

City Council Introduction: **Monday**, September 25, 2006
Public Hearing: **Monday**, October 2, 2006, at **1:30** p.m.

Bill No. 06-176

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 06052**, text amendment to Title 27 of the Lincoln Municipal Code, by the Director of Planning, to adjust the minimum coverage area and bonus for an AG Community Unit Plan utilizing a community wastewater system in the Build-Through Area.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 08/30/06 and 09/13/06
Administrative Action: 09/13/06

STAFF RECOMMENDATION: Approval

RECOMMENDATION: Approval 9-0 (Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes').

FINDINGS OF FACT:

1. This request is to amend the CUP build-through standards which apply to acreage lots in the three-mile ring around the city, to allow the same "bonus" provision to be taken for acreage developments with community sewer systems regardless of lot size. An additional adjustment is made to clarify the number of future lots shown for build-through.
2. The staff recommendation of approval is based on the "Analysis" as set forth on p.2, concluding that this amendment would treat all build-through subdivisions with a community sewer system the same, regardless of lot size. Staff acknowledges that there is an advantage to having a community sewer collection and treatment facility in both the short and long term.
3. The proposed text is found on p.3-4.
4. The minutes of the public hearing before the Planning Commission are found on p.5-6.
5. There was no testimony in opposition.
6. On September 13, 2006, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 18, 2006

REVIEWED BY: _____

DATE: September 18, 2006

REFERENCE NUMBER: FS\CC\2006\CZ.06052

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT
for September 13, 2006 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No.06052

PROPOSAL: Amend section 27.65.020 (b) and (f) and 27.65.075, BTA Community Unit Plan, to revise development coverage and bonuses.

CONCLUSION: This amendment would treat all BTA subdivisions with a community sewer system the same, regardless of lot size. Staff acknowledges that there is an advantage to having a community sewer collection and treatment facility in both the short and long term.

<u>RECOMMENDATION:</u>	Approval
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ANALYSIS:

1. This request is to amend the CUP build through standards, which apply to acreage lots in the 3 - mile ring around the city, to allow the same "bonus" provision to be taken for acreage developments with community sewer systems regardless of lot size. An additional adjustment is made to clarify the number of future lots shown for buildthrough, which would vary with the average size of the initial lots.
2. The current regulations were developed with the assumption that community sewer systems were only feasible with smaller (one acre) lots rural subdivisions. A private developer brought to the attention of staff that the decreasing cost of small community sewer systems has made it feasible to construct these systems with larger lot rural subdivisions. Staff concurred with the developer that a community system should be more environmentally sensitive and would facilitate future city hook-ups. Based on this understanding, the Planning Director agreed to process the text amendment, which would permit build through subdivisions with lots of any size and community sewer systems to use up to 25 percent of the property.
3. Staff also supports the related amendment that applies the 20 percent bonus for using community sewer systems in the AGR as well as the AG district and amends 27.65.075 to clarify future lot provisions.
4. Following is the proposed text:

**Chapter 27.65 LMC
COMMUNITY UNIT PLAN**

27.65.020 Requirements.

(a) General Requirements.

(b) Specific Requirements.

(1) In the R-1, R-2, R-3, R-4, R-5, or R-6 zoning district.....:

(2) In the BTA Overlay District the land within the community unit plan shall be divided into two components: an Acreage Development Component and an Urban Reserve Component, except as provided in subsection (ii) below. The Acreage Development Component may be subdivided in conformance with requirements of the City Land Subdivision Ordinance into residential lots for single-family dwellings. The Urban Reserve Component may not be subdivided or built upon but rather shall be reserved for future residential development until such time as City sanitary sewer and water utilities are extended to the Urban Reserve Component and the land within the community unit plan is annexed by the City of Lincoln.

