

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3328**, a text amendment to the Lincoln Municipal Code, requested by J. Michael Rierden on behalf of The Dinerstein Companies, to amend §§ 27.65.030, 27.67.065 and 27.70.020 of the Zoning Ordinance, to authorize the use of dwellings for four to six non-related persons as part of a community unit plan and to provide parking requirements.

STAFF RECOMMENDATION: Approval, **with minimum lot size of one acre.**

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/03/01 and 10/17/01
Administrative Action: 10/17/01

RECOMMENDATION: Approval, **with amendment to require that the community unit plan be 10 acres or more** (7-0: Carlson, Hunter, Taylor, Duvall, Newman, Bills and Schwinn voting 'yes'; Steward and Krieser absent).

FINDINGS OF FACT:

1. The staff recommendation to approve the text amendment (with minimum lot size of one acre) is based upon the "Analysis" as set forth on p.3-5. The proposed text (with revisions recommended by the Planning Commission) is found on p.6-8.
2. Additional information submitted by the staff at public hearing is found on p.24-27.
3. The applicant's testimony is found on p.9-11; 12-15; and 17. The additional information submitted by the applicant during the public hearing is found on p.28-33. The applicant proposed an amendment to the text in response to the concerns raised by the Neighborhood Roundtable, which requires that the community unit plan be larger than 10 acres (as opposed to a minimum lot size of one acre). See p.33.
4. Other testimony in support is found on p.11 and p.15 (West "O" Area Business Association), and the record consists of two letters in support (p.36-37).
5. Testimony in opposition is found on p.11 and p.15-16, and the record consists of one letter in opposition (p.39), and a letter of concern from the Landons Neighborhood Association (p.38). Sheryl Burbach of the North Bottoms Neighborhood had emailed concerns about the proposal. That email message and the response by Urban Development is found on p.34-35.
6. The Planning Commission discussions with the applicant and the staff are found on p.13-15 and 16-17.
7. On October 17, 2001, a motion to approve the staff recommendation, with the one-acre minimum lot size, failed 4-4 (Steward, Duvall, Bills and Schwinn voting 'yes'; Carlson, Hunter, Taylor and Newman voting 'no'; Krieser absent). See Minutes, p.17-18.
8. On October 17, 2001, the Planning Commission voted 7-0 to recommend approval of the text amendment, with amendment to include the **minimum 10-acre requirement**, as requested by the applicant (Carlson, Hunter, Taylor, Duvall, Newman, Bills and Schwinn voting 'yes'; Steward and Krieser absent). See Minutes, p.18-19.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: November 19, 2001

REVIEWED BY: _____

DATE: November 19, 2001

REFERENCE NUMBER: FS\CC\FSCZ3328

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3328

DATE: September 18, 2001

***Revised October 4, 2001

****As Revised by Planning Commission 10/17/01****

PROPOSAL: To amend Zoning Ordinance Sections 27.65.030, 27.67.065, and 27.70.020 to authorize the use of dwellings for non-related persons as part of a community unit plan and to provide minimum lot sizes and parking requirements.

CONCLUSION: The proposed text increases the range of permissible housing options by allowing four to six non-related persons to share a single housekeeping unit within an approved Community Unit Plan. The permitted population density is similar to what is allowed through a community unit plan or the underlying zoning districts.

This text change advances the Comprehensive Plan implementation strategy of providing the broadest range of housing options throughout the community.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

CONTACT: J. Michael Rierden
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Lincoln, NE 68508
(402) 476-2413

ASSOCIATED APPLICATIONS: Change of Zone #3329
Special Permit #1928

HISTORY: Oct. 30, 1972 City Council adopted Change of Zone #1220, which added text to allow four to six unrelated persons to live as a single housekeeping unit under a special permit. The Planning Director's report indicated that the change was intended to provide student housing.

1979 **Dwellings for Nonrelated Persons** was left in the "Additional Use Regulations" Chapter 27.70 instead of being moved with the other special permits to Chapter 27.63.

COMPREHENSIVE PLAN SPECIFICATIONS:

From the Future Urban Residential Needs and Plan:

Goals

- Encourage the development of housing that is appropriate to the requirements of households with special needs, including but not limited to, the elderly, the physically and/or mentally challenged, and households in crisis.
- Encourage efficient use of urban areas by providing for high density residential uses as an integral part of major, planned commercial and residential developments. (p 44)

From Comprehensive Plan Implementation Strategies:

3. Public Policy Considerations

3. **Diversity and Unity.** In housing, a place should be found for the country estate and the city efficiency apartment, for the small private single family home and the large apartment suite, for the most affordable and most expensive dwelling unit, for completely independent living and for living within the care of others. Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (pp 192-3)

REGIONAL ISSUES: Lincoln’s ability to provide off-campus student housing

ANALYSIS:

1. According Section 27.03.220, Lincoln’s definition for “family”, up to three unrelated individuals may reside together in a single dwelling unit.
2. Section 27.70.020 allows dwellings for four to six non-related persons, provided that the lot upon which they reside is one or more acres in size and that one off street parking stall is provided for each occupant.
3. The proposed text change would add “dwellings for nonrelated persons” to the list of housing types permissible within a community unit plan. Such a dwelling would no longer be permitted outside a C.U.P. One parking stall would be required per occupant, and the minimum lot area per dwelling would be based on the underlying zoning and the number of occupants, as shown on the following table.

Zoning District	Occupant/Lot Area Ratio
R-1	1 occupant/3,000 sf
R-2, R-3	1 occupant/2,000 sf
R-4	1 occupant/1,000 sf
R-5	1 occupant/750 sf

4. The density permitted is similar to what would be permitted under the base zoning or within a community unit plan. In no case could the number non-related occupants exceed those allowed in the base zoning under the definition of family.

Zoning District	Base Zoning Density		C.U.P. Density		Occupants/Acre (proposed text)
	D.U./acre	Occupants/acre [†]	D.U./Acre	Occupants/acre [†]	
R-1	4.84	14	3.87	11	14
R-2	7.26	21	5.80	17	21
R-3	7.26	21	6.96	20	21
R-4	17.42*	52	13.93	41	43
R-5	29.04 [^]	87	29.04	87	58

[†] assumes three occupants per Dwelling Unit
* assumes two-family dwellings
[^] assumes multi-family dwellings

- In order for a property to qualify for a Community Unit Plan, the land area must be one acre or more (three or more lots, including adjacent street right of way, in the original City of Lincoln plat). If the land area of a C.U.P. is between one and five acres, the number of allowable units is reduced by 20%. If it is between five and ten acres, the number of allowable units is reduced by 10%. If a C.U.P. borders two other Community Unit Plans, there is no density reduction. Community Unit Plans must be specifically approved by City Council after public hearing.
- The proposed language mandates one off-street parking stall per occupant of the dwelling for non-related persons. This is more off-street parking than is required in any other residential zoning district. The following chart contrasts this requirement with a standard Community Unit Plan and the base zoning district:

Zoning District	Base Zoning Required Parking	C.U.P. Required Parking	Text Amendment Required Parking
R-1	2 parking spaces per dwelling unit	2 parking spaces per dwelling unit [†]	4-6 parking spaces per dwelling unit
R-2			
R-3			
R-4			
R-5	1.75 parking spaces per dwelling unit		

[†] May be adjusted to 1.5 parking spaces per dwelling unit by City Council

- Unlike single and two-family dwellings in the R-1 through R-4 districts, the proposed text does not permit parking in the front yard, unless it is specifically authorized by City Council. Furthermore, the one space per occupant parking requirement may not be adjusted by City Council.

8. The purpose of this text change is to increase housing options without increasing the population density on a site.
9. Any existing buildings which currently conform to Section 27.70.020 would become nonconforming uses. The Building and Safety Department is not aware of any existing dwellings for non-related persons.
10. The proposed language creates opportunities to provide the student population with additional housing options.
11. On October 17, 2001, the Planning Commission recommended approval of this text amendment, with an amendment proposed by the applicant requiring a community unit plan larger than 10 acres.

