

## FACTSHEET

**TITLE:** **TEXT AMENDMENT NO. 15004**  
(Title 27 - Amend relative sections to allow residential healthcare facilities and dwellings for members of religious order, on a lot of five or more acres.

**BOARD/COMMITTEE:** Planning Commission

**APPLICANT:** Marsha Stork

**RECOMMENDATION:** Approval (8-0: Lust, Cornelius, Weber, Scheer, Corr, Hove, Harris, and Sunderman)

**STAFF RECOMMENDATION:** Approval

**OTHER DEPARTMENTS AFFECTED:** N/A

**SPONSOR:** Planning Department

**OPPONENTS:** None

**REASON FOR LEGISLATION:** To amend Sections 27.06.080, 27.63.530, and 27.72.010 to allow residential healthcare facilities as a special permit use in the AG zoning district on a lot which has five or more acres.

**DISCUSSION/FINDINGS OF FACT:**

1. This proposed text amendment is a condition of approval for associated Special Permit No. 15023, to allow Emerald Care Center to operate as a residential healthcare facility in the AG Zoning District. On June 10, 2015, the Planning Commission voted 8-0 for conditional approval of this special permit as part of the consent agenda, which was approved by Resolution No. PC-01455.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-5, concluding that the proposed text changes are in conformance with the 2040 Comprehensive Plan and should not have a significant negative impact on surrounding properties. The staff presentation is found on p.7-8.
3. Testimony by the applicant is found on p.8.
4. There was no testimony in opposition.
5. On June 10, 2015, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of this text amendment.

**FACTSHEET PREPARED BY:** Geri Rorabaugh, Administrative Officer

**DATE:** June 17, 2015

**REVIEWED BY:** David R. Cary, Acting Planning Director

**DATE:** June 17, 2015

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# LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for June 10, 2015 PLANNING COMMISSION MEETING

**PROJECT #:** Text No. 15004

**PROPOSAL:** Amending Section 27.06.080, 27.63.530 and 27.72.010 to allow Residential Healthcare Facilities as a special permitted use in the AG zoning district on a lot which has five or more acres.

**CONCLUSION:** The proposed changes are in conformance with the 2040 Comprehensive Plan and should not have a significant negative impact on surrounding properties.

## RECOMMENDATION:

### GENERAL INFORMATION:

**ASSOCIATED APPLICATIONS:** SP15023 Special Permit for a Residential Healthcare Facility at 5500 S. Coddington Avenue.

**HISTORY:** The use “Residential Health Care Facility” was added to the zoning ordinance as part of the “Use Group” changes in June 2012. The use “health care facility” was split into residential and non-residential uses. The non-residential use includes hospitals or outpatient facilities. The “residential” side included nursing homes, convalescent homes and the former separate use of domiciliary care facility and group home for 16 or more persons.

### COMPREHENSIVE PLAN SPECIFICATIONS:

#### *Strategies for Neighborhoods and Housing, Page 7.4*

- Create housing opportunities for residents with special needs throughout the city that are integrated into and compatible with residential neighborhoods.
- Design and locate special needs housing to enhance the surrounding neighborhood.

#### *Developing Neighborhoods, Page 7.5*

- There are notable differences between special needs housing and traditional multiple-family residential developments. Typically, special needs housing will have fewer occupants per unit and will generate less traffic than housing built for the general marketplace. Thus, a location that is deemed appropriate for special needs housing may not be deemed appropriate for other types of higher-density housing such as apartments or town homes.

#### *Existing Neighborhoods, Page 7.8*

- For existing neighborhoods, housing diversity is often already in place, but efforts must focus on maintaining this balance and variety. The diversity of architecture, housing types and sizes are central to what makes existing neighborhoods great places to live.

Rural Areas, P 7.11

- New acreage development is not encouraged in the "Map 1.3: Growth Tiers with Priority Areas" for Lincoln's three-mile extra territorial jurisdiction (ETJ), except for areas already platted, zoned, or designated for low density residential development.

**ANALYSIS:**

1. This application is requested by an existing Alzheimer's Memory Care facility that is at 5500 Coddington Avenue. It was granted a building permit as a group home in 2005, which is a conditional use. The facility has basically operated as a health care facility for nearly ten years in the AG zoning district.
2. The applicant is requesting to add residential health care facility as a special permitted use in the AG zoning district. They have also requested Special Permit #15023 to permit their existing residential health care facility if this text amendment is approved.

