

FACTSHEET

TITLE: TEXT AMENDMENT NO. 14001

BOARD/COMMITTEE: Planning Commission

APPLICANT: Director of Planning

RECOMMENDATION: Approval (9-0: Scheer, Beecham, Cornelius, Corr, Harris, Hove, Lust, Sunderman and Weber voting 'yes').

STAFF RECOMMENDATION: Approval

OTHER DEPARTMENTS AFFECTED: N/A

SPONSOR: Planning Department

OPPONENTS: 1 letter in opposition (p.7)

REASON FOR LEGISLATION:

To amend Title 27 of the Lincoln Municipal Code to clarify that dwellings for non-related persons is not an allowed use in the AG, AGR or R-6 zoning districts by amending Section 27.06.080 relating to the Group Living Use Group to change the designation of Dwellings for Non-Related Persons in said Use Group Table from a special permitted use to a prohibited use in the AG, AGR and R-6 zoning districts; by amending Section 27.70.020 relating to Additional Use Regulations for Dwellings for Non-Related Persons to clarify that Dwellings for Non-Related Persons as a permitted use under a community unit plan is limited to the R-1, R-2, R-3, R-4 and R-5 zoning districts; and repealing Section 27.06.080 and 27.70.020 of the Lincoln Municipal Code as hitherto existing.

DISCUSSION / FINDINGS OF FACT:

1. The purpose of this proposed text amendment is to correct the table in the Use Group chapter to be consistent with the language in Section 27.70.020 and to add language to Section 27.70.020 to make it clear that dwellings for nonrelated persons are not permitted in the AG, AGR and R-6 zoning districts.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-4, concluding that this text amendment is a correction that is in conformance with the Comprehensive Plan and the intended changes approved with Use Groups in 2012. The staff presentation is found on p.5-6.
3. There was no testimony in opposition; however one letter was submitted in opposition suggesting that more than three nonrelated persons should be allowed to live in the Ag zoning districts (p.7).
4. On April 30, 2014, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.

POLICY OR PROGRAM CHANGE: ___ Yes ___X___ No

OPERATIONAL IMPACT ASSESSMENT: N/A

COST OF TOTAL PROJECT: N/A

RELATED ANNUAL OPERATING COSTS: N/A

SOURCE OF FUNDS: N/A

CITY: N/A

NON-CITY: N/A

FACTSHEET PREPARED BY: Jean Preister, Administrative Officer

DATE: May 5, 2014

REVIEWED BY: Marvin Krout, Director of Planning

DATE: May 5, 2014

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for April 30, 2014 PLANNING COMMISSION MEETING

PROJECT #: Text Amendment No. 14001

PROPOSAL: This is a correction to 27.06.080 and 27.70.020 to remove “Dwellings for Non-related Persons” as a permitted use in the AG, AGR and R-6 zoning districts.

CONCLUSION: This correction is in conformance with the Comprehensive Plan and the intended changes approved with Use Groups in 2012.

RECOMMENDATION:	Approval
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GENERAL INFORMATION:

HISTORY:

- October 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 Directors report indicated that the change was intended to provide student housing.

- May 1979 The 1979 zoning update specifically left in Dwellings for Nonrelated Persons in the Additional Use Chapter 27.70 instead of being moved with other special permits to Chapter 27.36

- December 2001 City Council approved a change to the Zoning Ordinance (CZ3328) to allow the use of dwellings for four to six non-related persons as part of a special permit for a community unit plan on 10 or more acres. This change defined allowed densities for this type of use for the R-1 through R-5 based on densities allowed under community unit plans.

- June 2012 The Lincoln City zoning Ordinance was reformatted utilizing a use group structure.

ANALYSIS:

1. Dwellings for Nonrelated Persons is defined in the Zoning ordinance as dwellings for four to six persons not immediately related by blood, marriage, or adoption and living as a single housekeeping unit.

2. Dwellings for Nonrelated Persons per 27.70.020 shall be permitted under a community unit plan which is larger than ten acres, provided that 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, 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 the Community Unit Plan chapter, including any reduction of density due to the size of the tract of land.

