

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3283**, a text amendment to Title 27 of the Lincoln Municipal Code, requested by Tabitha, Inc. and Tabitha Housing Corporation, to amend the zoning ordinance to permit Adult Care Centers by special permit in the R-1, R-2, R-3, R-4, and R-5 Residential districts.

STAFF RECOMMENDATION: Approval.

ASSOCIATED REQUEST: Special Permit No. 1851A (00R-279).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 09/20/00
Administrative Action: 09/20/00

RECOMMENDATION: Approval (6-3: Duvall, Taylor, Schwinn, Steward, Krieser and Bayer voting 'yes'; Hunter, Newman and Carlson voting 'no').

FINDINGS OF FACT:

1. This proposed text amendment and the associated Special Permit No. 1851A were heard at the same time before the Planning Commission.
2. The Planning staff recommendation to approve the text amendment is based upon the "Analysis" as set forth on p.4, concluding that adult care centers should be allowed in residential districts by special permit, the same as early childhood care centers.
3. The applicant's testimony is found on p.10-12. The applicant needs the text amendment in the R-2 and R-4 Residential districts; however, the staff is recommending that the text amendment apply to all of the R-1 through R-5 Residential districts.
4. Testimony in support is found on p.2.
5. There was no testimony in opposition.
6. Please refer to the Minutes of the Planning Commission (pp.11-14) for the discussion by the Planning Commission with the applicant and with the staff. Commissioner Carlson strongly believes that the proposed text amendment should not be heard in conjunction with the special permit; that it should be reviewed and considered separately and on its own merits; and that such a text amendment deserves community input. Commissioners Hunter and Newman do not believe that adult care centers should be located in residential districts.
7. On September 20, 2000, the Planning Commission voted 6-3 to agree with the staff recommendation of approval (Hunter, Carlson and Newman dissenting). See Minutes, p.13-15.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 26, 2000

REVIEWED BY: _____

DATE: September 26, 2000

REFERENCE NUMBER: FS\CC\FSCZ3283

Goals

- ! Provide an environment for each neighborhood that promotes the safety and well-being of the residents and provides a sense of community.*
- ! 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.*

As the character and composition of the community changes, the residential needs of the community will also change. This plan seeks to provide the broadest possible choice of housing types and income levels in all sectors of the community. This includes new housing types such as congregate and semi-independent living quarters for elderly and special needs populations and affordable housing in all sections of the community.

The following goals and statement are included under **Public Safety and Health Services** (page 167)

Goals

- ! Provide and advocate for quality, affordable and accessible public safety, health and human services for every person in the entire community, and recognize that these services must be a high priority to enhance our quality of life.*
- ! Increase community awareness of public safety, health and human services and sensitivity to the need for those services.*

Public safety and health services are critical to the well-being of the community. Facilities to house these services must be properly located, distributed and equipped.

HISTORY:

Dec. 18, 1989 - City Council approved change of zone #2508 which separated day care from private schools to allow day care facilities by special permit in the I-1 district.

October 26, 1992- City Council approved change of zone #2722 which added a definition for adult care center and added adult care centers as a use in the B-3 district.

September 27, 1993, City Council approved change of zone #2781 which added Adult care center as a use in the B-1 District.

August 14, 1995 - City Council approved change of zone #2902, based on the Child Care Land Use Task Force, that defined and determined where early childhood care facilities would be permitted and eliminated day care facilities.

SPECIFIC INFORMATION:

TRAFFIC ANALYSIS:

No data available

Trip Generation, 6th Edition an informational report of the Institute of Transportation Engineers studied day care for pre-school facilities but not adult care.

ANALYSIS:

1 Section 27.03.037 of the Zoning Ordinance defines Adult Care Center:

Adult care center shall mean a facility in which a program of structured and supervised social, manual, physical, and intellectual services or activities are provided to adults who are either ambulatory or wheelchair mobile. Such services or activities shall be provided for a minimum of three hours per day, but shall not provide for overnight stays by participating adults.

2. The activities such as transporting the adults to the center are similar to transporting children to early childhood care facilities. The care recipient must be delivered to the site, unloaded and then loaded and transported back home.

