

MAYOR'S NEIGHBORHOOD ROUNDTABLE SUMMARY

September 11, 2017

Tracy Corr opened the meeting on Monday, September 11, 2017 at 5:30 p.m. in the Mayor's Conference Room, City/County/Building, in Lincoln, NE.

Attendance

Fourteen residents and five City staff attended:

Tracy Corr – 40 th & A NA	Jennifer Powell – Country Club NA
Karen Dienstbier – Eastridge NA	Dennis Hecht -- Meadowlane Area RA
Mike DeKalb – University Place CO	Bill Vocasek – West A NA
Nic Vocasek – West A NA	Fred Freytag – Witherbee NA
Russell Miller – Witherbee NA	Randy Smith – Woods Park NA
Mike Renken – NeighborWorks-Lincoln	Marti Lee – NeighborWorks-Lincoln
Shawn Ryba – South Downtown	Willa DiCostanzo – Health, KLLCB
Jon Carlson – Mayor's Office	Andrew Thierolf – Planning Dept.
Brian Will – Planning Dept.	Carl Eskridge – City Council
Mayor Beutler	

Welcome & Introductions

Everyone introduced themselves. Jon Carlson agreed to take meeting notes.

Mayor's Comments

Mayor commented that the two neighborhood issues today (ADU's and Alcohol Spacing) are important and complex issues. Mayor told group how much he appreciated their continued involvement with Roundtable and the whole community.

Modified Accessory Dwelling Unit Proposal

Presented by Andrew Thierolf, AICP, Lincoln-Lancaster County Planning Department – 402-441-6371; athierolf@lincoln.ne.gov

Andrew Thierolf from Planning updated the group on ADU's. The proposal has been modified to add ADU's as an allowed use on lots that are already sized for duplexes. Currently, you can have two living units on these parcels, but the units must be attached. This proposal would allow a single family home and a second separate unit. Some additional conditions would apply. **See Attachment 1.**

Andrew also updated the group on a separate issue coming forward: "Detached Conditioned Areas". This might be an office or a pool house or recreation space. Currently these kinds of uses are not allowed if they are detached from the house. The change would allow them under the following conditions:

- 1) Meet the height requirements and be no higher than house,
- 2) Must meet setbacks of the main building,
- 3) Cumulative floor area cannot exceed a maximum (27.72.120d)

Question from Fred Freytag: How many ADU's would you expect in a given year?

Answer from Planning: only a few, maybe 2-3

October 11th is the tentative Planning Commission date.

Sale of Alcohol - Zoning Update

Presented by Brian Will, AICP, Lincoln-Lancaster County Planning Department – 402-441-6362; bwill@lincoln.ne.gov.

Brian Will from Planning gave a review of the spacing requirements for the sale of alcohol. He reminded the group of the text amendment submitted by Walgreens last year to reduce the spacing from 100 feet to 50 feet. Both Planning Commission and City Council denied that amendment. Open Harvest also had inquired about an exemption for grocery stores. Response to that inquiry was delayed in order to have a series of Planning Commission workshops to educate the Planning Commission on the history of the ordinance, allow them to ask questions and discuss, and gather some input from the community. The workshops were held in May, July, and August of this year. Stakeholders who had shown a previous interest in the ordinance and potential changes were specifically invited. Eight people testified...seven in support of keeping the ordinance as is and one [Open Harvest] in support of changing the ordinance. No other industry stakeholders appeared.

Planning Department staff prepared a memo (**See Attachment 2**) that outlined three concepts to change the ordinance and the issues that could result from those changes. The memo concludes that the current ordinance is still serving the community well. The memo outlined potential negative consequences from the proposed changes. Brian walked the group through the memo information.

Open Harvest has informed the Planning Department that they intend to bring forward a Grocery Store exemption to the Alcohol Spacing requirement. Presentation of their proposal is anticipated at the 10/25/17 Planning Commission meeting. Community members are encouraged to send comments to the Planning Department and/or attend the hearing.

