

**IN LIEU OF  
DIRECTORS' MEETING  
Monday, January 22, 2018**

**I. DIRECTORS CORRESPONDENCE  
PLANNING DEPARTMENT**

1. Action dated January 17, 2018
2. Final Action dated January 17, 2018

**II. CONSTITUENT CORRESPONDENCE**

1. Proposed Change of Zone TX17001 - Neale Stadler
2. Proposed Change of Zone TX17001 - Duston Stanczyk
3. Proposed Change of Zone TX17001 - Mel Severin
4. Change of Zone 17028 - Stephen Henrichsen
5. Resolution No. PC-01575 - Permit No. 17022, Opposition - Rodger Johnson
6. Proposed Change of Zone TX17001 - Erin Stanczyk
7. Proposed Change of Zone TX17001 - Tim Johnson
8. Proposed Change of Zone TX17001 - Bob and Charla Hutkins
9. Proposed Change of Zone TX17001 - Denise Manton
10. Proposed Change of Zone TX17001 - Marcus Powers
11. Proposed Change of Zone TX17001 - Rena Worth
12. Proposed Change of Zone TX17001, Opposition - John Jorgensen, UPCO Board President
13. Proposed Change of Zone TX17001 - Rebecca Hansen
14. Proposed Change of Zone TX17001 - Mike and Doris Pleskac
15. Proposed Change of Zone TX17001 - Marcia Murray
16. Proposed Change of Zone TX17001 - Ann Powers
17. Proposed Change of Zone TX17001 - Chelsey Pounds
18. Proposed Change of Zone TX17001 - Mary Norseen
19. Proposed Change of Zone TX17001 - Joe Norseen

**III. MEETINGS/INVITATIONS**

See invitation list.

**IV. ADJOURNMENT**

# **\*\*REVISED ACTION BY PLANNING COMMISSION\*\***

**NOTICE:** The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, January 17, 2018, at 1:00 p.m. in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

The Lincoln/Lancaster County Planning Commission will meet on Wednesday, January 17, 2018, from 12:15 p.m. to 12:45 p.m. in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, Nebraska, to discuss UDD Reorganization.

**\*\*PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of “FINAL ACTION”. Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

## **AGENDA**

**WEDNESDAY, JANUARY 17, 2018**

**[All Commissioners present; Commissioner Corr left at 1:52 p.m.]**

Approval of minutes of the regular meeting held January 3, 2018. **\*\*APPROVED: 7-0; Finnegan and Harris abstained\*\***

**1. CONSENT AGENDA**  
**(Public Hearing and Administrative Action):**

**CHANGE OF ZONE AND RELATED SPECIAL PERMIT:**

- Page 01
- 1.1a Change of Zone No. 17037, from R-3 (Residential District) to R-4 (Residential District), on property generally located at 3720 North 1st Street.  
**Staff recommendation: Approval**  
**Staff Planner: Rachel Jones, 402-441-7603, [rjones@lincoln.ne.gov](mailto:rjones@lincoln.ne.gov)**  
**Planning Commission recommendation: APPROVAL; 8-0; Scheer declared a conflict of interest. Public hearing before the City Council is tentatively scheduled for February 5, 2018.**

Page 07 1.1b Special Permit No. 17053, to allow for the development of a new Community Unit Plan comprised of 10 dwelling units with waivers to setbacks and lot dimensions, on property generally located at 3720 North 1st Street. **\*\*FINAL ACTION\*\***

**Staff recommendation: Conditional Approval**

**Staff Planner: Rachel Jones, 402-441-7603, [rjones@lincoln.ne.gov](mailto:rjones@lincoln.ne.gov)**

**Planning Commission 'final action': CONDITIONAL APPROVAL, as set forth in the staff report dated January 8, 2018: 8-0 (Scheer declared a conflict of interest). Resolution No. PC-01585**

**SPECIAL PERMITS:**

Page 21 1.2 Special Permit No. 687A, to allow a daycare center for up to 90 children, on property generally located at 4005 North 70th Street.

**Staff recommendation: Conditional Approval**

**Staff Planner: Rachel Jones, 402-441-7603, [rjones@lincoln.ne.gov](mailto:rjones@lincoln.ne.gov)**

**This application was removed from the Consent Agenda and had separate public hearing. Planning Commission recommendation: CONDITIONAL APPROVAL, as set forth in the staff report dated January 9, 2018; 9-0. Public hearing before the City Council is tentatively scheduled for February 5, 2018.**

Page 35 1.3 Special Permit No. 17051, to allow a daycare center for up to 120 children, on property generally located at 4401 O Street. **\*\*FINAL ACTION\*\***

**Staff recommendation: Conditional Approval**

**Staff Planner: George Wesselhoft, 402-441-6366, [gwesselhoft@lincoln.ne.gov](mailto:gwesselhoft@lincoln.ne.gov)**

**This application was removed from the Consent Agenda and had separate public hearing. Planning Commission 'final action': CONDITIONAL APPROVAL, as set forth in the staff report dated January 4, 2018: 8-0 (Corr absent). Resolution No. PC-01586**

