

# MAYOR'S NEIGHBORHOOD ROUNDTABLE

COUNTY/CITY BUILDING 555 SOUTH 10<sup>TH</sup> STREET

Via Zoom Monday, September 14, 2020 5:30 p.m.

## Meeting Notes

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### Attendance

Seventeen residents and five City staff attended.

Gloria Eddins – Clinton CO	Richard Piersol -- Country Club NA
Paul Johnson -- East Campus CO	Karen Dienstbier – Eastridge NA
Pat Anderson -- Everett NA & NW-Lincoln	Shawn Ryba -- 40th & A NA & SoDo
Pat Stear – Hartley NA	Andy Gueck -- Indian Village NA
Geri Cotter -- Irvingdale	Denise Hecht – Meadowlane
Mike DeKalb – UPCO	Russell Miller -- Witherbee
Fred Frytag - Witherbee	Randy Smith -- Woods Park
Tina Arsiaga – guest	Jane Raybould -- City Council
Tammy Ward -- City Council	Rachel Jones -- Planning Dept
Steve Henrichsen -- Planning Dept	Jon Carlson -- Mayor's Office
Wynn Hjermsstad – Urban Development Dept	Mayor Gaylor Baird

### Welcome and Introductions

With the Roundtable chair unable to attend, the Mayor began the meeting and Jon Carlson coordinated introductions. Paul Johnson volunteered to take notes.

### Mayor Gaylor Baird Comments

- The Mayor discussed the death & funeral of LPD officer, Mario Herera. The City Council passed a resolution honoring him. There has been a great outpouring of support from the community.
- Covid-19 Pandemic – The rest of state has move to Stage 4, but Lincoln is remaining in Stage 3, mainly due to UNL student outbreaks. There have been virtually no outbreaks in other schools. Thanks to neighborhoods in updating their residents.
- The Affordable Housing Coordinated Action Plan has received good comments from the community. It should be ready for presentation in October.

### Transitional Living Facilities

*Presenters: Lincoln-Lancaster County Planning Department staff – Steve Henrichsen, Rachel Jones*

*See Attachment 1.*

Transitional living options fulfill a valuable need in the community, but better public guidance is needed to clarify the permit review process. The goal of the proposed zoning amendment is to establish conditions for transitional living facilities that are appropriate to Lincoln.

The Planning Department has looked at the ways other cities handle transitional living. While it is a land use issue, it is also very much a human issue. There is a moratorium on new applications for transitional living facilities until Nov. 16<sup>th</sup> while the City considers its options.

Currently, the City allows Transitional Living Facilities by Special Permit in AGR & R-2 to R8 zoned areas. No specific requirements are included in the Special Permit.

Transitional Living Facilities are administrated by the Nebraska Office of Courts & Probation. The purpose is to provide short-term stable housing, increase self-sufficiency, and reduce recidivism. The State is interested in the internal operations of transitional living facilities and the City has a stake in land use and spacing.

The new, proposed definition -- primarily supervised pre-release, work-release, parole, probationary housing -- would differentiate transitional living facilities from Group Homes, which are primarily housing with therapy and counseling for disabled persons -- which can include persons with disability who are on parole, probation, etc..

At the August 25th open house, Planning Department staff heard concerns about regulation (background checks, licensing, etc.), spacing from schools, public notification of facility in neighborhood, and the large demand to serve those in need. They also heard that transitional housing is a better option than no support.

The proposed amendment is a compromise between providers, regulators, neighbors and residents. It includes a 6-person limit in R1 -- R4 zoned areas and a 12-person limit in R5-R8 zoned areas, adds O-3 and B-4 and B-5 zoned areas as options, limit clustering of transitional housing and group homes, and requires specific conditions to be met via an Administrative Permit. A change in operator would require a new permit. With cause, licenses could be revoked. Information is available on the website. Rachel Jones is contact.

To view the proposed text changes, review background information, or submit comments, go to [www.lincoln.ne.gov](http://www.lincoln.ne.gov), keyword: **transitional living**. The proposed amendment will be considered by Planning Commission at a public hearing on September 30th and by City Council at a public hearing on October 26th. If passed, then would become effective on November 16<sup>th</sup>.

