

FACTSHEET

TITLE: MISCELLANEOUS NO. 05012, a request for "Reasonable Accommodation" under Title 1 of the Lincoln Municipal Code, requested by Developmental Services of Nebraska, Inc., to allow a group home in the R-1 Residential District to locate within the required ½ mile separation from another group home, on property located at 4000 Lindsey Circle.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 07/06/05
Administrative Action: 07/06/05

RECOMMENDATION: Approval of the waiver of the spacing requirement to allow a fourth person to live at the facility at 4000 Lindsey Circle (5-0: Carroll, Carlson, Esseks, Larson and Bills-Strand voting 'yes'; Krieser, Pearson, Sunderman and Taylor absent).

FINDINGS OF FACT:

1. This request for "reasonable accommodation" under Title 1 of the Lincoln Municipal Code would allow four unrelated individuals with developmental disabilities to reside at 4000 Lindsey Circle, changing the status from "family" to "group home".
2. Approval of this request would waive the zoning requirement that group homes in the R-1 Residential District be separated by ½ mile.
3. The Planning staff report is found on p.2-3.
4. The applicant's testimony is found on p.4-8.
5. There was no testimony in opposition.
6. On July 6, 2005, the Planning Commission found that there was no undue burden upon the city to grant this request for "reasonable accommodation" and voted 5-0 to recommend approval of the requested accommodation to waive the spacing requirement in order to allow a fourth person to reside at 4000 Lindsey Circle.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: July 11, 2005

REVIEWED BY: _____

DATE: July 11, 2005

REFERENCE NUMBER: FS\CC\2005\MISC.05012

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for July 6, 2004 PLANNING COMMISSION MEETING

PROJECT #: Miscellaneous #05012
Reasonable Accommodation

PROPOSAL: Request for a modification of the zoning requirement that group homes in the R-1 zoning district be separated by ½ mile.

ADDRESS: 4000 Lindsey Circle

LEGAL DESCRIPTION: Lot 40, Block 7, Arnold Heights Replat, located in the NW1/4 SEC 7 T10N R6E, Lancaster County, NE.

EXISTING LAND USE AND ZONING: Single-Family R-1 Residential

ASSOCIATED APPLICATIONS: Applicant has also requested a modification of building code requirements for this address. The procedure for his request does not include the Planning Commission.

STAFF FINDINGS:

1. Applicant's facility at 4000 Lindsey Circle currently serves 3 residents with developmental disabilities. Since there are no more than 3 residents, this facility meets the definition of "family" and may be located in any dwelling.
2. LMC §27.03.300 defines a group home as "a facility in which more than three but less than sixteen disabled persons who are unrelated by blood, marriage, or adoption reside while receiving therapy or counseling, but not nursing care."
3. The addition of another developmentally disabled resident to this facility would make this a group home under the Zoning Ordinance.
4. LMC §27.11.030 requires group homes in the R-1 district to obtain a conditional use permit, which requires that "the distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half mile," or 2,640 feet.
5. An existing group home is located at 3800 NW 50th Street, approximately 1,560 feet from this property.
6. LMC Chapter 1.28.50 identifies the findings required to approve this request:

(1) Whether the housing which is the subject of the request will be used by an individual or a group of individuals considered disabled or handicapped under the Acts, and that the accommodation

requested is necessary to make specific housing available to the individual or group of individuals with a disability or handicap under the Acts.

(2) Whether there are alternative reasonable accommodations available that would provide an equivalent level of benefit, or if alternative accommodations would be suitable based on the circumstances of this particular case.

(3) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.

(4) If applicable, whether the requested reasonable accommodation would be consistent with the Comprehensive Plan land use designation of the property which is the subject of the reasonable accommodation request, and with the general purpose and intent of the zoning district in which the use is located.

7. The Lincoln Police Department has responded to 42 calls for service at 4000 Lindsey Circle from 2000-2003. They did not respond to any calls for service at 4000 Lindsey Circle in 2004 or 2005. The 42 calls for service range from assaults, mental investigations, assault on a police officer, disturbances, missing persons, larcenies, sodomy, vandalism, and obscene telephone calls.
8. Applicant's written request for reasonable accommodation is attached.