**2. REQUESTS FOR DEFERRAL: None.**

**3. ITEMS REMOVED FROM CONSENT AGENDA - See Items 1.2 and 1.3) (Public Hearing and Administrative Action):**

**4. PUBLIC HEARING AND ADMINISTRATIVE ACTION:**

AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM  
NOT ON THE AGENDA, MAY DO SO

\* \* \* \* \*

**Adjournment: 1:59 p.m.**

## PLANNING COMMISSION FINAL ACTION NOTIFICATION

**TO:** Mayor Chris Beutler  
Lincoln City Council

**FROM:** Geri Rorabaugh, Planning

**DATE:** January 17, 2018

**RE:** Notice of final action by Planning Commission: January 17, 2018

Please be advised that on January 17, 2017, the Lincoln City-Lancaster County Planning Commission adopted the following resolution:

**Resolution No. PC-01585**, approving **SPECIAL PERMIT NO. 17053**, to allow for the development of a new Community Unit Plan comprised of 10 dwelling units with waivers to setbacks and lot dimensions, on property legally described as Lot 39, I.T., except the west 7 feet of the North 60 feet thereof, located in the SW 1/4 of Section 11-10-6, Lincoln, Lancaster County, Nebraska, generally located at 3720 North 1st Street; and

**Resolution No. PC-01586**, approving **SPECIAL PERMIT NO. 17051**, to allow a daycare center for up to 120 children, on property legally described as Lot 238, I.T., Lots 1 and 3, Gardens Complex Addition, and Lot 9, except for tract in NE corner, and Lots 10 and 11 except the North 6 feet, Witherbee Gardens, located in the NW 1/4 of Section 29-10-7, Lincoln, Lancaster County, Nebraska, generally located at 4401 O Street.

The Planning Commission action on this application is final, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days of the action by the Planning Commission.

The Planning Commission Resolution may be accessed on the internet at [www.lincoln.ne.gov](http://www.lincoln.ne.gov) (Keyword = PATS). Use the "Search Selection" screen and search by application number (i.e. SP17053, SP17051). The Resolution and Planning Department staff report are in the "Related Documents" under the application number.

F:\devreview\final action notices\cc\2018\011718

## Angela M. Birkett

---

**From:** Neale Stadler <neale.stadler@gmail.com>  
**Sent:** Tuesday, January 09, 2018 8:41 AM  
**To:** Council Packet  
**Subject:** Open Harvest Text Amendment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

*This letter is intended for Jane Raybould, Leirion Gaylor Baird, Roy Christensen, and Bennie Shobe.*

Hello all,

I am writing in support of Open Harvest's text amendment that would allow the grocery store to apply for a liquor license and begin off-sale of alcoholic beverages.

I am a young professional that chose to stay in Lincoln after college and develop my career. I am devoted to a healthy lifestyle and am a huge supporter of local businesses. I am very proud to be a member of the Lincoln community and am reminded why I am so happy to have stayed in Lincoln post-college every single day.

One of the things I love most about Lincoln is the network of local doers and makers that support each other to bring Lincoln the best opportunities for people like myself to grow professionally, be active, and enjoy the finer things i.e. local dining, local tap rooms and local entertainment. Some of my favorite things to do outside of work consist of grabbing a Happy Hour at a nearby bar or picking up a 6 pack at my local grocery store to catch a sporting event from the couch. I sometimes even attempt to cook a meal, during which a beer is absolutely needed — occasionally due to the process, most often due to the end result.

While developing my cooking skills, one of my favorite places to shop is Open Harvest. I not only live within 5 blocks of the store, but am drawn to the fact that all of Open Harvest's products come from local producers — within 200 miles from the store's door! This is especially intriguing to me because my father is a Nebraska producer.

One thing that could make my shopping experience better at Open Harvest would be to allow the off-sale of locally produced alcoholic beverages. Knowing that I am supporting local businesses in as many endeavors of my leisure life as possible is important to me. I view it as one way for me to give back to the Lincoln community, while bettering my lifestyle as well.

I hope this letter finds those that are as supportive of the Lincoln community as I strive to be.

Please feel free to contact me with any further questions.

Thank you!

**Angela M. Birkett**

---

**From:** Duston Stanczyk <dbstanczyk@gmail.com>  
**Sent:** Wednesday, January 10, 2018 8:16 AM  
**To:** Council Packet  
**Subject:** Open Harvest Liquor License

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

I am writing to you in regards to Open Harvest obtaining a liquor license.

I believe that this amendment would be beneficial to the business as well as the local community. I am in support of local and small businesses whenever possible, and believe we should do what is possible to help them to thrive! My wife Erin and I enjoy Open Harvests take on Local, Organic, and conscious farming practices. Upon approval of this license, we would look forward to local beer, and organic wines, featured at our local Open Harvest COOP!

Thank you so much for your time and consideration!

Best,  
Dusty Stanczyk (Member #12834)

*-Sent from Dusty's iPhone*

Duston Stanczyk 2017

[dbstanczyk@gmail.com](mailto:dbstanczyk@gmail.com)

402.805.0670

[dustonstanczyk.com](http://dustonstanczyk.com)

## Angela M. Birkett

---

**From:** Mel Severin <melseverin@gmail.com>  
**Sent:** Wednesday, January 10, 2018 8:15 AM  
**To:** Council Packet  
**Subject:** In Support of Text Amendment 17001

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello!

