

City Council Introduction: **Monday**, August 30, 2004
Public Hearing: **Monday**, September 13, 2004, at **1:30 p.m.**

Bill No. 04-161

FACTSHEET

TITLE: CHANGE OF ZONE NO. 04032, requested by the Director of Planning, to amend Chapter 27.60 of the Lincoln Municipal Code relating to the Planned Unit Development District.

STAFF RECOMMENDATION: Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 08/18/04
Administrative Action: 08/18/04

RECOMMENDATION: Approval (8-0: Marvin, Pearson, Krieser, Sunderman, Carlson, Carroll, Taylor and Bills-Strand voting 'yes'; Larson absent).

FINDINGS OF FACT:

1. This application revises the text of the Planned Unit Development District of the Lincoln Municipal Code, Chapter 27.60.
2. This proposal meets the intent of the PUD district, but provides additional flexibility to applicants and simplifies the amendment process within the Planning Department and the Building & Safety Department. The primary differences between the existing text and the proposed text are listed on p.5.
3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.4-6, concluding that the proposed text revisions are in conformance with the Comprehensive Plan.
4. The staff presentation is found on p.7-8. Attorneys Peter Katt and Kent Seacrest testified in support (p.8).
5. There was no testimony in opposition.
6. On August 18, 2004, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval. After this vote, the Planning Commission passed a motion recommending to the City Council that the Planning Department undertake a review of the signage and lighting standards in order to better assure compatibility (See Minutes, p.9).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: August 23, 2004

REVIEWED BY: _____

DATE: August 23, 2004

REFERENCE NUMBER: FS\CC\2004\CZ.04032

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for August 18, 2004 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #04032

PROPOSAL: To revise the text of the Planned Unit Development District of the Lincoln Municipal Code 27.60.

CONCLUSION: The text revisions are in conformance with the Comprehensive Plan.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

HISTORY:

On August 12, 2004 Planning Staff will present the text changes to the Neighborhood Roundtable.

On July 14, 2004 the Planning Department held a public meeting with representatives of the development community. Eleven people attended, consisting of attorneys, engineers, surveyors and site planners. They raised several questions and made suggestions which planning staff has attempted to address in this proposal and with upcoming text revisions in other sections of the Zoning Ordinance.

The Planned Unit Development text was added to the Zoning Ordinance July 27, 1984.

The Antelope Valley redevelopment was approved as part of the Comprehensive Plan to provide flood control, community revitalization and transportation improvements for the Antelope Creek drainage basin. A redevelopment plan is currently under review that encourages mixed use development and recommends special building design standards. It is anticipated that the proposed Planned Unit Development ordinance will be utilized to help implement the redevelopment plan.

Other developers intend to use the Planned Unit Development district once it is revised. One developer intends to submit a project in October using the new guidelines.

COMPREHENSIVE PLAN SPECIFICATIONS:

The core promise embedded in the Comprehensive Plan is to maintain and enhance the health, safety and welfare of our community during times of change, and to promote our ideals and values as changes occur. The Comprehensive Plan is specific to Lincoln and Lancaster County and it recognizes the factors that make us unique. The Plan therefore is a combination of practicality and vision, and provides guidelines for sustaining the rich mosaic that now characterizes our community.

Lincoln and Lancaster County have many different components that are bound together physically, economically, and culturally, all within a prairie ecosystem. The One Community Vision commits us to proactively, but cooperatively, acknowledge the sometimes competing interests and needs of neighborhoods, small towns, and rural areas, our growing cultural diversity, and regional economic forces, as we address the future. This is the

fundamental challenge for our Comprehensive Plan: to retain the characteristics of our individual parts while accommodating change within an increasingly interdependent world. As a decision-making tool, the Plan must accomplish both these tasks.

Lincoln and Lancaster County's easily accessible museums, rich architecture, historic places, sustainable neighborhoods, diverse housing opportunities, libraries, performing and visual arts, agricultural landscapes, trails, entertainment and recreational opportunities, and schools, are truly major assets that enhance the quality of life for all residents. Neighborhoods are also one of Lincoln and Lancaster County's great strengths and their conservation is fundamental to this plan. In addition we are increasingly a diverse community. However, access to our quality of life assets is impossible without adequate physical and technological infrastructure. The Plan acknowledges this fact, and commits us to use access to quality of life assets as a decision-making criterion.