Prepared by:

Jason Reynolds
Planner

27.65.030 Procedures.

An application and plot plan and plans for development of a community unit plan under this chapter shall be filed in writing with the department of building and safety. Upon the filing of an application, together with all information required by this chapter, the City Council will refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and make a report to the City Council regarding the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to the public health, safety, and general welfare. The City Council shall take no final action upon any application for a community unit plan filed under this chapter until a report from the Planning Commission has been filed with the City Clerk; provided, that in the event there is a delay in excess of sixty days from the date of referral on the part of the Planning Commission in reporting its recommendations to the City Council, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to submit a report no later than immediately after the commission's next regularly scheduled meeting.

The report of the Planning Commission to the City Council shall include reasons for recommending approval or denial of any application and if approval is recommended, shall further include specific evidence and facts showing that the proposed community unit plan meets the following conditions:

- (a) That the land surrounding the tracts for the proposed community unit plan will not be adversely affected;
- (b) That the proposed community unit plan is consistent with the intent and purpose of this title to promote the public health, safety, and general welfare;
- (c) That the buildings and land in the proposed community unit plan shall be used only for single-family dwellings, two-family dwellings, townhouses, ~~or multiple dwellings,~~ or dwellings for non-related persons and accessory uses and any other uses permitted in the zoning district in which the land is located;

(d) That the average lot area per family within the proposed community unit plan will not be less than the lot area per family required in the zoning district or districts in which the tracts of the proposed community unit plan is located, except as otherwise provided in this chapter. The lot area per dwelling for non-related persons shall not be less than the lot area required under Section 27.70.020 for the zoning district in which the use is proposed to be located.

(e) If an application for the community unit plan located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the community unit plan.

27.67.065 Special Conditions; Community Unit Plan and O-3 Zoning District.

(a) In a community unit plan ~~and in the O-3 zoning district~~, the following parking regulations shall apply:

~~(a 1)~~ 1) Two parking spaces per dwelling unit, ~~however, except that dwellings for nonrelated persons shall have one space for each resident.~~ ~~†~~The City Council may reduce the community unit plan parking requirement to no less than one and one-half parking spaces per dwelling unit, except for dwellings for nonrelated persons, when the application includes information justifying the reduction;

~~(b 2)~~ 2) The location of required parking as set forth elsewhere in this chapter may be adjusted by the City Council;

~~(c 3)~~ 3) All other parking requirements ~~in the O-3 zoning district or in the district~~ or districts in which a community unit plan is located shall apply.

(b) In the O-3 zoning district, the following parking regulations shall apply:

(1) Two parking spaces per dwelling unit, however, the City Council may reduce the parking requirement to no less than one and one-half parking spaces per dwelling unit when the application includes information justifying the reduction;

(2) The location of required parking as set forth elsewhere in this chapter may be adjusted by the City Council;

(3) All other parking requirements in the O-3 zoning district shall apply.

27.70.020 Dwellings for Nonrelated Persons.

Dwellings for four to six persons not immediately related by blood, marriage, or adoption and living as a single housekeeping unit ~~on lots of one acre or more in area~~ shall be permitted under a community unit plan which is larger than 10 acres, provided that ~~one off-street parking space is supplied for each person in the housekeeping unit~~ the maximum number of persons occupying each dwelling and the total number of occupants shall not exceed the following lot area ratios: (**The double underlined portion is an amendment proposed by the applicant and approved by the Planning Commission on 10/17/01**)

(a) R-1, 1 occupant/3,000 square feet of lot area;

(b) R-2 and R-3, 1 occupant/2,000 square feet of lot area;

(c) R-4, 1 occupant/1,000 square feet of lot area;

(d) R-5, 1 occupant/750 square feet of lot area.

Notwithstanding the above, the maximum density of dwellings for nonrelated persons shall be subject to the overall maximum number of permitted dwelling units within the boundaries of the community unit plan as calculated in accordance with Section 27.65.020, including any reduction of density due to the size of the tract of land.

CHANGE OF ZONE NO. 3328

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 3, 2001

Members present: Newman, Duvall, Taylor, Steward, Carlson, Hunter and Schwinn; Bills and Krieser absent.

Staff recommendation: Approval

Jason Reynolds of the Planning Department submitted a proposed amendment to the text to move the parking requirement section to the section for parking within a CUP as opposed to a separate parking section. This amendment also adds language to the end of the dwellings for non-related persons section. The memo also outlines two conversations Reynolds has had with Commissioner Carlson in relation to this text amendment.

Reynolds noted that if the recommended change in the parking requirements text is going to be approved, then this application would need to be held over and readvertised.

Proponents

1. Mike Rierden appeared on behalf of **The Dinerstein Companies**. Back in 1972, the City Council approved a non-related occupant type of ordinance. This is an attempt to better that particular provision by tagging on some parking and square footage requirements in a CUP. Because of our meetings with the Mayor's office and Planning, we agree that this type of housing should be within a CUP. This text amendment is an accumulation of discussions he has had with the Law Department and Planning staff. It started out as a proposal he made and it has evolved into a good solution.

Section 27.67.065 would be the parking regulation which we really didn't have prior hereto. In the case of the 1st and Charleston application, the parking requirements would be 1 space per occupant of a bedroom in the project.

The amendment to section 27.70.020 limits this type of housing to a CUP and goes through the various zoning districts and puts square footage limitations as far as each unit. In the case of R-3, it would be 1 occupant for every 2,000 sq. ft. within a CUP. In the case of Special Permit No. 1928 at 1st & Charleston, the project will be built on approximately 22 acres. The total acreage for the CUP is 38 so the project is well below the maximum allowed.

Rierden pointed out that the density does not really increase with these changes. The density stays right with the base zoning district. Rierden believes this provides the city and the University community with additional types of housing with the safeguards built in. This change to the text will not be detrimental in other parts of the city.

Rierden advised that the applicant has met with the Mayor who indicated that this is the type of development that he envisions for this area (Special Permit No. 1928 at 1st and Charleston). It may be I-1 zoning right now, but the staff is suggesting that perhaps a subarea plan would be needed.

Rierden submitted that the subarea plan is happening today with the new baseball complex in place and this proposal. There is a letter in support from the property owner to the east. Things are happening in this area and Rierden believes the subarea planning is occurring.

Rierden advised that he has met with the North Bottoms Neighborhood Association and he anticipates a letter in support. They would rather see something like this than more I-1 zoning or impound lots. They are concerned about what might happen if the zoning is left as it is.

Rierden has also met with the West "O" Business Association and the University of Nebraska Association of Students. The Association of Students has not yet taken a vote but all indications are that they support the project.

2. A representative of The Dinerstein Companies out of Houston, Texas, testified in support. The Dinerstein Companies have been building multi-family housing for 45 years and have targeted student housing in University cities, e.g. Greenville, NC, Laramie, WY, Lansing, MI. They have complied with special permit regulations for 4-bedroom units in several college communities. The four bedrooms are necessary in the mix to make the construction feasible. The units are rented by the bedroom which allows The Dinerstein Companies to come into a University city and bring what is considered to be a high end property for students.

The Dinerstein Companies has a parking policy of one parking space per bedroom. They also provide guest parking. All residents are given a sticker for their automobile. Any vehicle that does not have a parking sticker is towed. Towing signs are posted on the site. There is full management staff on-site and a courtesy officer housed on site. The parking is enforced.

Newman noted that staff had requested the applicant to meet with the Neighborhood Roundtable. Rierden stated that he is on the Roundtable's October 11th agenda. This has been an evolving project in getting the language put together. Rierden did not want to go to the Roundtable until he had a final draft of the language. It wasn't until a week ago that the final draft was agreed upon between the applicant and the staff.

Hunter wanted to know how this text change would affect other areas of Lincoln. Rierden believes that it puts in some safeguards. The non-related persons dwellings must be within a CUP; it provides for a 2,000 sq. ft. per unit limitation; and adds the new parking protection. He believes that this betters the situation than it is today because this type of housing under the 1972 ordinance allows for it outside of a CUP where there would be no review process.