#### Questions & Comments from Roundtable

- Mike -- Group Homes & variations have been in City for over 70 years. This is not a new issue
- Andy -- Are these single gender housing? Most are, but City regulations do not address this aspect. It is part of operations, so it is more the State's concern.
- Geri -- How is the maximum of 6 determined? By the number of bathrooms or the number of square feet per resident.
- Geri -- Neighborhoods with homeowner associations -- are those neighborhoods subject to the rules? City can approve a facility, but HOA may sue the operator if it is not following HOA rules.
- Dennis -- Has State provided input? Yes
- Paul -- Would HOA rules be a disincentive to build in HOA area & push facilities into non-HOA areas of the City? The City can approve facility in all neighborhoods, the operator has to decide if facility can follow HOA rules.
- Pat -- Do higher density areas permit higher density of facilities?
- Fred -- How are the providers rated & chosen by the State? Will providers just be looking at making money or at looking at the best transition for the resident? Probation officers will be in facility & will see how conditions are & can require the provider to make changes.
- Fred -- Not all providers are non-profits, some are contracted by the State.
- Pat -- Are sexual offenders in these facilities? They are excluded from the program.
- Shawn Ryba -- Since the State is responsible for how the facility is being run, who are the neighborhoods to turn to if there are problems -- who can the neighborhoods contact? State Senators and City Council members are meeting soon to try to address those very questions.
- Shawn -- This issue is more important than just a zoning issue. It is an issue that has broad impact, including how it affects the surrounding neighborhood. The Probation Office will be presenting information to the City Council on this topic on October 26th.
- Tina -- Operators are heavily invested when they build these kinds of facilities, so their commitment to the success of their facility should be high.

#### **Announcements**

Tree Distribution: The City's Parks and Recreation Department is partnering with the Arbor Day Foundation to make 250 trees available to residents free of cost for planting on private property. The program is funded by FedEx and is intended to help build the urban tree canopy. The trees will be available for pickup on Saturday, October 24th in the parking lot in Antelope Park, south of Auld Pavilion. There are five tree species available that will grow into large shade trees

**Next Meeting / Agenda**

Possible topics for the next meeting: Affordable Housing Coordinated Action Plan; BNSF plans to go active with some tracks that haven't been used; changes in LTU winter time operations; guidelines for Halloween due to COVID

**Adjourn**

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**Next Mayor's Neighborhood Roundtable Meeting**  
**October 12, 2020, 5:30 p.m.**  
**Via Zoom**

**Severe Weather Policy:** *the Mayor's Neighborhood Roundtable meeting will be cancelled when severe weather warnings are issued including tornado, thunderstorm, and flash flood warnings and when LPS closes due to weather.*

# TRANSITIONAL LIVING

**September 14, 2020**



## TRANSITIONAL LIVING FACILITY

- A land use issue, but a very “human issue” with strong feelings and very real concerns
- We have been gathering information and listening to all sides since early this year
- Text Amendment process based on limited time: moratorium ends November 16<sup>th</sup>



## CITY PROPOSAL TRANSITIONAL LIVING FACILITY

City Council adopted moratorium – ends Nov. 16th

Started work in June looking at other communities

Gained information from public & providers in past 2 months

City created Discussion Draft in order to get public comments



## HOW DID THIS USE COME ABOUT?

This use was under the group homes category as a conditional use.

Prior to 2005

A new use was created for alternative to imprisonment facilities, requiring a special permit.

2005

The first special permit applications were received in 2020.

2020

## WHAT IS A TRANSITIONAL LIVING FACILITY?

Currently called “alternative to imprisonment” in the City Zoning Ordinance.

The use would be re-named to transitional living.

Housing for persons on pre-release, work-release, probationary, parole, etc. Helps individuals transition back into the community.



## NEBRASKA OFFICE OF COURTS & PROBATION

- Goal: Increase individual success and reduce recidivism while promoting community safety and accountability
- Provide short term stable housing & increase self-sufficiency
- Providers must register; collaboration between provider, community, supervision officer and client/family
  - 1) Halfway House (licensed by Behavioral Health/DHHS)
  - 2) Transitional Living with in-house programming & services
  - 3) Transitional Living no programs, but safe, sober housing
- Probation officer's role to provide case management



## HOW DOES THE CITY ALLOW TRANSITIONAL LIVING TODAY?

- Allowed by special permit in the AGR and R-1 through R-8 zoning districts, and by right in the B-4 district.
- There are no specific conditions under the special permit.
- Special permits have public hearing before the Planning Commission, who vote to approve or deny.



