

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3424**, from R-4 Residential, R-5 Residential, R-6 Residential and B-3 Commercial to R-2 Residential, requested by the Everett Neighborhood Association, on approximately 19 blocks within the Everett Neighborhood, generally located between 9th and 13th Streets, from Washington to South Streets.

STAFF RECOMMENDATION: Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 12/10/03
Administrative Action: 12/10/03

RECOMMENDATION: Approval of a **revised** legal description, making Plum Street the southern boundary of the change of zone request (7-0: Larson, Carlson, Marvin, Krieser, Taylor, Duvall and Bills-Strand voting 'yes').

FINDINGS OF FACT:

1. The reason for this request by the Everett Neighborhood Association to downzone this area is to preserve and enhance the single-family atmosphere of the area and prevent the overtaxing of the neighborhood's infrastructure and rectify residential zoning inconsistent with the traditional and current property uses.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.5-9, concluding that this neighborhood appears to have reached a point where the mix of residential uses seems appropriate. The current mix is approaching a tipping point at which additional two- and multiple-family dwellings would start to overload the carrying capacity of the neighborhood. Approval of this change of zone would preserve the current development pattern and limit the potential for increasing housing density in an area with a fixed amount of infrastructure.
3. Testimony on behalf of the Neighborhood Association and other testimony in support is found on p.10-11. The record also consists of four letters in support (p.22-25).
4. Testimony in opposition (suggesting a revised legal description deleting certain properties near South Street from the change of zone request until a pending study of the South Street Corridor by the Urban Development Department is completed) is found on p.11-12. The record also consists of two letters in opposition (p.26-29).
5. The Planning Commission discussion with staff is found on p.12-13.
6. On December 10, 2003, the Planning Commission disagreed with the staff recommendation and voted 7-0 to recommend **approval of a revised legal description, making Plum Street the southern boundary of the change of zone request.** (See Minutes, p.14).
7. The map showing the boundaries of the applicant's request is found on p.15, and the map showing the boundaries of the Planning Commission recommendation is found on p.16. The revised legal description is found on p.2.
8. Since the Planning Commission hearing, the Planning staff contacted Urban Development about the pending study of South Street. The department director indicated that the scope of that study is limited to improving the streetscape in the right-of-way and will not look at needs for expanding the business district further north or south. Written comments on the zoning request have been requested of the Urban Development Department.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: December 29, 2003

REVIEWED BY: _____

DATE: December 29, 2003

REFERENCE NUMBER: FS\CC\2004\SP.1826A

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for December 10, 2003 PLANNING COMMISSION MEETING

****As Revised and Recommended by Planning Commission: 12/10/03****

P.A.S.: Change of Zone 3424

PROPOSAL: To change the zoning on approximately 19 blocks within the Everett Neighborhood from R-4, R-5, and R-6 Residential and B-3 Commercial to R-2 Residential.

LOCATION: Generally located between 9th and 13th Streets, from Washington to South Streets.

LAND AREA: 67.84 acres, more or less.

CONCLUSION: This neighborhood appears to have reached a point where the mix of residential uses seems appropriate. The current mix is approaching a tipping point, at which additional two- and multiple-family dwellings would start to overload the carrying capacity of the neighborhood. Approval of this change of zone would preserve the current development pattern and limit the potential for increasing housing density in an area with a fixed amount of infrastructure.

<u>RECOMMENDATION:</u>	Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION:

The following additions and parts of additions:

South Lincoln Addition, Blocks 18-20, ~~Lots 5 and 6, Block 21, Lots 1-3, Block 22~~, Blocks 23-25, Lots 7-12, Block 26, Lots 1-3, and 7-12, Block 30, Lots 3-12, Block 31, Blocks 32-34, the vacated portion of Plum Street adjacent to Block 34, ~~Lots 1, 2, and 5, Block 35, Lots 1, 2, 5, and 6, Block 36~~, Block 37, Lots 1-6, and 9-12, Block 38, and Blocks 39-41,

V.S. Howe's Subdivision Lots A, B, and C,

Hagenow's Subdivision, Lots A, B, and C,

Heidenreich's Subdivision, Lots A, B, and C,

Borgelt's Subdivision, Lots 7-12,

all located in the NE 1/4 of Section 35 T10N R6E, Lancaster County, Nebraska.

(Per Planning Commission recommendation: 12/10/03**)**

EXISTING ZONING: R-4, R-5, and R-6 Residential, B-3 Commercial

EXISTING LAND USE: Single-, Two-, and Multiple-Family dwellings, churches,

SURROUNDING LAND USE AND ZONING:

North:	Residential uses	R-6 Residential
South:	Commercial uses	B-3 Commercial
East:	Residential uses	R-5 Residential
West:	Residential uses	R-4 Residential

HISTORY:

Prior to the 1979 zoning update, this area was zoned B Two-Family Dwelling, C Multiple Dwelling, and D Multiple Dwelling. As a result of the update, the zoning changed to R-4 Residential, R-5 Residential, R-6 Residential, and B-3 Commercial, which substantially reflected the previous zoning.

HISTORY OF OTHER RESIDENTIAL DOWNZONING:

- Sept 2003 Change of Zone #3416 from R-4 Residential to R-2 Residential was approved for an area within the Witherbee Neighborhood. The Planning Department recommended denial.
- Aug 2003 Change of Zone #3412 from R-4 Residential to R-2 Residential was approved for an area within the Antelope Park Neighborhood. The Planning Department recommended approval.
- Apr 2003 Change of Zone #3397 from R-4 Residential to R-2 residential was approved for an existing landmark district within the Near South Neighborhood. The Planning Department recommended approval.
- Oct 2002 Change of Zone #3378 from R-5 and R-6 Residential to R-2 Residential was approved within the existing Mount Emerald Neighborhood landmark district. The Planning Department referred to new language in the recently adopted Comprehensive Plan on preserving the character of the existing neighborhoods.
- Feb 2002 Change of Zone #3354 from R-4 Residential to R-2 Residential was approved for the area located immediately adjacent and southeast of this application. The area included approximately 106 dwelling units. The Planning Department recommended denial because the change would cause 35% of the lots to become nonstandard and the R-4 district allows a diversity of housing types.
- Jun 1995 Change of Zone #2890 from R-4 Residential to R-2 Residential was approved for a small area located immediately adjacent and west of this application. The area included 23 dwelling units (21 single-family and 2 duplex units). The Planning Department recommended denial because the change would result in 57% of the lots becoming nonstandard

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan shows the area as Urban Residential. (F 25)

Urban Residential: Multi-family and single-family residential areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling unit per acre. (F 27)

COMP PLAN SPECIFICATIONS THAT SUPPORT THIS CHANGE OF ZONE:

The **Overall Guiding Principles** for future residential planning include:

One of Lincoln's most valuable community assets is the supply of good, safe, and decent single family homes that are available at very affordable costs when compared to many other communities across the country. Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership. (F 65)

The **Guiding Principles for Existing Neighborhoods** include:

Preserve, protect, and promote city and county historic resources. Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements. (F 68)

Preserve the mix of housing types in older neighborhoods. (F 68)

Promote the continued use of single-family dwellings and all types of buildings, to preserve the character of neighborhoods and to preserve portions of our past. (F 68)

Strategies for New & Existing Residential Areas

Single family homes, in particular, add opportunities for owner-occupants in older neighborhoods and should be preserved. The rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers. (F 72)

