

City Council Introduction: **Monday**, September 22, 2008  
Public Hearing: **Monday**, September 29, 2008, at **5:30 p.m.**

Bill No. 08-131

## **FACTSHEET**

**TITLE: CHANGE OF ZONE NO. 08045**, requested by the Director of Planning, amending Title 27 of the Lincoln Municipal Code (the Zoning Ordinance) to clarify that group homes must comply with all applicable state and local code requirements and to add domiciliary care facility and elderly or retirement housing as a conditional permitted use in the R-5, R-6, R-7, R-8 and O-3 zoning districts.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda: 09/10/08  
Administrative Action: 09/10/08

**RECOMMENDATION:** Approval (7-0: Carroll, Cornelius, Esseks, Taylor, Larson, Partington, and Sunderman voting 'yes'; Gaylor Baird and Francis absent).

**STAFF RECOMMENDATION:** Approval.

### **FINDINGS OF FACT:**

1. This is a request by the Director of Planning to add domiciliary care facilities, elderly housing and retirement housing as a conditional use in the R-5, R-6, R-7, R-8 and O-3 zoning districts. This amendment incorporates the additional parking requirements for elderly and retirement housing in the parking chapter. This amendment also clarifies that group homes must comply with all applicable state and local code requirements.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-4, concluding that the proposal would allow domiciliary care facilities, elderly housing and retirement housing as conditional uses in the O-3 district and in districts which allow multiple family dwellings by right.
3. On September 10, 2008, 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 September 10, 2008, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval (Gaylor Baird and Francis absent).

**FACTSHEET PREPARED BY:** Jean L. Preister

**DATE:** September 15, 2008

**REVIEWED BY:** \_\_\_\_\_

**DATE:** September 15, 2008

**REFERENCE NUMBER:** FS\CC\2008\CZ.08045 text

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**  
**for SEPTEMBER 10, 2008 PLANNING COMMISSION MEETING**

- PROJECT #:** Change of Zone No. 08045
- PROPOSAL:** Add domiciliary care facilities, elderly housing, and retirement housing as a conditional use to the R-5, R-6, R-7, R-8, and O-3 districts. The amendment also clarifies that group homes must comply with all applicable state and local code requirements. The amendment adds the additional parking requirements for elderly and retirement housing to the parking chapter.
- LOCATION:** Sections of the Lincoln Municipal Code 27.19.030, 27.21.030, 27.23.030, 27.24.030, 27.27.025, and 27.67.040.
- CONCLUSION:** The proposal would allow domiciliary care facilities, elderly housing, and retirement housing as conditional uses in the O-3 district and in districts which allow multiple-family dwellings by right.

<b><u>RECOMMENDATION:</u></b>	Approval
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**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See attached draft ordinance.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

A second demographic trend of significance is the continuing growth in the area's senior population. Issues relating to an aging population will increase in importance as more and more individuals reach the age of 65 and above. Over the next twenty five years, this segment of the community will similarly grow in number and as a percent of the overall population base. This will place greater emphasis on the unique transportation, housing, economic, and recreational needs of this expanding demographic segment. (p. 2)

A safe residential dwelling should be available for each citizen: the efficiency apartment and the country estate, the small single family "starter" home and the large downtown apartment suite, the most affordable and the most expensive dwelling unit, completely independent living and 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. (p. 65)

Create housing opportunities for residents with special needs throughout the city that are compatible with residential neighborhoods. (p. 66)

Plan for sufficient and varied choices for the location of elderly housing. Encourage elderly housing to locate in areas designated for mixed-uses where the elderly housing would serve as a transitional use to less intensive residential development. (p. 72)

There are notable differences between elderly housing and traditional multiple-family residential developments. Typically, elderly housing will have fewer occupants per unit and will generate less traffic than housing built for the general marketplace. Thus, a location that is deemed appropriate for elderly housing may not be deemed appropriate for other types of higher-density housing such as multiple-family or town homes. (p. 72)

**REGIONAL ISSUES:** Generally speaking, the population of Lincoln and the United States as a whole is aging and people are also living longer. There is a likelihood that the demand for domiciliary care facilities and elderly or retirement housing will increase over the next few decades.

The text amendment would allow these types of uses to be built in multiple-family districts if they meet conditions. This may influence more facilities to locate in the multiple-family districts where there is already a mix of apartments rather than within a predominately single-family district by special permit.

**ZONING DEFINITIONS FOR REFERENCE:**

**27.03.175: Domiciliary Care Facility.**

Domiciliary care facility shall mean an institution, facility, place, building, or structure in which there is provided for a period exceeding twenty-four consecutive hours:

- (a) Accommodations and supervision to four or more persons sixty years of age or older who are unrelated by blood, marriage, or adoption and who are essentially capable of managing their own affairs, but who are in need of supervision, including supervision of nutrition, on a regular and continuing basis but not necessarily on a consecutive twenty-four hour basis; or
- (b) Accommodations, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more persons sixty years of age or older who are unrelated by blood, marriage, or adoption who by reason of illness, disease, injury, deformity, disability, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own affairs, but who do not require the daily services of a licensed, practical, or registered nurse.

Domiciliary care facilities may include accessory uses such as beauty parlors, pharmacies, gift shops, ice cream parlors, banks, or similar uses provided for the convenience of the residents. However, such accessory uses shall be located entirely within the facility and shall not have any separate entrance, but shall be accessible through an interior lobby, corridor, or passageway of the facility. No accessory use shall have any sign which is visible from the exterior of the facility. The total floor area occupied by all such accessory uses shall not exceed five percent of the floor area of the facility or 2,000 square feet, whichever is less, and each use shall not exceed 300 square feet.

