City Council Introduction: **Monday**, December 3, 2007
Public Hearing: **Monday**, December 10, 2007, at **1:30** p.m. Bill No. 07-177

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 07057,** requested by Dial Salt Creek Limited Partnership, amending Title 27 of the Lincoln Municipal Code relating to height and area regulations in the B-2, B-5, H-1, H-2, H-3 and H-4 zoning districts.

STAFF RECOMMENDATION: Approval, as revised on November 13, 2007.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 11/21/07
Administrative Action: 11/21/07

RECOMMENDATION: Approval (8-0: Cornelius, Taylor, Larson, Esseks, Francis, Carroll, Moline and Sunderman voting 'yes'; Gaylor-Baird absent).

FINDINGS OF FACT:

1. This is a proposal to amend the zoning ordinance to:

   A. Increase the height of the B-2 and B-5 Districts from 40' to 55'.
   B. Increase the height of the H-1, H-2, H-3, and H-4 Districts from 45' to 55'.
   C. Add an increased setback requirement to the side and/or rear yards for the B-2 District based on the height of the portion of the building that exceeds 40'.
   D. Add an increased setback requirement to the side and/or rear yards for the H-1, H-2, H-3, and H-4 Districts based on the height of the portion of the building that exceeds 45'.
   E. Add an increased setback requirement to the side yard for the B-5 District based on the height of the portion of the building that exceeds 40'.

2. The applicant proposing this amendment wishes to build a four-story hotel in the H-3 zoning district to allow architectural features to exceed the 45' height limit. In consultation with Planning and other department staff, the revised proposal is to increase the height to 55' in the B-2, B-5 and H-2 to H-4 districts, with an additional setback requirement for buildings exceeding the current maximum height of the district when adjacent to a residential neighborhood.

3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3, concluding that this proposal is in conformance with the Comprehensive Plan. The impact of the increased height on the abutting R-1 to R-4 Districts will be reduced by the additional setback requirement. The staff presentation is found on p.5-6.

4. Testimony in support is found on p.6.

5. There was no testimony in opposition.

6. On November 21, 2007, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval as set forth in the revised staff report dated November 13, 2007 (Gaylor-Baird absent).

FACTSHEET PREPARED BY: Jean L. Walker **DATE**: November 27, 2007

REVIEWED BY:_____ **DATE**: November 27, 2007

REFERENCE NUMBER: FS\CC\2007\CZ.07057 text

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for NOVEMBER 21, 2007 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 07057

PROPOSAL:

1. Increase the height of the B-2 and B-5 Districts from 40' to 55'.

2. Increase the height of the H-1, H-2, H-3, and H-4 Districts from 45' to 55'.

3. Add an increased setback requirement to the side and/or rear yards for the B-2 District based on the height of the portion of the building that exceeds 40'.

4. Add an increased setback requirement to the side and/or rear yards for the H-1, H-2, H-3, and H-4 Districts based on the height of the portion of the building that exceeds 45'.

5. Add an increased setback requirement to the side yard for the B-5 District based on the height of the portion of the building that exceeds 40'.

CONCLUSION: ~~The proposal is in conformance with the comprehensive plan and with the additional setback requirement, the increase in height reduces the impact on the abutting R-1 to R-4 Districts.~~

The proposal is in conformance with the comprehensive plan. The impact of the increased height on the abutting R-1 to R-4 Districts will be reduced by the additional setback requirement.

RECOMMENDATION: Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Sections 27.31.090, 27.37.060, 27.39.070, 27.41.080, 27.43.080, and 27.45.070 of the Zoning Ordinance.

HISTORY:

B-2 Height: City Council approved Ordinance #12571 on May 8, 1979: 40'.

B-5 Height: City Council approved Ordinance #12571 on May 8, 1979: 40'.

H-1 Height: City Council approved Ordinance #12571 on May 8, 1979: 45'.

H-2 Height: City Council approved Ordinance #12571 on May 8, 1979: 45'.

H-3 Height: City Council approved Ordinance #12571 on May 8, 1979: 45'.

H-4 Height: City Council approved Ordinance #12571 on May 8, 1979: 35'.
Change of Zone #05047 to increase the height in the H-4 District was approved by City Council (Ordinance #18583) on August 1, 2005: 45'.

COMPREHENSIVE PLAN SPECIFICATIONS:

Pg. 9 The Urban Environment: Overall Form
Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods.

Pg. 68 3. Require new development to be compatible with character of neighborhood and adjacent uses (i.e., parking at rear, similar setback, height and land use).

ANALYSIS:

1. The applicant's original proposal, which was intended to permit the construction of a four-story hotel in the H-3 District that exceeded the 45 foot height limit, stated: "Architectural features may occupy a maximum of 30% of a 10' plane above the building height on each side." This proposal would have been difficult for the Building and Safety Department to enforce due to the lack of a definition for "architectural features". It also would not satisfy the needs of another applicant who is requesting a height variance from the Board of Zoning Appeals to remodel an existing hotel building. Therefore, City staff drafted a revised text amendment with the permission of the applicant. The Staff proposal is more easily enforced and broader in its application to include B-2, B-5, and all of the H districts.

