

**LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT**

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER  
Special Permit 20005  
Connecting Links Transitional Living with  
Programming

FINAL ACTION?  
Yes

DEVELOPER/OWNER  
Tom & Tina Arsiaga

PLANNING COMMISSION HEARING DATE  
March 18, 2020

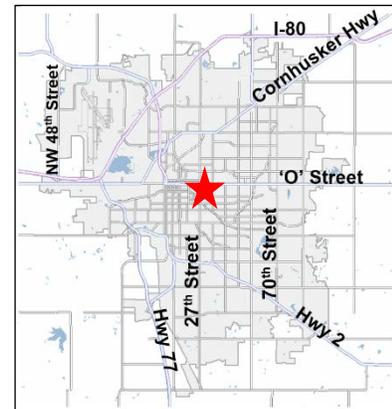
RELATED APPLICATIONS  
None

PROPERTY ADDRESS/LOCATION  
420 S. 28<sup>th</sup> Street

**RECOMMENDATION: CONDITIONAL APPROVAL**

**BRIEF SUMMARY OF REQUEST**

This is a request for a special permit for an alternative to imprisonment facility on the east side of S. 28<sup>th</sup> Street just south of L Street. The proposal is for up to 6 women to reside in an existing residence. The women are being released from state prisons or county jails under post release supervision provided by 1-2 staff at a time. The intent is to provide transitional housing for up to 3 months so the women can reintegrate into society.



**JUSTIFICATION FOR RECOMMENDATION**

The proposal for an alternative to imprisonment facility with up to 6 persons is appropriate for this location. The external land use effects are not any more significant than those of a duplex. The existing house will retain its appearance and can be converted back to a single family residence if the use would discontinue.

**APPLICATION CONTACT**  
Tina Arsiaga, (402) 310-3816 or  
[tarsiaga@icloud.com](mailto:tarsiaga@icloud.com)

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

**COMPATIBILITY WITH THE COMPREHENSIVE PLAN**

The proposal, subject to conditions of approval is compatible with the Comprehensive Plan which notes diversity of land uses including commercial and special needs housing and safe residential dwelling for all citizens, as it represents an alternative group living use.

## KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 1.9 - The 2040 Lincoln Area Future Land Use Plan identifies the property as urban density residential.

P. 7.2 - Diversity of land uses, including commercial and special needs housing, is important provided the use fits within the character of the block and neighborhood.

p. 7.2 - Make available a safe residential dwelling for all citizens.

## ANALYSIS

1. LINCOLN MUNICIPAL CODE (LMC) 27.63.750 provides that an alternative to imprisonment facility may be allowed upon approval of a special permit in the AGR and R-1 through R-8 residential zoning districts. The property in question is zoned R-2 Residential and is located in a residential neighborhood west of Woods Park on S. 28<sup>th</sup> Street south of L Street.
2. Chapter 27.02 Definitions includes a specific definition for alternative to imprisonment facility: "Alternative to imprisonment facility shall mean a facility in which more than three but less than sixteen persons who are unrelated by blood, marriage, or adoption reside under a supervised program of alternatives to imprisonment including, but not limited to, pre-release, work-release, and probationary programs. Such facilities shall be licensed or approved by the State of Nebraska or other appropriate agency if so required".
3. Text Amendment 04062 approved by City Council in May, 2005 made several changes to the Lincoln Municipal Code Title 27 Zoning and Title 1 General Provisions related to group living. As part of these text changes, new special permits were added including one for alternative to imprisonment facilities in residential districts. This permit did not include any specific conditions, however, it was noted that the Planning Commission will act pursuant to their authority to impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety and general welfare. Prior to this amendment alternative to imprisonment was under the definition for group home and was allowed as a conditional use. It was noted at that time for Text Amendment 04062 that a lot of the changes moved the categories around to make the regulations more in compliance with Federal Law as it pertains to persons with disabilities.
4. The 2005 text amendment for group living was done due to concern about litigation with respect to the definition of group home and persons with disabilities. Children's Home and Alternative to Imprisonment Facilities were two specific uses established and permitted by Special Permit as part of the text amendment. It should be noted that since the text amendment ordinance was adopted in 2005 there have been no applications submitted for either of these Special Permit uses. SP20005 is the first Special Permit application for Alternative to Imprisonment Facilities.
5. The applicant proposal is for up to 6 women maximum within the existing residence. Previously the applicant had proposed 8 women. One to two employees will be staffed at one time during the day/night with one staff person on the premises from 7am-11pm.
6. The women that will reside at the facility are being released from state prisons or county jails. They are currently on post release supervision or probation. The purpose of the facility is to provide housing for women in a sober and safe environment where they can succeed with reintegration into society. The proposed facility would house the women from 1 to 3 months.
7. According to the applicant's information, Nebraska State Probation has identified a lack of access to transitional housing and funding for appropriate residential reentry options. Referrals come from Probation Officers and Navigation Officers who have been trained and are actively making referrals to transitional living facilities. The applicant notes that the transitional living does not have to be licensed by the State. The applicant provided documentation that notes the facility does not need a license for a halfway house. However, there would be regular reporting to Nebraska State Probation.
8. In this case, while the use is not a group home, in terms of potential external land use effects, it is similar. Like a

