

City Council Introduction: **Monday**, April 23, 2007  
Public Hearing: **Monday**, April 30, 2007, at **5:30 p.m.**

Bill No. 07-70

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 07016**, from R-2 Residential District to H-2 Highway Business District, requested by David Titterington, on property generally located at North 49<sup>th</sup> Street and Orchard Street.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda: 04/11/06  
Administrative Action: 04/11/06

**STAFF RECOMMENDATION:** Approval.

**RECOMMENDATION:** Approval (9-0: Strand, Taylor, Sunderman, Carroll, Esseks, Krieser, Larson, Cornelius and Carlson voting 'yes').

### **FINDINGS OF FACT:**

1. This is a request to change the zoning from R-2 to H-2 on the east 9 feet of a parcel where a converted single family residence has been operated more recently as a business. This proposal does not change the zone over any portion of a parcel used for residential purposes. The property will be required to meet design standards for parking lots and screening at the time of building permit.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3, concluding that the zoning district boundary follows the legal lot lines instead of the ownership parcel lines. There is a nine foot strip of R-2 on the parcel that is predominantly H-2. A change of zone to H-2 will allow the owner to use the property in accordance with the provisions of the H-2 zoning district, subject to the requirements of the building permit and design standards.
3. On April 11, 2007, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On April 11, 2007, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** April 16, 2007

**REVIEWED BY:** \_\_\_\_\_

**DATE:** April 16, 2007

**REFERENCE NUMBER:** FS\CC\2007\CZ.07016

# LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

## for APRIL 11, 2007 PLANNING COMMISSION MEETING

**PROJECT #:** Change of Zone No. 07016

**PROPOSAL:** From R-2 to H-2.

**LOCATION:** N. 49<sup>th</sup> Street and Orchard Street

**LAND AREA:** 1,287 sq. ft.

**EXISTING ZONING:** R-2

**CONCLUSION:** The ownership parcel does not follow the legal lots. The zoning district boundary follows the legal lot lines instead of the ownership parcel lines. There is a nine foot strip of R-2 on the parcel that is predominantly H-2. A change of zone to H-2 will allow the owner to use the property in accordance with the provisions of the H-2 zoning district, subject to the requirements of the building permit and design standards.

<b>RECOMMENDATION:</b>	Approval
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### GENERAL INFORMATION:

**LEGAL DESCRIPTION:** The west 9 feet of Lot 3, Block 3, Cones Addition, located in the NE 1/4 of Section 20-10-7, Lancaster County, Nebraska.

**EXISTING LAND USE:** Vacant single family home converted to a commercial use.

### **SURROUNDING LAND USE AND ZONING:**

North:	H-2 Highway Business District	Commercial
	R-5 Residential District	Multi-Family Residential
South:	H-2 Highway Business District	Commercial
East:	R-2 Residential District	Single Family Dwellings
West:	H-2 Highway Business District	Commercial

### **HISTORY:**

November 11, 2003: City Council denied CZ#3418, which was to change the zone from R-2 to H-2 for the entirety of Lot 3, Block 3, Cones Addition.

September 17, 2003: Planning Commission recommended denial to the City Council for CZ#3418, which was to change the zone from R-2 to H-2 for the entirety of Lot 3, Block 3, Cones Addition.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

The land use plan displays the generalized location of each land use. It is not intended to be used to determine the exact boundaries of each designation. The area of transition from one land use is often gradual. The Comprehensive Plan also encourages the integration of compatible land uses, rather than a strict segregation of different land uses. (p. 23)

New or established commercial uses should not encroach upon, or expand into, existing neighborhoods. (p. 36)

Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented. As additional centers are built, the City and developers should be proactive in redevelopment of existing centers to make sure that redevelopment is sensitive to the surrounding neighborhood and happens quickly to reduce vacancies. (p. 36)

Expansion of existing commercial and industrial uses should not encroach on existing neighborhoods and must be screened from residential areas. (p. 48)

