

City Council Introduction: **Monday**, November 4, 2002
Public Hearing: **Monday**, November 18, 2002, at **1:30 p.m.**

Bill No. 02-169

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3382**, a text amendment to Title 27 of the Lincoln Municipal Code, requested by Kent Seacrest on behalf of Wilderness Ridge, L.L.C., to amend §§ 27.63.130 and 27.63.680 of the Zoning Ordinance to allow the sale of alcoholic beverages for consumption on the premises at golf courses and country clubs as an allowed accessory use by special permit.

STAFF RECOMMENDATION: Approval

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda, 10/16/02
Administrative Action: 10/16/02

RECOMMENDATION: Approval (9-0: Carlson, Duvall, Krieser, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor voting 'yes').

FINDINGS OF FACT:

1. The staff recommendation to approve this change of zone/text amendment request is based upon the "Analysis" as set forth on p.2-3, concluding that this request amends the Zoning Ordinance to allow the sale of alcohol for consumption on the premises at golf courses and country clubs as an allowed accessory use upon receiving a special permit.
2. The applicant presented this proposal to the Mayor's Neighborhood Roundtable on October 10, 2002. The excerpts of the minutes of that meeting pertaining to this proposed text amendment are attached (p.13-15).
3. On October 16, 2002, this application was placed on the Consent Agenda of the Planning Commission and opened for public hearing. No one came forward to speak.
4. The Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: October 28, 2002

REVIEWED BY: _____

DATE: October 28, 2002

REFERENCE NUMBER: FS\CC\2002\CZ.3382

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3382

DATE: October 2, 2002

SCHEDULED PLANNING COMMISSION MEETING: October 16, 2002

PROPOSAL: To amend Lincoln Municipal Code Sections 27.63.130 and 27.63.680 to allow the sale of alcoholic beverages for consumption on the premises as an accessory use to golf courses and country clubs.

CONCLUSION: This request amends the Zoning Ordinance to allow the sale of alcohol for consumption on the premises at golf courses and country clubs as an allowed accessory use upon receiving a special permit.

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

APPLICANT: Wilderness Ridge, L.L.C.
PO Box 22296
Lincoln, NE 68542-2296
(402) 421-1627

CONTACT: Kent Seacrest
1111 Lincoln Mall Suite 350
Lincoln, NE 68508
(402) 435-6000

ASSOCIATED APPLICATIONS: SP#1692B - Amends the permit for Wilderness Ridge Golf Course by adding a note to the plan that states that the sale of alcohol for consumption on the premises is allowed as an accessory use to the golf course. Approval of SP#1692 is subject to CZ#3382 being approved by City Council.

ANALYSIS:

1. Section 27.63.680 of the Zoning Ordinance specifically allows the sale of alcohol for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts by special permit. It is allowed as a use by right in the B-4 Lincoln Center Business District.
2. In those districts not listed above, the sale of alcohol for consumption on the premises is not allowed as a principal use. However, all the residential districts contain the same provision as in Section 27.15.050 from the R-3 district, which allows accessory uses provided the

uses “are accessory buildings and uses customarily incident to any of the permitted uses in the district.” In the case of golf courses and country clubs, they are permitted special uses as recreational facilities in residential districts. It is this language that is subject to interpretation as to whether on-sale alcohol is allowed as a permitted accessory use to golf courses and country clubs under this provision.

3. The proposed amendments revise two sections in the Zoning Ordinance to clearly state that on-sale alcohol is allowed as an accessory use to a golf course or country club. The first revision is to LMC Section 27.63.130 Permitted Special Use: Recreational Facility. This revision allows the sale of alcohol for consumption on the premises as an accessory use to a golf course or country club as part of the special permit for a recreational facility provided the applicable locational requirements of Section 27.63.680 have been met or waived by City Council.
4. The second amendment revises LMC Section 27.63.680 Permitted Special Use: Sale of Alcoholic Beverages for Consumption on the Premises. The amendment to the preamble of this section allows on-sale alcohol as an accessory use to a golf course or country club to be approved as part of the special permit for the facility. This allows the on-sale of alcohol to be reviewed concurrently with the recreational facility eliminating the need for a separate special permit. The second sentence of this amendment requires that a special permit be approved to allow the sale of alcohol in the districts where either recreational facilities are allowed by right, or the facility is a pre-existing use.
5. The amendment to Section 27.63.680 goes on to modify sub-paragraph (c) by replacing ‘licensed premises’ with ‘designated area specified in a license issued under the Nebraska Liquor Control Act’, and adds the exception that the setback from a residential district is not applicable where such use is accessory to a golf course or country club. This provision attempts to further define that the clubhouse is used for purposes of measuring separation distance, and not greens and fairways. This accommodates those golf courses and country clubs that are located in residential districts and as a result cannot maintain the 100’ separation.

