

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

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**P.A.S.:** Change of Zone #3328

**DATE:** September 18, 2001

**PROPOSAL:** To amend Zoning Ordinance Sections 27.65.030, 27.67.040, and 27.70.020 to authorize the use of dwellings for non-related persons as part of a community unit plan and to provide minimum lot sizes and parking requirements.

**CONCLUSION:** The proposed text increases the range of permissible housing options by allowing four to six non-related persons to share a single housekeeping unit. The permitted population density is similar to what is allowed through a community unit plan or the underlying zoning districts.

This text change advances the Comprehensive Plan implementation strategy of providing the broadest range of housing options throughout the community.

**RECOMMENDATION:**

Approval

### **GENERAL INFORMATION:**

**CONTACT:** J. Michael Rierden  
645 "M" Street, Suite 200  
Lincoln, NE 68508  
(402) 476-2413

**ASSOCIATED APPLICATIONS:** Change of Zone #3329  
Special Permit #1928

**HISTORY:** Oct. 30, 1972 City Council adopted Change of Zone #1220, which added text to allow four to six unrelated persons to live as a single housekeeping unit under a special permit. The Planning Director's report indicated that the change was intended to provide student housing.

1979

**Dwellings for Nonrelated Persons** was left in the "Additional Use Regulations" Chapter 27.70 instead of being moved with the other special permits to Chapter 27.63.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

From the Future Urban Residential Needs and Plan:

Goals

- Encourage the development of housing that is appropriate to the requirements of households with special needs, including but not limited to, the elderly, the physically and/or mentally challenged, and households in crisis.
- Encourage efficient use of urban areas by providing for high density residential uses as an integral part of major, planned commercial and residential developments. (p 44)

From Comprehensive Plan Implementation Strategies:

3. Public Policy Considerations

- c. **Diversity and Unity.** In housing, a place should be found for the country estate and the city efficiency apartment, for the small private single family home and the large apartment suite, for the most affordable and most expensive dwelling unit, for completely independent living and for living within the care of others. Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (pp 192-3)

**REGIONAL ISSUES:** Lincoln’s ability to provide off-campus student housing

**ANALYSIS:**

1. According Section 27.03.220, Lincoln’s definition for “family”, up to three unrelated individuals may reside together in a single dwelling unit.
2. Section 27.70.020 allows dwellings for four to six non-related persons, provided that the lot upon which they reside is one or more acres in size and that one off street parking stall is provided for each occupant.
3. The proposed text change would add “dwellings for nonrelated persons” to the list of housing types permissible within a community unit plan. Such a dwelling would no longer be permitted outside a C.U.P. One parking stall would be required per occupant, and the minimum lot area per dwelling would be based on the underlying zoning and the number of occupants, as shown on the following table.

| Zoning District | Occupant/Lot Area Ratio |
|-----------------|-------------------------|
| R-1             | 1 occupant/3,000 sf     |
| R-2, R-3        | 1 occupant/2,000 sf     |
| R-4             | 1 occupant/1,000 sf     |
| R-5             | 1 occupant/750 sf       |

4. The density permitted is similar to what would be permitted under the base zoning or within a community unit plan. In no case could the number non-related occupants exceed those allowed in the base zoning under the definition of family.

| Zoning District | Base Zoning Density |                             | C.U.P. Density |                             | Occupants/Acre (proposed text) |
|-----------------|---------------------|-----------------------------|----------------|-----------------------------|--------------------------------|
|                 | D.U./acre           | Occupants/acre <sup>†</sup> | D.U./Acre      | Occupants/acre <sup>†</sup> |                                |
| R-1             | 4.84                | 14                          | 3.87           | 11                          | 14                             |
| R-2             | 7.26                | 21                          | 5.80           | 17                          | 21                             |
| R-3             | 7.26                | 21                          | 6.96           | 20                          | 21                             |
| R-4             | 17.42*              | 52                          | 13.93          | 41                          | 43                             |
| R-5             | 29.04 <sup>^</sup>  | 87                          | 29.04          | 87                          | 58                             |

<sup>†</sup> assumes three occupants per Dwelling Unit  
<sup>\*</sup> assumes two-family dwellings  
<sup>^</sup> assumes multi-family dwellings

5. The purpose of this text change is to increase housing options without increasing the population density on a site.
6. Any existing buildings which currently conform to Section 27.70.020 would become nonconforming uses. The Building and Safety Department is not aware of any existing dwellings for non-related persons.
7. The proposed language creates opportunities to provide the student population with additional housing options.