Prepared by

Greg Czaplewski
441-7620, gczaplewski@lincoln.ne.us
Planner

Date: June 23, 2005

Applicant: Developmental Services of Nebraska, Inc.
2610 West "M" Court
Lincoln, NE 68522
435.2800

Contact: Scott Moore
1500 Woodman Tower
Omaha, NE 68102
636.8268

**MISCELLANEOUS NO. 05012,
A REQUEST FOR “REASONABLE ACCOMMODATION”**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 6, 2005

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

Ex Parte Communications: None.

Proponents

(Testimony verbatim)

1. **Scott Moore**, 1500 Woodmen Tower, Omaha, Nebraska, attorney, testified on behalf of the applicant, **Developmental Services of Nebraska**: It is my understanding that this is the first request for “reasonable accommodation” that this Board has heard under the relatively new provisions of the Lincoln Municipal Code. Having said that, I want to take some time for this Commission to understand what we are requesting and what the federal law requirements, in addition to what the Lincoln Municipal Code requires.

Development Services of Nebraska, Inc. (hereinafter “DSN”) provides residential community treatment to persons with developmental disabilities. These persons are persons with disabilities under three relevant federal statutes: the Fair Housing Act, the Americans With Disabilities Act, and Section 504 of the Rehabilitation Act of 1973, all of which are applicable to the city. Because these residents are covered by these acts, this municipality has an affirmative duty to provide a “reasonable accommodation” where the circumstances require the same. It is a two-step process: Is this requested accommodation – may this accommodation be necessary for persons with disabilities to use and enjoy their particular dwelling? And, if so, the accommodation is appropriate unless it imposes some sort of undue burden on the city, and we want to talk about both of those issues today so you all understand both the necessity from the standpoint of why we are seeking this accommodation, and moreover, why we don’t believe that there is any burden on the city in granting the same.

As I said, DSN provides residential treatment for persons with developmental disabilities. There is a tremendous need in this community as well as all communities in the State of Nebraska, for this type of treatment. Scott LeFevre, the Chief Executive Officer of DSN, will speak after me regarding the necessity and explain to you why we’re seeking an accommodation, but specifically, the City of Lincoln has an ordinance which prohibits two group homes, having four or more unrelated persons living in them, to locate within ½ mile of each other. This provision only applies to group homes. There is no other separation requirement in the Lincoln Municipal Code – only to group homes.

This particular home on Lindsey Circle, for which we are here today, has been operating with three persons with developmental disabilities. Because they have three persons, they are considered a

“family” under the Lincoln Municipal Code, and now that DSN needs to add one more person with a developmental disability, it changes from a “family” to a “group home” designation and thus the half-mile separation requirement comes into play. That’s the specific municipal provision, that is the separation requirement. We are here today requesting an accommodation from that separation requirement – that you allow DSN to operate with four persons with developmental disabilities in this home, despite the separation requirement

Speaking generally on the need for this before Scott goes into the details, there is a tremendous amount of empirical evidence as well a case law out there dealing with reasonable accommodation showing that residential treatment for persons with disabilities such as developmental disabilities is far superior to institutionalizing these folks. They have the ability to learn to cope, advance in their treatment, advance in their integration into the community if they are allowed to live in a residential setting. Having said that, Scott will talk about the details on the necessity.

Switching to the second half, i.e., is there an undue burden on the city if the city grants the accommodation? We have seen no evidence of any sort of undue burden. The home will not change. It will look the same. It will operate the same. It will simply add one more person to this home. Indeed, this is a single family neighborhood and DSN operates its programs, or these people are in a setting that acts as a family, very analogous to a family—eating together, living together, and so on. In fact, that sort of family environment helps them in their treatment for their disabilities. So indeed, when you are talking about land use (and I realize you don’t want the proverbial putting a pig in a parlor rather than a barn yard), we’re not seeking to construct some multi-family development in the middle of a single family neighborhood. We are not seeking to put in a commercial development in the middle of a single family neighborhood. We are seeking to use this home, which is a single family home, for community based treatment in the same way a family related by adoption, related by blood, related by foster care would be allowed to use it. Indeed, if you are in one of those categories, you can have ten people in the home and that’s okay under the Municipal Code. We’re seeking to just operate with four folks in this home.

We have a map here that was actually prepared by the City Planning Department which Scott will show you. It will show you the circles of where the separation requirement is applicable. And when you look at that map, I ask you to look at the area – quite frankly, we’re running out of space to open up new group homes in this city because of the separation requirement. Many of the other areas where there aren’t these circles of prohibition are market rate homes which are well out of our price range. We don’t see any sort of financial or administrative burden. We welcome the city to present some, and we would be more than happy to respond to any burdens that they so speak about.