OTHER DEPARTMENT REVIEWS:

Police: No objections. This review notes that historically the Police Department has not encountered problems on golf courses where alcohol is sold.

Mayor’s Neighborhood Roundtable: It is City policy that all text changes to the Zoning Ordinance be presented to the Neighborhood Roundtable for their review. These proposed amendments are scheduled to be presented to the Neighborhood Roundtable at their October 10, 2002 meeting.

Prepared by:

Brian Will
Planner

CHANGE OF ZONE NO. 3382

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Carlson, Duvall, Krieser, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor.

The Consent agenda consisted of the following items: **CHANGE OF ZONE NO. 3380, CHANGE OF ZONE NO. 3382, CHANGE OF ZONE NO. 3383, SPECIAL PERMIT NO. 1692B, SPECIAL PERMIT NO. 1990 AND WAIVER OF DESIGN STANDARDS NO. 02021.**

Item No. 1.3, Change of Zone No. 3383; Item No. 1.5a, Special Permit No. 1990 and Item No. 1.5b, Waiver of Design Standards No. 02021 were removed from the Consent Agenda and scheduled for separate public hearing. Steward moved to approve the remaining Consent Agenda, seconded by Carlson. Motion to approve carried 9-0: Carlson, Duvall, Krieser, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor voting 'yes'.

SEACREST & KALKOWSKI, P.C.

1111 LINCOLN MALL, SUITE 350
LINCOLN, NEBRASKA 68508-3905

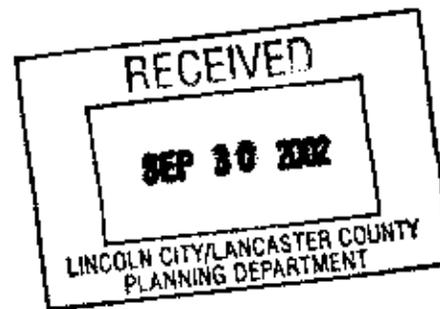
TELEPHONE (402) 435-6000
FACSIMILE (402) 435-6100
E-MAIL: cathie@sklaw.inetnebr.com

KENT SEACREST
DANAY KALKOWSKI

September 30, 2002

Brian Will
Planning Department
County-City Building
555 South 10th Street
Lincoln, NE 68508

Rick Peo
Assistant City Attorney
575 South 10th Street
Lincoln, NE 68508



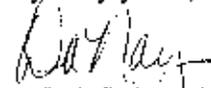
RE: Wilderness Ridge, L.L.C. Requested Amendment to Zoning Text

Dear Brian and Rick:

On September 19, 2002, our office submitted a request for a zoning text amendment to Lincoln Municipal Code § 27.63.130. In response to Kent's meeting with you on Friday, we are hereby amending our zoning text amendment request to include § 27.63.130 and 27.63.680. Enclosed please find two separate sheets which contain the requested amendment language. The amendments have been revised to limit the sale of alcoholic beverages for consumption on the premises to golf courses and country clubs, instead of including all recreational facilities.

Once you have had an opportunity to review the enclosed language, please call Kent or me if you have any comments or questions.

Very truly yours,


DANAY KALKOWSKI
For the Firm

cc: Carol Brown

27.63.130 Permitted Special Use: Recreational Facilities.

Recreational facilities may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, and B-3 zoning districts, in conformance with the following conditions:

(g) As part of the special permit for a recreational facility for a golf course or country club, the City Council may permit the sale of alcoholic beverages for consumption on the premises as an accessory use to the golf course or country club, provided the applicable locational requirements of Section 27.63.680 have been met or waived by the City Council.