Lincoln and Lancaster County must have a sustainable tax base to provide quality services to residents. The Comprehensive Plan recognizes that technological change and global economic forces have a direct impact on local employment and quality of life. For this reason, the Plan seeks to improve technological infrastructure, to maintain a healthy climate for locally owned and operated commerce and trade, to promote the recruitment of new companies, and to provide a variety of training and employment opportunities.

Clean air, clean water, parks and open space, mature trees, signature habitats, and prime and productive farmlands are valuable assets. Conservation areas, floodplains, green spaces, and parks define, and help to create linkages between, neighborhoods and surrounding population centers. The Comprehensive Plan takes into consideration the effects of natural phenomena not only upon localized development, but also upon the community as a whole, upon private ownership issues, and upon recreational opportunities. The Plan thus commits Lincoln and Lancaster County to preserve unique and sensitive habitats and endorses creative integration of natural systems into developments.

Although the Comprehensive Plan is intended primarily to guide the physical development of our community, the results of such development are ultimately felt by individuals and their families. The planning process aspires to make this interaction between people and their physical landscape one in which all facets of our community can prosper, not only economically, but also intellectually, aesthetically, and spiritually. The Comprehensive Plan seeks to accommodate and encourage the participation of all citizens of the city and county in the making of public policies to implement the visions of the community. Comprehensive planning is a continuous process, requiring a continuing, equitable, and frequent interaction between the governments and their constituencies. (V1-V2)

Preservation and renewal of historic buildings, districts, and landscapes is encouraged. Development and redevelopment should respect historical patterns, precedents, and boundaries in towns, cities and existing neighborhoods. (F-17)

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. (F-18)

Many activities of daily living should occur within walking distance. Neighborhoods should include homes, stores, workplaces, schools and places to recreate. (F-66)

The guiding principles for new neighborhoods include:

1. Encourage a mix of housing types, single family, townhomes, apartments, elderly housing all within one area;
2. Similar housing types face each other: single family faces single family, change to different use at rear of lot;
3. Parks and open space within walking distance of all residences;
4. Multi-family and elderly housing nearest to commercial area;
5. Pedestrian orientation; shorter block lengths, sidewalks on both sides of all roads;
6. Public uses (elementary schools, churches) as centers of neighborhood – shared facilities (city parks & school sites). (F-67)

The guiding principles for existing neighborhoods include:

1. Encourage a mix of compatible land uses in neighborhoods, but similar uses on the same block face. Similar housing types face each other: single family faces single family, change to different use at rear of lot. Commercial parking lots should not intrude into residential areas where residential uses predominate a block face. More intense commercial uses (gas stations, big box stores, car wash, fast food, etc.) may not be compatible due to impact on nearby housing. Expansion in existing centers should not encroach, or expand to encroach, on existing neighborhoods, and commercial areas must be screened from residential areas.
2. Encourage pedestrian orientation with parking at rear of residential and neighborhood commercial uses.
3. Require new development to be compatible with character of neighborhood and adjacent uses (i.e., parking at rear, similar setback, height and land use).
4. Encourage a mix of housing types, including single family, duplex, attached single family units, apartments, and elderly housing all within one area. Encourage multi-family near commercial areas.
5. Encourage retention of single family uses in order to maintain mix of housing.
6. Encourage historic preservation and the rehabilitation and maintenance of buildings.
7. Maintain small parks and open space within walking distance of all residences.
8. Support retention of public uses (elementary schools, churches) as centers of neighborhood – encourage shared parking whenever possible — permit minor incursions of accessory parking for public/semi-public uses into neighborhood if properly screened.
9. Transit stops integrated into commercial center, near arterial.
10. Maintain existing pattern of streets.
11. Arterial streets compatible with the existing character with two through lanes and a center turn lane. (F-69)

These criteria will serve as a guide to future actions until they are formalized and included in the zoning ordinance: The center shall be located in a neighborhood with greater residential density, than is typical for a suburban area, and the center itself contains higher density residential uses (density above fifteen dwelling units per acre) integrated within the development. This criteria is mandatory for any center proposing to utilize the incentive. Provide a significant mix of uses, including office, service, retail, residential and open space — far more than typical single use centers. Multi-story buildings are encouraged. Integrate some light industrial or manufacturing uses within the center (does not apply to neighborhood centers). Provide public amenities such as recreational facilities, significant open space, plazas, public squares and other types of public facilities or meeting areas. Are supported by a street network with significant traffic capacity in the future, rather than on streets that already have significant commercial development. Provide for even greater pedestrian orientation in their layout, physical arrangement of buildings and parking, buildings shall be oriented to pedestrians. Provide for transit opportunities in the center design. (F-48)

