City Council Introduction: **Monday**, June 11, 2012
Public Hearing: **Monday**, June 18, 2012, at **3:00** p.m.

Bill No. 12R-120

FACTSHEET

TITLE: **MISCELLANEOUS NO. 12003,** requested by Mike Eckert of Civil Design Group, to amend the City of Lincoln Design Standards for Community Unit Plans, to provide a minimum setback for multi-family dwellings that exceed the zoning district height abutting a single- or two-family dwelling; to conditionally allow accessory garages and driveways within the setback area; and to provide minimum screening for multi-family dwellings and certain accessory garages and driveways.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUEST: Change of Zone No. 12009 (#12-66)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 05/30/12
Administrative Action: 05/30/12

RECOMMENDATION: Approval (8-0: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius voting 'yes'; Weber absent).

FINDINGS OF FACT:

1. This proposed text amendment to the City of Lincoln Design Standards was heard by the Planning Commission in conjunction with Change of Zone No. 12009, an associated text amendment to the City Zoning Ordinance (12-66).

2. This is a proposal to amend Chapter 3.35, Design Standards for Community Unit Plans, and Chapter 3.50, Design Standards for Screening and Landscaping, to remove outdated language and to add criteria for the placement of multi-family buildings over the zoning district height adjacent to single- or two-family uses and landscaping standards for such multi-family dwellings, garages and driveways.

3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-6, concluding that this amendment provides for measurable standards in the placement of taller buildings. The amendment requires a greater setback for any multi-family dwelling which exceeds the zoning district height when they are adjacent to future or existing single family dwellings. This amendment also provides that the setback area should be devoted solely to landscaping, with a provision for more screening if not solely landscaped. The amendment tries to find a balance between the increased height of multi-family buildings and impact on adjacent lower density land uses. The staff presentation is found on p.7-8.

4. The applicant's testimony is found on p.8.

5. There was no testimony in opposition.

6. On May 30, 2012, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of the proposed text amendments to the City of Lincoln Design Standards (Weber absent).

7. On May 30, 2012, the Planning Commission also voted 8-0 to recommend approval of the associated Change of Zone No. 12009 (Bill #12-66), the associated amendment to the Zoning Ordinance (Weber absent).

FACTSHEET PREPARED BY: Jean L. Preister **DATE**: June 4, 2012

REVIEWED BY: Marvin Krout, Director of Planning **DATE**: June 4, 2012

REFERENCE NUMBER: FS\CC\2012\MISC12003 Text+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for May 30, 2012 PLANNING COMMISSION MEETING

PROJECT #: Miscellaneous No.12003

PROPOSAL: Amendment to revise Chapter 3.35, Design Standards for Community Unit Plans and Chapter 3.50, Design Standards for Screening and Landscaping to remove outdated language, add criteria for the placement of multi-family buildings over the zoning district height adjacent to single or two family uses and landscaping standards for such multi-family dwellings, garages and driveways. The proposal amends Sections 1.2 of Chapter 3.35 on the "Shape, size and locations of buildings; open space buffers" and Section 7.3, "Multiple Family Dwellings Approved by Special Permit, Planned Unit Development and Use Permit " of Chapter 3.50

LOCATION: Community Unit Plans are found primarily in newer neighborhoods, but can be found throughout the city.

CONCLUSION: The amendment to the Design Standards for Community Unit Plans (CUP) updates this section and provides for measurable standards in the placement of taller buildings. The amendment requires a greater setback for any multi-family dwelling which exceeds the zoning district height when they are adjacent to future or existing single family dwellings. Coupled with the amendment to the Screening and Landscaping design standards it also provides that the setback area should be devoted solely to landscaping, with a provision for more screening if not solely landscaped. The amendment tries to find a balance between the increased height of multi-family buildings and impact on adjacent lower density land uses.

