

FACTSHEET

TITLE: MISCELLANEOUS NO. 05019, 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-2 Residential District to locate within the required one-half mile separation from another group home, on property located at 5516 Hunts Drive.

STAFF RECOMMENDATION: Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 09/14/05, 09/28/05, 10/12/05 and 10/26/05
Administrative Action: 10/26/05

RECOMMENDATION: **Denial** (7-0: Pearson, Carroll, Krieser, Sunderman, Esseks, Larson and Carlson voting 'yes'; Taylor and Strand 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 5516 Hunts Drive, changing the status from "family" to "group home".
2. Approval of this request would waive the zoning requirement that group homes in the R-2 Residential District be separated by one-half mile.
3. The staff recommendation of approval is based upon the "Staff Findings" as set forth on p.2-4, concluding that this request would not create an undue burden on the City or fundamentally obstruct the intent of the zoning code.
4. The applicant's testimony and responses to questions from the Commission are found on p.5. (Please also refer to the minutes attached to the Factsheet for Miscellaneous No. 05017 for additional testimony by the applicant as to the services provided by the applicant, the staffing and the training). The record also consists of additional justification information provided by the applicant dated October 24, 2005 (p.10-14).
5. There was no testimony in opposition; however, the record consists of four written communications in opposition (p.23-30).
6. Additional information submitted by Commissioner Esseks concerning group home regulations and police reports at the various locations is found on p.15-22.
7. On October 26, 2005, the Planning Commission found that the applicant had not sufficiently demonstrated the financial and therapeutic necessity and voted 7-0 to recommend **denial** (Taylor and Strand absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: November 1, 2005

REVIEWED BY: _____

DATE: November 1, 2005

REFERENCE NUMBER: FS\CC\2005\MISC.05019

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.

Applicant asserts they have a client who meets the definition of disabled who will reside at this location, but requires this accommodation to do so.

Applicant serves persons with developmental disabilities, and the existence of a group home within ½ mile of this facility would preclude this from becoming a group home under the zoning ordinance. A reasonable accommodation is necessary to house an additional person here.

(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.

Applicant asserts the only alternative to housing an additional resident in this location is to purchase or rent another dwelling somewhere within the city, and the cost to do so outweighs the benefit to their client.

There are two potential reasonable accommodations that would allow an additional person to be housed in this facility. One is a request to allow another resident. The other is to request that the spacing standard be modified.

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

Applicant has not asserted that granting this request will not impose an undue financial or administrative burden on the City.

The spacing standard minimizes the concentration of group home facilities within an area. Even so, facilities with 3 residents may be located in any number of dwellings within the same area. Allowing one of those 3-resident facilities to have one additional person would not create an undue financial or administrative burden on the City. By contrast, modifying spacing standards on a case-by-case basis would impose an administrative burden on the City by creating a large number of spacing standards to enforce

(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.

Applicant has not asserted that their request is consistent with either the Comprehensive Plan or Zoning Ordinance.

In a given group home radius, there can only be one group home with up to 15 residents, and any number of facilities with 3 or fewer residents. Allowing one 3-resident facility within

that area to have 4 residents would still comply with the Comprehensive Plan land use designation and with the general purpose and intent of the zoning ordinance.

7. Recent changes to LMC Chapter 1.28 requiring additional supporting information be provided with the application were not in effect at the time this application was filed. This additional information has been requested, but had not been received at the time of this report.
8. The Lincoln Police Department reviewed this application in conjunction with the other three requests, and points out that 5516 Hunts Drive had 7 calls for assistance since January 7, 2002. All four addresses combine for 58 calls in that time, ranging from parking calls to check welfare calls to attempted rape. Although in the past year the calls for service have decreased, the Lincoln Police Department would like to see a longer period of time pass before additional clients are added to these particular addresses. The Lincoln Police Department realizes that calls for service at Developmental Services of Nebraska residences will likely never be totally eliminated, but denying these requests at this time would allow Developmental Services of Nebraska to demonstrate that they have successfully dealt with the staffing and client issues that resulted in the previously mentioned calls for service.

However the number of service calls to this address is less than the number reported for the previous reasonable accommodation request, which was approved by the City Council.

9. This application was referred to the Planning Department on August 10, 2005. A recommendation to the City Council is due on or before September 24, 2005.
10. Applicant's written request for reasonable accommodation is attached.

Prepared by

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

Date: September 1, 2005

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

MISCELLANEOUS NO. 05019

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 26, 2005

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

Staff recommendation: Approval

Ex Parte Communications: None.

Additional information submitted for the record: The same e-mail submitted on Miscellaneous No. 05017 from Dick Esseks to the Planning Commission concerning police calls at the specific addresses requesting "reasonable accommodation" also applies to this application.

Proponents

1. Scott LeFevre testified on behalf of **DSN**. There is an opinion which has been issued by HUD and the Department of Justice which asserts that the spacing/separation requirements for group homes generally violate the Fair Housing Act. This request does not ask for anything more than to add one person. LeFevre believes that this request is reasonable. This is a five-bedroom home. They would like to serve a fourth person. LeFevre also noted that most separation requirements have been struck down across the country. He would like the Commissioners to consider the precedent that is being set by denying this.

