City Council Introduction: **Monday**, May 16, 2011
Public Hearing: **Monday**, May 23, 2011, at **5:30** p.m.

Bill No. 11R-114

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 11007,** requested by Larry Buller, for historic preservation, for authority to adjust the side yard and parking requirements, on property located at 2943 Garfield Street.

STAFF RECOMMENDATION: Conditional Approval.

ASSOCIATED REQUEST: Change of Zone No. 11014 (11-66)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 05/04/11
Administrative Action: 05/04/11

RECOMMENDATION: Conditional Approval, with amendment deleting Condition #2 (9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Taylor and Sunderman voting 'yes').

FINDINGS:

1. This change of zone and the associated Special Permit No. 11007 were heard at the same time before the Planning Commission.

2. The change of zone is a request to designate the Hac Grocery/The Chimes building located at 2943 Garfield Street as a historic landmark.

3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.4-6, concluding that the landmark designation protects a prominent neighborhood structure with historic significance, and provides the opportunity to request a special permit to adjust the side yard and parking requirements. This request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan. The staff presentation is found on p.7.

4. The Historic Preservation Commission reviewed this proposal and recommends approval (See p.15-16). The Preservation Guidelines are attached to the proposed ordinance as Exhibit "A".

5. The applicant's testimony is found on p.7.

6. There was no testimony in opposition.

7. On May 4, 2011, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval of the landmark designation.

8. On May 4, 2011, the Planning Commission also voted 9-0 to recommend conditional approval of the associated Special Permit No. 11007 (Bill #11R-114), with amendment to allow two instead of four parking spaces.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: May 10, 2011

REVIEWED BY:_____

DATE: May 10, 2011

REFERENCE NUMBER: Q:\FS\CC\2011\CZ11014+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for May 4, 2011 PLANNING COMMISSION MEETING

****As Revised by Planning Commission****
and Recommended for Conditional Approval: May 4, 2011

PROJECT #: Change of Zone No. 11014--Landmark Designation of Hac Grocery/The Chimes
& ***Special Permit #11007*** for Historic Preservation to adjust yard and parking requirements

PROPOSAL: Designation of the property at 2943 Garfield as a Landmark (from R-2 Residential to R-2 Residential with Landmark Overlay) and a special permit to adjust a side yard from 5 feet to 2 feet to reflect the 1916 construction, and to adjust the on-site parking requirement from 4 stalls to 2 stalls.

LOCATION: 2943 Garfield Street (near Garfield and Jefferson Avenue)

LAND AREA: Approximately 12,500 sq. ft., more or less.

EXISTING ZONING: R-2 Residential

WAIVER/MODIFICATION REQUEST: To accept the site plan showing a 2' side yard adjacent to the east (platted/unimproved) alley, rather than the five (5) feet required in the R-2 district; and to accept the parking as shown on the site plan (2 stalls rather than 4 stalls).

CONCLUSION: The landmark designation protects a prominent neighborhood structure with historic significance, and provides the opportunity to requests the special permit. The special permit encourages rehabilitation and reuse of the proposed landmark in a manner consistent with the residential setting. This request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan.

RECOMMENDATION FOR CHANGE OF ZONE 11014:	Approval of Landmark designation
RECOMMENDATION FOR SPECIAL PERMIT 11007:	***Conditional Approval of Special Permit***

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 1 and 2, Block 12, Zehrung & Ames Addition, located in the northeast quarter of Section 36-10-06, Lincoln, Lancaster County, Nebraska.

EXISTING LAND USE: Residential/undergoing rehabilitation

SURROUNDING LAND USE AND ZONING:

North:	Residential	R-2
South:	Residential	R-2
East:	Residential	R-2
	Park & Trail	P
West:	Residential	R-2

HISTORY:

Feb. 2011 Purchased by applicant.

2003 Purchased from estate of Hac family (original builders)

2004-2005 Prior building permits to demolish attached garage and undertake rehabilitation.

1950s Cessation of use as grocery store, continuation of Hac family residence and piano instruction into 1990s

1928 First listing of piano lessons at address

1916 Construction of property as Hac grocery store with family residence above

UTILITIES: The site is served by all public utilities.

