

City Council Introduction: **Monday**, February 25, 2008  
Public Hearing: **Monday**, March 3, 2008, at **1:30** p.m.

Bill No. 08-19

## **FACTSHEET**

**TITLE: CHANGE OF ZONE NO. 08005**, requested by the Director of Planning, to amend Title 27 of the Lincoln Municipal Code (the Zoning Ordinance) relating to the expansion of nonconforming or nonstandard uses.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda: 02/13/08  
Administrative Action: 02/13/08

**STAFF RECOMMENDATION:** Approval.

**RECOMMENDATION:** Approval (6-0: Gaylor-Baird, Carroll, Cornelius, Esseks, Francis and Moline voting 'yes'; Taylor, Larson and Sunderman absent).

### **FINDINGS OF FACT:**

1. The purpose of this proposal to amend Section 27.63.280 of the Zoning Ordinance is to clarify that the special permit for the expansion of a nonconforming use may include the enlargement of the tract of land on which the nonconforming or nonstandard structure or use is located, and that lot standards of the underlying zoning district may be adjusted as part of the approval.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-3, concluding that the proposed text amendment puts language into the ordinance consistent with how this section of the ordinance has been interpreted in the past.
3. On February 13, 2008, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On February 13, 2008, the Planning Commission agreed with the staff recommendation and voted 6-0 to recommend approval (Taylor, Larson and Sunderman absent).

**FACTSHEET PREPARED BY:** Jean L. Preister

**DATE:** February 19, 2008

**REVIEWED BY:** \_\_\_\_\_

**DATE:** February 19, 2008

**REFERENCE NUMBER:** FS\CC\2008\CZ.08005 text

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**  
**for FEBRUARY 13, 2008 PLANNING COMMISSION MEETING**

- PROJECT #:** Change of Zone No. 08005
- PROPOSAL:** Text amendment to clarify that the special permit for the expansion of a nonconforming use may apply to the enlargement of the premises of the nonconforming or nonstandard structure or use.
- CONCLUSION:** The proposal specifically writes into the ordinance how this section has been interpreted in the past.

<b>RECOMMENDATION:</b>	Approval
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**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See attached draft ordinance.

**HISTORY:**

- May 22, 2006: City Council passed Ordinance #18730 to allow special permits for the expansion of nonstandard uses in all districts.
- Dec. 20, 2004: City Council passed Ordinance #18480 to allow these types of special permits to be approved by the Planning Commission.
- October 13, 1986: City Council passed Ordinance #14532 to describe permitted signs in conjunction with the nonconforming or nonstandard use.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented. As additional centers are built, the City and developers should be proactive in redevelopment of existing centers to make sure that redevelopment is sensitive to the surrounding neighborhood and happens quickly to reduce vacancies. (p. 36)

Expansion of existing commercial and industrial uses should not encroach on existing neighborhoods and must be screened from residential areas. (p.48)

**ANALYSIS:**

1. Planning Commission approved two special permits (SP#07008 and SP#07010) for Casey's General Store service station company for the expansion of a nonconforming use in 2007. In both cases, the nonconforming use was the sale of alcohol for consumption off the premises. Similarly, Kabredlo's service station company has applied for three special permits for the expansion of a nonconforming use in January, 2008. In all three of these cases, the nonconforming use is the sale of alcohol for consumption off the premises. In all five cases mentioned above, the premises (property) of the service station itself was

enlarged. The number of recent applications for expanding nonconforming uses beyond their existing premises (property) has prompted the Law Department to suggest that the proposed language be added to the special permit for clarification.

2. The proposed amendment affects applications for the expansion of all nonconforming or nonstandard uses, not just alcohol sales.
3. Small redevelopment sites present unique problems deserving of the flexibility to make case-by-case determinations as to whether or not the benefits of the expansion outweigh the impacts on the site's surroundings.
4. Special permits can be approved by the Planning Commission. The Planning Commission also has the power to add conditions of approval as it deems necessary on a case-by-case basis.