**ANALYSIS:**

1. The general intention of the H-2 district is for a “redeveloping area intended to provide business and services oriented to major arterial streets. It provides for those uses usually found in neighborhood business areas...” This site would not take direct vehicular access to N. 48<sup>th</sup> Street. It is adjacent to Orchard and Dudley Streets, which both connect to N. 48<sup>th</sup> Street. This was one of the justifications for the recommendation for denial for the previous application in 2003 (CZ#3418). Another main justification for the recommendation for denial was commercial encroachment into the residential neighborhood. In that proposal, the change of zone went into the rear yards of two residential parcels to the east. This proposal does not change the zone over any portion of a parcel used for residential purposes.
2. The property is a converted single family residence which has been operated more recently as a business. Meeting design standards for the site is not a condition of approval for the change of zone. However, the property will have to meet design standards for parking lots and screening at the time of building permit.
3. Most of the parcel is zoned H-2, while only the east 9 feet of the parcel are zoned R-2. The change of zone will improve the circumstances of this building which currently lies across two zoning districts, the majority of which is H-2.
4. This change of zone could be viewed as an adjustment to reflect ownership.

Prepared by:

Brandon M. Garrett, AICP  
Planner

**DATE:** March 29, 2007

**APPLICANT/CONTACT:** David Titterington  
4840 Orchard Street  
Lincoln, NE 68504

**OWNER:** Kenneth & Rosemary Franks  
6730 Rexford Drive  
Lincoln, NE 68506

## CHANGE OF ZONE NO. 07016

### CONSENT AGENDA

### PUBLIC HEARING & ADMINISTRATIVE ACTION

### BEFORE PLANNING COMMISSION:

April 11, 2007

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 07002; COMPREHENSIVE PLAN CONFORMANCE NO. 07003; COMPREHENSIVE PLAN CONFORMANCE NO. 07004; COUNTY CHANGE OF ZONE NO. 07012; CHANGE OF ZONE NO. 07013; COUNTY CHANGE OF ZONE NO. 07014; CHANGE OF ZONE NO. 07016; CHANGE OF ZONE NO. 07017; and SPECIAL PERMIT NO. 07007.**

Ex Parte Communications: None.

Carroll moved to approve the Consent Agenda, seconded by Cornelius and carried 9-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on Comprehensive Plan Conformance No. 07002 and Special Permit No. 07007, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



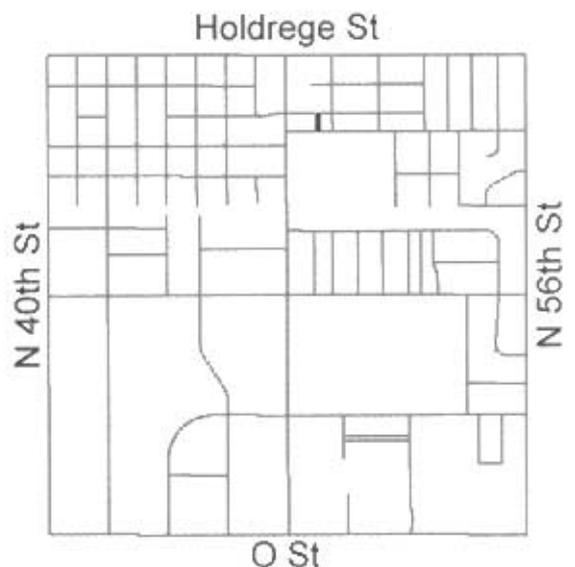
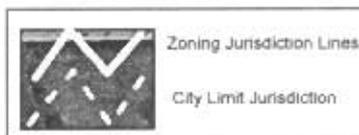
2005 aerial