## HOW DOES THE CITY TREAT SIMILAR USES?

Transitional living falls into the Group Living category, which includes several other uses:

Children's homes	Fraternities and sororities
Domestic shelters	Group homes
Residential healthcare facilities	Dwellings for non-related persons
Dwellings for religious orders	Homeless shelters



### **Definition of a Family:**

One or more persons immediately related by blood, marriage, or adoption and living as a single housekeeping unit in a dwelling shall constitute a family. A family may include, in addition, not more than two persons who are unrelated for the purpose of this title.

### **Proposed Definition of Transitional Living:**

Transitional Living Facility shall mean a facility affiliated with an alternative to imprisonment program including, but not limited to, diversion, pre-release, work-release, parole, probationary, or residential re-entry programs, where more than three persons who are unrelated by blood, marriage, or adoption reside.



### **Definition of a Group Home:**

Group home a building used as any one of the following:

More than three but less than sixteen disabled persons who are unrelated by blood, marriage, or adoption reside while receiving therapy or counseling, but not nursing care;

24-hour daily care, supervision, for more than three but less than sixteen children, in lieu of the care normally by parents in own home

**Disability** shall mean:

A physical or mental impairment which substantially limits one or more of such person's major life activities;

A record of having an impairment; or regarded as having impairment

Disability shall not include current, illegal use of or addiction to a controlled substance as defined by state law



### **Group Home vs Draft Definition of Transitional Living:**

Both can include 4 or more unrelated persons

Transitional Living: primarily supervised pre-release, work-release, parole, probationary housing

Group Home: primarily housing with therapy and counseling for disabled persons – which can include persons with disability who are on parole, probation, etc.

People who are in recovery from substance abuse are considered as having a disability under state and federal law



### **Group Home is allowed as Conditional Use:**

Allowed in all residential districts,

Must be licensed by the State

Spacing requirement between group homes:

2,640 feet spacing in the AG, AGR, R-1 to R-3 zoning districts

1,200 feet spacing in R-4 to R-8 zoning districts



## What we heard from August 25<sup>th</sup> Open House:

- Concerns on operations: background checks, 2 year license or ends with new operator, facilities should be locked, 24 hour supervision, operators shouldn't profit, who would neighbors call if problem
- Spacing to schools, parks or child care centers
- Want public notification
- Large demand to serve those in need
- Transitional Living better option than no support
- Providers want to be good neighbors



## WHY IS A TEXT AMENDMENT PROPOSED?

Transitional living fulfills a valuable need in the community.

Better guidance is needed to clarify the review process for everyone involved.

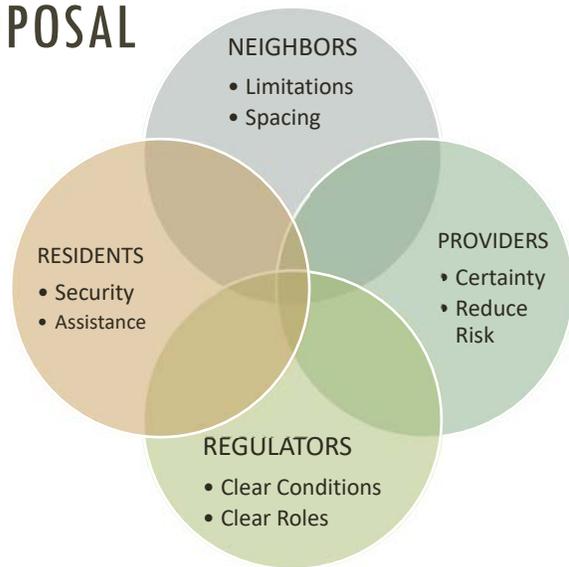
**Goal: Establish conditions for transitional living that are appropriate for Lincoln.**

# HOW DO OTHER CITIES ADDRESS TRANSITIONAL LIVING?

OMAHA	KANSAS CITY, MO	LEXINGTON, KY
Special use permit required in higher density residential, office/commercial and industrial districts. Conditional use in the mixed-use district.	Requires a special permit. Allowed in one higher-density residential district.	Allowed in agricultural, commercial, and some residential districts. Varies by district whether a permitted or conditional use.
Spacing: ½ mile to other transitional living facilities.	<ul style="list-style-type: none"> <li>• Spacing: 1,500 feet from other halfway houses, group living, day cares; 500 feet from schools.</li> <li>• Minimum lot and floor area.</li> <li>• Permit is valid for 2 years but may be renewed.</li> </ul>	Spacing: Varies from 500 feet from other allowed uses, schools and daycares, to no spacing depending on the district.

