

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3325**, a text amendment to sections 27.51.030(a), 27.51.090 and 27.51.100(a) of the Lincoln Municipal Code, requested by Mark Hunzeker, to change the text of the I-3 Employment Center District to allow developments of a minimum of 50 acres instead of 75 acres.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUESTS: Annexation No. 00003 (01-135); Change of Zone No. 3265 (01-137); Special Permit No. 1845, Stone Bridge Creek Community Unit Plan (01R-220); Preliminary Plat No. 00017, Stone Bridge Creek (01R-221); and Use Permit No. 139 (01R-222).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda, 07/11/01
Administrative Action: 07/11/01

RECOMMENDATION: Approval (6-0: Krieser, Newman, Duvall, Steward, Schwinn and Bayer voting 'yes'; Carlson, Taylor and Hunter absent).

FINDINGS OF FACT:

1. This text amendment is associated with Annexation No. 00003 and the associated Change of Zone No. 3265, community unit plan, preliminary plat and use permit.
2. The Planning staff recommendation to approve the proposed text amendment is based upon the following analysis:
 - A. This is a request for a change to the text of the I-3 district to reduce the minimum size of land required for an I-3 designation from 75 acres to 50 acres.
 - B. Comprehensive Plan Amendment 94-40 anticipated that this text change would be necessary to allow areas smaller than 75 acres to be developed as an I-3 Employment Center provided 75 acres are shown in the Comprehensive Plan.
 - C. This amendment is consistent with the Comprehensive Plan amendment.
3. This proposed text amendment was placed on the Consent Agenda of the Planning Commission on July 11, 2001, and opened for public hearing. No one came forward to speak.
4. On July 11, 2001, the Planning Commission agreed with the staff recommendation and voted 6-0 to recommend approval.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: August 6, 2001

REVIEWED BY: _____

DATE: August 6, 2001

REFERENCE NUMBER: FS\CC\FSCZ3325

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3325

DATE: June 21, 2001

PROPOSAL: Mark Hunzeker has requested a change of zone to change the text of Chapter 27.51, I-3 Employment Center District to allow developments of a minimum of 50 acres instead of 75 acres.

GENERAL INFORMATION:

APPLICANT: Mark Hunzeker
1045 Lincoln Mall
Lincoln, NE 68508
(402) 476-7621

CONTACT: Same

LEGAL DESCRIPTION: To change Section 27.51.030(a), Section 27.51.090 and Section 27.51.100(a) as below:

27.51.030 Use Regulations.

(a) General Regulations. Any development, including building and open land uses, except farming and the sale of farm products, shall be prohibited in the I-3 Employment Center District prior to the approval of a use permit in conformance with the requirements of this chapter. I-3 Employment Center District zoning shall not be permitted or granted upon any property having a total area of less than ~~seventy-five (75)~~ fifty (50) acres provided an area of at least 75 acres is designated as an Employment Center in the Comprehensive Plan, nor in any location not designated as an Employment Center in the Comprehensive Plan.

27.51.090 Height and Area Regulations.

Minimum area for the establishment of the I-3 Employment Center District is ~~seventy-five~~ fifty acres. The maximum height and minimum lot requirements within the I-3 Employment Center District shall be as follows:

27.51.100 Use Permit Section.

(a) Minimum Requirements. No use permit shall be granted upon any property having a total area of less than ~~seventy-five~~ fifty acres, nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter.

ANALYSIS:

1. This is a request for a change to the text of the I-3 district to reduce the minimum size of land required for an I-3 designation from 75 acres to 50 acres.
2. The request is associated with the Stone Bridge Creek proposals: Annexation #00003, Change of Zone #3265, Use Permit #139, Special Permit #1845 and Preliminary Plat #00017.
3. Comprehensive Plan Amendment 94-40 anticipated that this text change would be necessary to allow areas smaller than 75 acres to be developed as an I-3 Employment Center provided 75 acres are shown in the Comprehensive Plan.
4. This amendment is consistent with the Comprehensive Plan amendment.

STAFF RECOMMENDATION: Approval

Prepared by:

Becky Horner
Planner

Chapter 27.51

I-3 Employment Center District

Sections:

| | |
|------------------|--|
| 27.51.010 | Scope of Regulations . |
| 27.51.020 | General Purpose. |
| 27.51.030 | Use Regulations. |
| 27.51.040 | Permitted Conditional Uses. |
| 27.51.050 | Permitted Special Uses. |
| 27.51.060 | Accessory Uses. |
| 27.51.070 | Parking Regulations. |
| 27.51.080 | Sign Regulations. |
| 27.51.085 | Grading and Land Disturbance Regulations. |
| 27.51.090 | Height and Area Regulations. |
| 27.51.100 | Use Permit Section. |

27.51.010 Scope of Regulations .

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the I-3 Employment Center District. (Ord. 17232 § 1; August 18, 1997).

