

City Council Introduction: **Monday**, June 6, 2005
Public Hearing: **Monday**, June 13, 2005, at **1:30 p.m.**

Bill No. 05-72

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 05037**, requested by the Director of Planning, to amend Section 27.35.070(e) of the Lincoln Municipal Code relating to required yards adjacent to walls with windows for residential uses in the B-4 Lincoln Center Business District.

STAFF RECOMMENDATION: Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 05/25/05
Administrative Action: 05/25/05

RECOMMENDATION: Approval (8-0: Sunderman, Carroll, Larson, Taylor, Krieser, Carlson, Pearson and Bills-Strand voting 'yes').

FINDINGS OF FACT:

1. This proposed amendment to Title 27 will continue to require separation adjacent to walls with residential windows in new buildings, but will lessen the greatest requirement (from 20 feet to 16 feet) and would permit one additional means of establishing that separation by counting the full width of an alley adjacent to a wall with windows. Most platted alleys downtown measure 16 feet wide, so in many instances, the alley could provide the necessary separation.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-3, concluding that the proposed text amendment is in conformance with the Comprehensive Plan.
3. On May 25, 2005, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On May 25, 2005, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: May 31, 2005

REVIEWED BY: _____

DATE: May 31, 2005

REFERENCE NUMBER: FS\CC\2005\CZ.05037

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for May 25, 2005 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 05037

PROPOSAL: To amend the text of Section 27.35.070 (e) of the Lincoln Zoning Ordinance

CONCLUSION: In conformance with the Comprehensive Plan.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

HISTORY:

November 26, 1990 City Council adopted ordinance 15728 to amend the zoning code, including chapters 27.35.030 and 27.63.410, to create a special permit for dwelling units in existing buildings in the B1, B3, and B4 districts with windows in walls facing yards as narrow as 5 feet.

1990-2005 Various existing buildings downtown, especially in Haymarket, are redeveloped with residential uses above the first story, some with windows at or near property lines, making use of the special permit provided in LMC 27.63.410.

ANALYSIS:

1. In the B-4 Lincoln Center Business District, no yards are required for most uses. Buildings can generally be constructed to the property lines. However, for residential uses yards are required adjacent to walls with windows used by the residences. Five-foot yards are required for building under 35 feet in height, 10-foot yards for buildings between 35 and 50 feet tall, and 20-foot yards adjacent walls with residential windows in buildings over 50 feet tall.
2. Strict application of these provisions would impede the redevelopment of many buildings for residential uses, when the buildings were constructed on property lines.
3. For flexibility, that separation is allowed to be achieved vertically or horizontally, and adjacent to courtyards. Half the width of an alley may also be counted as part or all of the required separation. A special permit was adopted in 1990 to allow review and approval of residential uses in existing buildings with as little as 5-foot separation. Most new housing created downtown in recent years has been in existing buildings. The YWCA housing at O Street and Centennial Mall has been one noteworthy exception. Most of its windows face an interior courtyard and a rear parking area.

4. New, taller residential buildings downtown are presently required to be designed with setbacks or yards quite different from existing buildings renovated into housing.
5. This amendment to Section 27.35.070 (e) would continue to require separation adjacent to walls with residential windows in new buildings but would lessen the greatest requirement (from 20 feet to 16 feet) and would permit one additional means of establishing that separation by counting the full width of an alley adjacent to a wall with windows. Most platted alleys downtown measure 16 feet wide so in many instances the alley could provide the necessary separation.
6. The Comprehensive Plan's "Principles for Downtown" urges:
Development in the existing and expanding Downtown will maintain the urban environment, including a mix of land uses and residential types. [emphasis added]
 (F49)
 Encouragement of residential uses downtown is in conformance with the Comprehensive Plan.
7. Following is the proposed text within **27.35.070 Height and Area Regulations:**

(e) Where a yard is not otherwise required, a yard shall be required adjacent to any wall of a building which contains windows for dwelling units. The yard requirement shall be five feet for structures under thirty-five feet in height, ten feet for structures thirty-five to fifty feet in height, and ~~twenty~~ sixteen feet for those structures over fifty feet in height. Depending upon the location of said windows, this yard may be a side yard, a rear yard, or located in or on an interior courtyard. If the required yard abuts an alley, ~~one-half the width~~ of the alley may be counted as part or all of the required yard. This yard need not start at ground level but may begin on the top surface of a ~~nonresidential~~ building.