3. The State of Nebraska will regulate the operation of Adult Care.

4. Adult Care Centers are now permitted in only the B-1, B-3, B-4, I-1, and I-2 Districts. The B-4, I-1, and I-2 Districts allow all legally permitted uses except those which are specifically excluded in the text of each district.

5. Adult Care Centers assist their participants so they may remain in the community, enabling families and other caregivers to continue caring for an impaired member at home while continuing to work outside the home if necessary, or other activities away from the home.

STAFF CONCLUSION:

Adult care centers should be allowed in residential districts by special permit the same as early childhood care centers.

STAFF RECOMMENDATION:

Approval

Amend the R-1, R-2, R-3, R-4, and R-5 Residential Districts as follows;

27.11.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-1 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Community unit plans in conformance with Chapter 27.65;
- (b) Private schools, other than those permitted under Section 27.11.020(e) above;

- (c) Health care facilities;
- (d) Dwellings for members of religious orders;
- (e) Mobile home courts;
- (f) Recreational facilities;
- (g) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;
- (h) Broadcast towers;
- (i) Certain parking lots as defined in Chapter 27.63;
- (j) Elderly or retirement housing;
- (k) Expansion of nonconforming uses;
- (l) Historic preservation;
- (m) Public utility purposes;
- (n) Wind energy conversion systems;
- (o) Mobile home subdivisions;
- (p) Housing and related facilities for the physically handicapped;
- (q) Outdoor seasonal sales;
- (r) Cemeteries;
- (s) Churches; increased lot coverage;
- (t) Domiciliary care facility;
- (u) Expansion of nonstandard single and two-family dwellings into required yards;
- (v) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.11.030;
- (w) Neighborhood support services;
- (x) Clubs;
- (y) Dwelling units for domestic employees in accessory buildings;
- (z) Connection of single-family dwelling to accessory building for the physically handicapped.
- (aa) Adult Care Centers

R-2 Residential

27.13.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-2 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Community unit plans in conformance with Chapter 27.65;
- (b) Private schools, other than those permitted under Section 27.13.020(e) above;
- (c) Health care facilities;
- (d) Dwellings for members of religious orders;
- (e) Mobile home courts;
- (f) Recreational facilities;
- (g) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;
- (h) Broadcast towers;
- (i) Certain parking lots as defined in Chapter 27.63;
- (j) Elderly or retirement housing;
- (k) Expansion of nonconforming uses;
- (l) Historic preservation;

- (m) Public utility purposes;
- (n) Wind energy conversion systems;
- (o) Mobile home subdivisions;
- (p) Housing and related facilities for the physically handicapped;
- (q) Outdoor seasonal sales;
- (r) Cemeteries;
- (s) Churches; increased lot coverage;
- (t) Domiciliary care facility;
- (u) Expansion of nonstandard single and two-family dwellings into required yards;
- (v) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.13.030.;
- (w) Neighborhood support services;
- (x) Clubs;
- (y) Connection of single-family dwelling to accessory building for the physically handicapped;
- (z) Garden centers.
- (aa) Adult Care Centers

R-3 Residential

27.15.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-3 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Community unit plans in conformance with the following requirements:
 - (1) The average lot area shall be at least 5,000 square feet;
 - (2) All the requirements of Chapter 27.65.
- (b) Private schools, other than those permitted under Section 27.15.020(e) above;
- (c) Health care facilities;
- (d) Dwellings for members of religious orders;
- (e) Mobile home courts;
- (f) Recreational facilities;
- (g) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;
- (h) Broadcast towers;
- (i) Extracting sand, gravel, and soil;
- (j) Certain parking lots as defined in Chapter 27.63;
- (k) Elderly or retirement housing;
- (l) Expansion of nonconforming uses;
- (m) Historic preservation;
- (n) Garden centers;
- (o) Public utility purposes;
- (p) Wind energy conversion systems;
- (q) Mobile home subdivisions;
- (r) Housing and related facilities for the physically handicapped;
- (s) Greenhouses;
- (t) Outdoor seasonal sales;
- (u) Cemeteries;