PUBLIC SERVICE: The property is in the Lincoln Public School District (Lancaster District 001) and has all City of Lincoln services.

ALTERATIVE USES: Landmark designation does not by itself change the permitted uses in the R-2 Residential District. The requested use (two-family residence) is permitted in the R-2 District on a parcel of this size.

COMPREHENSIVE PLAN SPECIFICATIONS:

Pg 17 - The Future Land Use Map of the Comprehensive Plan designates this area as residential.

Pg 142 - Historical & Cultural Resources- Encourages identification and protection of "the full range of historic resources" and "incentives and regulatory support for the rehabilitation of existing buildings."

ANALYSIS:

Lincoln Municipal Code, section 27.57.120 provides for designation of landmarks that are *"Associated with events, person, or persons who have made a significant contribution to the history, heritage, or culture of the City of Lincoln, the County of Lancaster, the State of Nebraska, or the United States*" or that "*Represent a distinctive architectural style or innovation...*"

1. The Hac Grocery, later called "The Chimes," is the best example extant in Lincoln of a neighborhood grocery store built with the owners' home above. A family member also offered music lessons at the building for seven decades.

2. The Historic Preservation Commission is scheduled to hold hearings on these applications on April 28, 2011. The owner has requested expedited action as he already as a substantial construction loan for the essential rehabilitation work. The Preservation Commission's recommendations will be conveyed to the Planning Commission prior to its hearing of May 4, 2011.

3. The R-2 zoning district requires side yards of 5 feet. A portion of the Hac Store and home was built within 2 feet of the east property line in 1916. The plat for the property showed South 30th Street adjacent to the east; instead Jefferson Avenue was developed further east and the adjacent land was platted in the 1960s as an 18-foot-wide alley (unimproved) and house lots. Approval of the requested Special Permit and accompanying site plan would normalize this long-standing, non-standard condition.

4. Two parking stalls per dwelling are required in the R-2 district. The subject property has a driveway adjacent the building on the west sufficient for two "tandem" stalls. There are retaining walls on the west and south sides of the driveway due to a considerable change in grade–the property rising to the west and south. The property is also accessed by a rear (south) alley which has minimal improvement and functionally dead-ends into the subject property. (The platted continuation of the alley east, to intersect with the platted north-south alley, is unimproved.)

5. Public Works Department recommends (see attached comments) that four stalls be provided on-site.

6. LMC 27.63.400 allows adjustment of parking requirements for landmarks. In some circumstances, no off-street parking is possible, when landmarks fill or nearly fill their sites, such as Tifereth Synagogue at 18th & L Streets and German Evangelical Lutheran Church and School at 8th and D Streets. In other circumstances, such as the A. C. Lau House (formerly "Dutch Pillow B&B") at 1818 S. 24th, a landmark special permit included a parking reduction for esthetic reasons, where use of shared on-street parking was found to be preferable to changing the historic character of the site. Especially because of the topography of this site, widening the existing driveway to accommodate four stalls would be a substantial visual impact. Planning staff recommends a condition to modify the site plan to provide two parking stalls off the alley.

7. The proposed preservation guidelines for the Hac Grocery are attached as Exhibit A. They are based on typical guidelines for Lincoln Landmarks.

A Special Permit for Historic Preservation under LMC 27.63.400 is to be evaluated under the following six criteria:

- **The significance of the historic structure or site and the degree of variation sought from the permitted uses of the district;**

The Hac Grocery appears to meet the criteria for landmark designation as an excellent example of a neighborhood grocery with residence. No variation from the uses permitted in the R-2 district is requested as the parcel is large enough for a duplex/two-family residence. The degree of yard variation requested is 2.0 feet, reflecting the original placement of the building in 1916. The on-site parking is requested to be reduced from 4 stalls to 2 stalls.

- **The extent to which economic factors necessitate the change in use;**

The applicant purchased the property and arranged financing based on two family dwellings, due to the size of the parcel. The parking request is apparently partly financial but primarily esthetic.

- **The extent of proposed exterior change to the structure or site;**

The requested special permit would not require alteration of the building or site. The landmark designation would obligate the applicant to future review of changes, in accord with the preservation guidelines.

