

City Council Introduction: Monday, June 29, 2009
**Joint Public Hearing of the Lincoln City Council
and Lancaster County Board of Commissioners:**
Tuesday, July 14, 2009, 5:30 p.m.

Bill No. 09R-111

FACTSHEET

TITLE: COMPREHENSIVE PLAN AMENDMENT NO. 09004, by the Director of Planning, pursuant to the 2009 Comprehensive Plan Annual Review, to amend the 2030 Lincoln/Lancaster County Comprehensive Plan to adjust the Rural Area/Acreage policy.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 05/13/09 and 05/20/09
Administrative Action: 05/20/09

STAFF RECOMMENDATION: Approval, as revised at the request of the Lancaster County Board and others.

RECOMMENDATION: Approval, as revised (8-0: Esseks, Gaylor Baird, Partington, Larson, Francis, Taylor, Cornelius and Sunderman voting 'yes').

FINDINGS OF FACT:

1. This is a request by the Director of Planning to refine and clarify the existing language relative to rural and acreage development, resulting from a retreat and discussions with the Planning Commission. The proposed amendment:
 - A. Updates issues that have been completed and clarifies existing language.
 - B. Notes the current supply of acreage lots and techniques for new lots provide a sufficient supply for the planning period.
 - C. Adds language that new proposals for acreage development not shown in the Plan should occur during the annual review for an overall comprehensive review.
 - D. Notes transfer of development rights could occur.
 - E. Adds language that private nonprofit trusts are appropriate for farmland preservation.
 - F. Adds language to expand education efforts for prospective acreage home buyers,
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-3, concluding that the proposed amendments are in conformance with the goals of the 2030 Comprehensive Plan.
3. The public hearing was held over one week at the request of the Director of Planning. Prior to the continued public hearing, the Planning staff submitted proposed amendments requested by the Lancaster County Board and others, which in effect delete 1.B and 1.C above (See, p.12). The staff presentation is found on p.9-10.
4. There was no testimony in opposition; however, the record consists of a letter from the Realtors Association of Lincoln in agreement with the amendments requested by the County Board (p.19).
5. On May 20, 2009, the Planning Commission agreed with the staff recommendation, as revised, and voted 8-0 to recommend approval (See Minutes, p.10).
6. The language recommended by the Planning Commission which should be used to draft the City Council and County Board resolutions is found on p.13-18.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: June 17, 2009

REVIEWED BY: _____

DATE: June 17, 2009

REFERENCE NUMBER: FS\CC\2009\CPA.09004 Annual Review

LINCOLN /LANCASTER COUNTY PLANNING STAFF REPORT
for May 06, 2009 Planning Commission Meeting

- PROJECT #:** Comprehensive Plan Amendment #09004
- PROPOSAL:** Amend the 2030 Lincoln/ Lancaster County Comprehensive Plan pgs 69-71 and 73 to adjust the Rural Area/Acreage policy
- CONCLUSION:** The amendments to the Land Use Plan and Commercial section are in conformance with the goals of the 2030 Lincoln-Lancaster County Comprehensive Plan

<u>RECOMMENDATION:</u>	Approval of the proposed amendment
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GENERAL INFORMATION:

COMPREHENSIVE PLAN SPECIFICATIONS: This is an adjustment and update of the current language.

ANALYSIS:

1. This proposal to amend the Comprehensive Plan is designed to refine and clarify the existing language of the Comprehensive Plan relative to rural and acreage development.
2. This adjustment of language is a result of a retreat and discussions by the Planning Commission and Planning Staff on this subject.
3. The proposed amendments are meant to clarify several aspects of the City and County policies . In summary this amendment;
 - ✓Updates issues that have been completed and clarifies existing language,
 - ✓Notes the current supply of acreage lots and techniques for new lots provide a sufficient supply for the planning period,
 - ✓Adds language that new proposals for acreage development not shown in the Plan should occur during the annual review for an overall comprehensive review,
 - ✓Notes transfer of development rights could occur,
 - ✓Adds language that private nonprofit trusts are appropriate for farmland preservation,
 - ✓Adds language to expand education efforts for prospective acreage home buyers,

4. The Planning Department is working on a possible amendment to the City and County zoning provisions for Community Unit Plans in the Agriculture District, that would make these developments more attractive investments.