3. The definition of a residential health care facility is:

***"Health Care Facility, Residential. Residential health care facility shall mean a building or structure that is to be used in a residential nature, licensed or approved by the state or an appropriate agency, if required. Residential health care facility could include but would not be limited to the following types of facilities: Assisted Living, Nursing Care, Convalescent Home, Hospice Home, Group home for 16 or more people and Intermediate Care."***

4. The following are "Group Living" uses allowed in the AG zoning district:

- a. Domestic shelters as a conditional use
- b. Group homes (less than 16 person) as a conditional use
- c. Dwellings for Members of a Religious Order by special permit

5. Other non-residential uses are allowed in the AG district, such as:

- a. Churches as a permitted use
- b. Early Childhood Care facilities as a conditional use
- c. Campgrounds by special permit
- d. Clubs by special permit
- e. Private schools by special permit
- f. Outdoor recreational facilities by special permit

6. Typically, assisted living and convalescent homes have located within the city limits in residential zoning districts. Most often these uses are seeking residential settings that aid in serving their residents. As noted in the Comprehensive Plan, these types of special housing often generate less traffic per person than other residential uses. There is often little noise or disturbances from these uses that would negatively impact adjacent residential or agricultural uses.

7. While most assisted living and convalescent homes have sought urban settings, there is an interest in providing these living arrangements in a more rural setting as well. Particularly in the Midwest, some residents may desire a more familiar rural setting when seeking an assisted living facility.
8. A large scale, multi-story residential health care facility, such as Eastmont Tower or Gateway Manor, would not be appropriate in the rural setting outside of the city limits. These higher density uses would have more visitors, deliveries and traffic and their scale would be inappropriate in agricultural area. By allowing residential health care facilities by special permit, the scale and impact of each facility can be judged on a case by case basis.
9. The applicant is also requesting to allow residential health care facilities on lots as small as five acres in the AG zoning district. The property to the south was recently permitted through a similar text amendment that allowed Dwellings for Members of a Religious Order on a minimum of five acres. If a convalescent or assisted living facility was to locate in a rural setting, allowing them on fewer acres will mean less land taken out of agricultural production. Both types of facilities don't necessarily need 10 or 20 acres of land to function. While large facilities like the recently proposed Eastmont at Yankee Hill did use more than 10 acres, in a rural setting it would be more appropriate to have a smaller facility on a smaller lot.
10. The following facilities are already allowed in the AG or AGR zoning district on lots less than 20 acres:

Conditional Uses:

- Greenhouses 2 acres in AG and AGR (Sec. 27.62.030 ( c))
- Pet cemeteries 5 acres in AG and AGR (Sec. 27.62.030 (d))
- Cemeteries and mausoleums Less than 20 acres if established prior to effective date of the ordinance (27.62.070 (a))

Special Permitted Uses:

- Temporary storage of construction equipment and materials 7 acres (Section 63.590)
- Tree service On lots, including undersized lots...(27.63.770)
- Dwellings For Members of a Religious Order 5 acres in AG per (Section 27.63. 090)
- Public Utility and Cable Television Purposes Lot area "shall not apply" (Sec. 27.63.225)

- Commercial Wind Energy Conversion

Systems/Turbines

The City Council may.. decrease the minimum regulations of the AG Agriculture District (Section 27.63.425)

11. The following is a review of the specific sections being amended to allow residential health care facilities in the AG zoning district and to allow them on lots with a minimum of five acres. (Note: in drafting the revisions proposed by the applicant, some additional minor changes and reformatting was done to improve the functioning of the zoning ordinance.)
  - a. Amend Section 27.06.080 to revise the Use Group table for Group Living Use Group to show Health Care Facilities, Residential as a Special Permitted Use.
  - b. Amend Section 27.63.530 Health Care Facilities, Residential to add the AG zoning district, to permit one person per 5,000 square feet of lot area and to permit facilities on a minimum of five acres.
  - c. Amend Section 27.72.010 ( c) Height and Lot Regulations AG and AGR Districts to note that if a lot has less area, width or frontage it may be allowed by the table in this section or by the Conditional Use (Section 27.62) or Special Permitted Use (Section 27.63) chapters.
  - d. Amend Section 27.72.010 ( c) Height and Lot Regulations AG and AGR Districts to amend the Table to delete Greenhouses and Pet Cemeteries and since the lot size is already covered in separate sections. The amendment also deletes the lot size for Dwellings for Members of a Religious Order since that provision will be moved instead to Section 27.63.090.
  - e. Amend Section 27.63.090 Dwellings for Members of a Religious Order to include the provision allowing a minimum of five acres from Section 27.72.010 ( c).
12. It was determined that maintaining a list of smaller lot sizes in Table 27.72.010 and also having those same lot sizes in the Conditional and Special Permitted Use chapters wasn't necessary and could lead to errors. So the specific lot sizes are being removed for Conditional and Special Permitted uses from Table 27.72.010.