- **The impact on the surrounding area;**

The applicant's project would return "The Chimes" to use and occupancy after approximately a decade of vacancy. The parking request would presumably add some use of on-street parking. The subject property has 100 feet of frontage on Garfield but that space is publicly available, not privately dedicated.

- **The compatibility of the proposed use to the structure or site and the surrounding area;**

The rehabilitation of "The Chimes" as two residential units returns the upper floor to its original use and converts the main floor and walk-out basement to the owner's residence. The project is compatible with the area even without the added benefit of owner-occupancy.

- **The manner in which the public will be benefitted by such proposed use.**

The proposed project provides housing within an existing residential area, close to a park and trail. It stabilizes a neighborhood landmark and maximizes use of the public investment in infrastructure. It accommodates private investment and contributes to the property tax base.

CONDITIONS OF APPROVAL (Special Permit #11007):

Site Specific Conditions:

1. Approval would permit development of the site as two dwelling units based on the submitted plan in terms of required yards; specifically, the east side yard is reduced from 5 feet to 2 feet.

~~2. Modify the submitted site plan to provide two parking stalls accessed by the south alley, to be approved by the Director of Planning~~. **(**Per Planning Commission on 05/04/11, as requested by the applicant and recommended by the Historic Preservation Commission**)**

3. Any modifications to the building exterior or to the approved site plan must be submitted and approved for a Certificate of Appropriateness by the Preservation Commission.

4. The City Council approves the associated request for Change of Zone 11014 designating the property as a landmark.

5. Only uses permitted in the underlying zoning district are allowed by this permit.

Standard Conditions:

6. The following conditions are applicable to all requests:

   6.1 Before occupying the improvement all development and construction shall substantially comply with the approved plans.

   6.2 All privately-owned improvements shall be permanently maintained by the owner.

   6.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, and similar matters.

   6.4 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.

   6.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

Ed Zimmer, 441-6360, ezimmer@lincoln.ne.gov
Planner

April 22, 2011

APPLICANT/
OWNER: Larry Buller
1921 Prospect Street
Lincoln, NE 68502
402-770-0988

CONTACT: Same

CHANGE OF ZONE NO. 11014
and
SPECIAL PERMIT NO. 11007

PUBLIC HEARING BEFORE PLANNING COMMISSION: May 4, 2011

Members present: Larson, Lust, Taylor, Cornelius, Gaylor Baird, Francis, Partington, Esseks and Sunderman.

Ex Parte Communications: None.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit.

Staff presentation: **Ed Zimmer of Planning staff** presented the proposals on behalf of the Historic Preservation Commission (HPC) and submitted the excerpt from the meeting record of the HPC with an affirmative recommendation.

Zimmer explained that this property is a 1916 grocery store building located in a residential neighborhood. There were a very large number of grocery stores positioned like this one during that time. A few of them wouldn't have been quite as large and grand as this one. The Hacs built their residence on the second floor. The front had a recessed entry with a double door -- one to the store and one to the apartment upstairs. The special permit requests to convert this to a duplex dwelling so that the upper floor would be returned to a residence and the main floor and basement would be the owner's residence. It was built within a couple feet of the east side lot line. This special permit would recognize that situation and would permit the duplex. There is enough footprint in the R-2 zoning for a duplex.

Zimmer pointed out that the applicant is requesting a reduction in the parking requirement by two stalls, which the Planning staff has not recommended but the HPC does recommend approval of the waiver to reduce the parking by two stalls.

Proponents

1. Larry Buller, 1921 Prospect Street, testified in support as the applicant. The property slopes toward Antelope Park with a retaining wall on the right hand side. That would currently hold two cars – tandem parking. There is somewhat of an access through the alley, but it is a very unimproved alley at this point, so he is trying to avoid plowing up some of the green space on the property for those two additional parking stalls being required by the Planning staff report.

Buller indicated that this will be his primary residence, and he will rent out the second floor. Francis asked about the condition of the building when Buller purchased it. Buller stated that it was a shell when he bought it. He is in the process of putting all of the components back in. The upstairs has probably not been occupied for 10 years or longer.

There was no testimony in opposition.

CHANGE OF ZONE NO. 11014
ACTION BY PLANNING COMMISSION: May 4, 2011

Francis moved approval, seconded by Esseks.

