City Council Introduction: November 17, 2014
Public Hearing: **November 24, 2014, 5:30 p.m.**

Bill No.14-144

FACTSHEET

TITLE: TEXT AMENDMENT NO. 14010
(Title 26 of the Lincoln Municipal Code)

BOARD/COMMITTEE: Planning Commission

APPLICANT: Director of Planning

RECOMMENDATION: Approval (8-0: Scheer, Beecham, Cornelius, Corr, Hove, Weber, Harris and Lust voting 'yes'; Sunderman absent).

STAFF RECOMMENDATION: Approval

OTHER DEPARTMENTS AFFECTED: N/A

SPONSOR: Planning Department

OPPONENTS: None.

REASON FOR LEGISLATION:

To amend Chapter 26.23 of the Lincoln Municipal Code, Development Standards, by amending Section 26.23.040 relating to widths of right of ways to increase the width of pedestrian way easements from 5 feet to 15 feet; amending Section 26.23.125 to set forth location and width requirements of pedestrian way easements; amending Section 26.23.130 relating to block sizes to add provisions relating to the measurement of block lengths; amending Section 26.23.140 relating to lots to delete width requirements for residential lots servient and adjacent to pedestrian way easements; and repealing Sections 26.23.040, 26.23.125, 26.23.130, and 26.23.140 of the Lincoln Municipal Code as hitherto existing.

DISCUSSION / FINDINGS OF FACT:

1. This text amendment and Text Amendment No. 14011 (Bill #14-145) were heard at the same time before the Planning Commission.

2. The purpose of this proposed text amendment to Title 26 is to change the requirements for a pedestrian way easement and to clarify how to measure block length.

3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-3. The staff presentation is found on p.5.

4. There was no testimony in opposition.

5. On October 29, 2014, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of this text amendment to Title 26.

6. On October 29, 2014, the Planning Commission also voted 8-0 to recommend approval of the associated Text Amendment No. 14011 to Title 27 (Bill #14-145).

FACTSHEET PREPARED BY: Jean Preister, Administrative Officer

DATE: November 10, 2014

REVIEWED BY: Stephen Henrichsen, Land Use Planning Manager

DATE: November 10, 2014

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LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for OCTOBER 29, 2014 PLANNING COMMISSION MEETING

PROJECT #: ***Text Amendment No.14010*** and
Text Amendment No.14011

PROPOSAL: ***Amend Section 26.23.040 to change the width of a pedestrian easement; Section 26,23,125 to require pedestrian way easements in outlots under certain criteria; Section 26.23.130 to define how block length is measured; Section 26.23.140 to delete the paragraph requiring residential lots next to pedestrian easements to be of sufficient size;*** and amend Section 27.72.180 to require buildings to be 12.5 feet from the centerline of a pedestrian way easement.

CONCLUSION: Adoption of the proposed text for block length will more clearly define how to measure block length. Increasing the width of a pedestrian easement from 5 feet to 15 feet and having the pedestrian easement in an outlot should provide better maintenance and visibility.

RECOMMENDATION:	Approval

ANALYSIS:

