

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3358

DATE: February 21, 2002

PROPOSAL: To change the zoning from H-4 General Commercial to I-1 Industrial on property north and east of the intersection of Southwest 6th Street and West A Street.

LAND AREA: Approximately 4.4 Acres

CONCLUSION: This request is inconsistent with the Comprehensive Plan and the City's policy of not approving change of zone applications that allow industrial zoning and potentially incompatible uses adjacent to residential zoning.

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

LEGAL DESCRIPTION: Lots 1-26 and vacated alley, Block 6, Elmwood Addition, and Lots 7-13, Block 5, Elmwood Addition, and those portions of Lot 1, IMS 1st Addition and the remaining portion of Lot A, Elmwood Addition south of the centerline of the alley north of Lots 7-12, Block 5, Elmwood Addition extended east to the east line of remaining portion Lot A, Elmwood Addition.

LOCATION: North and east of the intersection of SW 6th Street and W. "A" Street.

**APPLICANT/
CONTACT** Robert Stephens
1542 South 1st Street
Lincoln, NE 68502
(402)525-8788

OWNER: Robert Stephens and others

EXISTING ZONING: H-4 General Commercial

EXISTING LAND USE: Vacant

SURROUNDING LAND USE AND ZONING:

North:	Industrial	I-1
South:	Commercial	I-1
East:	Salt Creek	I-1
West:	Commercial, Single-family Residential	B-1, R-2

ASSOCIATED APPLICATIONS: CZ#3351 - A request for a change of zone from H-4 to I-1 for the remaining H-4 adjacent to the east submitted by Jake Von Busch.

HISTORY: CZ#3351 - This request for a change of zone from H-4 to I-1 was submitted by Jake Von Busch for the remaining H-4 in this area. The Planning Commission held a public hearing on this application on **January 11, 2002**. The public hearing was continued until March 6, 2002 to allow time for Robert Stephens, the adjacent property owner to the west, to submit an application to re-zone the remainder of the H-4 to I-1.

CZ#3155 - Approved a change of zone in **December, 1998** from B-2 to H-4 for all land within the area currently zoned H-4, except Lot B. This action also re-zoned two adjacent parcels west of 6th Street from B-2 to B-1 and R-2. The Planning Director initiated this change of zone in response to CZ#3137.

CZ#3137 - Approved a change of zone from B-2 to H-4 in **December, 1998** for Lot B. The applicant was Jake Von Busch, and it was originally submitted as a change of zone from B-2 to I-1 to accommodate his garbage collection service. During the review, it was determined his business was classified as a truck terminal, a use allowed in the H-4 district, so the application was amended to re-zone from B-2 to H-4 instead of to I-1. CZ#3155 was initiated by the Planning Director to re-zone the remaining B2 not included in CZ#3137 as it was less than the minimum five acres in area.

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Map designates this land as Commercial.

UTILITIES: Available

TOPOGRAPHY: The entire area is within the 100 year flood plain. The property is generally flat, although the area north of West B Street slopes down to the north where the old Salt Creek Channel used to be.

PUBLIC SERVICE: City of Lincoln fire and police.

REGIONAL ISSUES: Development in the flood plain.

ENVIRONMENTAL CONCERNS: Development in the flood plain and potential impact of more intensive land uses upon wetlands to the east of the site.

ALTERNATIVE USES: Commercial uses within H-4 zoning.

ANALYSIS:

1. The Comprehensive Plan lists criteria for the review of zoning proposals. These include portions of Nebraska Revised Statutes Section 15-902;
 1. Safety from fire, flood and other dangers;
 2. Promotion of the public health, safety, and general welfare;
 3. Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development;
 4. Conservation of property values; and
 5. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.

There are seven specific criteria established in the Plan for review including;

a. Infrastructure: the availability of the water, sewer, drainage and the transportation systems.