- (v) Churches; increased lot coverage;
- (w) Domiciliary care facility;
- (x) Expansion of nonstandard single and two-family dwellings into required yards;
- (y) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.15.030;
- (z) Neighborhood support services;
- (aa) Clubs
- (bb) Connection of single-family dwelling to accessory building for the physically handicapped.
- (cc) Adult Care Centers

R-4 Residential

27.17.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-4 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Community unit plans in conformance with Chapter 27.65;
- (b) Private schools, other than those permitted under Section 27.17.020(e) above;
- (c) Health care facilities;
- (d) Dwellings for members of religious orders;
- (e) Mobile home courts;
- (f) Recreational facilities;
- (g) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;
- (h) Broadcast towers;
- (i) Certain parking lots as defined in Chapter 27.63;
- (j) Clubs;
- (k) Elderly or retirement housing;
- (l) Expansion of nonconforming uses;
- (m) Historic preservation;
- (n) Public utility purposes;
- (o) Wind energy conversion systems;
- (p) Mobile home subdivisions;
- (q) Housing and related facilities for the physically handicapped;
- (r) Outdoor seasonal sales;
- (s) Cemeteries;
- (t) Churches; increased lot coverage;
- (u) Domiciliary care facility;
- (v) Expansion of nonstandard single and two-family dwellings into required yards;
- (w) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.17.030;
- (x) Neighborhood support services;
- (y) Connection of single-family dwelling to accessory building for the physically handicapped.
- (aa) Adult Care Centers

R-5 Residential

27.19.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-5 Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

- (a) Private schools, other than those permitted under Section 27.19.020(g) above;
- (b) Health care facilities;
- (c) Dwellings for members of religious orders;
- (d) Recreational facilities;
- (e) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;
- (f) Broadcast towers;
- (g) Certain parking lots as defined in Chapter 27.63;
- (h) Clubs;
- (i) Elderly or retirement housing;
- (j) Community unit plans in conformance with Chapter 27.65;
- (k) Expansion of nonconforming uses;
- (l) Historic preservation;
- (m) Public utility purposes;
- (n) Wind energy conversion systems;
- (o) Housing and related facilities for the physically handicapped;
- (p) Outdoor seasonal sales;
- (q) Cemeteries;
- (r) Churches; increased lot coverage;
- (s) Domiciliary care facility;
- (t) Expansion of nonstandard single and two-family dwellings into required yards;
- (u) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.19.030;
- (v) Neighborhood support services;
- (w) Connection of single-family dwelling to accessory building for the physically handicapped.
- (x) Adult Care Centers

and add a new section to chapter 27.63 as follows:

27.63.____ Permitted Special Use: Adult Care Center.

Adult care centers may be allowed by special permit in the R-1, R-2, R-3, R-4, or R-5 zoning districts under the following conditions:

- (a) The application shall be accompanied by the following information:
 - (1) The number of adults and number of staff members on the largest shift;
 - (2) A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, the location and arrangement of parking spaces, the traffic circulation pattern, loading and unloading areas, fencing, play area, and entrances/exits to such facility.
 - (3) If the proposed facility is for twenty-one or more adults and is located in a residential district, the application must also include a conversion plan which complies with the design standards for early childhood care facilities.

- (b) Prior to occupancy, such facilities shall comply with all applicable state and local adult care centers and building requirements.
- (c) Facilities with twenty-one to thirty adults shall be located on collector or arterial streets. Facilities with thirty-one or more adults shall be located on an arterial street. The location of such facilities on such streets shall comply with the design standards for early childhood care facilities.
- (d) The site plan and play area for such facilities shall comply with the design standards for early childhood care facilities.
- (e) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code. In residential districts, such parking and loading/unloading area shall comply with the design standards for early childhood care facilities.
- (f) The City Council may modify these conditions, except for condition (b).

Prepared by:

Ray Hill
Planner

**CHANGE OF ZONE NO. 3283
and
SPECIAL PERMIT NO. 1851A**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 20, 2000

Members present: Duvall, Hunter, Taylor, Schwinn, Steward, Newman, Krieser, Carlson and Bayer.

Planning staff recommendation: Approval of the text amendment and conditional approval of the special permit.