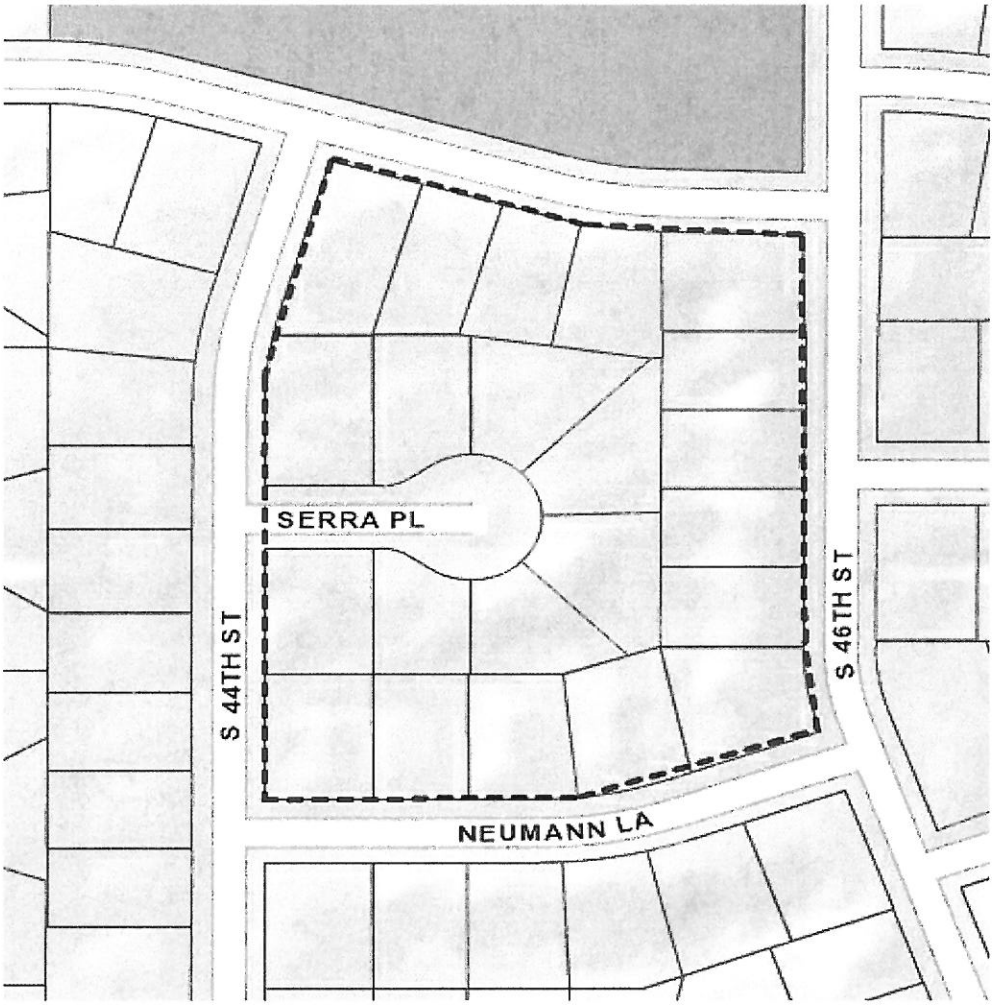
1. This is a text amendment to amend the zoning ordinance and subdivision ordinance to change the requirements for a pedestrian way easement and to clarify how to measure block length.

2. Currently a pedestrian way easement is required to be 5 feet wide, with a 4' wide sidewalk within the easement. The easement is typically on private property along the lot line between two lots. Often the 5' wide easement has fences on both sides of the easement resulting in a narrow passageway. With a 6 feet high fence on each side of the easement, clearing the sidewalk of snow can be difficult. Some people have expressed concerns in the past about being able to see in the 5 feet easements when there are privacy fences on both sides of the easement. Clearing the snow off of the sidewalk and other maintenance is the responsibility of the property owner and not all of the property owners within the subdivision.

3. The proposed text for pedestrian way easements would change the minimum width to 15 feet and require the easement to be in an outlot when the subdivision has other common open space or private roads. This will move the burden of maintenance from the private property owner to all property owners within the subdivision; most likely through a homeowner association. The 15' wide easement will provide space on both sides of the sidewalk for snow storage and will remove the "cattle chute" feeling of the 5' wide easement with fences on both sides. If there is no common open space or private roadway within the subdivision the 15' wide easement should be placed 10 feet on one lot and 5 feet on the adjoining lot. The sidewalk should be placed within the 10 feet portion along the lot line. By having the sidewalk on one lot and not having the sidewalk partly on each lot, simplifies the maintenance. This way only one property owner is responsible for maintenance and there is not shared maintenance.

4. Section 26.23.130 of the Subdivision Ordinance requires that block lengths shall not exceed 1,320 feet between cross streets. The measuring "between cross streets" has led to different interpretations between developers and Planning staff over many years. The proposed text

simplifies how to measure a block by taking the entire perimeter of the block and dividing in half. The measurement around the perimeter of the block would be measured at the lot line. The perimeter measurement would not include following the lot line within a cul-de-sac. Instead at a cul-de-sac the perimeter measurement will cross the street, in the same manner a person or vehicle going around the block would travel. (See below)



5. Section 26.23.130 adds a condition that block length may not exceed 1,000 feet in neighborhoods originally platted prior to December 31, 1949. Blocks in the older part of the City are normally 1,000 feet or less in length. This new requirement will help keep the very walkable character of these neighborhoods with any redevelopment in the older areas of the City.