For existing neighborhoods, the diversity is often already in place, but efforts must focus on maintaining this balance and variety. The diversity of architecture, housing types and sizes are central to what makes older neighborhoods great places to live. New construction should continue the architectural variety, but in a manner that is sympathetic with the existing neighborhoods. Infill development also needs to respect the street pattern, block sizes and development standards of the area, such as having parking at the rear and front porches, windows and doors on the front street side. (F-71-72)

In existing neighborhoods adjacent to the Downtown, retain existing **predominately single family blocks** in order to maintain the mix of housing types. The current mix within each neighborhood provides ample housing choices. These existing neighborhoods have significantly greater populations and residential densities than the rest of the community. Significant intensification could be detrimental to the neighborhoods and be beyond infrastructure capacities. (F-73)

ANALYSIS:

1. The intent of the PUD District is to encourage a mixing of residential, commercial and industrial developments, to encourage creative design by allowing more flexibility in development standards, establishing use regulations, establishing procedures and requirements for the approval of Planned Unit Developments, providing for a method of review and approval by the Planning Commission and City Council and by providing a method of amending approved planned development.

2. The proposed revisions continue to meet the original intent of the district, but provide additional flexibility to applicants and simplify the amendment process within the Planning Department and Building and Safety Departments. In the past 20 years City Council has only approved 22 PUD's. This can be attributed to the districts restrictive and cumbersome process.
3. The following changes illustrate the primary differences between the old and new text.
 - a. Removes of the pre-application requirement and elimination of the 30-day staff review. This allows applications to be automatically scheduled for a Planning Commission hearing and recommendation to City Council. This is similar to the process already used for Community Unit Plan and Use Permit applications.
 - b. Eliminates the maximum allowed percentage of uses in each district. For example: under the present text, commercial uses are limited to 10% of residential district land area. The removal of this limitation provides more flexibility so that the applicant can pursue the objective of mixed use. The applicant still must demonstrate how the proposed PUD is appropriate and compatible with existing land uses, and the City Council can impose appropriate requirements.
 - c. Adds the ability for the Building Official to approve very minor deviations from the site plan by allowing "substantial" compliance with the approved development plan. This would only be used for deviations that do not have impacts on neighboring properties, such as the slight reconfiguration of a parking stall layout (either the addition or removal of a stall) or slightly moving an accessory building, such as a gazebo. This still requires development to maintain all setbacks and meet other minimum standards in the development codes. When the Building Official or Planning Department feel a deviation may have additional impacts, it would be deemed "not" in substantial compliance with the development plan.
 - d. Gives the Planning Director greater authority to approve internal changes, such as allow internal setbacks within an undeveloped area to be decreased administratively with no City Council action. Reductions still must be consistent with the intent and spirit of the Comprehensive Plan. Any reduction that Planning staff believes is "not" consistent with the Comprehensive Plan will require City Council action.
 - e. Allows the Planning Director to approve minor increases (up to 15%) in commercial floor area and dwelling units above the limits set in the original approval of the PUD. Presently with a use permit the Planning Director has the authority to approve minor increases in commercial floor area, this authority is proposed to be extended to PUDs. Minor increases in dwelling units is a new concept for our Ordinance. When density is a major issue, the City Council may add a condition restricting the Planning Director's authority to increase density.

- f. The proposed text places a substantial responsibility on the applicant to show potential impacts and mitigation. The standard is higher in areas that are already developed, meaning the Planning Department will expect complete applications which address all potential impacts and how the applicant proposes to treat sensitive areas.
- 4. Planning staff believes the revised text accomplishes the desire for thorough review and streamlined process for more flexibility, simplifies the amendment process, makes the text more consistent with other aspects of the Zoning Ordinance while maintaining the ability to uphold the spirit and intent of the Comprehensive Plan and protect existing neighborhoods.

Prepared by:

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DATE: August 5, 2004

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CHANGE OF ZONE NO. 04032

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 18, 2004

Members present: Marvin, Pearson, Krieser, Sunderman, Carlson, Carroll, Taylor and Bills-Strand; Larson absent.

Staff recommendation: Approval.

Ex Parte Communications: None.

