

City Council Introduction: **Monday**, June 18, 2007  
Public Hearing: **Monday**, June 25, 2007, at **5:30 p.m.**

Bill No. 07-102

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 07032**, requested by the Director of Planning, to provide for more flexibility of uses and building arrangements on residential-zoned lots by amending Section 27.63.580 to allow the customary services of nonprofit religious, educational and philanthropic institutions, excluding retail uses, to locate within R-6, R-7, and R-8 by special permit; amending Section 27.71.130 to allow, under specified conditions, more than one main building or use on a lot located in the R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 District; amending Section 27.71.140 to reduce the minimum spacing between two- and three-story buildings to 20 feet, with further reduction by the Building and Safety Department if code requirements can be met

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 06/06/07  
Administrative Action: 06/06/07

**RECOMMENDATION:** Approval, as revised (9-0: Cornelius, Sunderman, Taylor, Strand, Krieser, Carroll, Larson, Esseks and Carlson voting 'yes').

**STAFF RECOMMENDATION:** Approval, as revised on June 6, 2007.

### **FINDINGS OF FACT:**

1. This is a proposal to amend Sections 27.63.580, 27.71.130 and 27.71.140 of the zoning ordinance to provide more flexibility of uses and building arrangements on residential-zoned lots. It allows the customary services of nonprofit agencies, excluding retail uses, to locate within the R-6, R-7 and R-8 zoning districts by special permit. The proposal also allows more than one main use or building on a property in the R-5, R-6, R-7 and R-8 zoning districts, subject to meeting the minimum requirements of each main use. The proposal also reduces the minimum spacing between two- and three-story buildings to 20 feet, with further reduction allowable by the Building & Safety Department if fire code requirements can be met.
2. The staff recommendation of approval, as revised on June 6, 2007, is based upon the "Analysis" as set forth on p.3-4. The proposed text is found on p.8.
4. The minutes of the public hearing before the Planning Commission are found on p.5-7. Exhibits A and B submitted by staff illustrating the proposed changes are found on p.13-14.
5. There was no testimony in opposition.
6. On June 6, 2007, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval, as revised on June 6, 2007.

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

**DATE:** June 11, 2007

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

**DATE:** June 11, 2007

**REFERENCE NUMBER:** FS\CC\2007\CZ.07032 text

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

### JUNE 6, 2007 PLANNING COMMISSION MEETING

**PROJECT #:** Change of Zone No. 07032

**PROPOSAL:**

1. Revise 27.63.580(b) to remove the requirement that no such use may render a service which is customarily carried on as a business and to add that no retail uses be allowed.
2. Revise the name of Section 27.71.130 to: "More Than One Main Building or Use on a Lot or Tract in R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 District."
3. List the specific zoning districts to which Section 27.71.130 applies.
4. Add "use" to Section 27.71.130 to allow multiple uses and/or buildings on a lot.
5. Add R-5, R-6, R-7, and R-8 to Section 27.71.130 as districts that would allow more than one main building or use.
6. Add the requirement to Section 27.71.130 that multiple uses on a lot in the R-5, R-6, R-7, or R-8 districts must meet the minimum lot requirements and other conditions for each use.
7. Delete the internal building separation requirements larger than 20' for residential, institutional, and hotel uses in Section 27.71.140.
8. Add the ability of the building official to reduce the 20' requirement in Section 27.71.140.

**CONCLUSION:** The proposal provides for more flexibility of uses and building arrangements on residential-zoned lots. It allows the customary services of nonprofit agencies, excluding retail uses, to locate within R-6, R-7, and R-8 by special permit. The proposal also allows more than one main use or building on a property in R-5, R-6, R-7, and R-8 subject to meeting the minimum requirements of each main use. The proposal also reduces the minimum spacing between two and three story buildings to 20 feet, with further reduction by the Building and Safety Department if fire code requirements can be met.

**RECOMMENDATION:**

Approval

## **GENERAL INFORMATION:**

### **HISTORY:**

27.63.580: This special permit was created by Ordinance #15159 on April 24, 1989 and was amended by Ordinance #18480 on December 20, 2004 to allow the Planning Commission to approve the application rather than the City Council.