# COMPROMISE PROPOSAL

- 6 person limit R-1 to R-4
- 12 person limit R-5 to R-8
- Spacing: limit clustering
- Conditional Use
- State: inside operations  
City: land use & spacing





## ZONING DISTRICTS

Currently  
allowed in:

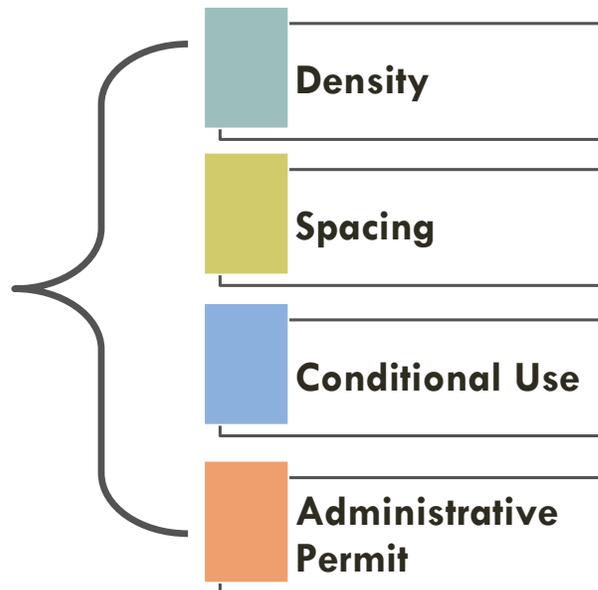
AGR, R-1  
through R-8,  
and B-4 districts

DRAFT to also  
allow in:

AG, O-1, O-3,  
R-T and B-5  
districts



### ELEMENTS OF COMPROMISE PROPOSAL



## SET A MAXIMUM NUMBER OF RESIDENTS

District	Max. per Dwelling	Max. per Premises
<b>AG, AGR, and R-1 through R-4 districts</b>	6	6
<b>R-5 through R-8 districts</b>	6	12
<b>Commercial districts</b>	N/A	No Limit

## REQUIRE SPACING TO OTHER SIMILAR USES

**1,000 feet in the AG, AGR and R-1 through R-4 districts.**

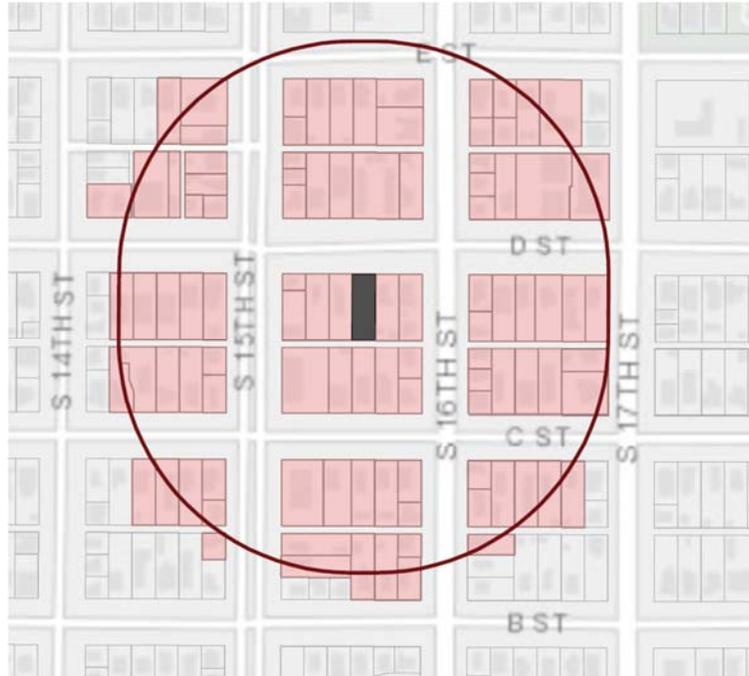
**500 feet in the R-5 through R-8, O-1, R-T and B-4 districts.**