PROPOSED AMENDMENTS:

Amend the 2030 Lincoln-Lancaster County Comprehensive Plan as follows:

CPA # 09004: Rural Area policies, Amending Pgs 69-71 and 73

GUIDING PRINCIPLES FOR RURAL AREAS

~~Rural Lancaster County is*~~ The Comprehensive Plan supports the preservation of land in the bulk of the county for agricultural and natural resource purposes. But it recognizes that some parts of the county are in transition from an area of predominantly agricultural uses to an area a mix which includes more residential uses. Balancing the strong consumer demand for country style living and the practical challenge of integrating acreages with traditional agricultural land use uses will continue. Lands previously designated in the Comprehensive Plan or zoned for low density residential development must be recognized.

Land in the county should be managed so that the historic segment of six percent of the county's population can continue to choose an acreage lifestyle, while minimizing conflicts between land uses. Rural development policies should be written plainly and followed consistently, to provide landowners and developers with clear expectations about their development options.

* Future challenges may arise when a growing city or town needs to annex rural acreage areas, such as: acreage infrastructure systems that are not compatible with urban standards, the potential change in the lifestyle of rural acreage owners, financial implications of higher property taxes, and impact on acreage parents and children when the annexation leads to a change in school districts.

~~A variety of housing choices should apply to acreage residential development as well as urban areas:~~

~~Currently, acreage development has occurred under two development scenarios: AG - Agricultural District (minimum of 20 acres per lot area) and AGR - Agricultural Residential District (minimum of 3 acres per lot area) with the possibility in both AG and AGR zoning districts of clustering units together in order to preserve more open space and agricultural areas and/or receive additional density bonuses under a community unit development. The complex issue of acreage development and other public objectives requires a large array of land use strategies.~~

~~Acknowledge the "Right to Farm" and preserve areas for agricultural productions throughout the county by designating specific areas in advance for rural residential so as to limit areas of potential conflict between farms and acreages.~~

~~Specific areas will be designated so that approximately 6% of the total population in the County can be accommodated on acreages. Grouping acreages together in a specific area enables services to be provided more efficiently, such as reducing the amount of paved roads, fewer and~~

~~shorter school bus routes and more cost effective rural water district service. Grouping also reduces the number of potential conflict points between farm operations and acreages. Preserve areas for the future growth of incorporated towns. In accordance with town plans, preserve additional areas in agricultural use, outside of the town's current one mile zoning, for future town growth.~~

~~Direct and support residential~~

~~Residential, commercial and industrial growth in incorporated towns:~~

~~In determining areas of higher density rural acreage (200 units or more per square mile), numerous factors will be reviewed, such as but not limited to water and rural water districts generally should be directed to the incorporated municipalities of the county, and the areas beyond city and town boundaries in their extra-territorial jurisdiction should be preserved for future urban growth by designating them for agricultural use. However, each town should determine if and how much acreage development should be permitted within their jurisdiction. Some towns have established plans to permit acreages within some or all of their jurisdiction, and these are reflected on the future land use map for the county.~~

* New acreage development generally is not encouraged in the Urban Growth Tiers for Lincoln, except for areas already platted, zoned, or designated for low density residential development. Development in these tiers should only be permitted under the "build-through" model that has been established, and without use of sanitary improvement districts. This model includes provisions that are intended to facilitate a later transition to urban densities when city services are extended, including:

- a preliminary plan lot layout that accommodates first phase subdivisions on a portion of the land area with rural water and sewer systems, and shows how future urban infrastructure will be built through the land to permit further subdivision and annexation when appropriate.

- a development agreement that runs with the land and acknowledges that the acreage development is not entitled to extra buffering protection and waives the right to protest the creation of lawful assessment districts for sewer, water and paving in the future.