27.71.130: This section was created with the 1953 rewrite of the zoning code (Ordinance #5636) and was added to the current code by Ordinance #12571 on May 8, 1979.

27.71.140: This section was created with the 1953 rewrite of the zoning code (Ordinance #5636) and was amended in 1961 to change “residential” to “multiple-family”. The section was added to the current code by Ordinance #12571 on May 8, 1979 and was amended by Ordinance #13326 on March 1, 1982.

### **COMPREHENSIVE PLAN SPECIFICATIONS:**

Encourage mixed-use redevelopment, adaptive reuse, and in-fill development including residential, commercial and retail uses. These uses may develop along transit routes and provide residential opportunities for persons who do not want to or cannot drive an automobile. Promote residential development, economic development and employment opportunities throughout the City. (p. 10)

### **ANALYSIS:**

1. Currently, the special permit listed under Section 27.63.580 restricts nonprofit religious, educational, and philanthropic institutions in the R-6, R-7, and R-8 districts to uses that do not “render services customarily carried on as a business”. It is difficult to determine for zoning enforcement purposes what uses could not be carried on as a business or vice versa. Revising Subsection (b) to allow any type of nonprofit excluding retail uses will make this special permit clearer to the public and easier to enforce.
2. The proposed changes to Section 27.71.130 clarify what districts the section applies to. The existing section generally states “Business, Commercial, or Industrial” tracts.
3. The proposed changes to Section 27.71.130 broaden its application to include not only buildings on a tract, but also to uses.
4. The proposed changes to Section 27.71.130 would allow for mixed use projects in some residential districts (R-5, R-6, R-7, and R-8), where they currently would not be allowed due to the existing ordinance. The proposed revisions to Section 27.71.130 limit the ~~mix~~ of uses to those uses which are already allowed in each district; subject to the requirements of each use. Essentially, larger lots or buildings would have more space that could be utilized by multiple uses than smaller lots or buildings. Each use will have to meet the minimum lot size and each use will have to supply its required parking. Therefore, if the site is large enough for more than one main use, but it cannot supply the required parking, then the additional uses would not be allowed. An example would be a ~~large~~ large church property that has the additional space, parking, and land area that could accommodate an additional use such as a nonprofit agency or any other use allowed in the district.

5. The proposed changes to Section 27.71.140 would allow for two-family, multi-family, institutional, or hotel developments that have more than one main building to be 20' apart or closer, regardless of their height, but based on building and fire codes. Currently, uses of varying height could be closer together on individual lots than they could be on one large lot, as long as they meet fire codes. The existing ordinance could discourage master-planned developments, due to the spacing requirements, which would theoretically be preferred because of the integration of landscaping, parking, amenities, and architectural elements common to the overall development.

Prepared by:

Brandon M. Garrett, AICP  
Planner

**DATE:** May 29, 2007

**APPLICANT:** Marvin Krout, Director of Planning  
Lincoln City/Lancaster County Planning Department  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

**CONTACT:** Brandon Garrett  
441-6373, or [bgarrett@lincoln.ne.gov](mailto:bgarrett@lincoln.ne.gov)  
Lincoln City/Lancaster County Planning Department  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

**Proposed text is attached.**

# CHANGE OF ZONE NO. 07032

## PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 6, 2007

Members present: Strand, Larson, Carroll, Cornelius, Krieser, Sunderman, Esseks, Taylor and Carlson.

Ex Parte Communications: None.

Staff recommendation: Approval.

Staff presentation: **Brandon Garrett of Planning staff** submitted an amendment to Section 27.71.130 of the proposal as follows:

**27.71.130      More Than One Main Building ~~on Business, Commercial, or Industrial Tract or Use on a Lot or Tract in R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 District.~~**

~~Where a~~ A lot or tract is used for a business, commercial, or industrial purpose, located in the R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 district may have more than one main building ~~or use may be located upon the lot or tract~~, but only when such buildings ~~or uses~~ conform to all open space ~~and parking~~ requirements ~~around the lot~~ for the district in which the lot or tract is located. ***The exception is that no more than two single family dwellings may be on a lot or tract.*** ~~In addition, in the R-5, R-6, R-7, and R-8 districts, the lot or tract must meet the requirements and conditions in said district for each main building or use.~~

The bold, underlined and italicized language in Section 27.71.130 was added to avoid a single family subdivision being built without going through the subdivision process. The intent is to allow flexibility for things such as “granny flats” where there would be the ability to have a single family residence and another single family residence on the same lot in the R-5 through R-8 areas.