Strategies for Existing Residential Areas

In existing neighborhoods adjacent to the Downtown, retain existing predominately single family blocks in order to maintain the mix of housing types. The current mix within each neighborhood provides ample housing choices. These existing neighborhoods have significantly greater populations and residential densities than the rest of the community. Significant intensification could be detrimental to the neighborhoods and be beyond infrastructure capacities. Codes and regulations which encourage changes in the current balance of housing types, should be revised to retain the existing character of the neighborhoods and to encourage maintenance of established older neighborhoods, not their extensive conversion to more intensive uses. (F 73)

COMP PLAN SPECIFICATIONS THAT DO NOT SUPPORT THIS CHANGE OF ZONE:

The **Guiding Principles for the Urban Environment: Overall Form** include:

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. (F 17)

Preservation and renewal of historic buildings, districts, and landscapes is encouraged. Development and redevelopment should respect historical patterns, precedents, and boundaries in towns, cities and existing neighborhoods. (F 17)

The **Guiding Principles for the Urban Environment: Residential Neighborhoods** include:

Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood. (F 18)

Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (F 65)

COMP PLAN SPECIFICATIONS THAT ARE NEUTRAL TO THIS CHANGE OF ZONE:

One **Quality of Life Asset** from the **Guiding Principles from the Comprehensive Plan Vision** states:

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. (F 15)

Develop and promote building codes and regulations with incentives for the rehabilitation of existing buildings in order to make it easier to restore and reuse older buildings. Encourage reconversion of single family structures to less intensive (single family use) and/or more productive uses. (F 73)

AESTHETIC CONSIDERATIONS:

Many of the homes in the area appear to be of the same vintage, with similar architectural characteristics. The streetscapes appear consistent with older single-family areas; there is a rhythm to the size and shape of houses, there is some, but not a significant amount of parking on the streets, and many homes are still single-family.

ANALYSIS:

1. This is a request by the Everett Neighborhood Association to change the zoning for approximately 18 blocks within the Everett Neighborhood from R-4, R-5, and R-6 Residential and B-3 Commercial to R-2 Residential. The reason for the downzoning of this area is to preserve and enhance the single-family atmosphere of the area and prevent the overtaxing of the neighborhood's infrastructure and rectify residential zoning inconsistent with the traditional and current property uses.

2. A review process for change of zone proposals is not defined within the Zoning Ordinance. However, Neb. Rev. Stat. §15-902 provides a list of considerations that has traditionally been utilized for such reviews.

A. Safety from fire, flood and other dangers.

No apparent impact.

B. Promotion of the public health, safety, and general welfare.

This proposal appears to fulfill several of the policies and guidelines enumerated in the Comprehensive Plan. However, there are also several Comprehensive Plan policies and strategies that would suggest this downzoning is not appropriate.

C. Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development.

The housing within this proposed change of zone is primarily single-family, with some two-family and multiple-family units. The majority of the approximately 279 primary structures in the area appear to have been constructed as single-family homes and are still in that use today. There also appears to be 35 two-family dwellings (70 units) and 22 multiple-family dwellings (101 units). Some of these have been converted from single-family dwellings, while others were constructed for their current use.

D. Conservation of property values.

It is difficult to determine the effect a change of zoning will have on property values. On one hand, property values could diminish if houses could no longer be converted into duplexes, due to increased lot coverage requirements. On the other hand, this may have the effect of encouraging home ownership, which could stabilize or increase property values.

E. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.

The Comprehensive Plan encourages efficient use of existing infrastructure and diversity

of housing choices. At the same time, the Comp Plan identifies Lincoln's commitment to its neighborhoods, as well as an encouragement to preserve existing single-family homes for single-family uses. This area has developed over time as a predominantly single-family neighborhood, with approximately 20% (57 out of 279) of the parcels now devoted to more than 1 family. However, this 20% of structures includes 44% of all dwelling units (171 out of 389). This neighborhood is likely using its existing infrastructure as efficiently as it can with its current mix of development. This area appears to have reached a density comparable to other neighborhoods downzoned in recent years.

3. There are several differences between R-2 and R-4, 5, and 6 lot and area requirements. The table at the end of this report shows the requirements for residential uses in each district.
4. The uses allowed in these districts are quite similar. The permitted uses in the R-2 district do not include multiple-family or townhouse dwellings, as found in the R-5 and -6 districts. The R-2 district conditional uses require a greater separation between group homes, and a less dense domestic shelter than the other districts. The R-2 district special uses add garden centers, clubs, and mobile home courts and subdivisions to the special uses typically found in the other districts.
5. The R-4, -5, and -6 districts require all new construction to meet the City of Lincoln Neighborhood Design Standards. These standards are designed to recognize that certain areas of Lincoln "retain much of the traditional physical character of their original lower density development," even though they may have experienced recent higher density development. These standards do not apply to the R-2 district. There does exist a possibility for new construction that would come under the review of these regulations, such as removal/reconstruction or a proposal for a community unit plan. The Neighborhood Design Standards should be reviewed, clarified, and, staff believes, strengthened. However, these standards offer a level of protection to this neighborhood that would be lost if this application is approved.
6. LMC §27.61.040 provides that a nonconforming use "shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the building or premises is located" or a special permit is obtained. Additionally, §27.61.050 provides nonconforming uses damaged to an extent of more than 60% of their value "shall not be restored except in conformity with the regulations of the district in which the building is located, or in conformance with the provisions of Chapter 27.75 [variance], or Section 27.63.280 [special permit]."
7. However, §27.13.080(g) of the R-2 district regulations provides that "multiple family dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61 [nonconforming and nonstandard uses]." This rule allows multiple-family dwellings to be reconstructed, altered, and restored after damage by treating such uses as nonstandard rather than nonconforming.
8. Pursuant to LMC §27.03.460, nonstandard lots are defined as those that fail to meet the minimum lot requirements for the district, such as lot area, lot width, density, setbacks, height, unobstructed open space, or parking.

9. Under the current zoning designations, there are 91 single-family, 10 two-family, 5 multiple-family, and 1 commercial use that are nonstandard. Under the proposed R-2 zoning, there will be 116 single-family, 35 two-family, 22 multiple-family, and 1 commercial use that are nonstandard. All of these lots are nonstandard based upon lot area only.
10. Pursuant to LMC §27.61.090, nonstandard uses, whether existent prior to the ordinance or due to changes in the zoning, may be enlarged, extended, or reconstructed as required by law for safety, or “if such changes comply with the minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space...”
11. Therefore, any residential use within this area, whether single- or two-family, that is a nonstandard use, maybe altered or rebuilt provided it meets setbacks, height, and open space requirements. This may result in a slightly different building footprint for a two-family dwelling, but there is no need under the current zoning ordinance for a variance or special permit if these requirements are met.
12. In the case of a nonstandard use that wants to extend into one of the required yards, a special permit is available. This is a less difficult hurdle than a standard use would face in order to occupy a required yard. A standard use would be required to seek a variance from the Board of Zoning Appeals.
13. The total number of nonstandard and nonconforming uses, both before and after this change of zone, are presented below.