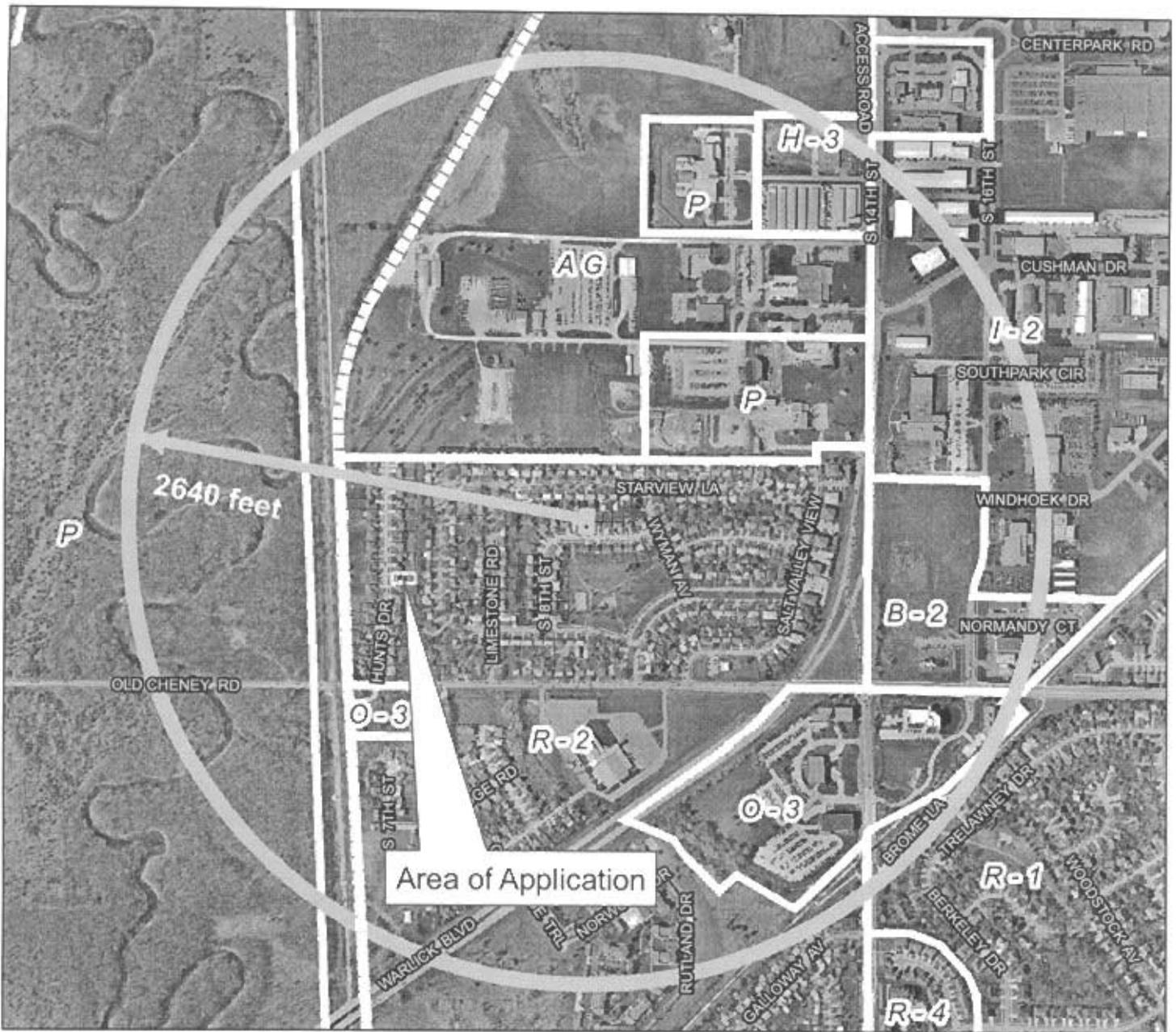
Esseks doesn't believe the Commission is saying that four or five people is inappropriate. He just hasn't seen a strong enough set of arguments to grant the accommodation. He would urge the applicant to present more economic information and work within the code.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

October 26, 2005

Larson moved denial, seconded by Carroll and carried 7-0: Pearson, Carroll, Krieser, Sunderman, Esseks, Larson and Carlson voting 'yes'; Strand and Taylor absent. This is a recommendation to the City Council.