group home, there will be persons living on the property. There will also be employees or service providers. The number of persons that may reside on the premises is also similar to group homes (more than three but less than sixteen persons) though in this case the limitation would be six persons. This number of persons as additional land use comparison would be similar to a duplex where there are two dwelling units and up to three unrelated persons living in each unit for a total of six unrelated persons.

9. LMC 27.67 Parking does not provide a specific standard for alternative to imprisonment facilities. However, parking is one aspect that may be reviewed as part of the general Special Permit review noted above. There is an existing detached garage in the rear of the property with two parking spaces. As part of this permit, the applicant proposes to add two additional spaces for a total of four parking spaces. In addition, while it is not required additional stacking space is provided to allow additional room for parking. Given the number of proposed residents (up to 6) and the number of staff (1-2) this is an appropriate amount of parking. By comparison, group homes are required one space per three client or employee residents, plus two spaces per three nonresident employees on the largest shift. In other words, group homes do not have to provide parking on a 1:1 basis but rather a percentage of the total persons living and coming to the property. Access for all these parking spaces will be from the alley in the back of the property.
10. The proposed location for the facility is in an urban residential neighborhood with nearby services that are within walking distance. Nearby StarTran bus routes includes Route 53 along Randolph Street and Route 44 along O Street. The applicant notes in the application letter that most of the women will utilize bus passes given by probation.
11. As a condition of approval, change in layout of the floor plan and exterior will require an administrative amendment and review by the Historic Preservation as the property is located in a historic landmark district. This condition is so the house will look the same and will not look on the outside as institutional. This review is beyond the typical requirement of a local landmark district, but is being required to make sure the Special Permit is compatible with the neighborhood. The inside will remain the same as per the layout, and if the use discontinues the structure could be converted back to a single family use. The residence has three floors. The first floor will include living, dining, and kitchen spaces with bedrooms on the second and third levels.
12. As a condition of approval, any lighting on the property shall meet Design Standards for Zoning Regulations for Outdoor Lighting. These standards require that all lighting shall meet luminaire, shielding, placement and aiming to minimize light trespass and glare. Specific provisions include that no more than 2.0 foot-candles is measured on a vertical plane located at the property line of the adjacent property. This pertains to outdoor lamps that exceed 4050 lumens. In addition, it is a condition of approval that the applicant submit a lighting plan that conforms to the Design Standards for Outdoor Lighting prior to receiving a building permit.
13. The applicant presented at the February 11, 2020 meeting of the Woods Park Neighborhood Association. There were approximately 30 persons in attendance at this meeting.
14. The proposal with conditions is consistent with the Comprehensive Plan which includes diversity of land uses, including commercial and special needs housing, and safe residential dwelling for all citizens.
15. Additional information provided by the applicant is available on line at <https://www.lincoln.ne.gov.aspx/city/pats/> by typing in the Application Number (SP20005). This additional information includes a Client Handbook and Program outline.

**CONDITIONS OF APPROVAL:** See attached.

**EXISTING LAND USE & EXISTING ZONING:** Single Family Home & R-2 Residential District

**SURROUNDING LAND USE & ZONING**

North: Single Family Residential	R-2 Residential District
South: Single Family Residential	R-2 Residential District
East: Single Family Residential	R-2 Residential District

West: Single Family, Two Family Residential R-2 Residential District

APPROXIMATE LAND AREA: 0.16 acres

LEGAL DESCRIPTION:

Lot 22, Block 2, Elm Park, located in the NW 1/4 of Section 30-10-7, Lincoln, Lancaster County, Nebraska.