3. The Lincoln City Zoning Ordinance was reformatted utilizing a use group structure in June of 2012. The new format included a table in each use group listing specific uses and how they were to be regulated by correlating the use and the district with a “P” for permitted, “C” for conditional or “S” for special permitted use. During this update “S” “P” was mistakenly put in the AG, AGR and R-6 zoning districts for Dwellings for Nonrelated Persons.

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1
Alternative to imprisonment facilities		S	S	S	S	S	S	S	S	S								P						
Children's homes		S	S	S	S	S	S	S	S	S								P						
Domestic shelters	C	C	C	C	C	C	C	C	C	C				C				P			P	P	P	
Healthcare facilities, Residential			S	S	S	S	S	S	S	S	S	S	P	S	S	S	S	P	S					
Dwellings for members of religious orders	S	S	S	S	S	S	S	S	S	S								P						
Dwellings for non-related persons	S	S	S	S	S	S	S	S										P						
Fraternities and sororities									P	P	P							P						
Group homes	C	C	C	C	C	C	C	C	C	C	P		P	C				P	P					
Shelters for the homeless, temporary																		S						S
All other uses in this Use Group																		P						

4. This text change corrects the table in the Use Group Chapter to be consistent with the language in 27.70.020 and adds the following language to 27.70.020 to make it clear that dwellings for nonrelated persons are not permitted in the AG, AGR and R-6 zoning districts. *“Dwellings for four to six persons not immediately related by blood, marriage, or adoption and living as a single housekeeping unit shall be permitted in the R-1, R-2, R-3, R-4 and R-5 districts under a community unit plan which is larger than ten acres, provided that the maximum number of persons occupying each dwelling and the total number of occupants shall not exceed the following lot area ratios:”*
5. The AG Agriculture and AGR Agriculture Residential are intended to be low density single family districts. The R-6 Residential zoning district is a higher density district, mostly located in older areas of the City. The minimum requirement of 10 acres for the community unit plan to do a project that includes dwellings for non-related persons would be very difficult to assemble in an R-6 zoned area.

Prepared by:
Christy Eichorn, Planner

DATE: April 17, 2014

APPLICANT: Marvin Krout, Planning Director
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TEXT AMENDMENT NO. 14001

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 30, 2014

Members present: Scheer, Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust.

Staff recommendation: Approval.

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** explained that this text amendment is for some clarification. In doing some research on student housing in R-6, staff noticed that the R-6 was not in the housing section and was listed in the Use Groups chapter. In reviewing the minutes on Use Groups, she found that it was specifically stated that student housing was not intended to be included in the AG, AGR or R-6 districts because in order to do student housing outside of the B-4 district, it requires 10 acres and a community unit plan. Student housing is a denser type of development and not the sort of development staff would encourage in the Agricultural zoning districts. This is just a correction. It was never the intent during the debate and approval of Use Groups to include student housing in the AG, AGR and R-6 zoning districts. It was mistakenly put into the table when it was originally developed.

Lust suggested that non-related persons is broader than student housing. Eichorn agreed that it would be any sort of dwelling with more than three non-related people living together. Lust wondered about an unmarried couple with children and/or a parent. Eichorn confirmed that they would not fall under the non-related status.

In response to a question from Corr, Steve Henrichsen acknowledged that Analysis #3 of the staff report contains an error, i.e., "During this update a 'P' was mistakenly put in the AG, AGR and R-6 zoning districts for Dwellings for Nonrelated Persons". That "P" should be "S". It is shown correctly on the chart.

Lust pondered that perhaps the law was not changed when Use Groups were adopted. This is just to correct the table. Eichorn clarified that "the table is the ordinance." That is the reason for this text amendment. We cannot just change the ordinance without bringing it back through. It was a mistake.

Lust then suggested that if the Planning Commission were to see merit in the idea that unrelated people should be allowed to live together in an agricultural district, this is not the time to have that discussion. This text amendment corrects what was not meant to be changed in the law at that time. Eichorn agreed. There would need to be a community discussion before making that change.