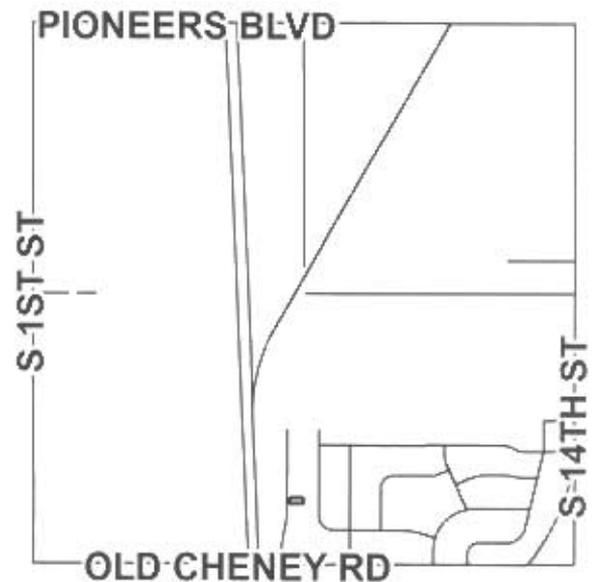
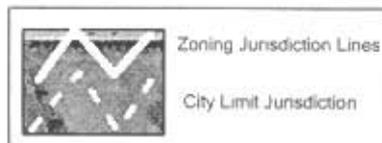
2005 aerial

Miscellaneous #05019 5516 Hunts Drive

Zoning:

- 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. 11 T9N R6E



MISC 05019

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

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

Address: 5516 Hunts Drive

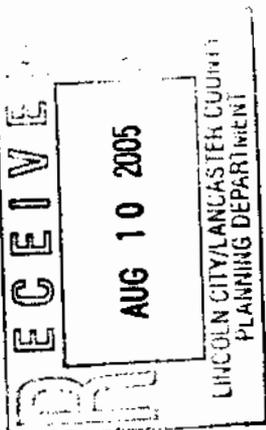
Current Use: Community based residential home for persons with developmental disabilities

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 5516 Hunts Drive 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 5516 Hunts Drive. The requested accommodation is financially and therapeutically necessary.

Financially, each of the residents of the home is allotted a minimal amount of funds to provide for their housing, food, and other daily expenses. Therefore, unlike many persons without disabilities, they have no choice but to live in a community residential setting like that offered by DSN. Moreover, by housing four persons in this home rather than 3, DSN is able to more effectively use these limited funds to provide a higher level of assistance to the residents and thus improve the skills the residents need to function in society and to lead a life as normalized as possible. The alternative to adding one more person to this home is locating and renting another home for the persons waiting for the community based residential treatment provided by DSN. Because the costs associated with locating, renting, furnishing, paying security deposits, utilities, etc. far outweigh permitting the addition of one more person to this home we feel that it is a reasonable request. Furthermore DSN would be unable to serve as many persons with



disabilities. Consequently, such persons will be unable to leave the institutional setting in which they currently reside and receive substandard treatment.

Therapeutically, 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. DSN also must serve persons with similar disabilities in this home. Receiving community based residential treatment with persons with similar disabilities increases the residents chances of successfully improving the skills necessary to function in society and to lead a life as normalized as possible. With the addition of another person to this location we are able to provide more staffing which is therapeutically beneficial to everyone in the environment. This leads to better outcomes for those in services.

Finally, it is important to note that requiring DSN to show that there is no other location in the City in which it could operate its home is not a proper inquiry under the federal laws prohibiting disability discrimination. Indeed, the federal Fair Housing Act requires the City to grant DSN the requested accommodation if it "may be necessary" to live in a home of its choice. The court in *United States v. City of Chicago Heights*, 161 F.Supp.2d 819, 836 (N.D. Ill. 2001), explained:

No court has ever placed the burden on a group home to show that its desired location is necessary or somehow unique in its ability to ameliorate the effects of its residents' disabilities. Rather, courts have interpreted the FHAA to require a showing that the requested accommodation is *one way* of ameliorating the effects of the disabilities. See, e.g., *Oconomowoc Residential Programs, Inc. v. City of Greenfield*, 23 F.Supp.2d 941, 958 E.D.Wis. 1998) ("[T]he CBRF is one mode of ameliorating [plaintiff's residents'] inability to live independently"). If the City's interpretation of the reasonable accommodation test -

[that the group home must prove there is no other area in the City in which it could operate] were the rule, it is doubtful that any group home ever could prevail on a FHAA claim, because there will always be some other parcel of property upon which a comparable residence could be established.

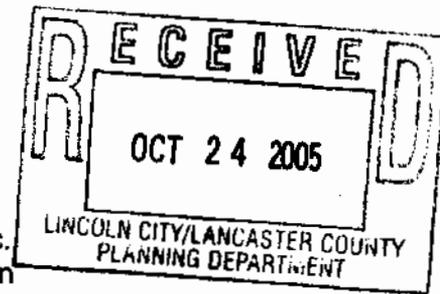
There is no alternative reasonable accommodation that would provide an equivalent level of benefit of which DSN is aware.