The only other issue that I have here today is that, in the report of the Planning Department, I note that the Planning Department has not made any recommendation. I am not sure why they haven’t made a recommendation and I would ask that they make some sort of recommendation one way or the other to help guide this Commission as they do in other areas. Secondly, on the report, paragraph #7 talks about police calls responded from 2000-2003. I am not sure why that’s in here. There is no direction as to why that’s in here. That’s important for a couple of reasons. Number one, it is incredibly prejudicial to my client to have this in the report. We don’t know made the police calls. We don’t know if they were legitimate. We don’t know if there were any convictions. We don’t know if there was any merit to any of these police calls. We haven’t been able to review them.

I assume you haven't looked at the police calls to see what they're about. So we would ask that this Commission not even consider this because we don't see the relevance and there is nothing to corroborate the legitimacy of police calls nor whether 42 calls is a lot compared to other homes or other operations. Who made the calls? Maybe you have an upset neighbor who doesn't want group homes in the neighborhood and they make calls on a constant basis. There is nothing to substantiate the relevance of police calls related to our request for the accommodation here today. I point that out because we believe it is prejudicial and we believe that this Commission should not consider that in their deliberations today. We will be available for rebuttal. I will answer questions. I will now introduce Scott LeFevre, who is the CEO of DSN.

Bills-Strand: Before you start, Scott, are there any questions of Scott Moore?

Carlson: Just to be clear, and you said it a couple of times, so forgive me for asking again just to make it clear for the record, but one of the accommodations you are asking is because of the spacing requirement for a group home. The four persons would basically move you into the classification of "group home", but specifically, you are asking to just accommodate one additional person, even though a group home would allow up to 16 additional persons. I can ask staff the same question. Are we granting up to 16 or are we granting one additional for four? But your request is for one additional for four.

Moore: Yes, the accommodation process requires an individual assessment. And the individual assessment here is we are seeking to add one person. We need the requisite approval from the State Department of Health & Human Services and so on, on those things, and we will only receive approval for one additional person. If we would seek accommodation in the future to add to that, we would have to come through this process again, and we would do so.

2. Scott LeFevre, 2150 Ridge Line Drive: I am the CEO of DSN and, as Scott had said, we serve individuals with developmental disabilities, mental health needs. We also serve children who have been dis-enfranchised from their natural homes because of abuse, neglect. We provide residential and day services to approximately 400 people a year in Omaha, Lincoln and Kearney. The individuals with whom we have a relationship generally are those folks who come to us and they ask for services. They freely choose their service provider. The State of Nebraska provides a level of funding for each individual, and that person then goes to various service providers and shops around for what type of service best meets their needs. One thing that we encounter consistently though, is that we are not able to spend the dollars that the state allocates for service delivery for those individuals' housing, utilities, clothing, rent, etc. That is funded through SSI and SSA. That's capped at \$500, so with \$500 per person, we have to be able to serve individuals residentially, provide for their clothing needs, their food, electricity, incidentals, personal needs. It is not enough money to serve those folks if we are confined to serving three individuals in any reputable location that we would want to provide that service. That is why we ask that we be allowed to serve more than three individuals just because of the economy of scale.

What I brought along with me is a map provided by the City itself, and I'm not sure that I'm going to be able to let you folks see this through the projector. If each of these circles on here represents a group home (Terry Kathe has told us that this isn't necessarily representative of every group home that is in Lincoln, but there may be other group homes that have been grandfather-claused in, so we

are not able to rely necessarily on this when we're looking for housing for individuals who are in need of service. We currently have ten people who have requested services from us and we're not able to provide those services to those folks because we just simply cannot find the housing for those folks, and each one of these circles represents a group home and they can't, under current Lincoln Municipal Code, overlap. And until very recently, we had no way of even requesting an accommodation and so we are appreciative that we now have the opportunity to come before you folks and ask for an accommodation, but we are soon going to run out of space. That's going to be very problematic for the City of Lincoln, most particularly with the de-institutionalization of the regional centers. We as a society need to figure out, what are we going to do with those that are less fortunate than us? Where are we going to house them?