Jason Reynolds of Planning staff referred to page 123 of the agenda, which provides a chart showing the dwelling units per acre allowed in the base zoning district; in the CUP; and occupancy per acre. This text amendment does not increase the density that would otherwise be permitted in the zoning district.

Steward was not in favor of deferring the text amendment for readvertising and proceeding to vote on the 1st and Charleston project. Reynolds concurred that the CUP as proposed does require this text amendment before it can be approved because the CUP shows 4-bedroom units with the intention that there be 4 occupants. However, the Planning Commission is making a recommendation to the City Council.

Rierden urged that timing is critical on this project. Rick Peo of City Law Department suggested that the Commission could act on the existing proposal and then the revised proposal could be processed separately and could catch up before the CUP goes to the City Council.

3. Rich Wiese, 730 Pier 3, testified in support. The West “O” Business Association was concerned about the number of people living in a particular area because this area is experiencing problems where there are duplexes side by side with college students as residents. This proposal is acceptable.

Opposition

1. Carol Brown, resident and secretary of Landons Association and Chair of the Mayor’s Neighborhood Roundtable, requested that this application be deferred until the Roundtable has had the opportunity to fully review it. This proposal will affect all neighborhoods. She noted that Rierden represents a property owner to the east of 21st & Superior Street where the neighborhood would not want this to happen because of the concern about off-street parking. She confirmed that Mr. Rierden is scheduled to be on the Roundtable agenda on October 11th. Therefore, she requested a two-week delay until the Commission has heard from other neighborhoods. The parking and street issues need to be considered. She is not against or in favor. She is in favor of affordable housing. We just need to be real careful and expose it to the neighborhoods.

2. Danny Walker, 427 E Street, testified in opposition. He takes exception to Rierden’s testimony. He believes Rierden is making a lot of assumptions that are still up in the air. One is the reference to North Bottoms. There is no letter in support. There is no letter from the University Students Association. As far as the Planning Department approving something like this, he thinks it is amazing. Years ago the City got in trouble by standing back and not doing something on parking spaces in these complexes. They have loaded up streets that are not wide enough for two-lane traffic. As far as regulating the parking, it sounded good, but you need to keep in mind that the City finds it impossible now to enforce the current parking regulations. “This opens up a hornets nest”. There are already traffic problems in the area, which are going to increase. Wouldn’t the student housing be better suited in an area such as Antelope Valley rather than in the middle of a floodplain?

Response by the Applicant

Rierden feels comfortable with the language as presented. He would prefer to move forward. He will meet with the Neighborhood Roundtable before this goes to City Council. As far as the University Students Association and North Bottoms, Rierden was told by Sheryl Burbach that North Bottoms would be sending a letter in support, and the legal counsel for the University Students indicated they felt this was something that would add more types and selection of housing to the University community.

Reynolds clarified that the text amendment proposes that the parking requirement be 1 parking stall per occupant in the dwelling. This compares with 2 spaces per dwelling unit as required in the R-1 through R-4 districts. In R-5, the requirement is 1.75 spaces per dwelling unit. Within a CUP, the requirement is 2 spaces per dwelling unit. This text amendment provides more parking than is currently required by the CUP or the base zoning districts.

Carlson made a motion to defer for two weeks, seconded by Steward.

Duvall does not believe deferral is necessary.

Steward is in favor of a deferral because the text amendment affects every neighborhood in this city. He would prefer to clear up the language and have the opportunity for feedback from the neighborhoods at the same time.

Hunter believes that delay is preferable to error. This is possibly a very positive change but we need to make sure that it is good for everyone.

Newman will support the deferral because she is a true believer in the Neighborhood Roundtable for getting the news out to neighborhoods and this does impact every neighborhood.

Schwinn believes that these text amendments will actually help the neighborhoods but he agrees that they should be run through the Neighborhood Roundtable first.

Motion to defer with continued public hearing and administrative action scheduled for October 17, 2001, carried 7-0: Newman, Duvall, Taylor, Steward, Carlson, Hunter and Schwinn voting 'yes'; Bills and Krieser absent.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 17, 2001

Members present: Carlson, Steward, Hunter, Taylor, Duvall, Newman, Bills and Schwinn voting 'yes'; Krieser absent.

Jason Reynolds of Planning staff submitted a motion to amend requested by the applicant which adds the language that would permit dwellings for four to six non-related persons within a community unit plan as long as the community unit plan is larger than 10 acres in size.

Reynolds also submitted a letter from Carol and John Brown on behalf of the Landons Neighborhood Association with concerns about the impact of the text amendment on the community at large including such issues as parking, crime and traffic.

Proponents

1. Mike Rierden appeared on behalf of **The Dinerstein Companies**, the applicant. Rierden submitted a copy of the existing § 27.70.020, which allows dwellings for four to six persons not immediately related by blood, marriage or adoption and living as a single housekeeping unit on lots of one acre or more, provided that one off-street parking space is supplied for each person in the

housekeeping unit. Therefore, Rierden pointed out that this type of dwelling can be built in the city today if it meets the provisions of this portion of the ordinance. It does not require a community unit plan under the existing regulations. It doesn't even require a special permit at this time. Therefore, there is no review by the City, no notification to property owners or neighbors and no input by the neighborhoods. The proposed amendment to § 27.70.020 permits dwellings for four to six persons not related only in a community unit plan through the special permit process. The minimum lot area per dwelling would be based on the underlying zoning and the number of occupants. The density that would be permitted is similar to what would be allowed under the base zoning or a community unit plan.

The proposed amendment to § 27.65.030, which is the section containing the procedures for a community unit plan, adds "dwellings for non-related persons" to the list of housing types permissible in a community unit plan which is granted through the special permit process. This type of dwelling will no longer be allowed anywhere other than inside a community unit plan.

The proposed amendment to § 27.67.065 requires one off-street parking stall per occupant. When Rierden met with the Mayor's Neighborhood Roundtable, one of the concerns was the parking requirements. The Browns are concerned that maybe 20 parking stalls is not enough for guests. Rierden advised that an amendment to the special permit at 1st & Charleston will be submitted today revising the site plan to show 75 parking stalls for guests (instead of 20). Currently, under the base R-3 zoning, 2 parking stalls are required per dwelling unit and 2 per dwelling unit under a community unit plan. Therefore, this amendment will increase the parking requirements almost two-fold. The parking requirements cannot be adjusted by the City Council. Rierden also suggested that not all of the occupants will have cars.

Rierden recalled that there was some concern about density at the last meeting. He clarified that this text amendment does not increase the density.

Rierden then discussed his proposed amendment to § 27.7020 to require that the property be larger than 10 acres. The reason for this proposed amendment is because of the concern raised at the Mayor's Neighborhood Roundtable as to whether this type of development could be placed in existing neighborhoods. The original proposal would allow it in a community unit plan of at least 1-acre. With 10 acres it should take care of those concerns.

Newman believes that the concerns of neighborhoods are valid and she appreciates the proposed 10 acre minimum. Rierden believes that 10 acres would equate to 4 square blocks in an existing neighborhood. Therefore, it is unlikely that such a development would occur in an older existing neighborhood.

Carlson wondered whether there is any potential for language to make the 10 acre intent clear. Rierden suggested that he could meet with staff and come up with some refinement between now and when this is scheduled at City Council. Carlson just wants the ordinance to reflect the intention, i.e. preservation of and protection for existing neighborhoods.

Steward asked for clarification of the "intent". Is the intention to not have student housing in existing neighborhoods? Carlson asked Rierden to explain his sense of the intent of the amendment to 10 acres. Rierden believes the intent is to build in protections with the 10 acres and the requirement for

a community unit plan. It requires 2,000 sq. ft. per bedroom and one parking stall for each occupant. We have done everything we possibly can. Rierden would not be excited about saying “no student housing” because of the Fair Housing Act. Carlson suggested that the intention is not to bar student housing but to make sure that it is comparable in scale and aesthetics to what exists.