27.63.680 Permitted Special Use: Sale of Alcoholic Beverages for Consumption on the Premises

Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning districts upon the approval of a special permit. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and, unless waived by the City Council, the following conditions:

(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a separate special permit under Section 27.63.685 of this code.

(c) ~~The licensed premises~~ designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district (except where such use is accessory to a golf course or country club) or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

SEACREST & KALKOWSKI, P.C.

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KENT SEACREST
DANAY KALKOWSKI

September 19, 2002

HAND DELIVERY

Marvin Krout
Planning Director
County-City Building
555 South 10th Street
Lincoln, NE 68508

Re: Amendment to Zoning Text and Amendment to Special Permit #1692A

Dear Marvin:

Our office represents Wilderness Ridge, L.L.C., the owner of the Wilderness Ridge Golf Course and Club House facilities located south of Yankee Hill Road between South 14th Street and South 27th Street. The Wilderness Ridge Golf Course and Club House is permitted as a recreational facility in the R-3 zone under Special Permit 1692A. Wilderness Ridge is submitting two separate items for review.

First, Wilderness Ridge, L.L.C. is requesting an amendment to Lincoln Municipal Code § 27.63.130 which is the special permit section for recreational facilities. The amendment requested would allow the City Council, as part of the special permit process for recreational facilities, to permit the sale of alcoholic beverages for consumption on site as an accessory use to a recreational facility; provided the applicable locational requirements of § 27.63.680 have been met or waived by the City Council. The majority of the privately owned golf courses within the City of Lincoln are located in residential districts. Many of them, including Wilderness Ridge, have an approved liquor license in effect that allows for the sale of alcoholic beverages for consumption on site within the boundaries of the golf course and club house facilities. The proposed amendment simply puts into place the zoning authority for uses that already exist as part of recreational facilities in residential districts.

The second request is an amendment to Special Permit #1692A to add a note indicating that the sale of alcoholic beverages for consumption on the premises of the recreational facility is permitted as an accessory use to the recreational facility, provided the applicable locational requirements of § 27.63.680 have been met or waived by the City Council. The amendment will

also include a legal description of recreational facility which identifies the area covered by the Wilderness Ridge Golf Course and Club House.

The time frame for processing the above requests is very sensitive to Wilderness Ridge, L.L.C. While we have not had an opportunity to meet with Planning Staff to discuss the requests, we have had numerous discussions with the City Law Department and have specifically discussed the zoning text amendment language with Rick Peo in the City Attorney's Office. We are in the process of setting up a meeting with Planning Staff to discuss the requested amendments.

Enclosed herein please find the following:

1. 16 Site Plans (Sheets 1 and 2) for Special Permit 1692B
2. Application for Zoning Text Amendment and Special Permit Amendment
3. Application fee in the amount of \$780.00

An ownership certificate has been ordered from Union Title and will be delivered within the next few days. We look forward to discussing the above requests with the City. In the meantime, if you have any questions about the above requests, please feel free to call me or DaNay Kalkowski in our office.

Very truly yours,



KENT SEACREST
For the Firm

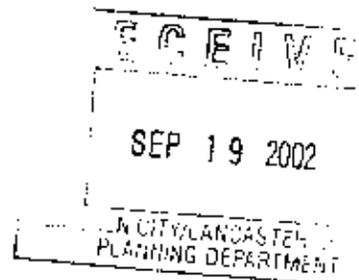
Enclosures
cc: Rick Peo
Ann Harrell

SUPERSEDED

27.63.130 Permitted Special Use: Recreational Facilities.

Recreational facilities may be allowed by special permit in the AG, AGR, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, and B-3 zoning districts, in conformance with the following conditions:

(g) As part of the special permit for a recreational facility, the City Council may permit the sale of alcoholic beverages for consumption on the premises as an accessory use to the recreational facility, provided the applicable locational requirements of Section 27.63.680 have been met or waived by the City Council.