Bills-Strand: Are there any questions:

Carlson: I have two questions that are tied together. First I want to point out just for the record again, one alternate for accommodation would be, which is not shown on the map, which is the large number of three persons or less facilities that are located by right as families. What I am asking you to help me understand is the connection between your inability to provide for them in a three-person or less family facility, which could be located and not need an accommodation from spacing, because of the economic – you touched on it briefly. Just give me some more on that. You say you have ten people who have requested but DSN cannot find housing for them in any reputable location because of lack of their state funds. Can you expand on that a little bit?

LeFevre: Sure. We have to weigh the needs of the people in services against what their economic situation currently is like. We just can't say, we have three people with developmental disabilities – we're going to put those folks together. We have to match up people with similar needs and also people who want to live together. And, in trying to do that, we run into the economic realities of \$500/month pays for rent, it pays for food, it pays for transportation, it pays for clothing, it pays for utilities. All of that has to happen for one person for \$500 a month, give or take a little bit, depending upon the circumstances. That is quite a juggling act. And so when I talk about the economy of scale, if we are able to serve four or five people where they are able to share the rent, share the cost of living together, we are better able to serve those folks.

Moore: The one thing I would add to that as well when you are looking at it from a legal perspective under the Fair Housing Act, it is quite clear the accommodation request we are requesting is a specific house. Were it our burden to say well, you can find someplace else to live in the City, you could never prove that we need an accommodation. It's looked at from the specific dwelling for which we are asking. I think even looking at what the new Lincoln Municipal Code, Section 1.28.50 says is, that the accommodation request is to make the specific housing available rather than any home in the city. But I think, even when we are talking about all of the homes in the City, as Mr. LeFevre points out, that in order to better serve their clients and be able to serve their clients who have no choice but to live in this setting on such a meager amount of money from the government (we are trying to spend the government's money wisely here), is to provide more than three folks per home.

Esseks: We're talking about a licensed facility.

LeFevre: Yes, when four or more individuals with developmental disabilities live together in one environment, it becomes, under state regulations, a “center for the developmentally disabled”, and under the “CDD” regulations, we are required to be licensed by Nebraska Health and Human Services and we are subject to all of the inspections, the regulatory standards, which go above and beyond what is required by Building & Safety to the City of Lincoln.

Esseks: Assumes the licensing means regular supervision.

LeFevre: Currently, all of our centers for the developmentally disabled are staff on a 24-hour basis (when I say 24-hour, I mean while the individuals in services are present). That does not mean that there is staff there when those folks are at work or home or being supervised elsewhere. An important piece to all of this is that many of the individuals with whom we have a relationship don’t require 24-hour supervision—they require assistance learning how to budget their money, learning how to use the bus system—those sorts of things, so it’s all determined as to the level of service provided to each individual by a team that is chaired by Nebraska Health and Human Services.

Larson: Does this person who supervises – does he or she live in the same residence?

LeFevre: No. We have shift staff.

Larson: I was interested to see that you do separate the different kinds of disabilities. In other words, the people who live in this facility would have the same general sort of disability.

LeFevre: Yes, generally so.

Larson: Now this other house that it is in this half-mile area is not run by your organization?

LeFevre: It is, yes. And it has actually been a group home for 25 years.

There was no testimony in opposition.

Staff questions

Rick Peo, City Law Department: I believe that Mr. Moore gave an excellent overview of the Fair Housing Act amendments and the responsibilities that this body has on what we’re looking at today. The Federal law does require that reasonable accommodations be granted. That’s an affirmative duty that we have to make. Failure to grant reasonable accommodation is discrimination in and of itself, which is prohibited by federal law. Again, as Mr. Moore stated, it is a two-fold step process. The first step (and that is what DSN has the obligation to present) is the need and necessity for the requested accommodation. If they show that it is needed and necessary, then the burden falls on the city to say it is an undue burden on the city and therefore unreasonable. An undue burden is financial or administrative costs to the city that are excessive. Another option is that it fundamentally alters the purpose behind your zoning ordinance or the spacing requirement. From my perspective on the evidence that the city would have is that we cannot say it is unreasonable. This is the first request we have had for reasonable accommodation. It is not going to fundamentally alter the spacing requirement between group

homes city-wide. The individual accommodation is only a separation request from one-half mile to a quarter mile. You are not putting in a group home right next to another group home in the same block or anything like that.

