

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 10012**, by the Director of Planning at the request of Jonathan Cook, amending Chapter 27.63 of the Lincoln Municipal Code relating to Special Permits for the sale of alcoholic beverages for consumption on and off the premises.

STAFF RECOMMENDATION: Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 06/02/10
Administrative Action: 06/02/10

RECOMMENDATION: Approval (8-1: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Partington, Sunderman and Taylor voting 'yes'; Lust voting 'no').

FINDINGS OF FACT:

1. This is a request to amend Chapter 27.63 of the Lincoln Municipal Code relating to Special Permits by amending Section 27.63.680 and 27.63.685 regarding the sale of alcoholic beverages for consumption on and off the premises, respectively, to add a requirement that the licensed premises must be located no closer than 100 feet from the property line of a premises which is occupied in whole or part by a first-floor residential use and to clarify that the required 100-foot separation from a day care facility, park, church, or state mental institution is measured from the licensed premises to the property line of the premises used for the day care facility, park, church, or state mental health institution.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-5. The key provision in this proposal is to measure the 100 foot separation requirement for alcohol sales establishments to a residential use as well as to a residential zoning district. This requirement was in the zoning ordinance prior to 2004. When it was removed as part of a larger set of amendments regarding alcohol sales, it was not contemplated that residential properties nearby to commercial areas might be rezoned as a way around the intent of the separation provision. The areas most affected are the older neighborhoods which are more exposed to the commercial districts and more susceptible to commercial expansion. The staff presentation is found on p.6-7.
3. Testimony by Jonathan Cook in support and in response to questions from the Commission is found on p.7-9. Other testimony in support is found on p.9-10 and the record consists of nine letters in support (p.12-20).
4. There was no testimony in opposition.
5. On June 2, 2010, the majority of the Planning Commission agreed with the staff recommendation and voted 8-1 to recommend approval (Lust dissenting). Commissioner Lust did not want to limit the flexibility to consider opportunities like the CVS Pharmacy project (See Minutes, p.10-11).

FACTSHEET PREPARED BY: Jean L. Preister

DATE: June 9, 2010

REVIEWED BY: _____

DATE: June 9, 2010

REFERENCE NUMBER: FS\CC\2010\CZ.10009

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for June 2, 2010 PLANNING COMMISSION MEETING

- PROJECT #:** Change of Zone No. 10012
- PROPOSAL:** Text Amendment to Lincoln Municipal Code Sections 27.63.680 and 27.63.685 for On and Off-sale Alcohol
- CONCLUSION:** The effect of this amendment will be to further restrict the number of locations throughout the city eligible for the sale of alcohol. The areas most affected are the older commercial districts which are typically surrounded by residential neighborhoods. These neighborhoods are more exposed to the commercial districts and more susceptible to commercial expansion. The proposed amendment should discourage the expansion of commercial zoning onto residential properties simply to overcome the separation rules for alcohol sales which have had the effect of limiting the density these establishments.

RECOMMENDATION:	Approval
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GENERAL INFORMATION:

HISTORY:

Apr 1994 - CZ#2808 (Ordinance #16593) was approved creating Lincoln Municipal Code (LMC) Sections 27.63.680 (on-sale) and 27.63.685 (off-sale).

Jul 1994 - CZ#2839 (Ordinance #16627) was passed amending Sections 27.63.680 (on-sale) and 27.63.685 (off-sale) adding "Vehicular ingress and egress to and from the property shall be designed to avoid disruption."

Feb 1995 - CZ#2877 (Ordinance #16743) was passed amending Sections 27.63.680 (on-sale) and 27.63.685 (off-sale) adding "no special permit or amendment to be required for interior expansions of existing licensed liquor premises."

Nov 1995 - CZ#2940 (Ordinance #16899) was passed amending Sections 27.63.680 (on-sale) and 27.63.685 (off-sale) by adding the language "unless waived by City Council."

Aug 1997 - CZ#3064 (Ordinance #17232) was passed amending Sections 27.63.680 (on-sale) and 27.63.685 (off-sale) to include the I-3 district.

May 2001 - The Nebraska Supreme Court affirms the City's authority to regulate the sale of alcohol by special permit.

Mar 2004 - CZ#04003 was approved adding churches, day care facilities and state mental health institutions to the list of separation criteria while eliminating a residential use, and made special permits for alcohol final action at Planning Commission.