RECOMMENDATION: Approval

GENERAL INFORMATION:

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2040 Lincoln and Lancaster County Comprehensive Plan identifies the importance of design standards in Chapter 4 "Placemaking" which includes the following "Guiding Principle" directly related to the current proposal:

> *Design standards should be developed, monitored, and revised as necessary to express and protect community values without imposing burdensome delays or restrictions on creativity. Well-crafted standards should add predictability and clarity to the development process, rather than imposing a design solution.* (p.4.6)

The 2040 Plan also state in “Strategies for Developing Neighborhoods” on page 7.8:

> *“Encourage new development to achieve densities greater than five dwelling units per gross acre.”*
>
> *“Develop new design standards that encourage density, optimize infrastructure costs, and help lower the overall cost of property development.”*

ASSOCIATED APPLICATIONS:
Change of Zone #12009 (text change to Chapter 27.60 Planned Unit Development and 27.65 Community Unit Plan)

<u>ANALYSIS:</u>

1. This application is so that approved apartment complexes, in a Planned Unit Development (PUD) or Community Unit Plan (CUP) could add 10 feet to their height after appropriate administrative review. The applicant stated the reason as:

   “Increasingly, our firm is seeing a trend of previously approved PUDs and CUPs with multi-family buildings that are exceeding the current height limits of 35’ in their respective previously approved plans. This trend in increased design heights is the direct result of several market and construction changes. They include: the elimination of garden level units due to ADA access regulations, increased construction spacing between floors for mechanical and electrical spacing as well as noise abatement, and a tenant desire for 9’ interior ceilings versus the 8’ interior ceilings.”

2. The Community Unit Plan (CUP) Design Standards were written to primarily provide additional guidance in the review of a proposed CUP in regards to the calculation of density, placement of buildings and recreational facilities. This amendment is to revise Section 1.2 about the about the relationship between multi-family and single family housing.

3. The current text is written in a single long paragraph which often makes it difficult to clearly identify the standards. In general the current standards in Section 1.2 can be summarized as four main points:

   a. *The setback between a building in the CUP and adjacent development should be increased as the difference in the height and the size of the building increases.*

   b. *Open space should be adjacent to the higher density areas.*

   c. *Multiple family buildings more than two stories in height (generally 3 stories and 35 or so feet tall) shall be setback at least forty feet (40') but not less than the height of the multiple family building from the lot line of the single family buildings. The 40 foot setback area shall be devoted to landscaping.*

d. Attached dwelling units (also known as rowhouses or townhomes), when there are 3 or more units, at the outer limits of the CUP, should not exceed 6 units in a single row and 140 feet in length.

4. This amendment revises the format of this section in order to make it more readable and easier to understand. The revised text deletes most of the previous language, but not necessarily all of the standards. The following reviews the proposed text in comparison to the four main points of the existing text:

a. *The setback between a building in the CUP and adjacent development should be increased as the difference in the height and the size of the building increases.*

This point is basically preserved and as currently worded in the new point Section 1.2 (a) as follows:

> "<u>The open space between different type of buildings within the community unit plan (single family, duplex and multiple family) shall be increased when the differences in height, width and length, and the number of dwelling units per building increases</u>."

b. *Open space should be adjacent to the higher density areas.*

This point is removed from the design standards. The 2040 Comprehensive Plan encourages the development of higher density areas next to commercial areas. This is reflected in Figure 7.1 on pages 7.6 and 7.7 of the Comprehensive Plan, which displays multi-family development either as a part of the commercial development or adjacent. In either case, the multi-family doesn't necessarily include adjacent open space. It may be that the open space for a neighborhood is more appropriate in a location that is central to the overall development. So, this standard is eliminated since it doesn't apply in most circumstances.