Carlson stated that he is trying to keep the text amendment separate from the associated project at 1st & Charleston. Therefore, what is the call and need for this text amendment? Are we accomplishing that or opening doors to something we do not want to happen or denying something that we do want to happen? Rierden believes there is a need for student housing; he believes that with the 10 acre minimum, it eliminates the concerns which the existing neighborhoods might have. Carlson noted that the city has had the three unrelated persons rule for a long time and he believes it has served well. He does believe that we may need to find creative ways in higher density areas to find additional housing opportunity so he is trying to get a sense of the call for that need.

Schwinn commented that a few years ago he was involved in building homes for the Associated Retired Citizens and many were located in R-1 zoning with upwards of 6 to 8 non-related people within those homes. Has there been a change in what we do? Reynolds explained that the ARC housing would fall under the group home definition, which is a conditional use in residential zoning districts and separate from a dwelling for non-related persons.

Steward expressed his concern that the CUP requirement is going to restrict larger community wide ramifications as strong as the University dwelling community is in this city. Are we putting in a restriction that is going to perhaps restrict future development opportunities for associated housing, or is it a requirement on our institution (UNL) that is unusual and new without them particularly being aware? He is concerned and unsure about the community-wide ramifications of this text change. Reynolds suggested that as far as the benefits of this proposed text, it does provide an additional housing option for the people of Lincoln that did not previously exist. We had dwellings for non-related persons, but they had to be on lots of 1 acre or more in size. With this text amendment, we can incorporate those dwellings into a CUP in areas which might not otherwise support them. Someone doing a fairly large development in one of the newer areas, generally a CUP, will have more than 10 acres. This type of housing could be incorporated into those newer neighborhoods. The staff’s initial recommendation was that it be approved without the 10-acre minimum. The parking is greater than required in any other residential district and the overall density is less than what is permitted in the base zoning district.

Hunter noted that she had made a request to Planning for some clarification as to why this project could not be approved as a special permit for this use as a spot zone rather than changing the text. Why can’t we take a special use that is appropriate for the area and make an exception to create this project in the location and not have an effect city-wide with the text amendment? Reynolds explained that the text proposes that dwellings for four to six non-related persons be permitted within a CUP with conditions. Currently, Lincoln has a definition of “family” that says only three unrelated persons can live in the same dwelling unit. That does not change. But in a CUP, which is a type of special permit, you would be permitted to have four to six non-related persons. If they wanted to proceed under the current zoning, they would have to show a maximum of three bedrooms for three non-related people, versus four bedrooms and four non-related persons. “There is no way to get there from here.”

Carlson discussed community impact. Is it positive or negative? This is a text amendment. He wants more discussion and answer for the community implications other than the applicant's client. He needs to decide if this text amendment is good for the community. It provides more housing opportunities, but he is looking for more information. Reynolds observed that the Comprehensive Plan includes a goal of having a diverse array of housing options; encourage efficient use of urban areas by providing high density residential uses; the public policy consideration section of the Comprehensive Plan talks about finding a place "...for the country estate and the city efficiency apartment, for the small private single family home and the large apartment suite, for the most affordable and most expensive dwelling unit, for completely independent living and for living within the care of others. Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community." Reynolds believes that this proposed text amendment accomplishes that goal by adding a housing option on lots that are 1 acre or more.

Carlson stated that he is not looking to deny student housing. He is thinking about the house that ends up with 8-10 unrelated people that creates an unhealthy environment and negative impact on surrounding properties. He wants to decide whether we can create an opportunity to do something we want to do without creating a negative impact. He thinks there is a value to a higher density housing type, student related or not.

Hunter suggested that maybe it is not so much designating where it can happen as to designating where it cannot happen.

Schwinn believes this text amendment makes it more restrictive.

2. Rich Wiese appeared on behalf of the **West O Area Business Association**, in support. This language came up at the Mayor's Neighborhood Roundtable meeting and there was some good discussion. The West O Area Business Association supports what is in front of the Commission with the changes that have been proposed. The Association has worked with Doc White for 3 ½ years to get the property to where we are today. It is a good development and it will work good for the City, the University and the neighborhood. He is on another board that is working towards trails being developed along Salt Creek, crossing Sun Valley and up to Oak Lake. This will allow riding a bicycle to the University.

Opposition

1. Danny Walker testified in opposition. There is some discussion of what can and cannot be done. The Commission must keep in mind that the Comprehensive Plan can be amended and changed at any time. We're talking about amendments. In regard to the 10 acre requirement, that's fine, except all that does is create additional stormwater runoff. As far as it being too restrictive for University residential properties, he believes it should call priority to the existing neighborhoods instead of to the transient students. Walker is opposed because the changes could be utilized in unfavorable locations such as older neighborhoods. It is very questionable that this 10-acre restriction would cover a situation such as rundown properties in the floodplain. State and Federal law prohibits landlords from showing discrimination toward renters. Anyone could take advantage of the text amendment. We could wind up with anything and everything residing in those properties.

2. Glenn Cekal testified in opposition. It seems like the city is pushing this for some unknown reason. There has been a lot of fantasy terms used, i.e. options, traditional living. They can have options to do things that are wrong or considered incorrect. The City of Lincoln cannot enforce proper conduct and living standards in the older sections of the City. The point is this: how are we going to maintain order in this place? The police cannot maintain order in this city on Saturday nights. We must bear in mind that this cannot be restricted to students. When you get a large group of young and energetic people, you will have to call out the National Guard to slow that thing down. This particular application is in an extremely hazardous area. He does not want this type of development to be able to occur all over town. There are health problems as far as location and getting this type of configuration of people together. He thinks the idea stinks. It is designed to make money and it has been wrapped in a very pretty package such as “options of living”. The truth has been lost. The problem is management. You can’t manage a place like this effectively.

3. Gary Hejl, 1745 Jefferson Avenue, member and representative of Antelope Park Neighborhood Association, testified in opposition. They are concerned how this change could affect their neighborhood and other established neighborhoods in the city. It appears that the proposal intended as student housing should probably be addressed by the University. It appears that this type of concentration of unrelated persons in this type of structure would be detrimental to the city. Great care should be used in changing this code, especially as it affects established neighborhoods and future building. The Association is concerned about what could happen and what has happened in smaller buildings in the city. Concentration of more than 500 people would be quite a change in magnitude of what can happen. If this were student housing, they would like to see the University create more student housing. If it is multi-unit dwellings, the Commission should address the need in the community when considering this text amendment rather than the specific proposed plan.

Carlson asked Hejl whether the 10 acre minimum would change his opinion. Hejl’s response was that even with 10 acres or more, it would not be a wise way to concentrate a population of unrelated people. We need a more social structure rather than single non-related people who are not necessarily students.

Steward pointed out that this can currently happen on 1 acre or less, and it can happen without any notification to you or your neighborhood association. Would you prefer it being as is or would you prefer a 10-acre condition? Hejl responded that “as is” is not acceptable in certain situations and to increase that size and magnitude does not seem wise. The ramifications of this concentration have not been explored. He believes the results would be very detrimental to the community.

4. Darren Adams, student at UNL, testified in opposition. He is not experienced in the language but from his personal experience he agrees that there are concerns about expanding the number of unrelated occupants. He used to live near some large apartment complexes where there would be parties every Friday night. There have been situation where accidents occur at these parties and the University ends up being sued.

Staff questions

Newman sought some clarification. If The Dinerstein Companies wanted to go into this area today and put up housing with 3-bedroom units, they could do that without changing the text. Reynolds agreed. Thus, Newman noted that they could put in 550-560 bedrooms with less amount of parking spaces required. Reynolds concurred.

Steward asked staff to return to the 1-acre minimum and speculate the impact of a CUP without the 10-acre minimum. Reynolds noted that to be the change of zone as originally proposed and recommended for approval. It provides alternative housing while maintaining approximately the same density in terms of number of persons and providing more parking than required in other zoning districts. It could be accomplished on lots that are at least 1 acre in size. Steward pointed out that what we achieve with that change and keeping the 1-acre minimum is the requirement for public notice and hearing. Reynolds concurred. Whatever version that gets adopted would require that every single one of these dwellings for non-related persons go through a public hearing process through Planning Commission and City Council.