Announcements

- ***Cooper Commons open house*** on 9/13/17 from 4:30-6:30 pm at 832 D Street;
- ***Historic Everett Walking Tour*** on 9/28/17 from 6:00-8:00 pm beginning at F Street Community Center;
- ***Taste of 27th Street*** on 9/21/17 from 6:00 – 8:00 pm at Ajora Falls Ethiopian Restaurant (Tickets are \$20); and
- ***Meadowlane Annual Meeting*** at 12:00 noon 9/24/17 at Hubert Park.

Next Meeting/Agenda

The next meeting of the Mayor's Neighborhood Roundtable will be October 9, 2017 at 5:30 p.m. The topic is still to be determined. Suggestions were offered, including: the new central library proposal, panhandling, and Building and Safety.

Adjournment

The meeting adjourned at about 6:30 p.m.

Submitted by Jon Carlson

ACCESSORY DWELLING UNITS



Accessory Dwelling Units (ADUs) are currently allowed in Lincoln under limited circumstances. The City Council has directed the Planning Department to explore the idea of a Zoning Ordinance amendment that would provide more options for ADUs in residential districts throughout the city.

WHAT IS AN ACCESSORY DWELLING UNIT?

An ADU is a self-contained dwelling unit on the same lot as a single-family dwelling. ADUs typically include living space, one bathroom, and a small kitchen. They can be attached or detached from the main dwelling.

REASONS FOR ACCESSORY DWELLING UNITS

- Living space for a relative
- Affordable housing option
- Guest house/pool house/hobby house
- Alternative income for homeowner
- Allow homeowners to “age in place”

DRAFT PROPOSAL

The proposal on the following pages was developed with input from a working group of neighborhood representatives, architects, and homebuilders. With this proposal, ADUs would be allowed as a conditional use on residential lots that are large enough for a duplex.



QUESTIONS OR COMMENTS

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A conditional use does not require approval by the Planning Commission or City Council. A building permit would be issued once the conditions below are met. Approximately 25 percent of residential lots in Lincoln would have the area to include an ADU with this proposal.

Conditional Use

1. Two categories of lots that would be eligible for an ADU:

Must have required lot area for two dwellings per the zoning ordinance. No more than two dwelling units are allowed on a single lot.

R-1: 14,400 sf	R-5: 5,000 sf
R-2: 10,000 sf	R-6: 5,000 sf
R-3: 10,000 sf	R-7: 4,000 sf
R-4: 5,000 sf	R-8: 4,000 sf

Note, this applies to lots that already have the area for two attached dwelling units (a duplex) per the existing regulations. This change would allow a single-family house with a detached ADU.

2. ADU Size:

- **The lesser of 40% of the main building or 800 sf.**
 - **Cumulative area of detached ADU and accessory buildings cannot exceed the accessory building maximum area per Section 27.72.120(d).**
 - **No more than 1 bedroom.**
- 3. The owner is required to live on the property either in the main building or the ADU.**
 - 4. An ADU must share utility connections with the main building.**
 - 5. Height: Comply with the height regulations of the district but no taller than the main building.**
 - 6. Setbacks: Must meet the setbacks of the main building. Detached ADUs must be at least 60 feet beyond the front lot line, except for corner lots.**
 - 7. Parking: One parking stall in addition to that required of the main building.**

Note: ADUs constructed on lots within the City Limits as of December 31, 1949 would be required to comply with the Neighborhood Design Standards. The Design Standards will be modified to incorporate ADUs.

ADUs constructed in a Landmark District must be reviewed for compatibility with the district per Chapter 27.57 of the Zoning Ordinance.

Detached "conditioned area" for uses generally found within the house are not allowed per the Building and Safety Department's interpretation of the existing regulations. Examples include a guest house, larger pool house, craft room, or recreation room. These uses are not currently allowed to be detached from the house. The following amendment would allow them to be detached.

Detached Conditioned Area

- 1. Height: Comply with the height regulations of the district but no taller than the main building.**
- 2. Setbacks: Must meet the setbacks of the main building.**
- 3. Size: Cumulative area of detached finished floor area and accessory buildings cannot exceed the accessory building maximum area per Section 27.72.120(d).**

Impact fees are used to help generate revenue for new infrastructure required because of development. The fees are based on the projected impact of a new construction project on arterial streets, water and wastewater lines, and parks.

