

City Council Introduction: **Monday**, January 31, 2005
Public Hearing: **Monday**, February 7, 2005, at **1:30** p.m.

Bill No. 05-13

FACTSHEET

TITLE: MISCELLANEOUS NO. 04014, proposed text amendments to Title 26 of the Lincoln Municipal Code (Land Subdivision Ordinance), requested by the Director of Planning, to simplify and streamline the development process.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 01/19/05
Administrative Action: 01/19/05

STAFF RECOMMENDATION: Approval.

RECOMMENDATION: Approval (7-0: Sunderman, Marvin, Carlson, Carroll, Taylor, Larson and Bills-Strand voting 'yes'; Pearson and Krieser absent).

FINDINGS OF FACT:

1. This is a request to amend certain chapters of the Land Subdivision Ordinance in order to simplify and streamline the development process. An explanation of the proposed amendments is set forth in the "Analysis" on p.2-15.
2. The proposed criteria for "certified landscape contractors/nurseries" for the installation of street trees, landscape screens and/or other required landscaping is found on p.8.
3. The proposed time line and surety requirements for sidewalks and street trees is found on p.9.
4. The amendments submitted by staff on January 19, 2005, which were incorporated into the staff recommendation, are found on p.10.
5. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-9, concluding that the proposed amendments to the Land Subdivision Ordinance are in conformance with the Comprehensive Plan.
6. The explanation of the requirement for a "certified landscape contractor/nursery" by Lynn Johnson, Director of Parks & Recreation, is found on p.6-7.
7. There was no testimony in opposition; however, the record consists of a letter from the Lincoln Housing Authority with concerns about the requirement to list the name of the certified landscape contractor on the landscape plan (See p.11-12). Note: The proposed staff amendment to section 26.19.035 (c) should alleviate this concern, which removes the requirement to "name" the certified landscape contractor.
8. On January 19, 2005, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval, with the amendments submitted by staff on January 19, 2005.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: January 24, 2005

REVIEWED BY: _____

DATE: January 24, 2005

REFERENCE NUMBER: FS\CC\2004\MISC.04014

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for January 19, 2005 PLANNING COMMISSION MEETING

P.A.S.: Misc #04014

PROPOSAL: To amend the text of the Land Subdivision Ordinance in Chapters 26.07, 26.11, 26.15, 26.19, 26.23, 26.27 and 26.31

CONCLUSION: In conformance with the Comprehensive Plan.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

COMPREHENSIVE PLAN SPECIFICATIONS:

Examine ways of simplifying the development regulations and supporting documentation to encourage a broader understanding of planning concepts and their relevance to neighborhoods' and businesses' continuity and viability. (F-152)

As these are applied in the future, consideration should be given to the continued use and possible expansion of "fast track" incentives. These incentives allow development proposals to be reviewed, and possibly approved in a shorter period of time than might normally occur. (F-153)

HISTORY

September 22, 2003 Miscellaneous #03009 to make changes to the Land Subdivision Ordinance that were unintentionally omitted from Miscellaneous #03005 was approved by the City Council.

August 18, 2003 Miscellaneous #03005 to allow all final plats to be approved by the Planning Director and allow the Planning Commission to approve waivers.

ANALYSIS:

1. This is a request to amend Chapters 26.07, 26.11, 26.15, 26.19, 26.23, 26.27 and 26.31 of the Land Subdivision Ordinance in order to simplify and streamline the development process.
2. The proposed amendments to the subdivision ordinance will delete the requirement that outlots front on a street. Outlots will still be required to have access to a public street or private roadway. Outlots are generally non buildable and are for common open space, recreational facilities, storm water detention, or land reserved for future development. It is not necessary that they abut a street or private roadway if there is another way to reach the land. (26.07.135)