Looking back at the legislative history for the spacing requirement in the city ordinance, that was adopted in 1979 when the city rewrote the zoning code, and the primary purpose at that time was to insure that disabled people were given a fair opportunity to be mingled throughout the community, so part of the spacing requirement and separation was to avoid a clustering or to put people back into an institutional environment again by having them in too close of proximity to other disabled persons and therefore not being able to mingle with a society as a whole. I would not think that the separation reduction in this instance from one-half mile to a quarter mile jeopardizes that purpose behind the spacing requirement.

So I think you really need to focus on the “why” is it necessary that the applicant offered – what is the financial necessity for adding an additional person to this location? Are there people that are needing and desiring to be located at this particular home that have been denied ability to find housing elsewhere in the city? Those are the types of questions you need to be looking at and focusing upon.

The questions that I had raised in my mind: Is there a shortage of housing opportunities for the same type of clientele that DSN wants to serve at this location? Is it therapeutically beneficial for one more disabled person to be added to this facility? I don’t know if that has been asked but maybe they can address that issue during rebuttal. I think one of the reasons there was not a staff report recommendation is that the application was filled out – it was a statement in their application that it was financially and therapeutically necessary to add one person. Based on the application, we didn’t feel we had sufficient information to make a recommendation based on that application. We would have to kind of wait and see what facts were actually displayed at this hearing.

Carroll: Since they are moving up to four or more people, and the applicant has said he just wants four, can we limit to four?

Peo: I think that’s what the accommodation is – to waive the spacing requirement to allow a fourth person. I think that would be the recommendation.

Esseks: There are 11 houses on this circle where the subject house is located. Were the owners of each of those houses informed by mail of this application?

Peo: Yes, they should have been. We have a notice requirement the same as a change of zone and special permit application. It should go to all abutting property owners within 200 feet.

Response by the Applicant

Moore: We did not receive any further request from the City Planning Department for more information than we filed with our application. We certainly would have provided that had they asked. We didn’t know that they had lacked any information. As far as the therapeutically beneficial – two responses to that: 1) we’ve talked about the therapeutic benefit of providing community-based residential treatment. LB 1083 was passed last year by the State Legislature to

de-institutionalize treatment for persons such as persons DSN serves, and the reason for that was to provide more community-based residential treatment because that was more beneficial both to the clients with disabilities as well as the community as a whole. Secondly, as Mr. LeFevre pointed out, they serve the relative same types of disabilities in these homes, and when you have three people living in one home and you have another client with the same type of disability that needs that kind of therapeutic benefit, they need to be in the same treatment facility—the same home—as the other three people. So by adding one person, it is therapeutically beneficial, both to the person who gets that treatment that is similar to the other persons with disabilities rather than that person being shunned away or put in some other treatment plan not with people of similar disabilities, which actually impedes their treatment. Secondly, certainly, to remain financially viable as you heard, the state gives a very limited (it actually comes from SSI) amount of money to each of these consumers, and that money has to be stretched between clothing and housing and rent and all of those other issues. And so it is necessary to remain financially viable that DSN be allowed to add this fourth person to this home, and weighing that against (as the city mentioned) no apparent burden on the city to do this, indeed not changing anything relative to the home for purposes of zoning, that need substantially outweighs obviously a non-existent burden on the part of the city.

Carlson: For either Mr. Moore or Mr. LeFevre, you mentioned approximately 10 people who have requested DSN can't find housing, so potentially one of those persons on those waiting lists is a person who would be looking to – I'm trying to get back to the specifics of the specific site – potentially one of those people is someone that would be looking to locate in this particular facility.

LeFevre: That was exactly what I wanted to address. We're talking about generalities of adding a fourth person, but we're missing the point that we have people who are in our services who want to live at a particular location. They want to live with friends. They want to be near the things that are important to them – their work, their school. So we are not just adding numbers of people. What we are trying to do is accommodate requests from people as best we can with the mix of regulations and licensing and things that we have to go through, but what we try to do is respect the request of individuals when they make a request to live in a specific location. You and I can live anywhere in the city that we want to, but that isn't always the case with some of the folks we serve who have developmental disabilities. Sometimes they are forced to live where we can place them. And we'd like to see that tide turn. We'd like to be able, as much as possible, to accommodate requests for specific locations.

Carlson: Okay, I appreciate that. So back to specific, though, there is potentially someone on your waiting list that wants to locate at this particular facility, and we're looking to accommodate.

LeFevre: Yes, we do tours of locations with family members and people in services, their guardians – they are active participants in choosing where they want to live.

Carroll: I just want to verify that we can fix this at four people for this site.