Jan 2008 - CZ#07058 was approved to allow on-sale alcohol in conjunction with a restaurant to within 25 feet of a residential zoning district.

ANALYSIS:

1. This text amendment to the special permits for on and off-sale alcohol is being proposed by City Councilperson Jonathan Cook in response to concerns raised by a recent redevelopment proposal involving a CVS Pharmacy with the sale of alcohol for off-site consumption located near South 16th and South Streets. In part, the proposal involved re-zoning two residentially-zoned lots to O-2 Office for the purpose of maintaining the required 100 foot separation from the licensed premises (to sell alcohol) to a residential zoning district. The residential lots were owned and occupied by residents who consented to the re-zoning, but did not indicate any intention to convert their properties to office use.
2. This was the first case involving re-zoning residential lots occupied by dwellings to a commercial zoning designation for the purpose of meeting the separation requirements for the sale of alcohol since the special permits for on and off-sale were adopted in 1994. While the CVS applications were approved by the City Council, neighborhood associations expressed concern that the strategy would be used in similar situations around the city.
3. The substance of the proposed amendment replaces a provision that was dropped from the ordinance when it was amended in 2004. There were four primary changes in that amendment: 1 - Deleted the 100 foot separation to a residential use; 2 - Required a day care facility, church, and state mental institution to meet the 100 foot separation; 3 - Made special permits for alcohol final action by the Planning Commission; 4 - Eliminated the City's ability to waive the 100 foot separation requirement.

At the time the amendment was approved, a circumstance such as that created by the recent CVS application was not contemplated. However, it is clear there are several other locations around the city which have characteristics similar to the CVS Pharmacy South 16th & South Streets location. Staff receives regular inquiries from existing and potential businesses seeking a way around the 100 foot separation rule.

4. Special permitted uses are such that they may be appropriate in the zoning districts where they're allowed, however due to the nature of the use or its unique operating characteristics, the use may require mitigation or special limitations to maintain compatibility with surrounding properties. Certain uses, like alcohol sales, have built-in conditions like the 100 foot separation requirement because they are recognized as presenting more potential for incompatibility. As circumstances vary from site to site, the special permit provides case by case review by the City with a public hearing.
5. This proposed amendment has three components. The first one is proposed by Councilperson Cook, and the second two are being recommended by staff. The three changes with explanation are as follows:
 - A. The texts of both special permits for on and off-sale alcohol have separation requirements. The provisions are identical, except on-sale requires no separation to a residential district when the sale of alcohol is accessory to a golf course or country club. The amendment proposed by Councilperson Cook adds language which specifies that the 100

foot separation is also measured to the property line of the premises of a residential use located on the first floor in a nonresidential zoning district. A comparison between the current and proposed language is as follows, with the proposed changes underlined:

Current Text: The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district (except where such use is accessory to a golf course or country club)."

Proposed Text: The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than (i) 100 feet from the property line of a premises used in whole or in part for a first-floor residential use, a day care facility, park, church, or state mental health institution, (ii) 100 feet from a residential district (except where such use is accessory to a golf course or country club)."

The separation to a first-floor residential use is being added to ensure the 100 separation treats all dwellings the same regardless of zoning. It's not a common occurrence, but there are dwellings located in commercial zoning districts in various parts of the city. This provision would have the effect of requiring that any dwelling which is re-zoned to commercial zoning having to be used for a commercial purpose.

6. Additionally, staff is recommending that two changes be included as part of the amendment. The first is intended to add clarity regarding how measurements are conducted. The Proposed Text above includes the proposed change to add the phase "...from the property line of the premises..."

As currently adopted, it not clear how the 100 foot separation is measured. For example, when measuring from the licensed premises selling alcohol to a day care facility, the ordinance does not currently specify whether the measurement is taken to the wall of the building of the day care, or to the outdoor playground (if it has one). This added language makes it clear that the measurement is to the lot line of the premises. It should be noted that it is implicit that the premises can include more than one lot.