I'm writing to express my enthusiastic support for the text amendment that will allow my nearest grocer Open Harvest to sell alcohol in their store. My family buys most of our groceries at Open Harvest and it's a pain to have to go somewhere else when we want beer or wine. Allowing them to sell alcohol will ensure that they remain competitive and continue to thrive in the Near South neighborhood. Passing this amendment would support our local economy, as the co-op is locally-owned.

One of your guiding principles in the Business & Economy section of LPlan 2040 is "Encourage commercial areas and limited industrial areas to make available opportunities for individuals and/or organizations to raise and market local food." Open Harvest is a **local food market**. That's their thing. There are photos of the local growers and farmers hanging on the walls in the store. Passing this amendment will encourage their local food business.

Open Harvest is a core piece of what makes the Near South neighborhood special. When we go there, we see Ryan, Amy or Emily restocking fresh produce. We always say hi to Monty, the Cheese Man, and we catch up with Arden as she rings us up. Open Harvest is essential to our community and when they are able to add alcohol to their shelves, they will likely attract new people who will become familiar faces. As Lincoln continues to grow, it's important to support smaller businesses that have worked hard and cultivated our community.

I've also been a customer of A Street Market. I believe their store and the surrounding residential community would benefit from passing this amendment.

Please pass this text amendment that will change the setback distance for retail grocery stores to 25 ft, or have the division of a public alley or street, and the nearest public entrance must be 100 feet from the property line of first-floor residential use, day care facility, park, place of religious assembly, state mental health institution, or residential zoning district.

Thank you for your time.



Mel Severin  
1826 Harwood Street  
Lincoln, NE 68502



Equal Housing Opportunity

P.O. Box 5327 • 5700 R Street • Lincoln, Nebraska 68505

January 4, 2018

Mr. Stephen Henrichsen  
Development Review Manager  
Lincoln/Lancaster County Planning Department  
555 South 10<sup>th</sup> Street, Suite 213  
Lincoln, NE 68508

RE: Change of zoning

Dear Mr. Henrichsen,

On behalf of the Housing Authority of the City of Lincoln, Nebraska, please accept this letter in support of the City of Lincoln's proposed zoning changes for properties generally located in the vicinity of the former Missouri Pacific Railroad corridor between North 22<sup>nd</sup> and North 35<sup>th</sup> Streets.

It is our understanding such changes would complement the residential and semi-public uses of this area. The Housing Authority owns and operates a 78 unit multi-family property near 23<sup>rd</sup> & Y Street known as Northwood Terrace.

We appreciate your consideration. If you should have any questions regarding this matter, please contact me at 402-434-5500 or via email at [Thomasj@L-housing.com](mailto:Thomasj@L-housing.com).

Respectfully,

Thomas G. Judds  
Planning and Development Manager

Telephone: (402) 434-5500

Fax: (402) 434-5502

(TDD) Telecommunication Device for Deaf:

1-800-545-1833 Ext. 875

Email: [Info@L-Housing.com](mailto:Info@L-Housing.com)

[www.L-Housing.com](http://www.L-Housing.com)



## Rodger Johnson

1320 Cessna Lane

Tel: 402/489-7554 (home), 402/450-0401 (cell)

Email: Rj62205@windstrem.net

Date: January 10, 2018

Cyndi Lamm

NE District 1, Lincoln City Council

CC: Lincoln City Council; Jon Camp, Jane Raybould, Carl Eskridge, Leirion Gaylor Baird, Roy Christensen, Bennie Shobe; Lincoln Planning Department; Steve S. Henrichsen, George J. Wesselhoft

Subject: Appeal – Resolution No. PC-01575 – Special Permit No. 17022 Dominion at Stevens Creek Community Unit Plan

Dear Cyndi Lamm,

I am writing to state my concerns regarding development of the project referenced above, which is scheduled for the January 22 City Council meeting.

First, I must say that I greatly appreciate steps taken by the developer and the City Planning Department to address some of my initial objections for procedures to develop Dominion (see letter dated Nov. 7, 2017, Planning Commission website). These include: 1) to avoid construction traffic through SkyRanch Acres Neighborhood (SRA), not opening Piper Way and Beechcraft Road to Dominion traffic until after the phase of Dominion immediately to our south is substantially complete; and 2) allowing the SRA well at the south end of Piper to remain in use as a neighborhood water supply.

I continue to have concerns, however, about future effects of Dominion traffic through SRA once Dominion is completed and Dominion and SRA roads are connected. Piper Way and Beechcraft Road have t-connections with Cessna Lane, which exits unto Holdrege Street to the north, the only exit from SRA. When developed in the early 1970s, the south end of Piper and Beechcraft were stubbed, apparently to permit connection to future possible

development to the south. However, much has changed in 45 yrs., including Lincoln Municipal Codes (LMC) regarding development. SRA roads are 22 ft. wide with approximately 5 in. asphalt and without curbs and gutters. Shoulders are narrow, relatively soft, and slope into ditches on both sides; there are no sidewalks. The t-connections of Cessna Lane with Piper and Beechcraft are adequate for automobile and small truck traffic, but have a turning radius inadequate for large truck (semi) traffic. City easements extend 30 ft. to each side of the street center. In my opinion, SRA roads do not meet specifications for high volume traffic and large trucks, such as moving vans.