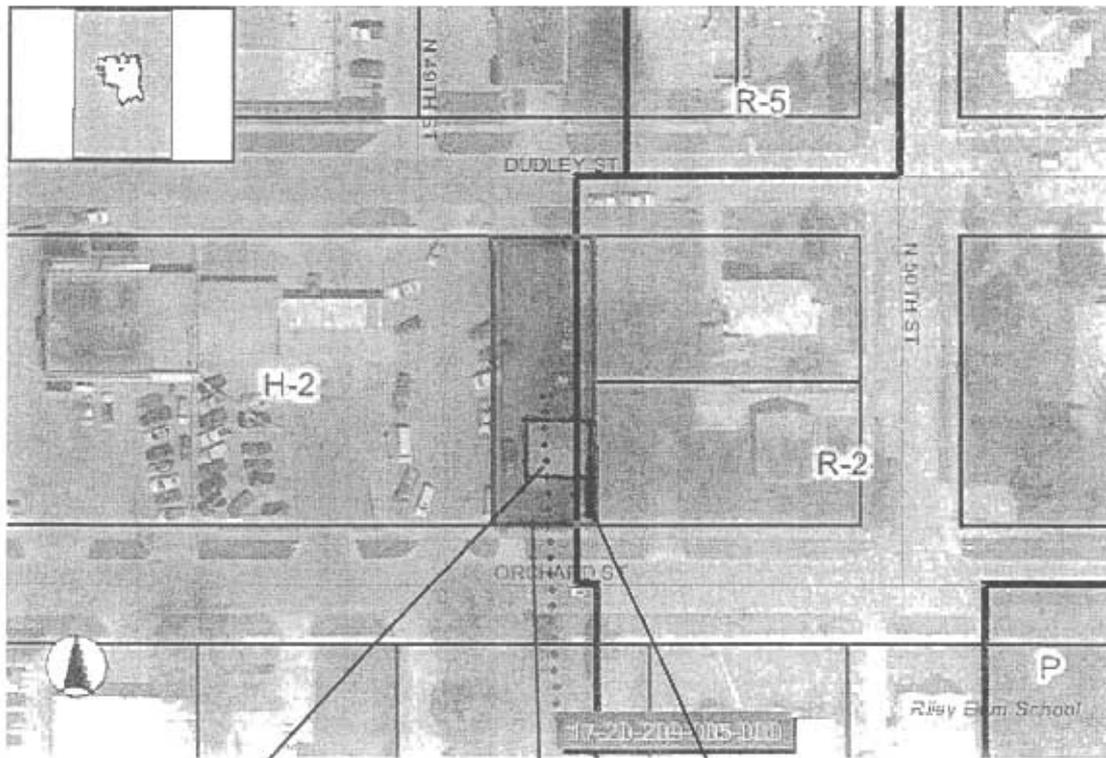
## Change of Zone #07016 N 48th & Orchard St

### Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation 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. 20 T10N R07E





COMMERCIAL BUILDING @ 4840 ORCHARD

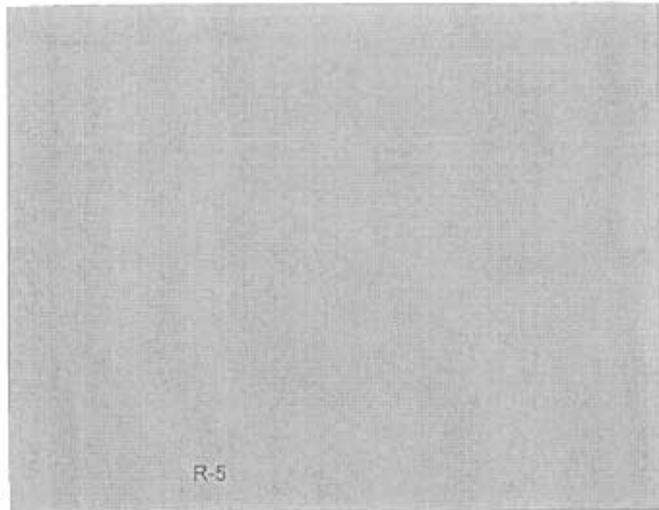
9FT ZONED R-2 (PROPOSED CHANGE TO H-2)

ZONED H-2

LEGAL DESCRIPTIONS (

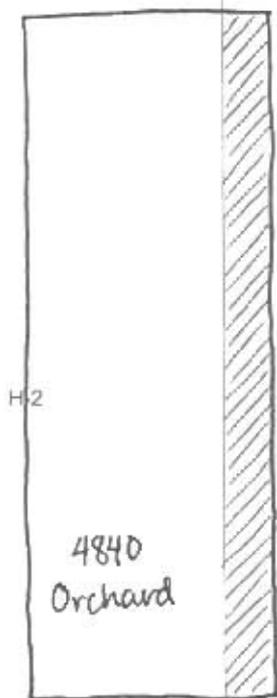
WEST 9FT, ~~LOT 3~~ LOT 3, BLOCK 3, CONES ADDITION LOCATED IN THE NE 1/4 OF SECTION 20-10-7, LANCASTER COUNTY, NEBRASKA, GENERALLY LOCATED 1/2 BLOCK EAST OF NORTH 48TH STREET AND ORCHARD STREET.