7. The second change being recommended by staff is a provision regarding the timing of applicability. Section 7 has been added at the end of the ordinance and states "That the provisions of this ordinance (CZ#10012) shall not apply to any special permit approved prior to the effective date hereof." This added text ensures the ordinance is not retroactive and does not apply to previously approved special permits for the sale of alcohol, such as the recently approved special permit for the CVS Pharmacy at South 16th & South Streets.
8. The rationale for this amendment, at least in part, is due to the distinction that can be drawn between the older commercial districts in the city's core versus the newer commercial centers at the edge. In most cases, the older districts are surrounded by neighborhoods where it is not uncommon for a residentially-zoned lot which is occupied by a dwelling to abut a commercially-zoned lot. The boundary of the commercial center is only defined by a zoning district line, which at times can zig-zag through the middle of a block and is otherwise not well defined.

This is in contrast to most of the newer centers which are bounded by major streets, often times on two sides. The boundary with the adjacent neighborhood either consists of uniform buffer, or transitional uses marked by differing uses backing up to one another, and similar uses facing one another on either side of the street. The commercial centers have greater depth from the major streets, allowing more flexibility to locate alcohol sales uses in accordance with the separation rules and in a manner that minimizes impact on nearby residential uses.

Lacking good boundaries and the built-in buffers they provide, the older neighborhoods are more susceptible to the negative impacts associated with commercial uses, such as noise and traffic. The threat of commercial encroachment is also ever present, and can have a destabilizing effect upon a neighborhood in general, and upon the residential properties which directly abut commercial in particular.

9. The maintenance of a shallower depth of commercial zoning along arterial streets in older areas compensates for the more permeable boundary between commercial and residential uses by limiting the density of alcohol sales establishments in these areas. Re-zoning in the manner of the South 16th & South Streets case threatens the equilibrium that has existed. This proposed amendment would help maintain the equilibrium.
10. The Comprehensive Plan states that commercial expansion should not be allowed to encroach into residential neighborhoods. Exceptions have been made in the past and will be made in the future - particularly to assist existing businesses to expand in place, or to encourage significant new investment in a designated redevelopment area like the South Street corridor. But the general rule is still sound, and the proposed amendment will help discourage expansion of commercial zoning simply to overcome the alcohol separation rules.

Prepared by:

Brian Will, 441-6362, bwill@lincoln.ne.gov
May 19, 2010

APPLICANT: Marvin Krout
Director of Planning
City/County Planning Department
555 South 10th Street
Lincoln, NE 68508

CONTACT: Brian Will
City/County Planning Department
555 South 10th Street
Lincoln, NE 68508

CHANGE OF ZONE NO. 10012

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 2, 2010

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

Ex Parte Communications: Gaylor Baird disclosed that she made a phone call to Council Member Cook to see if he would be present at this hearing.

Staff recommendation: Approval.

Staff presentation: **Brian Will of Planning staff** submitted eight additional letters in support. ‘

Will explained that one part of this text amendment has been requested by Jonathan Cook and pertains to the commercial, H and I districts, where alcohol sales are allowed by special permit for on- or off-sale. There are several criteria which must be met. This amendment affects the provision which talks about separation from adjacent land uses, currently providing that the “licensed premises” (the area licensed for liquor by the State of Nebraska) must be at least 100’ away from any day care facility, park, church, state mental health institution or residential district. Two weeks ago, there was a change of zone with a special permit for the purpose of meeting the 100 separation from the licensed premises to a residential zoning district. This text amendment adds language back into the ordinance, “....no closer than 100 feet from the property line of a premises used in whole or in part for a first-floor residential use”.

There are two other changes in this text amendment suggested by staff. One is to add clarity regarding how measurements are conducted, and the second relates to the provision regarding the timing of applicability such that, “...the provisions of this ordinance (CZ#10012) shall not apply to any special permit approved prior to the effective date hereof.”, in order to protect those special permits previously approved.

The change regarding measurement adds back language that existed prior to 2004, when the provision was that the separation had to be measured to a residential use. When those special permits became final action by Planning Commission, the term “residential use” was eliminated. At that time, it was believed that the highest and best use should prevail. The circumstance such as with the recent CVS application was perhaps an unintended consequence. Adding this language back in would prevent that circumstance from occurring in the future.

Lust wanted to know why the situation with the CVS pharmacy change of zone is being viewed as problematic or something that needs to be changed. Will agreed that there is clearly some subjectivity to it. As staff reviewed this, the attention focused on those older commercial districts around the city that are different than the newer districts being approved these days with the small lots that abut immediately to residential lots. There is not adequate depth to provide for separation. We find pressure for the commercial district to expand and the adjacent neighborhoods currently experience this pressure. The Comprehensive Plan talks about those commercial districts, except in limited circumstances, pretty much confining themselves to the boundaries they have today. Adding this language back in guarantees that it will remain a residential use.

