

FACTSHEET

TITLE: CHANGE OF ZONE NO. 07013, amending Title 27 of the Lincoln Municipal Code relating to Zoning by amending Section 27.71.210, *Enlargement and Alteration of Lots*, to clarify language that conflicts with other provisions of the zoning regulations.

STAFF RECOMMENDATION: Approval.

ASSOCIATED REQUEST: County Change of Zone No. 07012.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 04/11/06
Administrative Action: 04/11/06

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

FINDINGS OF FACT:

1. This is a request by the Director of Building & Safety due to a conflict which is occurring where "grandfather" language states, "Where a lot or tract of land **on the effective date of this title**" (e.g. 27.07.080 (d)(e) is in place and there is an alteration of a pre-existing lot. At that time it no longer meets this requirement of the effective date and thus full yard setbacks are being applied. This can result in a small lot having a full 60' side yard, thus making the lot un-buildable due to the lot adjustment.
2. This amendment is an appropriate cleanup to remove an unintended conflict.
3. The same amendment is being made to both the City and County code.
4. The staff recommendation to approve this proposed text amendment as set forth on p.3 is based upon the "Analysis" as set forth on p.2, concluding that the proposed amendment will correct conflicts with other provisions of the zoning regulations.
5. On April 11, 2007, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
6. On April 11, 2007, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.
7. On April 11, 2007, the Planning Commission also recommended approval of the associated text amendment to the County Zoning Resolution (County Change of Zone No. 07012).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: April 16, 2007

REVIEWED BY: _____

DATE: April 16, 2007

REFERENCE NUMBER: FS\CC\2007\CZ.07013

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT
for April 11,2007 PLANNING COMMISSION MEETING**

PROJECT #: Change of Zone No. 07013

PROPOSAL: Amend Chapter 27.71.210, L.M.C., Enlargement and Alteration of Lots.

CONCLUSION: This amendment will correct conflicts with other provisions of the zoning regulations.

<u>RECOMMENDATION:</u> Approval of the attached language

GENERAL INFORMATION:

LEGAL DESCRIPTION: Amend Chapter 27.71.L.M.C., Additional Height and Area, 27.71.210 Enlargement and Alteration of Lots.

ANALYSIS:

1. This request from the Director of the City Building and Safety Department is to amend 27.71. 210 Enlargement and Alterations of Lots.
2. A conflict is occurring where “grandfather” language states ”Where a lot or tract of land **on the effective date of this title**” (e.g. 27.07.080 (d)(e) is in place and there is an alteration of a pre-existing lot. At that time it no longer meets this requirement of the effective date and thus full yard setbacks are being applied. This can result in a small lot having a full 60' side yard, thus making the lot un-buildable due to the lot adjustment.
3. This amendment is an appropriate cleanup to remove an unintended conflict.
4. The same amendment is being made to both the City and County code.

PROPOSED LANGUAGE:

Chapter 27.71

ADDITIONAL HEIGHT AND AREA REGULATIONS

27.71.210 Enlargement and Alteration of Lots.

(a) Any lot or premises which does not meet the area, width, or frontage requirements, or any combination thereof, of the district in which it is situated, may be enlarged without affecting the purposes for which it may be used; provided, that such enlargement does not result in the creation of an additional lot which does not conform to the applicable requirements of this code.

(b) In the AG or AGR zoning district, the common lot lines of two or more adjoining lots, both or all of which do not meet the area, width, or frontage requirements, or any combination

thereof, of the district in which such lots are situated, may be altered without affecting the purposes for which such lots may be used, provided:

(1) That such alteration does not result in the creation of a lot which does not meet the minimum standards for water and sanitary sewage disposal systems as required by applicable state, county, and city regulations; and

(2) That such alteration meets all requirements of the city land subdivision ordinance.

(3) That the newly created lots in the AG or AGR zoning districts shall have a required front yard, side yard and rear yard that conforms to 27.07.080(h)(3)(it) or 27.09.080(c)(d) respectively; except that in the AG zoning district, the required side yard shall not be less than 10% of the lot width or 15 feet, whichever is greater.