**No spacing in O-3 and B-5 districts (Use Permit districts).**

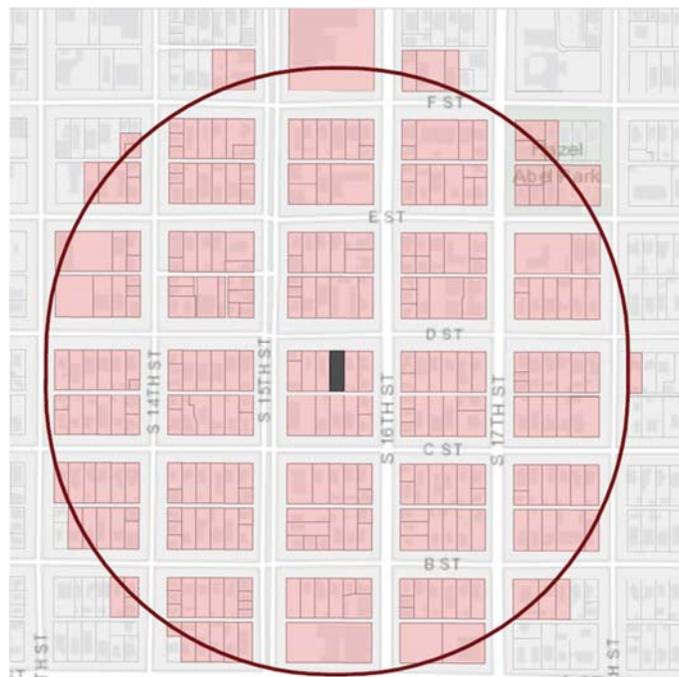
- Other transitional living
- Domestic shelters
- Homeless shelters
- Fraternities and sororities
- Group homes
- Residential healthcare facilities



500 FT. SPACING



1,000 FT. SPACING





## CHANGE THE USE FROM SPECIAL PERMITTED TO CONDITIONAL

If a facility met all conditions, the operator could apply for building permits -- no public hearing would be required

### ***Why Conditional Use?***

- The conditions should address the main concerns of neighbors (number of residents, spacing, etc.)
- Hearings could result in inconsistent approvals and would not provide a clear benefit



## ADMINISTRATIVE PERMIT

- AG, AGR and R-1 through R-8 districts
- Provides additional oversight. Approved internally by Planning Director
- Notify properties within 200 feet
- Require City be informed of changes to operator's contact information
- Revocation process
- Site and floor plans, conversion plan

## OTHER CONDITIONS

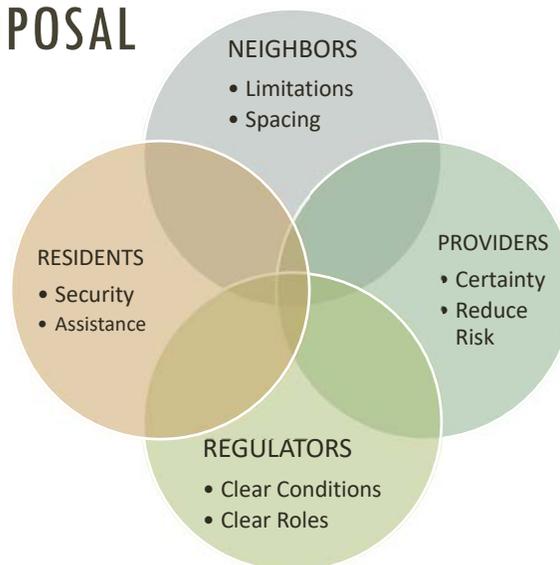
**Design Standards:** New buildings in the R-1 through R-8 districts would have to meet Neighborhood Design Standards.

**Parking:** 1 space per 3 client or employee residents, plus 2 spaces per three nonresident employees. No spaces required for residents without a driver's license.