But, Lust pointed out that the decision as to whether to change the zoning district from residential to office was examined by staff, the Planning Commission and the City Council, and in that situation it was decided that it was appropriate. Why is it that this body can no longer make those decisions and that we need this hard and fast rule?

Jonathan Cook, Lincoln City Council, responded, observing that many Council members felt that there had been a long process leading up to the CVS vote, and that included a recommendation from staff that this zoning change was okay, that there was a zoning agreement and that it was a larger investment in an older area. However, it became apparent later in the process, after the developer had gone through considerable time and expense, that the effect of the change of zone to O-2 solely for alcohol sales would set a precedent that would perhaps be harmful elsewhere in town. It would be difficult in the future to say why it was okay here or not there. Essentially it would undermine the clear rule about the spacing to residential uses. When the Council did vote on the CVS case, most of the Council members indicated that while they were voting in favor, they were interested in seeing the loophole closed. They felt that maybe there was a larger issue that needed to be addressed and perhaps had been overlooked, and that is why Cook has proposed this text change to put protections back in place for elsewhere in town.

Cook further suggested that when we start making exceptions here, there and elsewhere, then there is no longer a clear rule – no one knows what to expect. That is something we would like to avoid.

Partington referred to legislation in 2008, where there was an exception made for restaurants to be within 25' of residential zoning districts. He recalls that that exception was designed for some of the neighborhood shopping centers adjacent to residential areas. The additional criteria was 100' from the public entrance in that situation. Will clarified that that change applied to the B-2 and B-5 zoning where the sale of alcohol was conditioned on the 100' being measured from the door around the building. It was amended for the restaurants specifically. The rationale for that was that a restaurant is a separate and distinct use from the other uses that sell alcohol. This text amendment does not change that regulation.

Esseks inquired how the zoning ordinance defines "premises". Will stated that the "licensed premises" is that area approved for the state liquor license. Esseks is in favor but wants to make sure that it is clearly stated. He assumes the premises could include more than one lot. Will confirmed that if a building covers more than one lot, then the multiple lots would constitute the premises.

Esseks then confirmed that one could have a building used mostly for commercial or recreational purposes, but if one part is used for residential, the whole premises would have to be 100' from the proposed alcohol use premises.

Rick Peo, City Law Department, suggested that the ordinance provides that the "premises may be used for...". It is typically maybe a single lot. In some old areas of town there are a lot of little tiny lots, so to get a building permit, the permittee has to define which lots constitute his premises. Instead of requiring a replatting, we allow the permittee to designate the "premises". Those lots all have to be contiguous, so it is the owners decision to come forward and define how many lots he might have. They must meet minimum lot requirements. If you defined your premises with a

perimeter boundary, the alcohol sales must be 100 feet from that outer boundary of the premises used for the residential use. We are measuring from the premise line occupied by a residential use. Instead of measuring to the building, you measure to the property line.

Cornelius then confirmed that in the case where you have a premises which encompasses three lots, it is up to the owner of that premises to determine the boundary of the premises. Peo suggested that the boundary was probably pre-established when he got the building permit to build the building. Then you have a perimeter boundary which constitutes the single premises. We are measuring to the premises, not the actual use. For example, if the premises is Lots 1, 2 and 3, the whole thing is subject to this rule.

Lust inquired whether “residential use” is defined in the Lincoln Municipal Code. Peo stated that it is not. It is more of a common knowledge and understanding rather than adding definitions to the zoning code. Residence refers to a place where you reside or a dwelling where you live. It has to be a dwelling capacity. Lust wondered about a business owner who lives on the first floor with a business upstairs. Peo suggested that would be considered a live/work relationship building.

Gaylor Baird noted that the staff report mentions that the circumstance created by the CVS project was not anticipated and that is part of the justification for this text amendment. The staff report also suggested that the Planning Department regularly gets inquiries from businesses about how to get around the 100’ requirement. Why is this important? What protections are we offering by reinserting this language? Will stated that the legislation goes back to 1994, and it was several years in the making. Going back through the record, he found that the distance varied throughout the process, e.g. there was talk of 300’; there was a draft that talked about 50’. He believes the 100’ rule was adopted with the common thread of protecting the adjacent neighborhoods. It was agreed that 100’ seemed to be a reasonable separation. It is not unprecedented in the ordinance to have a separation like this for a special permit. Special permits can be conditioned on a case-by-case basis because it is a use that may not be appropriate in every circumstance. In 2004, when residential use was dropped out, he does not believe it was fully thought out.