LeFevre: At this particular location, we wouldn't want over four individuals living there.

ACTION BY PLANNING COMMISSION:

July 6, 2005

Larson moved approval, with the limitation of four, seconded by Carroll.

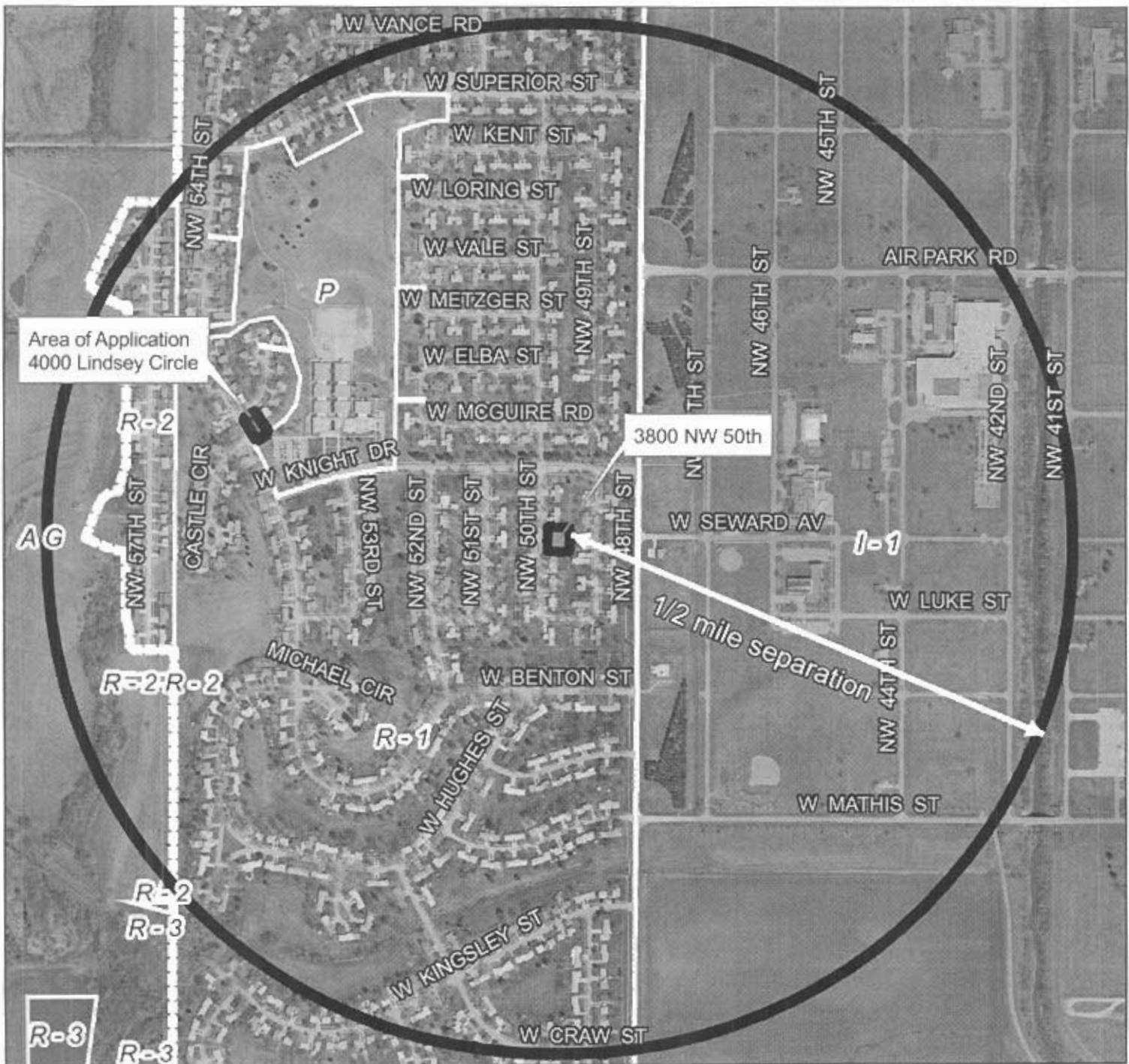
Carlson: The only question I would have is since this is the first one out, what is the proper motion?

Rick Peo: The motion sounded fine. I assume it was a request to recommend approval of the requested accommodation to waive the spacing requirement in order to allow a fourth person to live at this facility. This was accepted and became the main motion.