c. *Multiple family buildings more than two stories in height (generally 3 stories and 35 or so feet tall) shall be setback at least forty feet (40') but not less than the height of the multiple family building from the lot line of the single family buildings. The 40 foot setback area shall be devoted to landscaping.*
This standard is generally preserved in the new text. The proposal revises the text so rather than saying "greater than two stories" it states "greater than the zoning district height." This clarifies the general intent that buildings which exceed the district height should have a greater setback. The number of stories is less an issue that the height of the building. In R-1 to R-4 the district height is 35 feet. The proposed text states:

> "<u>A multi-family dwelling which exceeds the zoning district height shall be set back from all yard lines adjacent to an existing or planned single or two family dwelling a distance of 40 feet or the height of the multiple family dwelling whichever is greater. Garages, driveways and other accessory buildings for the multi-family dwelling are allowed in this</u>

setback area provided the additional landscape screening required by Section 7.3.c of Chapter 3.50 of the City of Lincoln Design Standards for Screening and Landscaping are met."

The new text states that if the 40 foot or greater setback is not solely devoted to landscaping, then the amount of landscaping should be increased. The current landscaping standard, found in Chapter 3.5, Section 7.3 "Multiple Family Dwellings Approved by Special Permit, Planned Unit Development and Use Permit" requires a 50% screen from 6 to 15 feet above the adjacent ground elevation.

b. When a multi-family dwelling is permitted above the zoning district height adjacent to an existing or planned single or two family dwelling, the additional setback area for such multi-family dwelling, except as provided in Section 7.3.c below, shall be devoted only to trees, shrubs, and grasses. The screen shall be evenly distributed horizontally: It may vary in height so as to screen at least fifty percent (50%) of the surface area of a vertical plane extending along the property line from six feet to twenty-five feet (6' to 25') above the adjacent ground elevation of the multiple dwelling. This screen shall be located between the multi-family dwelling and the adjacent property line.

c. When garages, driveways or other accessory buildings for the multi-family dwelling are permitted in the setback area required in 7.3.b. above, the screening shall be increased as follows – the screen shall be evenly distributed horizontally. It may vary in height so as to screen at least seventy-five percent (75%) of the surface area of a vertical plane extending along the property line from six feet to twenty-five feet (6' to 25') above the adjacent ground elevation of the garage and/or other accessory building. This screen shall be located between such buildings and the adjacent property line.

d. *Attached dwelling units (also known as rowhouses or townhomes), when there are 3 or more units, at the outer limits of the CUP, should not exceed 6 units in a single row and 140 feet in length.*

This standard is also eliminated from the new text. Single family attached dwellings shouldn't be limited to 6 units in a row, even at the edge of the CUP. Single family attached housing, where each unit is on it's own lot, is quite often quite compatible with adjacent single family detached housing. Thus, a design standard which limits the length and number of units that may be attached is unnecessary. The Planning Commission still has the flexibility to require a greater setback or additional landscaping as part of the CUP if a rowhouse is deemed less compatible with the adjacent single family uses. But elimination of this standard avoids the complications of requesting a waiver and having to justify the request, which doesn't seem necessary in most cases.

5. Approval of these amendments is in conformance with the goals and policies of the Comprehensive Plan. The amendment balances the need for increased height of multi-family buildings and impact on adjacent lower density land uses. It provides for minor 10 foot increases in height, while increasing the setback and landscaping to provide an appropriate buffer to adjacent single or two family uses.

Prepared by:

Stephen Henrichsen,
Development Review Manager

DATE: May 16, 2012

APPLICANT: Mike Eckert, Civil Design Group
8535 Executive Woods Drive, Suite 200
Lincoln, NE 68512
402- 434 - 8494

CONTACT: same as above

CHANGE OF ZONE NO. 12009
and
MISCELLANEOUS NO. 12003

PUBLIC HEARING BEFORE PLANNING COMMISSION: May 30, 2012

Members present: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius; Weber absent.

Staff recommendation: Approval.

There were no ex parte communications disclosed.