Prepared by

Stephen Henrichsen, Development Review Manager  
402-441-6374  
shenrichsen@lincoln.ne.gov

**DATE:** May 28, 2015

**CONTACT:** Jeremy Williams  
1609 N Street  
Lincoln, NE 68508

**APPLICANT:** Marsha Stork  
1710 Surfside Drive  
Lincoln, NE 68528

# TEXT AMENDMENT NO. 15004

**TEXT AMENDMENT NO. 15004, AMENDING TITLE 27  
OF THE LINCOLN MUNICIPAL CODE TO ALLOW HEALTHCARE  
FACILITY, RESIDENTIAL AS A SPECIAL PERMIT USE IN THE AG  
ZONING DISTRICT AND TO ALLOW MEMBERS OF RELIGIOUS  
ORDERS IN ON A LOT OF FIVE OR MORE ACRES.  
PUBLIC HEARING BEFORE THE PLANNING COMMISSION:**

June 10, 2015

Staff Recommendation: Approval

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

There were no ex parte communications disclosed on these items.

Staff presentation: **Steve Henrichsen of the Planning Department** provided an overview of the application for this text amendment. The applicant is Design Associates, who submitted it on behalf of Marsha Stork, owner of Emerald Care Facility. This amendment is necessary for the special permit for a residential healthcare facility in AG zoning that is just outside of the city limits at 5500 South Coddington. This facility has been in existence for ten years. It came to light recently that they obtained a building permit as a group home but had really been operating as a residential healthcare facility. This was brought to the attention of the Planning Department and this amendment is the result of needing to do something to legalize the site or the site use would need to stop. The applicant submitted the application to change the text. During the review, staff identified some reformatting that was necessary, resulting in a several sections of text being adjusted, including members of a religious order, which has nothing to do with this particular applicant. Henrichsen explained that currently a residential healthcare facility is not allowed in AG Agricultural zoning. This would not be a permitted use but would require a site plan review via special permit. It was noted that there are healthcare providers that like to be in a more rural setting. Secondly, Emerald Care would currently be required to have a 20-acre lot. Their lot is only seven acres, so this amendment will allow this type of special permitted use on a lot as small as five acres. Staff agrees that there are certain uses that could be on smaller properties. They already allow greenhouses on lots as small as two acres. In terms of the text, it is currently addressed in two separate sections in the code so staff is removing the reference in the Height and Lot section to avoid confusion.

Questions of Staff:

Corr asked how staff decided on the 1 person per 5,000 square feet. Henrichsen explained that in the R-1 zoning district, it is 1 to 3,000 square feet, and they are looking at something that would have fewer persons than that per lot area. It would still be a very large area with adequate setbacks. This application may allow up to 50 to 60

persons but given the amount of setbacks and the amount of area, staff felt it could still be appropriate, even though they don't view this as going up to a large development for 300 people. By having a special permit, this is still something that can be done on a case-by-case basis.

Lust asked for clarification under the "Use Type" and why staff is proposing to eliminate the text of "greenhouses, pet cemeteries, dwellings for religious order", as identified on page 119. Henrichsen explained that this part of the text amendment deals primarily with the format. This is the table in the Height and Lot section, which lists the size of lot required. This information can be found in other sections of the zoning ordinance, which can cause confusion. It is best to maintain in one section.

Proponents:

1. **Jeremy Williams of Design Associates, 1609 N Street, Lincoln, NE**, came forward representing the applicant.. He stated that the application is intended to clean up the situation for Emerald Care Center.

Opponents: None.

**ACTION BY PLANNING COMMISSION:**

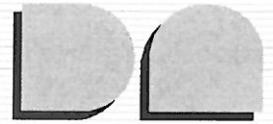
June 10, 2015

Scheer moved to recommend the approval of this text amendment; seconded by Hove.

Cornelius indicated that this is a situation where there is an existing use that is not necessarily in conformance with the zoning. He noted that this change doesn't seem particularly onerous, and they still maintain a degree of control by putting it under the special permit process. It seems like this kind of healthcare facility in a rural setting may have value both the residents and to the owners. He believes it is a worthwhile a change.

Corr stated that this will allow smaller facilities like this to develop on a smaller parcel to help preserve AG land.

Motion carried 8-0; Lust, Hove, Weber, Scheer, Harris, Cornelius, Corr, and Sunderman; Beecham absent.



March 23 , 2015

Mr. David Cary  
Acting Director of Planning  
City of Lincoln /Lancaster County  
555 South 10th Street, Room 213  
Lincoln, NE 68508

Re: Text Amendment to the Zoning Ordinance &  
Special Permit -Health Care Facility, Residential  
5500 South Coddington Avenue  
Lot 1, Potters Pocket

Dear Mr. Cary:

On behalf of Marsha Stork, owner of the Emerald Care facility located at 5500 South Coddington Avenue we submit this application for a Text Amendment to the Zoning Ordinance and a Special Permit for a Health care Facility, Residential.