Garrett then explained the proposal. The proposed amendments to Section 27.63.580:

**27.63.580      Permitted Special Use: Nonprofit Religious, Educational and Philanthropic Institutions; R-6, R-7 and R-8 Districts.**

Nonprofit religious, educational and philanthropic institutions may be allowed by special permit in the R-6, R-7 and R-8 zoning districts under the following conditions:

(a) The amount of parking required shall be equal to the amount which would otherwise be required for the use as set forth in Chapter 27.67 which is most analogous to the use proposed in connection with such religious, educational or philanthropic institution as determined by the Planning Director. All required parking shall be located on the lot unless otherwise specifically approved by the Planning Commission, but in no event shall required parking be located more than 300 feet from the lot upon which the use is located.

(b) No such use shall ~~be a retail store. render a service which is customarily carried on as a business nor shall any such use be approved which involves printing, publishing, manufacturing, or other industrial uses on the premises.~~

(c) All signage shall be in conformance with the district regulations as set forth in Chapter 27.69 of this code.

came out of discussions about nonprofit organizations. This section provides for a special permit for nonprofits in the R-6, R-7 and R-8 districts. The way the ordinance is currently written, these nonprofits would be limited to nonprofits that do not render a service which is customarily carried out in the business. This language is proposed to be stricken to avoid a retail type function such as Salvation Army so that there would not be a high traffic retail type of business going on as a part of this special permit provision.

The second part of the proposal is the proposed amendment to 27.71.130:

**27.71.130 ~~More Than One Main Building on Business, Commercial, or Industrial Tract or Use on a Lot or Tract in R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 District.~~**

~~Where a lot or tract is used for a business, commercial, or industrial purpose, located in the R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 district may have more than one main building or use may be located upon the lot or tract, but only when such buildings or uses conform to all open space and parking requirements around the lot for the district in which the lot or tract is located. ***The exception is that no more than two single family dwellings may be on a lot or tract.*** In addition, in the R-5, R-6, R-7, and R-8 districts, the lot or tract must meet the requirements and conditions in said district for each main building or use.~~

to allow more than one main building. The ordinance as currently written would apply to business, commercial or industrial tracts, and that was interpreted to mean that you could not have more than one building or use on any residential lot or tract. The Comprehensive Plan encourages opportunity for some mixed development where there would be some opportunity to combine some uses on a lot if you met the lot requirements for each individual use. So if you had a larger lot, you could potentially carry on more functions on that lot if you met those requirements. The presumption is that a smaller lot would likely not meet the requirements in order to have additional uses.

The proposed amendment to Section 27.71.140:

**27.71.140 ~~Two or More Buildings for Two-family Dwellings, Multiple-family, Institutional or Hotel Purposes.~~**

~~In the event that a lot is to be occupied by a group of two or more buildings to be used as a unit for any combination of two-family dwellings, multiple-family dwelling, institutional, or hotel purposes, there may be more than one main building on the lot.; provided, however, that the open space between buildings shall have a minimum dimension of twenty feet, ~~for one-story buildings, thirty feet for two-story buildings, and forty feet for three-story buildings.~~ unless modified by an official from the Building and Safety Department based on the building code.~~

has to do with the spacing between buildings in the residential districts, and adds a provision to allow Building & Safety to modify this provision based on the building code.

Garrett then submitted Exhibit A, illustrating the “before and after” aspects of more than one main building on a lot, and more than one main use on a lot, using R-5 as an example.

Garrett also submitted Exhibit B, illustrating the “before and after” aspects for the amendment to 27.71.140 for the separation of buildings. The existing ordinance provides that a one-story building for multi-family has to be 20 feet apart, and, if two-story, 30 feet apart, and, if three-

story or more, 40 feet apartment. If they were on a single lot, they could be located closer together. We want to plan for more larger and integrated developments.