3. The definition of Major Street as proposed would clarify that not only the maps but also the narrative in the Comprehensive Plan are to be used when determining major streets.
4. The proposed amendments to the subdivision procedures will no longer require two official reviews of a preliminary plat before Planning Commission public hearing. Preliminary plats will be scheduled for Planning Commission, similar to use permits and special permits. This will reduce the processing time by at least 30 days. The review time for other departments to reply to the Planning Department has been reduced from 15 calendar days to 10 calendar days. In exchange for streamlining the process, the City staff will expect more accurate and higher quality applications. (26.11.032)
5. The proposed amendments to the subdivision procedures will change the method for guaranteeing improvements of sidewalks and street trees. The developer shall make a cash contribution to the City in an amount sufficient to pay the cost to install sidewalks and street trees along major streets that have not been improved to an urban cross section. The money shall be held and used to fund installation of street trees and sidewalks in conjunction with construction of the major street. The current ordinance requires that sidewalks and street trees be installed within four years of final plat approval. This will eliminate the need for the developer to request waivers for a time extension when the improvements have not been installed within four years. The business office of the Public Works and Utilities Department indicates that an account or fund can be created so the money will be used only for installing sidewalks and street trees abutting the final plat.(26.11.039)
6. Another proposed change is that sidewalks and street trees along major streets that have been improved to an urban cross section shall be installed within two years of final plat approval. Currently, sidewalks and street trees are required to be installed within four years of final plat approval.(26.11.040)
7. The development community has indicated they would like to eliminate the need to install sidewalks and street trees along outlots reserved for future development. A proposed change would allow the Planning Director to waive the requirement to install sidewalks and street trees until the outlot is final platted into buildable lots. Sidewalks and street trees along outlots not reserved for future development would be installed at the same time the adjacent street is constructed.(26.11.040)
8. Currently, 100 percent of street trees must be installed before the surety is released. A proposed change would allow partial releases of the surety when 50% or 75% of the street trees have been installed. (26.11.040)
9. With the adoption of street impact fees, the subdivider is no longer responsible for the equivalent cost of local street paving of abutting major streets. (26.11.110)
10. The proposed amendment would require the proposed use of the outlot to be shown on the plat and a blank space at the top of the first page of a final plat for use by Register of Deeds. (26.19.031)

11. The Parks & Recreation Department requested that a certified landscape contractor selected by the developer to install street trees be noted on the landscape plan. See attachment for criteria for certified landscape contractor. (26.19.035)
12. Currently, residential lots abutting a major street must have a minimum lot depth of 120 feet. All other residential lots have a minimum lot depth of 90 feet. A proposed change would require a 120 feet minimum lot depth only on double frontage residential lots abutting a major street with less than 60 feet of right-of-way from centerline. Double frontage residential lots abutting a major street with 60 feet or more of right-of-way from centerline shall have a minimum lot depth of 110 feet. (26.23.140)
13. There has been some problems with private improvements, such as detention ponds, being turned over to homeowners association without being completed or installed correctly. The proposed amendment would require a registered professional engineer or nurseryman who supervised installation of said private improvement to certify to the City that the improvement has been installed in accordance with the approved plans and relevant standards. After the installation has been certified the subdivider may turn the maintenance obligation over to the owners association. This does not prevent the creation of the owner association before the installation of the improvements. (26.23.170)
14. The proposed amendment would allow the Planning Director to waive the minimum improvements when no additional lots are created in a subdivision, such as moving a lot line. (26.27.005)
15. The proposed amendment would allow the Planning Director to grant a waiver to the preliminary plat process when the tract to be subdivided is included in a community unit plan, planned unit development, special permit or use permit. Generally, the same information for a preliminary plat is required with a community unit plan, planned unit development, use permit and special permit and the same departments and agencies review the applications and there will still be public hearings, but the "waiver" will no longer require City Council approval. (26.31.015)

Prepared by:

Tom Cajka

DATE: January 5, 2005

APPLICANT: Director of Planning Marvin S. Krout

CONTACT: Tom Cajka, Planner
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441-5662, tcajka@lincoln.ne.gov

**MISCELLANEOUS NO. 04014
TO AMEND TITLE 26 OF THE
LINCOLN MUNICIPAL CODE**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 19, 2005

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

Staff recommendation: Approval, as revised on January 19, 2005

Ex Parte Communications: None.