Bills-Strand: The only comment I would like to make is that it would be helpful as a commissioner if we had either a recommendation from staff, and if you felt you could not do it without enough information, that you made that request of the applicant.

Carlson: I appreciate what the applicant said and their presentation was good and I appreciate that, but reading the letter that they got was a bit general on this. It is much more helpful to hear the specific financials and the specific needs on the specific site.

Motion carried 5-0: Carroll, Carlson, Esseks, Larson and Bills-Strand voting "yes"; Krieser, Pearson, Sunderman and Taylor absent. This is a recommendation to the City Council.

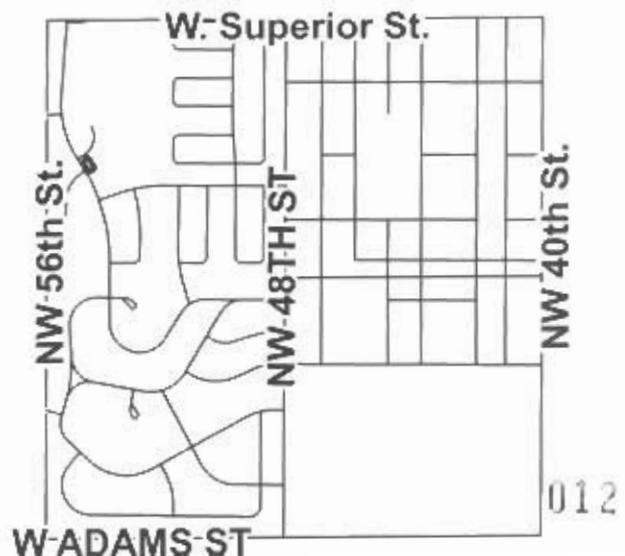
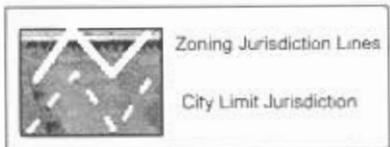


Miscellaneous #05012
 NW 54th St. & Lindsey Circle
 Zoning:

2002 aerial

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
 Sec. 7 T10N R6E



**Request for Reasonable Accommodation Pursuant to
Lincoln Municipal Ordinance No. 18536**

Applicant: Developmental Services of Nebraska, Inc. ("DSN")

Address: 4000 Lindsey Circle

Current Use: Community based residential home for persons with developmental disabilities

Basis: DSN is providing community based residential housing for persons with developmental disabilities. The residents of the home are persons with disabilities under the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.* ("FHA"), the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq.* ("ADA"), and the Rehabilitation Act of 1973, 29 U.S.C. § 794, *et seq.* ("Section 504").

Law: DSN is requesting a reasonable accommodation from Code § 27.11.030(b)(2), which prohibits DSN from operating its home because there is another "group home" as that term is defined by the Lincoln Municipal Code within one-half mile measured from lot line to lot line.

Reason: DSN seeks to increase the number of persons with developmental disabilities it is currently serving at 4000 Lindsey Circle from 3 to 4. Section 27.11.030(b)(2) of the Lincoln Municipal Code currently prohibits DSN from operating a group home for four or more persons with developmental disabilities at 4000 Lindsey Circle. The requested accommodation is financially and therapeutically necessary. It will allow DSN to serve the increasing demand for community based residential treatment for persons with developmental disabilities. Community based residential treatment allows persons with developmental disabilities, mental illness and behavioral challenges to gain the skills, knowledge and experience to increasingly use and benefit from the resources and settings available to all citizens in our community. These persons are best served in a residential setting and the only way to provide this service is for such persons to live in a group home.

In DSN's absence, those currently in services would be placed in institutions or detention settings which are not able to address the underlying cause of their maladaptive behavior – their disabilities. Although often the individual's behavior improves in detention, maladaptive behavior quickly resurfaces after the individual has been placed back into the community. By providing the appropriate type of services and teaching adaptive skills in a community setting, DSN helps the person to develop appropriate social skills which

enable them to function in society and to lead a life as normalized as possible.

DSN's habilitative approach is the key to helping the individuals it serves change their expectations of themselves and others. No longer seeing themselves as failures, and their care givers as wardens, they begin to make appropriate, informed choices in their lives and learn to trust not only others, but also themselves.

There is no alternative reasonable accommodation that would provide an equivalent level of benefit of which DSN is aware.

DOCS/676987.1