Thus, I have two concerns regarding roads: 1) safety and 2) costs for future road improvements should SRA roads be determined to be inadequate to accommodate Dominion traffic. I also have a request regarding the SRA south well (point 3 below).

- 1) Safety. Currently residents of 28 homes access SRA off Holdrege Street. Assuming 8-10 vehicles per day, I estimate there now are approximately 250 vehicles per day using these streets. The phase of Dominion with direct connection to SRA will contain 74 homes. There will be another route for those residents to access Holdrege, so even with a conservative estimate of 5 or 6 vehicles per day, Traffic within SRA will increase two- to three-fold. Residents of SRA, many of whom are children, use the edges and shoulders of the roads to walk, jog, walk dogs, bike, etc. SRA residents are safety-conscious and drive cautiously to avoid accidents. A three-fold increase in traffic by non-residents greatly increases the risk of accidents.
- 2) Costs for subsequent SRA road improvements. A solution to the safety issue is to not connect Piper and Beechcraft with Dominion, and leave the streets stubbed. However, I have not heard support for such a decision from the City Planning Department. Therefore, it is likely that at some time in the future improvements in SRA roads will be required, and it is unclear who (Dominion developer, City, SRA) bears the costs, which will be substantial, to bring SRA streets up to standards in the current LMC (wider, curbs, sidewalks, streetlights, etc.). LMC sections 26.27.005 and 26.27.010 state "The subdivider, his successors, or assigns, shall be responsible for the entire cost and expense of minimum improvements ...", and "All streets abutting and within a new subdivision shall be paved with curbs and gutters ...". LMC 26.07.200 defines a collector street as "a local street that is used or intended to be used to congregate traffic from several local streets and route such traffic to a major street". My understanding of these codes is that Piper and Beechcraft are abutting streets to Dominion and that Cessna Lane will be a collector street to congregate traffic from SRA and Dominion unto Holdrege Street, a major street. If that interpretation is correct, then the developer of Dominion has considerable financial

responsibility for SRA road improvements. SRA members must know financially responsible party and approximate costs for future road improvements before approval of the Dominion development. It is unfair to surprise us with a future large bill.

- 3) The well mentioned above is very close to where the connection from Piper Way to Dominion will occur. The possibility of having to move the well house surfaced during the Nov. 2 informational meeting. SRA files date to 1975 and contain documentation of approval of design and location of the well by appropriate city and state agencies. Subsequent to the Nov. 2 meeting, SRA received verbal assurance that the well can remain as is and continue to supply water to residents. I request on behalf of SRA written assurance that the well can remain, and a scaled diagram showing the connection of Piper to Dominion. SRA requests assurance from the city and the developer that the well will remain for long-term use, that there will be no barrier to access to the well house, and that the well and house will not be at risk from vehicles.

Thank you for addressing my concerns. I would be pleased to visit with you, or any other council member, if you have questions.

Sincerely,

Rodger Johnson

**Angela M. Birkett**

---

**From:** Erin Stanczyk <erinstanczyk@gmail.com>  
**Sent:** Wednesday, January 10, 2018 10:42 PM  
**To:** Council Packet  
**Subject:** Open Harvest Liquor License

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

I am writing to you in regards to Open Harvest obtaining a liquor license.

I believe that this amendment would be beneficial to the business as well as the local community. I am in support of local and small businesses whenever possible, and believe we should do what is possible to help them to thrive!

Thank you so much for your time and consideration!

Best,  
Erin

**Angela M. Birkett**

---

**From:** Tim K. Johnson <timfrugan@gmail.com>  
**Sent:** Wednesday, January 10, 2018 10:39 PM  
**To:** Council Packet  
**Subject:** Open Harvest L L

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I'm writing to urge the council to support Open Harvest's liquor license. Other grocery and drug stores have their license because they are a large chain and have lots of money and just bought up land around them to comply with distance requirements. OH is local and has been supporting local farmers for many years. You can't find a better example of local, organic and respon-sible business. Thank you.

## Angela M. Birkett

---

**From:** bob hutkins <bobandcharla@hotmail.com>  
**Sent:** Thursday, January 11, 2018 8:20 AM  
**To:** Council Packet  
**Subject:** Support for Open Harvest's efforts to obtain a liquor license

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

We write to support Open Harvest's efforts to obtain a license to sell beer and wine.

We do our best to buy and shop locally. It is especially important to us that small businesses in Lincoln are supported. Open Harvest is not only where we do most of our shopping, it is one of the few grocery stores in the neighborhood. Open Harvest has served Lincoln for more than 40 years and is a responsible business that really cares about their customers. Thus, it's survival is important to the entire community.

Selling beer and wine would make OH more competitive, ensuring that it will continue to serve the Lincoln community. We strongly encourage the City Council to support this amendment.