27.51.020 General Purpose.

The regulations for the I-3 Employment Center District set forth in this chapter are established to permit the development of attractive office and light industrial facilities as employment centers for location of plant facilities or headquarters of major employers. The I-3 Employment Center District is also intended to provide such employment centers with the surrounding support uses, including complementary office and retail use complementing the general land use pattern of the community and assisting the implementation of the adopted goals and polices of the community. (Ord. 17232 § 2; August 18, 1997).

27.51.030 Use Regulations.

(a) General Regulations. Any development, including building and open land uses, except farming and the sale of farm products, shall be prohibited in the I-3 Employment Center District prior to the approval of a use permit in conformance with the requirements of this chapter. I-3 Employment Center District zoning shall not be permitted or granted upon any property having a total area of less than ~~seventy-five (75)~~ fifty (50) acres provided an area of at least 75 acres is designated as an Employment Center in the Comprehensive Plan, nor in any location not designated as an Employment Center in the Comprehensive Plan.

(b) Specific Regulations.

(1) The aggregate retail use permitted in subsection (c) below shall not exceed twenty percent (20%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four. Similarly, the aggregate office use permitted in subsection (c) below shall not exceed thirty percent (30%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

(2) The total of all retail, office, post-secondary education facilities, nonprofit religious, educational, and philanthropic institutions permitted in subsection (c) below and early childhood care facilities specially permitted in Section 27.51.050 below shall not in the aggregate exceed fifty percent (50%) of the buildable square footage of the land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

(3) Notwithstanding (1) and (2) above, 75,000 square feet or more of floor area used by a single user shall not be subject to the thirty percent (30%) and fifty percent (50%) limitations.

(4) Those conditional and special uses permitted in Sections 27.51.040 and 27.51.050 below shall be limited by the restrictions placed thereon.

(5) All uses shall comply with all applicable ordinances and regulations including such environmental performance standards relating to noise, emission, dust, odor, glare, and heat as may be approved by resolution of the City Council.

(6) No galvanized or other raw metal sheeting shall be used for the exterior construction of any building. No painted galvanized or other painted metal sheeting shall be used for more than seventy percent (70%) of the exterior construction of a building on any side of such building which is visible from an abutting public street.

(c) Permitted Uses. Subject to the general and specific regulations above, a building or premises may be used for the following purposes in the I-3 Employment Center District:

(1) Retail use;

(2) Office buildings;

(3) Production, manufacturing, assembly, processing, warehousing, storage, distribution, or transportation of goods and materials, except:

(i) The refining, distillation, or manufacture of:

A. Acids or alcohols;

- B. Ammonia, bleach, or chlorine;
 - C. Asphalt, tar, or products made therewith, including roofing or waterproofing;
 - D. Cement, lime, gypsum, or plaster of paris;
 - E. Disinfectants;
 - F. Dyestuffs;
 - G. Fertilizer;
 - H. Glue, sizing, or gelatin;
 - I. Oilcloth, linoleum, oiled rubber goods;
 - J. Paint, shellac, turpentine, or oils;
 - K. Rubber, gutta-percha, balata, creosote, or products treated therewith;
 - L. Shoe polish;
- (ii) The operation of:
- A. Bag cleaning works;
 - B. Blast furnaces, coke ovens, smelting or ore reduction works;
 - C. Boiler works;
 - D. Forges;
 - E. Rolling mills;
 - F. Yeast plants;
- (iii) Production, manufacture, processing, distribution, and storage, warehousing, or transportation of toxic, radioactive, flammable, or explosive materials, except that any of the above referenced materials may be stored or used in connection with a permitted use as allowed by any ordinances or regulations of the City of Lincoln as incidental to the permitted use;
- (iv) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat; distillation of bones, coals or wood;
- (v) Dumping or reduction of garbage, offal, or dead animals;
- (vi) The manufacture of acetylene, or the transfer of the gas from one container to another, or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic feet at standard temperature and pressure;
- (vii) Mining, quarrying, stone milling, or rock crushing;
- (viii) Extraction of sand, gravel, or soil;
- (ix) The milling, processing, refining, or distillation of agricultural crops.
- (4) Community colleges, colleges, or other post-secondary education facilities;
 - (5) Private schools;
 - (6) Nonprofit religious, educational and philanthropic institutions;
 - (7) Farming and the sale of farm produce. (Ord. 17232 § 3; August 18, 1997).