* The current supply of properly zoned land in areas zoned AGR (low density residential) and on tracts approved for Community Unit Plans in the AG (Agricultural) district should meet the demand for homes on acreage lots for the next decade. An additional 20-year supply of acreage home sites is available on the future land use map of the Plan for acreages ("low density residential") but not yet zoned, plus older nonconforming lots throughout the county. Furthermore, the future demand for acreages is likely to be dampened by the increasing cost of energy and an aging population.

* All proposals for acreages on land not already designated on the future land use map for acreages should be considered as part of the annual review of the Comprehensive Plan. That way, proposals can be evaluated based on the latest information on acreage lot demand and supply, and compared to each other based on factors such as water quality and quantity, soil conditions, roads, agricultural productivity, land parcelization, number pattern of existing acreages, and plans for future urban or town development. Acreages should develop in areas that best reflect the carrying capacity of that area for acreages. A performance criteria should be developed to review requests for acreage zoning and to determine where these standards can best be met.

~~New urban acreage development is not encouraged in the Plan Vision Tier I areas for Lincoln, except for areas already zoned, previously designated for~~

acreages or under development, in order to provide areas for future urban growth and to minimize the impact on new acreage development. This will reduce the number of acreage homeowners who would be impacted by annexation in the future. Even though acreages can be designed with infrastructure to city standards, there is still an impact on acreage owners and their families during annexation in terms of changes in school district, the character of the surrounding area and financial implications. Impacts to the acreage homeowners and to the City of Lincoln can be avoided by locating acreages in areas outside of the Tier I areas. Individual towns determine whether Applications for acreage designation on the future land use map or rezoning to AGR, if planned for on-site wells, should be accompanied by information on water quality and quantity. If information becomes available that land already designated in the Plan for acreages is not suitable for acreage development, that designation should be permitted within their one mile jurisdiction. Some towns have established plans and zoning to permit acreages within their one mile area, such as Denton, Bennet, Firth and Malcolm. These principles are embodied in the following Acreage Development Policy:
Retain reconsidered as part of the annual review.

* Areas not designated for acreages should remain agriculturally zoned and retain the current overall density of 32 dwellings per square mile (1 dwelling unit per 20 acres) for all agriculturally zoned land. Provide more bonuses and a lower threshold size (not below nominal 40 acres) for the proven technique of "cluster" development using the Community Unit Plan. This technique has been successful in providing flexibility.

* Grouping acreages together in specific areas will limit the areas of potential conflict between farms and acreages. It also may enable services to be provided more efficiently, by reducing the amount of paved routes, reducing the number and distance of school bus routes, and taking advantage of more effective rural water district service.

* Clustering lots in one portion of a development site, while preserving both farmland and environmental resources at the same time.

Development of a performance standard system will allow the location of higher density rural acreage development in either "AG" or "AGR" where the review criteria can be met. This allows equal treatment across the county, maximum freedom of determination of marketing and sale, while locating those developments only in those areas where sufficient attributes can be accumulated to justify the development at the requested location.

New 'urban acreage' development should only be permitted in Tier II and Tier III areas of Lincoln and near towns under higher design standards based upon a "build-through" model and without use of sanitary improvement districts. The "build-through" design standards should address, along with other items deemed necessary by the study;

a preliminary plan lot layout that accommodates first phase low density acreages

~~with rural water and sewer systems. The preliminary plat would also show future lot splits as a second phase to permit the urban infrastructure to be built through and urbanization to occur if and when annexed by a city or town is deemed appropriate. The future lot splits will increase density in an urban form and provide income to property owners to defray the increases in city taxes, services and infrastructure costs;~~

~~a lot layout that meets the various elements of the Comprehensive Plan; and a development agreement that runs with the land and acknowledges that the acreage development (i) is not entitled to extra buffering protection greater than the acreage property lines from existing agricultural practices and from future urbanization and (ii) waives any future right to protest the creation of lawful centralized sanitary sewer, water and paving special assessment districts or other lawful financing methods at a later date when urbanization is appropriate.~~

As called for in the adopted Comprehensive Plan, an independent study to quantify the economic impacts of acreage development has been completed. The County and City shall on the remainder, should continue to be encouraged in agricultural-zoned areas.

A considerable supply of acreage lots has been platted in recent years in this manner.