Prepared by:

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Jason Reynolds  
Planner

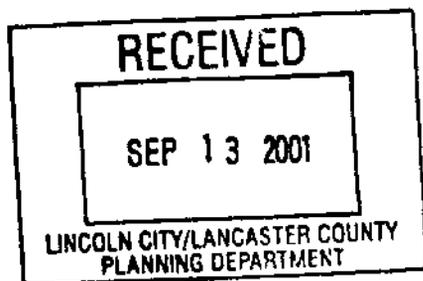
**J. Michael Rierden**  
ATTORNEY AT LAW

✓  
CZ 3329  
SP 1928

KAY  
JR

THE COTSWOLD  
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TELECOPIER (402) 476-2948



September 10, 2001

Kathleen Sellman, Director of Planning  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

RE: Charleston Street Apartments/Student Housing

Dear Kathleen:

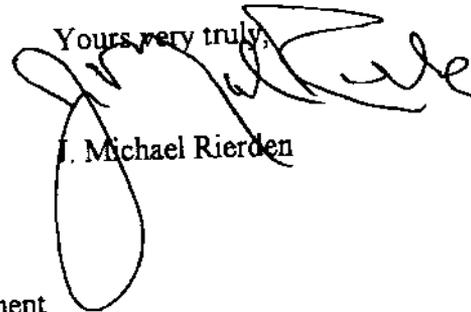
In an effort to keep you up-to-date on our efforts concerning the student housing development which we had spoken to you about several weeks ago I would like to let you know of the following progress we have made, to-wit:

1. On August 29, 2001, we met with Rich Wiese, who is President of the West O Business Association. Mr. Wiese said that the Association is fully in favor of the student housing proposal and would be providing us with a letter in support. Mr. Wiese said that the West O Business Association would also like to see this more of this type of development in the area along with other mixed uses rather than the intense industrial use which is currently zoned.
2. On August 28, 2001, we met with the Board of Directors of North Bottom Homeowners Association. Like the Business Association the Homeowners Association appeared to be in favor of the student housing proposal. There was a good discussion concerning security, parking, flood plain and other related issues. I believe that we satisfied their concerns. I have requested a letter of support from the Homeowners Association that we will present to the Planning Commission and City Council.
3. As you know, I am currently working with Jason and Rick Peo to refine the text amendment. I have received a memorandum from Rick dated September 5, 2001, with proposed language changes. In my initial review it appears that this language is satisfactory and accomplishes our goal and that it also protects existing neighborhoods.

Kathleen Sellman  
September 10, 2001  
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I will keep you posted of any further developments and if you should have any questions please feel free to contact me.

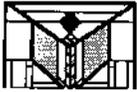
Yours very truly,

A handwritten signature in black ink, appearing to read "J. Michael Rierden". The signature is stylized and somewhat cursive, with a large loop at the end.

J. Michael Rierden

JMR/jdr

Pc: Paula Barrera, Dinerstein Companies  
Mark Wulschleger, Director of Urban Development  
Ron Ross, Ross Engineering



Rodger P Harris

09/20/2001 03:28 PM

To: Jason W Reynolds/Notes@Notes

cc: Chuck A Zimmerman/Notes@Notes, Mel E Goddard/Notes@Notes

Subject: CZ 3328, Dwellings for Nonrelated Persons by SP as a CUP

I have reviewed the revised text of the above referenced text change and have the following comments to offer:

1. I am not aware of any existing buildings that exist under the existing provisions of Section 27.70.020 LMC, but if they do exist, then I believe they would become non-conforming if this text is changed, or possibly may be deemed to have a special permit per Section 27.63.040 LMC.
2. In an application where a CUP or part of a CUP is for Dwellings for Nonrelated Persons, the types of buildings and a schedule showing the number of bedrooms per dwelling unit, and the occupancy per dwelling unit must be provided with the application. Any approval language should specifically approve dwellings for 4 to 6 nonrelated persons, with plans that show where or what part of the CUP allows this use.
3. The last sentence of the revised text for Section 27.70.020 LMC should be amended to simply state that the maximum density for a Dwellings for Nonrelated Persons CUP shall be subject to any reduction in density for small CUP tract size, as calculated in accordance with Section 27.65.020 LMC.
4. While this proposed text change is related to a request for a development that would become in effect student housing, other future requests may not have such relationship. Nothing in this text change proposal would prohibit requests for amendment to existing or portions of existing CUP developments, or other existing developments, for Dwellings for Nonrelated Persons.
5. The number of occupants within a dwelling unit is difficult to regulate. A dwelling, whether a single dwelling or a number of dwellings in a multiple dwelling structure, is clearly defined as to use, types of rooms and number of bedrooms, in the construction process. The number of occupants of a dwelling may change from time to time without any obvious notice of such change, particularly if the changes in the number of occupants are subtle. The cumulative changes may become evident, too many cars, etc., with then the difficulty of determining where and how to enforce regulations.