Bob and Charla Hutkins  
3415 S. 29th St  
Lincoln, NE 68502

[bobandcharla@hotmail.com](mailto:bobandcharla@hotmail.com)  
402-310-9965

**Angela M. Birkett**

---

**From:** denise manton <dmanton8@gmail.com>  
**Sent:** Thursday, January 11, 2018 9:20 AM  
**To:** Council Packet  
**Subject:** Open Harvest Liquor License

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Council Members,

I am writing to support the granting of a Liquor License to Open Harvest Co-op grocery. Open Harvest needs this license in order to be competitive with other groceries and food sellers in the area.

Although the back of the Open Harvest building is within 100 feet of residential property and thus making it run afoul of the current regulations for selling liquor, the customer access doors to Open Harvest are much farther away from the residential area.

Open Harvest is one of only 3 markets that provide fresh produce in a huge and densely populated area that encompasses the Near South, Irving Dale. South of Downtown neighborhoods and beyond.

Please lift this liquor selling restriction on Open Harvest so that they can stay in business and continue to provide quality food products to our area..

Thank you,  
Denise Manton  
2329 Bradfield Drive  
Lincoln, Ne 68502

**RNE**  
**BREWING CO**

**BRAVE NEW BREW**



**NEW**

2100 Magnum Cir Ste 1  
Lincoln, NE 68522  
402.475.1001  
info@ziplinebrewing.com

January 11, 2018

Lincoln City Council  
Lincoln, NE, 68508

**VIA EMAIL**

RE: Letter in Support of Text Amendment #17001

Dear City Council Members:

Zipline Brewing Co. is a microbrewery operating out of Lincoln, Nebraska. We submit this letter in support of the above referenced text amendment. We previously commented to the Commission and its staff in support of any changes to the current 100 feet restriction against new liquor licensed businesses. The current restriction prohibits Open Harvest and other neighborhood grocery stores from supporting local businesses producing packaged beer, wine, and spirits.

The Planning Commission's prior decision to reduce the setback for restaurants to 25 feet is perfectly in line with the proposal now before the Council to implement a similar limit for another food based business: grocery stores. Your approval of the above text amendment not only supports local grocers and manufacturers, but also maintains the intent of the existing ordinance.

Sincerely,

Marcus Powers  
Co-Owner | Chief of Operations



**Angela M. Birkett**

---

**From:** Rena Worth <worthrena@yahoo.com>  
**Sent:** Friday, January 12, 2018 7:39 AM  
**To:** Council Packet  
**Subject:** Open harvest

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

This is written in support of allowing Open Harvest to obtain a license in order to sell beer at their location. I am a big supporter of local business and see a huge opportunity here for both local brewers and local farmers. Thank you for your consideration in the matter Todd & Rena Worth

Sent from my iPhone

## Angela M. Birkett

---

**From:** Jorgensen <jorgensenjc@yahoo.com>  
**Sent:** Friday, January 12, 2018 5:13 PM  
**To:** Council Packet  
**Subject:** UPCO opposes Change of Zone "TX17001"

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Members of the Lincoln City Council,

My name is John Jorgensen and I am the current Board President for University Place Community Organization (UPCO). As you are likely aware, our community organization, besides organizing a variety of projects throughout the year (park cleanups, Easter Egg Hunt, recognizing homes and yards), we also have the express purpose of organizing to preserve the historic and residential character of the neighborhood and to improve the physical appearance and quality of life of the community. It is with these purposes in mind by which I address this letter for your consideration.

Before this body there is a request to modify the current setback provisions for alcohol sales. The UPCO Board has evaluated this proposed change, has debated the merits of this proposal, and the UPCO Board has voted unanimously to express our strenuous opposition to this proposed change. We would ask that you

There are many good and valid reasons the Planning Department recommended a denial of the proposed reduction of the 100 foot distance requirement for alcohol sales in residential areas. First, this change would be in direct conflict with the Neighborhood Plan for Action that was endorsed by 27 neighborhood associations. Second, stores selling alcohol next to homes can become a land use problem with complaints over lighting, signage, traffic, noise and crime all increasing in our residential areas. Further, the proposed definition of "grocery store" is too vague, causing the possibility of convenience stores, or even pharmacies to be able to sell alcohol right next to schools, churches, parks, daycares and homes. Also, creating such loopholes to try to accommodate singular business entities undermines the consistencies and fairness of the entire footspacing standard and would only likely cause additional legal challenges until it reached a point of being completely unenforceable. The current requirement is clear, fair and is a reasonable policy. As these proposed changes would likely disproportionately impact our older and more historic neighborhoods, such as University Place, the UPCO Board would request this council deny the requested ordinance change.

Thank you for your time and consideration on this matter.

John C. Jorgensen  
UPCO Board President

**Angela M. Birkett**

---

**From:** Rebecca Hansen <rebecca@epayne.net>  
**Sent:** Monday, January 15, 2018 7:52 AM  
**To:** Council Packet  
**Subject:** Liquor License

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Please support local businesses and the Lincoln community by giving Open Harvest a license to sell local beers and wines.