* The County also should continue to pursue state enabling legislation to enable clustering lots by "transfer of development rights" between non-contiguous parcels of land. This would enable rural area developers to purchase the rights to develop more home sites on more suitable land from owners of less suitable land who wish to preserve their land for farming and open space. This transfer of rights could occur within short distances or from one portion of the county to another, such as from the northeast to the southeast part of the county, where rural water districts are established, more roads are paved, and towns are closer by. It is important, however, to note that the value of this tool, by which property owners "buy" and transfer rights to develop additional lots, will be negated if the owners simply are "given" those additional lots through rezoning.

* Private nonprofit land trusts are operating successfully in other rural areas seeing pressure for development to preserve farmland. They accept donations, and in some cases have funds to pay in part for land to be conserved including land that is cropped or pastured as well as land that is held for its natural value as prairie or wetland or forest. The donation of these easements qualify as charitable deductions to federal income tax. Other states which are very interested in protecting farming close in to cities also have adopted tax credit programs to help encourage the donation of agricultural easements. City and county officials should encourage the expansion of an existing private trust or formation of a new one to encourage more of these donations.

* City and county officials should continue to look at ways to contain public costs and coordinate public resource allocation, especially in the area of road construction. A variety of management techniques could be used, including the shared engineering and funding of road projects that aid urban expansion.

* Many families are not well-informed of all the implications of country living before they make that lifestyle choice. This includes an understanding of the state's "Right to Farm" law, which protects farmers from nuisance claims when conducting normal agricultural practices, and adoption of rural land use policies that minimize future capital and operating costs.

Strategies for Rural Areas

Town plans should be acknowledged in a comparison of public services (e.g. road maintenance, emergency medical, fire protection, and police) in urban versus rural areas. Objective information on the pros and cons of "country living" should be provided to the public through continuing educational efforts by the County's extension service, handouts available to county departments and local realtors, and possibly, documents filed of record with new platted lots for disclosure to prospective buyers.

STRATEGIES FOR RURAL AREAS

* Continue to reflect adopted town plans on the future land use map for the county.

* Continue to use GIS data and other sources, along with adopted county zoning criteria, to help determine which lands are most suitable for acreage development.

* Require applicants seeking plan designation or rezoning for acreages, if planning to use on-site wells, to provide information on water quality and quantity.

* Consider all proposals for new acreage developments in undesignated areas at one time, annually, as part of the Comprehensive Plan.

~~The Comprehensive Plan should acknowledge the "Right to Farm."~~

~~Increase incentive bonuses for environmental and historic resources.~~

~~Pursue expansion of the cluster provisions to include non-contiguous property or a Transfer of Development Rights technique.~~

~~Use GIS data, and other sources, to help develop performance standards for determining land usages (e.g. adopted county zoning policy criteria).~~

~~Acreages shown (designated as Low Density Residential in 1994 Comprehensive Plan), platted or zoned AGR (Agricultural Residential) shall remain review.~~

* Pursue state legislation to enable the County to establish a transfer of development rights program that helps encourage acreage development in more suitable locations.

* Encourage an existing private land trust or a new one to pursue the donation of agricultural easements on prime farmland in the county.

* Expand education for prospective home buyers on the implications of country living.

Prepared by:

Mike DeKalb, 441-6370,
Planner
mdekalb@lincoln.ne.gov
March 30, 2009

APPLICANT:

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COMPREHENSIVE PLAN AMENDMENT NO. 09004

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 13, 2009

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

Ex Parte Communications: None.

Staff recommendation: Approval.

The Director of Planning, during his testimony on Comprehensive Plan Amendment No. 09003, suggested that the Commission continue this public hearing on May 20, 2009.

Francis moved to defer, with continued public hearing and action on May 20, 2009, seconded by Partington and carried 7-0: Esseks, Partington, Larson, Francis, Taylor, Cornelius and Sunderman voting 'yes'; Carroll and Gaylor Baird absent.

There was no public testimony.

CONTINUED PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 20, 2009

Members present: Francis, Partington, Taylor, Gaylor Baird, Larson, Cornelius, Esseks and Sunderman.

