

FACTSHEET

TITLE: TEXT AMENDMENT NO. 14017
(Title 27 - Maximum Height in AG District)

BOARD/COMMITTEE: Planning Commission

APPLICANT: Acting Director of Planning

RECOMMENDATION: Approval (9-0: Sunderman, Harris, Beecham, Cornelius, Hove, Scheer, Corr, Weber and Lust voting 'yes').

STAFF RECOMMENDATION: Approval

OTHER DEPARTMENTS AFFECTED: N/A

SPONSOR: Planning Department

OPPONENTS: None

REASON FOR LEGISLATION:

To amend the maximum building height provisions in the AG Agriculture District by amending Section 27.63.250 of the Lincoln Municipal Code to add the AG Agriculture District to the list of districts in which a permitted use exceeding the maximum height permitted in a district may be allowed by special permit; amending 27.72.010 of the Lincoln Municipal Code to increase the allowable building height in the AG Agriculture District for farmstead splits from 30' to 35'; and repealing Sections 27.63.250 and 27.72.010 of the Lincoln Municipal Code as hitherto existing.

DISCUSSION/FINDINGS OF FACT:

1. The purpose of this text amendment is to amend the list of zoning districts for which a special permit for "Permitted Uses Exceeding the Maximum Height" is allowed. This amendment would also change the maximum height in the AG district for farmstead splits from 30 feet to 35 feet.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-4, concluding that increasing the "farmstead split" regulations to match other districts is logical. A special permit allowing an increase in height in this district will allow review of individual requests and the ability to maintain larger setbacks in the future should further subdivision occur. The AG district has larger lots with greater separation between dwellings which reduces the impacts of increased height on adjacent properties. The staff presentation is found on p.5.
3. Testimony by the applicant is found on p.5.
4. There was no testimony in opposition.
5. On December 10, 2014, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.
6. On December 10, 2014, the Planning Commission also adopted Resolution No. PC-01426 approving Special Permit No. 14047 to exceed the maximum height in the AG district at 7201 North 7th Street, and adopted Resolution No. PC-01427, approving Special Permit No. 14049 to exceed the maximum height in the AG district at 13760 Yankee Hill Road, neither of which have been appealed to the City Council.

FACTSHEET PREPARED BY: Jean Preister, Administrative Officer

DATE: December 29, 2014

REVIEWED BY: Stephen S. Henrichsen, Development Review Manager

DATE: December 29, 2014

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for December 10, 2014, PLANNING COMMISSION MEETING

PROJECT #: Text No. 14017

PROPOSAL: Amend the Lincoln Municipal Code, Section 27.63.250 Permitted Use Exceeding the Maximum Height Permitted in District, to add AG Agricultural district as one of the districts for which a special permit may be requested, and Section 27.72.010 to increase the maximum height for structures in the AG Agricultural district (farmstead splits) from 30 feet to 35 feet in Table 27.72.010(a).

CONCLUSION: All other zoning districts in which residential uses are allowed have maximum heights of at least 35 feet. Increasing the "farmstead split" regulations to match other districts is logical. A special permit allowing an increase in height in this district will allow review of individual requests and the ability to maintain larger setbacks in the future should further subdivision occur. Large lot sizes, and setbacks much greater than in residential districts, provide separation between structures which reduces the impacts of increased height on adjacent properties.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

ASSOCIATED APPLICATIONS: SP14047 and SP14049

HISTORY: The 1979 zoning update established the AG Agriculture and AGR Agricultural Residential districts and sets a maximum building height of 35 feet in the AG district, 30 feet for farmstead splits in the AG, and 30 feet in the AGR. Prior to this the AA Rural and Public Use district maximum height was 35 feet.

June, 1993 Change of Zone #2759 amending the height in the AGR Agricultural Residential district from 30 to 35 feet was approved by the City Council.

ANALYSIS:

1. This request is to amend the list of zoning districts for which a special permit for Permitted Uses Exceeding the Maximum Height is allowed. This amendment would also change the maximum height in the AG Agricultural district for farmstead splits from 30' to 35'. The application was originally made to change the maximum height from 35 feet to 45 feet in the AG district. Further discuss led to an alternative solution that would address future development concerns.