Proponents

1. **Becky Horner** of Planning staff presented the application to revise the Planned Unit Development ordinance. For several years developers have requested more flexibility of the process and Planning staff began reviewing the district for possible revisions. This proposal:

- Removes the pre-application requirement and eliminates the 30-day staff review;
- Allows more flexibility to the amount and location of residential and commercial floor area within a PUD;
- Allows minor variations of the site plan to be approved at the time of building permit;
- Allows the Planning Director to approve internal variances and approve minor increases (up to 15%) in commercial floor area and residential dwelling units; and
- Places a greater responsibility on the applicant to provide mitigation for all potential impacts.

The staff believes that these changes simplify the PUD process and allow greater flexibility of the district, while upholding the spirit and intent of the Comprehensive Plan.

Marvin suggested that being able to see the site plan and know what's going into the neighborhood is a plus for all the parties concerned and this appears to reduce that element to some degree. Horner stated that the application will be required to show all information that is required by a community unit plan and preliminary plat, including proposed floor areas and proposed uses, but there may be minor variations at the time of building permit, such as the parking lot layout, which do not impact neighboring properties. There is presently an administrative amendment process which allows the Director of Planning to approve variations to site plans under use permits, community unit plans and the PUD process, but these amendments would allow a little more flexibility for the Planning Director to maybe increase units, such as reducing the size of lots slightly to allow an additional lot, yet be within the required density.

Carlson inquired whether the yellow sign gets posted on the property when there is an application for administrative amendment. Horner stated that an administrative amendment does not require a sign to be posted on the property. There is no opportunity for public input but the application is reviewed by other departments. If it's a great enough deviation or change, the Director of Planning would not allow it to be approved administratively. If the staff believes it would impact any of the neighbors at all, it would have to go back to the Planning Commission and City Council. Carlson suggested that this means that we are relying on the current lighting and other code requirements. Horner stated that administrative amendments are handled in that manner now.

2. Peter Katt appeared on behalf of his law firm which does a lot of work in the land use development area and agreed that they have encouraged greater flexibility and adaptability of the zoning ordinance. The staff has been diligently working on these amendments, and he is in support. The PUD is another great tool for the city to have to do great projects in new and existing areas. The purpose of the PUD is to provide flexibility. The zoning ordinances are very rigid. The purpose of this is to allow some degree of flexibility which allows for creative, innovative projects. The point he made at the Neighborhood Roundtable in support was that the great old neighborhoods could not be built today with the current zoning ordinance. If what we like in older neighborhoods is what should be available in newer neighborhoods, we need some tool to allow that flexibility to occur. His review of this language is that it is very flexible and accommodating and has a lot of public review and oversight. It's just another tool and he encouraged that the ordinance be adopted. The proof of how valuable this is will be in how it is used. The PUD has not been used for a long time because it does not work. It could be used for a number of projects with this flexibility.

3. Kent Seacrest testified in support. He has been practicing law 20 years and he has yet to use the PUD ordinance because the current structure is the most unfriendly and ill-conceived. The doctrine in Planning school was PUD's. He is excited to see that we might be able to put a PUD together for a progressive community. He commended the staff for this effort. This is the way you do walkability and mixed use. This will help the new areas as well as the older areas. This is how to create sustainability without always getting into a car to go someplace.

There was no testimony in opposition.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 18, 2004

Krieser moved approval, seconded by Carlson.

Carlson likes the idea and the general philosophy where we make things easier while making the rules and design guidelines clearer up front. We're moving in the right direction and he is okay with leaving discretion to the Planning Director. It always seems like a handful of things consistently seem to be the friction point and it is almost always the signage and the lighting.

Carlson offered an amendment to recommend to the City Council that they direct the Planning Department to examine the sign and lighting regulations to create better compatibility between the commercial uses and their surrounding uses. We need to double-check the rules as we move

forward in this direction. Marvin Krout, Director of Planning, suggested that this recommendation could be formalized in a motion but it probably should not be in terms of an amendment to this ordinance. It should be separate action.

Carlson withdrew his motion.

Motion to approve carried 8-0: Marvin, Pearson, Krieser, Sunderman, Carlson, Carroll, Taylor and Bills-Strand voting 'yes'; Larson absent. This is a recommendation to the City Council.

Carlson then made a motion to recommend that the City Council direct the Planning Department to examine the sign and lighting regulations to create better compatibility between the commercial uses and their surrounding uses, seconded by Pearson and carried 8-0: Marvin, Pearson, Krieser, Sunderman, Carlson, Carroll, Taylor and Bills-Strand voting 'yes'; Larson absent.