Use type	Current	Proposed R-2	Total units
Single-family	94 nonstd.	116 nonstd.	218
Two-family	12 nonstd.	35 nonstd.	35
Multiple-family	5 nonstd./7 noncof.	22 nonstd./22 nonconf.	22
Other	1 nonstd./1 noncof.	1 nonstd./1 noncof.	<u>4</u>
			279

14. There is an existing special permit for a domiciliary care facility within this area. Such use is allowed by special permit in the R-2 district. This particular use sits on a lot that exceeds the minimum requirement for the R-2 district. This use is neither nonconforming nor nonstandard under R-2 zoning.
15. This area is not adjacent to any existing R-2 Residential districts. Small pockets of R-2 zoning occur approximately 2 blocks to the southwest and 9 blocks to the east. This area represents the outer edge of the Downtown residential areas. Surrounding this area are predominantly R-4, 5, 6, and 7 residential districts. The less dense residential areas do not begin to dominate until east of 27th Street and south of Van Dorn Street.
16. This area appears to be fully built. There appears to be no vacant lots available, nor are there any large lots within the area that could be accumulated and combined to produce an area large enough for a multiple-family development. Therefore, the primary opportunity for additional two- or multiple-family dwellings appears to be converting existing single-family dwellings.

17. An argument can be made that reducing the density in the city effectively increases the need for more units in another location, namely the edge of the city, which increases the burden for all taxpayers by creating the need to fund new infrastructure. By retaining the existing zoning districts in this location, a greater number of housing units may be supplied through infill development and reuse of existing structures.

However, the Comp Plan also stresses “preservation of [single-family] homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership,” and “the rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers.” (F 65, 72)

18. The Planning Department has used the terms “tipping point” and “carrying capacity” in recent discussions involving downzoning, although these terms are not explicitly defined. These terms are used to identify the concept of a point at which a neighborhood will have a certain mix of single-, two-, and even multiple-family dwellings that works well for the existing infrastructure and for encouraging reinvestment. The occurrence of this point will depend on infrastructure factors such as water and sewer capacities, traffic capacities, and availability of off-street parking, as well as character and compatibility with the surrounding neighborhood, and a recognition of the historic development pattern and the expectations of current residents. Each neighborhood not only has its own tipping point, but that point may change as the contributing factors change.
19. The Planning Department recommends the balance between an appropriate mix of single-, two-, and multiple-family residences currently exists within this neighborhood. The existing density of this area is 5.7 units per acre, which compares to densities of 3.8 to 6.5 units per acre in the neighborhoods where R-2 zoning was recently approved. Additional two-, and multiple-family dwellings would impact the availability of off-street parking, may cause increased congestion on narrow streets, and could disrupt the character of the neighborhood. Certainly, it is possible to design dwellings that respect and address these types of concerns. But the reality is the City cannot impose regulations on future dwellings holding them to a higher standard based upon the characteristics of a specific neighborhood.
20. At the time of this report, the Applicant has stated 115 property owners out of a potential 279 within this area have signed a petition in support of this change. The Applicant has stated that all of the property owners have been contacted for their opinion, and more letters of support may yet be submitted. Two property owners have responded in opposition to the downzoning, and two were indifferent. This calculates to a 97% rate of support of those that responded, and a 41% rate of support of all property owners. A copy of one page of the submitted petition is attached as an example. The remaining pages of the petition are part of the file, and may be viewed at the Planning Department
21. Given the number of recent, pending, and potential requests to downzone established neighborhoods within the core of the city, the Planning Department recommends that policies and strategies to address and improve the common issues of the applicants be analyzed. The Planning Department would like to consider options to R-2 zoning that might better balance the competing goals of preservation and efficiency in the Comprehensive Plan. These might include a changes to the existing residential district standards, a change to the CUP provisions, a new zoning district, and/or a change to the Neighborhood Design Standards.

	R-2	R-4	R-5	
Lot area, single family	6,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	
Lot area, two family	5,000 per family	2,500 per family	2,500 per family	
Lot area, townhouse	N/A	N/A	2,500 sq. ft. per family	2
Lot area, multiple-family	N/A	N/A	1,500 sq. ft. per unit	
Avg. lot width, single family	50 feet	50 feet	50 feet	
Avg. lot width, two family	40 feet per family	25 feet per family	25 feet per family	
Avg. lot width, townhouse	N/A	N/A	20 feet per family	
Avg. lot width, multiple-family	N/A	N/A	50 feet	
Front yard, single-family	25 feet	25 feet	25 feet	
Front yard, two family	25 feet	25 feet	25 feet	
Front yard, townhouse	N/A	N/A	20 feet	
Front yard, multiple-family	N/A	N/A	20 feet	
Side yard, single family	5 feet	5 feet	5 feet	
Side yard, two family	10 feet (0 at common wall)	5 feet (0 at common wall)	5 feet (0 at common wall)	
Side yard, townhouse	N/A	N/A	10 feet (0 at common wall)	
Side yard, multiple-family	N/A	N/A	7 feet (10' if over 20' in height)	(1
Rear yard	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth	Sm:

Prepared by:

Greg Czaplewski
Planner

Date: December 2, 2003

Applicant: Everett Neighborhood Association
PO Box 81044
Lincoln, NE 68501

Contact: Jeff Tangeman, Association President
1144 Peach Street
Lincoln, NE 68502
436.7818

CHANGE OF ZONE NO. 3424

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 10, 2003

Members present: Larson, Carlson, Marvin, Krieser, Taylor, Duvall and Bills-Strand.

Staff recommendation: Approval.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted one letter in support and one letter in opposition.

Proponents

1. Kristina Wamstad-Evans, Secretary of the Everett Neighborhood Association, presented the application. This downzoning project is a project they have been working on for almost a year. The area is a thin triangle from G Street to South and 9th to 13th Streets. Everett is one of the oldest neighborhoods in Lincoln, originally owned and subdivided by two of Lincoln's founders. As early as the 1900's, there was a trend that started replacing the single family housing with multi-family housing. Today's Everett Neighborhood is representative of a combination of multi- and single-family residences, churches, schools and small businesses. The area north of Washington is primarily rental housing. She showed a map from the 2000 Census, showing that the area south of Washington is mostly owner-occupied housing. This request for downzoning to R-2 Residential applies to the southern portion of the neighborhood association, including Washington to South and 9th to 13th, presently zoned R-4, R-5, R-6 and B-3. The boundaries are based upon the owner-occupied versus renters or businesses. The majority is now owner-occupied. R-2 encourages home ownership and improves the quality of life, builds community pride and instills security. The existing homes are well-maintained so there is no need to remove them to put up apartment complexes. Wamstad-Evans displayed pictures of examples of homes in the area that are well-maintained, including 1130 Plum, 1144 Peach, and 1834 So. 11th.

Wamstad-Evans suggested that another positive for the R-2 zoning is that there is a lot of stress being put on the public utilities. The water mains in this neighborhood are 100 years old and the apartment complexes would put a lot of stress on that system. There is a good balance of single-family and multi-family housing that exists today. Parking and traffic could be a problem with any higher density. There are currently no vacant lots to build upon. The neighborhood association conducted a survey in October, resulting in 97% support.

Wamstad-Evans lives at 1209 Peach Street, having moved there less than a year ago. She is representative of a lot of young families that are trying to encourage people to move into this area.

2. Jeff Tangeman, President of the Everett N.A., thanked the members of the association who have worked on this presentation and he urged the Commission to follow the staff recommendation and approve this change of zone for the southern end of the Everett Neighborhood. He did receive a phone call and email from one of the long-time board members who lives at 1500 S. 11th Street, who is unable to attend today's meeting due to the flu. Tangeman read her statements into the record—she

remembers the destruction of single family homes being replaced by 12-plexes, with the fabric going from long term owners to transient renters. The owners of the 12-plexes did not care enough to have an on-site manager and there was litter from the tenants. The northern part of Everett became congested and the 12-plexes no longer provided a family atmosphere. It is her hope that the downzone will prevent the destruction of the southern part of Everett which remains single family and owner-occupied. The neighborhoods surrounding the downtown area are fragile and this will help strengthen the neighborhood.