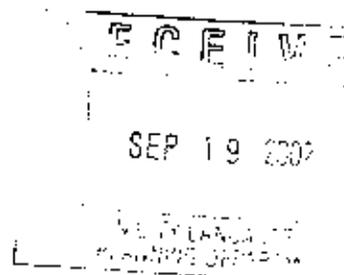


ADDED NOTE TO SPECIAL PERMIT 1692A:

The sale of alcoholic beverages for consumption on the premises of the recreational facility is permitted as an accessory use to the recreational facility, provided the applicable locational requirements of Section 27.63.680 have been met or waived by the City Council.

LEGAL DESCRIPTION OF RECREATIONAL FACILITY:

Outlots "A", "C", "F", "G", "H", "J" and "M", Wilderness Ridge Addition; Lot 1 and Outlot "A", Wilderness Ridge 1st Addition; and Outlot "B", Wilderness Woods Office Park Addition, all located in Lincoln, Lancaster County, Nebraska



Memorandum



To: Mr. Brian Will
From: Sergeant Michael S. Woolman #737
Date: September 30, 2002
Re: Wilderness Ridge SP 1692B / 1692A

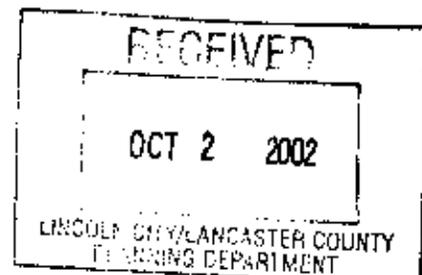
Mr. Will,

I have reviewed the Alcohol Sales Permit for the Wilderness Ridge Use Permit # 1692B and 1692A. The Lincoln Police Department has no objections to the sale of alcohol in the area covered by the Wilderness Ridge Club House.

The permit also requests approval to sell alcohol on the Wilderness Ridge Golf Course. Historically we have not encountered problems on golf courses where alcohol is sold.

A handwritten signature in black ink, appearing to read "Michael S. Woolman".

Michael S. Woolman



**Mayor's Neighborhood Roundtable Summary
October 10, 2002**

RECEIVED

OCT 29 2002

The regular meeting of the Mayor's Neighborhood Roundtable was called to order by Chair, at 4:30 p.m., on Thursday, October 10, 2002, in Room 113 at the County/City Building, Lincoln, Nebraska. Thirty-eight participants were in attendance.

LINCOLN LANCASTER COUNTY
PLANNING DEPARTMENT

Harry Bachman	Indian Village
Jennifer Brinkman	East Campus Community Organization
Carol Brown	Landon's Neighborhood Association
Jon Carlson	Near South Neighborhood Association
Ed Caudill	North Bottoms Neighborhood Association
Jonathan Cook	City Council
Michael Cornelius	Hartley Neighborhood Association
Sharon Doll	University Place Community Organization
Glenn Friendt	City Council
Diane Gonzales	Citizen Information Center
Lisa Good	Antelope Park
Craig Groat	
Ann Harrell	Mayor's Office
Harry Heafer	Lincoln Lancaster County Health Department
Gary Hejl	Antelope Park Neighborhood Association
Steve Imes	LPD
Joyce Jensen	Lincoln Lancaster County Health Department
Karin Kotschwar	Arnold Heights Neighborhood Association
Mike Merwick	Building & Safety
Diana Michael	Urban Development
Patte Newman	Eastridge
Sheila O'Connor	Lincoln Lancaster City CVB
Michael W. Patton	Woods Park Neighborhood Association
Darrell Podany	City Council Staff
Bill Price	Antelope Park Neighborhood Association
Becky Schenaman	North Bottoms Neighborhood Association
Bradd Schmeichel	Urban Development
Jeff Schwebke	Arnold Heights
Kent Seacrest	Seacrest and Kalkowski
Frank A. Smith	North Bottoms Neighborhood Association
Paul Smith	East Campus Community Organization
Thomas Soukup	Meadowland Neighborhood Association
Alene Swinehart	Irvingdale Neighborhood Association
Lori Vidlak	Heart of Lincoln
Bill Vocasek	West A Neighborhood Association
Mayor Wesely	Mayor's Office
Bob Wilhelm	LPD
Sandi Witkowiec	Lincoln Lancaster City CVB

Bill Vocasek commented that there is a problem in some neighborhoods with narrow streets, such as Gunner's Court, with a large number of vehicles parked on the street, there is not access for emergency vehicles.