Prepared by

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

Date: March 5, 2020

Owner: Tom & Tina Arsiaga  
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Lincoln, NE 68510  
(402) 310-3816  
[dutter.emily@gmail.com](mailto:dutter.emily@gmail.com)

Applicant/  
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(402) 310-3816  
[tarsiaga@icloud.com](mailto:tarsiaga@icloud.com)

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## CONDITIONS OF APPROVAL - SPECIAL PERMIT 20005

Per Section 27.63.750 this approval permits an alternative to imprisonment facility with up to 6 persons.

### Site Specific Conditions:

1. Before receiving building permits the permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below:
  - 1.1 Sheet A1.1 shall be retained as part of the site plan with a note added to the main site plan sheet requiring that any changes to the internal layout as a single-family home or to the exterior appearance of the house visible from S. 28<sup>th</sup> Street cannot be carried out unless reviewed by the Historic Preservation Commission and approved by Administrative Amendment.
  - 1.2 Add note to site plan that any lighting on the property shall meet Chapter 3.100 Design Standards for Outdoor Lighting.
  - 1.3 Add Special Permit 20005 to the title block.
  - 1.4 Provide parking table information that lists existing and proposed parking of 4 spaces.
  - 1.5 Show new parking in conformance with minimum 5' side yard setback.
  - 1.6 Show front yard, side yard and rear yard setbacks on the site plan.
2. Before receiving building permits provide the following documents to the Planning Department:
  - 2.1 Verification from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.
  - 2.2 Submit a lighting plan that conforms to the Design Standards for Outdoor Lighting.

### Standard Conditions:

3. The following conditions are applicable to all requests:
  - 3.1 Before occupying the building, all development and construction shall substantially comply with the approved plans.
  - 3.2 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.
  - 3.3 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.
  - 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.



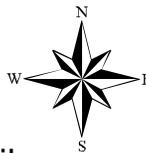
2018 aerial

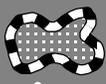
**Special Permit #: SP20005**  
**S 28th St & L St**

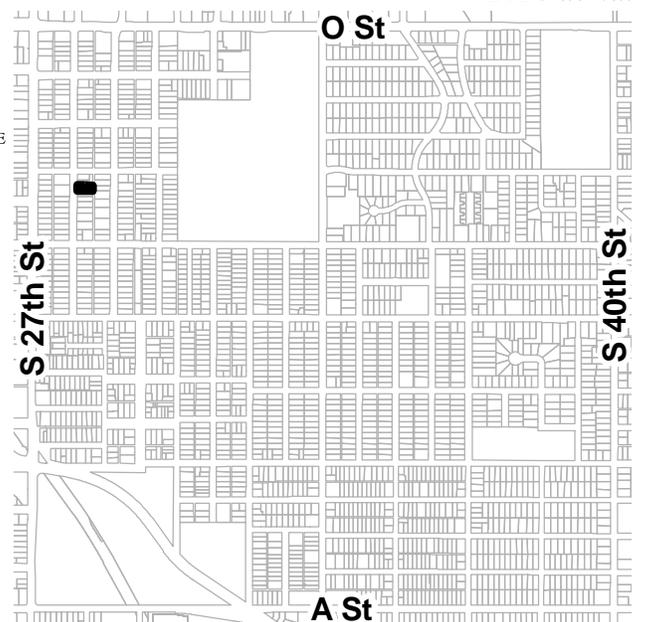
**Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

**One Square Mile:**  
**Sec.30 T10N R07E**



	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction



# Connecting Links Residence



Architect  
Peace Studio Architects, Inc.  
1835 Kings Hwy, Suite B  
Lincoln, NE 68502  
402.217.1830  
www.peacestudioarch.com

## Drawing Index:

- G1.1 Cover Sheet, Site Plan
- A1.1 Floor Plans

Zoning: R2  
Year Built: 1920

## Connecting Links Residence

### Renovations

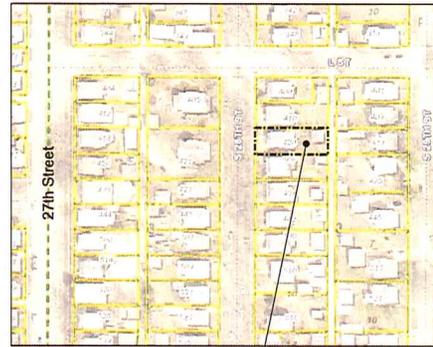
420 S 28th Street  
Lincoln, NE

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Existing Conditions  
See Drawings for proposed minor modifications