In response to the letter in opposition, Tangeman stated that he has had conversations with building and commercial development owners and they have discussed the need to expand business zoning south of Plum Street. If some developer acquired a number of more dilapidated properties in these blocks and had a proposal for a lawyer, doctor or dental offices, he could see the association working with the developer on a project that enhanced the neighborhood. He agrees that economic development is important to Lincoln, but so is neighborhood preservation. Tangeman supports this downzone to enhance an older neighborhood, but he could some day support a business development on the fringe of the neighborhood.

3. Sue Landholm, 946 Peach, Vice-President of the Everett Neighborhood Association, testified in support. She believes that this downzone will help maintain the character of the neighborhood and encourage new resident home buyers and long term renters to the neighborhood.

Opposition

1. Michael Tavlin, 340 Victory Lane, testified on behalf of B&J Partnership, the current owner of property on the northwest corner of 9th and South and both the north side and south sides of South Street immediately to the east of 13th, between 14th and 16th Streets. He believes that the adjacent property owned by B&J will be adversely affected if this request is approved. If a small but prudent modification were to be made, B&J would withdraw its opposition. It is his understanding that the City's Urban Development Department is currently in the midst of conducting a study regarding redevelopment of the entire South Street business corridor. It is not clear when that study will be completed, but it is anticipated to be sometime in 2004. Therefore, Tavlin is of the position that downzoning at this time of property immediately adjacent to what is certainly expected by virtue of that study to be an important south Lincoln business corridor, is premature at best, and ill-advised at worst. It would be prudent to defer any decision on this change of zone of the property bordered by Plum and South until completion of that study. To do otherwise risks an outcome that will likely be inconsistent with the recommendations of the redevelopment study and which will invite subsequent applications for rezoning or upzoning based on the city's own redevelopment study. Tavlin requested that the change of zone on the property between Plum and South Streets be placed on pending until the Urban Development South Street redevelopment plan is completed. There doesn't seem to be any urgency or any compelling reason to take this action on the property bordered by Plum and South Street at this time, given what is in the pipeline.

In response to a question from Larson, Tavlin clarified that he is referring to the block from the north side of South Street to the south side of Plum Street. He is suggesting that the change of zone for the tier of blocks between South and Plum Streets be placed on pending, and then the Planning Commission could proceed to consider the balance of the proposal.

Carlson inquired whether Tavlin's concerns would be satisfied if the existing B-3 were omitted from the downzone, and that the downzone only address the residentially zoned property. Tavlin indicated that his preference would be to just put the entire tier of blocks on pending. Carlson noted that preserving the B-3 preserves all the block faces along South Street. Tavlin believes that could work, but he would prefer that the entire tier of blocks be placed on pending.

Carlson suggested that the B-3 be removed from the zoning request. Tavlin believes it would be expedient to draw a straight line along Plum Street until Urban Development completes the study.

3. Don Tapp, 941 Newport Blvd., testified in opposition. He owns a 6-plex at 1215 Peach and he understands that if this zoning change takes place, the replacement of his building in case of fire destruction would be limited to a single family dwelling. He believes this would be considered a taking. As far as value of his property, some of the sale prices of the R-2 lots are less than half the value of an R-6 lot. R-2 lots are purchased for \$17,000 to \$18,000; R-6 could be sold for \$30,000 to \$35,000. He believes that the value of his property will be decreased by this change of zone to R-2. He is not aware of much property in the area that is vacant that anyone would need to be building upon to go to R-6 multiple dwellings. He does not see where the zone change is going to make the area more family oriented or have an impact on the historic homes. Most developers are going to go to the outskirts of town and will not be coming into the Everett Neighborhood.

4. Al Plessman, who owns a law office at 10th & Plum, testified in opposition. He agreed with almost all the testimony. He supports the Everett Neighborhood in their effort to protect the neighborhood quality, but he agrees that if there is a study going on along South Street, it would not be a good idea to change the lay of the land with a change of zone while that study is pending. It is appropriate to perhaps remember the history of other residential downzoning in the staff report--it has never included any B-3 property before. If that's true, then initially he is jealous because he does not want to have B-3 property at risk. His property is zoned B-3 and the property across the west is zoned B-3, which is included in this change. There is significance in changing from B-3 to R-2. At a minimum, he believes it would be prudent to withdraw the B-3 segment until we know what South Street is going to look like.

Plessman acknowledged that his property is not included in this change of zone request.

Staff questions

Carlson asked the staff to discuss "nonstandard" vs "nonconforming". He believes that it was determined previously that the multi-family existing in this district shall be considered nonstandard instead of nonconforming. Rick Peo of the Law Department is not sure that the protections are substantially different. That area of the code is somewhat confusing because nonstandard is deemed to be a category of nonconformance. Nonstandard is designed to talk about area regulations as opposed to use regulations. Nonconforming uses are allowed to be rebuilt if not damaged more than 60%, or by special permit if totally damaged. Nonstandard has some expansions that are allowed more for expanding the size of the building. Carlson stated that the concern was losing a 6-unit conversion if the property is damaged. Peo stated that the owner has the right to maintain the 6-plex as is. If it were 60% or more damaged, then he would be required to conform to the R-2 zoning unless he gets a special permit from the City Council to build a nonconforming use. There is no guarantee that you can rebuild the nonconforming use. Nonstandard uses typically have to be rebuilt back to the existing setbacks if destroyed.

Procedurally, Peo does not believe it appropriate to split the application and put part of it on pending. He suggested that the Commission could make a recommendation of approval for only a portion of the application, but probably should make a recommendation on the application as a whole.

Taylor asked for an explanation of the B-3 at issue. Greg Czaplewski of Planning staff explained that the Plessman property at 935 Plum is zoned B-3 but is not included in this change of zone request. The B-3 just crosses South Street.

Marvin pointed out that below the B-3 is the Meier's Cork and Bottle business, and then maybe when they zoned it B-3 they grabbed some homes. There is a church on the other B-3 property under consideration. What we would be rezoning from B-3 to R-2 would be residential homes currently sitting in B-3 or a church.

Bills-Strand noted that there is some commercial property on the northwest corner of 11th & Peach. Would that be grandfathered in as commercial? Czaplewski advised that it is currently a nonconforming use and would continue to be a nonconforming commercial use in a residential district.

Peo added that by definition in the R-2 district, pre-existing multi-family is allowed to be deemed nonstandard. Then they can be built by-right provided they meet all the setbacks (not parking). There is some confusion because that terminology goes contrary to the definition of nonstandard in the code.

There was no rebuttal by the applicant.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

December 10, 2003

Larson moved to approve the change of zone with a revised legal description, making the southern boundary the south side of Plum Street, eliminating everything on Plum Street south to South Street, seconded by Duvall.

Marvin stated that he will vote against the motion. The staff is recommending approval. The Everett Neighborhood is not against businesses coming in there, but if they want to tear down a house for a parking lot for a pawn shop or check cashing center or liquor store, we're not in favor of that. We'll have better control on what goes in that the neighborhoods would benefit from if we let the neighborhood come forward to say they will sacrifice the house for a specific use.

Larson believes that the Urban Development study will extend one block on either side of South Street so he thinks that area should be removed from the change of zone request.