Staff presentation: **Steve Henrichsen of Planning staff** introduced the proposed text amendments on behalf of the applicant, indicating that this proposal is certainly something that is part of implementing the Comprehensive Plan because this change will help to streamline the process. The staff has worked with the applicant to try to address several changes in addition to the heart of the matter for the applicant, i.e. to potentially allow for minor increases in the height for apartment complexes (multi-family) in existing community unit plans (CUP) and planned unit developments (PUD) administratively. This is not a city-wide change in terms of the apartment height. This would affect apartment complexes that are already inside an approved CUP or PUD.

This amendment also addresses how we approve tandem parking, suggesting that it is appropriate to make this an administrative process to allow parking in the driveway leading up to a garage in an apartment complex. There is also an amendment that would increase the amount of screening whereby an apartment complex above the height limit would be required to increase both the height of the screening that is required and, if there are garages or parking in that setback, to increase the density of the screening as well.

The proposed amendments to the Design Standards for CUP's provides measurable standards in the placement of taller buildings.

Henrichsen then discussed Analysis #4 on page 2 of the staff report which sets forth situations where the Planning Commission approved tandem parking. On all of those occasions there was no controversy. Developers have been more than willing to provide the minimum 22 feet of space between the garage door and the driving aisle. People will have to plan for this in advance.

Henrichsen then referred to Analysis #7 on page 3 of the staff report, which sets forth the situations where the Planning Commission has approved minor increases in height. In a lot of these cases, the height limit was approved and there was not any controversy in regard to having the apartment buildings a little bit higher.

The heart of these amendments is to allow existing apartment complexes in a CUP or PUD to add up to 10 feet in height administratively, if they can meet all screening conditions, site plan conditions and buffering.

Esseks inquired whether there is any recourse if the administrative amendment is denied. Henrichsen explained that if an administrative amendment is deemed not appropriate by the Planning Director, the applicant would have the ability to appeal the administrative amendment to the Planning Commission or submit a full amendment to the Planning Commission.

Lust asked for the definition of a two-family dwelling. Henrichsen stated that it is in the zoning ordinance and recognized as a duplex – two dwelling units within one single family lot.

Proponents

1. Mike Eckert, Civil Design Group, appeared as the applicant. He indicated that he had approached the Planning Department on this issue awhile back because in working on multi-family complexes, there has been a shift from single-family to two-family developments and it has become increasingly more difficult to get by with the 35' height limits in existing CUP's and PUD's. The garden level style apartments are just not done anymore because of ADA accessibility requirements. Sprinkler systems are now required in all multi-family which also plays a part in the need for increased height. There is also a market demand, whether single-family or multi-family, to move from 8.5' ceilings to 9' ceilings. Most are coming in at around 38' to 42' in height. This legislation is restricted to existing approved CUP's and PUD's.

With regard to the tandem parking stalls, Eckert pointed out that apartment buildings now have attached garages. The Planning Commission currently has authority to decide if the stalls or a percentage could be counted toward the overall parking requirement. Because it is becoming more and more common, it would be helpful to make this an administrative approval. These are common and changes that are widely accepted today.

There was no testimony in opposition.

Henrichsen reapproached to clarify the definition of two-family dwelling. It also includes townhomes or single-family attached – two units, each on their own lot attached to each other.

Henrichsen also informed the Commission that this proposed legislation was discussed with Jon Carlson of Stronger Safer Neighborhoods and was presented to the Mayor's Neighborhood Roundtable, with no negative feedback.

Cornelius inquired whether there is any movement toward changing the maximum height limit in the ordinance as it stands, instead of making this subject to administrative approval on a case-by-case basis. Henrichsen indicated that to have been the first discussion, but that would be a much bigger step and would have a more global city-wide impact. This proposal seems to get to the heart of 95% of the cases where it may be an issue. However, it does not preclude staff from looking at that in the future. Cornelius observed that there are not as many new multi-family developments coming forward. Henrichsen agreed that this issue is occurring more in existing CUP's or PUD's where there is additional land providing opportunity to add more units.