These items were removed from the Consent Agenda and had separate public hearing at the request of Commissioner Hunter.

Proponents

1. John Bergmeyer appeared on behalf of the applicant. The text amendment will allow adult care facilities as special permitted uses in the R-1 through R-5 zoning districts. Currently, adult care facilities are not permitted as special uses within those districts. In July, Tabitha received approval of Special Permit No. 1851, which allows a facility to be constructed at 48th & J Streets for use solely as an early childhood care facility, serving a maximum of 62 children. From the beginning, Tabitha has wanted to use the facility as a joint facility providing both early childhood care for 42 children and adult care for a maximum of 20 adults. Tabitha has received a \$100,000 grant from the state to use in connection with the development of an adult care facility.

With respect specifically to the amendment to the special permit, there have been no changes whatsoever to the design of the facility which is already approved for the early childhood care facility. They are simply requesting that the special permit be amended to allow the facility to be used jointly as an early childhood care facility and as an adult care facility.

The east side of the property is zoned R-4, and the west side is zoned R-2. These are the only two zoning designations that affect this property; however, in an effort to work in conjunction with the staff and Law Department, they thought it was expedient and most efficient to go ahead and make the proposal apply to all of the R-1 through R-5 zoning districts.

Carlson inquired whether Tabitha anticipates locating other adult day care centers in the city. Bergmeyer was not aware of any at this time. Tabitha owns a variety of properties throughout the city. They do have a facility in the northern part of the city which will be serving as an adult care facility. It is an apartment complex that will be converted to adult care facilities. With respect to the Tabitha campus itself and this property, this would be the only adult care facility in that specific location. Carlson is trying to get a sense of potential for other sites around the city. Bergmeyer recalled that Tabitha had opposed the development of a project in Williamsburg for a retirement facility because Tabitha owns some property in that area that Tabitha has also considered using as a retirement facility as opposed to adult day care.

Steward asked the applicant to distinguish how this facility would differ from housing in related facilities for the physically handicapped and domiciliary care facilities. Bergmeyer stated that there is a separate designation for the adult care facilities. We are talking about adult day care and providing the same type of care services and facilities to adults who are ambulatory or who are wheelchair mobile as would be provided to children in an early childhood care facility. All of the requirements relating to early childhood care facility would also apply to this. They did consider the other definition such as domiciliary care, but it just didn't fit based upon the analysis of the City Attorney and Planning Department.

But from a health care practice point of view, Steward wondered whether it would be fair to say that domiciliary care facilities are live-in, overnight residences, and the adult care facility would be day hours only? Bergmeyer agreed. They would not allow any activity from 6:00 p.m. to 6:00 a.m.

Ray Hill of Planning staff clarified that domiciliary care facility is accommodations and supervision for four or more persons, 60 years of age or more. Day care is not limited to elderly adults. The proposed operation is not a 24-hour operation, and not for residence and sleep-over. Steward asked whether the Commission is guided definitionally by "ambulatory" versus "wheelchair bound"? Hill stated no, that is left to the operator. The state does the licensing and most of the control falls within the state licensing.

Newman inquired as to the difference between a senior center and an adult day care. Will people be coming and going all day? Bergmeyer believes it would be a lot like the traffic involved with the early childhood care facility. The demand exists and is growing. Newman asked whether the applicant would foresee an adult recipient of the services driving himself to this facility. Bergmeyer stated no, absolutely not. It would be either the guardian or the adult children of the adult who would drop them off, etc.

Hill further clarified that the zoning ordinance defines adult care center as, "...a facility in which a program of structured and supervised social, manual, physical and intellectual services or activities are provided to adults who are either ambulatory or wheelchair mobile. Such services or activities shall be provided for a minimum of three hours per day, but shall not provide for overnight stays by participating adults."

2. Mike Morosin, past president of **Malone Neighborhood Association**, testified that he is somewhat in support but he did get a lot of phone calls. He does have a concern about separation of the adults from the children. At Day Watch they had to bar some of the children from the adults. There was no testimony in opposition.