6. The proposed text amendment to 27.72.180 of the Zoning Ordinance changes the setback from a pedestrian way easement to a building. Currently a building has to be 10 feet from a pedestrian way easement. The proposed setback would be 12.5 feet from the center of the easement. This provides a 5 feet setback from the lot line to a building when the easement is in an outlot; the same as a side yard setback in most residential districts. Due to there being pedestrian easements of different width; some 5' some 10' and some 15'; measuring from the center handles all circumstances fairly. The attached exhibits show that if you have a 5' pedestrian easement or a 15' pedestrian easement the setback to the building from the sidewalk is the same at10 feet.

SUMMARY

7. **Amendment to Section 27.72.180.** This changes the setback from a building to a pedestrian way easement from 10 feet to 12.5 feet from the center of the easement.

8. ***Amendment to Section 26.23.040**. This changes the width of the pedestrian easement from 5 feet to 15 feet.*

9. ***Amendment to Section 26.23.125.** This adds a requirement that pedestrian way easements shall be in an outlot when the subdivision has common open space or private roadways.*

10. ***Amendment to Section 26.23.130.** This clarifies how to measure block length, adds that block length may exceed 1,320 feet if a school or park forms one boundary of the block and adds that block length shall not exceed 1,000 feet in neighborhoods originally platted prior to December 31, 1949.*

11. ***Amendment to Section 26.23.140.** This deletes paragraph "H" that requires lots adjacent to pedestrian easements be of sufficient size to allow for the additional setback. This is not necessary since the pedestrian easement will be in an outlot or if on a private lot developers routinely make the lots wider.*

Prepared by:

Tom Cajka
Planner

DATE October 17, 2014

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TEXT AMENDMENT NO. 14010
and
TEXT AMENDMENT NO. 14011

PUBLIC HEARING BEFORE PLANNING COMMISSION: October 29, 2014

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

Staff recommendation: Approval.

Ex parte communications: Corr disclosed that she attended the Mayor's Neighborhood Roundtable on October 13, 2014, where these two text amendments were presented.

Staff presentation: **Tom Cajka of Planning staff** explained the proposed amendments. It is being requested that the pedestrian way easement requirement be widened from a minimum of 5 feet to a minimum of 15 feet. The easement would be located on outlots and maintained by a homeowners association if the subdivision had other common open space or private streets which are maintained by the homeowners association, which would relieve the individual property owners from the maintenance of the pedestrian way easement. Cajka acknowledged that there could be some rare instances where a subdivision does not have any common open space. In that situation, the pedestrian way easement would be on private property, but this is very rare.

Cajka explained that another reason for widening the pedestrian way easement is that the 5' easements have caused some difficulties in the past. Some people feel they are unsafe and there are issues with having room to remove snow.

This proposal also changes the requirement that buildings be 10' away from a pedestrian easement. This application would change that setback distance to 5'. In most cases the pedestrian way easement is on an outlot and there will still be ample space from the actual sidewalk and any fence. The setback would be 12.5 feet from the centerline to the building, thus with a 15' wide outlot, 12.5 feet from the centerline of the sidewalk to the building would end up being 5', which is the same as a side yard setback in most residential districts.

Cajka then explained that the third change is more of a clarification of how to measure block length. There have been some different interpretations over the years about how to measure the block length and the subdivision ordinance is not really clear. The proposal is to measure the entire perimeter of the block and divide by two. That would be the block length. This does not change the block length of 1,320 feet, except for a neighborhood that was platted prior to December 31, 1949, where the maximum block length would change to 1,000 feet. The reason for 1,000 feet in these older neighborhoods is because there are smaller blocks, so in order to keep the character of the neighborhood with any kind of infill redevelopment, it is being recommended that the block length be changed to 1,000 feet.

There was no testimony in opposition.

TEXT AMENDMENT NO. 14010
ACTION BY PLANNING COMMISSION: October 29, 2014

Cornelius moved approval, seconded by Weber.

Cornelius commented that the Commission has indeed seen applications that have resulted from the problems that arise with the minimum requirement of 5' for pedestrian easements, and there are problems with perceived safety and problems with maintenance. It is a good step forward to alleviate those problems with the wider easement.

Motion for approval carried 8-0: Weber, Beecham, Cornelius, Corr, Harris, Scheer, Hove and Lust voting 'yes'; Sunderman absent. This is a recommendation to the City Council.