Prepared by:

Brandon M. Garrett, AICP  
Planner

**DATE:** February 1, 2008

**APPLICANT:** Marvin Krout, Planning Director  
Lincoln/Lancaster County Planning Department  
555 S. 10<sup>th</sup> Street, Ste. 213  
Lincoln, NE 68508

**CONTACT:** Brandon Garrett, Planner  
Lincoln/Lancaster County Planning Department  
555 S. 10<sup>th</sup> Street, Ste. 213  
Lincoln, NE 68508

# CHANGE OF ZONE NO. 08005

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

February 13, 2008

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

The Consent Agenda consisted of the following items: ***CHANGE OF ZONE NO. 08005, CHANGE OF ZONE NO. 08002, SPECIAL PERMIT NO. 08006, CHANGE OF ZONE NO. 08003, SPECIAL PERMIT NO. 08007, CHANGE OF ZONE NO. 08004, SPECIAL PERMIT NO. 08008, SPECIAL PERMIT NO. 08001, SPECIAL PERMIT NO. 08002, SPECIAL PERMIT NO. 08003, SPECIAL PERMIT NO. 08004, SPECIAL PERMIT NO. 08005, ANNEXATION NO. 08001, CHANGE OF ZONE NO. 08001 AND PRELIMINARY PLAT NO. 08001, NORTHBANK JUNCTION 1<sup>ST</sup> ADDITION.***

Ex Parte Communications: None

**Item No. 3a and 3b, Change of Zone No. 08003 and Special Permit No. 08007; Item No. 1.8, Special Permit No. 08004, and Item No. 1.9, Special Permit No. 08005,** were removed from the Consent Agenda and scheduled for separate public hearing.

Cornelius moved to approve the remaining Consent Agenda, seconded by Francis and carried 6-0: Gaylor-Baird, Carroll, Cornelius, Esseks, Francis and Moline voting 'yes'; Taylor abstaining; Larson and Sunderman absent.

Note: This is final action on Special Permit No. 08006, Special Permit No. 08008, Special Permit No. 08001, Special Permit No. 08002, Special Permit No. 08003, and Preliminary Plat No. 08001, Northbank Junction 1<sup>st</sup> Addition, 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.

**Review Comments for  
Application #: CZ08005**

Comments as of: Monday, January 28, 2008

Status of Review: No Rev Req

Reviewed By

COUNTER

Comments:

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Status of Review: FYI

01/24/2008 10:00:06 AM

Reviewed By Building & Safety

Terry Kathe

Comments: expanding a non-conforming use by allowing the use further into an existing neighborhood seems to go against the buffer needed for alcohol and non-conforming uses as looked at by the City's ordinance. Expanding a premise for a non-conforming use seems to make the situation worse than before. The idea of the non-conforming use is to have the use move to a different location when it is demolished. Why not make the use allowed in the district and reduce the distance for alcohol. Technically, that is what this is doing, so why not create a level playing field for all convenience stores.

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Status of Review: Approved

01/28/2008 9:57:01 AM

Reviewed By Health Department

ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT  
INTER-OFFICE COMMUNICATION

TO: Brandon Garrett DATE: January 28, 2008

DEPARTMENT: Planning FROM: Chris Schroeder  
ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Expansion of  
EH Administration Non-Conforming Uses  
CZ #08005

The Lincoln-Lancaster County Health Department has reviewed the change of zone application and does not object to the proposed changes.

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Status of Review: Active

Reviewed By Planning Department

BRANDON GARRETT

Comments:

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Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

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Status of Review: Complete

Reviewed By Planning Department

RAY HILL

Comments:

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Status of Review: Complete

01/24/2008 3:38:40 PM

Reviewed By Public Works - Development Services

SIETDQ

Comments: Memorandum

To: Brandon Garrett, Planning Department  
From: Dennis Bartels, Engineering Services  
Subject: Expansion of Non-Conforming Uses Zoning Text Change of Zone #08005  
Date: January 25, 2008  
cc: Randy Hoskins  
Public works has no objections to the revised zoning ordinance text regarding non-conforming uses.

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Status of Review: Active

Reviewed By School District

ANY

Comments:

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Status of Review: Active

Reviewed By US Post Office

ANY

Comments:

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