**Signs:** Prohibited

## COMPROMISE PROPOSAL

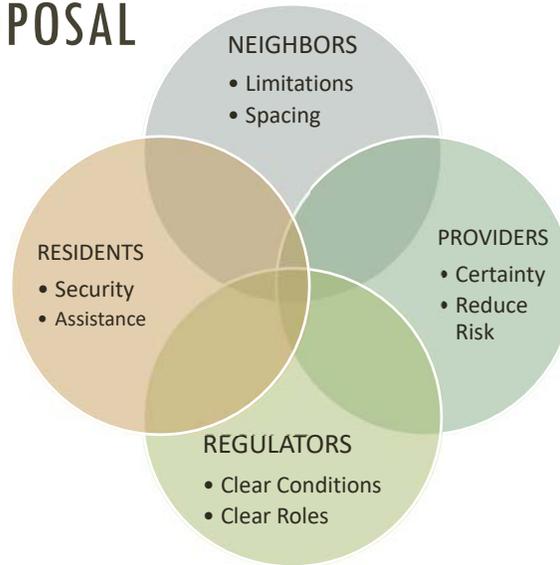
- NEIGHBORS
- Who watches inside
- Accountability
- Neighborliness of residents
- Notification
- Impact on neighborhood
- Reduction in value





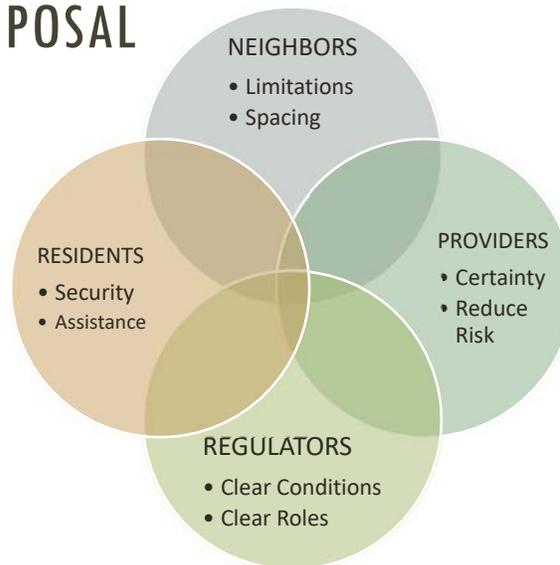
## COMPROMISE PROPOSAL

- PROVIDERS
- Specific conditions
- Reasonable limit they can afford
- Location options
- Permit predictability and consistency



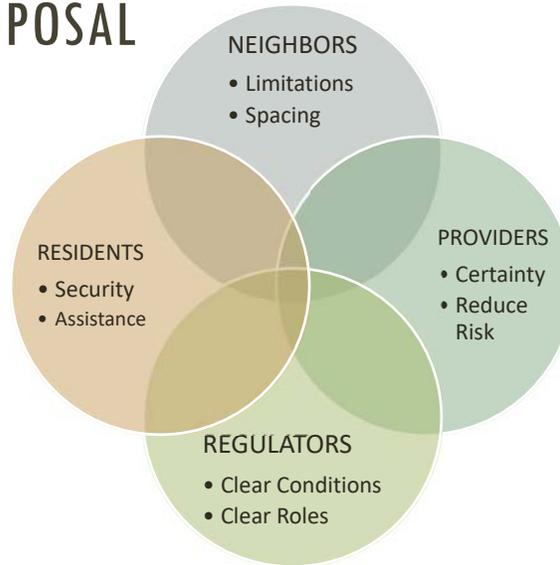
## COMPROMISE PROPOSAL

- REGULATORS
- Appropriate roles
- State focus on clients & providers
- City focus on land use
- Conditions set in advance
- Consistency in regulations



## COMPROMISE PROPOSAL

- RESIDENTS
- Safe & sober place
- Help in transition
- Options in locations
- Welcome & acceptance
- Don't blame everyone for bad cases



## COMPROMISE PROPOSAL

- Ultimate goal is provide for the various needs of all people in our community
- Balance needs of all involved



## WEBSITE

<https://www.lincoln.ne.gov> (keyword: transitional living)

- View proposed text changes
- More information and background
- Submit comments to the Planning Commission
- Contact: [rjones@lincoln.ne.gov](mailto:rjones@lincoln.ne.gov)



## NEXT STEPS

**September 30<sup>th</sup>** - Planning Commission hearing

**October 26<sup>th</sup>** – City Council hearing



QUESTIONS OR COMMENTS