Cook observed that one of the issues even back in 1994, was the issue of local control and a lot of frustration that the local governing body had little control over where alcohol was sold. There was a lot of concern amongst neighborhood groups that so many of these establishments could be right next to homes and that some kind of buffer was appropriate. What was not known at that time was whether this was an enforceable provision in the zoning code. In 2001, there was a Nebraska Supreme Court ruling which upheld the legality of this mechanism for controlling alcohol sales, saying the Liquor Commission could not override the local zoning code, but it also put a new burden upon us because now instead of our special permit being somewhat advisory, it had the force of law and we then need to apply the law without appearing arbitrary. There were continuous conflicts. Some of us felt that it was important to put in place a single simple rule to protect the closest properties. It makes it a clear rule and we can apply it consistently. We have had six years that have worked very well. There is predictability. But this residential use issue came up in 2004 because of mixed uses. The residential district probably protects most cases. And it did work for six years. Then someone thought about rezoning a couple houses that they didn’t own. No one had tried this before. So then we talked about how to fix this loophole and that is how we came up with first-floor residential use to accommodate the mixed uses with second floor residential. This residential use requirement will prevent another example of rezoning solely for the purpose of getting around the spacing.

From a predictability standpoint, Lust referred to the O-2 zoning district and asked Cook whether he agrees that O-2 allows office and it allows residential. Cook stated that O-2 only allows residential on the second floor. Lust asked Cook whether he would agree that there are mixed use zonings. Cook responded, stating that there are a number of zones where you can have second floor residential. For predictability, Lust suggested that it is easier for someone planning to see what an adjacent district is zoned rather than trying to determine whether there is actual residential use in that area. Cook believes that normally they coincide pretty well. He does not believe it is difficult to determine if there is a first floor residential use, i.e., it's a house, it's a duplex, it's an apartment building, it's something no one would mistake. He does not believe it is complicated.

Cornelius observed that had the CVS package shown the two houses rezoned to O-2 and conversion to O-2 appropriate uses in its assembly, we wouldn't be having this discussion today. Cook agreed that it is possible that that would have made a difference. But that's a very different level of investment than coming in to rezone properties that the applicant does not even own just to meet some buffer.

Esseks pointed out that the Planning Commission received the approval of the rezoning from the two property owners just prior to the Planning Commission hearing and it was indicated to the Planning Commission that they had their own plans with the applicant. Cook agreed that it was a last minute thing and there would have been resistance to the rezoning if the owners were against it. But, he is not sure it is always appropriate to rezone property even if the owners are in favor of it, based on larger planning principles. In changing those lots to O-2, we have put some more people next to a commercial zone. When it comes to whether or not to protect owners, it doesn't mean the next owner will feel the same way. We want to avoid conflicts as much as possible. We want to make sure the uses are compatible.

Lust asked whether Cook agrees that the CVS pharmacy project conforms with the Comprehensive Plan. Cook agreed that the investment was a valuable thing, but he would not necessarily agree that the rezoning was in conformance with the Comprehensive Plan because he believes it is a commercial intrusion into a residential area. By having these rules in place, sometimes it also allows for a project to come about in a little different way that is more acceptable. He believes that the project conforms in some ways, but the project as a whole does not conform.

Esseks believes that the Planning Commission did apply the appropriate criteria in approving the change of zone. Cook understands it was a difficult situation.

Support

1. Darrell Fisher, Executive Director of Lincoln Council on Alcoholism and Drugs (LCAD), located at 1914 L Street, testified in support and commended the Planning staff. The spacing requirement was intended to protect residential uses. The subsequent request to rezone residential properties as commercial when no plan to use those properties for anything other than residential created a loophole and a perfect storm. This proposal will require that 100' spacing apply to a residential use – not just a residential zone. LCAD is requesting favorable consideration of this proposal. LCAD supports economic development and stable neighborhoods, and stands ready to assist the Planning Commission, City Council and County Board by working to examine outlet density and prevent economic and social disintegration in Lincoln.