Larson presumed that there are blocks that are existing now that would be not meet these proposed standards. Ray Hill of Planning staff advised that these proposed amendments are less restrictive. Therefore, anything that was built as of today would have met these requirements.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

June 6, 2007

Carroll moved approval, as revised by staff today, second by Taylor and carried 9-0: Strand, Larson, Carroll, Cornelius, Krieser, Sunderman, Esseks, Taylor and Carlson voting 'yes'. This is a recommendation to the City Council.

**27.63.580 Permitted Special Use: Nonprofit Religious, Educational and Philanthropic Institutions; R-6, R-7 and R-8 Districts.**

Nonprofit religious, educational and philanthropic institutions may be allowed by special permit in the R-6, R-7 and R-8 zoning districts under the following conditions:

(a) The amount of parking required shall be equal to the amount which would otherwise be required for the use as set forth in Chapter 27.67 which is most analogous to the use proposed in connection with such religious, educational or philanthropic institution as determined by the Planning Director. All required parking shall be located on the lot unless otherwise specifically approved by the Planning Commission, but in no event shall required parking be located more than 300 feet from the lot upon which the use is located.

(b) No such use shall be a retail store, ~~render a service which is customarily carried on as a business nor shall any such use be approved which involves printing, publishing, manufacturing, or other industrial uses on the premises.~~

(c) All signage shall be in conformance with the district regulations as set forth in Chapter 27.69 of this code.

**27.71.130 ~~More Than One Main Building on Business, Commercial, or Industrial Tract or Use on a Lot or Tract in R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 District.~~**

~~Where a lot or tract is used for a business, commercial, or industrial purpose, located in the R-5, R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 district may have more than one main building or use may be located upon the lot or tract, but only when such buildings or uses conform to all open space and parking requirements around the lot for the district in which the lot or tract is located.~~

~~In addition, in the R-5, R-6, R-7, and R-8 districts, the lot or tract must meet the requirements and conditions in said district for each main building or use.~~

**27.71.140 Two or More Buildings for Two-family Dwellings, Multiple-family, Institutional or Hotel Purposes.**

In the event that a lot is to be occupied by a group of two or more buildings to be used as a unit for any combination of two-family dwellings, multiple-family dwelling, institutional, or hotel purposes, there may be more than one main building on the lot; provided, however, that the open space between buildings shall have a minimum dimension of twenty feet, ~~for one-story buildings, thirty feet for two-story buildings, and forty feet for three-story buildings; unless modified by an official from the Building and Safety Department based on the building code.~~

# Outline of Text Changes

May 14, 2007

## I. Changes to 27.63: Special Permits

### A. 27.63.580 Permitted Special Use: Nonprofit Religious, Educational and Philanthropic Institutions; R-6, R-7 and R-8 Districts.

1. Revised (b) to add that retail stores would not be permitted and to remove the requirement that no such use may render a service which is customarily carried on as a business.

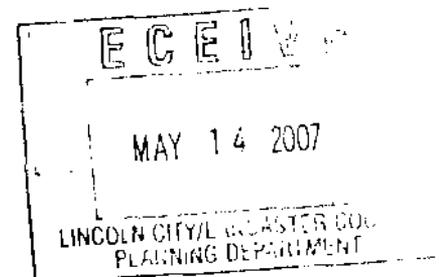
## II. Changes to 27.71: Additional Height and Area Regulations

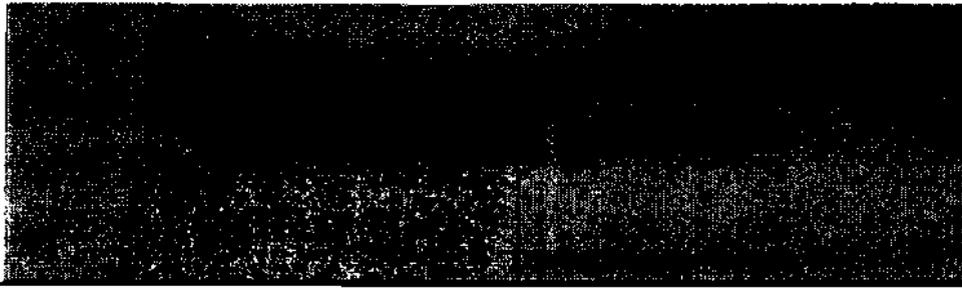
### A. 27.71.130 More Than One Main Building on Business, Commercial, or Industrial Tract.