Prepared by:

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Planner

DATE: March 12, 2007

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CHANGE OF ZONE NO. 07013

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

April 11, 2007

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

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 07002; COMPREHENSIVE PLAN CONFORMANCE NO. 07003; COMPREHENSIVE PLAN CONFORMANCE NO. 07004; COUNTY CHANGE OF ZONE NO. 07012; CHANGE OF ZONE NO. 07013; COUNTY CHANGE OF ZONE NO. 07014; CHANGE OF ZONE NO. 07016; CHANGE OF ZONE NO. 07017; and SPECIAL PERMIT NO. 07007.**

Ex Parte Communications: None.

Carroll moved to approve the Consent Agenda, seconded by Cornelius and carried 9-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on Comprehensive Plan Conformance No. 07002 and Special Permit No. 07007, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

AG Existing

g. Churches.

(ii) If the area of the lot is less than ten acres, such lot may be used for:

- a. Agriculture, except commercial feed-lots;
- b. Public use including, but not limited to, public parks, playgrounds, golf courses and recreational uses, fire stations, public elementary and high school or private schools having a curriculum equivalent to a public elementary or public high school, and public utilities and utility distribution systems;
- c. A single-family dwelling;
- d. Churches.

(iii) A lot which otherwise qualified under (i) above, but which has since been reduced in area by public acquisition for right-of-way purposes, may be devoted to any of the uses permitted in (i) above if the remaining area of such lot is nine or more acres.

(2) If two or more abutting lots in common ownership exist on the effective date of this title, each of such lots may be used for a single-family dwelling; provided, that each such lot shall contain a minimum area of two acres and shall have an average lot width of 150 feet. Abutting lots in common ownership may be combined to meet these requirements.

If a lot has less width or depth than herein required, the required side and rear yard may be adjusted as provided in (d) and (e) above.

(g) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the front, side and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located: (1) in the required rear yard, but such accessory buildings shall not be nearer than two feet to the side or rear lot line;

and (2) not nearer than a distance equal to ten percent of the average lot width from the side lot line. Such accessory buildings located in the required rear yard or required side yard shall not occupy more than thirty percent of the required rear yard.

(h) A lot or parcel of land of one acre or more may be used for a single-family dwelling, provided that a residential structure:

- (1) has existed on such land for more than five years;
- (2) such structure is, or has been, used as the primary residence associated with a farm; and
- (3) such lot or parcel of land and structure shall be in conformance with the following maximum height and minimum lot requirements:

(i) General requirements:

[See Table 27.07.080(i) below]

(ii) There shall be a required front yard on each street side of a double-frontage lot;

(iii) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced below thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(iv) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the front, side, and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory building may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to the side or rear lot line.

Table 27.07.080(i)

	Lot Area	Avg. Lot Width	Req'd Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All Permitted Uses	1 acre	150'	120'	50**	15'	Lesser of 50' or 20% of depth	30'

* The sum of (1) the distance from the centerline of abutting road to the property line, plus (2) the required front yard need not exceed 80'. The required front yard may be reduced, where necessary, to reach this total.

However, if the lot or parcel of land and structure does not meet the requirements of item (i) above, it shall be considered a non-standard use.

(4) Such structure is in conformance with the other provisions of this title, the minimum housing code, and the minimum standards for water and sewage facilities.

(i) A lot or parcel of land of one acre or more may be used for public utility and distribution system purposes; provided, that such lot or parcel of land and any structures located thereon meet the maximum height and minimum lot requirements set forth in (h)(3) above; and provided, further, that such lot or parcel shall not be used, by itself, for any other purpose except agriculture. (Ord. 17649 §2; April 17, 2000: prior Ord. 17603 §1; February 7, 2000: Ord. 15752 §1; October 15, 1990: Ord. 14279 §1; December 2, 1985: Ord. 14077 §1; April 8, 1985: Ord. 13441 §1; September 7, 1982: Ord. 13358 §1; April 26, 1982: Ord. 13242 §1; November 2, 1981: Ord. 12967 §1; August 11, 1980: Ord. 12571 §83; May 8, 1979).

AGR Existing

(3) The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile. (Ord. 17104 §2; December 2, 1996: prior Ord. 16854 §4; August 14, 1995: Ord. 15751 §1; October 15, 1990: Ord. 13982A §2; November 12, 1984: Ord. 13487 §3; November 1, 1982: Ord. 12571 §87; May 8, 1979).