27.51.040 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the I-3 Employment Center District in conformance with the conditions prescribed herein:

- (a) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable liquids and chemicals. Such use shall:
 - (1) Be adequately screened from public view;

(2) Be for storage of such materials for use on the premises and not for resale, except that resale of such stored material at retail only shall be permitted in conjunction with the operation of a service station or similar retail outlet pursuant to Section 27.51.070;

(3) Be located, constructed, maintained, and operated in compliance with all codes and regulations of the City of Lincoln;

(b) Liquified petroleum, gas and similar gas used for fuel stored in tanks above ground, provided:

(1) Such tanks may not exceed 30,0000 gallon capacity;

(2) Such gas shall be used for use on the premises, and not for resale;

(3) Such tanks shall be adequately screened from public view by a fire-resistant ventilated barrier which shall be at least six feet in height;

(4) Such use must be in full compliance with all codes and regulations of the City of Lincoln;

©) All other combustible materials:

(1) Combustible materials shall be stored in such a way as to permit free access of fire-fighting equipment;

(2) Such use must be in full compliance with all codes and regulations of the City of Lincoln;

(d) Motels and hotels, provided that the total square footage of such use shall not exceed ten percent (10%) of the buildable square footage of the tract of land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

Accessory uses operated by a concessionaire or lessee of an employer may occupy no more than five percent (5%) of the floor area of the permitted use. (Ord. 17232 § 4; August 18, 1997).

27.51.050 Permitted Special Uses.

A building or premises may be used for the following purposes in the I-3 Employment Center District if a special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

(a) Broadcast tower;

(b) Sale of alcoholic beverages for consumption on the premises, provided the locational requirements of Section 27.63.680 have been met;

(c) Sale of alcoholic beverages for consumption off the premises, provided the locational requirements of Section 27.63.685 have been met;

(d) Early childhood care facilities;

(e) Public elementary and high schools or private schools having a curriculum equivalent to a public elementary or public high school;

(f) Sexually oriented live entertainment establishments. (Ord. 17731 §11; September 25, 2000; prior Ord. 17232 § 5; August 18, 1997).

27.51.060 Accessory Uses.

Accessory uses permitted in the I-3 Employment Center District are accessory buildings and uses customarily incident to the permitted uses. Accessory uses involving the open storage of materials or other articles shall only be allowed in areas enclosed or otherwise adequately screened from public view with an enclosure or screen at least six feet in height. (Ord. 17232 § 6; August 18, 1997).

27.51.070 Parking Regulations.

All parking within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 17232 § 7; August 18, 1997).

27.51.080 Sign Regulations.

Signs within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 17232 § 8; August 18, 1997).

27.51.085 Grading and Land Disturbance Regulations.

Grading and land disturbance within the I-3 Employment Center District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §27; February 22, 2000.)

27.51.090 Height and Area Regulations.

Minimum area for the establishment of the I-3 Employment Center District is ~~seventy-five~~ fifty acres. The maximum height and minimum lot requirements within the I-3 Employment Center District shall be as follows:

(a) General Requirements.

| | Lot Area (Sq. ft.) | Frontage | Req'd Front Yard | Req'd Side Yard | Req'd Rear Yard | Height |
|--|-----------------------|----------|---------------------|--------------------|-----------------------|--------|
| 27.51.030(c)(3) | | | | | | |
| Uses | 0 | 150' | 50' | 20'* | 20'* | 55'*** |
| Retail | 0 | 50' | 50' | 20'* | 20'* | 45'*** |
| Office | 0 | 50' | 50' | 20'* | 20'* | 45'*** |
| Other | 0 | 50' | 50' | 20'* | 20'* | 35' |
| * When a side or rear yard abuts a residential district, required yard shall be 50 feet and screened in conformance with the landscape design standards adopted by the City of Lincoln. | | | | | | |
| * * When a side or rear yard of an Employment Center or an office/retail use abuts a residential district, the maximum height of any improvement located within 150 feet of the residential district shall be 35 feet. | | | | | | |

(b) There shall be a required front yard on each street side of a double-frontage lot.

(c) There shall be a required front yard on each street side of a corner lot.

(d) Accessory buildings shall comply with the height, and front, side, and rear yard requirements of the main structure.

(e) All required yards shall be entirely devoted to landscaping, except for necessary paving of walkways and driveways to reach parking and loading areas from a public or private street, and provided, further, that any driveways which intersect the front yard shall not be wider than thirty feet.