1. Revised the name of the section to: "More Than One Main Building or Use on a Lot or Tract in R-6, R-7, R-8, O-1, O-2, O-3, R-T, B-1, B-2, B-3, B-4, B-5, H-1, H-2, H-3, H-4, I-1, I-2, or I-3 District."
2. Listed specific zoning districts for this section to apply to.
3. Added "use" to allow multiple uses and/or buildings on a lot.
4. Added R-5, R-6, R-7, and R-8 as districts that would allow more than one main building or use.
5. Added the requirement that multiple uses on a lot in the R-5, R-6, R-7, or R-8 districts must meet the minimum lot requirements and other conditions for each use.

### B. 27.71.140 Two or More Buildings for Two-family Dwellings, Multiple-family, Institutional or Hotel Purposes.

1. Deleted the spacing requirements larger than 20'.
2. Added the ability of an official from Building and Safety to modify the 20' requirement.





Status of Review: Active

Reviewed By

ANY

Comments:

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Status of Review: Complete

05/10/2007 12:52:07 PM

Reviewed By 911

ANY

Comments: NO streets submitted with this CZ Application.

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Status of Review: Complete

05/11/2007 10:06:52 AM

Reviewed By Building & Safety

Terry Kathe

Comments: Does the elimination of the sentence "render a service customarily carried on as a business" create the ability for the Salvation Army and Goodwill stores in these districts?

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Status of Review: Approved

05/15/2007 3:21:24 PM

Reviewed By Building & Safety

BOB FIEDLER

Comments: approved

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Status of Review: Complete

05/25/2007 12:53:06 PM

Reviewed By Fire Department

ANY

Comments: We have no issues from the perspective of our department.

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Status of Review: Approved

05/21/2007 10:33:15 AM

Reviewed By Health Department

ANY

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

TO: Brandon Garrett DATE: May 18, 2007

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION:

DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: More than One Main

EH Administration Building CZ #07032

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed text changes with the following noted:

Regarding the proposed text changes of Lincoln Municipal Code 27.63.580, the LLCHD will not support industrial uses within residential zoning that use, store, or produce hazardous materials.

Status of Review: Active

Reviewed By Law Department

ANY

Comments:

Status of Review: Active

Reviewed By Lincoln Police Department

ANY

Comments:

Status of Review: Complete

Reviewed By Planning Department

RAY HILL

Comments:

Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

Status of Review: Active

Reviewed By Planning Department

BRANDON GARRETT

Comments:

Status of Review: Complete

05/15/2007 8:15:53 AM

Reviewed By Public Works - Development Services

SIETDQ

Comments: Memorandum□□

□

To:□Brandon Garrett, Planning Department

From:□Charles W. Baker, Public Works and Utilities

Subject:□Text Change for More Than One Main Building Chapter 27.71.130

Change of Zone #07032

Date:□May 15, 2007

cc:□Randy Hoskins

□

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Text Change for More Than One Main Building Chapter 27.71.130 Change of Zone #07032. Public Works has no objections.