Ex parte communications: None.

Staff recommendation: Approval, as revised.

Staff presentation: **Mike DeKalb of the Planning Department** stated that this amendment is in response to the discussion had by the Planning Commission last summer in regard to rural development growth. There have been continuing discussions in developing the language to make corrections, adjustments and updates. This is designed to refine and clarify existing language. It updates those issues that have been completed and clarifies existing language. It adds language relative to private nonprofit land trusts and educational efforts, etc. A lot of the language is cleanup and adjustment so the changes are not substantive.

The staff has briefed the County Board two times and they have made four recommendations for further adjustments. The Realtors Association of Lincoln has also suggested a change relative to future supply. The Planning Commission has been provided with the adjustments at the request of the County Board and has deleted language relative to forecasting demand and supply. The term "availability of emergency services" has been added at the suggestion of one of the Planning Commission members. Staff endorses the changes as outlined in the proposed amendments.

There was no testimony in opposition.

Gaylor Baird sought the staff's perspective on the amendments. DeKalb stated that the staff has had discussions with the County Board and the staff endorses the amendments.

Marvin Krout, Director of Planning, advised that the staff worked quite awhile on these amendments. The Planning Commission had a retreat and several workshops, and a committee, so the staff thought it to be a good package. Krout also thought that there was an informal understanding with the County Board that this would be acceptable. But at the briefing with the County Board, he found out that it was not acceptable. Most of their issues were minor, but the one that was not so minor and not so agreeable to Planning was the issue about encouraging the grouping of any future requests for AGR zoning (3-5 acre developments) for review once a year as part of the annual plan review to allow evaluation in terms of the demand and supply of acreages in the community. We have a goal that we are providing this lifestyle but we are also looking to see that it does not become a predominant lifestyle preference because, in the view of staff, we are not sure that acreages are a very sustainable pattern of development. In that particular case, we thought that it was appropriate to look at them in terms of the demand and supply. And also be able to look at all the pending requests at one time in order to compare and contrast in terms of the criteria. It is much harder to evaluate whether lots should be approved or not approved incrementally as opposed to a group. That was something Krout thought there was consensus upon and thought the County Board found it acceptable, but they did not and they thought it was an infringement upon their authority as to when they can review zone requests. Perhaps they have not bought into the idea of acreages being 6% of the total housing market. Lot supply is also questioned by the Realtors Association. Krout realized there were not sufficient votes on the County Board to approve that portion of the amendment. This issue about acreages is not going to go away and we will probably be talking about it as part of the major update of the Comprehensive Plan. Krout has agreed to go along with the County Board's request, but he believes that this issue will be revisited again in the future.

Cornelius inquired whether there is sufficient substance that remains in the amendment to warrant its approval. Krout believes that there is. One of the key issues was water availability and quality – that's new. The idea of encouraging land trusts to be established to purchase conservation easements to protect farm land is new. The idea of more public education to better inform prospective home buyers and lot buyers about living in the country is new. Commissioner Esseks has suggested looking at the "availability of emergency services" in the area.

Partington suggested that which has been added is more important criteria than some of the others that have been requested to be taken out.

ACTION BY PLANNING COMMISSION:

May 20, 2009

Francis moved approval, as revised, seconded by Cornelius.

Sunderman noted that this moves the acreage issue forward into the major update of the Comprehensive Plan.

Motion for approval, as revised, carried 8-0: Francis, Partington, Taylor, Gaylor Baird, Larson, Cornelius, Esseks and Sunderman voting 'yes'. This is a recommendation to the City Council and Lancaster County Board.

Jean Preister

From: Jean Preister
Sent: Tuesday, May 19, 2009 4:07 PM
Cc: Marvin S. Krout; Mike DeKalb; 'Mark A. Hunzeker'; Minette M. Genuchi; Commish; 'DougR@LincolnREALTORS.com'; David R. Cary; Brandon M. Garrett; Kerry P. Eagan
Subject: Item No. 4.2: Comp Plan Amendment No. 09004: Rural Area Policies (p.45 - Cont'd Public Hearing - 05/20/09)
Attachments: CPA09004 Amendments 051909.pdf

Planning Commission:

Attached please find proposed amendments to Comprehensive Plan Amendment No. 09004 requested by the Lancaster County Board and the Realtors Association of Lincoln. The staff endorses these proposed amendments and has added "availability of emergency services" in amendment #3.