Impact Fees

An ADU closely resembles a studio or one-bedroom apartment unit in size and trip generation. Impact fees for arterial streets and parks/trails would be per the multi-family dwelling standard. The current impact fee schedule for multi-family dwelling units is listed below. The fees would be assessed at time of building permit.

Arterial Street Impact Fees: \$1,570

Neighborhood Parks & Trail Impact Fees: \$209

Water/wastewater impact fees are determined by water meter size. An impact fee would be required if the ADU resulted in an increase in meter size on the lot.

**ALCOHOL REGULATION SUMMARY MEMO TO
PLANNING COMMISSION 8/2/17**

BACKGROUND RECAP

Current Alcohol Spacing Requirements:

A special permit is required in the older commercial areas in the city. These areas can be zoned B-1, B-3, H-1 – H-4, and I-1 - I-3, where the “licensed premises” (usually the footprint of the building) for alcohol sales must be a minimum of 100 feet from any residential zoning, first floor residential use, day care, park, church or state mental health facility.

The sale of alcohol is a conditional use in the newer commercial areas. These areas are the areas zoned B-2 and B-5 and also require the front door to be a minimum 100 feet from any residential zoning, first floor residential use, day care, park, church or state mental health facility. However, instead of a straight line measurement to the nearest point of the licensed premises, the separation is measured around the building to the front door.

The sale of alcohol is a permitted use in the Downtown core where it is zoned B-4. In the B-4 there is no spacing requirement.

FREQUENTLY ASKED QUESTIONS

1. Why are some alcohol retailers allowed to sell alcohol even though they are less than the required 100’ spacing?

A. The alcohol regulations were adopted in 1994, and since then all new alcohol sales are required to comply. However, the majority of alcohol sales outlets pre-existed 1994, and therefore are ‘grandfathered’ and allowed to legally continue to operate.

B. The original alcohol regulations included a provision that allowed the City Council to grant waivers to the spacing requirement as part of the special permit. That waiver provision was eliminated in 2004, but a number of permits with waivers were approved between 1994 and 2004. Because they were legally established, those with waivers are allowed to continue to operate as non-conforming uses until such time as they cease operations for a period of two years or more.

C. It is also possible that a retailer could construct a separate area within the larger store for alcohol sales, but with its own separate entrance and check-out that meets the required separation. In that circumstance, the separate area is considered the licensed premises and the 100 foot spacing is measured from that licensed premises, and not the entire building.

2. Why can restaurants sell alcohol with less than 100 feet of separation?

There is a specific subset of conditions that apply to restaurants, and which are only available with the special permit for on-sale consumption. Restaurants meeting those conditions are allowed a reduced separation of 25'.

This special circumstance was allowed because restaurants were deemed to be different from other on-sale outlets. Specifically, the majority of their income is generated by food sales, and the sale of alcohol is incidental to serving food.

3. Why are the spacing requirements different for the older parts of town versus the newer parts (i.e. B-1 and B-3 versus B-2 and B-5)? Why don't we measure from the residential zoning district to the front door instead of to the nearest wall of the building in all districts?

The rationale for treating the B-2 and B-5 zoning districts with respect to zoning for the sale of alcohol is primarily two-fold. First, the B-2 and B-5 districts are 'use permit' districts. This means that the City has site plan review authority via the use permit prior to any development on the site. A special permit in addition to that review was deemed redundant.

Second, the B-2 and B-5 zoning districts were specifically designed for suburban development. The standards of each district were purposefully designed to maintain compatibility between the commercial centers and adjacent neighborhoods, and include appropriate setbacks, landscaping and buffering. The standards are integral to these districts, and help ensure the centers can coexist with adjacent neighborhoods with a minimum of nuisance and land use conflict. For example, the rear setback abutting residential in the B-5 is 100', compared to 30' in the B-3.

4. What does the Nebraska State Supreme Court say about alcohol regulations in Lincoln?

Lincoln's authority to regulate alcohol sales with spacing requirements via the zoning ordinance has been tested and affirmed by the Nebraska State Supreme Court. There is ongoing concern however, that additional exemptions and exceptions to the alcohol regulations may have the potential to undermine the consistency of the ordinance and make legal defense more difficult.