Rebecca Hansen & Kirk Payne  
1128 S 6th St  
Lincoln, NE  
68502

**Angela M. Birkett**

---

**From:** dorispleskac@inebraska.com  
**Sent:** Monday, January 15, 2018 2:26 PM  
**To:** Council Packet  
**Subject:** liquor license for Open Harvest

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Council members,

Please vote to allow a liquor license for Open Harvest Coop Grocery to sell wine and beer. We have been O.H. members for over 20 years and want it to be able to be competitive with other Lincoln grocery stores. It is the fair thing to do.

Thank you,  
Mike and Doris Pleskac

## Angela M. Birkett

---

**From:** Marcia Murray <Marcia.Murray@woodsbroreality.com>  
**Sent:** Tuesday, January 16, 2018 2:58 PM  
**To:** Council Packet  
**Subject:** Change of Zone TX 17001

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

I strongly support this Text Amendment which will enable our neighborhood grocery stores to continue their struggle to compete with larger stores. They are vital to our neighborhoods and have sadly been declining in number. This amendment will eliminate one more competitive disadvantage they must face and hopefully help them in their quest to survive in a very competitive market.

The objections that I have seen raised to this amendment seem exaggerated and I feel are very short sighted to the real needs of neighborhoods.

**Marcia Murray**, Realtor  
*Woods Bros Realty, a Berkshire Hathaway affiliate*  
*7141 "A" St.*  
*Lincoln, NE 68510*  
*Cell 402 432 3989 | Fax 402 434 3801*  
[marcia.murray@woodsbroreality.com](mailto:marcia.murray@woodsbroreality.com)  
[www.MarciaCares.com](http://www.MarciaCares.com)

*If you consider this message a solicitation and prefer not to receive future messages from this sender, click 'reply' and add the text 'remove' to the subject line. Reminder: email is not secure or confidential. **IMPORTANT:** HomeServices of Nebraska will never request that you send funds or nonpublic personal information, such as credit card or debit card numbers or bank account and/or routing numbers, by email. If you receive an email message concerning any transaction involving HomeServices of Nebraska, and the email requests that you send funds or provide nonpublic personal information, do not respond to the email and immediately contact HomeServices of Nebraska. To notify HomeServices of Nebraska of suspected email fraud, contact: [HSNE-Helpdesk@homeservices-ne.com](mailto:HSNE-Helpdesk@homeservices-ne.com) / 402-434-3636.*

## Angela M. Birkett

---

**From:** Ann Powers <annpowers1127@gmail.com>  
**Sent:** Wednesday, January 17, 2018 3:19 PM  
**To:** Council Packet  
**Subject:** I support text amendment TX17002

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

I support the text amendment that clearly defines a grocery store being able to sell alcohol. I think that the 100' rule is absurd and clearly it is being circumvented by others in different ways (CVS on Street). Also, I do not support nor appreciate the use of fear mongering that is being practiced by Neighbor Works and others in the Lincoln community. This text amendment will not allow "hundreds of other locations" or even "600 locations throughout Lincoln" as stated by Neighborworks emails directed at neighborhood association presidents in Lincoln. The use of fear to persuade people to do what they want is far more dangerous than a clearly defined grocery store selling alcohol.

I doubt anyone read this email, but if you made it though good job. Please tell someone that there are only like 50 people in the whole city that oppose this change and the rest are like "100 feet, 25 feet, it don't matter, Imma get my drink". And Open Harvest is over here like "please let us help support our local economy. Help us help you."

Sincerely,

Ann Powers

## Angela M. Birkett

---

**From:** Chelsey Jean Pounds <cpounds@huskers.unl.edu>  
**Sent:** Thursday, January 18, 2018 10:43 AM  
**To:** Council Packet  
**Subject:** Liquor License/Grocery Text Amendment Letter of Support  
**Attachments:** Support TX17001 CPounds.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear City Council Members,

Please find my attached file, a letter of support regarding the Liquor License and Grocery Text Amendment and the upcoming hearing January 29th. Based upon comments I have read on social media and the planning commission hearings I have watched online during this whole process, it has become clear to me that there is a lack of understanding coming from the opposition's side regarding "changing a zoning ordinance for the benefit of one business" and that "allowing Open Harvest to sell alcohol is unnecessary because there are plenty of other places to buy liquor and allowing another business to sell alcohol will invite others to want/do the same." I hope to clarify some of that in this letter and I hope you sincerely consider the possible positive impact this change would have on our city's economy, culture, and our communities.

Best wishes,  
Chelsey Pounds

## Lincoln Lancaster Planning Commission Text Amendment No. 17001

My name is Chelsey Pounds, and I am a graduate student in the Community and Regional Planning program at the University of Nebraska in Lincoln. I would like to reiterate to the City Council that the intention of Open Harvest is not out of self-interest. The goal is to amend the language of the current zoning ordinance in order to obtain a special permit to sell locally sourced beer and wine. These local retailers have, in recent years, become a part of our local economy and benefits not only those vendors, but the future of our public health and economic prosperity through the opportunity to generate more local food markets in the city of Lincoln. I write this position paper not as someone with a connection to Open Harvest, but as a person concerned with the economic future of our city. Should this amendment pass, it will benefit our city as a whole in the long run.