DOCS/676987.1

October 24, 2005

VIA ELECTRONIC AND FIRST CLASS MAIL

Rick Peo
Chief Assistant City Attorney
City of Lincoln
575 South 10th Street
Suite 4201
Lincoln, NE 68508



Re: Developmental Services of Nebraska, Inc.
Requests for Reasonable Accommodation

Dear Rick:

This letter sets forth the basis for Developmental Services of Nebraska, Inc.'s ("DSN") reasonable accommodation request.¹ DSN is requesting an accommodation from the separation requirement imposed upon "group homes" for persons with disabilities by the Lincoln Municipal Code ("Code"). The separation requirement currently limits DSN's ability to serve more than three residents with disabilities in its homes located at 424 N. Coddington Avenue, 416 N. Coddington Avenue, 1661 Timber Ridge Road, and 5516 Hunts Drive ("DSN Homes"). DSN requests a reasonable accommodation from the separation requirement by allowing it to add one resident to each of these homes for a total of four residents with disabilities in each home. DSN has already received a reasonable accommodation from the state fire marshal to operate these homes with four residents, so it needs only approval from the City to add one resident to each home.

Under the Fair Housing Amendments Act, 42 U.S.C. § 3601, *et seq.*, the Americans With Disabilities Act, 42 U.S.C. §12131, *et seq.*, and, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, *et seq.* (collectively referred to hereafter as the "FHA"), the City must grant a requested accommodation to a group home for persons with disabilities if the accommodation "may be necessary to afford such person[s] equal opportunity to use and enjoy a dwelling," unless the requested accommodation imposes an undue financial or administrative burden or fundamentally

¹ DSN requests that you forward this letter to the Lincoln Planning Commission and Planning Department.

alters the program that the City seeks to administer. See e.g., *Oconomowoc Residential Programs v. City of Milwaukee*, 300 F.3d 775, 784 (7th Cir. 2002). There is no evidence of which we are aware the requested accommodation would impose an undue burden or fundamentally alter any program that it seeks to administer. Consequently, the only remaining question is whether the accommodation "may be necessary" to afford the residents DSN serves an equal opportunity to use and enjoy the particular dwelling at issue.

Importantly, courts have universally recognized that accommodations in zoning restrictions are often necessary to provide persons with disabilities with housing opportunities that are equal to those enjoyed by persons without disabilities. The persons with disabilities whom DSN serves have conditions which interfere with their ability to care for themselves and they need assistance with daily living. These individuals "have little choice but to live in a . . . [group] home if they desire to live in a residential neighborhood." *Smith & Lee Assocs., Inc. v. City of Taylor*, 13 F.3d 920, 931 (6th Cir. 1993). Indeed, without group homes, many of these individuals have no alternative but to live in large institutions. Individuals who do not have disabilities, by contrast, can generally care for themselves and thus are less likely to need group living arrangements in order to reside in single-family neighborhoods. Zoning restrictions that limit the number of unrelated persons in a dwelling or that impose spacing requirements on group homes effectively preclude group homes from operating in single-family zones.

Courts have held that requests similar to the request made DSN in this case are reasonable. In *Dr. Gertrude A. Barber Center, Inc. v. Peters Township*, 273 F.Supp.2d 643 (W.D. Pa. 2003), the plaintiff was a "charitable, non-profit corporation, which provides residential and habilitative services to persons with mental retardation." The zoning ordinances of the municipality limited the occupancy of single-family homes to no more than 3 unrelated persons. The plaintiff sought a reasonable accommodation to operate a home in a single-family neighborhood with four persons with disabilities. The court held that the accommodation was necessary because of the therapeutic benefits of providing community based residential treatment to the persons the group home served.

We also conclude that the Barber Center has established that the requested accommodation is necessary, through the undisputed evidence of functional gains experienced by persons with disabilities through residence in the community Necessity can be demonstrated through evidence that placement in small neighborhood-based homes serves a therapeutic purpose

[T]he equal opportunity at stake in this case is the opportunity for four persons with mental retardation to live in the single-family neighborhood of their choice on the same basis as others. The accommodation requested by the Barber Center is specifically aimed at effectuating the right of the Barber Center's Fawn Valley Drive residents to maintain their community living arrangement . . .

We conclude that the accommodation requested by the Barber Center was necessary to provide the residents of the Fawn Valley Drive home with an equal opportunity to enjoy the single-family dwelling of their choice.

Id. at 653 (citations omitted). Because the persons with disabilities served by DSN must live in a group home, the accommodation requested by DSN is arguably per se reasonable. However, as set forth below, DSN has additional therapeutic reasons for the requested accommodation.

One specific therapeutic need for the accommodation for the DSN Homes is the increased staffing the homes will receive by adding a resident to each home. DSN is reimbursed by the Nebraska Department of Health and Human Services for the number of intervention hours for each of the residents in the DSN Homes. Adding one resident to each home will increase the intervention hours, which allows DSN to provide a higher level of service to all residents in the homes.

Another therapeutic benefit that will result from this accommodation is that DSN may add a resident with a disability similar to the other residents of the homes. If all of the persons in the home have similar impairments, DSN may use the same prosthetic devices and the same level of environmental changes (e.g. level of safety and security) to serve all of the residents. Moreover, the staff of the homes receives training specifically tailored to understand and effectively address the needs of specific impairments. By adding a resident to each home who has an impairment similar to the other residents, the staff do not need different training and do not need to divide their skills among varying impairments. Thus, the staff may address more effectively the needs of the residents. The only option for DSN, if it is unable to add another resident to these homes, is to open another home in the City and hope that it receives sufficient referrals to have three persons with similar impairments to move into the home. Moreover, opening another home results in added costs to DSN, taking away from the resources it uses to provide heightened level of service or providing additional services to the growing number of persons who need community based residential treatment.