1       **27.65.030 Procedures.**

2               An application and plot plan and plans for development of a community unit plan under  
3 this chapter shall be filed in writing with the department of building and safety. Upon the filing  
4 of an application, together with all information required by this chapter, the City Council will refer  
5 the application to the Planning Commission. The Planning Commission shall hold a public  
6 hearing upon such application and make a report to the City Council regarding the effect of the  
7 proposed use upon the surrounding neighborhood, the community as a whole, and other mat-  
8 ters relating to the public health, safety, and general welfare. The City Council shall take no  
9 final action upon any application for a community unit plan filed under this chapter until a report  
10 from the Planning Commission has been filed with the City Clerk; provided, that in the event  
11 there is a delay in excess of sixty days from the date of referral on the part of the Planning  
12 Commission in reporting its recommendations to the City Council, the applicant may appeal to  
13 the City Council requesting final action. If the City Council determines that the delay of the  
14 Planning Commission is unjustified, it shall direct the commission to submit a report no later  
15 than immediately after the commission's next regularly scheduled meeting.

16               The report of the Planning Commission to the City Council shall include reasons for  
17 recommending approval or denial of any application and if approval is recommended, shall  
18 further include specific evidence and facts showing that the proposed community unit plan  
19 meets the following conditions:

20               (a)     That the land surrounding the tracts for the proposed community unit plan will  
21 not be adversely affected;

22               (b)     That the proposed community unit plan is consistent with the intent and purpose  
23 of this title to promote the public health, safety, and general welfare;

1 (c) That the buildings and land in the proposed community unit plan shall be used  
2 only for single-family dwellings, two-family dwellings, townhouses, ~~or~~ multiple dwellings, or  
3 dwellings for non-related persons and accessory uses and any other uses permitted in the  
4 zoning district in which the land is located;

5 (d) That the average lot area per family within the proposed community unit plan will  
6 not be less than the lot area per family required in the zoning district or districts in which the  
7 tracts of the proposed community unit plan is located, except as otherwise provided in this  
8 chapter. The lot area per dwelling for non-related persons shall not be less than the lot area  
9 required under Section 27.70.020 for the zoning district in which the use is proposed to be  
10 located.

11 (e) If an application for the community unit plan located within a flood plain is  
12 granted approval by the city, it shall not be necessary for the applicant to make an application  
13 for a special permit to be approved by the City Council as required by Resolution Nos. A-55150,  
14 A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals  
15 as may be required by the foregoing resolutions by virtue of the city granting approval to the  
16 community unit plan.

17 **27.67.040 Parking Requirements; Special Conditions.**

18 The following special conditions shall apply to the listed uses in place of the parking re-  
19 quirements found in Section 27.67.020:

20 (a) Fraternity, sorority, and rooming and boarding houses:

21 (1) In the R-6 District:

22 (i) Fraternities: One space/400 sq. ft. livable floor area, within 600 feet  
23 of the building;

1 (ii) Sorority, rooming or boarding house: One space/700 sq. ft. livable  
2 floor area within 600 feet of the building.

3 (2) In the R-7 District:

4 (i) Fraternities: One space/700 sq. ft. livable floor area, within 1,200 feet  
5 of the building.

6 (ii) Sorority, rooming or boarding house: One space/1,100 sq. ft. livable  
7 floor area within 1,200 feet of the building.

8 (b) Group homes: One space per three client or employee residents, plus two  
9 spaces per three nonresident employees on the largest shift; provided, however, that no  
10 spaces shall be required for client residents who will not possess motor vehicle operator's li-  
11 censes. Appropriate documentation from the group home licensing agency shall be provided  
12 evidencing the nonpossession of motor vehicle operator's licenses by clients.