CHANGE OF ZONE NO. 12009
ACTION BY PLANNING COMMISSION: May 30, 2012

Lust moved approval, seconded by Francis.

Francis appreciates the explanation and believes it certainly makes sense. She is glad to see someone from the public wanting Planning to implement this to make things more streamlined.

Cornelius does see the applicability of this legislation to the implementation of the Comprehensive Plan, i.e. streamlining the process for infill development.

Motion for approval carried 8-0: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius voting 'yes'; Weber absent. This is a recommendation to the City Council.

MISCELLANEOUS NO. 12003
ACTION BY PLANNING COMMISSION: May 30, 2012

Lust moved approval, seconded by Francis and carried 8-0: Butcher, Gaylor Baird, Sunderman, Hove, Francis, Lust, Esseks and Cornelius voting 'yes'; Weber absent. This is a recommendation to the City Council.

Civil Design Group, Inc.
Consulting Engineers & Land Use Planners
Civil Design • Site Development • Planning & Zoning
www.civildg.com

April 18, 2012

Mr. Marvin Krout
Director of Planning
City of Lincoln /Lancaster County
555 South 10th Street, Room 213
Lincoln, NE 68508

Re: Text Amendment to modify:
Chapter "27.60.060 Planned Unit Development: Amendments"
Chapter "27.65.060, Community Unit Plan Amendments"

1) **To add a provision for allowing administrative amendments to PUDs and CUPs by the Planning Director to allow for a waiver of height of multi-family buildings of up to 10 additional feet with conditions.**
2) **To add a provision for allowing administrative amendments to PUDs and CUPs by the Planning Director to allow a percentage of parking spaces located on a driveway behind a garage attached to a dwelling unit to be considered as required parking stalls.**

Dear Mr. Krout:

This application is for a text amendment to the sections of the zoning codes that govern PUD and CUP amendments, specifically, LMC sections 27.60.060 and 27.65.060. Increasingly, our firm is seeing a trend of previously approved PUDs and CUPs with multi-family buildings that are exceeding the current height limits of 35' in their respective previously approved plans. This trend in increased design heights is the direct result of several market and construction changes. They include: the elimination of garden level units due to ADA access regulations, increased construction spacing between floors for mechanical and electrical spacing as well as noise abatement, and a tenant desire for 9' interior ceilings versus the 8' interior ceilings. Therefore, we are requesting a text amendment to allow for administrative amendments to existing PUDs and CUPs dy the Planning Director under the following conditions:

- Multi-family buildings can be approved for height increase of up to 10' provided that the multi-family buildings maintain a setback from adjacent single family homes equal to the height of the building.
- That the setback area to single family homes may contain parking stalls or drive aisles provided that additional landscape screening is provided to the satisfaction of the Planning Director.

Additionally, a second design trend we are witnessing is towards garages that are attached to the multi-family buildings that are designed with a conforming parking stall in the driveway behind the garage. Currently, in a CUP, the Planning Commission has the sole authority to allow these types of parking stalls to count toward the required parking total. Therefore, we are requesting a text amendment to LMC sections, 27.60.060 and 27.65.060 that would allow the Planning Director to administratively approve the inclusion of these parking stalls in the number of required parking stalls for multi-family complexes, with the following condition

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- That parking stalls located on a driveway behind a garage attached to a dwelling unit may be considered for a percentage of required parking spaces so long as the stalls maintain a length of 22' feet from the front face of the garage to the sidewalk and the percentage of these stalls does not exceed 50% of the total required parking.

In conjunction with this submittal we submit the following information:

- Zoning application fee for Text Change of $300

I hope that this letter provides you with enough information to review this text amendment zoning change. In an effort to facilitate the review process, please call me at (402) 434-8494 if you questions.

Sincerely,

Mike Eckert, AICP