Carlson moved to amend, to make the boundary line the existing B-3 boundary, excluding the area currently zoned B-3, seconded by Taylor.

If the study shows that there needs to be more B-3 to increase parking, Bills-Strand wondered if this action eliminates that possibility. Czaplewski indicated that there were no comments from Urban Development on this application so he is not sure what study they may be conducting. Certainly, the staff will find out what is being done, and he suggested that the Commission could defer two weeks. Bills-Strand believes there is sufficient time between this hearing and the City Council hearing to figure that out.

Motion to amend removing the current B-3 zoned properties carried 4-3: Carlson, Marvin, Krieser and Taylor voting 'yes'; Duvall, Larson and Bills-Strand voting 'no'.

Main motion, as amended, failed 4-3: Carlson, Marvin, Krieser, and Taylor voting 'yes'; Larson, Duvall and Bills-Strand voting 'no'.

Carlson moved approval of a revised legal description, making the southern boundary Plum Street, seconded by Larson.

Bills-Strand inquired about Analysis #21, which indicates that the Planning Department would like to consider options to R-2 zoning. Bills-Strand wants to know how to get that accomplished. Director Marvin Krout suggested that the Planning Commission could make that recommendation to the City Council, again.

Motion for approval of a revised legal description, making the southern boundary Plum Street, carried 7-0: Larson, Carlson, Marvin, Krieser, Taylor, Duvall and Bills-Strand voting 'yes'. This is a recommendation to the City Council.



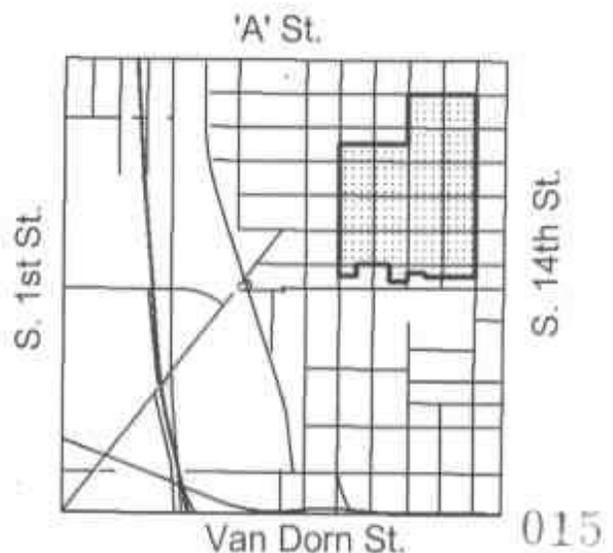
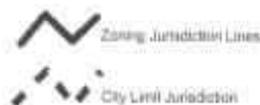
Change of Zone #3424 Everett Neighborhood

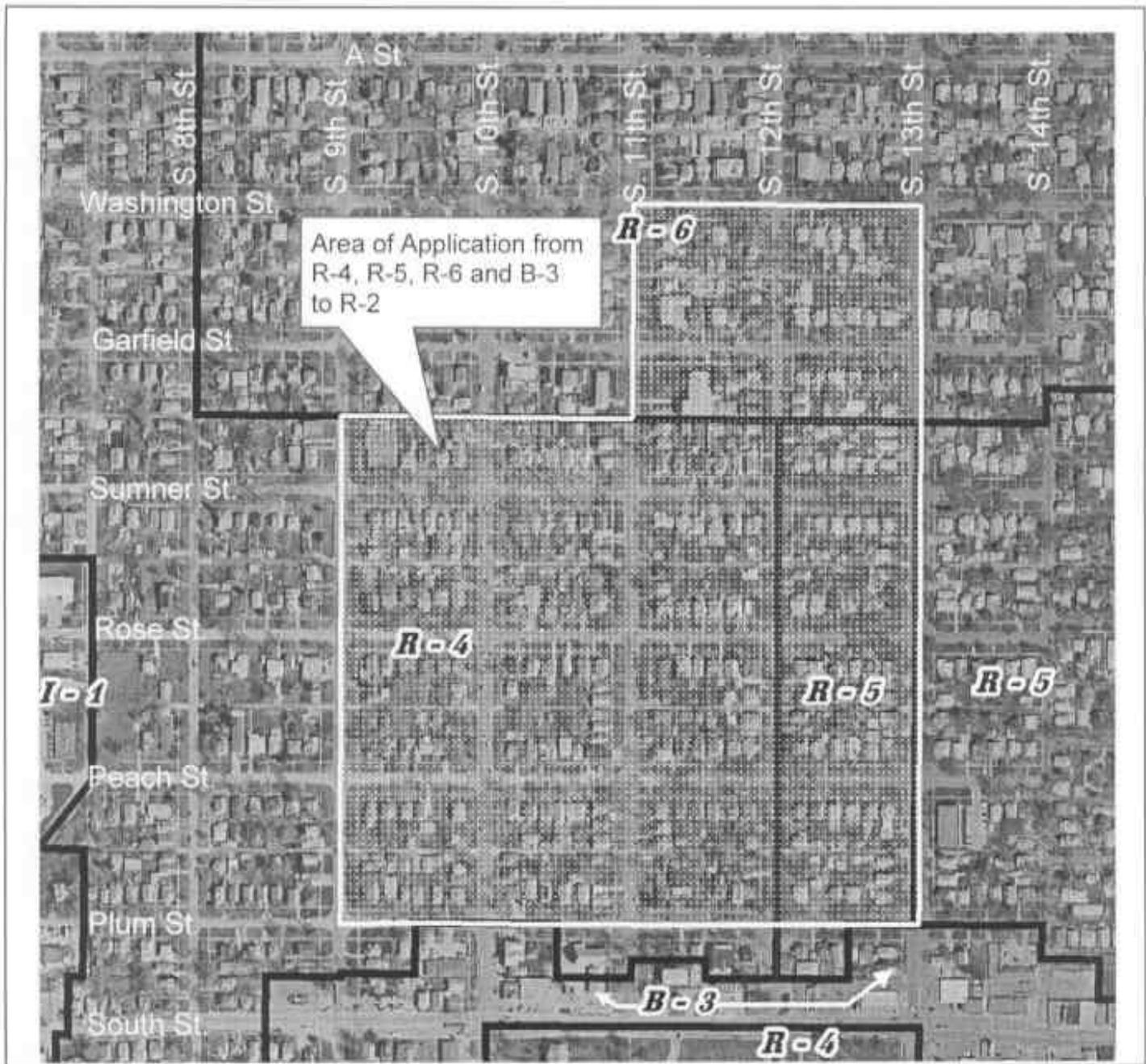
2002 aerial

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
- E-3 Employment Center District
- P Public Use District

One Square Mile
Sec. 35 T10N R6E





2002 aerial

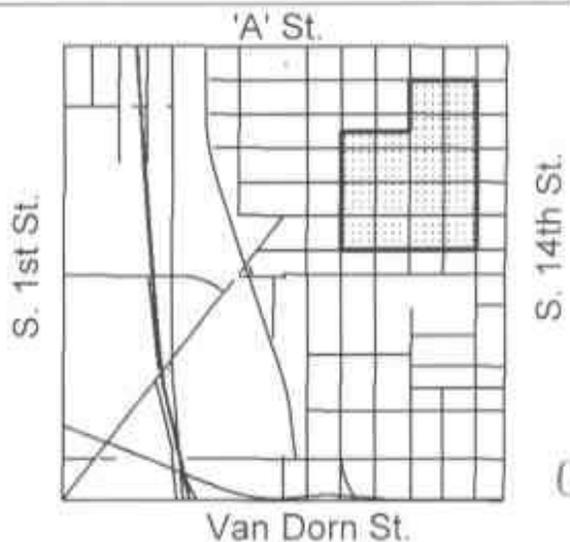
Change of Zone #3424 Everett Neighborhood