13 (c) Adult foster care home: 2 spaces.

14 (d) The following uses have special parking demands or high traffic generation, and  
15 are required to provide minimum parking as follows:

16 (1) Nursing care facilities: One space/3 beds.

17 (2) Housing for the elderly: One space/living unit.

18 (3) Miniwarehousing:

19 (i) One space for each ten storage cubicles, equally distributed  
20 throughout the storage area. This parking requirement can be accomplished with the parking  
21 lanes as set forth in (iv) below;

22 (ii) Two spaces for manager's quarters;

23 (iii) One space for every twenty-five storage cubicles to be located at  
24 the project office for the use of clients;

1 (iv) Storage area parking may be provided by having access lanes and  
2 roads of such width to allow vehicles to unload and pass.

3 (4) Doctors' and dentists' offices: One space/225 sq. ft. of floor area.

4 (5) Drive-in restaurants: One space/40 sq. ft. of floor area.

5 (6) Bowling alleys: 4 spaces/lane (plus required parking for affiliated uses.)

6 (7) Auditoriums, theaters, grandstands, stadia, amphitheaters, and other  
7 places of assembly: One space/50 sq. ft. of seating area plus parking for affiliated uses within  
8 300 ft. of the main use.

9 (8) Recreational:

10 (i) Racquetball and other court games: Four spaces/court (plus required  
11 spaces for affiliated uses);

12 (ii) Swimming pools: One space/100 sq. ft. of water surface (plus  
13 parking for affiliated uses) as determined by the city;

14 (iii) Golf courses: Two spaces/hole of course, plus parking for affiliated  
15 uses.

16 (9) Hospitals: One space/2.5 beds, plus one space/employee on the largest  
17 shift.

18 (10) Churches and chapels and schools and private schools having a curriculum  
19 equivalent to a public elementary or public high school and private business or commercial  
20 schools: One space/50 sq. ft. in largest assembly hall as determined by city.

21 (11) Other private schools:

22 (i) Adult and early childhood care facilities: One space/ employee on the  
23 largest shift, plus off-street loading/unloading area for one automobile per ten care receivers.

1 Joint parking with another facility is acceptable if the adult or early childhood care facility and  
2 that facility have nonconcurrent parking demands.

3 (ii) Gymnastic, karate, judo, dance, music, and other similar academies:

4 One space for every three students allowed per class session plus one space for every  
5 employee. In those instances where two sessions of classes occur one after another, without  
6 at least one-half hour separation between sessions, the maximum number of students allowed  
7 at both sessions shall be combined in determining the amount of required parking per class  
8 session.

9 (12) Housing for the physically handicapped: (see also Section 27.63.215) One  
10 space/living unit.

11 (13) Domestic shelters: One space for every four residents based on the  
12 maximum occupancy allowed by the lot area and two spaces for every three employees on  
13 the largest shift.

14 (14) Scrap processing operation or salvage yard. Six spaces, two spaces/acre  
15 of lot area or one space/1,000 square feet of floor area, whichever is greater.

16 (15) Dwellings for members of a religious order: one space for every three  
17 residents.

18 (16) Warehouses:

19 (i) Warehouses with a floor area of 50,000 square feet or less: one  
20 space per every 1,000 square feet of floor area or a minimum of one space per employee on  
21 the largest shift. The floor area shall be calculated based on the total floor area of all  
22 structures on the lot.

23 (ii) Warehouses with a floor area of more than 50,000 square feet: one  
24 space per every 1,000 square feet of floor area for the first 50,000 square feet of floor area

1 and one additional space per 2,000 square feet of floor area in excess of 50,000 square feet,  
2 or a minimum of one space per employee on the largest shift. The floor area shall be  
3 calculated based on the total floor area of all structures on the lot.

4 (iii) If the number of spaces required by the building ratio is greater than  
5 required by the employee ratio in (i) or (ii) above, the additional parking spaces need not be  
6 provided physically, but sufficient areas shall be reserved for to accommodate construction of  
7 the additional spaces.

8 If the Building Official finds at any time that the character of the use of the  
9 warehouse is such as to require the full provision of parking facilities to be constructed, the  
10 Building Official shall report this fact to the City Council which may, after holding a hearing of  
11 which the owner shall be notified, require such additional parking to be installed.

