

FACTSHEET

TITLE: MISCELLANEOUS NO. 03010, requested by the Director of Planning, to amend Chapter 1.00, Section 2, of the City of Lincoln Design Standards, to modify the procedure for granting modifications to design standard requirements and providing an appeal process therefor.

STAFF RECOMMENDATION: Approval.

ASSOCIATED REQUESTS: Miscellaneous No. 03009 (03-143)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 08/20/03
Administrative Action: 08/20/03

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

FINDINGS OF FACT:

1. This proposed amendment to the City of Lincoln Design Standards is a follow-up adjustment to the procedural amendments recently adopted by the City Council with the application fee increases.
2. The proposed amendments are set forth on p.5-8.
3. The staff recommendation to approve this text amendment to the Design Standards is based upon the "Analysis" as set forth on p.2-3, concluding that the Planning Commission should have the authority to approve modifications to the subdivision regulations that are found to meet the intent of the code and which are supported by City Staff. The proposed new language was approved by the Planning Commission on August 6, 2003, and by the City Council on August 18, 2003, and is simply being relocated to more appropriate sections of the code at the request of the Law Department.
4. There was no testimony at the public hearing before the Planning Commission on August 20, 2003.
5. On August 20, 2003, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 2, 2003

REVIEWED BY: _____

DATE: September 2, 2003

REFERENCE NUMBER: FS\CC\2003\MISC.03010

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for August 20, 2003 PLANNING COMMISSION MEETING

P.A.S.: Miscellaneous #03009 & **03010**

PROPOSAL: To amend the language in the Subdivision Ordinance and the Design Standards in order to allow the Planning Commission to approve waiver requests, and to allow the Planning Director to sign the approval certificate on final plats.

CONCLUSION: The Planning Commission should have the authority to approve modifications to the regulations and standards that are found to meet the intent of the codes and has City Staff support. The proposed new language was approved by the Planning Commission at their August 6, 2003 meeting and is simply being relocated to more appropriate sections of the code at the request of the Law Department.

The amendment to permit the Planning Director to sign the approval certificate is related to another amendment approved by the Planning Commission on August 6, 2003 that gave the Planning Director authority to approve final plats.

RECOMMENDATION:

Approval

DESCRIPTION:

Section 26.19.020 and 26.31.010 of the Land Subdivision Ord of Title 26 of the LMC
Title 1, Chapter 1.00, Sections 2.1 and 2.2 of the City of Lincoln Design Standards

ANALYSIS:

1. There are situations where waivers and modifications to the rules and regulations are justified and the City staff finds the waivers meet the intent of the rules and regulations. In those situations one public hearing by the Planning Commission should be sufficient for the public to voice their concerns. The amendment gives the applicant or any aggrieved person the opportunity to appeal the Planning Commission's decision to the City Council. In those situations where the Planning Commission approves the waiver but the City staff finds that it does not meet the intent of the regulations, then that request should be considered by the City Council.
2. Waiver requests will still require a public hearing with this amendment, but the time period is reduced in most cases.

3. The amendment to 26.19.020 was intended to be included in the packet for Miscellaneous #03005 involving procedures and fees, which the Planning Commission approved on August 6, 2003. The amendment authorizes the Planning Director to sign the approval certificate.

Attached is the proposed language in legislative form.

Prepared by:

Ray Hill Planner

DATE: August 7, 2003

APPLICANT:
Director of Planning Marvin S. Krout

CONTACT:
Ray Hill, Planning Department
555 South 10th Street
Lincoln, Ne 68508
441-6371, rhill@ci.lincoln.ne.us

**MISCELLANEOUS NO. 03009,
TEXT AMENDMENT TO TITLE 26
and
MISCELLANEOUS NO. 03010,
TEXT AMENDMENT TO THE DESIGN STANDARDS**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 20, 2003

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

Staff recommendation: Approval.

Ex Parte Communications: None.

Proponents

Brian Will of Planning staff explained that this is actually connected with the applications reviewed at the last meeting on the fee increase and processing procedures. These are clean-up adjustments.

There was no testimony in opposition.