Zoning ordinances are not perfect. The single-use zoning methods we use in Lincoln are not working for the benefit of our city if we aim to inhibit sprawling development while encouraging density and vitality in our existing, historic neighborhoods. Single-use zones invite sprawl and large-scale corporate businesses which detach us from our diverse neighborhoods. As Mr. Shawn Ryba stated in his opposition letter, we are dependent on zoning for protections of public spaces and private homes.<sup>1</sup> However, I raise the question of how well our existing zoning ordinance is working for our older, historic neighborhoods. The 2010 rezoning agreement to change residential districts into commercial districts for the benefit of CVS to sell off-sale alcohol comes to mind.<sup>2</sup> The 2007-2008 amendment to 27.63.680 allowing 9 South Char Grill to sell on-sight liquor no less than 25 feet from a residential district also comes to mind.<sup>3</sup> The combination of special circumstances for these two retail stores, namely the 25-foot exemption for 9 South Char Grill and rezoning specifically so that CVS can sell off-sale alcohol, as well as



those retailers like Meier's and Brewsky's who happened to have liquor licenses prior to this zoning ordinances and were thus allowed to continue their sales, seems to weaken the opposition to this special permit and text amendment. As it has been stated in letters and votes of opposition to this amendment, one does not change policy for one business. How, then, would you classify the instances such as CVS and 9 South Char Grill? Because there are so many exceptions to the rules of zoning here, perhaps we owe it to our local establishments like Open Harvest and A Street Market to consider the different types of zoning and if our city's market changes require updated zoning—which I argue we do need. If we aim to improve communities by building stronger neighborhoods, grocery stores are the heart of a neighborhood.

We must support retailers like Open Harvest by redefining what our county's definition of retail is, per the current comprehensive plan. We could utilize more mixed-use zones to support local communities and local businesses like Open Harvest. In historic areas, housing is commonly steps away from commercial zones. Fear-mongering about the addition of locally sourced alcohol sales to local retailers is not going to *benefit the quality of our residential neighborhoods*, as stated in the vision of the city's comprehensive plan. The requirement of 65 percent of fresh food sales in a retail store clearly prevents the creation of liquor stores and unwanted retail in neighborhoods and residential areas. In terms of the zoning ordinance in Title 27, Section 2 of the Lincoln Municipal Code, grocery stores like Open Harvest are just another point of retail, as we lack clear definitions for specific types of retail.<sup>4</sup> The public concern by neighborhood associations and those who have testified in opposition to the zoning ordinance change holds that if retail stores like Open Harvest are allowed to sell beer and wine, other nearby points of retail like Caseys and Walgreens will follow suit and request the same exception as Open Harvest, causing a snowball effect to the alcohol abuse problems we currently face in

the city and possibly lawsuits. Perhaps we should request opinions of other retailers in the given zoning districts in order to find potential issues with new retail locations, should this amendment pass. We can also look to the other scenarios related to this proposal, such as 9 South Char Grill. *Were there actually any lawsuits related to the amendment they headlined? If so, how were they handled and was the zoning ordinance effectively weakened with this language amendment?* Until this knowledge is out in the open, let us not give in to generalizations or conclusory opinions without this necessary information. I reiterate, a solution to this concern was to then clearly define different types of retail very inclusively. If zoning ordinances can clearly define the necessity of having 65 percent fresh food sales, this plainly eliminates the concern for retail stores like Walgreens and Caseys from selling liquor. That is, of course, unless they choose to change their target retail sales *into fresh food sales*. In this case, I am not sure the issue here, should more fresh food become available in areas that have been lacking in quantity and quality of food retail in recent years with the burning of Ideal and the closing of Sunmart. With the clear definition of what a grocery store is, it should be clear to those testifying in opposition that liquor stores will not be popping up across the street from them, rather opening the possibility of having more local grocery stores develop nearby.

If we want to concern ourselves with the use of definitions in zoning, let us look at the economic development aspect of planning. As food deserts should be a concern within the realm of public health and economic development, and as definitions are important, we should first consider the USDA's definition of a food desert. Through the USDA Economic Research Service's Food Access Research Atlas, they hold that a food desert exists if an individual does not live within a mile of a grocery store.<sup>5</sup> However, let me take issue with that federal definition, because it does not clearly define a grocery store. So, how do we define a grocery store? We can

potentially use case studies by looking at other city plans and comprehensive zoning ordinances and how they have chosen to define retail stores and different land-use objectives. The city Comprehensive Zoning Ordinance of Richardson, Texas maintains that a grocery store is “a retail establishment, not a convenience store, for the display and sale of meat, fruits, fresh and packaged foods, cleaning supplies, paper goods, pet supplies, health and beauty products, bakery products, dairy products and similar items for human consumption and may include a bakery, delicatessen or prescription pharmacy.”<sup>6</sup> Since there is concern about the possibility of pharmaceutical retail stores like Walgreens selling alcohol, let us go further in our motive to define a grocery store. The Codification of General Ordinances of the city of Burbank, California defines grocery stores by size. The cap of 10,000 square feet differentiates a neighborhood market from a larger supermarket, wherein a neighborhood market offers a “range of merchandise including, but not limited to: fresh produce, perishable goods, meats, seafood, packaged food products, general household goods and beverages, primarily for off-site preparation and consumption. Specialized departments such as bakeries, butchers, delicatessens, and florists are permitted as part of this use category. Incidental uses such as banks, **pharmacies**, fast food take-out, coffee or juice bars, and photo processing **are not permitted** as part of this use category.”<sup>7</sup> If other cities are taking measures to clearly define different retail types, different grocery store sizes, convenience and pharmaceutical stores, why does the city of Lincoln not follow suit? I argue that this would be a positive step forward in our planning process, because we could then concern ourselves with a better set of data for economic research and accountability for the quality of our many neighborhoods of Lincoln. Furthermore, the additional step in defining a grocery store for the Lincoln Comprehensive Plan by requiring at least 65

percent of sales coming from fresh foods helps us specifically define what a grocery store is versus other retail stores and other plans across the United States.