12 (17) Dwellings for Non-Related Persons. One space for each occupant.

13 (e) Off-street Freight Loading Requirements. At the time of construction, alteration,  
14 or enlargement of any commercial or industrial building having a floor area of 10,000 square  
15 feet or more, and containing a use or uses which requires off-street freight loading, off-street  
16 freight loading areas shall be provided on the premises to serve the use and maintained as  
17 follows:

18 (1) Six hundred square feet for the first 10,000 square feet of floor area;

19 (2) An additional 600 square feet for each additional 20,000 square feet of floor  
20 area.

21 (f) Joint Parking. Uses that have nonconcurrent parking demand may join their  
22 parking facilities so as to reduce aggregate parking requirements as follows:

23 (1) B-5 District. The uses shall be located in the B-5 District and may include  
24 adjacent churches or chapels located outside the B-5 District. Uses that have nonconcurrent

1 parking demand may join their parking facilities; however, the use having the largest floor area  
2 shall provide 4.5 parking spaces for every 1,000 square feet of floor area, and all other uses  
3 included in the joint parking arrangement shall provide two parking spaces per 1,000 square  
4 feet of their floor area; provided, however, that the number of additional spaces that would be  
5 required in the absence of this paragraph need not be provided physically, but sufficient land  
6 shall be reserved in the event that future uses may not have nonconcurrent parking demand.  
7 For the purpose of determining the adequacy of the joint parking arrangement, all such joint  
8 parking use shall be authorized by a written agreement between the city and all parties to such  
9 use.

10 (2) O-3, B-1, B-2, B-3, B-4, H-2, H-3, and H-4 Zoning Districts. The uses shall  
11 be located in the following zoning districts: O-3, B-1, B-2, B-3, B-4, H-2, H-3, and H-4, and  
12 may include uses in adjacent O-2 districts and adjacent churches and chapels outside the  
13 above districts. The aggregate parking requirement shall be computed on the basis of  
14 providing the parking required for that use or those uses having concurrent parking demand  
15 that have the largest parking demands as determined by the parking matrix (§ 27.67.020) and  
16 any additional conditions in this chapter; provided, however, that the number of additional  
17 spaces that would be required in the absence of this paragraph need not be provided  
18 physically, but sufficient land shall be reserved in the event that future uses may not have  
19 nonconcurrent parking demand. For the purpose of determining the adequacy of the joint  
20 parking arrangement, all such joint parking use shall be authorized by a written agreement  
21 between the city and all parties to such use.

22 (3) O-1 District. The uses shall be located in the O-1 District and may include  
23 adjacent churches or chapels located outside the O-1 District. Uses that have nonconcurrent  
24 parking demand may join their parking facilities. The aggregate parking requirement shall be

1 computed on the basis of providing the parking required for that use or those uses having  
2 concurrent parking demands that have the largest parking demands as determined by the  
3 parking matrix and any additional conditions in this chapter; provided, however, that the  
4 number of additional spaces that would be required in the absence of this paragraph need not  
5 be provided physically, but sufficient land shall be reserved in the event the future uses may  
6 not have nonconcurrent parking demand. For the purpose of determining the adequacy of the  
7 joint parking arrangement, all such joint parking use shall be authorized by a written agreement  
8 between the city and all parties to such use.

9 **27.70.020 Dwellings for Nonrelated Persons.**

10 Dwellings for four to six persons not immediately related by blood, marriage, or adoption  
11 and living as a single housekeeping unit ~~on lots of one acre or more in area~~ shall be permitted  
12 under a community unit plan, provided that ~~one off-street parking space is supplied for each~~  
13 ~~person in the housekeeping unit~~ the maximum number of persons occupying each dwelling and  
14 the total number of occupants shall not exceed the following lot area ratios:

- 15 (a) R-1, 1 occupant/3,000 square feet of lot area;
- 16 (b) R-2 and R-3, 1 occupant/2,000 square feet of lot area;
- 17 (c) R-4, 1 occupant/1,000 square feet of lot area;
- 18 (d) R-5, 1 occupant/750 square feet of lot area.

19 Notwithstanding the above, the maximum density of dwellings for nonrelated persons  
20 shall be subject to the overall maximum number of permitted dwelling units within the  
21 boundaries of the community unit plan as calculated in accordance with Section 27.65.020.  
22