MISCELLANEOUS NO. 03009

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 20, 2003

Bills-Strand moved approval, seconded by Larson and carried 9-0: Krieser, Larson, Duvall, Carlson, Bills-Strand, Taylor, Marvin, Steward and Schwinn voting 'yes'.

MISCELLANEOUS NO. 03010

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 20, 2003

Bills-Strand moved approval, seconded by Schwinn and carried 9-0: Krieser, Larson, Duvall, Carlson, Bills-Strand, Taylor, Marvin, Steward and Schwinn voting 'yes'.

Chapter 1.00

REQUEST FOR WAIVER, PROCEDURE

Section 1. PURPOSE

The following design standards are adopted for the purpose of establishing the technical specifications, engineering requirements, and similar matters which property owners, subdividers, and permittees must meet when constructing or installing public and private improvements authorized or required by the various provisions of Chapter 14.75, Chapter 24.38, Title 26, and Title 27 of the Lincoln Municipal Code. Nothing contained herein shall prevent the City from approving a deviation from any of the standards as set forth herein upon a satisfactory showing that such deviation will not materially and adversely affect the public welfare and that the general intent and spirit of these design standards are preserved. *(Resolution A-81230; 11-16-01)*

Section 2. PROCEDURE

2.1 Design Standards for Subdivision Regulations

Any request for a deviation from the Design Standards for Subdivision Regulations shall first be submitted to the Planning Commission for its recommendations and report shall be filed with the Planning Director. The Planning Commission shall hold at least one public hearing on the request before submitting its recommendations and report. Notice of the Commission's hearing shall be provided pursuant to Section 26.11.036 of the Lincoln Municipal Code. Upon receiving a report from the Planning Commission, the City Council, after public hearing, shall take final action upon the requested deviation. Such request shall set forth the specific modification requested and all supporting reasons and documentation as to why the modification should be granted, how the public welfare will be preserved, and why the modification will not detract from the intent and spirit of these design standards. The Director shall distribute a copy of the requested modification and the applicant's statement and accompanying data to the director of the department designated as primarily responsible for the design standards from which the modification is sought. Such director shall, within fifteen days from receipt of a copy of the requested modification, file with the Planning Director notice of his approval of the requested modification or a report stating why the modification should not be granted. Within thirty days from the filing of the request for modification, the Planning Director shall notify the applicant in writing of the recommended approval or disapproval of the request. The request for modification will then be scheduled on the Planning Commission agenda for public hearing and action as provided below.

(1) (a) If the requested modification is recommended for approval by the director of the department designated as primarily responsible for the design standards from which the modification is sought, the Planning Commission, after holding at least one public hearing on the requested modification, may modify such design standards so that the applicant may develop the land in a reasonable manner, but so that at the same time, the

public welfare and interests of the City and surrounding area are protected and the general intent and spirit of these regulations are preserved.

(b) Any aggrieved person may appeal any action of the Planning Commission to the City Council by filing a notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission. 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 Section 26.11.036. 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.

(2) If the director of the department designated as primarily responsible for the design standards for which the modification is sought recommends denial of the requested modification, the Planning Commission shall hold a public hearing on such request and make a report and recommendation to the City Council regarding whether the modification should be granted or denied and, if approved, how the public welfare will be preserved and why the modification, if granted, will not detract from the intent and spirit of these design standards. The findings of the Commission after public hearing shall be submitted to the City Clerk within seven days from the action by the Planning Commission. After submittal of the findings of the Planning Commission to the City Clerk, the City Clerk shall cause the requested modification to be placed on the agenda of the City Council for approval by the City Council by resolution. The City Council, after holding at least one public hearing on the requested modification, may modify such design standards so that the applicant may develop the land in a reasonable manner, but so that at the same time, the public welfare and interests of the City and surrounding area are protected and the general intent and spirit of these design standards are preserved.

Notice of public hearings required under this section shall be provided pursuant to Section 26.11.036 of the Lincoln Municipal Code. The minimum improvements set forth in Chapter 26.27 of the Lincoln Municipal Code shall be required unless specifically and individually waived by the Planning Commission or City Council as provided above.