Esseks congratulated the applicant for undertaking this project, saving the building and living there and maintaining the property as it should be.

Francis knows that the applicant has restored other buildings in Lincoln and does a quality job.

Motion for approval carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 11007
ACTION BY PLANNING COMMISSION: May 4, 2011

Francis moved to approve, with conditions, seconded by Taylor.

Taylor echoed what has already been said. He appreciates the use of the property.

The Clerk questioned the motion to understand whether the intent is to approve the staff recommendation, which requires four parking stalls, or the HPC recommendation, which deletes two parking stalls.

The Commission sought clarification. Zimmer advised that Condition #2 of the Planning staff report would have the applicant amend the site plan to add two parking stalls, for a total of four. The HPC disagreed with that and the applicant had requested that the site plan be approved as submitted. The applicant is promising two parking stalls and the HPC has agreed with the applicant's request to reduce the parking stalls to two. In gathering information with the City departments, Zimmer advised that Public Works is recommending that the typical four stalls be provided and that is how it stands in the staff recommendation.

Esseks asked for the HPC's rationale for reducing to two. Zimmer stated that HPC agreed that the current site was the better choice, partly aesthetics. This is a location with 100 feet of street frontage so part of the reason was that there is street parking available.

Francis withdrew the original motion, and Taylor, the seconder, agreed.

Francis moved to approve the staff recommendation of conditional approval, with amendment deleting Condition #2, seconded by Esseks.

Taylor expressed concern about revising the staff recommendation. Francis thinks it would do more harm to the project and hurt the aesthetics of that lot by requiring the two additional parking stalls. It would require tearing up the back yard or side yard to provide those two parking stalls.

Taylor suggested that the staff recommendation gives the applicant the opportunity to provide two more parking stalls.

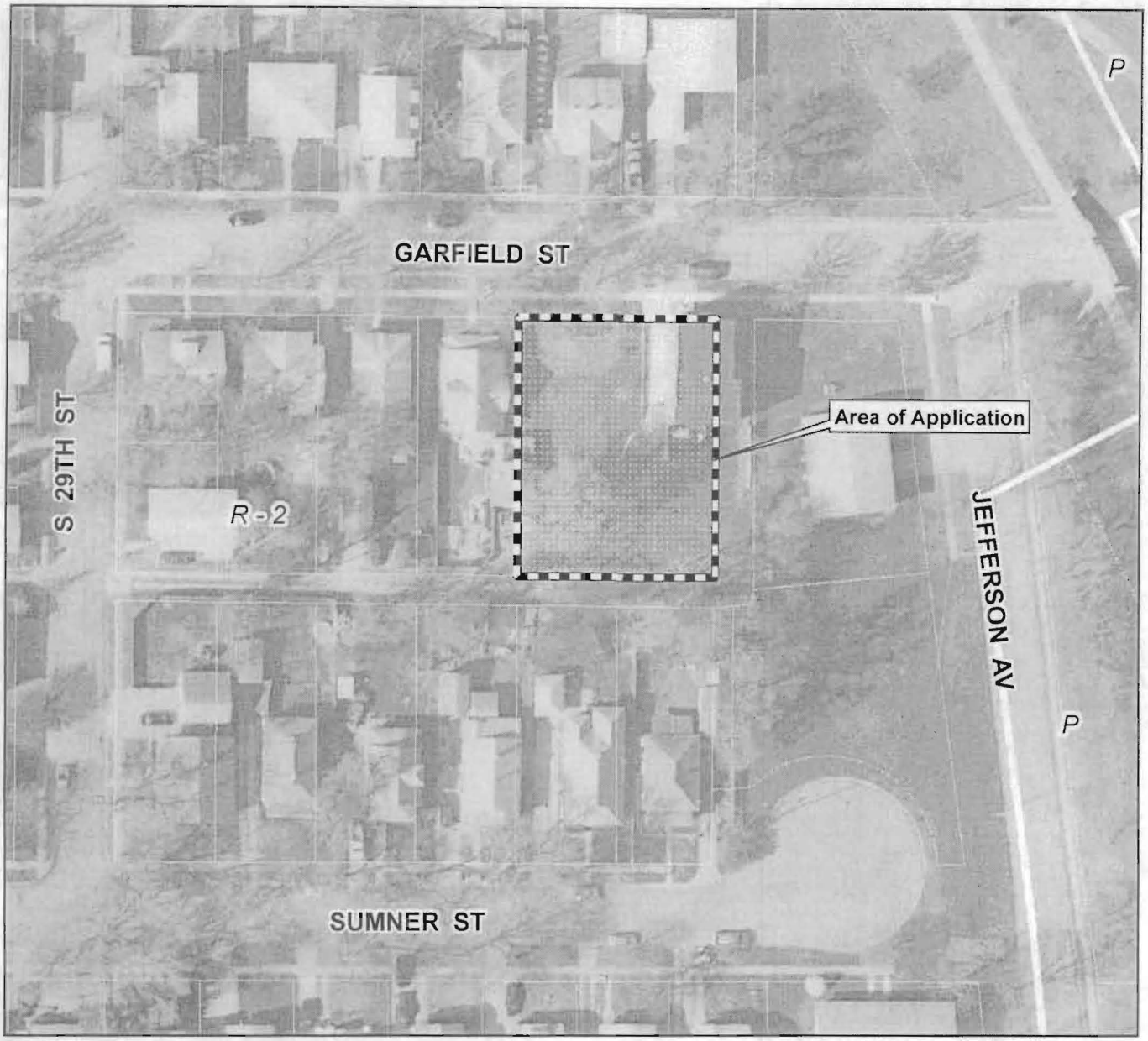
Zimmer advised that the purpose of Condition #2 is to require the applicant to amend the site plan to show four parking stalls. It is not optional. The HPC recommendation is to approve the landmark designation and to delete the two additional parking stalls on the special permit.

