

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3327

DATE: July 10, 2001

PROPOSAL: Amend the Zoning Ordinance to allow an additional main building on a lot in the AG zoning district where there is an existing residence.

GENERAL INFORMATION:

APPLICANT: Leonard G. Stolzer
5400 South Folsom Street
Lincoln, NE 68523

CONTACT: William F. Austin
301 South 13th Street - Suite 400
Lincoln, NE 68508
(402) 476-1000

LOCATION: Section 27.71.130 of the Zoning Ordinance

REQUESTED ACTION: Amend the Zoning Ordinance to allow an additional main building on a lot in the AG zoning district where there is an existing residence.

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan identifies three goals for Agricultural lands:

- Identify, evaluate and prioritize agriculturally productive land for continued agricultural production.
- Preserve highly productive agricultural land for agrarian purposes, as well as allow rural, non-agricultural residences; protect ecological and historic sites in rural Lancaster County.
- Plan and coordinate the development and provision of quality transportation, public-safety, education services, health and human services, water (including quantity), and waste management for the entire rural area.

The Land Use Planning and the Community Vision section of the Comprehensive Plan provides the basic principles which provide direction for the community's land use policies:

A CONTINUING COMMITMENT TO NEIGHBORHOODS: Neighborhoods are one of Lincoln's great strengths and their conservation is fundamental to this plan. The health of Lincoln's varied neighborhoods and districts depends on implementing appropriate and individualized policies. In addition, the land use plan is the basis for

zoning and other land development decisions. It should guide decisions that will maintain the quality and character of the community's established neighborhoods. (p 36a)

WHILE AGRICULTURE CHANGES, RURAL CHARACTER REMAINS: Changes in agriculture and agribusiness and the increasing demand for rural residential living will result in continuing changes in uses of agricultural land. The plan focuses on the compatibility among the various uses. The recognition of the "right to farm" is an element of the preservation of our underlying culture, and is an inherent part of the environment in Lancaster County. (p 36a)

HISTORY:

March 7, 2001 Mel Goddard from the Department of Building and Safety sent a letter informing Leonard Stolzer that a plumbing business is not permitted in the AG district.

March 21, 2001 Mr. Stolzer applied for Special Permit #1909 to operate his business under a special permit for the temporary storage of construction equipment and materials.

April 18, 2001 Special Permit #1909 had its first public hearing before Planning Commission. Planning staff recommended denial based upon two findings: (1) the use is not allowable under the special permit and, (2) if approved, would create two uses on a single lot.

ANALYSIS:

1. If approved, this text change would permit an existing residence and another main building on a lot or tract in the AG zoning district as long as there is at least one acre for the house and the additional required area for the second use.
2. The applicant's proposed language states:

27.71.130 More Than One Main Building on Agricultural, Business, Commercial, or Industrial Tract.

- (a) Where a lot or tract is used for a business, commercial, or industrial purpose, more than one main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

- (b) Where an existing residence is located upon a lot or tract in the AG district, an additional main building may be located upon the lot or tract in conjunction with another use permitted in the district, other than a residential use, provided that:
 - (1) the residence shall be occupied only by an individual, and his or her family, actually employed and living on the premises; and
 - (2) the lot or tract contains sufficient area to meet the combined area requirements of Section 27.07.080(h) and the proposed use to be located on the premises.
- 3. Building and Safety, the department responsible for interpretation and enforcement of the zoning ordinance, objects to the proposed language: “Proposed Section 27.71.130(b)(2) appears to require a minimum lot area to meet the combined area requirements of Section 27.07.080(h) and the proposed use. Why should the tract only meet the area requirement of 27.07.080(h) with no reference to satisfying all other requirements of that section? How would the minimum area requirements of the ‘proposed use’ be determined? How would ‘sufficient area’ be determined under this language?” They also note that if the second, nonresidential use involved a nonpermitted use of the property then such use would not become a permitted use.
- 4. The City Attorney’s office has submitted alternate language for the amendment. The alternate language should not be construed as an endorsement of this application - it is merely the preferred language if the proposed change is adopted.
- 5. Public Works & Utilities states, “The second building on a lot for a second use may allow construction of a use that driveways and existing roadways are not designed to handle. If the second main use can be sufficiently controlled so that required standards for that use are met, Engineering has no objections to this change of zone.”
- 6. The applicant states that it is not uncommon for parcels in the AG district to be too small for economical agricultural use and too large for efficient use as a single family residence. The Comprehensive Plan identifies very low density residential (ranging from one dwelling unit per five acres to over 160 acres) as *an appropriate use of land in those areas designated Agricultural* provided the use meets specified criteria such as compatibility with rural character (emphasis added). (p 75)
- 7. This proposal, if approved, effectively doubles the potential intensity of use throughout the AG zoned lands within the City’s jurisdiction. Such an event would not promote the preservation of rural character. Furthermore, much of the area in Lincoln’s three mile extraterritorial jurisdiction is zoned AG and is designated as “Phase IV” in the Phasing Plan - the “Balance of City of Lincoln’s land use jurisdiction shall be held as an urban