2. The revised proposal is to increase the height to 55' in B-2, B-5, and H-1 to H-4.

3. The proposal increases flexibility while taking adjacent residential neighborhoods into consideration by requiring an additional setback for buildings above the current maximum height of the district.

4. The proposal sets a maximum height of 55' for those districts. If the height of the building is over the zone's current maximum height (in this case 40' or 45'), that portion of the building in excess of the zone's current maximum height (40' or 45') shall be required to have one additional foot of setback to any required side and/or rear yard abutting an R-1 through R-4 residential district for each one foot of building height in excess of 40'. Therefore, the setbacks for the portion of the building that is at or below the zone's current maximum height (40' or 45') would remain the same.

5. The text amendment allows for more flexibility and potentially more intense development of some of the commercial zones. Uses would still be required to meet the City's parking requirements and all design standards.

Prepared by:

Brandon M. Garrett, AICP
Planner

DATE: November 13, 2007

APPLICANT: Jeannine DeVetter
Dial Salt Creek Limited Partnership
11506 Nicholas St., #200
402-493-2800

CHANGE OF ZONE NO. 07057

PUBLIC HEARING BEFORE PLANNING COMMISSION: November 21, 2007

Members present: Moline, Esseks, Francis, Taylor, Cornelius, Larson, Sunderman and Carroll; Gaylor-Baird absent.

Ex Parte Communications: None.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing.

Staff presentation: **Brandon Garrett of Planning staff** explained the e-mail communication received from Lisa Good at 3036 Franklin Street . Part of her concerns had to do with grammar in the staff report and he has made that correction. Secondly, she was concerned why we did not consider the P Public Use district along with this text amendment. Garrett explained that the P district is typically publicly owned land and it does not have any height and area regulations or setbacks. Thus it was excluded from this text amendment.

Garrett then used visual aids to illustrate the impact of this text amendment, i.e. to increase the maximum height of buildings to 55 feet, and to provide that if the height of the building is over 40 feet in the B-2 and B-5 districts and over 45 feet in the H-1, H-2, H-3, and H-4 districts, that portion of the building in excess of such height shall be required to have one additional foot of setback to any required side and/or rear yard abutting a R-1 through R-4 Residential District for each one foot of building height in excess of the applicable 40 feet or 45 feet, depending on the zoning district in question, except that the additional rear yard setback is not required in the B-5 district.

Moline inquired as to the genesis for this change. Garrett stated that the Planning Department received a request from a developer at the North 27th and I-80 area that wanted to build a hotel in the H-3 zoning district, the maximum allowable height of that zoning district being 45'. The hotel was going to be 52' tall, due to some architectural features to add character and interest to the building. That developer submitted a text amendment to allow architectural features to extend above the maximum height. The staff discussed the proposal with other departments and it seemed to make more sense to just increase the maximum height rather than create additional definitions and additional review that would be required with the developer's proposed amendment.

Garrett believes that the result will be that the adjacent properties would be seemingly less impacted by the additional height by having the building graduated at 1-to-1. There would not be the perception of too much additional height. There would be less shadow cast if the portion of the building is set back. To further support the proposed amendment, Garrett stated that the Planning Department is getting more and more applications for taller buildings and it is definitely something the Comprehensive Plan supports, i.e. additional density for infrastructure. This text amendment covers just the B-2 and B-5 and H-1 through H-4 districts, which would impact the commercial development type of sites. For example, 40' would be a four-story building and 55 feet would be a five-story building.

Moline wondered why the entire building height couldn't be 55' as opposed to the graduated levels. Garrett advised that the additional setback is only triggered when it is adjacent to a residential district. Moline thought the 1-to-1 to be an arbitrary number – are we really gaining anything? Garrett suggested that from the neighborhood or residential neighbor standpoint, you would be gaining the perception of the building not being as tall or the additional shade that an additional 15 feet would cause on the property.

With the 1-to-1, Cornelius suggested that when looking up at the top of the building, the sight line stays the same – it maintains the visual profile of the building when you are looking at it from across the street because the taller portion is set back equal to how much taller it is. Garrett agreed.

Proponents

1. Jeannine DeVetter testified on behalf of **Dial Realty,** the applicant. Dial Realty is building a hotel on N. 27th and I-80. The building height is only 45', but the parapet and architectural features increase the height. They desire to allow for these features to alleviate there being a flat building. Hampton Inn and Suites would not have allowed a flat building without the architectural features. This is being requested only for the aesthetic purposes. There is a vehicle to amend and increase the building height if the property is within a PUD, but the Dial Realty property is not located within a PUD. Devetter used the example of Candlewood Suites at 70th & Pioneers which exceeds the 45' height.