Carlson expressed concern that the timing of these two applications and their proximity of being heard at the same time on the agenda makes him wonder if we are changing the zoning text to facilitate a specific use in a specific location. He wants a sense of the demand for this type of service. He suspects that the demand is out there, but wants to make sure we are making the text change for its own reason. Hill believes that adult day care should be given the same privilege as early childhood. The staff believes there is a shortage in the zoning ordinance for that.

Presently, it is only permitted in commercial and industrial districts and the staff does not believe that is the only place it should be permitted. This applicant cannot request the special permit unless there is a change in the zoning ordinance.

Carlson wondered whether the text amendment concept had been percolating prior to this application. Hill believes there is a shortage in the zoning ordinance to allow for adult day care and that is the reason staff is supporting the application.

Newman inquired whether the text amendment was brought to the Mayor's Neighborhood Roundtable. She recalled that the Child Care Task Force met for a couple years and all this day care business was brought to the Roundtable twice and the number of children went down from 20 to 15 and there were major discussions. There are no neighborhood people here because they do not know about this. Hill acknowledged that this text amendment was not submitted to the Roundtable.

Rick Peo, City Attorney, pointed out that some of the problems with the zoning ordinance is that the state keeps creating new definitions of care type facilities and the city has a hard time fitting them into the zoning ordinance. Adult care was a recent innovation of the state and, at the time, the city did not have as much need to figure out where it would fit. This is in response to more demand from the state for facilities to be offered. Since Tabitha submitted the request for R-2 and R-4, the city staff determined that it should be expanded to include the R-1 through R-5 residential districts.

Carlson asked staff to confirm that there is no existing category that meets the needs of the proposal. Peo responded that the purpose of adult day care in 1992 was under a different concept than what society is looking at today as to locations. We were addressing specific problems at that time instead of overall. Carlson asked whether there is another category that would allow this use in R-1 to R-5. Rick advised that the staff did investigate and did not find anywhere else that it would fit.

Response by the Applicant

Bergmeyer advised that certain areas of the facility will be used only for the adults; certain areas will be used only for the children; and some are joint. Some portions of the facility will be used both by the adults and by the children; however, he did not know whether they would be jointly used at the same time. There will be nine employees. The services provided will be governed by the state statutes and Tabitha will comply with all laws, regulations and rules pertaining to the childhood care facility, the adult care facility and the two in conjunction.

Hunter inquired whether the day care center was originally developed for the purpose of Tabitha employees. Bergmeyer indicated that partially, but not in total. It is anticipated that others will use the facility as well as employees of Tabitha.

Newman suggested that the term spot zoning comes to mind. She is really uncomfortable with a text amendment to do something for one entity. She is worried about sweeping all of R-1 through R-5 with the same use. Peo advised that spot zoning is where you zone the property for the benefit of one property only, i.e. agricultural to R-1. The text change is within the districts that already exist and expands the uses to those districts. This is not a spot zone to add more uses within the district. Everyone zoned R-1 would have that same privilege. There is no district to zone the property. At a

minimum, you would make this change in R-2 and R-4 for this special permit. But, from staff's perspective, it was believed that the R-1, R-3 and R-5 are substantially the same.

Schwinn believes the reason that this property cannot be spot zoned is because we don't have a definition of adult day care to spot zone with. Peo clarified that we do not have adult day care as a permitted use in this district. Newman wanted to know how to go about amending the text to provide that it can only be approved if it does not unduly influence the character of the neighborhood. Peo advised that this is a special permitted use so the Commission already has that type of discretionary authority in its review. There are certain criteria for access, etc., but the Commission can still consider the surrounding neighborhood and make their own determination as to whether it fits into the neighborhood and does not cause a significant adverse effect.

Carlson believes that adult day care is currently allowed by right in B-1, B-3, I-1, I-2 and B-4. The larger Tabitha site is zoned R-4 and a portion B-1. They are there by special permit for a health care facility. If this facility were zoned B-1 they would have the adult day care center by right. Ray concurred. If zoned B-1 they would have the right for the adult day care with no special permit. Carlson believes that would be spot zoning. Peo advised that it would not be a spot zone to expand the boundaries of the B-1 district.