Carlson also clarified that it would be 4-6 non-related persons in a single dwelling unit on one acre or more. Reynolds clarified that this text amendment provides guidelines for the amount of density based on the underlying zoning.

Response by the Applicant

Rierden reminded the Commission that we are taking a situation that could happen in existing neighborhoods today, without public hearing and staff review, that have an acre of land. This improves the existing requirements. It also implements a stronger, more restrictive parking regulation with the same density.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 17, 2001

Steward moved to approve the text amendment as recommended by staff. This does not include the 10-acre requirement. The motion was seconded by Schwinn.

Steward commented that this text amendment, in his opinion, allows a reasonable use of otherwise very difficult land. However, in other locations around the city, with a 10-acre requirement, it moves a development strategy for housing to very large concentrations. He believes that neighborhoods are best invigorated by mixed use and mixed characteristics. He would not like to see moving away from the opportunity for smaller developments. But he is in favor of this opportunity for public recognition and public review, which we have not had before.

Hunter stated that she cannot support this without the 10-acre requirement. This city has got manageable traffic problems at this point. While it may be desirable in terms of not creating sprawl, this density also enhances another problem—creating traffic problems and parking problems in areas where they already exist. She would prefer not to vote on this at all. While density may be a desired effect in certain areas, she believes this may create a bigger problem in another area which is not even feasible.

Carlson commented that a well-designed density can relieve traffic problems, but he does not know that this text amendment is calling for a design standard that talks about how that density will be accommodated. He is interested in finding creative well-designed ways to accomplish the density in the proper place. We do have the current definition of family which serves us well in a lot of circumstances. Does this text amendment provide well-designed density? It is not clear to him that it does and it may. But, does this open up Pandora's box and destroy neighborhoods? He does not think that it does. With the 10-acres he is more sure that it does not. We have the potential to do something good and we should mitigate that potential to the extent that we can.

Taylor likes the idea of a use of this land and he likes what the applicant is doing and he thinks the engineering and everything is being done very well. But bottom line, when we talk in terms of traffic, we are really talking about people. When talking about a text amendment, it really ends up with a concern about the populous of Lincoln. He has a concern about the type of clientele that we're seeking to serve in those areas. It is difficult to support something that he believes may potentially be a problem for the citizenry of this community.

Schwinn will support the amendment as it is with the one acre. It could equate to 42,000 sq. ft. and that's a large piece of land. Plus, the number of occupants is limited by the zoning. Even in the R-2 and R-3 on 1 acre, they could only have a maximum of 21 people. He believes the 1-acre gives the development community a greater flexibility in assembling parcels. 10 acres would tear up six blocks in an established neighborhood and that would be an impact to a neighborhood.

Motion to approve the staff recommendation with one-acre failed 4-4: Steward, Duvall, Bills and Schwinn voting 'yes'; Carlson, Hunter, Taylor and Newman voting 'no'; Krieser absent.

Steward left at this point in the meeting for another commitment.

Following a 10-minute break, Hunter made a motion to approve the text amendment with the minimum 10-acre requirement as proposed by the applicant, seconded by Duvall.

Hunter stated that she was extremely moved by the student that spoke in opposition. Every once in a while we keep hearing "student housing". This text amendment does not apply just to student housing. You have to look at a project like this which is well designed and probably is a need in our community and it provides the types of varieties of housing that will provide uses and facilities for all kinds of people. She believes it makes a lot of sense because it does provide a density that is affordable for students. But, there has to be some protection for neighborhoods. The concept of gathering up 10 acres of a residential property inside Lincoln and converting it to this type of use is not going to happen. The 10-acre requirement gives that comfort zone and each application would be considered on a case-by-case basis. This is a situation that is coming before the Planning Commission at this time, but in

the future she believes the Commission is going to be seeing things like gated communities—another type of housing that some people like. It is important to create housing appropriate for a lot of different kinds of people. She believes this is a good move.

Taylor stated that by getting more information over the break and with the idea that we want to make sure that we have assurances that this is something that can be manageable, he believes the idea of having 10 acres and looking at it on a case-by-case basis is acceptable. He has a lot of confidence in the engineering and the information he has received from The Dinerstein Companies. Therefore, if we can keep it in accordance to what they have proposed, he thinks we can come more to an agreement and he can come more closely to supporting it.

Newman stated that the key for her is that it is dwellings of 4-6 non-related people only under a CUP and only applicable to 10 acres or more. This is what was talked about at the Mayor's Neighborhood Roundtable and the major fear was that there would not be smaller blocks where something could be done that would drastically change a neighborhood. If the Commission is incorrect in these assumptions, she is sure the language will be cleaned up at City Council. She will vote in favor in the hopes that if there is a loophole that does not protect the neighborhoods, the City Council will address it.

Motion for approval, with the 10-acre requirement, carried 7-0: Carlson, Hunter, Taylor, Duvall, Newman, Bills and Schwinn voting 'yes'; Steward and Krieser absent.



Rodger P Harris

10/03/2001 11:15
AM

To: Jason W Reynolds/Notes@Notes
cc: Chuck A Zimmerman/Notes@Notes, Mel E Goddard/Notes@Notes
Subject: CZ 3328 revisions to 27.67.065 & 27.70.020 language

I have reviewed the above referenced sections language changes and believe these changes address the concerns discussed in our meeting last week.



Rodger P Harris

09/20/2001 03:28 PM

To: Jason W Reynolds/Notes@Notes

cc: Chuck A Zimmerman/Notes@Notes, Mel E Goddard/Notes@Notes

Subject: CZ 3328, Dwellings for Nonrelated Persons by SP as a CUP

I have reviewed the revised text of the above referenced text change and have the following comments to offer:

1. I am not aware of any existing buildings that exist under the existing provisions of Section 27.70.020 LMC, but if they do exist, then I believe they would become non-conforming if this text is changed, or possibly may be deemed to have a special permit per Section 27.63.040 LMC.
2. In an application where a CUP or part of a CUP is for Dwellings for Nonrelated Persons, the types of buildings and a schedule showing the number of bedrooms per dwelling unit, and the occupancy per dwelling unit must be provided with the application. Any approval language should specifically approve dwellings for 4 to 6 nonrelated persons, with plans that show where or what part of the CUP allows this use.
3. The last sentence of the revised text for Section 27.70.020 LMC should be amended to simply state that the maximum density for a Dwellings for Nonrelated Persons CUP shall be subject to any reduction in density for small CUP tract size, as calculated in accordance with Section 27.65.020 LMC.
4. While this proposed text change is related to a request for a development that would become in effect student housing, other future requests may not have such relationship. Nothing in this text change proposal would prohibit requests for amendment to existing or portions of existing CUP developments, or other existing developments, for Dwellings for Nonrelated Persons.
5. The number of occupants within a dwelling unit is difficult to regulate. A dwelling, whether a single dwelling or a number of dwellings in a multiple dwelling structure, is clearly defined as to use, types of rooms and number of bedrooms, in the construction process. The number of occupants of a dwelling may change from time to time without any obvious notice of such change, particularly if the changes in the number of occupants are subtle. The cumulative changes may become evident, too many cars, etc., with then the difficulty of determining where and how to enforce regulations.