Captain Imes explained that Public Works has a process for posting signs in an area for public access.

Becky Schenaman commented that she is concerned about an increase of crime in her neighborhood, and asked what might be the cause and what could be done about it. She feels it is a landlord problem, and if landlords were more diligent, there would be less problems.

Captain Imes explained that these problems are not students. He feels North Bottoms is a safe neighborhood. Some of the people involved in the crimes are long standing problems, and usually commit crimes against each other. The recent crime, he cannot say, as they are still investigating. Some things that could be done are to walk with a friend, walk in well lit areas, participate in neighborhood watch. Patrolling at regular intervals is not effective. Over 4 weeks time there were no crimes in 2 weeks, one during the 3rd week, and 6 during the 4th week. You cannot patrol for that.

Captain Imes asked for people to contact the LPD Captain in their area if they have questions.



AMENDMENT TO ZONING TEXT AND AMENDMENT TO SPECIAL PERMIT #1692A

Kent Seacrest provided information on the changes to the zoning text and amendment to Special Permit #1692A (attached to original minutes). Kent Seacrest is the attorney representing Wilderness Ridge Development Company and Southview, Inc., the developers of Wilderness Ridge Golf Course at 27th and Yankee Hill.

The Golf Course was approved and a liquor license was obtained for the Golf Course and the temporary club house. At the time they applied under Lincoln Municipal Code §27.15.050, which says accessory use customarily incidental to permitted use is acceptable. In the past, this has been interpreted as if you permitted a golf course, an incidental use of the golf course and club house was selling alcohol. As the result, there are a lot of liquor licenses in residential areas at golf courses, such as Yankee Hill, Country Club, HiMark Golf Courses.

Now that the permanent club house is completed, the text as now interpreted, does not recognize sale of liquor as an accessory use.

The two amendments proposed are to make it clear that when you get a Special Permit for a golf course club house and you want to sell liquor, you can do it as an accessory use. This Amendment only applies to golf courses. The other section to be amended is on the on-premis area, so that if you get a special permit to sell liquor at a golf course, you can do it in a residential area on the premisis of the golf course.

Planning Department recommends support of the amendments. The Lincoln Police Department has said they have no problem with sale of liquor on golf courses.

Annette McRoy asked if the amendment includes City Golf Courses.

Kent explained that it will affect public golf courses in residential areas, but not city golf courses, which are zoned P. Public golf courses are not membership courses.

Jonathan Cook asked if this would allow alcohol on the entire golf course.

Kent explained that they now have a liquor license for the entire golf course, just not the permanent Club House.

Jonathan Cook asked if what is being proposed is to add a Special Permit for recreational facilities that would allow the liquor, avoiding the need for a liquor Special Permit. He is concerned about spreading alcohol provisions to other parts of the code, instead of in one place where it can be easily understood, even if it requires applying for two special permits.

Kent explained that Planning staff suggested amending the code so that only one special permit application is necessary. He has no problem with applying for two special permits. If the permit for the Club House were to be denied, they already have a permit to sell liquor on the course.

Jon Carlson asked if it was the R zoning that limits accessory use.

Kent explained that in R zoning, you are required to be 100 feet away to sell liquor. With a golf course in a residential area, the exception is made because the course can border on a residential lot. A golf cart may be closer than 100 feet during play.

These amendments will go to Planning Commission on Wednesday, October 16th.

Glenn Friendt asked if this is a technicality, and will put them on "par" with other golf courses.

Kent responded that he does not feel that any liquor amendment is just a technicality. This is a public policy decision. This has been the policy in the past with public golf courses.

ANNOUNCEMENTS

Craig Groat announced the City Charter states that if you are injured due to a defect in a city