Planning Commission Recommendation

Zoning:

- R-1 to R-8 Residential District
- AO Agricultural District
- ADR 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-6 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. 35 T10N R6E



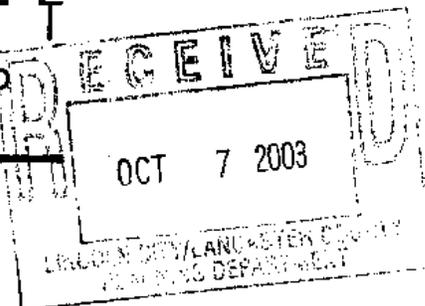
016



EVERETT
NEIGHBORHOOD
ASSOCIATION

P.O. Box 81044, Lincoln, NE 68501

City-County Planning Commission
555 S. 10th Street
Lincoln, NE 68508



10-6-2003

Honorable Commissioners,

The Everett Neighborhood Association requests that the residential zoning for the southern end of our neighborhood, an area roughly bordered by 9th, 13th, Plum and Washington Streets, be changed from a mixture of R-6, R-5 and R-4 to R-2 residential zoning. The 18 blocks in this area of the Everett neighborhood is a mix of owner-occupied housing, conversion apartment with a few slip-in apartment units. The neighborhood still reflects the single family character from its original construction before World War One. The downzoning effort is supported by the residents of Everett who wish to preserve their neighborhood, enhance the value of the area and attract new homeowners to an area of the city we love.

The southern end of the Everett Neighborhood is a historic middle class neighborhood and one of the first additions to the original plat of Lincoln. The historic use of the properties in our neighborhood has been for single family residential use. The current property distribution as mentioned is primarily single family with a mix of duplex conversions and 1960's era slip-in apartment units. By downzoning, we preserve and enhance the single family atmosphere of our end of the neighborhood and prevent the overtaxing of the neighborhood's infrastructure. The homes in South Everett are affordable for the first-time home buyer or the home buyer that wants a distinctive home from a bygone age. Everett is uniquely situated in Lincoln, with wide tree lined streets, low traffic in the neighborhood core and is within walking distance of two elementary schools and shopping.

The Everett Neighborhood Association is following in the footsteps of other neighborhoods that have recently been rezoned to R-2. Approval of this application will recognize the character of the neighborhood as a bastion of affordable single family homes in the heart of Lincoln and rectify residential zoning inconsistent with the traditional and current property uses.

Thank you for your consideration

Jeffrey Tangeman
President, Everett Neighborhood Association

Change of Zone 3424 Land Use

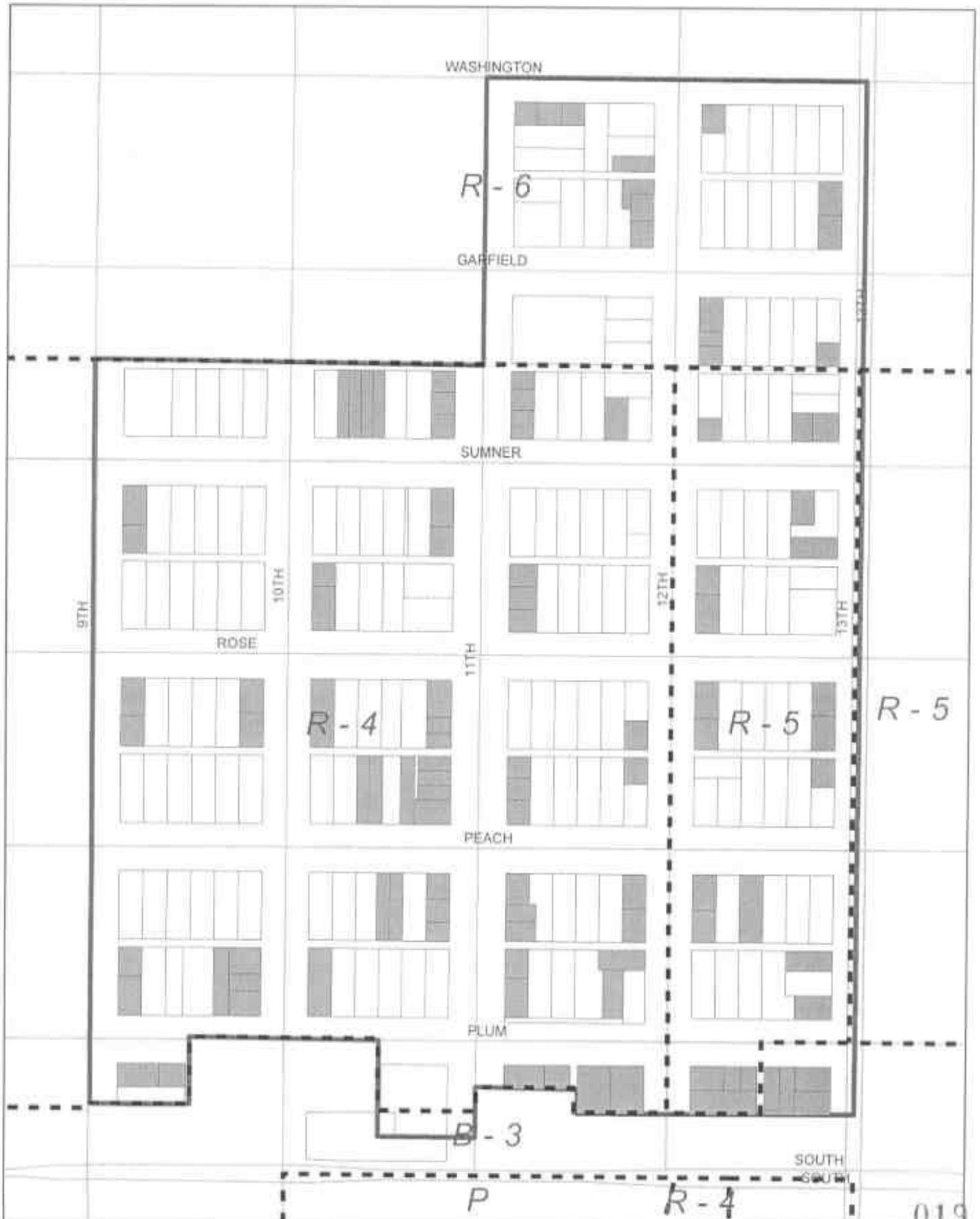
Legend

-  Single Family Detached
-  Duplex
-  Multiple
-  Special Housing
-  Commercial
-  Church
-  Vacant / ROW
-  # Number of Units