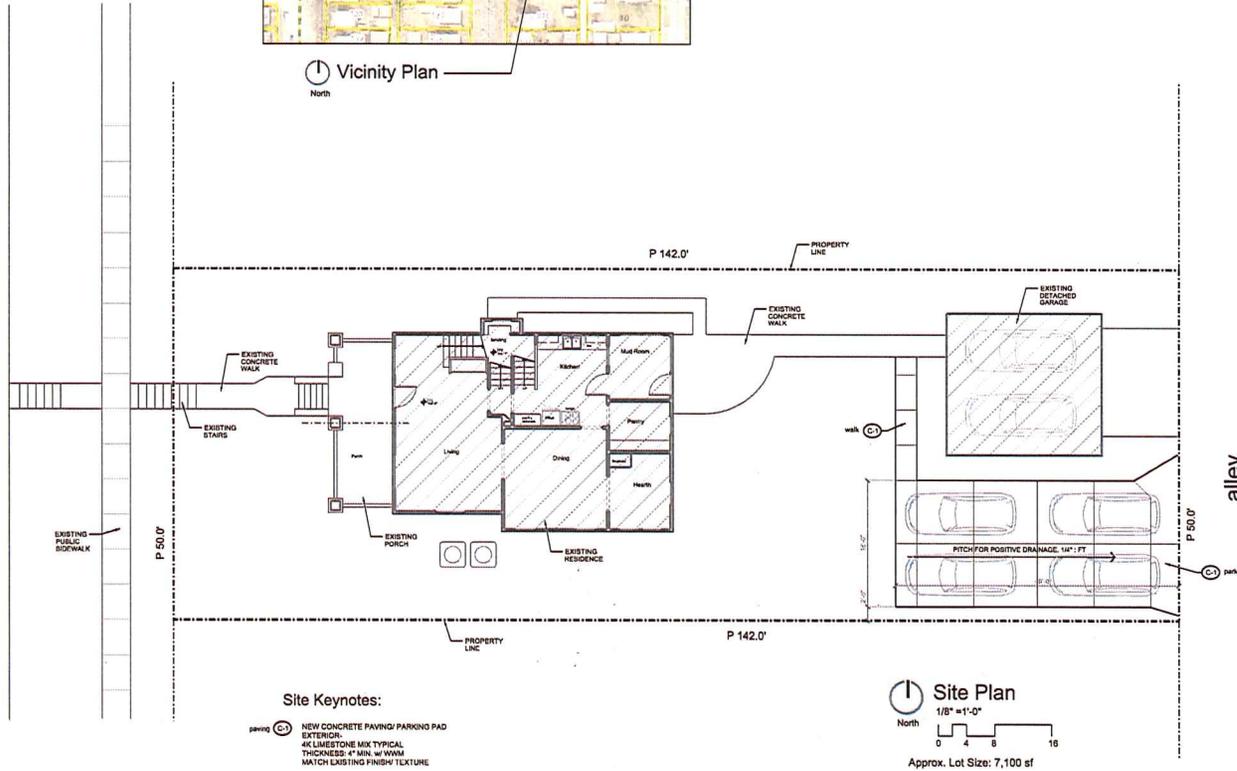
Job Number: 20007.ars  
Date: 4 February 2020

# G1.1



Vicinity Plan  
North

S 28th Street



24"

36"



Architect  
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**Drawing Symbols**

- PROVIDE:
- EXHAUST FAN- FLUSH CEILING INSTALLATION DUCTED DIRECTLY TO THE EXTERIOR, WHERE INDICATED ON THE DRAWINGS
  - COMBINATION CARBON MONOXIDE/SMOKE DETECTOR, HARD-WIRED SMOKE DETECTOR AT ALL BEDROOMS, EACH STAIR LANDING, AS REQUIRED BY CODE AND WHERE INDICATED ON THE DRAWINGS.
  - HARD WIRED EMERGENCY LIGHT W/ BATTERY BACK-UP