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Status of Review: Active

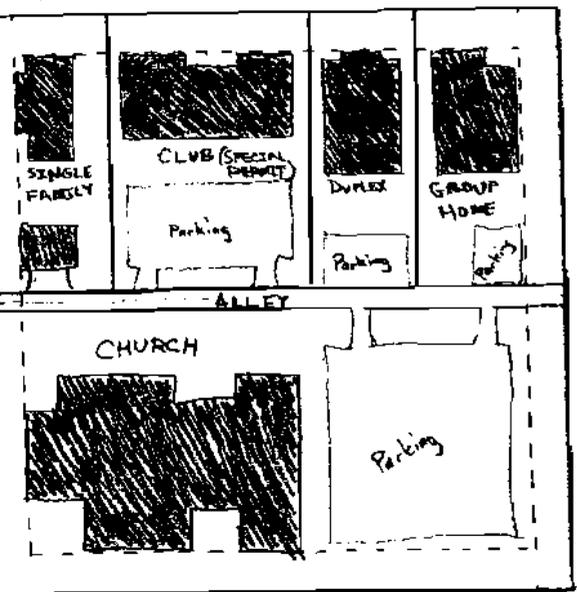
Reviewed By School District

ANY

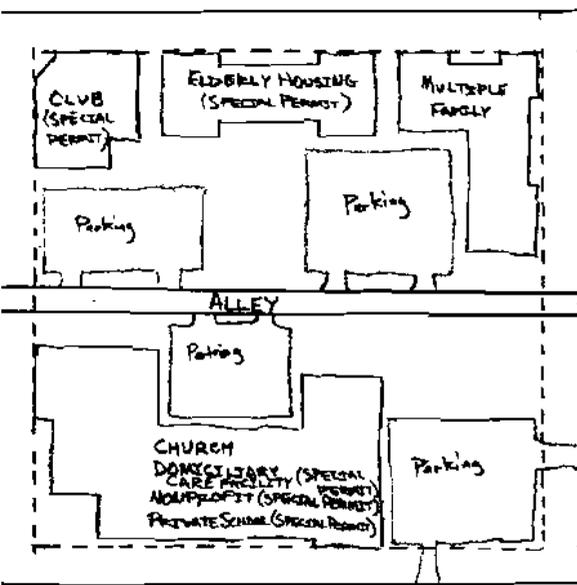
Comments:

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EXISTING ORDINANCE  
ONE MAIN BUILDING ON A LOT:



PROPOSED



MORE THAN  
ONE MAIN  
BUILDING  
ON A LOT.

MORE THAN  
ONE MAIN  
USE IN A  
BUILDING.

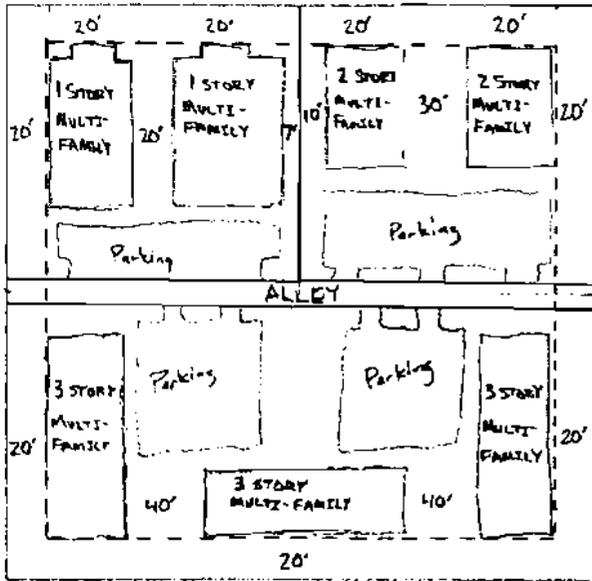
R-5

Table 27.19.080(a)

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single- family	5,000	50'	20'	5'	*	35'
Dwelling, two-family	2,500 per family	25' per family	20'	5' or 0' on party wall	*	35'
Townhouses	2,500 per family	20' per family	20'	10' or 0' on party wall	*	35'
Dwelling, Multiple	1,500 per unit	50'	20'	7' or 10' if over 20' in height	*	35'
Other permitted uses	5,000	50'	20'	5'	*	35'

\* Smaller of 30' or 20% of depth.

EXISTING ORDINANCE



1 STORY = 20' SEPARATION  
 2 STORIES = 30' SEPARATION  
 3+ STORIES = 40' SEPARATION

EXHIBIT 'B'

CZ #07032  
 AGENDA ITEM 4.2

R-5

Table 27.19.080(a)

	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single-family	5,000	50'	20'	5'	*	35'
Dwelling, two-family	2,500 per family	25' per family	20'	5' or 0' on party wall	*	35'
Townhouses	2,500 per family	20' per family	20'	10' or 0' on party wall	*	35'
Dwelling, Multiple	1,500 per unit	50'	20'	7' or 10' if over 20' in height	*	35'
Other permitted uses	5,000	50'	20'	5'	*	35'

\* Smaller of 30' or 20% of depth.

PROPOSED (20' SEPARATION)