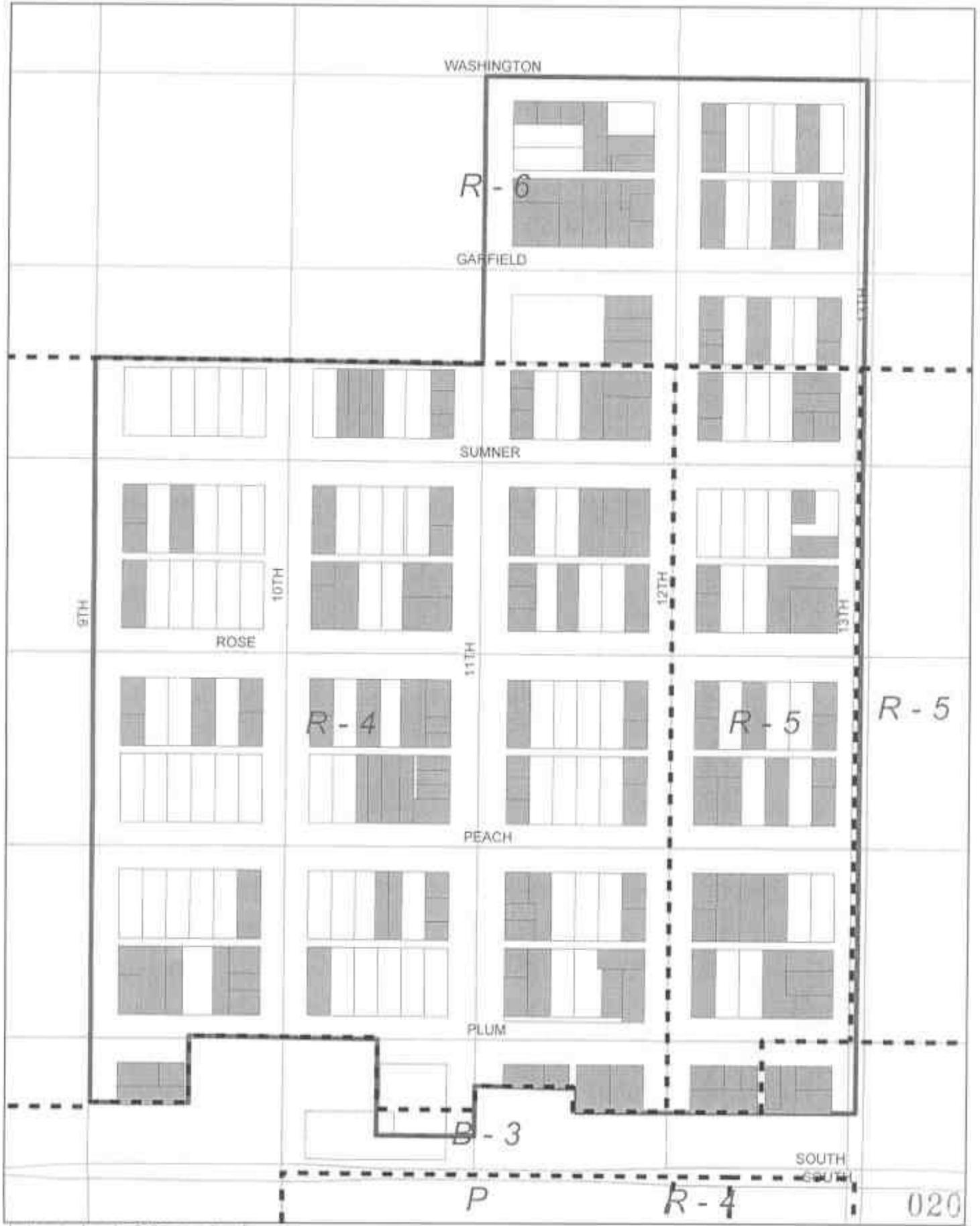


018

Change of Zone 3424
Existing Nonstandard Uses



Change of Zone 3424 Nonstandard Uses with R-2 Zoning





"Carol B"
<carolserv@hotmail.co
m>

To: jwalker@ci.lincoln.ne.us
cc:
Subject: Everett's downzoning

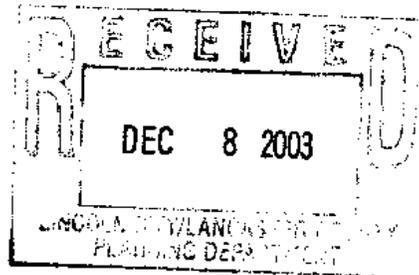
12/07/2003 03:57 PM

Jean,

Please pass along to the commissioners that Landons Neighborhood Association supports the action of downzoning the Everett Neighborhood.

Thank You,
Carol Brown Sec/Treasurer
Landon's Neighborhood Association

Tired of slow downloads and busy signals? Get a high-speed Internet connection! Comparison-shop your local high-speed providers here.
<https://broadband.msn.com>





"Robert Peterson"
<rfpeterson@alltel.net
>

To: <plan@ci.lincoln.ne.us>
cc:
Subject: Zone downsizing in Everett #3424

12/05/2003 03:04 PM

Dear Planning Commission Members,

My name is Robert Peterson and I live at 1240 Peach Street. I favor the planned zone change to R-2. We are a neighborhood of primarily one and two family homes. My property now contains my house and an apartment I built for my aging Mother. With just two residences on my lot, I have used most of the reasonable building area. If I were to try to build for three or four residences, the lot would be nothing but structures, with no room for grass, garden, pets, or recreation. As these older homes become worn out and are torn down in favor of larger multi-family units, the whole complexion of our neighborhood would change. The most rundown houses on our street, are multi-family houses with 5 or more families (there is a house meant for 4 plus on the south side of my street that has been condemned for over a year now). Please help us keep our older neighborhood in tact.

Sincerely,
Robert F. Peterson
402-476-0729



Dah1Dh2@aol.com

To: plan@ci.lincoln.ne.us

12/10/2003 09:17 AM

cc:

Subject: Downzoning South 1/2 Everett Neighborhood

I am writing in support of this change of Zone from R-6 to R-2 for the area Washington to South - 13th to 10th.

My wife and I have owned and occupied the property at 1220 Garfield since 1973. We have a purchase agreement for the property at 1238 Garfield.

My observation over the years is that there is a clear difference between the character of the North and South halves of Everett Neighborhood. It is briefly and clearly illustrated by the sign in the convenience store at 13th and E Prohibiting entrance to those who have been drinking alcohol in the past 24hrs. The convenience and liquer stores at 13th and South have not needed such notices. I believe that one of the primary factors in the difference in character is the density of apartments. North of Washington are many 6 and multiple 6 plexes. It seems that once they become the majority of a block, residents tend to have less investment in the neighborhood. South of Washington seems to remain mostly single family or duplex conversion. On my block 4 of 6 rentals are owner occupied or the owner lives next door. The rest of the homes are owner occupied. The single 6 plex is always quiet and well maintained. I think this is because the neighbors do not let problems develop. Downzoning to R-2 will encourage continued investment in owner occupied single family homes or maintaining single family rentals and maintainance of those homes. I think this benefits not only current residents such as myself but also the community as a whole. While I do not have data regarding the existing housing stock I would be surprised if it did not show that it consisted of homes that were significantly lower cost than new construction and thus filled a need for familys of limited means who desired to follow the American Dream of home ownership which again benefits the community as a whole.

I hope you will give serious consideration to the request for change of zone.

Thank you

David Hauswald
1220 Garfield
Lincoln, Ne
Ph 477-7572

IN SUPPORT

ITEM NO. 3.1: CHANGE OF ZONE NO. 3424
(p.111 - Public Hearing - 12/10/03)



sandy sundeen
<ssundeen@lps.org>

12/02/2003 04:37 PM

To: pian@ci.lincoln.ne.us
CC:
Subject: Change of Zone No. 3424

I regret to say that I will not be able to attend the public hearing on Wednesday, Dec. 10 concerning the application for a change of zone no. 3424 from R-4, R-5, and R-6 Residential Districts and B-3 Commercial district to R-2 Residential district.