reserve.” Increased intensity could impair urban development as Lincoln expands. It could also strain roadways designed primarily as farm to market roads.

STAFF CONCLUSION: Approval of this text change would contravene the Phasing Plan, could threaten the character of rural neighborhoods, and would promote an intensity of use inappropriate for areas shown as Agricultural in the Comprehensive Plan.

STAFF RECOMMENDATION:

Denial

Prepared by:

Jason Reynolds
Planner

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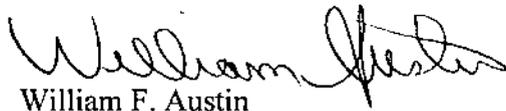
Kathleen Sellman
City County Planning Director
555 South 10th Street
Suite 213
Lincoln, NE 68508

Re: Requested Text Change
Our File No. 16874.42555

Dear Kathleen:

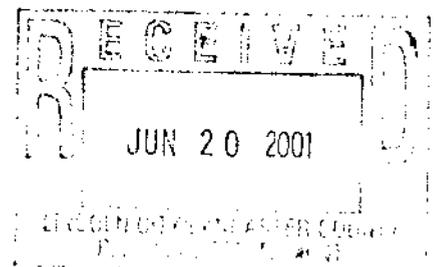
On behalf of my client, Mr. Leonard G. Stolzer, I am submitting the enclosed petition to amend the zoning ordinance to initiate a text change to Section 27.71.130 relating to more than one main building on the lot. Also enclosed is a check for the filing fee, in the amount of \$195. If anything further is needed to process this request, please feel free to give me a call.

Sincerely,


William F. Austin

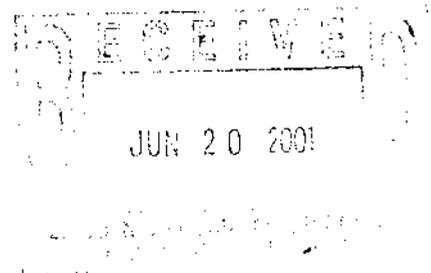
Enclosure

c: L. Stolzer
C. Strong
R. Peo



Petitioner is the owner of Lot 1, South Folsom Addition, located in the Southeast Quarter of Section 10, Township 9 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska containing approximately 8.62 acres. Petitioner's home is located on the property along with a storage garage in which Petitioner stores equipment and materials for the conduct of Petitioner's mechanical construction business. Petitioner has previously filed for a special permit to continue to use the storage garage for temporary storage of construction equipment pursuant to Section 27.63.590 of the Lincoln Municipal Code. The Planning Department reported to the Planning Commission that the issuance of such a permit would allow more than two main buildings on the premises contrary to Section 27.71.130 of the Lincoln Municipal Code.

Petitioner is proposing an amendment to Section 27.71.130 which would permit an existing residence and another main building as long as the lot or tract in question has at least one acre for the residence and the additional area needed for a second use. Petitioner believes that the situation of Petitioner is not uncommon in Lancaster County and that lots in the AG District, which are not large enough to be used economically for agriculture, yet are so large that limiting them simply to residential use for an existing residence is impractical and an uneconomical use of the land.



Introduce:

Change of Zone No.

ORDINANCE NO. _____

AN ORDINANCE amending Section 27.71.130 of the Lincoln Municipal Code relating to the location of more than one main building on a lot to permit more than one main building on a lot or tract on the in AG District which contains an existing residence under certain conditions; and repealing Section 27.71.130 of the Lincoln Municipal Code as hitherto existing.

BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

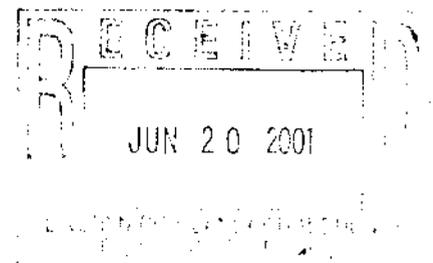
Section 1. That Section 27.71.130 of the Lincoln Municipal Code be amended to read as follows:

27.71.130 More than one main building on agricultural, business, commercial, or industrial tract.

(a) Where a lot or tract is used for a business, commercial, or industrial purpose, more than one main building may be located upon the lot or tract, but only such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

(b) Where an existing residence is located upon a lot or tract in the AG district, an additional main building may be located upon the lot or tract in conjunction with another use permitted in the district, other than a residential use, provided that:

(1) the residence shall be occupied only by an individual, and his or her family, actually employed and residing on the premises; and



(2) the lot or tract contains sufficient area to meet the combined area requirements of Section 27.07.080 (h) and the proposed use to be located upon the premises.

Section 2. That Section 27.71.130 of the Lincoln Municipal Code as hitherto existing be and the same is hereby repealed.

Section 3. That this ordinance shall take effect and be in force from and after its passage and publication according to law.

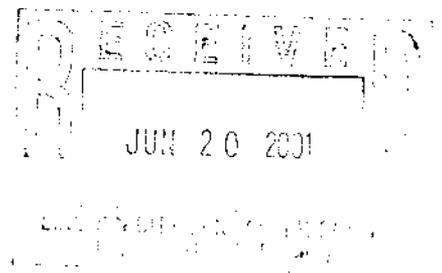
Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant





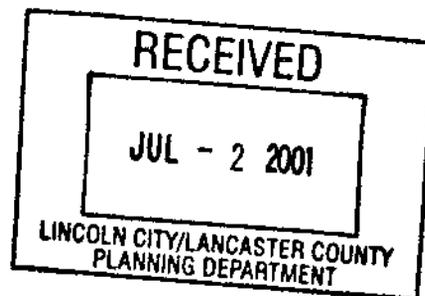
Rodger P Harris

06/29/01 04:23 PM

To: Ray F Hill/Notes@Notes
cc: Chuck A Zimmerman/Notes@Notes, Mel E Goddard/Notes@Notes
Subject: CZ 3327, Sec. 27.71.130 LMC.

We have reviewed this proposed text change and have the following comments to offer:

1. Proposed Section 27.71.130(b)(2) appears to require a minimum lot area to meet the combined area requirements of Section 27.07.080(h) and the proposed use. Why should the tract only meet the area requirement of 27.07.080(h) with no reference to satisfying all other requirements of that section? How would the minimum area requirements of the "proposed use" be determined? How would "sufficient area" be determined under this language?
2. If the second, nonresidential use of the lot involved a nonpermitted use of the property, such as employee's coming to this location to start and end a work day, such use would not be a permitted use, notwithstanding this proposed language or variation of this language.



message to Ray Hill

JH

M e m o r a n d u m

[REDACTED]

To: Ray Hill, Planning Department

From: Dennis Bartels, Public Works & Utilities

Subject: Amend Zoning Ordinance Sec. 27.71.134

Date: June 29, 2001

cc: Roger Figard, Nicole Fleck-Tooze

Engineering Services has reviewed the request to amend 27.71.134 to allow more than one main building on an AG zoned lot and has the following comments:

1. The second building on a lot for a second use may allow construction of a use that driveways and existing roadways are not designed to handle.
2. If the second main use can be sufficiently controlled so that required standards for that use are met, Engineering has no objections to this change of zone.



INTER-DEPARTMENT COMMUNICATION

TO Jason Reynolds
DEPARTMENT Planning
ATTENTION
COPIES TO

DATE June 28, 2001
FROM Rick Peo
DEPARTMENT City Law
SUBJECT Change of Zone 3327



I suggest that subsection (b) of Section 27.71.130 be revised to read as follows:

(b) Where an existing single-family dwelling is located upon a lot or tract in the AG district, one additional main building may be located upon the lot or tract in conjunction with another use permitted in the AG district, other than a residential use, provided that:

(1) Either the owner or resident manager of the non-residential use shall live in the single-family dwelling as his or her permanent residence; and

(2) The lot or tract contains sufficient area to meet the combined area requirements of one acre for the single-family dwelling plus the minimum lot area required in the AG district for the non-residential use.

ERP/ce