Sunderman stated that he will support the motion. He was leaning toward the four parking stalls if it was optional, but he does not want to make it a requirement, considering that the alley is unimproved and minimally maintained.

Lust commented that this is definitely a good project for both the neighborhood and that building and for rehabbing a historic landmark. She does not believe the two extra parking stalls in this area are necessary.

Gaylor Baird commented that the HPC endorsement regarding the parking is very helpful. The extra long street frontage also provides more comfort.

Motion for conditional approval, with amendment deleting Condition #2, carried 9-0: Gaylor Baird, Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'. <u>This is a recommendation to the City Council.</u>



2010 aerial

Special Permit #11007 & Change of Zone #11014 (Landmark) 2943 Garfield 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

N

One Square Mile
Sec. 31 T10N R07E

Zoning Jurisdiction Lines

City Limit Jurisdiction

m:\plan\arcview\Agendadrawings.mxd (SP11007 & CZ11014)

APPLICATION
Larry Buller
2943 Garfield Street
Lincoln, Nebraska 68502

Legal Address: Zehrung and Ames, Block 12, Lot 1-2
Neighborhood Name: Memorial Park

Purpose of Application:

The purpose of this application is to assist in the renovation of an historic grocery store (circa 1917) into a duplex living space. Currently, the building is unoccupied, and has been for a number of years. The building originally housed a two bedroom second floor apartment, a small living unit and grocery store on the first floor and a basement area that was used for storage. Due to current zoning laws, I have been told (by the Lincoln Building and Safety Department) that it is not possible for this property to be re-used as a duplex. This is due to the fact that on the east side of the property there is less than 5 feet to the property line. There is an unimproved alley running along the property, but this currently is owned by the city. I am requesting a waiver of this zoning requirement so that I may rehabilitate the property.

My plan is to keep the exterior features intact and to paint and fix the current windows. I would like to leave the front steps as they currently are. I would like to renovate the second floor apartment by adding two bathrooms, new kitchen area, new electrical service, new heating and air conditioning and all new plumbing. Additionally, I will be adding insulation to the attic area. All floors will be refinished and new drywall will be added to areas that were gutted by the previous owner.