I AM IN FAVOR OF THIS . I own my home and have lived in the neighborhood at 1136 Peach street for three years now and I would like for you to hear my voice in this request. Please grant this change of zone request.

Thanks for your consideration
Sandy Sundeen

No. 3424
S. 9th to S. 13th streets
Washington St. to south Street

ALAN L. PLESSMAN
SUSAN I. STRONG

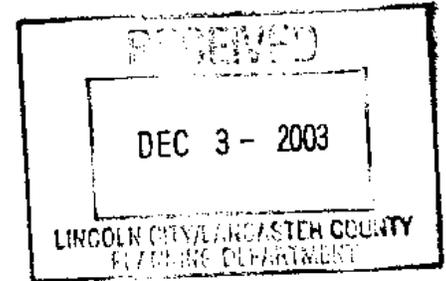
PLESSMAN LAW OFFICES

935 PLUM STREET
P.O. BOX 22609
LINCOLN, NE 68542-2609

ITEM NO. 3.1: CHANGE OF ZONE 3424
(p.111-Public Hearing-12/10/03)

TEL 1 (402) 435-3244
FAX 1 (402) 435-3245

December 2, 2003



JEAN WALKER
ADMIN OFFICER
PLANNING COMMISSION
555 S. 10TH STE 213
LINCOLN NE 68508

**Opposition to
Change of Zone 3424
Public Hearing: Dec 10 2003**

DEAR MS. WALKER:

I intend to appear at the public hearing on the above-referenced matter, but I thought some advance information from me might be helpful to you. I own the property on a part of Lot 1 and all of Lot 2 in Block 21, South Lincoln.

For reference, I enclose a copy of the Planning Commission's map of the area which would be affected by this proposal. It is modified to identify my property, orienting it to the entire area that would be affected by the proposal.

The plat map gives the impression that this change of zone request, if approved, would result in a change of zone to R-2 for all properties displayed on the plat map. Upon reading the detail of the change of zone request, it appears that's not the case. Assuming that's correct, the plat map is misleading.

If the plat map is correct in its visual representation, I object to this change of zone request because it would adversely affect my property, down-zoning it. You'll note that my property is zoned B-3. It has been for decades. When I purchased the property in the late '80's it was zoned B-3, and my purchase price reflected that zoning classification. I paid much more for it than I would have if it had been zoned residential.

Even though I could have purchased my property in the late '80's for less than I actually paid, if it had been zoned residential, I wouldn't have purchased it. I couldn't have improved the property with my office building with R-2 zoning. Furthermore, I would not have been able to obtain the financing for the purchase and development of the property if it had been zoned R-2. That zoning classification would have reduced the market value of the property I purchased to such a degree, that it would not have provided adequate collateral for the financing I obtained.

If my property's zoning is now changed to R-2, reconstruction of my improvements in the event of disaster or desired substantial improvement or expansion of the existing improvements would not be possible. Obviously, the R-2 zone change would have a dramatic, negative effect on the fair market value of my property from what it is zoned as B-3.

PLESSMAN LAW OFFICES

ALAN L. PLESSMAN
SUSAN I. STRONG

935 PLUM STREET
P.O. BOX 22609
LINCOLN, NE 68542-2609

TEL 1 (402) 435-3244
FAX 1 (402) 435-3245

December 2, 2003

Opposition to Change of Zone 3424

If the planning commission map's visual representation is incorrect, I still object to this change of zone request because it would still adversely affect my property, although in an indirect way. By down-zoning neighboring and/or nearby B-3 properties to R-2, limits the development potential of those properties and thus, the entire neighborhood.

I submit that making this zoning change would establish a precedent all property owners would disapprove of. I'm confident that my position would be the same for any of the other B-3 property owners in the area which would be directly or indirectly affected by this change of zone request.

Generally, I scratch my head, wondering why the Everett Neighborhood Association wants to down-zone this large area - certainly, if the B-3 existing areas remain included in the request. It is not good planning, in my view. It wouldn't be as questionable, if their proposal were amended to NOT include the B-3 zoned property. However you resolve this request for zone change, your action should not change the B-3 properties.

As I mentioned at the beginning of this letter, I intend to be present at the December 10th public hearing. However, in the event, my schedule changes, preventing me from attending, I ask that this mailing be made a part of the record, and given full consideration by the Planning Commission.

Very truly yours,



Alan L. Plessman

ALP/pc
Encl.



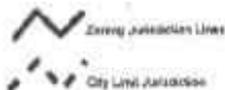
2002 aerial

Change of Zone #3424 Everett Neighborhood

Zoning:

- R-1 to R-6 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Commercial 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
- M-1 Interstate Commercial District
- M-2 Highway Business District
- M-3 Highway Commercial District
- M-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. 35 T10N R6E



Thursday, December 04, 2003

Greg Czaplewski
Lincoln Planning Department
555 South 10th Street
SWT 213
Lincoln, NE 68508

Re: Change of Zone 3424
9th to 13, Washington to South Street
OPPOSE

Dear Mr. Czaplewski:

This letter is being written on behalf of Hohensee Land Co., Inc., owner of property located north of South Street between 10th. & 11th. and owner of alley running northbound between South Street and Plum Street midway between 10th. & 11th. Street. Basic legal is: L4 B22 Dawson's Add to South Lincoln, L3 & 4 B22 South Lincoln Add, L7 & 8 B22 Dawson's Add to South Lincoln

10th. and South Plaza has had the same ownership and management for over two decades.

While it does not appear that the requested change of zone impacts our property, in the narrative provided, the "Area of Application" that was attached is confusing at best. I would request that a color coded map showing zoning now in each area with what is proposed under 3424 be provided to the public for review.

One (the largest) impact of 3424 is that property values will decrease. It is true that there have been very few single family homes demolished in the area to make way for apartments since the 1970's. The hope for transition to multifamily units suffered because of market conditions not foreseen when the "sound planning practices" of the 1950's 60's & 70's were implemented. But who can predict what will be "sound planning practices" thirty years from now? B-3 zoned property, will be adversely affected by 3424.

Why?

The short answer is that this change severely limits the potential to "grow your business". The area (that narrow strip of business zoning along South Street) is not sufficient under present zoning to accommodate growth and provide parking thus present restrictive business zoning is a contributing factor in the over all stagnation of the area. And, any monetary decline in real property values sets a tone for the entire neighborhood. As property values suffer as a result of downzoning, adjacent properties are also adversely affected.

In this matter under review, IF there was rampant conversion from single to multi-family units, IF population was flooding into the area, IF there was strain on Schools, Streets, Parks, Police and other "quality of life" measurements . . . maybe then 3424 would have some merit . . . but wait, what is really happening? Single family dwellings offered as rentals result in a slow, steady decline in "pride of ownership". A decrease in owner occupancy is never a positive sign for a neighborhood; Increased traffic flows on 13th., 10th., 9th., & South Streets are the result of population growth in outlying areas but do not benefit the quality of life in the Everett Neighborhood.

A positive move would be to expand business zoning rather than foreclose it.

A positive move would be to reduce property tax for owner occupancy.

An impetus in attracting more folks to move in and purchase homes in the area is needed, more consumer services, along with more owner occupied homes would do a lot more than downzoning. Attempting to maintain the area via 3424 is myopic. Rather than maintain we need to improve. To improve the neighborhood, planning must consider the impact to the businesses in the area;

Let us be a part of it!

Sincerely,



Dave Banwell
cc: Planning Commission membership, Gwendell Hohensee