007



R-5

DUDLEY



R-2

R-2 to H-2

ORCHARD



Memo

**To: Brandon Garrett, Planning Department**

**From: Mark Canney, Parks & Recreation**

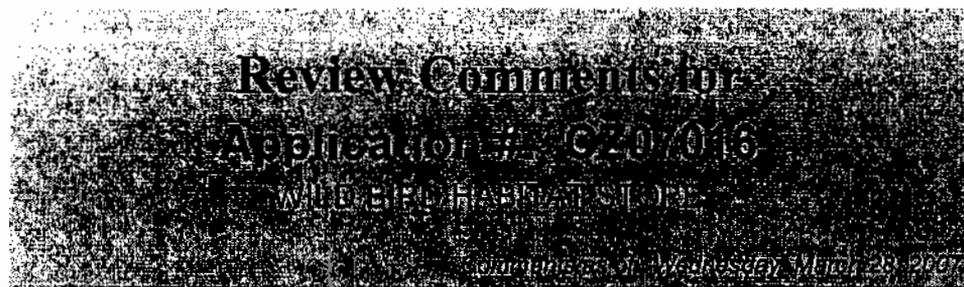
**Date: March 20, 2007**

**Re: Wild Bird Habitat Store CZ07016**

Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and have no comments. We approve this request.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248.

Thank you.



Status of Review: Active

Reviewed By ANY

Comments:

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Status of Review: Active

Reviewed By Building & Safety ANY

Comments:

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Status of Review: Active

03/16/2007 3:45:49 PM

Reviewed By Building & Safety ANY

Comments: If this property is now commercial and starte out as residential the parking lot needs to be brought into compliance and paved.

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Status of Review: Complete

03/23/2007 1:19:14 PM

Reviewed By Fire Department ANY

Comments: We have no issues from the perspective of our department.

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Status of Review: Approved

03/26/2007 1:13:44 PM

Reviewed By Health Department ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT  
INTER-OFFICE COMMUNICATION

TO: Brandon Garrett DATE: March 26, 2007

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Wild Bird Habitat Store  
EH Administration CZ #07016

The Lincoln-Lancaster County Health Department has reviewed the change of zone application and does not object to the approval of this application.

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Status of Review: Complete

03/27/2007 8:06:18 AM

Reviewed By Lincoln Electric System

JULIE WISMER

Comments: DATE: March 26, 2007

TO: Brandon Garrett, City Planning

FROM: Sharon Theobald (Ext. 7640)

SUBJECT: DEDICATED EASEMENTS CZ #07016  
DN #12N-48E

Attached is the Change of Zone Request for the Wild Bird Habitat Store at 4840 Orchard Street.

In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

Windstream Nebraska, Inc., Time Warner Cable, and the Lincoln Electric System will offer no objections to the proposed change of zone from R-2 to H-2 on the east 9' of the property at 4840 Orchard St.

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Status of Review: Active

Reviewed By Parks & Recreation

ANY

Comments:

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Status of Review: Complete

Reviewed By Planning Department

COUNTER

Comments:

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Status of Review: Active

Reviewed By Planning Department

BRANDON GARRETT

Comments:

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Status of Review: Active

Reviewed By Planning Department

RAY HILL

Comments:

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Status of Review: Complete

03/26/2007 12:07:32 PM

Reviewed By Public Works - Development Services

SIETDQ

Comments: Memorandum

To: Brandon Garrett, Planning Department  
From: Charles W. Baker, Public Works and Utilities  
Subject: Wild Bird Habitat Store Change of Zone #07016  
Date: March 26, 2007  
cc: Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Wild Bird Habitat Store Change of Zone #07016 to bring the east 9' of the property located at 4840 Orchard into the H2 Zoning. Public Works has the following comments:

• Prior to approval of this change of zone, Public Works recommends that the drawing submitted to Building and Safety Department be revised to show that the parking required for the site can meet Design Standards. If the parking requirement can not be met, then the change of zone is a moot point.

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Status of Review: Active

Reviewed By Public Works - Long Range Planning

ANY

Comments:

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Status of Review: Active

Reviewed By School District

ANY

Comments:

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Status of Review: Active

Reviewed By US Post Office

ANY

Comments:

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