The staff will provide further explanation at tomorrow's continued public hearing.

--Jean Preister, Administrative Officer
Planning Department
441-6365

CPA # 09004: Rural Area Policies: Revised 5/19/2009 pursuant to changes requested by the Lancaster County Board and others:

1. **Make the changes shown in bold** (p.48 of 5/20/09 Agenda)

~~New acreage development generally is not encouraged in the Urban Growth Tiers for Lincoln's **three-mile extra territorial jurisdiction**, except for areas already platted, zoned, or designated for low density residential development. Development in these tiers should only be permitted under the "build-through" model that has been established, and without use of **Sanitary Improvement Districts (SIDs)**. This model includes provisions that are intended to facilitate a later transition to urban densities when city services are extended, including:~~

- ~~- a preliminary plan lot layout that accommodates first phase subdivisions on a portion of the land area with rural water and sewer systems, and shows how future urban infrastructure will be built through the land to permit further subdivision and annexation when appropriate.~~
- ~~- a development agreement that runs with the land and acknowledges that the acreage development is not entitled to extra buffering protection and waives the right to protest the creation of lawful assessment districts for sewer, water and paving in the future.~~

2. **Delete the language as shown ("editorial")** (p.48 of 5/20/09 Agenda)

~~The current supply of properly zoned land in areas zoned AGR (low density residential) and on tracts approved for Community Unit Plans in the AG (Agricultural) district should meet the demand for homes on acreage lots for the next decade. An additional 20-year supply of acreage homesites is available on the future land use map of the Plan for acreages ("low density residential") but not yet zoned, plus older nonconforming lots throughout the county. Furthermore, the future demand for acreages is likely to be dampened by the increasing cost of energy and an aging population.~~

3. **Delete and add language as shown** (County Board Vote: 3-2). (Addition of "availability of emergency services" recommended by staff) (p.48 of 5/20/09 Agenda)

~~All proposals for acreages on land not already designated on the future land use map for acreages should be considered as part of the annual review of the Comprehensive Plan. That way, proposals can be evaluated based on the latest information on acreage lot demand and supply, and compared to each other based on factors such as water quality and quantity, soil conditions, roads, **availability of emergency services**, agricultural productivity, land parcelization, **pattern** of existing acreages, and plans for **future** urban development.~~

4. **Delete the language as shown** (County Board Vote: 3-2) (p.51 of 5/20/09 Agenda)

~~*Consider all proposals for new acreage developments in undesignated areas at one time, annually, as part of the Comprehensive Plan review.~~

Q:\PC\CPA\2030 Plan\CPA09004 Amendments 051909.wpd

CPA # 09004: Rural Area policies, Amending Pgs 69-71 and 73

****As Revised and Recommended for Approval by Planning Commission: May 20, 2009****

(Note: Revisions by Planning Commission bolded and underlined or bolded and stricken)

GUIDING PRINCIPLES FOR RURAL AREAS

~~Rural Lancaster County is~~ * The Comprehensive Plan supports the preservation of land in the bulk of the county for agricultural and natural resource purposes. But it recognizes that some parts of the county are in transition from an area of predominantly agricultural uses to an area a mix which includes more residential uses. Balancing the strong consumer demand for country style living and the practical challenge of integrating acreages with traditional agricultural land use uses will continue. Lands previously designated in the Comprehensive Plan or zoned for low density residential development must be recognized:

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~~Acknowledge the "Right to Farm" and preserve areas for agricultural productions throughout the county by designating specific areas in advance for rural residential so as to limit areas of potential conflict between farms and acreages. Specific areas will be designated so that approximately 6% of the total population in the County can be accommodated on acreages. Grouping acreages together~~