Finally, DSN is facing an increasing demand for its services. As DSN has previously informed the City, the landscape of providing community-based residential

treatment in the City of Lincoln and State of Nebraska to the population DSN serves has drastically changed with the passage of LB 1083 which requires the closing of the Hastings and Norfolk Regional Centers. DSN is facing increasing referrals from HHS to place individuals currently in these institutions into community-based residential treatment settings. We also again refer you to the study conducted by the Lewin Group on behalf of HHS highlighting Nebraska's plan to deinstitutionalize persons with mental disabilities.

Many of the concerns posed by residents through emails to the City Planning Department stem from a misunderstanding of the reasonable accommodation process of the FHA. Most of the concerns expressed in these emails are based on discriminatory views of those with disabilities and have nothing to do with concerns about the proper zoning or use of the property in question. The email from Marilyn Oborny, for example, claims that one of the two residences on the 400 block of N. Coddington "was the home of one man who stabbed a neighborhood child not long ago." Another email from Jill Shandera claims that she opposes the zoning change because of her concern for "the safety of the other residents in the neighborhood" and claims that "group homes should not be allowed to reside in townhouses as they share common walls with their neighbors." The email from Stephanie Siemsen regarding the home on Timber Ridge Road claims that "two group homes within a block of one another is of great concern because they are interacting with one another." In another email regarding the Timber Ridge Road home, Gayla Martin states "we live in a family neighborhood, not a commercial area." The email from Karen Ware concerning the home on Hunts Drive states that "the neighbors did not bargain for this when they spent their hard-earned money to build their dream homes in this neighborhood." These concerns are misdirected. "[T]he FHAA responded to a recognized prejudice against those with physical disabilities and illness and against '[p]eople with mental retardation [who] have been excluded because of stereotypes about their capacity to live safely and independently.'" *Groome Resources Ltd., L.L.C. v. Parish of Jefferson*, 234 F.3d 192 (5th Cir. 2000) (citations omitted).

Rick Peo
October 24, 2005
Page 5

We trust that this letter sufficiently explains the basis on which DSN seeks a reasonable accommodation from the separation requirement imposed upon "group homes" for the DSN Homes. If you have any additional questions, please do not hesitate to contact me.

Very truly yours,



Scott P. Moore
FOR THE FIRM

Enclosures

cc: Scott LeFevre

DOCS/698974.1

(p.145 - Cont'd Public Hearing - 10/26/05)

ITEM NO. 4.2: MISCELLANEOUS NO. 05017
MISCELLANEOUS NO. 05018
MISCELLANEOUS NO. 05019
MISCELLANEOUS NO. 05020



"J. Dixon Esseks"
<jesseks@msn.com>
10/24/2005 10:07 PM

To "Jean Walker" <JWalker@ci.lincoln.ne.us>
cc
bcc

Subject Summary of a conversation

History: This message has been forwarded.

Jean,

I had some questions about the management of group homes for developmentally disabled residents. So today, I asked the questions during a phone conversation with the professional staff person of the Nebraska Department of Health and Human Services who is responsible for licensure issues for such homes.

Attached is a summary of her answers.

A colleague of hers gave me 9 copies of the *Regulations and Standards Governing Centers for the Developmentally Disabled*. I'll take them to the meeting on Wednesday.



Dick ReasonableAccomdErickson.doc

Summary of Phone Conversation with JoAnn Erickson, Nebraska Department of Health and Human Services, October 24, 2005

1. **Licensing of facilities for the developmentally disabled:** If four developmentally disabled clients live in any one home, the facility must be licensed by her Department.
2. **Staffing of the home:** The minimal staff requirements described on p. 21 of the *Regulations and Standards Governing Centers for the Developmentally Disabled* will prevail.

“005.01D1. For units including either children under the age of 6 years, severely and profoundly retarded, severely physically handicapped; or residents who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior, or other residents who require considerable adult guidance and supervision, the staff-resident ratios shall be not less than:

Morning – 1:4
Afternoon and evening – 1:4
Overnight – 1:8

“005.01D2: For units serving residents requiring training in basic independent living skills and who do not attend vocational training programs, but may attend prevocational training programs, the staff-resident ratios shall not be less than:

Morning – 1:4
Afternoon and evening – 1:8
Overnight – 1:10

“005.01D3: For units serving residents in vocational training programs and adults who work in sheltered employment situations, the staff-resident ratios shall not be less than:

Morning – 1:4
Afternoon and evening – 1:8
Overnight – 1:10”

Ms. Erickson said that, even if the total clients are no more than four, it would still be required that one staff person be present during afternoon, evening, and overnight hours. However, at night that person may be permitted to sleep rather than be awake.

The numbers of staff during any of these time periods might be more than the minimum. The total number is determined by the needs of the clients.