Proponents

1. Tom Cajka of the Planning staff submitted two proposed amendments:

Revise Section 26.11.040(f) to delete "All other street trees, except adjacent to outlots reserved for future development, within four years of final plat approval.", and replace with, "Street trees along non-major streets shall be installed within four years of final plat approval. The Planning Director may waive street trees along outlots reserved for future development."

Revise Section 26.19.035 ©) to delete, "The name of the certified landscape contractor selected by the subdivider to install street trees shall be noted on the landscape plan.", and replace with, "The landscape plan shall have a note stating a certified landscape contractor as approved by the Parks & Recreation Department shall be used to install street trees."

Cajka also submitted a letter from the Lincoln Housing Authority in support of the proposed changes, with the exception of the requirements for a certified landscape contractor. LHA does not want to have to specify who the certified landscape contractor would be on the landscape plan since they have to put that out to bid and would not know who the contractor would be at the time of final plat. Cajka believes the proposed amendment to Section 26.19.035 (c) alleviates their concern.

Cajka presented the proposal to amend the land subdivision ordinance to streamline the process and make it simpler for the developers to get through the process; these amendments are also part of a larger package. Cajka highlighted some of the major changes included in this proposal:

- to eliminate the 30-day review and Planning Director letter on a preliminary plat. A preliminary plat would be submitted and scheduled for public hearing before the Planning Commission in about 30 days, following the same scheduling as changes of zone, special permits, use permits, etc.

- #5 of the Analysis in the staff report addresses the procedure for guaranteeing improvements for sidewalks and street trees. The current procedures require installation of sidewalks and street trees four years after the approval of the final plat. The proposed amendment would allow options, e.g., if the final plat abuts a major street and that street has not yet been improved, the developer would pay the city a cash equivalent to the cost to install the sidewalks and street trees; then the city would install those improvements at the same time that the street is improved. The developer would not be tied to the four year requirement. If the major street is already improved and sidewalks have not been installed, the developer would have two years instead of four years to install the sidewalk and street trees.
- outlots that are reserved for future development would not have to have any type of escrow posted until that outlot comes back in as a final plat with buildable lots.
- with regard to release of sureties for street trees, currently, 100% have to be installed before the developer can ask for the release. The proposed amendment would allow partial releases at 50% and 75% of the installation.
- referring to #13 of the staff Analysis, the proposal changes the language on turning over private improvements to a homeowners association. The proposed amendment would require a registered professional engineer or nurseryman to certify that the improvements have been installed to city specifications. After the installation has been certified, then the subdivider can turn the maintenance over to the homeowners association.
- the Planning Director can waive improvements on a final plat if no new lots are being created.

Carlson referred to the change in the escrow for sidewalks and pedestrian ways. He believes that sidewalks along major streets are dealt with by impact fees. This amendment drops the surety 25% for sidewalks along non-major streets. What are we doing to make sure the sidewalks are installed? Cajka explained that the sidewalks will be tied to the occupancy permit and the four years after final plat approval. They cannot get the occupancy permit unless the sidewalk has been installed. Ray Hill clarified that no sidewalks are covered by impact fees.

With regard to a pedestrian way, Carlson observed that the pedestrian way is to be installed when adjacent streets are surfaced, yet the surety is being dropped. It seems like we have had several instances where pedestrian ways have not been put in. Cajka explained that the proposal attempts to make that a little tighter by saying it is required when the street is surfaced. When Public Works signs off on the street, the sidewalk will be required to be installed in the pedestrian way at the same time.

