

City Council Introduction: **Monday**, November 3, 2008
Public Hearing: **Monday**, November 10, 2008, at **5:30** p.m.

Bill No. 08-155

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 08052**, from B-1 Local Business District to R-2 Residential District, requested by Vien Le, on property generally located at North 45th Street and W Street.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 10/22/08
Administrative Action: 10/22/08

STAFF RECOMMENDATION: Approval.

RECOMMENDATION: Approval (8-0: Carroll, Sunderman, Cornelius, Gaylor Baird, Partington, Taylor, Larson, and Esseks voting 'yes'; Francis absent).

FINDINGS OF FACT:

1. This is a request to change the zoning from B-1 to R-2 on approximately 0.85 acre, more or less, generally located at North 45th Street and W Street (See, applicant letter, p.11). The property is comprised of 4 lots developed with single-family homes plus a portion of a City bike trail. One of the homeowners discovered that the B-1 zoning was interfering with his ability to obtain bank financing because the residential use did not conform to the zoning. He obtained the concurrence of his neighbors to make this application.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-4, concluding that the change of zone from B-1 to R-2 would make the zoning consistent with the existing land use and is consistent with the R-2 zoning west of North 45th Street.
3. On October 22, 2008, 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 October 22, 2008, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval (Francis absent).

FACTSHEET PREPARED BY: Jean L. Preister

DATE: October 27, 2008

REVIEWED BY: _____

DATE: October 27, 2008

REFERENCE NUMBER: FS\CC\2008\CZ.08052

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for OCTOBER 22, 2008 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 08052

PROPOSAL: From B-1 to R-2

LOCATION: N. 45th Street and W Street

LAND AREA: 0.85 acres, more or less

EXISTING ZONING: B-1

CONCLUSION: The change of zone from B-1 to R-2 would make the zoning consistent with the existing land use and is consistent with the R-2 zoning west of N. 45th Street.

RECOMMENDATION:	Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 4 and the north 69' of Lot 3, Block 14, Newman Barnes Subdivision of University Place, and that portion of the MoPac Trail (abandoned MoPac railroad R.O.W.) abutting that Lot 4, located in the NW 1/4 of Section 20-10-7, Lancaster County, Nebraska, generally located at N. 45th Street and W Street.

EXISTING LAND USE: Four detached single-family dwellings.

SURROUNDING LAND USE AND ZONING:

North: Bike trail, R-2 Residential District
South: Commercial use, B-1 Local Business District
East: Commercial use, B-1 Local Business District
West: Single-family detached dwellings, R-2 Residential District

HISTORY: This area has been zoned B-1 since the 1979 zoning ordinance update.

COMPREHENSIVE PLAN SPECIFICATIONS:

This area is on the fringe of "commercial" and "residential-urban density" on the 2030 Comprehensive Plan Future Land Use map. (Page 19)

Commercial: Areas of retail, office and service uses. Commercial uses may vary widely in their intensity of use and impact, varying from low intensity offices, to warehouses, to more intensive uses such as gas stations, restaurants, grocery stores or automobile repair. Each area designated as commercial in the land use plan may not be appropriate for every commercial zoning district. The appropriateness of a commercial district for a particular piece of property will

depend on a review of all the elements of the Comprehensive Plan. (Page 16)

Urban Residential: Multi-family and single family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. (Page 16)

GUIDING PRINCIPLES FOR EXISTING NEIGHBORHOODS

1. Encourage a mix of compatible land uses in neighborhoods, but similar uses on the same block face. Similar housing types face each other: single family faces single family, change to different use at rear of lot. Commercial parking lots should not intrude into residential areas where residential uses predominate a block face. More intense commercial uses (gas stations, big box stores, car wash, fast food, etc.) may not be compatible due to impact on nearby housing. Expansion in existing centers should not encroach, or expand to encroach, on existing neighborhoods, and commercial areas must be screened from residential areas. (Page 68)

UTILITIES:

The lots are served by existing utilities.