**Connecting Links Residence**

**Renovations**

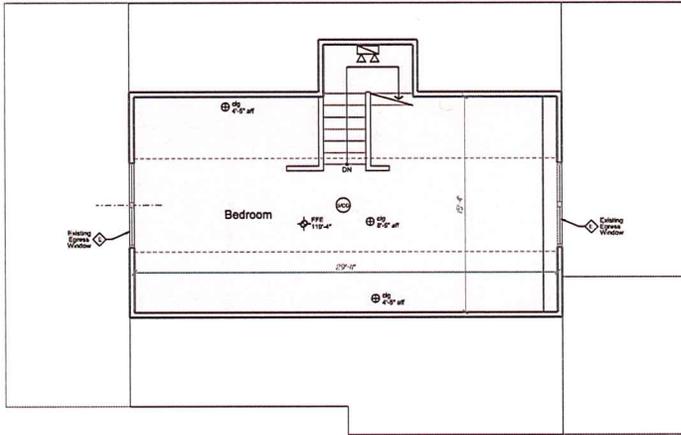
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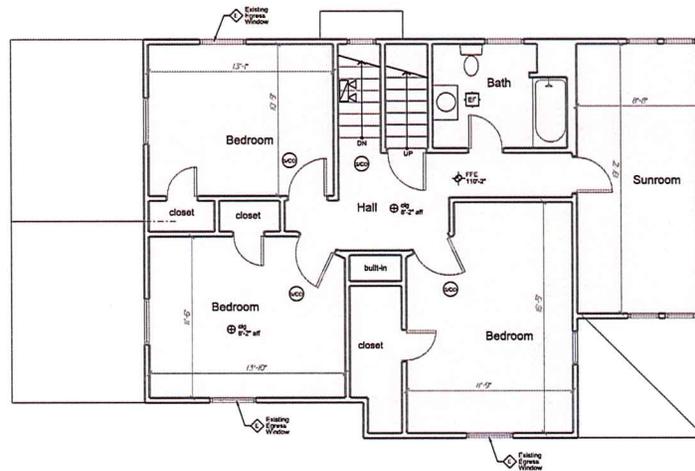
**Existing Conditions**  
See Drawings for proposed minor modifications

Job Number: 20007.ars  
Date: 4 February 2020

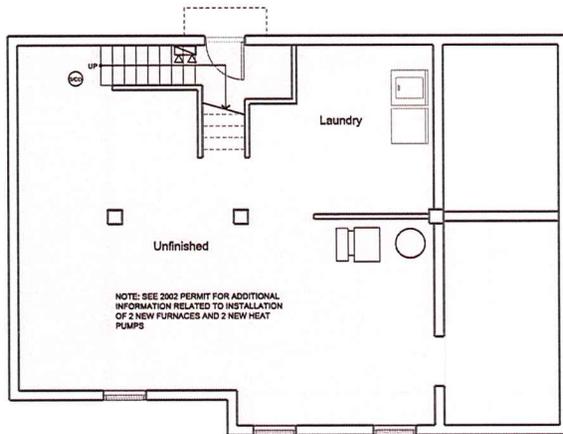
**A1.1**



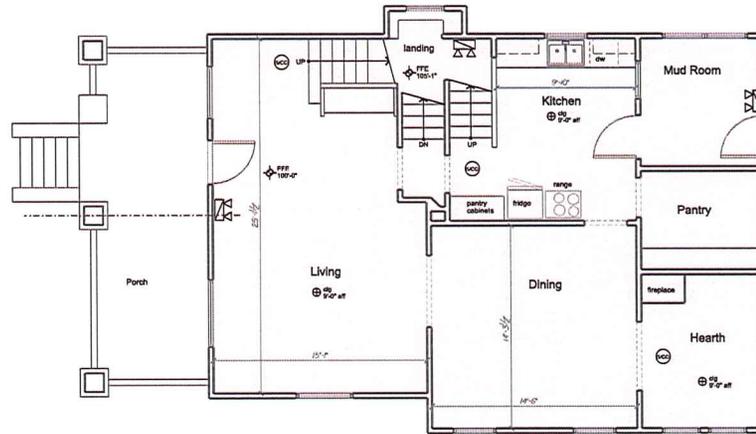
**Third Floor Plan**  
1/4" = 1'-0"  
Plan North  
0 2 4 8  
Approximate Useable Floor Area: 450 sf



**Second Floor Plan**  
1/4" = 1'-0"  
Plan North  
0 2 4 8  
Approximate Useable Floor Area: 920 sf



**Lower Level Plan**  
1/4" = 1'-0"  
Plan North  
0 2 4 8



**First Floor Plan**  
1/4" = 1'-0"  
Plan North  
0 2 4 8  
Approximate Useable Floor Area: 1,050 sf

**Planning Committee**

**Re: Connecting Links Transitional Living with Programming**

**To be considered as zoned Alternatives to Imprisonment**

**Application to be Special Permitted**

**Site Plan by Architect – Gill Peace**

**Floor Plan by Architect –Gill Peace**

**Special Packet further explaining the details of the Transitional Living Program**

**Date: 02/02/2020**

**Program Plan Purpose:** To provide structured, sober, safe living environment for women that offers peer support as women continue to work towards their recovery efforts.