2.2 Design Standards for Zoning Regulations

Any request for a deviation from the Design Standards for Zoning Regulations shall be filed with the Planning Director. ~~first be submitted to the Planning Commission for its recommendations and report. The Planning Commission shall hold at least one public hearing on the request before submitting its recommendations and report approving or denying the requested deviation.~~ Notice of the Commission's hearing shall be provided pursuant to Section 27.81.050 of the Lincoln Municipal Code. Upon receiving a report from the Planning Commission, the City Council, after public hearing, shall take final action upon the request. Such request shall set forth the specific modification requested and all supporting reasons and documentation as to why the modification should be granted, how the public welfare will be preserved, and why the modification will not detract from the intent and spirit

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of these design standards. The Director shall distribute a copy of the requested modification and the applicant's statement and accompanying data to the director of the department designated as primarily responsible for the design standards from which the modification is sought. Such director shall, within fifteen days from receipt of a copy of the requested modification, file with the Planning Director notice of his approval of the requested modification or a report stating why the modification should not be granted. Within thirty days from the filing of the request for modification, the Planning Director shall notify the applicant in writing of the recommended approval or disapproval of the request. The request for modification will then be scheduled on the Planning Commission agenda for public hearing and action as provided below.

(1) (a) If the requested modification is recommended for approval by the director of the department designated as primarily responsible for the design standards from which the modification is sought, the Planning Commission, after holding at least one public hearing on the requested modification, may modify such design standards so that the applicant may develop the land in a reasonable manner, but so that at the same time, the public welfare and interests of the City and surrounding area are protected and the general intent and spirit of these regulations are preserved.

(b) Any aggrieved person may appeal any action of the Planning Commission to the City Council by filing a notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission. 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 Section 27.81.050. 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.

(2) If the director of the department designated as primarily responsible for the design standards for which the modification is sought recommends denial of the requested modification, the Planning Commission shall hold a public hearing on such request and make a report and recommendation to the City Council regarding whether the modification should be granted or denied and, if approved, how the public welfare will be preserved and why the modification, if granted, will not detract from the intent and spirit of these design standards. The findings of the Commission after public hearing shall be submitted to the City Clerk within seven days from the action by the Planning Commission. After submittal of the findings of the Planning Commission to the City Clerk, the City Clerk shall cause the requested modification to be placed on the agenda of the City Council for approval by the City Council by resolution. The City Council, after holding at least one public hearing on the requested modification, may modify such design standards so that the applicant may develop the land in a reasonable manner, but so that at the same time, the public welfare and interests of the City and surrounding area are protected and the general intent and spirit of these design standards are preserved.

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Notice of public hearings required under this section shall be provided pursuant to Section 27.81.050 of the Lincoln Municipal Code.

Notwithstanding the above, any request for a deviation of the Capitol Environs Design Standards may be approved by the Nebraska Capitol Environs Commission as provided in said design standards and any request for deviation of the Neighborhood Design Standards may be approved by the Historic Preservation Commission as provided in said design standards.

2.3 Design Standards for Driveways Under Chapter 14.75 of the Lincoln Municipal Code

Any request for a deviation from the Driveway Design Standards shall be submitted to the Director of Building and Safety (residential) or the Director of Public Works and Utilities (commercial). The appropriate Director shall within 15 days, file a written report on the requested deviation from design standards with the City Clerk setting forth the design standard deviation being requested and the reasons recommended for granting or denying such deviation. Upon receipt of the report, the City Clerk shall schedule said request for a deviation and report on the next reasonably available City Council agenda and the City Council, after holding a public hearing on the request for deviation, shall either approve or deny the request.

2.4 Design Standards for On-Site Wastewater Treatment Systems Under Chapter 24.38 of the Lincoln Municipal Code

Any request for a deviation from the Design Standards for On-Site Wastewater Treatment Systems shall be submitted to the Health Director as set forth in Chapter 4.10, "Design Standards for On-Site Wastewater Treatment Systems," Section 3, Variance.

(Resolution A-81230; 11-16-01)