(I) In the BTA Overlay District with underlying AG zoning, the Acreage Development Component shall not exceed twenty-five percent (25%) of the total area of the community unit plan ~~if single-family dwellings will utilize on-site wastewater systems and in such event the minimum lot size shall be three acres. The Acreage Development Component shall not exceed ten percent (10%) of the total area of the community unit plan if the single-family dwellings will utilize a community wastewater system and in such event the maximum lot size shall be one acre.~~

(f) A community unit plan located in either the AG Agricultural District or AGR Agricultural Residential District which utilizes a community wastewater disposal system rather than individual wastewater systems shall receive a twenty percent (20%) density bonus.

27.65.075 Form of Community Unit Plan in the BTA Overlay District.

(b) A future final plot plan providing for conversion of the Acreage Development Component to higher urban residential density shall be accurately, clearly, and legibly drawn on tracing cloth or mylar in a sufficient size and scale to show the details of the plan clearly and shall contain the information required for final plot plans in Section 27.65.070 and the following information:

(1) Final lot lines and building lines that will be implemented with the extension of urban infrastructure and annexation by the City. For acreage CUPs with an average lot size of less than 1/3 acre, no provision for further lot subdivision is required. an average area per family equal to the lot area per family required in the R-1 Residential District, or a maximum gross density of 3.0 units per acre. For acreage community unit plans using community wastewater systems with a 1/3 acre to one acre maximum average lot size, the future final plot plan shall provide at least 2.0 times the number of lots in the CUP. For acreage community unit plans with more than a one acre maximum lot size, but less than three acres, the future final plot plan shall provide at least 2.5 times the number of lots in the community unit plan . For acreage community unit plans using on-site wastewater systems with a three acre or larger minimum lot size, the

future plot plan shall provide at least 3.0 times the number of lots in the CUP an average lot size of one acre or a maximum gross density of one unit per acre. The sum of the lots may be rounded up to the nearest full lot.

Prepared By:

Mike DeKalb
441-6370, mdekalb@lincoln.ne.gov
Planner
August 21, 2006

APPLICANT: Marvin Krout
555 S. 10th St.
Lincoln, NE 68508
(402) 441-7491

CONTACT: Mike DeKalb
555 S. 10th Street
Lincoln, NE 68508
(402) 441-6370

CHANGE OF ZONE NO. 06052

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 30, 2006

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

Staff recommendation: Deferral

Ex Parte communications: None.

The Clerk announced that the staff has requested that this proposal be deferred for two weeks.

Carroll made a motion to defer, with continued public hearing and action scheduled for September 13, 2006, seconded by Sunderman and carried 8-0: Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'; Strand absent.

There was no public testimony.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 13, 2006

Members present: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson.

Ex Parte Communications: None.

Staff presentation: Mike DeKalb of Planning staff presented the proposal, being an amendment to the build-through requirements. The concept is that when the build-through standards (BTA) were developed, we were looking at subdivisions that provided interior community sewer systems, with there being no size limit and a lot of flexibility. At that time, we were being told that it just wasn't economically feasible to do a community sewer system on larger lots so that is how it was written.

It has now come to the staff's attention that the cost of a community sewer system has come down and the community sewer system is more reliable and easier to install. A local developer has submitted the idea that the community sewer system would be more environmentally appropriate than septic systems, etc. The staff is in agreement and is proposing this change to provide a second bonus, and amend the coverage provisions to allow 3-acre lots with community systems and bonuses. The text change gives 20% plus 20% for larger lots, and also adjusts the coverage provision so that the larger lots can be done.

DeKalb stated that this text amendment was initiated by the Director of Planning recognizing the request had good merit.

Support

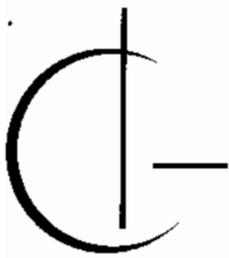
1. **Mike Eckert, Civil Design Group**, testified in support. He suggested that this was a glitch in the build-through standards which he discovered. This provides opportunity to develop 3-acre lots and a community septic system. He expressed appreciation to the staff for accommodating this request.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

September 13, 2006

Larson moved approval, seconded by Strand and carried 9-0: Strand, Cornelius, Sunderman, Taylor, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'. This is a recommendation to the City Council.