For women specifically discharged from Post Release Legislative Bill (LB) 605&1094 (Expands the use of probation in lieu of incarceration.)

Nebraska Revised Statute 28-105 (New Felony offense classification requiring post release supervision)

Nebraska's Revised Statute 29-2260 (Cases requirement a determinate sentence of post release supervision.)

Nebraska Supreme Court Rule 6-1904 (Rules of post release supervision)

Since the passage of LB605 in August 2015, Nebraska probation has been entrusted with the responsibility of supervising clients within the community who have been released from the Nebraska Department of Correctional Services or local county jails under a term of Post Release Supervision. Presently, Nebraska Probation has identified a lack of access to transitional housing and funding for appropriate residential reentry options.

**Service Description:** To Provide Housing for women in a sober and safe environment where they can succeed with re-integration into society. This is specific to women who are transitioning from an incarcerated state (structured environment) to a sober living environment for the purpose of providing these women an environment that is safe, sober and structured. This type of sober environment will allow women to establish themselves as a part of the reintegration process to the community as they continue to work towards self-sustainment and continued recovery efforts. To ensure the stabilization within the community which encompasses the holistic picture of all entities; treatment providers, probation officers, the housing unit, work environment all working together collaboratively to ensure that efforts are concentrated on the stabilization of the women back to the community sober. As a part of this reintegration back to their community sober it will be expected they find full time employment, schooling, treatment, probationary requirements to regain their independence such as paying bills, budgeting, checking accounts, abiding by the house rules, child rearing, education with drugs and alcohol/relapse prevention, etc each week requirements with house programming.

Transitional Living is to increase successes for probation, post release, and problem solving court individuals while also reducing recidivism. Transitional Living provides Short Term, stable housing for

individuals at high risk to reoffend while increasing community safety. The program places probationers, post release and problem solving court individuals in supportive, environment enabling them to concentrate on treatment and or employment, reintegrating into the community and ultimately becomes self-sufficient. Simultaneously, this provides a greater ability to know the whereabouts of individuals under court ordered supervision.

Transitional Living Facility offers in house programming. Supportive, temporary housing while includes; (employment, financial, management) to facilitate the transition to independent living. Housing is short term from 1 to 3 months.

Referrals come from Probation Officers and Navigation Officers who have been trained and are actively making referrals to Transitional Living Facilities already having an impact on probationers with unsupportive housing.

**Target Population:**

Women who are being release from state prisons or county jails. These post release Supervision (PRS) clients expecting significant obstacles upon their release, specifically a lack of housing or sober living options.

Assessed at high risk to reoffend

Cannot immediately afford to pay services on their own

Must have unsupportive housing upon release from jail or person

Or must be in need of therapeutic housing for support.

Discharging from jail or prison to post release supervision

Currently on post release supervision

Currently on probation or under problem solving court supervision

1-2 workers staffed at one time during the day/night hours at most.

2 stall garage in the back and 2-3 parking slabs will be added south of the already existing double stall garage giving the house 4-5 parking places behind the house (See Site Plan for extra parking stall provisions); however 2 out of the 8 women will have vehicles as most women will utilize bus passes for transport given by probation.

This transitional living is

Also, the transitional living does not have to be licensed by the state. Please see email in the packet given by Mark Luger; Program Manager II- Public Health (Contact Number 402-471-4975) stating that this facility does not need a license for the halfway house. Please see the regulations below:

<http://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health and Human Services System/Title-175/Chapter-19.pdf>

and

[http://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health and Human Services System/Title-175/Chapter-18.pdf](http://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health%20and%20Human%20Services%20System/Title-175/Chapter-18.pdf)

Also, I am currently scheduled to attend the Woods Neighborhood Association Meeting on February, 11, 2020 at 7pm. I will be there to further explain the program to the neighborhood Association and any neighbors who have questions and want to know more about this program and the population it is serving. I also plan to find out the neighbors within 200 feet in all directions from the parcel to connect with and see if they would like a meeting at a local library to talk further about the program and questions.

Thank You for time looking over this program plan. Please let me know what I need to add or take out to make this a better program proposal.

Sincerely,

Tina Arsiaga; M.A., LMHP 402-310-3816

A handwritten signature in cursive script that reads "Tina Arsiaga, M.A., LMHP". The signature is written in black ink and is positioned below the typed name.