3. **What neighbors may do if they believe that there are health or safety issues concerning a group home:** They should call:

- 1 JoAnn Erickson at the Nebraska Department of Health and Human Services = 471-3484 or
- 2 her colleague, Cheryl Mitchell = 471-4975

The home may be inspected, and in case of serious violations its license may be suspended.

4. **Neighbors may call also if they believe that the property of the group home is being poorly maintained,** such as if a broken window remains unfixed for some time or trash has accumulated over some time.

Submitted by Dick Esseks

(p.145 - Cont'd Public Hearing - 10/26/05)

ITEM NO. 4.2, 4.3, 4.4, 4.5: MISCELLANEOUS NO. 05017
MISCELLANEOUS NO. 05018
MISCELLANEOUS NO. 05019
MISCELLANEOUS NO. 05020



"J. Dixon Esseks"
<jesseks@msn.com>
10/26/2005 12:51 AM

To "Jean Walker" <JWalker@ci.lincoln.ne.us>
cc
bcc

Subject Revised table of Lincoln Police Calls to blocks with the four
"reasonable accomodation" group homes

Jean,

With the other commissioners, please share this revised table (not the one I sent earlier this evening). I revised it just now, since in the first draft I had left out some houses on the relevant blocks of Hunts Drive and Timber Ridge Rd. that had no calls at all 2002 to Sept. 2005.

Police Chief Casady gave me data on all Lincoln Police Department calls to those blocks during that 3.75-year time period. He included more detailed information on the calls that were serious enough to result in incident reports.

I tried to summarize the data in the attached table. I'm sorry this message is arriving to you Wednesday AM. I got the materials at 1:30 this afternoon.



Dick LincolnPoliceCalls.doc

Lincoln Police Department Calls to Blocks Where Subject Properties Are Located: January 2002 to September 2005

Address	All calls 2002	All calls 2003	All calls 2004	All Calls 2005 to date	2002 calls serious enough for an incident report	2003 calls serious enough for an incident report	2004 calls serious enough for an incident report	2005 calls serious enough for an incident report
400 N. Coddington	1	3	5	6	Parent did not provide child's birth certificate. Juveniles fighting		Assault. Stranger reported.	Theft. Child custody complaint. Broken window. Suicide.
401 N. Coddington	1	0	1	0	Theft from an auto.		vandalism	
409 N. Coddington	0	0	0	0				
410 N. Coddington	1	1	0	0	Roommate steals from roommate.			
416 N. Coddington	13	1	8	1	Missing adult. Attempted rape		Missing adult. Missing juvenile	Broken window
417 N. Coddington	2	0	0	3				
418 N. Coddington	19	2	3	3	Resident assaults two other residents. Two cases of missing adults. One of vandalism	Client strikes victim	Missing adult	One adult and two juveniles reported missing.
423 N. Coddington	0	0	0	0				

Address	All calls 2002	All calls 2003	All calls 2004	All Calls 2005 to date	2002 calls serious enough for an incident report	2003 calls serious enough for an incident report	2004 calls serious enough for an incident report	2005 calls serious enough for an incident report
424 N. Coddington	2	8	5	4		Client assaults other client and threatens staff with knife. Missing adult. Officer threatened with knife	Three cases of missing adults	Missing adult located at 0545 hrs., Care giver did not pick up resident
425 N. Coddington	3	1	2	2				
426 N. Coddington	3	18	8	3	Vandalism. Ex-client grabbed female staff. Vandalism	Two missing adults. One case of vandalism	Assault with knife. 6 cases of missing adults	Vandalism
431 N. Coddington	0	0	0	1				
432 N. Coddington	0	0	0	0				
433 N. Coddington	2	0	1	0				
434 N. Coddington	0	1	0	1				Vandalism
439 N. Coddington	3	0	1	0				
441 N. Coddington	0	1	1	2				

Address	All calls 2002	All calls 2003	All calls 2004	All Calls 2005 to date	2002 calls serious enough for an incident report	2003 calls serious enough for an incident report	2004 calls serious enough for an incident report	2005 calls serious enough for an incident report
5500 Hunts Dr.	0	2	1	0				
5501 Hunts	0	0	0	0				
5506 Hunts	1	0	0	0	Vandalism			
5508 Hunts	0	0	0	0				
5509 Hunts	0	1	1	0				
5515 Hunts	0	1	0	0				
5516 Hunts	2	5	0	0		Client bites victim. Vandalism on same day		
5517 Hunts	0	0	0	1				
5524 Hunts	0	1	0	0				
5525 Hunts	0	0	0	0				
5532 Hunts	0	0	0	0				
5533 Hunts	0	1	1	1				
5540 Hunts	0	0	0	0				
5545 Hunts	0	0	0	0				
5550 Hunts	0	0	0	0				
5555 Hunts	0	0	0	0				
1600 Timber Ridge	2	2	0	0				
1610 Timber R	1	0	0	0				
1611 Timber R.	0	0	0	0				
1654 Timber R.	1	0	0	0				
1655 Timber R	1	2	1	1				
1661 Timber Ridge	1	2	6	1			Two cases of missing persons	Punched victim twice and threw table at victim
1665 Timber	1	0	0	0				

Source: Lincoln Police Department, October 25, 2005



"rr" <rphares@neb.rr.com>
09/14/2005 09:17 AM

To <plan@lincoln.ne.gov>
cc
bcc

Subject Miscellaneous No. 05019

9/9/05

I am opposed to the Developmental Service of Nebraska's application for rezoning of the property at 5516 Hunts Drive **Miscellaneous No. 05019**. We have had several incidences of violence from this home. There are also issues of parking, care of residents, and general care of property.