Marvin inquired how “certified landscape contractor” is being defined. How many are there? Lynn Johnson, Director of Parks & Recreation, explained why Parks has worked with the landscape contractors and nurseries in the area. Street trees are a living public improvement and Parks is responsible for management of those trees after they have been installed, and, if they die, Parks is

responsible for replacing them. Funding is an issue. Therefore, it is important to have good plant material and to get them well installed. That is what led to this “certified landscape contractor” idea. This program would involve an annual training program. Anyone who is landscape contractor or nurseryman would be allowed to go through the training. There are none at this time. Parks will develop the training and will have a list of those that are certified. The training would be conducted annually to review the standards for plant materials and planting methods and to review the guidelines for tree placement within the right-of-way. For every tree planted, Parks tries to maintain a record and they will be asking that the certified landscape contractor use the same documentation and spreadsheet so that they can transfer the records to the Parks Department inventory. The intent is not to exclude anyone from being certified. But if we find someone not following the standards and guidelines, they would be removed from the list for a year.

Johnson stated that the Parks Department is in support of the amendment proposed by the Planning staff on this issue. However, Parks would like to work with Planning administratively on the final plat application and get the name of the certified landscaper on that form. Rather than having it on the face of the plat, he would like to incorporate it into the application form.

Marvin inquired whether the certification and training will require a fee. Johnson stating that it will be an annual training requirement but he does not anticipate charging a fee initially. Marvin does not want to restrict the number of players that can plant trees by making it cost too much to be certified. Johnson stated that all nursery and landscape contractors will be invited to the training. They will be required to go through the training every year.

Taylor asked Johnson to discuss the intent on the permanency of trees that are planted. Johnson indicated that the intent is to get the right tree in the right place so that we don't have to remove them as they overgrow the space. The intent is for the tree to be there for its natural lifetime. The only instance where the City would remove an existing mature tree is in the situation of a road widening. Parks sees every tree in the city about every 10 years for pruning. The challenge is to place the proper tree in the proper location. This type of criteria will also be included in the training.

Marvin questioned the need for the certified landscape contractor to be a current member and certified professional of the Nebraska Nursery and Landscape Association, and the need to be licensed according to the Nebraska Administrative Code for Plant Protection and Plant Pest Act. How many people in this community are members and what are the costs? Johnson stated that it is very common for nurseries and landscape contractors to be members of both. We have tried to establish some minimum guidelines for eligibility. These two criteria are fairly common. He believes the fees are less than \$100/year.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

January 19, 2005

Larson moved approval, with the amendments proposed by staff today, seconded by Taylor and carried 7-0: Sunderman, Marvin, Carlson, Carroll, Taylor, Larson and Bills-Strand voting ‘yes’; Pearson and Krieser absent. This is a recommendation to the City Council.

CRITERIA FOR CERTIFIED LANDSCAPE CONTRACTORS/NURSERIES INSTALLING STREET TREES, LANDSCAPE SCREENS AND/OR OTHER REQUIRED LANDSCAPING IN THE CITY OF LINCOLN-

1. Must be a current member and certified professional of the Nebraska Nursery and Landscape Association.
2. Must be licensed according to the Nebraska Administrative Code for Plant Protection and Plant Pest Act if a nursery grower or dealer.
3. Must have participated in annual training session with the City of Lincoln Parks and Recreation Department on how to properly install street trees and other landscaping in accordance with City of Lincoln Standard Specifications, Chapter 31 – Landscape Work, prior to doing such work.
4. Must be able to demonstrate minimum applicable landscape training/skills and landscape installation work experience.
5. Must be able to demonstrate successfully completed landscaping projects similar in scope and scale.
6. Must install street trees and/or landscape screens in accordance with Chapter 12.20 of the Lincoln Municipal Code, City of Lincoln Design Standards for Street Trees and Screening, and City of Lincoln Standard Specifications, Chapter 31 – Landscape Work.
7. Must comply with the public liability insurance requirements set forth in Chapter 5.58 of the Lincoln Municipal Code when doing landscaping work on public property.