Carlson is concerned about the text change and what other avenues were considered by staff.

Public hearing was closed.

CHANGE OF ZONE NO. 3283

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 20, 2000

Hunter moved to deny, seconded by Carlson.

Hunter agrees that it would have been easier to expand the B-1 zoning on the Tabitha existing site. Bayer clarified that Tabitha is zoned R-4.

Hunter does not agree with adding this use to all of the residential districts. They could all submit to have adult centers, with or without early childhood. She believes it is in violation of the rights of a neighborhood. We need to have a continuing commitment to neighborhoods to protect their owner's investments. A residential neighborhood needs to remain a residential neighborhood. The concept of discriminating against one use or another has come up and she thinks it is more a situation of locating these types of uses in an area where zoning is applicable, and that is not in an R district.

Steward suggested that the Commission has the opportunity to make the list, shorten the list or extend the list for permitted special uses in any zone and that is the question at hand. He will vote against the motion on the basis that housing and related facilities for physically handicapped are already allowed as potential special uses in all of the R districts. Domiciliary care facilities are already allowed as potential special uses, and he believes this is a movement in our society for paying more attention to the full needs of care of elderly citizens. If they cannot be in a neighborhood, where would you like them to be? Every person in this room has been both the receiver of care and sooner or later will be a giver of care. We do not have enough variety in enough pleasant settings for the care of our senior citizens.

He will do anything possible to expand that option. Frankly, he believes we carry the residential protection too far for eliminating some of the potential mixed use options which increase the quality of life of people in the residence.

Carlson agrees that the proposal has truly high and noble aims as far as the care of the elderly and increasing the opportunity. The difficulty he has is having a text change to facilitate a specific location. He believes the text amendment needs to have its own discussion as opposed to being related to this special permit. This amendment should come forward as a separate application. This particular use on this site is actually very good, but he is concerned about joining the two items without appropriate community discussion on the text change. He wants to vote on the merits of the text change itself.

Peo pointed out that there are substantially equivalent uses permitted in these districts, i.e. health care, domiciliary care, handicap. That is why staff considered more than just the one district for the special permit. The concepts overlap in these types of groups. He does not believe this intrudes into the district with a new and unusual type use. Health care facility even includes hospitals and they are allowed in the same districts.

Duvall agrees with Steward. It is a matter of adding another definition for the needs in our community.

The difference Newman sees from domiciliary is that there is the ability to start dropping off 30 adults at 6:00 a.m. on a collector street. That is an intensive use of a collector street in a neighborhood. Allowing up to 30 adults in any R district is not acceptable.

Schwinn believes that every zoning issue starts with two things being pared together. It has to be brought forward. Staff can't be expected to bring every new state definition forward. They wait until someone comes in and makes the application. Then that triggers the process. There are already 26 different special permitted uses in the R-1 zoning. This just adds another definition to what already goes on. You consider the traffic situation on each special permit on a case by case basis. Schwinn believes that this definition needs to be in the zoning ordinance, but he pointed out that each specific case will be brought forward by special permit and be reviewed on its own merit.

Carlson believes that this discussion is affirmation of the fact that this needs community input. He believes there is a need and it may be completely appropriate. But there are questions that deserve a larger discussion than this particular forum. He believes the Commission should receive more community input.

Bayer stated that he cannot see why this isn't a slam dunk. We put them there as kids, and bury them there, but we can't take care of them there. These adults have a right to be in any neighborhood they want to be. When I had to find a place for my mother, I couldn't.

Motion to deny failed 3-6: Hunter, Newman and Carlson voting 'yes'; Duvall, Taylor, Schwinn, Steward, Krieser and Bayer voting 'no'.

Steward moved approval, seconded by Duvall and carried 6-3: Duvall, Taylor, Schwinn, Steward, Krieser and Bayer voting 'yes'; Hunter, Newman and Carlson voting 'no'.

SPECIAL PERMIT NO. 1871A

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 20, 2000

Duvall moved approval, with conditions, seconded by Schwinn and carried 8-1: Duvall, Taylor, Schwinn, Steward, Newman, Krieser, Carlson and Bayer voting 'yes'; Hunter voting 'no'.