located on property abutting or directly across the street from property zoned B-1, B-2, B-3, H-2, H-3, H-4, I-1 and I-2. A use permit is required in the R-T district for any uses other than single or two-family dwellings, group homes, and domestic shelters.
6. The Office Use Group is characterized by activities that are conducted in an office setting. Uses in this group are generally open during normal business hours. Examples of uses in this group include offices for doctors, dentists, therapists, architects and lawyers.

A veterinary facility functions similar to an office for doctors or dentists. Most business in a veterinary facility is conducted inside an office setting and during normal business hours. The main difference between a veterinary facility and a medical office is that a veterinary facility may have an outdoor area for animals. A veterinary facility is a conditional use in order to regulate the outdoor areas, since the outdoor area has the potential to be a nuisance to adjacent properties. If the veterinary facility has no outdoor area or it can meet the conditions per the code, then the use should be compatible with adjacent properties.

7. O-1, O-2 and O-3 zoning districts are also appropriate districts for a veterinary facility. The O districts are intended to provide areas of primarily office type uses as follows: O-1 is intended to provide office uses in the general area of the County-City Building and the State Capitol; O-2 is intended to provide primarily office uses in older neighborhoods; and O-3 is intended to provide a mixture of office and other complementary commercial and residential uses in suburban office park areas. Medical office is currently a permitted use in all O districts. Given that veterinary facilities operate similarly to a medical office, a veterinary facility would be appropriate for these districts. This amendment proposes that the conditions for outdoor areas would apply to veterinary facilities in all O districts as well.

8. Screening and landscaping may be a consideration for veterinary facilities located in the R-T, O-1, O-2 and O-3 districts. The R-T and O-3 districts require approval of a use permit prior to construction. Although not specifically prescribed, the use permit may recommend additional landscaping be provided to buffer the development along adjacent properties. The O-2 district is required to have landscaping between adjacent land uses and zoning districts of substantially different character, per the Screening and Landscaping Design Standards. The O-1 district is located near the County-City Building and the Capitol and abuts high-density residential near H Street and near J Street. Any exterior changes to the properties in this vicinity require additional review since they are located within the Capitol Environs District.
9. **Amendment to Section 27.06.130.** This change will add a 'C' to the Use Groups Table to show that veterinary facilities are a conditional use in the R-T, O-1, O-2 and O-3 districts.
10. **Amendment to Section 27.62.100.** This change will add the R-T, O-1, O-2 and O-3 districts to the conditional use section for veterinary facilities.
11. **Amendment to Section 27.63.780.** This section will be deleted and combined with Section 27.63.790. This section is titled, "Outdoor Exercise Area Associated with a Veterinary Facility or Kennel". Guidelines from this section will be combined with Section 27.63.790 and will apply to all outdoor areas, not only outdoor exercise areas. Some veterinary facilities or kennels may have outdoor areas that aren't used for exercise but are used for boarding animals, but any outdoor area would have similar impacts on adjacent properties regardless if they are used for exercise.

This section does not apply to the AG or AGR districts, and the proposed text amendment will not change that. Veterinary facilities in AG and AGR are different than veterinary facilities in other districts. Veterinary facilities in the AG and AGR districts may care for smaller domestic animals, but they may also care for larger farm animals such as horses. Due to this distinction, the guidelines for outdoor areas are not applied to the AG and AGR districts.

12. **Amendment to Section 27.63.790.** This change will clarify that veterinary facilities are allowed as a permitted special use in the AG and AGR districts and that veterinary facilities and/or kennels which do not comply with the requirements for a permitted conditional use under Section 27.62.100 may be allowed by special permit under specified conditions.

The existing language in the code is inconsistent between the special permit section and the Use Groups Table for veterinary facilities in the AG and AGR districts. The code states that outdoor areas associated with a veterinary facility require a special permit, but all veterinary facilities in the AG and AGR districts require a special permit regardless if they have an outdoor area or not. This change will resolve the discrepancy.

All districts where a veterinary facility and/or a kennel is a conditional use may apply for a special permit if they cannot meet the conditions per the code. The change to Section 27.63.790 provides consistency to all districts where veterinary facilities and/or kennels are conditional uses. The same guidelines will apply to all districts in the special permits section of the code. Currently the guidelines apply only to outdoor exercise areas in the H-3 and H-4 zoning districts. Since it is likely that an outdoor area may be associated with a veterinary facility or kennel in any of the permitted conditional or permitted special districts, the guidelines should be applied consistently to all districts.

The guidelines in the special permit section are not mandatory requirements. The Planning Commission will still have the authority to increase or decrease the requirements based on the location of the facility and the effect on adjacent land uses. This approach is consistent with other sections of the code including the use permits chapter and the community unit plan chapter.

13. The proposed amendments are formatted in a way that is more consistent with the Use Groups Table. This is the intent of the Use Groups Table and is the preferred way of organizing the zoning code. Instead of listing all applicable zoning districts in the conditional use and special permit sections, the text refers the reader to the Use Groups Table to determine if the use is a permitted use, permitted conditional use or permitted special use.
14. Staff will present the proposed text amendment to allow veterinary facilities in the R-T, O-1, O-2 and O-3 zoning districts to the Mayor's Neighborhood Roundtable on July 14, 2014. Minutes and/or comments from that meeting will be forwarded to the Planning Commission.

Prepared by:

Paul Barnes, Planner
402-441-6372
pbarnes@lincoln.ne.gov

DATE: July 10, 2014

APPLICANT/CONTACT:

Robert Weigel
2300 S. 48th Street
Lincoln, NE 68506

TEXT AMENDMENT NO. 14006

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 23, 2014

Members present: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust; Beecham and Weber absent.