27.09.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Private schools;
- (b) Recreational facilities;
- (c) Dwellings for members of religious orders;
- (d) Broadcast towers;
- (e) Campgrounds;
- (f) Veterinary facilities;
- (g) Mining or extraction of minerals from any portion of the district, and the storage and processing thereof;
- (h) Garden centers;
- (i) Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
- (j) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;
- (k) Community unit plans shall be permitted in conformance with the provisions of Chapter 27.65;
- (l) Expansion of nonconforming uses;
- (m) Historic preservation;
- (n) Public utility purposes;
- (o) Private landing strips and appurtenances;
- (p) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.09.030;
- (q) Clubs;
- (r) Dwelling units for domestic employees in accessory buildings;
- (s) Alternative to imprisonment facilities;
- (t) Children's homes. (Ord. 18535 §6; May 9, 2005: prior Ord. 16854 §5; August 14, 1995: Ord. 16673 §4; September 26, 1994: Ord. 16088 §2; March 23, 1992: Ord. 15763 §2; October 29, 1990: Ord. 15368 §2; December 18, 1989: Ord. 14780 §2; November 2, 1987: Ord. 14773 §2; October 19, 1987:

Ord. 13588 §2; May 9, 1983: Ord. 13487 §4; November 1, 1982: Ord. 12978 §2; August 25, 1980: Ord. 12894 §2; April 7, 1980: Ord. 12571 §88; May 8, 1979).

27.09.050 Accessory Uses.

Accessory uses permitted in the AGR Agricultural Residential District are accessory buildings and uses customarily incident to any of the permitted uses in the district. (Ord. 12571 §89; May 8, 1979).

27.09.060 Parking Regulations.

All parking within the AGR Agricultural Residential District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §90; May 8, 1979).

27.09.070 Sign Regulations.

Signs within the AGR Agricultural Residential District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §91; May 8, 1979).

27.09.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the AGR Agricultural Residential District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §2; February 22, 2000.)

27.09.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the AGR Agricultural Residential District shall be as follows:

- (a) General requirements:

[See Table 27.09.080(a) at the end of this chapter]

(b) There shall be a required front yard on each street side of a double frontage lot;

(c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced below thirty-five feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards.

(d) Where a lot of record on November 2, 1953, has a width of 100 feet or less, the required side yard may be reduced to a width of not less than ten percent

of the width of the lot, but in no instance shall it be less than five feet.

(e) If a lot or tract has less area or width, or both less area and width, than herein required, and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, such parcel may be used in the following manner:

(1) Agriculture, except confined feeding facilities for livestock or poultry;

(2) Public use including but not limited to public parks, playgrounds, golf courses and recreational uses, fire stations, public elementary and high schools, and public utilities and utility distribution systems;

(3) Churches;

(4) A single-family dwelling.

(f) Accessory buildings which are attached to or not located more than ten feet from the main structure shall be considered a part of the main structure and shall comply with the front, side, and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than thirty percent of the required rear yard and shall not be nearer than two feet to the side or rear lot line.

(g) If a lot has less area, width or frontage or any combination thereof than required under subsection (a) of this section, and on January 16, 1989, if the area of the lot was one acre or more, and the average lot width of the lot was 150 feet or more and the frontage of the lot was 120 feet or more, such lot may be used for:

(1) Agriculture, except confined feeding facilities for livestock or poultry;

(2) Dog-breeding establishments and kennels;

(3) Stables and riding academies;

(4) Public uses; and publicly owned and operated uses including but not limited to public parks, playgrounds, golf courses, and recreational uses; fire stations; public elementary and high schools; and public utilities and utility distribution systems; and airports;

(5) Churches;

(6) A single-family dwelling. (Ord. 16388 §1; June 14, 1993: prior Ord. 15208 §1; June 26, 1989: Ord. 15092 §2; January 16, 1989: Ord. 13242 §2; November 2, 1981: Ord. 13222 §1; October 12, 1981: Ord. 12571 §92; May 8, 1979).

Table 27.09.080(a)

	Lot Area	Avg. Lot Width	Req'd Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
All Permitted Uses	3 acres	220'	175**	50*	15'	Lesser of 50' or 20% of depth	35'

* The sum of (1) the distance from the centerline of the abutting road to the property line, plus (2) the required front yard need not exceed 80'. The required front yard may be reduced where necessary to reach this total.

** For lots abutting cul-de-sacs, this requirement may be met by providing a frontage of 175 feet measured at the required front yard line.