**27.03.214: Elderly or Retirement Housing.**

Elderly or retirement housing shall mean a housing project which incorporates specific features designed to alleviate access problems commonly experienced by the elderly, and in which each occupied dwelling unit is occupied by at least one person of sixty years of age or more, except as provided in Section 27.63.210.

**27.03.300: Group Home.**

Group home shall mean a building or structure licensed or approved by the State or an appropriate agency, if required, used as any one of the following:

- (a) A facility in which 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;
- (b) A facility engaged in the service of exercising 24-hour daily care, supervision custody, or control over more than three but less than sixteen children, for compensation or hire in lieu of the care or supervision normally exercised by parents in their own home.

**ANALYSIS:**

1. Domiciliary care facilities, elderly housing, and retirement housing are somewhat similar in building mass and footprint to multiple-family dwellings that are allowed by right, but typically have less traffic and parking impact on the neighborhood. Therefore, there does not seem to be a reason to treat them differently in the zoning ordinance in districts that

allow multiple-family dwellings. All of these uses would remain as special permitted uses in the R-1 to R-4 districts. A special permit is still required for these uses in R-5 to R-8 if any adjustments such as parking, increased density, and yard reductions are requested. Adjustments requested for these types of uses may be handled by the use permit in the O-3 district.

2. Allowing domiciliary care facilities, elderly housing, and retirement housing as conditionally permitted uses may make it easier or more attractive for these types of uses to locate in multiple-family zoning districts since no special permit process would be required unless they request adjustments. This would theoretically relieve some pressure for the development of these kinds of uses in the R-1 to R-4 Residential Districts due to some time and cost savings when avoiding the special permit process.
3. Group homes will remain a permitted conditional use in the R-1 to R-8 Residential Districts. The text amendment modifies and clarifies the conditions of group homes and makes the conditions consistent with that of domiciliary care facilities.
4. The requirement that a parking stall with a minimum width of twelve feet be provided at the rate of one for every ten total stalls for elderly or retirement housing has been added to the parking chapter.

Prepared by:

Brandon M. Garrett, AICP  
Planner

**DATE:** September 2, 2008

**APPLICANT:** Marvin Krout  
Planning Director  
Lincoln/Lancaster County Planning Department  
555 S. 10<sup>th</sup> St., Ste. 213  
Lincoln, NE 68508

**CONTACT:** Brandon Garrett  
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402-441-6373

# CHANGE OF ZONE NO. 08045

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

September 10, 2008

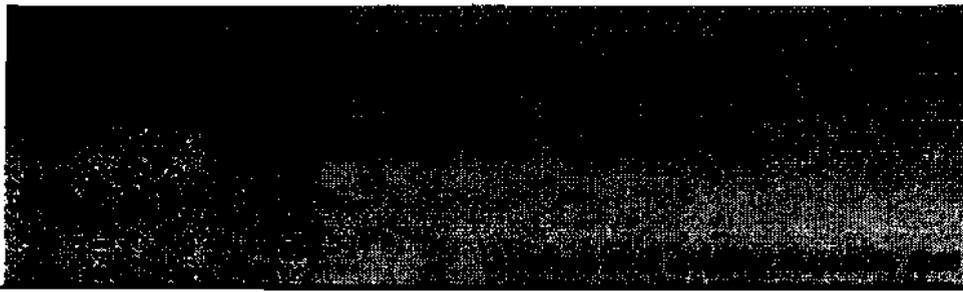
Members present: Carroll, Cornelius, Esseks, Francis, Larson, Partington, Sunderman and Taylor; Francis and Gaylor Baird absent.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 08023, CHANGE OF ZONE NO. 08045, CHANGE OF ZONE NO. 08047, COUNTY CHANGE OF ZONE NO. 08044, COUNTY MISCELLANEOUS NO. 08010, STREET AND ALLEY VACATION NO. 08004; and STREET AND ALLEY VACATION NO. 08007.**

Ex Parte Communications: None

**Item No. 1.3, Change of Zone No. 08047,** was removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved to approve the remaining Consent Agenda, seconded by Larson and carried 7-0: Carroll, Cornelius, Esseks, Larson, Partington, Sunderman and Taylor voting 'yes'; Gaylor Baird absent; Francis absent at time of vote.



Status of Review: Denied

08/18/2008 1:07:32 PM

Reviewed By Building & Safety

Terry Kathe

Comments: Need conditions to be concrete factual numbers. This office cannot decide policy or dictate opinion on design and waivers. Talked to Brandon.

Must leave SP section for requests of reductions.

Status of Review: Approved

08/21/2008 11:59:03 AM

Reviewed By Health Department

ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT INTER-OFFICE COMMUNICATION

TO: Brandon Garrett DATE: August 21, 2008

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Text Amendment:

EH Administration Domiciliary & Elderly

Housing

CZ #08045

The Lincoln-Lancaster County Health Department has reviewed the change of zone application and does not object to the proposed text changes.

Status of Review: Active

Reviewed By Law Department

ANY

Comments:

Status of Review: Active

Reviewed By Planning Department

PLANNER

Comments:

Status of Review: Complete

Reviewed By Planning Department

RAY HILL

Comments:

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Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

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Status of Review: Complete

08/19/2008 8:18:49 AM

Reviewed By Public Works - Development Services

SIETDQ

Comments: Memorandum□□  
□

To:□Brandon Garrett, Planning Department

From:□Dennis Bartels, Engineering Services

Subject:□Change of Zone #08045, Text Amendment for Elderly Housing Domiciliary Care

Date:□August 19, 2008

cc:□Randy Hoskins

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The text amendment to change "Domiciliary Care Facilities and Elderly or Retirement Housing" from a special permitted use to a conditional use in the R5, R6, R7 and R8 districts and as conditional uses in the 03 district is satisfactory to Engineering Services.

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