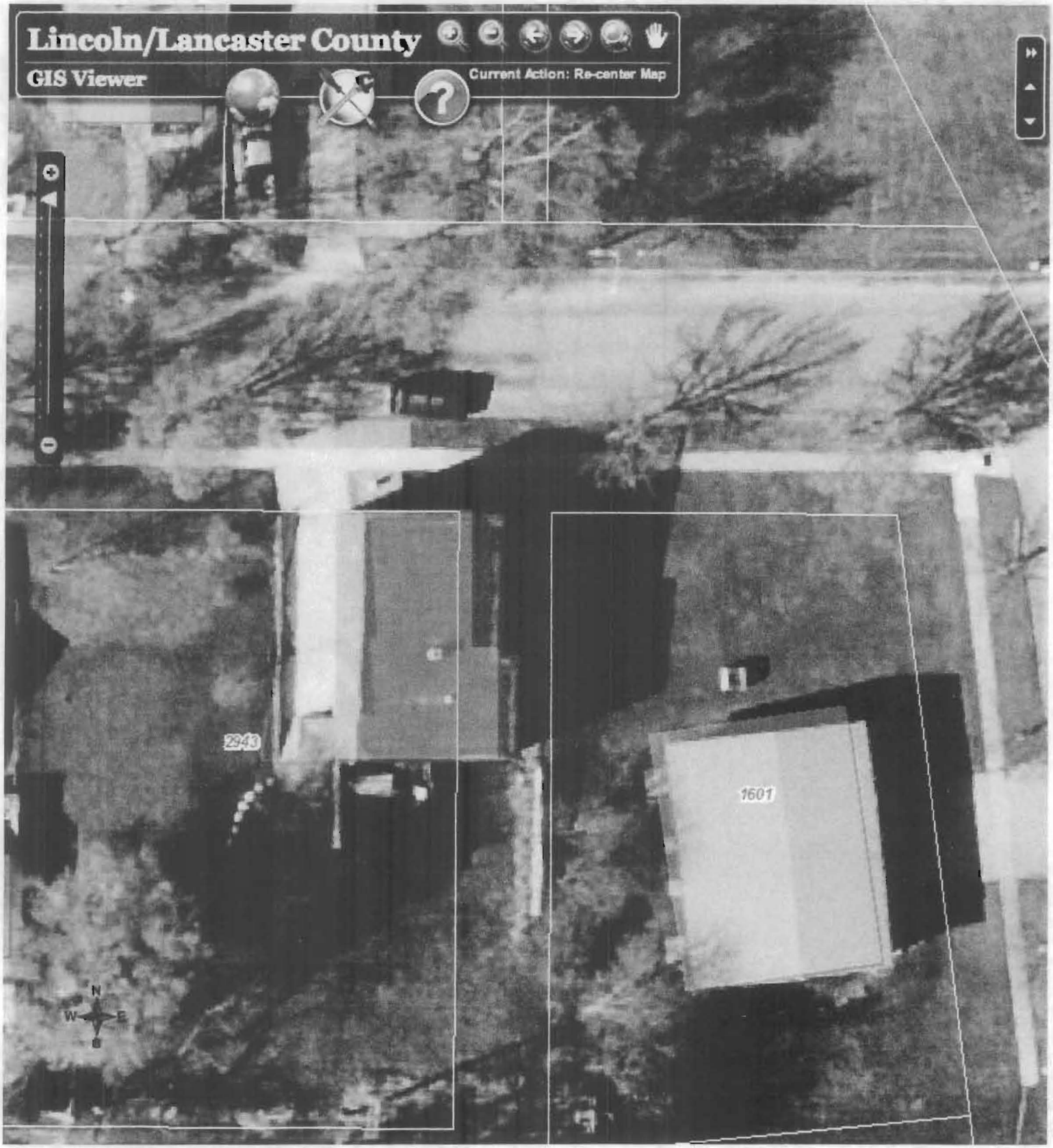
On the first floor, I would like to add a "loft" style apartment with a new kitchen, bathroom, new electrical, plumbing and heating and air-conditioning. I would also like to expose the wood floors. I plan to live in this building as an owner-occupant on the first floor. I plan to use the basement area as my own private art studio space.

