

FACTSHEET

TITLE: **TEXT AMENDMENT NO. 15007**
(Title 27 - Amend to allow dwellings for caretakers as a permitted use in B-1, B-2, and B-3 Zoning District).

BOARD/COMMITTEE: Planning Commission

APPLICANT: Lori Tackett

RECOMMENDATION: Approval (8-0: Lust, Cornelius, Weber, Scheer, Corr, Hove, Harris, and Sunderman)

STAFF RECOMMENDATION: Approval

OTHER DEPARTMENTS AFFECTED: N/A

SPONSOR: Planning Department

OPPONENTS: None

REASON FOR LEGISLATION: To amend Section 27.06.070 to allow dwellings for caretakers, resident watchmen, and supervisory personnel employed and residing on the premises as a permitted use in the B-1, B-2, and B-3 Zoning Districts.

DISCUSSION/FINDINGS OF FACT:

1. The approval of this proposed text amendment would allow the applicant, a kennel owner, to have an on-site caretaker available 24 hours a day.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-3, concluding that dwellings for caretakers is currently a permitted use in the B-4 through I-3 zoning districts, and there are a large number of uses allowed in the B-1 through B-3 zoning districts where it might be helpful to have a caretaker living on the premises. As commercial and human activities evolve, the Zoning Ordinance needs to keep pace by changing as well in cases where it makes sense. This proposed amendment is consistent with the Zoning Ordinance and Comprehensive Plan. The staff presentation is found on p.5.
3. Testimony by the applicant is found on p.6.
4. There was no testimony in opposition.
5. On June 10, 2015, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of this text amendment.

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer

DATE: June 17, 2015

REVIEWED BY: David R. Cary, Acting Planning Director

DATE: June 17, 2015

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LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for June 10, 2015 PLANNING COMMISSION MEETING

PROJECT #: Text Amendment No. 15007

PROPOSAL: Amend Section 27.06.070 to allow dwellings for caretakers, resident watchmen, and supervisory personnel employed and residing on the premises as a permitted use in the B-1, B-2, and B-3 zoning districts.

CONCLUSION: Dwellings for caretakers is currently a permitted use in the B-4 through I-3 zoning districts. There are a large number of uses allowed in the B-1 through B-3 zoning districts, several of which that may also find it helpful to have a caretaker living on the premises. A dwelling for a caretaker is not an incompatible use in the B-1 through B-3 zoning districts, given dwellings are already allowed on the second floor. It has likely not been included up to this point simply because its usefulness was not contemplated when the Zoning Ordinance was adopted in 1979. This request is prompted by a kennel owner who intends to employ a full-time, on-site caretaker so there is a person with the animals 24 hours a day. As commercial and human activities evolve, the Zoning Ordinance needs to keep pace by changing as well in those cases where it makes sense to do so. This request is consistent with the Zoning Ordinance and Comprehensive Plan.

RECOMMENDATION:

Approval

ANALYSIS:

1. This is a request to amend the Zoning Ordinance to allow dwellings for caretakers, resident watchmen, and supervisory personnel employed and residing on the premises as a permitted use in the B-1, B-2, and B-3 zoning districts.
2. Dwellings for caretakers is currently a permitted use in the B-4, B-5, and all the H and I zoning districts. The last time the Ordinance was amended with respect to this use was in 2009, when it was allowed as a permitted use in the I-3 Employment Center district. The concern at that time was whether it was appropriate to allow a full-time dwelling for a caretaker in an industrial district. The concern involved the potential for increased risk to humans given the wide range of uses allowed. In general terms, the I-3 is a less intensive zoning district than the I-1 and I-2, both being districts where a dwelling for a caretaker was already allowed, and the amendment was approved.

3. For comparison, dwellings are a permitted use in the O-1, O-3, R-T, and B-5, and are a conditional use in the O-2, B1, B-2, B-3, and B-4 zoning districts. The key conditional limitation in the B-1 through B-3 prohibits dwellings on the first floor. This limitation was added primarily to preserve the store fronts in the older commercial centers (such as Havelock, Uni Place, Union College) and prevent them from being converted to residential uses. Today, these older centers are as viable as the newer suburban center for the most part, and it's worth discussing whether such a limitation is necessary any longer.
4. This amendment only involves dwellings for caretakers, resident watchmen, and supervisory employed and residing on the premises, and only affects the B-1 through B-3 zoning districts. It has no effect on the other allowed dwelling types or zoning districts.
5. Even though this amendment only allows only the specific exception for dwellings for caretakers, Building and Safety expressed concern about enforcement. There is the potential for a caretaker's dwelling unit to be used by someone other than a caretaker if/when the use changes. This will be monitored to see if it creates an enforcement problem.
6. A dwelling for a caretaker is not an incompatible use in the B-1 through B-3 zoning districts, as dwellings are already allowed. Historically, a caretaker was associated with a large warehousing or commercial operation. It has likely not been included in the B-1 through B-3 zoning districts up to this point because its usefulness was simply not contemplated when the Zoning Ordinance was adopted in 1979.