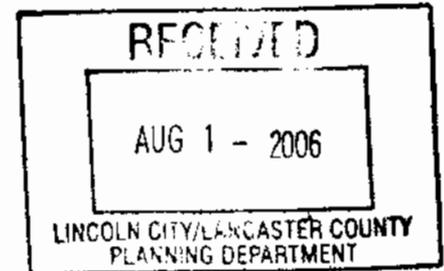


Civil Design Group, Inc.

Consulting Engineers & Land Use Planners
Civil Design • Site Development • Planning & Zoning

August 1, 2006

Marvin Krout, Director of Planning
HAND DELIVERED



RE: Proposed AGR Text Amendment Requests:

Dear Mr. Krout:

Thank for you prompt and positive review of our request to process a text amendment to section 27.65.050 (b)(2)(i) regarding the minimum coverage area for an AG CUP utilizing a community wastewater system. In your letter dated July 21, 2006 (attached) you indicated that you would be willing to initiate such an amendment as the Director of Planning.

Please consider this our formal request to begin processing this amendment immediately. We would respectfully request that the amendment be written and internally submitted by this Thursday at noon so that it could be scheduled for public hearing on the August 30, 2006 Planning Commission agenda. This is the same date that we are targeting to submit and have a public hearing on a project that will require this text amendment to be approved in order to satisfy the Acreage Development Component coverage area that our firm will be showing in an AG CUP that utilizes a community wastewater system with a minimum lot size of three acres.

Additionally, while you are embarking on this exercise, Mike DeKalb and I also discussed a "housekeeping" issue that should be addressed in the form of a text amended in order to clarify that the community wastewater bonus's applicability to both the AG and AGR districts. This text amendment is listed below at Text Amendment #2.

Again, to summarize here are the text amendments we would ask you to submit:

PROPOSED TEXT AMENDMENT #1:

For Chapter 27.65.020 (b)(2)(i):

Amend the current text:

- (i) *In the BTA Overlay District with underlying AG zoning, the Acreage Development Component shall not exceed 25% of the total area of the CUP if the single family dwellings will utilize on-site wastewater systems and in such even the minimum lot size shall be three acres. The Acreage Development component shall not exceed 10% of the total area of the community unit plan if the single-family dwellings will utilized a community*

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wastewater system and in such even the maximum lot size shall be one acre.

To the following text:

- (i) ~~In the BTA Overlay District with underlying AG zoning, the Acreage Development Component shall not exceed 25% of the total area of the CUP, if the single family dwellings will utilize on-site wastewater systems and in such even the minimum lot size shall be three acres. The Acreage Development component shall not exceed 25% of the total area of the community unit plan if the single family dwellings will utilize a community wastewater system and in such even the maximum lot size shall be one acre.~~

PROPOSED TEXT AMENDMENT #2:

For Chapter 27.65.020 (f):

Amend the current text:

- (ii) *A community unit plan located in the AG Agricultural District which utilizes a community wastewater disposal system rather than individual wastewater systems shall receive a twenty percent (20%) density bonus.*

To the following text:

- (ii) *A community unit plan located in either the AG Agricultural District or AGR zoning districts which utilizes a community wastewater disposal system rather than individual wastewater systems shall receive a twenty percent (20%) density bonus.*

Thank you for your willingness to process these amendments for our client. Together we truly appreciate the Planning Department's willingness to show their ability to provide flexibility in this circumstance as market conditions continue to evolve in the acreage arena.