Parking Considerations: The previous owner of the property installed paved parking to the west side of the building in 2007. Normal requirements for duplex properties require four paved parking spaces. I would like to consider keeping the current parking situation in place for the following reasons:

1) Currently there is minimally improved alley access to the south of the building. There is little, if any, gravel and the alley is mostly dirt and some grass.
2) Several trees would need to be removed from the back of the property to accommodate additional paved parking.
3) Garfield street slopes downhill from west to east, making is difficult to access the north frontage of the parcel for parking.
4) Adding parking would subtract green space from the property and driving through the minimally improved alley would potentially disrupt neighbors.
5) There is an abundance of on-street parking to share (see areial map) on Garfield.

In general, I feel that a paved parking pad at the rear of the property with parked cars would be an "eye sore." Sharing the on-street parking, in my opinion, provides for a lower impact on the neighborhood. Additionally, the current parking to the west of the building would provide an adequate means to remove cars from the street on snow emergency days.

As mentioned, this historic structure has been empty for a number of years and is in need of updated utilities and repair. I have secured bank financing to be used towards this renovation and the second unit is necessary to its success. I feel that when this project is completed the building will be an asset to the neighborhood and surrounding Antelope Park area. Many neighbors have expressed a love of this building and have expressed their support in seeing the property renovated after years of neglect.


Lincoln/Lancaster County
GIS Viewer
Current Action: Re-center Map
2943
1601
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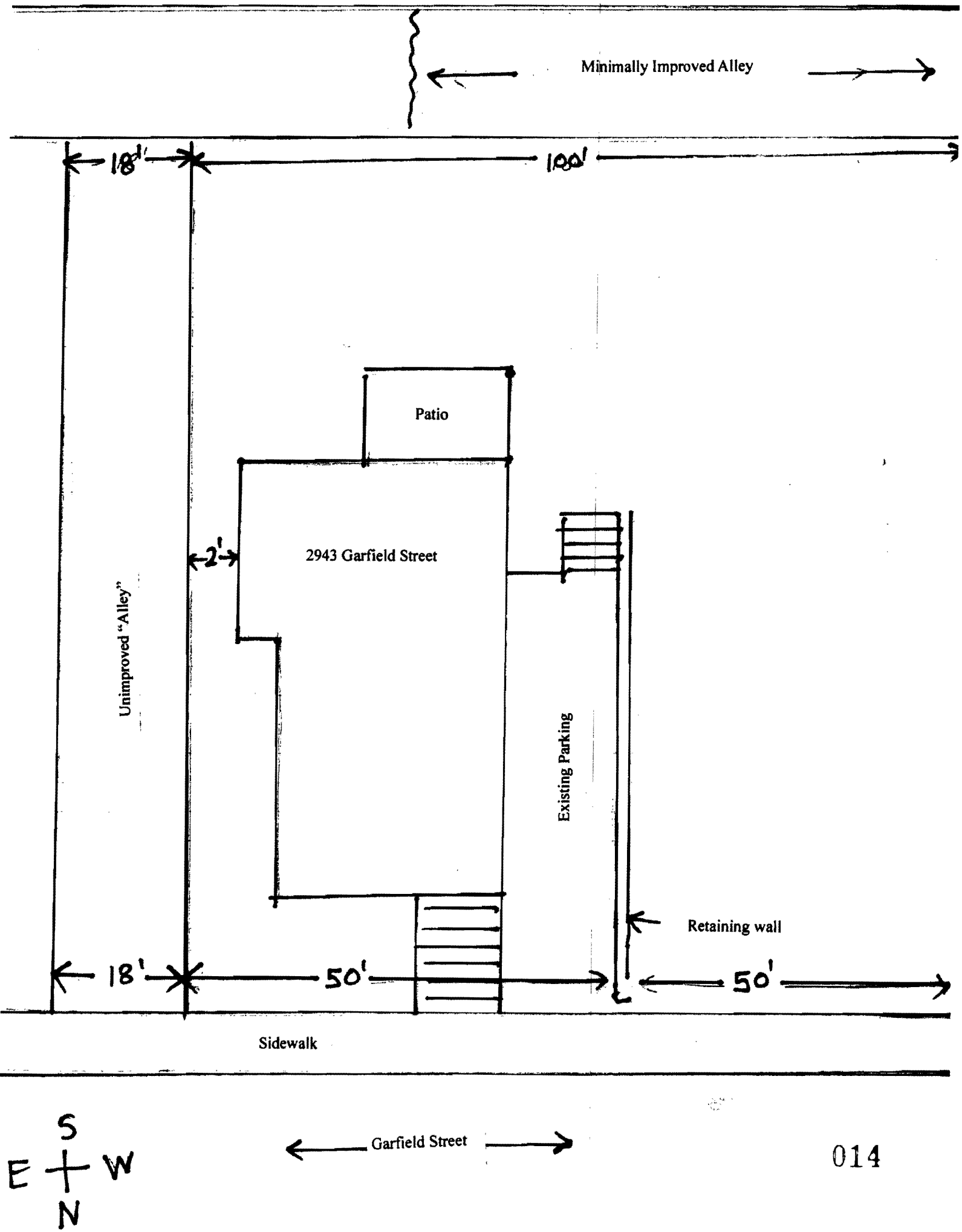
Minimally Improved Alley
18'
100'
Patio
2943 Garfield Street
2'
Unimproved "Alley"
Existing Parking
Retaining wall
18'
50'
50'
Sidewalk
S
E
W
N
Garfield Street