TRAFFIC ANALYSIS:

N. 45th Street is a dead-end street north of W Street and serves approximately 10 dwellings.

AESTHETIC CONSIDERATIONS:

Rezoning the land from B-1 to R-2 increases the likelihood that these four properties will remain residential. The comprehensive plan notes that it is desirable to have similar uses face each other from across the street. If these four houses were to be redeveloped as a B-1 commercial use, it is likely that it would not be aesthetically compatible with the other existing residential lots west of N. 45th Street. Additionally, by zoning the land R-2, any residential redevelopment on these four properties would be subject to Neighborhood Design Standards where they would not have been if zoned B-1.

ALTERNATIVE USES:

Remain zoned as B-1 and either leave the detached single-family dwellings in place, or redevelop with commercial uses and/or parking.

ANALYSIS:

1. The applicant has stated that he is requesting the change of zone from a commercial zone to a residential zone due to bank financing issues related to a residential property located in a commercial district. Rather than approving a change of zone on a single lot, staff recommended that all four existing homes zoned B-1 be changed to R-2 in order to be consistent with the residential district west of N. 45th Street. The applicant stated in his letter that he has support from the other three owners included in the change of zone.
2. The four homes included in the change of zone application were all built in 1960 according to the Lancaster County Assessor.

3. Commercial zoning was not in place according to a September, 1959 zoning map. A map dated September, 1967 showed the area as "G" for commercial. It appears that the four homes have been located in a business district for no less than 41 years and may have been constructed when it was still zoned for residential uses.
4. The single-family dwellings included in this change of zone are permitted uses in the R-2 Residential District. Dwellings on the first floor are not permitted in the B-1 Local Business District. This application would make these four homes more in compliance with the zoning code.
5. The adjacent B-1 lot south of the change of zone at the corner of N. 45th Street and W Street has been developed with a commercial building. The change of zone application would make this commercial building a nonconforming use due to setback and screening requirements when adjacent to a residential district.
6. The portion of the bike trail zoned B-1 adjacent to the north is also being proposed to be zoned R-2 at this time.

Prepared by:

Brandon M. Garrett, AICP
Planner

DATE: October 13, 2008

APPLICANT: Vien C. Le
912 N. 45th Street
Lincoln, NE 68503

CHANGE OF ZONE NO. 08052

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

October 22, 2008

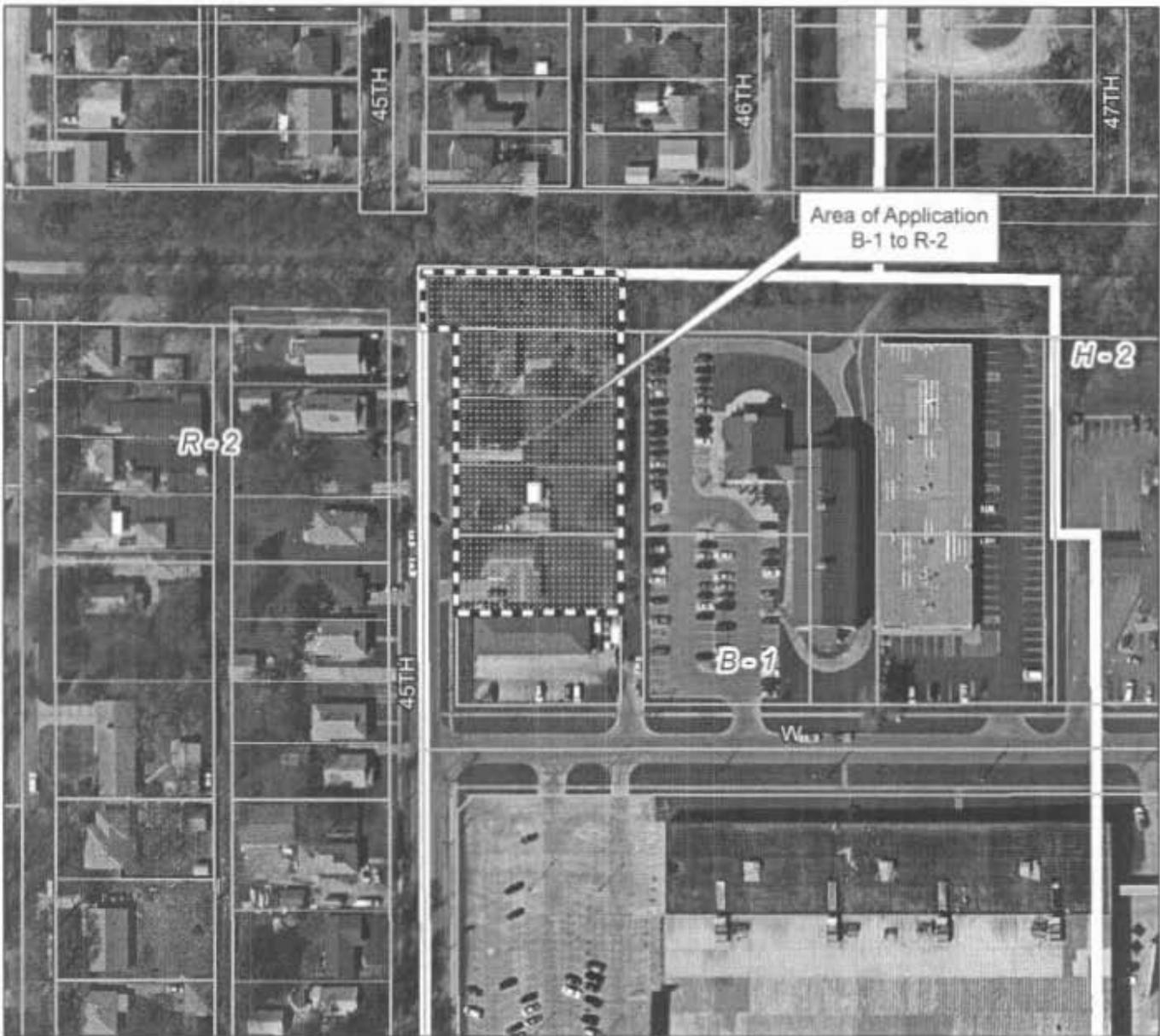
Members present: Gaylor Baird, Carroll, Cornelius, Esseks, Larson, Partington, Sunderman and Taylor; Francis absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 08052, USE PERMIT NO. 107C and SPECIAL PERMIT NO. 08036, Hartland Estates 1st Addition Community Unit Plan.**

Ex Parte Communications: None

Item No. 1.3, Special Permit No. 08036, was removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved to approve the remaining Consent Agenda, seconded by Sunderman and carried 8-0: Gaylor Baird, Carroll, Cornelius, Esseks, Larson, Partington, Sunderman and Taylor voting 'yes'; Francis absent.



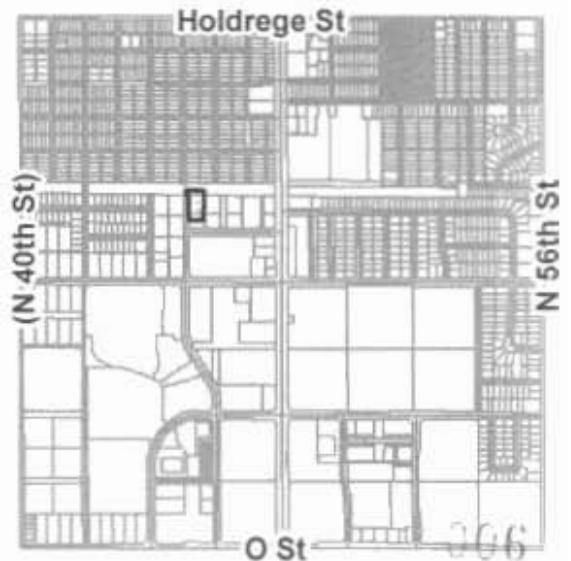
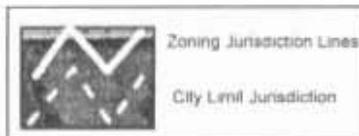
2007 aerial