~~in a specific area enables services to be provided more efficiently, such as reducing the amount of paved roads, fewer and shorter school bus routes and more cost effective rural water district service. Grouping also reduces the number of potential conflict points between farm operations and acreages. Preserve areas for the future growth of incorporated towns. In accordance with town plans, preserve additional areas in agricultural use, outside of the town's current one mile zoning, for future town growth.~~

~~Direct and support residential~~

~~Residential, commercial and industrial growth in incorporated towns:~~

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~~Acreages should develop in areas that best reflect the carrying capacity of that area for acreages. A performance criteria should be developed to review requests for acreage zoning and to determine where these standards can best be met.~~

~~New urban acreage development is not encouraged in the Plan Vision Tier I areas for Lincoln, except for areas already zoned, previously designated for acreages or under development, in order to provide areas for future urban growth and to minimize the impact on new acreage development. This will reduce the number of acreage homeowners who would be impacted by annexation in the future. Even though acreages can be designed with infrastructure to city standards, there is still an impact on acreage owners and their families during annexation in terms of changes in school district, the character of the surrounding area and financial implications. Impacts to the acreage homeowners and to the City of Lincoln can be avoided by locating acreages in areas outside of the Tier I areas:~~

~~Individual towns determine whether Applications for acreage designation on the future land use map or rezoning to AGR, if planned for on-site wells, should be accompanied by information on water quality and quantity. If information becomes available that land already designated in the Plan for acreages is not suitable for acreage development, that designation should be permitted within their one mile jurisdiction. Some towns have established plans and zoning to permit acreages within their one mile area, such as Denton, Bennet, Firth and Malcolm.~~

~~These principles are embodied in the following Acreage Development Policy: Retain reconsidered as part of the annual review.~~

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* Clustering lots in one portion of a development site, while preserving both farmland and environmental resources at the same time.

~~Development of a performance standard system will allow the location of higher density rural acreage development in either "AG" or "AGR" where the review criteria can be met. This allows equal treatment across the county, maximum freedom of determination of marketing and sale, while locating those developments only in those areas where sufficient attributes can be accumulated to justify the development at the requested location.~~

~~New 'urban acreage' development should only be permitted in Tier II and Tier III areas of Lincoln and near towns under higher design standards based upon a "build-through" model and without use of sanitary improvement districts. The "build-through" design standards should address, along with other items deemed necessary by the study;~~

~~a preliminary plan lot layout that accommodates first phase low density acreages with rural water and sewer systems. The preliminary plat would also show future lot splits as a second phase to permit the urban infrastructure to be built through and urbanization to occur if and when annexed by a city or town is deemed appropriate. The future lot splits will increase density in an urban form and provide income to property owners to defray the increases in city taxes, services and infrastructure costs;~~

~~a lot layout that meets the various elements of the Comprehensive Plan; and a development agreement that runs with the land and acknowledges that the acreage development (i) is not entitled to extra buffering protection greater than the acreage property lines from existing agricultural practices and from future urbanization and (ii) waives any future right to protest the creation of lawful centralized sanitary sewer, water and paving special assessment districts or other lawful financing methods at a later date when urbanization is appropriate.~~

~~As called for in the adopted Comprehensive Plan, an independent study to quantify the economic impacts of acreage development has been completed. The County and City shall on the remainder, should continue to be encouraged in agricultural-zoned areas. A considerable supply of acreage lots has been platted in recent years in this manner.~~

* The County also should continue to pursue state enabling legislation to enable clustering lots by "transfer of development rights" between non-contiguous parcels of land. This would enable rural area developers to purchase the rights to develop more homesites on more suitable land from owners of less suitable land who wish to preserve their land for farming and open space. This transfer of rights could occur within short distances or from one portion of the county to another, such as from the northeast to the southeast part of the county, where rural water districts are established, more roads are paved, and towns are closer by. It is important, however, to note that the value of this tool, by which property owners "buy" and transfer rights to develop additional lots, will be negated if the owners simply are "given" those additional lots through rezoning.