To: Planning Commission
Re: "The Chimes" CZ#11014 and SP#11007
From: Ed Zimmer for Historic Preservation Commission
Date: May 4, 2011

Below are excepts from the meeting record of April 28, 2011, regarding the landmark application and special permit for 2943 Garfield Street.

The Commission recommends the landmark designation be made and that the special permit be granted to rehabilitate the building as a duplex, with adjustments to the east side yard and reduction of required parking.

Excerpt from **MEETING RECORD**

NAME OF GROUP:	HISTORIC PRESERVATION COMMISSION
DATE, TIME AND	Thursday, April 28, 2011, 1:30 p.m., Conference Room
PLACE OF MEETING:	210, 2nd Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Cathy Beecham, Tim Francis, Jim Johnson, Jim McKee; Greg Munn and Bob Ripley; (Berwyn Jones absent). Steve Henrichsen and Teresa McKinstry of the Planning Department; and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Historic Preservation Commission Meeting

APPLICATION BY LARRY BULLER FOR DESIGNATION OF 2943 GARFIELD STREET, THE FORMER HAC GROCERY/a.k.a. "THE CHIMES" AS A DESIGNATED LANDMARK IN ACCORD WITH LMC 27.53.120 AND FOR A SPECIAL PERMIT FOR HISTORIC PRESERVATION TO REHABILITATE "THE CHIMES" AS A DUPLEX, WITH ADJUSTMENTS OF A YARD REQUIREMENT AND PARKING REQUIREMENTS
PUBLIC HEARING: **April 28, 2011**

Members present: Beecham, Francis, Johnson, McKee, Munn and Ripley; Jones absent.

Ripley stated that this application is for the rehabilitation of "The Chimes" which was

recently purchased. The special permit will be for the use of the property as a duplex. He believes there is an issue with Public Works asking for four parking stalls as opposed to two stalls. Currently, the property has the capacity for two stalls. One lot is really not built on. There is essentially fifty feet of open land, but there is an elevation change. Ripley believes this is an obvious choice for landmark designation.

Larry Buller stated that the first floor used to be a grocery store. He will be using it as his personal space. The second floor will be an apartment. It is zoned R-2 and there is an unimproved alley next to the property. It has never been vacated. His application would reduce the side yard to 2.5 feet on the east, adjacent to the alley.

Beecham believes there is plenty of street parking available in the area. She commended Buller for giving life back to this building. She thinks two stalls would be acceptable. Street parking would be adequate.

Johnson commented he attends Sunday evening concerts at the bandshell. It gets crowded during that time, but two more cars is not going to make a difference.

Buller has monitored the cars parking on the street during the day and at night, and there aren't many cars parked on the street. It seems silly to plow up the back yard for cars.

ACTION:

Approval of landmark designation and special permit with two parking stalls and a side yard of 2.5 feet, seconded by Johnson. Motion carried 6-0: Beecham, Francis, Johnson, McKee, Munn and Ripley voting 'yes'; Jones absent.

Q:\HPC\MINUTES\2011\HPC042811NotetoPC.wpd