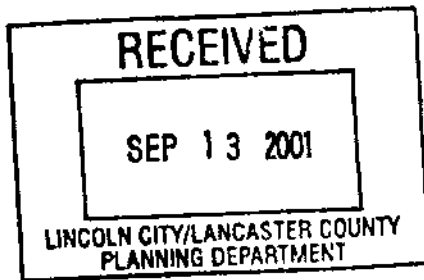
J. Michael Rierden
ATTORNEY AT LAW

CZ 3329
SP 1928

KAY
JR

TELEPHONE (402) 476-2413
TELECOPIER (402) 476-2948

THE GOTSWOLD
645 "M" STREET
SUITE 200
LINCOLN, NE 68508



September 10, 2001

Kathleen Sellman, Director of Planning
555 South 10th Street
Lincoln, Nebraska 68508

RE: Charleston Street Apartments/Student Housing

Dear Kathleen:

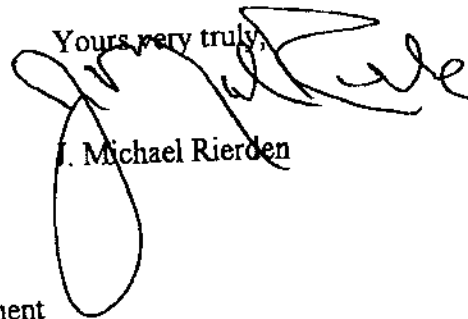
In an effort to keep you up-to-date on our efforts concerning the student housing development which we had spoken to you about several weeks ago I would like to let you know of the following progress we have made, to-wit:

1. On August 29, 2001, we met with Rich Wiese, who is President of the West O Business Association. Mr. Wiese said that the Association is fully in favor of the student housing proposal and would be providing us with a letter in support. Mr. Wiese said that the West O Business Association would also like to see this more of this type of development in the area along with other mixed uses rather than the intense industrial use which is currently zoned.
2. On August 28, 2001, we met with the Board of Directors of North Bottom Homeowners Association. Like the Business Association the Homeowners Association appeared to be in favor of the student housing proposal. There was a good discussion concerning security, parking, flood plain and other related issues. I believe that we satisfied their concerns. I have requested a letter of support from the Homeowners Association that we will present to the Planning Commission and City Council.
3. As you know, I am currently working with Jason and Rick Peo to refine the text amendment. I have received a memorandum from Rick dated September 5, 2001, with proposed language changes. In my initial review it appears that this language is satisfactory and accomplishes our goal and that it also protects existing neighborhoods.

Kathleen Sellman
September 10, 2001
Page 2

I will keep you posted of any further developments and if you should have any questions please feel free to contact me.

Yours very truly,

A handwritten signature in black ink, appearing to read "J. Michael Rierden". The signature is fluid and cursive, with a large loop at the end.

J. Michael Rierden

JMR/jdr

Pc: Paula Barrera, Dinersteen Companies
Mark Wuschleger, Director of Urban Development
Ron Ross, Ross Engineering

LINCOLN CITY - LANCASTER COUNTY
PLANNING DEPARTMENT



MEMORANDUM

Date: October 2, 2001
To: Planning Commission
From: Jason Reynolds, Planning *JR*
Subject: Text Change of Zone #3328 - Dwellings for Nonrelated Persons

Attached are proposed changes in the text for Change of Zone #3328. These changes are the result of a meeting with the Building and Safety Department and the City Attorney.

The amendment moves the parking requirements for nonrelated persons to Section 27.67.065, special parking conditions for a Community Unit Plan. In Section 27.70.020, the proposed amendment specifies that the density penalty for Community Unit Plans less than 10 acres in size applies to dwellings for nonrelated persons.

Please remove Section 27.67.040 from the motion and replace it with Section 27.67.065 as attached. If this change is made, action on this item must be delayed so that it may be advertised.

Please substitute the attached Section 27.70.020 for the one in your packets.

Jon Carlson met with me on Friday, September 28 concerning this text change. He asked me to identify the public benefits if the proposed language were to be adopted. The primary benefit of the proposed text is that it increases housing options within Community Unit Plans at a density comparable to what is currently allowed.

On Tuesday, October 2, he asked why the R-6 Residential zoning district was omitted from the proposed language. The R-6 zoning district is primarily found in already developed parts of the city, including College View, the Near South, and University Place. The R-5 Residential zoning district allows moderate multiple-family density and has been used in developing areas. Like the Community Unit Plan, the proposed language is not intended for small lot infill development.

I:\PC\CZ\3300\cz3328.motion.to.amend.jwr.wpd

27.67.065 Special Conditions; Community Unit Plan and O-3 Zoning District.

(a) In a community unit plan ~~and in the O-3 zoning district~~, the following parking regulations shall apply:

(a 1) Two parking spaces per dwelling unit, ~~however, except that dwellings for nonrelated persons shall have one space for each resident.~~ ~~†The City Council may reduce the community unit plan parking requirement to no less than one and one-half parking spaces per dwelling unit, except for dwellings for nonrelated persons,~~ when the application includes information justifying the reduction;

(b 2) The location of required parking as set forth elsewhere in this chapter may be adjusted by the City Council;

(c 3) All other parking requirements ~~in the O-3 zoning district or in the district or districts in which a community unit plan is located~~ shall apply.

(b) In the O-3 zoning district, the following parking regulations shall apply:

(1) Two parking spaces per dwelling unit, however, the City Council may reduce the parking requirement to no less than one and one-half parking spaces per dwelling unit when the application includes information justifying the reduction;

(2) The location of required parking as set forth elsewhere in this chapter may be adjusted by the City Council;

(3) All other parking requirements in the O-3 zoning district shall apply.

1 **27.70.020 Dwellings for Nonrelated Persons.**

2 Dwellings for four to six persons not immediately related by blood, marriage,
3 or adoption and living as a single housekeeping unit ~~on lots of one acre or more in~~
4 ~~area~~ shall be permitted under a community unit plan, provided that ~~one off street~~
5 ~~parking space is supplied for each person in the housekeeping unit~~ the maximum
6 number of persons occupying each dwelling and the total number of occupants shall
7 not exceed the following lot area ratios:

8 (a) R-1, 1 occupant/3,000 square feet of lot area;

9 (b) R-2 and R-3, 1 occupant/2,000 square feet of lot area;

10 (c) R-4, 1 occupant/1,000 square feet of lot area;

11 (d) R-5, 1 occupant/750 square feet of lot area.

12 Notwithstanding the above, the maximum density of dwellings for nonrelated
13 persons shall be subject to the overall maximum number of permitted dwelling units
14 within the boundaries of the community unit plan as calculated in accordance with
15 Section 27.65.020, including any reduction of density due to the size of the tract of
16 land.

LINCOLN CITY - LANCASTER COUNTY
PLANNING DEPARTMENT



MEMORANDUM

Date: October 4, 2001
To: Planning Commission
From: Jason Reynolds, Planning *JR*
Subject: Text Change of Zone #3328 - Linda Hunter Request for Information

Linda Hunter asked if it is possible to approve the Oak Creek C.U.P. by Special Permit and/or spot zoning.

The proposed text amendment requires that dwellings for non-related persons be included in a Community Unit Plan, which is a type of Special Permit. Per Lincoln's definition of "family" (§27.03.220), a maximum of three non-related persons may occupy a dwelling unit. However, if the applicant were to convert all of the four bedroom units into three bedroom units intended for three non-related occupants, the special permit for the Community Unit Plan could be approved without the proposed text change.

The Community Unit Plan as proposed - with four bedroom units intended for four non-related occupants - is prohibited under the current regulations.

Spot zoning is discouraged.

I:\PC\CZ\3300\cz3328.memo.to.hunter.jwr.wpd

27.70.010

Chapter 27.70

ADDITIONAL USE REGULATIONS

Sections:

- 27.70.010 Home Occupations.
- 27.70.020 Dwellings for Nonrelated Persons.
- 27.70.030 Subdivision Promotion Activity.
- 27.70.040 Lots Fronting Upon Private Roadways.
- 27.70.050 Requirements After Approval.

27.70.010 Home Occupations.

A home occupation may be carried on within a dwelling unit or accessory building under the following conditions:

(a) There is no sign other than one nonanimated, nonilluminated, nonreflecting nameplate not more than two square feet in area, which nameplate designates the home occupation carried on within, in letters not to exceed two inches in height and attached to the building wherein the home occupation is conducted.

(b) There is no commodity sold upon the premises except that which is prepared on the premises in connection with such occupation or activity or which is sold in relation and incidental to such occupation or activity. This section shall not prohibit the sale of restored antique articles on premises for which a second-hand dealer's permit has been issued by the city and which permit was in force and effect on May 30, 1981; provided, however, that the discontinuance of such sales for a continuous period of six months or the failure to pay the required occupation tax and maintain a current permit shall constitute a termination of the rights granted under this exception and thereafter any home occupation conducted upon such premises shall strictly conform to the conditions applicable to home occupations generally. Welding, vehicle body repair, mechanical repair, or rebuilding or dismantling of vehicles are not permitted as a home occupation.