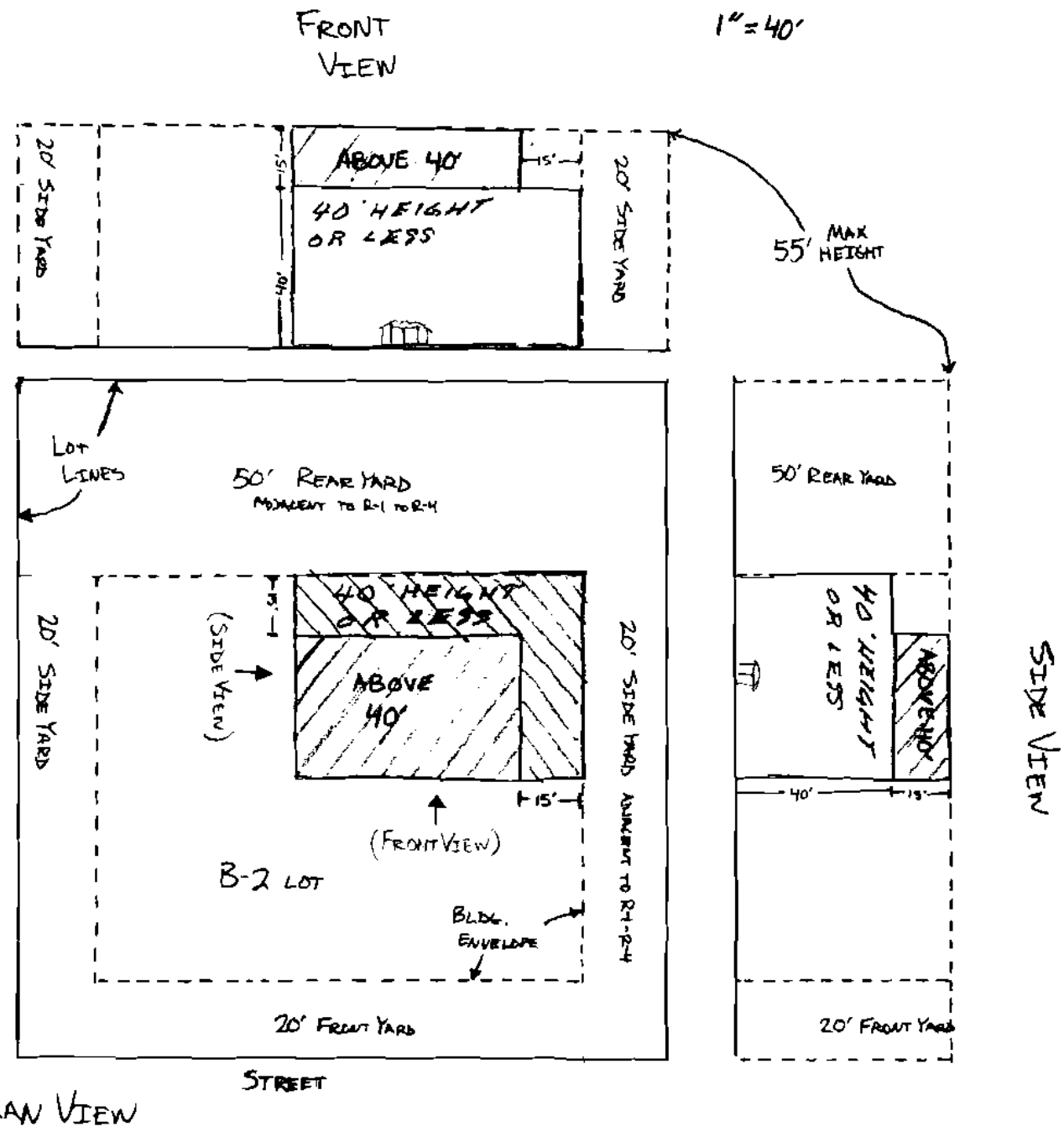
2. Kent Seacrest appeared on behalf of **Colorado Hospitality Services, Inc.,** the owner of the existing Airport Inn near the Airport, which is interested in making changes to the straight line look of their building as well. They also need some architectural relief. Some of the hotels built at 84th & Hwy 2 required height waivers. The protocol for these hotels is now four stories and the 45' height is not realistic. Land in Lincoln has gotten very expensive and the more we can utilize it efficiently, the more it will reduce the room rates. It will be more economical for both the business traveler and our own family members.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION: November 21, 2007

Larson moved approval, seconded by Francis and carried 8-0: Moline, Esseks, Francis, Taylor, Cornelius, Larson, Sunderman and Carroll voting 'yes'; Gaylor-Baird absent. This is a recommendation to the City Council.

B-2 EXAMPLE



THIS EXAMPLE SHOWS HOW A BUILDING 15' ABOVE 40' WOULD BE SET BACK (1:1) AN ADDITIONAL 15' FROM THE SIDE AND/OR REAR YARDS WHEN ABUTTING R-1 TO R-4. IF THE BUILDING WAS ONLY 50' TALL, THEN THE ADDITIONAL SETBACK WOULD ONLY BE 10'.