2. **Jon Carlson** appeared on behalf of the **Stronger Safer Neighborhoods Program** for the City of Lincoln, in support. Within the context of the Stronger Safer Neighborhoods Program, it is often said that good fences make good neighbors. In this case, good zoning and good buffers make good neighbors. These buffers have been important as we try to create safety and stability in the neighborhoods; we should never forget that while we desire new commercial investment in older neighborhoods, a vast majority of the existing investment is in the residential homes. We want the commercial uses to integrate and support the surrounding residential. The 100' spacing has served us very well.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

June 2, 2010

Taylor moved approval, seconded by Gaylor Baird.

Lust stated that she will vote against the proposed amendment. It is not that she does not support having buffers between commercial and residential districts; however, she believes the existing ordinance allows for that, as well as allowing for flexibility when there is a project like the CVS Pharmacy that did fit within the terms of our Comprehensive Plan and was a good development for that neighborhood. She is more than a little chagrined by the perception that this was somehow a "loophole" or not something that was well thought through when that change of zone came before this body. She believes that when it was initially brought up, the Commissioners asked very appropriate questions about the change of zone; we requested more research; we got more information; and then afterwards the applicant did get approval of the two property owners in the change of zone. That was the final straw in the approval of that project. She is voting against this amendment because she appreciates the flexibility that is within the existing ordinance. She thinks it led to a lot of thoughtful discussion about that particular project and it was a great discussion and a great thoughtful process. She still believes that the CVS Pharmacy is a good project for the city and she would hate to lose that opportunity of flexibility in the future by adopting standards that are more restrictive.

Taylor was on the Planning Commission in 2004 when the text was adopted. We saw that alcohol at a gas station would be a detriment to the neighborhood. He voted against the CVS project. Perhaps it is a good commercial investment, but the principal reason for the separation is for protection of the neighborhood. We should not cast aside principles because of a specific exception. He is disappointed that this text amendment was not taken care of before the CVS project came forward. He will vote in favor.

Gaylor Baird stated that she will support the text amendment. It is important to remember that staff asserted that this was something that was originally intended. We have spoken on a number of occasions about the Comprehensive Plan being a flexible guiding document. Without this text amendment, we call into question the meaningfulness of the buffer between alcohol sales and residential uses. This amendment puts some meaning back into those buffers.

Francis expressed appreciation for Lust's comments, but she will support the amendment. Just because we put these rules and guidelines back in does not mean that we cannot be flexible. The Planning Commission reviews things that don't conform – things that are different.

Sunderman believes this provides a strict definition of where alcohol sales can go and does away with the mitigating circumstances. He has gone back and forth on this decision. He thinks CVS is a good project and appropriate for the neighborhood. But he does know that alcohol sales is a very emotional issue, so it is almost better to have identified rules in those situations.

Motion for approval carried 8-1: Cornelius, Partington, Larson, Taylor, Esseks, Francis, Gaylor Baird and Sunderman voting 'yes'; Lust voting 'no'. This is a recommendation to the City Council.

Jean Preister

From: Diana Gottschall
Sent: Tuesday, May 25, 2010 8:18 AM
To: Jean Preister
Subject: FW: Planning Commission Notification

From: Wibbels, Linda [mailto:Linda.Wibbels@woodsbro.com]
Sent: Friday, May 21, 2010 11:12 PM
To: Diana Gottschall
Subject: RE: Planning Commission Notification

I wish to go on record supporting Jonathan Cook's proposal relating to the sale/consumption of alcoholic beverages/drinks.

Linda K. Wibbels

Realtor - Associate Broker
Certified Residential Specialist
Woods Bros Realty
3737 South 27th Street
Lincoln, Ne. 68502
Phone: 402-434-3559
Cell: 402-730-0203
Home: 402-423-8923
Fax: 402-434-3510
Linda.Wibbels@woodsbro.com

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From: Diana Gottschall [dgottschall@lincoln.ne.gov]
Sent: Friday, May 21, 2010 8:00 AM
Subject: Planning Commission Notification

Attached is notification for the Wednesday, June 2, 2010 Planning Commission. Any questions please contact our office.

Thanks, Diana

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Jean Preister

From: Clark E deVries [cdevries@unlnotes.unl.edu]
Sent: Tuesday, June 01, 2010 2:04 PM
To: Jean Preister
Subject: Change of Zone 10012 Alcohol spacing requirement

I am writing in support of adding a requirement to the 100 ft rule to residential zoning so that it applies to the actual use of the lot in question.