(f) No loading facilities shall be located in any required yard. Loading facilities located within 150 feet of any street shall be visually screened. (Ord. 17232 § 9; August 18, 1997).

27.51.100 Use Permit Section.

(a) Minimum Requirements. No use permit shall be granted upon any property having a total area of less than ~~seventy-five~~ fifty acres, nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the comprehensive plan and protect the health, safety, and general welfare in the issuance of any use permits. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the I-3 Employment Center District shall apply.

(b) Environmental Performance Standards. Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be approved by resolution of the City Council.

(c) Landscape Plan. Before building permit approval, each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, parking areas, and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.

(d) Application Requirements. Applications for a use permit under this section shall be filed in writing on a form provided by the city with the Planning Department. A preliminary plan shall accompany each application and shall include the following information:

- (1) Boundary survey and gross acreage;
- (2) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on one hundred foot grid shall be required to fully indicate the topography of flat land.
- (3) Street right-of-way;
- (4) Utility easements;
- (5) Adjacent land use and zoning classifications;
- (6) The amount of traffic to be generated and the street facilities required to accommodate said traffic;
- (7) Location of building envelopes within which structures may be located;
- (8) Vicinity map;
- (9) Date prepared, scale and north point;
- (10) Location of parking envelopes within which parking lots shall be located and stating the required number of parking stalls;
- (11) Proposed use and total square feet of buildings to be located within the proposed I-3 employment center in accordance with Section 27.51.030(b);
- (12) Acreage and percentage of total developed building area, parking lot, open space, and similar uses;
- (13) Location of existing tree masses;
- (14) Identify vehicular ingress and egress points;
- (15) Building and parking set-back lines;
- (16) Generalized grading plan;

- (17) On-site and off-site water and sanitary sewer improvements;
- (18) On-site and off-site drainage and storm sewer improvements;
- (19) Proposed name of the project;
- (20) Name, address, and telephone number of developer, certified record owner or owners, and their addresses; and legal description of the proposed use permit area including the number of acres.

(e) Planning Commission Review. Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission Action. After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.

(g) Appeal of Planning Commission Action.

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) The City Council may, after public hearing, in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the action of the Planning Commission appealed from.

(h) Adjustment of Yard Requirements and Height Restrictions. Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of adjacent land uses. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the application for the use permit and the requested adjustment.

(i) Amendment. The Planning Director is authorized to approve amendments to any use permit granted under this section, including square footage of floor area and storage space in phases of development; provided that:

(1) A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (d) above which is pertinent to the proposed amendment;

- (2) Such amendment shall not violate any regulations set forth in this title;
- (3) Such amendment may provide for up to ten percent (10%) increase in total floor area of the project over the total floor area originally permitted;
- (4) No reduction is made to the applicable setback or yard requirements;
- (5) No public land is accepted;
- (6) Such amendment shall not be contrary to the general purposes of this chapter as set forth in paragraph (a) above;
- (7) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original use permit.

(j) Building Permits, Certificates of Occupancy, and Certificates of Compliance. Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(k) Preexisting uses.

(1) An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this chapter shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(2) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit. (Ord. 17857 §5; June 4, 2001; prior Ord. 17232 § 10; August 18, 1997).

CHANGE OF ZONE NO. 3325

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

July 11, 2001

Members present: Bayer, Duvall, Krieser, Newman, Schwinn and Steward; Carlson, Hunter and Taylor absent.

The Consent agenda consisted of the following items: **CHANGE OF ZONE NO. 3325; COUNTY PRE-EXISTING SPECIAL PERMIT NO. 8A; COUNTY SPECIAL PERMIT NO. 188; FINAL PLAT NO. 99006, FAIRFIELD CENTRE 2ND ADDITION; FINAL PLAT NO. 01002, KNIGHTS COURT ADDITION; FINAL PLAT NO. 01008, HARTLAND HOMES EAST 4TH ADDITION; and MISCELLANEOUS NO. 01005.**

Item No. 1.2, County Pre-Existing Special Permit No. 8A, and Item No. 1.4, Final Plat No. 99006, Fairfield Centre 2nd Addition, were removed from the Consent Agenda and scheduled for separate public hearing.

Steward moved to approve the remaining Consent Agenda, seconded by Krieser and carried 6-0: Bayer, Duvall, Krieser, Newman, Schwinn and Steward voting 'yes'; Carlson, Hunter and Taylor absent.

Note: This is final action on the Knights Court Addition Final Plat No. 01002 and the Hartland Homes East 4th Addition Final Plat No. 01008, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by Planning Commission.