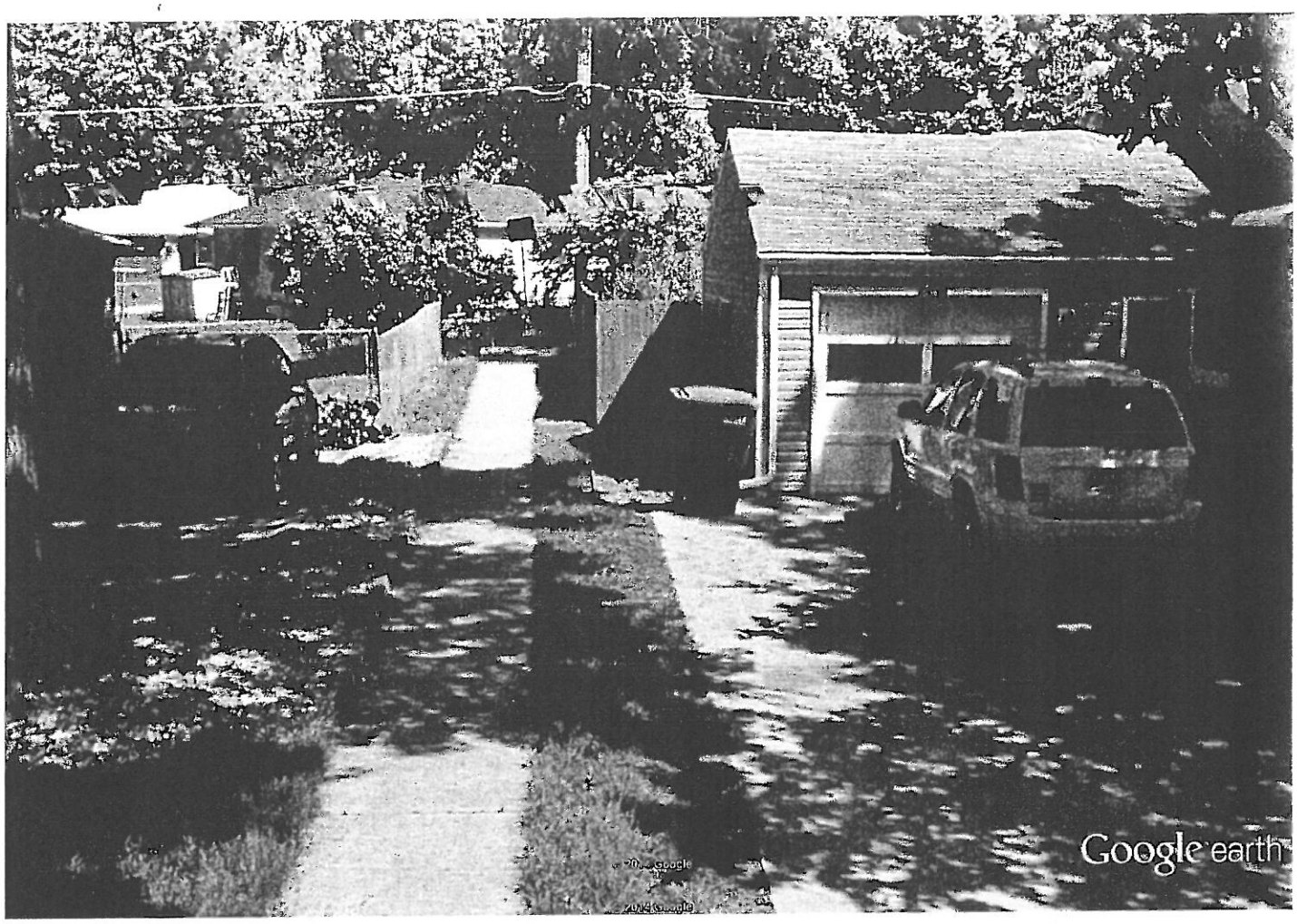
TEXT AMENDMENT NO. 14011
ACTION BY PLANNING COMMISSION: October 29, 2014

Beecham moved approval, seconded by Scheer.

Lust commented that it is always nice when we can make amendments for clarification purposes so that people know what the standards are before they get into the process.

Motion for approval carried 8-0: Weber, Beecham, Cornelius, Corr, Harris, Scheer, Hove and Lust voting 'yes'; Sunderman absent. This is a recommendation to the City Council.

5' PEDESTRIAN EASEMENT



Google earth

feet 8
meters 2

10' PEDESTRIAN EASEMENT