Please add a requirement that the 100 ft spacing apply to a residential use and not just a residential zone when determining when a alcohol permit is allowed.

CVS exploiting this loop hole forces us to address this abuse so as not to allow other stores to apply for and get alcohol sales permits when within 100 ft of someone's place of residence.

Thank you for your consideration.

Clark deVries P.E.
1844 Washington Street
Ph (402) 474-4555
cdevries@unl.edu

Jean Preister

From: Christy Aggens [christyaggens@hotmail.com]
Sent: Tuesday, June 01, 2010 7:44 PM
To: Jean Preister
Subject: buffer for alcohol sales

Planning Commissioners,

Please change the wording of the zoning code to require that the sale of alcohol be prohibited 100 feet from a building that is used for residential purposes... which I believe is the intent of the current code.

Thank you.

Christy Aggens
1912 Harwood St.
Lincoln, NE

The New Busy think 9 to 5 is a cute idea. Combine multiple calendars with Hotmail. Get busy.

Jean Preister

From: maurice Baker [mbaker35@neb.rr.com]
Sent: Tuesday, June 01, 2010 8:42 PM
To: Jean Preister
Subject: Change of zone 10012

Dear Planning Commission members,

I am in support of changing the zoning requirements to make the requirement 100 feet from residential use rather than 100 feet from residential zone for the sale of alcoholic beverages. As we have seen from recent action, the current requirement does not protect the community as it was thought to do. CVS and the developer found a way to circumvent the intent of the zoning requirement as it currently stands. While they met the letter of the law they thumbed their collective noses at the intent of the law and nothing could be done under current regulations to stop them. You have the opportunity to recommend a change that will prevent such actions in the future. I urge each Planning Commission member to vote in favor of this change.

Sincerely,

Maurice Baker
3259 Starr Street
464-1864
Maurice Baker
402-464-1864

Jean Preister

From: kathie starkweather [kathie_starkweather@hotmail.com]
Sent: Tuesday, June 01, 2010 7:56 PM
To: Jean Preister
Subject: Close the Loophole

Please close the loophole for the 100 ft alcohol spacing requirement, Change of Zone 10012.

Sincerely,
Kathie Starkweather
2414 B Street
Lincoln 68502

Hotmail has tools for the New Busy. Search, chat and e-mail from your inbox. [Learn more.](#)

Jean Preister

From: William Carver [williamc@myapplemail.com]
Sent: Tuesday, June 01, 2010 10:51 PM
To: Jean Preister
Subject: Support Change of Zone 10012

Dear Planning Commissioners,

I'm writing on behalf of the Near South Neighborhood Association in support of Cange of Zone 10012. Now is the time to address the alcohol spacing requirements and close the loophole which was exposed during the CVS Project. Your vote in support of CZ10012 will go a long way in helping to protect our fragile neighborhoods.

Thank You,

William Carver
President NSNA

Jean Preister

From: Patte Newman [pattnewman@neb.rr.com]
Sent: Wednesday, June 02, 2010 7:49 AM
To: Jean Preister
Subject: Change of Zone 10012

To members of the Lincoln / Lancaster County Planning Commission:

Please close the loophole that some have tried (all too successfully) to exploit.
Please support Change of Zone 10012 to apply to residential use and not just residential zone.

Thank you.

Patte Newman

Jean Preister

From: peggy struwe [pstruwe1943@msn.com]
Sent: Wednesday, June 02, 2010 8:48 AM
To: Jean Preister
Subject: CZ#10012

To Planning:

I support the changes to the special permit for alcohol sales CZ#10012.

As a resident in Malone neighborhood, we need to protect older neighborhoods from encroachment into the residential areas for alcohol sales.

Please pass this change to the special permit.

Peggy Struwe
530 N 25th St. Lincoln, NE

The New Busy is not the too busy. Combine all your e-mail accounts with Hotmail. [Get busy.](#)

Jean Preister

From: Curtis Wood [cwood57@neb.rr.com]
Sent: Wednesday, June 02, 2010 6:51 AM
To: Jean Preister
Cc: sryba@nwlincoln.org
Subject: Please support Change of Zone 10012

Importance: High

Refer to Change of Zone 10012, the alcohol spacing requirement.

Please support Change of Zone 10012.

Close the loophole being exposed by recent action by CVS.

Curtis D Wood
Past President Wintherbee Neighborhood Association