2. Section 27.63.250 of the Special Permits chapter allows Permitted Use Exceeding the Maximum Height Permitted in the District and reads “A permitted use exceeding the height permitted in the district may be allowed by special permit in the O-1, B-4, H-2, H-3, H-4, I-1, and I-2 zoning districts in conformance with the restrictions, if any, of the zoning district.”
3. Permitted uses in the AG Agricultural district include single family dwellings, agricultural uses such as stables, riding academies, stock yards, sale barns, confined feeding facilities, roadside stands, kennels, and other uses such as private Wind Energy Conversion Systems, and private schools. Specially permitted uses include a variety of uses from recreational facilities to apartment hotels and although they may be able to increase the height through the special permit for that use, they would not be able to apply for an increase in height through 27.63.250.
4. The height limit in the AG Agricultural district is 35 feet for both main and accessory structures. Section 27.63.250 would allow for the height to be increased through a special permit. Each application must go through a staff review process and review and action of the Planning Commission. Limits to the maximum height could be made on an individual basis, based on the use, potential impacts on adjacent properties, and the site characteristics.
5. Special permits become a part of the record of the property and would be reviewed and taken into account during any further subdivision or zoning action. When and if the property zoning were to change, or if the property was subdivided so the house sat on a smaller parcel, setbacks that mitigate the increased height of the structure could be maintained through the special permit.
6. When the Zoning Ordinance underwent major revision in 1979, the AA Rural and Public Use district was split into two rural districts; AG Agricultural and AGR Agricultural Residential. In addition to use restrictions in each of these districts, lot and area restrictions were also set, including limits to the height of structures. In the AG district, a height limit of 35 feet was placed on main and accessory structures, in the AGR district this limit was set at 30 feet. In addition, the subdivision of a house that is or was the main dwelling for a farm, and is over 5 years old, was allowed. This is commonly referred to as the “farmstead split” provision. The height for these dwellings was set at 30 feet. Height for single family dwellings in other residential districts was set at 35 feet.
7. In 1993 an application was made for a change to the maximum height in the AGR district. The applicant stated that dwellings in all other districts had maximum height limits of 35 feet and there was no reason to restrict dwellings in the AGR to a greater standard. Staff agreed with the applicant, as did the Planning Commission and City Council. Because the application did not include a request for the “farmstead split” dwellings to also have an increase in maximum height, they remained at 30 feet. This appears to be an oversight rather than a purposeful omission.
8. Since farmstead split dwellings were, at the time of their construction, built upon parcels over 20 acres and would have had a maximum height of 35 feet it makes little sense to require

a lesser height in order for them to be subdivided onto a smaller parcel. This change will bring the requirements into alignment with all other height restrictions for single family dwellings.

9. The AG district has larger lots with greater separation between dwellings. A special permit would allow each application to be reviewed individually and also make the specially permitted use part of the review of any future subdivision or rezoning of the property. Changing the maximum height in the AG district for "farmstead splits" will establish a maximum height for these dwellings which is the same as that set in other residential districts as well as other dwellings in the AG district.

Prepared by:

Sara Hartzell, Planner

DATE: November 19, 2014

APPLICANT: Dave Johnson, Studio 951
800 P Street, Suite 203
Lincoln, NE 68508

CONTACT: Dave Johnson

TEXT AMENDMENT NO. 14017

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 10, 2014

Members present: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust.

Staff recommendation: Approval.

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** presented the proposed text amendment, which as originally submitted would have been a wholesale change to the AG District height to increase it to 45 feet. On the face, that does not seem to be unreasonable because AG lots are larger and setbacks are larger; however, we have to be mindful that AG is often a district that becomes residential in the future and annexed into the city. When that happens those existing dwellings may be retained on smaller lots.

Therefore, Sara explained that this text amendment changes the code to require a special permit to exceed or increase the maximum height for a permitted use in the AG district. This special permit exists in many of the other districts. As a special permit, it is mapped and tied to the land. When the land comes forward for further action, the special permit increasing the height would be something that would be part of the research and would give the opportunity to provide the appropriate setbacks. The special permit lets us look at each one on a case-by-cases basis and be able to tell with the proposed building site whether we are going to provide adequate setback to provide adequate space between structures.

The other part of the proposed text amendment is in the AG height table. Prior to 1979, all of the lots in the rural and public use area had a height restriction of 35'. Lots used to be allowed be one acre. In 1979, when the zoning ordinance was updated, the new zoning split AG into two districts, i.e. AG and AGR. At the same time, there were changes made in the residential districts. AGR was set at 30' and farmstead splits in the AG were set at 30', but all other residential were either 35' or higher. She did not know why. There was a request in 1993 to change the AGR height from 30' to 35' with the statement that it would match the other R districts. That was approved; however, the little piece that sets the farmstead split at 30' was not included in that application. That does not make a lot of sense, so this change would be a clean-up with the height at 35'.

Proponents

1. Dave Johnson, Studio 951, 800 P Street, appeared as the applicant. He had two clients show up, each wanting to build a house in sort of a castle look and they wanted some fairly taller towers that just exceeded the height restriction a little bit. Johnson stated that he worked with the staff and they looked at a lot of mechanisms and he is happy with the proposed special permit process, making it very specific to the lot and protecting future development.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

December 10, 2014

Scheer moved approval, seconded by Beecham.

Lust stated that she is always happy when we are cleaning things up that don't seem to make a lot of sense and she is happy to support the consistency.

Motion for approval carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is a recommendation to the City Council.



October 28, 2014

Tom Cajka
Planning Department
City of Lincoln
555 South 10th
Suite 213
Lincoln, NE 68508

RE: Text Amendment
Allowable Building Height in AG Zoning

Dear Tom,

This letter is a request to amend the text in the City of Lincoln Zoning Code pertaining to the allowable building height in AG Zoning Districts. We request that the allowable building height be changed from currently allowed 35' to 45'.

Building residential lots in AG zoning are at minimum 20 acre parcels and the minimum setbacks are 60 feet.

Enclosed is or Planning Department Application Request Form. Please let me know if you have any questions and what our next steps are.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Johnson".

David L Johnson, AIA

Enc. Planning Department Application Request Form