(c) There is no person engaged in the home occupation employed on the premises other than a member of the family residing on the premises; provided, that the building official may approve one nonresident employee upon application by the owner showing:

- (1) Certification by the appropriate state or federal agency that the owner is physically disabled;
- (2) Certification of an attending physician that the owner cannot perform the tasks required by the home occupation without assistance; and

(3) There are no other employees either resident or nonresident engaged in the home occupation on the premises.

(d) Any activities carried on outdoors in connection with the home occupation is screened and there is no outdoor storage of any equipment, machinery, parts, or other articles of any nature used in connection with such home occupation, except that day care centers may have permanent play equipment such as slides and swing sets located in the required side or rear yards. The placement of play equipment in the required front yard of a day care center shall be permitted only by resolution of the City Council.

(e) There is no chemical, mechanical, or electrical equipment used which will cause noise or odors disturbing to the residents of surrounding property or interference with television or radio reception.

(f) The maximum allowable area that may be utilized in conducting such home occupation shall be equal to twenty percent of the floor area of the dwelling unit. (Ord. 14887 § 1; May 31, 1988; prior Ord. 14537 § 1; October 27, 1986; Ord. 13228 § 1; October 12, 1981; Ord. 12571 § 369; May 8, 1979).

27.70.020 Dwellings for Nonrelated Persons.

Dwellings for four to six persons not immediately related by blood, marriage, or adoption and living as a single housekeeping unit on lots of one acre or more in area shall be permitted, provided that one off-street parking space is supplied for each person in the housekeeping unit. (Ord. 12571 § 370; May 8, 1979).

27.70.030 Subdivision Promotion Activity.

In areas of new construction or lot development, a subdivision promotion activity may be established in a residential zoning district for the purpose of selling lots or homes in the area under the following conditions:

(a) The purpose of the subdivision promotion activity shall be to promote the sales of lots or homes in the subdivision or area in which the subdivision promotion activity is located or where similar homes are being constructed;

(b) Any office or similar premises used in connection with the subdivision promotion activity shall be located within a subdivision display home and no exterior reconstruction or any permanent alteration of the said display home shall be permitted in establishing said office;

(c) There shall be no sign on the premises other than those permitted in Chapter 27.69;

(d) The subdivision promotion activity may continue for a period of one year from the issuance of the

NO SPECIAL PERMIT REQUIRED

NO REVIEW BY CITY

NO NOTIFICATION TO NEIGHBORS

NO INPUT BY NEIGHBORS

27.65.030

Adds "dwellings for non-related persons" to the list of housing types permissible in a C.U.P. A C.U.P. is granted through the special permit process.

This type of dwelling would no longer be permissible outside a C.U.P.

27.67.065

1 off street parking stall per occupant

This is more off street parking than is required in any other residential zoning district.

<u>Base Zoning</u> (R-3)		<u>C.U.P.</u>		<u>Text Amendment</u>
2 parking stalls per dwelling unit		2 parking stalls per dwelling unit		4-6 parking stalls per dwelling unit

The 1 space per occupant parking requirement cannot be adjusted by the City Council.

The proposed project has 589 occupants and 610 parking stalls. Not all students have cars.

27.70.020

Dwellings for four to six persons not related would be permitted only in a C.U.P. through a special permit.

The minimum lot area per dwelling would be based on the underlying zoning and the number of occupants.

R-3 – 1 occupant for every 2,000 square feet

$589 \times 2,000 = 1,178,000$ square feet

$1,178,000 \div 45,560 = 27$ acres

Proposed project needs at least 27 acres to have 589 bedrooms. Project has 38 plus acres.

The density that would be permitted is similar to what would be allowed under the base zoning or a C.U.P.

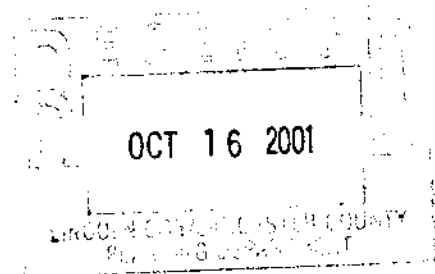
<u>Base Zoning</u> (R-3)		<u>C.U.P.</u>		<u>Proposed Text</u>
21 occupants per acre		20 occupants per acre		21 occupants per acre

27.70.20 DWELLINGS FOR NONRELATED PERSONS.

Dwellings for four to six persons not immediately related by blood, marriage, or adoption and living as a single housekeeping unit shall be permitted under a community unit plan, which is larger than 10 acres, provided that one off-street parking space is supplied for each person in the housekeeping unit the maximum number of persons occupying each dwelling and the total number of occupants shall not exceed the following lot area ratios:

- (a) R-1, occupant/3,000 square feet of lot area;
- (b) R-2 and R-3, 1 occupant/2,000 square feet of lot area;
- (c) R-4, 1 occupant/1,0000 square feet of lot area;
- (d) R-5, 1 occupant/750 square feet of lot area.

Notwithstanding the above, the maximum density of dwellings for nonrelated persons shall be subject to the overall maximum number of permitted dwelling units within the boundaries of the community unit plan as calculated in accordance with Section 27.65.020, including any reduction of density due to the size of the tract of land.



ITEM NO. 4.1a,b,c: CHANGE OF ZONE NO. 3328
CHANGE OF ZONE NO. 3329
SPECIAL PERMIT NO. 1928
(p.141 - Cont'd Public Hearing -- 10/17/01)



WHjermstad@ci.lincoln
.ne.us

10/08/2001 10:09 AM

To: Sheryl K Burbach <sburbach@juno.com>
cc: aburbach@les.com, AMcRoy@ci.lincoln.ne.us,
Andylenny3@aol.com, architex@inetnebr.com, campjon@aol.com,
carolserv@hotmail.com, council@ci.lincoln.ne.us,
dpodany@ci.lincoln.ne.us, edcaudill@juno.com, FSMITH1@unl.edu,
jcjc@navix.net, kblessen@aol.com, kelnash@aol.com,
melvin.j.burbach@pfizer.com, morley@boystown.org,
plan@ci.lincoln.ne.us, sm93906@alltel.net, ssschmidt@unl.edu
Subject: Re: Dinerstein Student Housing Development

I just read the article (thanks, Ed, for sending it out). The fact that the requested zoning change would pertain to community unit plans AND require a special permit should protect the neighborhood from allowing 6 or more unrelated people to live together. Community unit plans (though I don't know a lot about them) are for developments of a certain size (I believe several acres) and I've never seen one in a developed area - only undeveloped areas. Adding the special use permit is another safety net. Having said that, I think it is important that you continue to let Planning Commissioners and City Council members know about your concerns.

wynn

Sheryl K
Burbach
<sburbach@jun
o.com>

10/07/2001
10:53 PM

To: AMcRoy@ci.lincoln.ne.us,
council@ci.lincoln.ne.us,
plan@ci.lincoln.ne.us,
campjon@aol.com, jcjc@navix.net
cc: aburbach@les.com,
edcaudill@juno.com,
FSMITH1@unl.edu,
kblessen@aol.com,
kelnash@aol.com,
Andylenny3@aol.com,
melvin.j.burbach@pfizer.com,
architex@inetnebr.com,
sm93906@alltel.net,
sschmidt@unl.edu,
WHjermstad@ci.lincoln.ne.us,
morley@boystown.org,
dpodany@ci.lincoln.ne.us,
carolserv@hotmail.com
Subject: Dinerstein Student
Housing Development

Let me clarify the North Bottoms' position on the proposed student housing complex near Oak Lake. The board favors this project as long as it does not require a change to the current zoning law. If an exception to the zoning law can be made for this development, without affecting the city as a whole, we would support such an exception. While we favor the residential development of this area, changing the zoning law to allow for the 6 unrelated people per single dwelling would be a disaster for the North Bottoms and any other neighborhood near the UNL or Wesleyan campuses. Lincoln's residential neighborhoods,

particularly its older, historic ones, can not bear the increased density this change would bring.