IMPROVEMENTS**INSTALLER/Time to install****SURETY****Sidewalks**

Sidewalk along major street that has not been improved to urban standards

City/ when street is improved

Cash to the City

Sidewalk along major streets that are improved to urban standards

Developer/ 2 years

Surety

Sidewalks along non-major streets

Developer/Occupancy permit and 4 years

Surety*

Outlots not reserved for future development and pedestrian ways

Developer/when street is surfaced

Surety*

Outlots reserved for future development

Developer/ The Planning Director may waive improvement until the outlot is final platted

Surety**

Street Trees

Street trees along major street that has not been improved to urban standards

City/ when street is improved

Cash to the City

Street trees along major streets that are improved to urban standards

Developer/ 2 years

Surety

Street trees along non-major streets

Developer/4 years

Surety

Outlots not reserved for future development

Developer/when street is surfaced

Surety

Outlots reserved for future development

Developer/ The Planning Director may waive improvement until the outlot is final platted

Surety**

Street trees on final plats with ten or fewer lots.

Parks & Rec.

Cash to the City

* Escrow is figured at 25% of the estimated cost of sidewalk construction

** Escrow may be waived until Outlot is developed.

MEMORANDUM

TO: Lincoln-Lancaster County Planning Commission
FROM: Tom Cajka, Planning
SUBJECT: Amendment to Land Subdivision Ordinance
Miscellaneous #04014
DATE: January 19, 2005

Amendment to proposed language

1. Revise Section 26.11.040 (f) to delete "All other street trees, except adjacent to outlots reserved for future development, within four years of final plat approval." and replace with, "Street trees along non-major streets shall be installed within four years of final plat approval. The Planning Director may waive street trees along outlots reserved for future development."
2. Revise Section 26.19.035(c) to delete, "The name of the certified landscape contractor selected by the subdivider to install street trees shall be noted on the landscape plan." and replace with, "The landscape plan shall have a note stating a certified landscape contractor as approved by the Parks & Recreation Department shall be used to install street trees .

Commissioners:
Jan Gauger, Chair
William D. Blue, Vice Chair
Kent C. Thompson
Orville Jones, III
Annette Durham

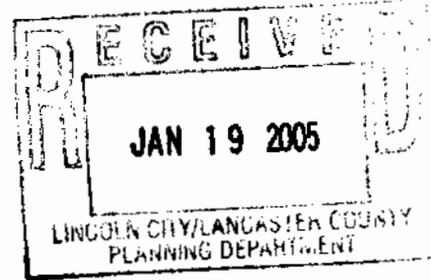
Lincoln Housing Authority

Executive Director
Larry C. Potratz

P.O. Box 5327 • 5700 R Street • Lincoln, NE 68505

January 19, 2005

Lincoln City-Lancaster County Planning Commission
County-City Building
555 South 10th Street
Lincoln, Nebraska 68508



RE: Proposed Land Subdivision Ordinance Amendments for the Purpose of Expediting City Development Approvals

Ladies and Gentlemen:

The Lincoln Housing Authority would like to express its support for the majority of the proposed changes to the Land Subdivision Ordinance under consideration at your January 19, 2005 meeting with one exception as discussed below.

The requirement that the name of a certified landscape contractor be listed on the landscape plan submitted to the City by the developer is not a workable procedure for us. As a government entity, the Housing Authority is required to bid landscape installation services; we would not be in a position to identify the name of a landscape contractor at the final plat stage of the development process. We often file a final plat for our project site several years before we bid the actual construction work, which is awarded to a general contractor. The landscape contractor is usually a sub-contractor for the general contractor.

We would be able to compile general contractor bid specifications which state that the project landscaping must be installed by a certified landscape contractor. Thus we are recommending that the wording for this provision be changed to state that landscaping must be installed by a certified landscape contractor and that the City Parks and Recreation Department maintain a list of qualified persons.

We appreciate the staff time and effort which has been devoted to developing these amendments and the City's commitment to exploring alternate procedures that could expedite the development process.

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Sincerely,



Larry G. Potratz
Executive Director

c: Mr. Lynn Johnson, Director, City of Lincoln Parks and Recreation Department