This request is from a kennel owner who is responding to a demand in the market that would like people on-site 24 hours a day. Given the large number of uses in the B-1 through B-3 zoning districts, there may be others too.

7. Commercial and human activities evolve, and the Zoning Ordinance needs to keep pace with those changes in those cases where it makes sense to do so. This request is consistent with the intent of the Zoning Ordinance and Comprehensive Plan.

Prepared by:

Brian Will
bwill@lincoln.ne.gov, 402-441-6362
May 27, 2015

**APPLICANT/
CONTACT:**

Lori Tackett
1980 Ryons Street
Lincoln, NE 68502
402-314-1731

TEXT AMENDMENT NO. 15007

**TEXT AMENDMENT NO. 15007, AMENDING TITLE 27
OF THE LINCOLN MUNICIPAL CODE RELATING TO THE
HOUSEHOLD LIVING USE GROUP TO ALLOW DWELLINGS
FOR CARETAKERS AS A PERMITTED USE IN THE B-1, B-2,
AND B-3 ZONING DISTRICTS.**

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

June 10, 2015

Staff Recommendation: Approval

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

There were no ex parte communications disclosed on these items.

Staff presentation: **Brian Will of the Planning Department** stated that this is a fairly minor amendment. Lori Tackett is the applicant. She owns a kennel and has found a property in town that fits in every respect except for the fact that she would like to have someone who stays on the property 24 hours a day. This amendment affects only one use and three zoning districts. The use is dwellings for caretakers, resident watchman and supervisory personnel. This use is allowed in all commercial and industrial zoning districts except the B-1, B-2, and B-3 districts. This amendment would allow it in these three districts as well. A text amendment was recently approved to allow this use in the I-3 zoning district. It was included in these three districts because they didn't anticipate that there would be these types of uses allowed in areas such as Havelock and University Place. The B-1 and B-3 districts, which exist in the older commercial areas of the city, have a prohibition against residential uses on the first floor. There is some concern that this space could be rented out as an apartment; although, if this were to occur, this would not meet the requirements of the ordinance. Will indicated that allowing residential uses on the first floor of B-1 and B-3 is not the concern that it was 20 to 30 years ago.

Due to the fire alarm sounding, Chair Lust adjourned the meeting at 2:40 p.m.

Chair Lust reconvened the meeting at 2:45 p.m.

Questions of Staff:

Corr asked if the caretaker could have a residence on the first floor. Will indicated that the dwelling unit for permanent full-time caretaker would be allowed anywhere within the building.

Lust asked if there is a definition for “caretaker” in the code. Will stated that it is not specifically defined in the code. They would apply common usage as someone who is employed by a company and their role is overseeing, care taking, maintaining, keep watch over.

Corr asked what would be needed to define “caretaker” in the code. Will stated that it would require another text amendment but he doesn’t believe it is warranted. The intent is that staff will watch this and if it seems that there is an issue and that a better definition is needed, they will bring this forward.

Cornelius stated that he doesn’t believe that they are really doing anything new but rather just extending the use to these other zones that were excluded. Will stated that the ordinance was originally adopted in 1979 – things change such as the economy, businesses, etc., and this amendment allows us to keep up with the changing environment we live in.

Proponents:

1. Lori Tackett, 1980 Ryon Street, applicant for this text amendment, came forth. She stated that they have been in business since 2003. They are going to open a new kennel and they believe it will be beneficial to have someone with the dogs overnight.

Questions of the Applicant:

Cornelius asked if the caretaker will be a permanent resident or an employee who will be sleeping overnight. Tackett indicated that this person will be a permanent resident who is also an employee.

Opponents: None.

ACTION BY PLANNING COMMISSION:

June 10, 2015

Hove moved to recommend the approval of this text amendment; seconded by Scheer.

Cornelius reiterated that this amendment is really anything new, and this would just extend a fairly well understood concept to some zones that were not included. This doesn’t seem likely to create a great deal of impact. He supports the motion.

Motion carried 8-0; Lust, Hove, Weber, Scheer, Harris, Cornelius, Corr, and Sunderman; Beecham absent.

Tackett, Inc

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To whom it may concern,

We are in the process of acquiring the property at 2205 Highway 2 and are requesting a text amendment to section 27.06.070 to allow living quarters for a caretaker in the currently B-1 zoned building.

We have been in business since 2007 and currently offer pet sitting, dog walking, dog grooming and a dog hotel. Our current dog hotel houses 10 dogs overnight for people while they travel. We would to expand our hotel using the property at 2205 Highway to include an overnight caretaker for the dogs.

The text amendment to allow a caretaker to live on our property would provide a valuable service needed in Lincoln; there are no other kennels where dogs can receive overnight supervision and care.

Thank you for your consideration.

Sincerely,



Lori Tackett
Tackett, Inc
Bailey's Bed and Bath