Sincerely,



Mike Eckert, AICP

cc: Mike DeKalb
Gary Pickering
Mike Boettcher



CITY OF LINCOLN NEBRASKA

MAYOR COLEEN J. SENG

lincoln.ne.gov

Lincoln-Lancaster County
Planning Department
Marvin S. Krout, Director

Jon Carlson, Chair
City-County Planning Commission

555 South 10th Street
Suite 213

Lincoln, Nebraska 68508
402-441-7491
fax: 402-441-6377

July 21, 2006

Mike Eckert
Civil Design Group, Inc.
3901 Normal Blvd., Suite 203
Lincoln, NE 68506

Dear Mike:

Thank you for the opportunity to review and comment on your proposed amendments to the build-through acreage standards (BTA).

Staff would be favorable to amending the CUP provisions in the zoning code to allow the maximum developable area to increase from 10% to 25% of the total property area for 3+ acre lots. I agree it is not logical to limit the lot yield in an acreage subdivision because the developer chooses to build a community sewer system rather than on-site sewer treatment on each individual lot. I would go a step further, and say that we could see a sliding scale ranging between 10% and 25% for lots that are in the 1-3 acre range, to provide additional flexibility should the market demand change again. We would be willing to initiate such an amendment without your client filing an application with fee.

We are not supportive of any amendments that would increase above 25% the developable portion of a BTA acreage development, or allow a further bonus for the preservation of floodplain land. A key purpose of the BTA standards is to reserve as much land as possible for future urban development. The 25% standard was formulated so a developer could reach the maximum potential lot yield if minimum size lots are platted. If a developer chooses to plat larger than minimum size lots, we do not think that justifies reducing the amount of land that is reserved for future urban development.

We also do not think the separate density bonus for constructing a community sewage system should be extended equally to all subdivisions. The benefits of a community system with 1-acre lots are greater than the benefits with 3-5 acre lots: 90% of the land is reserved for future urban development, and 1-acre lots that can be further subdivided into 1/3-acre lots are preferable to 3-acre lots that can be subdivided into 1-acre lots. The sliding scale formula as described above would allow for the incentive to range between 0-20% for lots that average from 3 acres down to 1 acre in size, and I think that is appropriate.

Regarding the bonus for community sewer systems, they can result in an easier transition when the subdivision eventually is annexed and city sewer service is available to the lots. But I have to say that every one of my 30+ year career in planning, someone has touted the "new treatment technologies" that do a better job of treatment and will not fail like many of their predecessors. Small community sewer systems maintained by homeowner associations may be becoming less expensive, but they will continue to be risky propositions.

Mike Eckert
July 20, 2006

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CITY OF LINCOLN
NEBRASKA

MAYOR COLEEN J. SENG

lincoln.ne.gov

Lincoln-Lancaster County
Planning Department
Marvin S. Krout, Director

Jon Carlson, Chair
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555 South 10th Street
Suite 213

Lincoln, Nebraska 68508
402-441-7491
fax: 402-441-6377

Last, you suggest that preservation of floodplains should deserve a separate additional bonus, because it will preserve this land without spending local taxpayer dollars to acquire conservation easements. We are totally opposed to this idea. The floodplain regulations for the new growth areas provide good protection to the public without the need to acquire conservation easements. I think our experience with acquiring easements in the upper southeast Salt Creek sub-basin has probably taught us that this is too expensive to replicate. The concern that floodplains may be modified is practically nonexistent in acreage subdivisions, where the density limitations and land values just do not warrant large-scale filling and cutting.

Regarding all of your requests which essentially increase lot yield on AG-zoned properties, I also have to say that the overriding goal in the Comprehensive Plan is to limit development in rural areas. The proportion of new housing starts in rural versus urban areas of the county is already well above the levels established in the Comprehensive Plan. We do not need to encourage even more housing in rural areas by lifting the established ceilings to further increase lot yields on these build-through sites.

We would be glad to meet with you personally to answer further questions that you may have or to begin working together on the amendments that we can support.

Sincerely

Marvin S. Krout
Director of Planning

q:\msk\Eckert Build-Through Proposal

cc: Mike DeKalb
Ray Hill
Nicole Fleck-Tooze