Prepared by:

Ed Zimmer
 Historic Preservation Planner

DATE: May 16, 2005

APPLICANT: Director of Planning, Marvin S. Krout

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 Lincoln, NE 68508
ezimmer@lincoln.ne.gov

CHANGE OF ZONE NO. 05037

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

May 25, 2005

Members present: Carlson, Carroll, Krieser, Larson, Pearson, Bills-Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 2382B, an amendment to the STONY RIDGE PLANNED UNIT DEVELOPMENT; CHANGE OF ZONE NO. 05037; CHANGE OF ZONE NO. 05019; MISCELLANEOUS NO. 05006; SPECIAL PERMIT NO. 05024; COUNTY SPECIAL PERMIT NO. 05025; COMPREHENSIVE PLAN CONFORMANCE NO. 05004; ANNEXATION NO. 05011; CHANGE OF ZONE NO. 05034; and PRELIMINARY PLAT NO. 05008, EAGLETON HEIGHTS.**

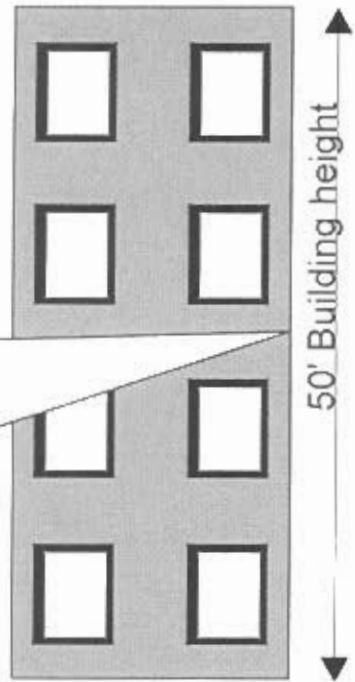
Ex Parte Communications: None.

Item No. 1.1, Change of Zone No. 2382B; Item No. 1.6, Comprehensive Plan Conformance No. 05004; Item No. 1.7a, Annexation No. 05011; Item No. 1.7b, Change of Zone No. 05034; and Item No. 1.7c, Preliminary Plat No. 05008 were removed from the Consent Agenda and scheduled for separate public hearing.

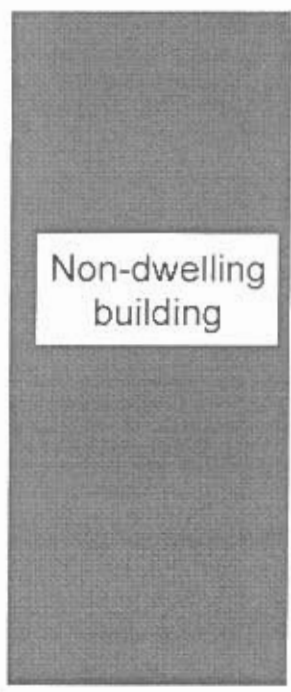
Larson moved to approve the remaining Consent Agenda, seconded by Taylor and carried 8-0: Carlson, Carroll, Krieser, Larson, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on Comprehensive Plan Conformance No. 05004 and Eagleton Heights Preliminary Plat No. 05008, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

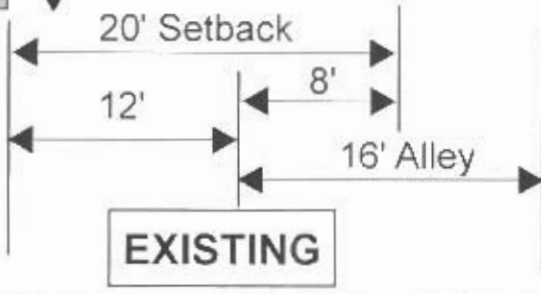
Wall of a building which contains windows for a dwelling unit.



50' Building height

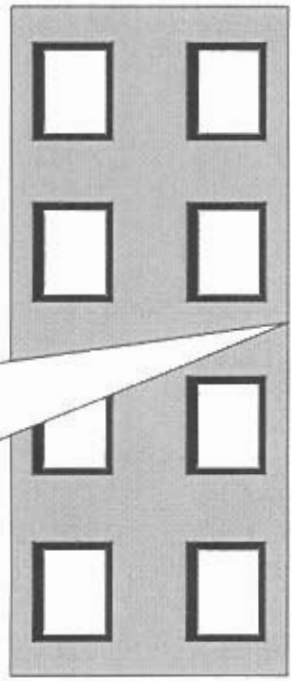


Non-dwelling building



EXISTING

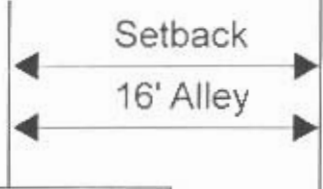
Wall of a building which contains windows for a dwelling unit.



50' Building height



Non-dwelling building



PROPOSED