ALTERNATIVE REGULATION SUGGESTION

1. What amendments to the regulations have been suggested regarding the alcohol spacing requirements? What impacts/issues do they raise?

A. Bring back the waiver provision which allowed the City Council to waive the required separation by special permit on a case-by-case basis.

IMPACT/ISSUES:

-The waiver provision was originally eliminated partially over concern for the proliferation of alcohol sales, and the associated potential negative impacts upon neighborhoods.

-The original waiver provision included language stating that the 100' separation could be reduced if any adverse effects were mitigated by an approved screening or landscape plan approved by the Planning Director. The waiver process proved difficult to apply uniformly and equitably as the City attempted to be consistent in the application of the standard. Also, adequate screening/landscaping with respect to mitigating the sale of alcohol was difficult to define.

-There were complaints from the public that the waivers were not being treated equitably.

-After the waiver provision was eliminated, all requests for special permits had to provide the required 100' separation, there were no more exceptions.

B. Change the B-1 and B-3 zoning districts to match the B-2 and B-5 districts

IMPACT/ISSUES:

-The B-2 and B-5 zoning districts were designed to integrate with adjacent residential areas. The districts include larger setbacks, screening/landscaping, and site plan review on the part of the City. The development found in most all B-2 and B-5 zoning districts is in contrast to that found in the older commercial centers. The suburban centers are characterized by larger (minimum 5 acres in B-2, 30 acres in B-5), deeper sites with multiple tenants. Buildings are typically oriented inward and towards each other, or face onto major streets and away from adjacent residential uses. They are also typically surrounded by landscaped buffer areas which help screen them and separate them from adjacent uses.

-The B-1 and B-3 zoning districts exist in the older parts of the city. These older commercial centers such as Havelock, University Place, College View, Bethany, and even West O Street have an entirely different development pattern. It is not unusual for the commercially-zoned properties to share alleys or lot lines with residential uses. There are many instances where the zoning district boundary line extends through the middle of a block, where one half is commercial and the other half is residential. Screening and buffering is also typically lacking.

- C. Create an exemption for Grocery Stores to sell alcohol at less than 100' of separation.

IMPACT/ISSUES:

-Both the Planning and Law Departments believe it will be very difficult to define and enforce regulations specific to a "grocery store". The reason is that there is a wide range of retail outlets that sell food products beyond grocery stores. This would include convenience stores, some pharmacies, and dollar stores to name a few. The distinction between any of these uses is not significant and hard to define.

-There is no rationale staff is aware of to say that that a grocery store operates in a safer or more professional manner than a convenience store or pharmacy. Given the lack of operational distinction, it is a reasonable assumption that other retail uses would also request exemptions similar to that of grocery stores. The basis for an argument to deny such an amendment is not apparent.

- D. Leave the ordinance as-is.

IMPACT/ISSUES:

-The current regulations have been in effect since 1994, and the 100' separation has been part of them from the start. While there are some commercial locations throughout the city that do not meet the requirements for a special permit, there are many that do. Within Lancaster County there are approximately 620 liquor licenses across all classes. Approximately 470 of those are on and off-sale licenses within the City of Lincoln.

-At the Planning Commission's second briefing on this topic, several citizens spoke. Of them, only one spoke of the need to modify the regulations. All the other public comment (and submitted written comment) was in support of maintaining the status quo.

-Staff has surveyed multiple communities over years with regard to the regulation of the sale of alcohol. There is no consistent finding as a result of those surveys. That is, the way various communities choose to regulate alcohol is as varied as the communities themselves. It ranges from no special treatment for the sale of alcohol, to regulation more restrictive than Lincoln's.

-Only two applicants, Open Harvest and Walgreens, have submitted applications recently to revise the regulations. The request to revise the regulations for the Walgreens at 48th & O Streets was denied. The Open Harvest application for the 'grocery store exception' is still pending. Open Harvest agreed to delay the application to allow the Planning Commission time to gather information, but it is anticipated they will now request that the application proceed to public hearing.

-With respect to the current regulations which have been in effect since 1994, it can be said that they represent a community standard. There are any number of ways to regulate the sale of alcohol, but the current regulations were discussed by the community with public hearings, and then eventually adopted by the City.

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