The Near South neighborhood as a close-knit crossway between residential and commercial zones is at a disadvantage from the current zoning ordinances in the area, yet the loopholes that some establishments have been able to jump through have allowed them to profit from alcohol sales while excluding Open Harvest from similar opportunities. Economically and socially, grocery stores are the core of neighborhoods, and their inclusion and exception to public policy is important because of the many benefits they give. The current single-use zoning ordinance is not flexible enough to incentivize small business to grow in historically mixed areas. Instead, it threatens our neighborhoods with big-name companies like Hy-Vee and CVS to come in and find existing loopholes in our current zoning ordinance and uproot existing communities and local business. Our associated stakeholders regarding local businesses are the communities themselves, not large-scale business modules or large-scale investors. Retail demand, competition, and our market economy have changed significantly in our city over the past ten years, and we must meet these changes with amendments to our zoning ordinance. Through these changes, we can achieve flexibility and new opportunities for existing and new local businesses. I argue that this current ordinance is not working in favor of the future of our neighborhoods, and we must follow along with the proposed language change, especially in consideration of the effectiveness of current zoning in our historic neighborhoods and the ever-changing market economy.

---

<sup>1</sup><https://ecmp.nebraska.gov/PublicAccess/COLHandler.ashx?action=View&docID=uxIJ9RCapmHd7tpNq3DGqGIu7pMVCXLz&checksum=1e22cf03ed2df0bb62c018321151e72e&DocName=11142017+-+S.+RYBA.PDF>

<sup>2</sup> <http://lincoln.ne.gov/city/council/agenda/2010/050310/m050310.pdf>

<sup>3</sup> <http://lincoln.ne.gov/city/council/agenda/2007/121707/07186f.pdf>

<sup>4</sup> <http://lincoln.ne.gov/city/attorn/lmc/ti27/ch2702.pdf>

<sup>5</sup> <https://www.ers.usda.gov/data-products/food-access-research-atlas/>

<sup>6</sup> <https://www.cor.net/modules/showdocument.aspx?documentid=301>

<sup>7</sup> <http://www.codepublishing.com/CA/Burbank/html/Burbank10/Burbank100102.html>

## Angela M. Birkett

---

**From:** marynorseen@yahoo.com  
**Sent:** Thursday, January 18, 2018 10:44 AM  
**To:** Council Packet  
**Subject:** Open Harvest liquor license

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

I am writing in support of a liquor license for Open Harvest. I am a member and customer of this great store. It is a wonderful store not only for its products, but for its contribution to the community. The friendly and helpful staff are a joy to my sometimes hectic and stressful life. The location is great...getting fresh and healthy products is a welcome addition in that area. Please grant them this license so they may, not only continue to be a wonderful store but to be able to sustain the business. This will enable them to grow, stay competitive and stay alive in the ever competitive market. If you haven't taken a moment to stop in at Open Harvest, I encourage you to do so. I am sure it will be a great experience for you. Take a family member or a friend. Time well spent. Thank you for your consideration.

## Angela M. Birkett

---

**From:** Joe Norseen <jn1613@hotmail.com>  
**Sent:** Thursday, January 18, 2018 10:09 AM  
**To:** Council Packet  
**Subject:** Support for Amendment to Liqueur License

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

My name is Joe Norseen and I support text amendment 17001.

I have been a customer, member and employee at Open Harvest for three years, it is the reason I live in Lincoln. Open Harvest is more than just a grocery store, its a member of the community. It's a safe place where anyone can come to chat together, laugh together, smile together, cry together. In a world where people are becoming more isolated from each other and more disconnected from their food, Open Harvest is a proud exception.

Lincoln, relative to its size and population, is one of the most challenging markets for food retail in the nation. Over the last five years there has been no less than five "natural" food stores open in Lincoln with Open Harvest being the only community owned grocery store in the city. By comparison, Madison Wisconsin has three community owned grocery stores and only one other national competitor, Hy-Vee. In such a challenging market Open Harvest needs all the help that it can get and it needs help from its community representatives!

I understand how this amendment might create some legal challenges, but there must be a compromise. **There must be some way to honor the intentions of this bill without restricting the ability of a locally owned business to compete with larger nationally owned chains.** We are a grocery store owned by the community that supports us, literally. We are a not a convenience store, we are not a gas station, or a pharmacy.

Please consider an amendment to this bill in order to protect small businesses like ours and the help our community grow and flourish.

Thank you,  
Joe Norseen