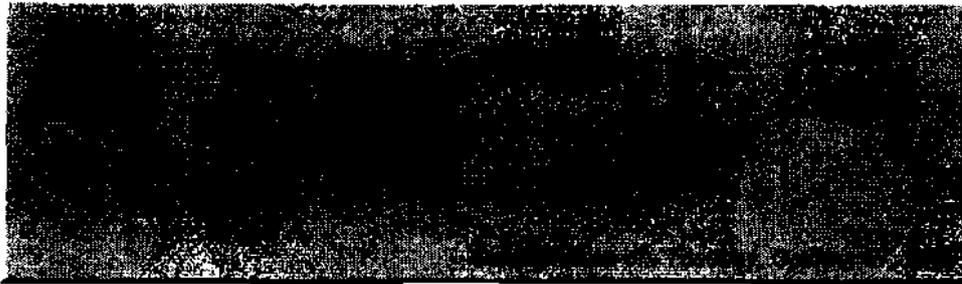
Change of Zone #08052 N. 45th Street & W Street

Zoning:

One Square Mile
Sec. 20 T10N R07E

- 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





Status of Review: Active

Reviewed By

ANY

Comments:

Status of Review: Active

Reviewed By Alltel

ANY

Comments:

Status of Review: Approved

09/22/2008 2:28:08 PM

Reviewed By Building & Safety

ANY

Comments: approved

Status of Review: FYI

09/23/2008 10:14:16 AM

Reviewed By Building & Safety

Terry Kathe

Comments: This would result in the abutting lots possibly becoming non-standard for setbacks.

Status of Review: Submitted

09/25/2008 11:22:44 AM

Reviewed By Fire Department

ANY

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

007

Status of Review: Approved

09/30/2008 4:17:06 PM

Reviewed By Health Department

ANY

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

TO: Brandon Garrett DATE: September 30, 2008

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION:

DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: UN 45th & W. B-1 to R-2

EH Administration CZ #08052

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

Status of Review: Active

Reviewed By Lincoln Electric System

ANY

Comments:

Status of Review: Active

Reviewed By Lincoln Police Department

ANY

Comments:

Status of Review: Active

Reviewed By Planning Department

BRANDON GARRETT

Comments:

Status of Review: Complete

Reviewed By Planning Department

RAY HILL

Comments:

Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

Status of Review: Complete

09/25/2008 8:29:20 AM

Reviewed By Public Works - Development Services

SIETDQ

Comments: Memorandum□□
□

To:□Brandon Garrett, Planning Department
From:□Charles W. Baker, Public Works and Utilities
Subject:□North 45th and W Change of Zone #08052
Date:□September 25, 2008
cc:□Randy Hoskins
□

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the North 45th and W Change of Zone #08052 from B-1 to R-2 on 912, 922, 930, and 936 North 45th Street. Public Works has no objections.

Status of Review: Active

Reviewed By School District

ANY

Comments:

009

Lincoln, September 18, 2008

To: Lincoln-Lancaster County Planning Department
555 S. 10th Street
Lincoln, NE 68508

From: Vien Le
912 N. 45th Street
Lincoln, NE 68503

I am one of the home owners at block 14 on Newman Barnes Sub University Place on B1 zone. Four houses on this block are residential single family houses, not businesses. We, the owners and family members, never used our homes for business purposes and will never do. Therefore, on behalf of the home owners on this block and myself, I would like to request the zone changed from B-1 to R-2. I have talked to all neighbors, including Thuy Nguyen, owner at 922, Matthew Bowen, owner at 930, and Mary Sales, owner at 936 about zone change application and they all agreed on the zone change request.

I will pay the fee and prepare paperwork. Upon the zone change, we will take good care of the land and the neighborhood. If you need further information or additional document, please do not hesitate to contact me at 402-560-4481 or email vienlc@yahoo.com

We would like to thank you for your consideration and decision.

Sincerely,



Vien Le