Staff recommendation: Approval.

Ex parte communications: Corr disclosed that she was present at the Mayor's Neighborhood Roundtable on July 14, 2014, when planner Paul Barnes presented this proposal to the attendees.

Staff presentation: **Paul Barnes of Planning staff** explained that this proposed text amendment is requested to allow a veterinary facility in the R-T zoning district. Currently, veterinary facility is not permitted nor permitted conditionally in the R-T zoning district. By this text amendment, it would be allowed as a conditional use in the R-T district.

Barnes then advised that in reviewing this request, the staff determined that it also seemed appropriate to consider allowing a veterinary facility in the O-1, O-2 and O-3 districts, which has been included in this amendment request.

Barnes explained that today, a veterinary facility is defined differently than a kennel and is essentially a medical office for animals, with a kennel and/or outdoor area as an accessory use. The primary use is the medical office type use. Kennels are defined separately and are primarily used for boarding with an outdoor area.

Barnes further explained that today, veterinary facilities are a conditional use in the B districts as well as H-2, H-3 and H-4, and the conditions in place are there to regulate the outdoor area. If there is an outdoor area, it cannot be located closer than 200 feet from any residential zoned property and no more than 3 animals can be outdoors at one time. There is also a provision where, if the facility cannot meet the conditions, there is opportunity to request a special permit to modify or add requirements for that outdoor area.

Barnes stated that today's proposal is to allow a veterinary facility as a conditional use in the R-T and O districts. The conditions of separation from residential zoned property as well as the number of animals would also apply to these districts. Since medical use is allowed, it seems appropriate to allow a veterinary facility as a permitted conditional use. If the outdoor area does not meet the conditions, the applicant can apply for a special permit to modify those conditions.

Again, Barnes pointed out that the staff is also proposing to amend the special permit section to make clarifications. Today, in the special permit section, there is a term "outdoor exercise area" and with this amendment, the word "exercise" is being removed because whether for exercise or other uses for these animals, there is potential for a nuisance regardless. That section is being "cleaned up" so that the same guidelines are being applied to all outdoor areas regardless of the zoning district. Those guidelines can be modified by the Planning

Commission through the special permit and public hearing process, so there is a built-in mechanism to review on a case-by-case basis.

Barnes also noted that screening and landscaping can be part of the review because the R-T and O-3 districts are use permit districts requiring site plan review. A lot of times a landscape plan is requested and additional landscaping can be part of the conditions of approval. The O-1 and O-2 districts also have provisions where additional review is required. The O-1 district is also part of the capitol environs and would require review by the Nebraska Capitol Environs Commission. There are provisions for screening and landscaping in the design standards today.

Barnes further advised that this request comes specifically from the All Feline Hospital, which is seeking to locate in a R-T district. The facility is for pets and does not require an outdoor area. If approved, the All Feline Hospital would meet the conditions because there is no outdoor area.

Barnes advised that this application was presented to the Mayor's Neighborhood Roundtable on July 14, 2014. The overall consensus was support for this amendment. There was some discussion and questions about how kennels would be affected, and Barnes stated that this amendment has nothing to do with kennels being allowed in the districts.

Lust noted that the amendment language for the special permit refers to "use of the outdoor areas between 10:00 p.m. and 7:00 a.m. is prohibited. Do we have any direction on what "use" means? Barnes suggested that the restriction on hours would be enforced on a complaint basis. If the neighbors would complain, that would come to the attention of the city and be addressed at that time.

The applicant did not appear.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

July 23, 2014

Hove moved approval, seconded by Scheer.

Lust observed that this seems to be a good cleanup and it makes a lot of sense in these areas to allow a medical facility as well as a veterinary facility.

Corr was concerned because the R-T district is usually a residential-transition so there could be a potential problem with barking dogs, but the limitation of three animals in the outdoor area at one time negates a lot of her concerns, and the special permit portion would take care of that.

Motion for approval carried 7-0: Corr, Harris, Sunderman, Hove, Scheer, Cornelius and Lust voting 'yes'; Beecham and Weber absent. This is a recommendation to the City Council.

REALTY TRUST\$ GROUP

M.J.M., Inc., Michael Marsh, C.E.O.
Spanish Oaks, Inc.
Gateway Bowl, Corp.
Gateway Executive Management

Alpine Village
2300 S. 48th, Suite 1
Lincoln, NE 68506
Phone 402-484-8484
Fax 402-484-8485

Robert Weigel, President
and General Counsel

City of Lincoln, Nebraska

Planning Department

ATTENTION PAUL BARNES CITY PLANNER

June 13, 2014

RE TEXT CHANGE ALLOWING CAT VETS INTO TRANSITION AREA.

ALL FELINE and Dr. Becky Arnold have operated a CATS ONLY OFFICE CALLED "ALL FELINE" for over a decade in Lincoln at the corner of Cotner and R Streets.

Their space is not further available to them, and they desire to move to 48th and Normal Blvd. behind Union Bank, and into Alpine Village, where a Doctor has moved out to her own building.

This space, built out for Doctor Offices, fits them perfectly.


You will still have Administrative Control. We will not allow dogs, and there is no outside space for them anyway. Cat patients do not require same.

Our building fronts Normal Blvd. and South 48th, as does all parking, so as not to be visible to neighbors.

THANK YOU FOR YOUR SUPPORT OF THIS !

YOU WILL BE SATISFIED, AND IT WILL BE A BENEFIT TO LINCOLN.

RESPECTIVELY SUBMITTED.


R. WEIGEL