In 2005 the existing Emerald Care facility was permitted as a Group Home. Recently it was brought to their attention by the Planning Department that they are operating more in nature of a Health Care facility, Residential than a Group Home. Currently this is not a permitted use in the AG Zoning District.

First, this application is for a Text Amendment to the Zoning Ordinance to allow for a Healthcare Facility, Residential as a Special Permitted Use in the AG Zoning District.

The proposed amendment is as follows:

### **27.06.080 Group Living Use Group**

Characteristics: The Group Living Use Group is characterized by the residential occupancy of a structure by a group of people who do not meet the characteristics of Household Living. Tenancy is generally arranged on a month-to-month basis, or for a longer period. Group Living may have common eating and social areas for residents. The residents may receive any combination or duration of care, counseling, training, or treatment. Such uses include but are not limited to dwellings for members of religious orders, convalescent home, nursing home, domestic shelters, assisted living facilities, fraternities and sororities, group homes, temporary shelters for the homeless.

Use Group Table:

Uses	AG	AGR	R1	R2	R3	R4	R5	R6	R7	R8	O1	O2	O3	RT	B1	B2	B3	B4	B5	H1	H2	H3	H4	I1	I2	I3
Alternative to imprisonment facilities		S	S	S	S	S	S	S	S	S								P								
Children's homes		S	S	S	S	S	S	S	S	S								P								
Domestic shelters	C	C	C	C	C	C	C	C	C	C				C				P			P	P	P			
Healthcare facilities, Residential	S		S	S	S	S	S	S	S	S	S	S	P	S	S	S	S	P	S							
Dwellings for members of religious orders	S	S	S	S	S	S	S	S	S	S								P								
Dwellings for non-related persons			S	S	S	S	S											P								
Fraternal and sororities								P	P	P								P								
Group homes	C	C	C	C	C	C	C	C	C	C	P		P	C				P	P							
Shelters for the homeless, temporary																		S						S		
All other uses in this Use Group																		P								

**27.63.530 Healthcare Facilities, Residential.**

Residential health care facilities may be allowed in the AG, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-2, R-T, B-1, B-2, B-3, B-4, and B-5 zoning districts under the following conditions:

(a) Parking shall be in conformance with Chapter 27.67 unless modified under the condition of the special permit, provided that no parking shall be permitted in the required front or side yards.

(b) Residential healthcare facilities shall be licensed to comply with all state requirements.

(c) The total number of client or employee residents shall not exceed the lot area ratio below except as provided for in this section, and provided that all facilities may have up to four individuals sixty years of age or older and one family acting as the residential caretaker:

- (i) AG zoning district: One person per 5,000 square feet of lot area;
- (ii) R-1 zoning district: One person per 3,000 square feet of lot area;
- (iii) R-2 zoning district: One person per 2,000 square feet of lot area;
- (iv) R-3 zoning district: One person per 2,000 square feet of lot area;
- (v) R-4 zoning district: One person per 1,000 square feet of lot area;
- (vi) R-5 zoning district: One person per 750 square feet of lot area;
- (vii) R-6 zoning district: One person per 750 square feet of lot area;
- (viii) R-7 zoning district: One person per 750 square feet of lot area;
- (ix) R-8 zoning district: One person per 750 square feet of lot area.

(d) Depending on the character of the development and impacts on adjacent land uses, the Planning Commission may grant an increase in the number of residents allowed in ~~(d)-(c)~~ above where the site plan and building plans comply with the barrier-free standards in the design standards as adopted by the City Council. Such increase shall not exceed fifty percent.

(e) The height and yard requirements of the district in which the proposed use is located shall apply provided, however, that if the area of the lot is one acre or more, the height requirement of the district may be adjusted to provide flexibility in the design of buildings and to provide compatibility with surrounding uses except that solar access to adjacent buildings or potential buildings on land under other ownership shall not be reduced by such adjustment. (Ord. 19827 §16; February 25, 2013: prior Ord. 19733 §31; June 25, 2012: Ord. 18903 §7; March 26, 2007: Ord. 18480 §12; December 20, 2004: Ord. 17513 § 1; June 1, 1999: Ord. 16687 §2; October 17, 1994: Ord. 14562 §10; December 8, 1986).

Included with this submittal is the following information:

Application for a Text Amendment to the Zoning Ordinance & Special Permit  
Text Amendment Filing Fee - \$330.00  
Special Permit Filing Fee - \$792.00  
This cover letter and the site plan will be uploaded to ProjectDox.

Please feel free to contact us (402) 474-3000 if we can provide any additional information or answer any questions that will assist in the review of this application.

Sincerely,

A handwritten signature in cursive script that reads "Jeremy Williams". The signature is written in dark ink and is positioned above the printed name.

Jeremy Williams, P.E.