- Parking is inadequate. A majority of the employees do not use the drive-way. They park out on the street and use neighbor's drives to turn around in. On the occasions that they do use the drive-way they block the sidewalk.
- The van that picks the residents up in the morning and drops off in the afternoon speeds and is not watchful for the children including my own.
- Employees are carrying in pillows and bedding to sleep on.
- During the night employees are outside with friends while residents are inside.
- Employees are often outside smoking while residents are inside.
- The residents are loud.
- They do not remove the snow from the drive or sidewalk.
- Residents have taken off down the street without the employee.
- The employees cannot control the residents.
- I have had to call the police because of violence.

Please do not approve the application for Developmental Service Of Nebraska. Adding another resident so that they may have more full-time employees is not going to make the situation for the residents and community any better.



Gregory S Czaplewski/Notes
09/14/2005 08:18 AM

To Jean L Walker/Notes@Notes
cc
bcc

Subject Fw: Change of Zone No 05019

— Forwarded by Gregory S Czaplewski/Notes on 09/14/2005 08:20 AM —



"Myron Wiens"
<MWIENS@neb.rr.com>
09/13/2005 09:07 PM

To <gczaplewski@lincoln.ne.gov>
cc "Todd Kerns" <KernsRock4@yahoo.com>
Subject Change of Zone No 05019

To: Greg Czaplewski
Staff Planner
Lincoln City/Lancaster County Planning Commission

RE: SEPTEMBER 14, 2005 - PLANNING COMMISSION MEETING
DSN CHANGE OF ZONE REQUEST FOR 5516 HUNTS DRIVE

Greg, I am Kathleen L Wiens, Secretary of the Salt Valley View Neighborhood Association. My address is 1107 Clearview Blvd. Lincoln, NE 68512 402-423-1412.

I am writing regarding the above request to make a "reasonable accommodation" to allow this dwelling to become a "group home" which under the current code, it cannot as there exists a group home 1,015 feet from this property and the zone requirement does not allow group homes within 2,640 feet of each other. THIS REQUIREMENT WAS MADE FOR A VERY GOOD REASON.

The applicant asserts adding one more person to the dwelling would not create an undue financial or administrative burden on the City. **But what will it do to the neighborhood?** By allowing this dwelling to change to a group home, will create two group homes, just houses apart on a 2 block long residential street. The neighbors on this street felt it was their "civic duty" to accept one group home in their neighborhood, **but they do not want two on the same street.** This lowers their property value, adds a burden to their area in occupancy and traffic and increases a safety issue to them.

By changing the zone, each home could have up to 15 disabled persons residing in them, that would be **30 disabled persons possible in 2 houses.** This is totally unacceptable to this neighborhood. Spot Zoning is a practice which seems to be done at a neighborhoods expense, which only promotes the owners and not the area, which is not what is supposed to happen.

I am requesting you and the commission NOT TO APPROVE this request. Please Deny this request for "Reasonable Accommodation" and retain the family dwelling definition.

Thank you for your attention to this matter.
Kathleen L. Wiens
Secretary
Salt Valley View Neighborhood Association
CONCERNED CITIZEN

cc: Todd Kerns

President
Salt Valley View Neighborhood Association

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Gregory S Czaplowski/Notes
09/14/2005 08:16 AM

To Jean L Walker/Notes@Notes
cc
bcc

Subject Fw: Project # Miscellaneous #05019

History: This message has been replied to.

--- Forwarded by Gregory S Czaplowski/Notes on 09/14/2005 08:17 AM ---



"John Ware"
<jware@neb.rr.com>
09/13/2005 06:52 PM

To <gczaplowski@lincoln.ne.gov>
cc

Subject Re: Project # Miscellaneous #05019

To whom it may concern:

It has come to my attention that there is a meeting on September 14, 2005 regarding adding an additional resident to the group home at 5516 Hunts Drive. As the Grandmother of four small children, who happen to live directly across the street, I would like to hope that the request be denied. I have seen the residents of that group home doing things that are very offensive. I worry about my grandchildren and the other small children in that neighborhood and how the commotions that come from that home will affect them. I have seen a resident, and my grandchildren have seen the same resident, jumping up and down on a piece of furniture (in front of the picture window) totally naked! Neighbors have witnessed tenants of the group home running around the backyard totally unclothed as well. Most of the neighbors have had to add the expense of a privacy fence to their property to protect their children from the antics that go on there. Another incident was on a night I was baby-sitting for my grandchildren and on a peaceful and quiet night, in what used to be a quiet neighborhood, there was such a commotion that I could hardly believe my ears. One of the residents decided to not do what he was told and decided to beat up on one of the caregivers. After we called the authorities, and things settled down a bit, two of the young women caregivers came across the street to apologize to us. In talking to them one of the girls (a caregiver) realized she had gotten a broken hand in the melee. She also had a shirt on that had been ripped apart by one of these tenants. This kind of thing happening in this neighborhood is a common occurrence and is uncalled for. The parking is already a problem and the neighbors did not bargain for this when they spent their hard-earned money to build their dream homes in this neighborhood. I worry a lot about what goes on over there and I also worry about the children in the area. The young people overseeing these tenants cannot have the control as older caregivers would have. We (several neighbors and myself) saw total chaos and loss of control. It was disgusting! PLEASE DENY THIS REQUEST! Karen K. Ware, 6801 Bernese Blvd., Lincoln, NE 68516. Phone: (402) 484-8240

P.S. This group home at 5516 Hunts Drive and another group home at 940 Parkview Lane are only 1,015 feet apart according to your staff findings report and should not be any closer (lot line to lot line) than 1/2 mile or 2,640 feet. LMC\$27.13.030 requires group homes in the R-2 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 1/2 mile or 2,640 feet. An existing group home is located

at 940 Parkview Lane, approximately 1,015 feet from this property. Am I misunderstanding something?

OPPOSITION

ITEM NO. 3.5: MISCELLANEOUS NO. 05019
(p.65 - Public Hearing - 9/14/05)



"wade fruhling"
<wfruhling@neb.rr.com>
09/07/2005 09:39 PM

To <plan@lincoln.ne.gov>
cc <jcook@lincoln.ne.gov>
bcc

Subject Miscellaneous No. 05019 application for a group home at
5516 Hunts Dr

I live in the neighborhood where DSN is applying to make a group home at 5516 Hunts Drive. I am attaching a list of my concerns that I would like to be reviewed by the Planning Department or any other agency that will be making the decision to approve or deny this application. Due to my work schedule I can not be present at the hearing on September 14, 2005 at 1:00 p.m. but I would like my concerns to be addressed at this hearing.

This is extremely important to me so please call me at 304-1282 if you have any questions.

Thank you



Lisa Fruhling Act.doc

09/08/05

I oppose Developmental Service of Nebraska's (DSN) application for **Miscellaneous No.05019** to allow a group home in the R-2 Residential District to locate within the required 1/2 mile separation from another group home. The DSN location at **5516 Hunts Drive** has shown time and time again their complete lack of respect and sensitivity for our neighborhood. **To allow the addition of additional clients and staff to this home would be detrimental to our neighborhood.**

DSN has been at 5516 Hunts Drive for almost three years and in that time they have done nothing to integrate themselves into the community or to correct issues brought to them by neighbors. Because past behavior is the best indicator of future behavior, I believe adding more clients and staff to a situation that is already unstable would be very disruptive to our neighborhood. Some of the problems I have witnessed with DSN are:

- 1 The employees park in front of neighbor's houses and do not use their own driveway or garage for parking. This is a main concern because an employee car is always parked in front of my house (evenings and weekends), limiting my access to my own home. They do not respect the neighbor's requests to use their own driveway or garage for parking
- 2 The employees and maintenance staff do not use their own driveway (for example, to turn their cars around in) instead they use the neighboring houses and are not watching for children at play
- 3 The employees of DSN do not obey the speed limit and race down the street (especially the morning van service)
- 4 The employees allow clients to run around naked in the backyard and to stand naked in the front window of the house. There are over 30 children within close proximity to this house
- 5 The clients and employees are loud and disruptive to the neighborhood
- 6 The home is lacking in general lawn/home care. Snow is not removed (which is a problem since the communal mailboxes are in front of their house), the lawn is not cared for and they have drain tile sticking out on the south side of the house. Recently they fixed the front window that a client had broken but it had been broken for over a year
- 7 The employees do not provide adequate supervision to the clients. The employees are always standing outside smoking cigarettes, talking on the phone or have friends over to the house (with the clients nowhere in sight)
- 8 Employees can not control or restrain the clients. There have been numerous police calls to 5516 Hunts Drive (but there have been many instances when the police were not involved)

Please do not approve the application to make 5516 Hunts Drive a group home.

DSN has a bad track record in our neighborhood and has proven they have no respect for our neighborhood.

Rather than grant them this change, I would like to see the application denied until residents around the home see positive changes made. Ideally I would like a survey sent to neighbors surrounding this home and any future applications also denied until DSN corrects the problems/issues reported by neighbors.

Please listen to the voices of the community and deny this application until major changes are made.

DSN is already such a burden to the neighbor's because of parking, lack of home maintenance and lack of supervision of clients, **please do not allow this to become a bigger problem than it already is.**

Thank you for your time and consideration.

Lisa Fruhling
5524 Hunts Dr
Lincoln Ne 68512
304-1282