Parking space demand in high density areas is already at or beyond capacity. This change would only exacerbate this problem.

If any change of zoning is considered, it should be to reduce the number of unrelated people allowed per single dwelling.

Sheryl Burbach
917 Claremont Street
Lincoln, NE 68508
402-475-0201
sburbach@juno.com

IN SUPPORT

ITEM NO. 3.2a,b,c: CHANGE OF ZONE 3328
CHANGE OF ZONE 3329
SPECIAL PERMIT 1928

(p.121 - Public Hearing - 10/03/01)

CHAMELEON & COMPANY, INC.

641 PIER ONE, LINCOLN, NE 68528
PHONE: (402) 475-4746 FAX: (402) 475-4771

October 1, 2001

Planning Commission
555 South 10th Street
Lincoln, Nebraska 68508

RE: Oak Creek Apartments
North 1st Street & Charleston Street

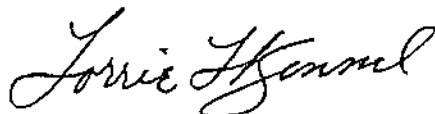
The purpose of this letter is to express support for the redevelopment of the Oak Lake area, including the recently completed Haymarket Park and the proposed Oak Creek Apartments to be located west of North 1st Street & Charleston Street.

Last year I purchased approximately 50 acres of land west of Sun Valley Blvd., south of Charleston Street, and north of the Union Pacific Railroad. I have obtained a Flood Plain Permit for my property and at this time I plan to begin development in this general area in the next 12 to 18 months. My understanding is that the State of Nebraska and the City of Lincoln are looking to realign the existing Sun Valley Blvd. and tie into the intersection of North 1st & Charleston Street. I would like to see this area developed with smaller tracts of commercial and service uses, as compared to larger industrial uses. Therefore, I am contemplating submitting a Change of Zone for this area from Industrial to Highway Commercial.

I also feel that the intended uses I have in mind for this area, coupled with the existing mini-storage units located north of Charleston Street, will be compatible with the proposed student housing project. I encourage the Planning Commission to support the Change of Zone requested by the Dinerstein Companies to R-3 Residential along with the Special Permit for the 156-unit apartment project.

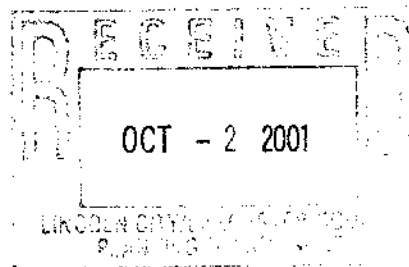
If the City of Lincoln supports the proposed Oak Creek apartments I feel this will encourage the redevelopment of the area south of Oak Creek with more upscale development, which will compliment the area, just as Haymarket Park has done.

Yours truly,



Lorrie Kennel
President, Chameleon & Co., Inc.

Cc: Kathleen Sellman
Paula Barrera
Ron Ross
Mike Rierden



IN SUPPORT

ITEM NO. 3.2a,b,c: CHANGE OF ZONE NO. 3328
CHANGE OF ZONE NO. 3329
SPECIAL PERMIT NO. 1928
(p.121 - Public Hearing - 10/03/01)

**WEST "O" STREET AREA BUSINESS ASSOCIATION
540 W. INDUSTRIAL LAKE DRIVE
LINCOLN, NE 68528**

October 3, 2001

To: All City-County Planning Commissioners

Re: Change of Zoning #3328 & #3329
Special Permit # 1928

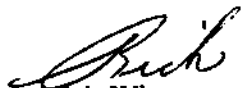
After seeing and being informed, by the developer and Mike Rierden, of the site layout for Dr. White's property, we as West "O" Street Area Business Association, support this development on an orderly manner.


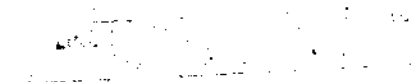
We believe this is the only good use of this property in our Association's boundaries.

The wetland on this property will be deeded over to the Lower Platte South NRD and be made part of the "Lincoln Saline Nature Center".

For this we say thanks.

Sincerely,


Rich Wiese,
President


OCT - 3 2001


cc: Mike Rierden



"Carol and John
Brown"
<carolserv@hotmail.com>

To: <plan@ci.lincoln.ne.us>
cc:
Subject: zoning change

10/16/2001 09:32 PM

To the Planning Commission:

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

In regard to the proposed text amendment to the zoning ordinance- Dwellings for non-related persons (zone no. 3328). Landons Neighborhood association still has a few concerns that we would like you to consider in your decision making process. The first of these would be that this is a special permit or should be, instead of a change of zone, so as to protect other areas of the community from this kind of development where it would not be acceptable. We have concerns as far as some impact this development would have on the community at large and that would be the parking, crime, and traffic. 20 parking stalls for visitors to us does not seem to be enough considering the population of these living arrangements. We believe you should also contact the police department to develop some insight into how the crime level was impacted in other communities by these type of living arrangements. Last but not least <?xml:namespace prefix = st1 ns = "urn:schemas-microsoft-com:office:smarttags" />Sun Valley Blvd. will not see improvements for some time we believe this will burden a very very busy road even more. The very last thing is please ask Mr. Rierden for us if this development will impact the BMX track....would like to hear it from the horse's mouth!

Thank You,
Sincerely,

Landons Neighborhood Association
John Brown-President
435-6686 office
435-8932 home

TO: Lincoln City/Lancaster County Planning Commission

10-17-01

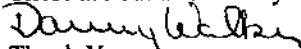
Subject Matter: Change of Zone No. 3328 to amend Title 27 of Lincoln Municipal Code and Change of Zone No. 3329 and Special Permit No. 1928, Student Housing Community Unit Plan..

- 1.. Amendment of Title 27.. Lincoln cannot properly enforce the current provisions in regards to student housing..
2. With proper comp. Plan amendments (which incidentally is a common occurrence in the City of Lincoln) the changes could be utilized in unfavorable locations, such as , older neighborhoods..
3. Student housing sounds good, however, state and federal laws prohibits landlords from showing discrimination towards possible renters. In essence anyone could take advantage of the proposed Title 27 changes which in itself could create major problems like the City of Lincoln now contends with.

Change of Zone No. 3329 and Special Permit No. 1928, Student Housing Community Unit Plan.

1. The entire project lies within the 100 year floodplain which will require fill and it is irrelevant as to where the fill is obtained from.
2. Evidently the project could not meet no net rise provisions as this fact is not mentioned in any paper work I have reviewed.
3. Portions of the complex is located in the proximity of railroad tracks which are utilized to transport hazardous materials on occasion. Direct your attention to the Health Department report.
4. The proposed development is in proximity of the City of Lincoln Tow Lot which also is located within the 100 year floodplain and only has provisions for approximately twenty (20) tie downs to accommodate 400 to 600 impounded vehicles in the event of a major flood. Which in itself creates an additional risk to the proposed development. Incidentally, public testimony given to the Lincoln City Council by Public Works stated that their would be tie downs provided for all impounded vehicles which amounted to a lie on the part of City of Lincoln Department of Public Works and Building and Safety.
5. A major portion of the storm water runoff from the proposed development will drain into Oak Creek which currently handles run off from Home Base storage located at 1701 No. First St. and the Pfizer Saline Wetlands at First and Cornhusker. Incidentally, keep in mind the fact that Oak Creek drains into SALT CREEK which I might add, the City of Lincoln has created a possible major flood threat out of as a result of very poor planning. Which I might add, the so called esteemed Planning Commission has had a part in contributing.
6. IN the event of a major flood how would emergency vehicles enter the proposed development.
7. There are large amounts of fill being placed in areas surrounding the proposed development which no doubt will add to the risk of flooding. In addition, what is proposed to be built at the other fill locations? Will they be compatible with the proposed development??

These are but a few of myself and others concerns that reside in the Salt Creek Floodplain.



Thank You
Danny Walker

Cc file