* Private nonprofit land trusts are operating successfully in other rural areas seeing pressure for development to preserve farmland. They accept donations, and in some cases have funds to pay in part for land to be conserved including land that is cropped or pastured as well as land that is held for its natural value as prairie or wetland or

forest. The donation of these easements qualify as charitable deductions to federal income tax. Other states which are very interested in protecting farming close in to cities also have adopted tax credit programs to help encourage the donation of agricultural easements. City and county officials should encourage the expansion of an existing private trust or formation of a new one to encourage more of these donations.

* City and county officials should continue to look at ways to contain public costs and coordinate public resource allocation, especially in the area of road construction. A variety of management techniques could be used, including the shared engineering and funding of road projects that aid urban expansion.

* Many families are not well-informed of all the implications of country living before they make that lifestyle choice. This includes an understanding of the state's "Right to Farm" law, which protects farmers from nuisance claims when conducting normal agricultural practices, and adoption of rural land use policies that minimize future capital and operating costs:

Strategies for Rural Areas

Town plans should be acknowledged in a comparison of public services (e.g. road maintenance, emergency medical, fire protection, and police) in urban versus rural areas. Objective information on the pros and cons of "country living" should be provided to the public through continuing educational efforts by the County's extension service, handouts available to county departments and local realtors, and possibly, documents filed of record with new platted lots for disclosure to prospective buyers.

STRATEGIES FOR RURAL AREAS

* Continue to reflect adopted town plans on the future land use map for the county.

* Continue to use GIS data and other sources, along with adopted county zoning criteria, to help determine which lands are most suitable for acreage development.

* Require applicants seeking plan designation or rezoning for acreages, if planning to use on-site wells, to provide information on water quality and quantity.

*** Consider all proposals for new acreage developments in undesignated areas at one time, annually, as part of the Comprehensive Plan:**

~~The Comprehensive Plan should acknowledge the "Right to Farm."~~

~~Increase incentive bonuses for environmental and historic resources.~~

~~Pursue expansion of the cluster provisions to include non-contiguous property or a Transfer of Development Rights technique.~~

~~Use GIS data, and other sources, to help develop performance standards for determining land usages (e.g. adopted county zoning policy criteria).~~

~~Acreages shown (designated as Low Density Residential in 1994~~

~~Comprehensive Plan), platted or zoned AGR (Agricultural Residential) shall remain. **review.**~~

* Pursue state legislation to enable the County to establish a transfer of development rights program that helps encourage acreage development in more suitable locations.

* Encourage an existing private land trust or a new one to pursue the donation of agricultural easements on prime farmland in the county.

* Expand education for prospective homebuyers on the implications of country living.

Q:\pc\cpa\2030 Plan\2009\CPA09004 PC Recommendation

Jean Preister

From: Doug Rotthaus [DougR@LincolnREALTORS.com]
Sent: Monday, May 18, 2009 5:06 PM
To: Marvin S. Krout; plan@lincoln.ne.gov
Cc: commish@lancaster.ne.gov
Subject: Comp. Plan Amendments

REALTORS® Association of Lincoln

May 18, 2009

Lancaster County Planning Commission
555 South 10th Street
Lincoln, NE 68508

Dear members of the Planning Commission:

The REALTORS® Association of Lincoln respectfully requests that you approve the proposed changes to Comprehensive Plan Amendment #09004 as requested by the Lancaster County Board.

In addition the association asks that you delete the following language in the fourth bullet point: **An additional 20-year supply of acreage homesites is available on the future land use map of the Plan for acreages ("low density residential") but not yet zoned, plus older nonconforming lots throughout the county.** The association believes that a concrete number cannot be assigned to the amount of available rural acreage homesites. While the presumption of 20-year supply may seem substantial and historically correct by today's measures, there is no way to accurately predict the demand for rural acreages in the future.

RAL also supports the requests made by the Home Builders Association of Lincoln regarding CPA # 09003. This decision is based on the facts that today's new construction is more energy efficient and also that water consumption is now lower per dwelling unit than it has been in previous years due to new technology and the conscientious decisions made by today's builders. We feel the amendment also makes assumptions based on unsubstantiated theories, rather than relying on proven facts.

Thank you for your consideration.

Respectfully submitted,

Douglas H. Rotthaus CAE RCE
Executive Vice President
REALTORS® Association of Lincoln

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