Harris wondered if there are unrelated persons living in the circumstance now and did so while it was allowed, would they continue to be allowed to live together? Eichorn explained that we would not have that circumstance. This is specifically for the community unit plans in those districts, and

since the Use Groups were adopted, we have not had any CUP's approved to allow more than three unrelated people to live in one dwelling.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

April 30, 2014

Cornelius moved approval, seconded by Beecham.

Cornelius believes that this corrects an error that was made when the Use Groups were adopted. We are correcting an oversight. It has no affect on anyone as no CUP's were created under this ordinance using that special permit.

Motion for approval carried 9-0: Scheer, Beecham, Sunderman, Corr, Hove, Cornelius, Weber, Harris and Lust voting 'yes'. This is a recommendation to the City Council.

From: Jean Preister
Sent: Tuesday, April 22, 2014 8:22 AM
To: Jean Preister
Subject: Public Comments: TX14001

From: good2you [mailto:lgood2you2@gmail.com]
Sent: Monday, April 21, 2014 6:48 PM
To: Christy J. Eichorn
Subject: RE: text amendment 14001

Thank you Christy for the information. Yes I would support a "P" permitted use in the Ag zoning districts and you may enter this and my previous letter in the opposed category. It would seem even more appropriate in these ag districts, opposed to the R1 - R4 districts, to allow unrelated persons to live and work together. My considerations are based on the impact of people-density in "single family" neighborhoods that were not designed for it. Restricting this density on larger ag properties is counter intuitive from a historical perspective and has a detrimental effect on the practical and future uses of agrarian land use economies that is trending. Its never good policy to pigeonhole what is considered traditional family sociological models in todays diverse and struggling economic condition that may require many hands to make a good living.

Thank you.

Sent from my Samsung Galaxy phone

On Apr 21, 2014 3:32 PM, "Christy J. Eichorn" <ceichorn@lincoln.ne.gov> wrote:

The Lincoln City Zoning Ordinance was reformatted utilizing a use group structure in June of 2012. The new format included a table in each use group listing specific uses and how they were to be regulated by correlating the use and the district with a "P" for permitted, "C" for conditional or "S" for special permitted use. During this update a "P" was mistakenly put in the AG, AGR and R-6 zoning districts for Dwellings for Nonrelated Persons. At that time Dwellings for Non Related Persons was not a permitted use in the AG, AGR and R-6 zoning districts. This text change corrects the table in the Use Group Chapter to be consistent with the language in 27.70.020 and adds the following language to 27.70.020 to make it clear that dwellings for nonrelated persons are not permitted in the AG, AGR and R-6 zoning districts. *"Dwellings for four to six persons not immediately related by blood, marriage, or adoption and living as a single housekeeping unit shall be permitted in the R-1, R-2, R-3, R-4 and R-5 districts under a community unit plan which is larger than ten acres, provided that the maximum number of persons occupying each dwelling and the total number of occupants shall not exceed the following lot area ratios:"*

The purpose of this change is to correct an error in the code. It was never the City's intent to add a use to the AG, AGR and R-6 zoning districts without first having a public hearing and getting community input. The Planning Department does intend to review the ordinance regarding special permits for Community Unit Plans, density, and student housing as a whole package in the future when some other ongoing projects are completed.

If you have any additional comments or concerns, please do not hesitate to contact me. If you would like your e-mail submitted to the Planning Commission in opposition to the text change, just let me know and we will forward it on to them.

Thank you for your comments,

Christy Eichorn, Planner, AICP, LEED Green Associate

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From: good2you [mailto:lgood2you2@gmail.com]
Sent: Monday, April 21, 2014 1:20 PM
To: Christy J. Eichorn
Subject: text amendment 14001

This amendment strikes me as bizarre. Why are we restricting non-related persons in zoned Ag lands? Are we worried about some sort of banch dividian cult setting up here?

I believe this amendment inhibits opportunities for like-minded individuals to live and work in agricultural situations, like organic farms and garden operations. It seems fairly obvious to me that cooperatives like that will come to play a bigger and bigger role in the "buy fresh/buy local" business environment as people endeavor to support local production economies. This amendment would discourage those actions, and I do not support the restrictive nature of it on face value.

Could you enlighten me?

Lisa Good

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