The site can be served by municipal utilities, and is adjacent to public streets. Adequate infrastructure exists to support the allowed uses in both H-4 and I-1.

b. Compatibility: harmony and suitability with the surrounding land uses and the natural environment.

This site is entirely within the 100-year floodplain, and there are wetlands (Salt Creek channel) east of the site. The higher intensity land uses allowed in I-1 pose potential increased risk to the nearby wetlands. Additionally, while lands adjacent to the north, south and east are zoned I-1, property adjacent to the west is zoned R-2 and developed with single-family residences.

c. Health and Safety: protection against natural and man-made hazards including noise; air, ground and water pollution; flooding; and hazards from industrial or agricultural processes or products.

If approved, this request would allow I-1 zoning adjacent to R-2. The Health Department has typically opposed change of zone applications that allow residential zoning adjacent to industrially-zoned lands due to increased health risks posed by environmental hazard exposures including the use, transportation and storage of hazardous materials, hazardous air pollutant emissions, odors, noise and large vehicle traffic. However, in this case the Health Department does not oppose this request.

d. Physiographic Features: the topography, suitability of proposed land uses with streams, lakes, soil types, natural vegetation or wildlife habitat.

There does not appear to be any significant direct impact associated with this request.

e. Accessibility: availability, or lack thereof, of public transportation, arterial connections and pedestrian linkages.

This request is adjacent to, and has access to both West A and Southwest 6th Streets.

f. Open Space: availability of sufficient open space and recreational areas to accommodate a project's residents and employees.

Adequate open space exists.

g. Fiscal Impacts: whether the proposed use does not create a burden to local tax revenues and/or available resources.

There appears to be no significant fiscal impact.

1. This request was submitted to be considered in conjunction with CZ#3351. It was noted in the review of CZ#3351 that if the change of zone were approved, an H-4 district less than the minimum five acres required by the Zoning Ordinance would be created. The Planning Commission suggested that the adjacent H-4 property owners investigate joining with Mr. Von Busch to re-zone the entire H-4 district to I-1 to avoid creating a non-standard H-4 parcel.
2. If both change of zone applications are approved, I-1 will be adjacent to R-2 across Southwest 6th Street, creating a situation that allows potentially incompatible land uses immediately adjacent to one another.
3. The I-1 district is not a use permit district and the listed uses could all be applied. The I-1 Industrial district has less restrictive setbacks and use regulations than the H-4 Highway Commercial district. The following table compares the setbacks and examples of allowed uses in the H-4 and I-1 districts:

	H-4	I-1
Permitted Uses	<ul style="list-style-type: none"> -Banks -Restaurants -Mini-warehouses -Warehouses, -Service Stations, -Service centers, -Contractors offices/ storage yards/ lumber yards, -Retail Sales up to 30,000 sq ft -Office buildings -Truck terminals 	<p>-Any commercial or industrial use not in conflict with LMC. However, no church, school (except an authorized private school), library, hospital, indoor theater, or residence is allowed.</p>
Conditional Uses	None allowed	<ul style="list-style-type: none"> -Recycling center -Vehicle body shop
Special Permit	<ul style="list-style-type: none"> -Sand and gravel extraction -Petroleum bulk storage -Planned Service Commercial -Small batch concrete dispensing units -Cemeteries -Early Childhood care facilities -Sexually oriented live entertainment -Truck Terminal 	<ul style="list-style-type: none"> -Refineries (for acids, alcohol, ammonia, bleach, petroleum, etc. -Operation of blast furnace, boiler works, forge, rolling mill, etc. -Production and storage of toxic, radioactive, flammable, or explosive materials, etc. -Dumping -Scrap processing
Setbacks: Front Rear Side	<p>50'</p> <p>20'</p> <p>20'</p>	<p>15'</p> <p>0' (20' or 10% of lot width if abutting residential)</p> <p>0' (20' or 10% of lot width if abutting residential)</p>
<p>NOTE: See the Zoning Ordinance for a list of all uses and setbacks in these districts.</p>		

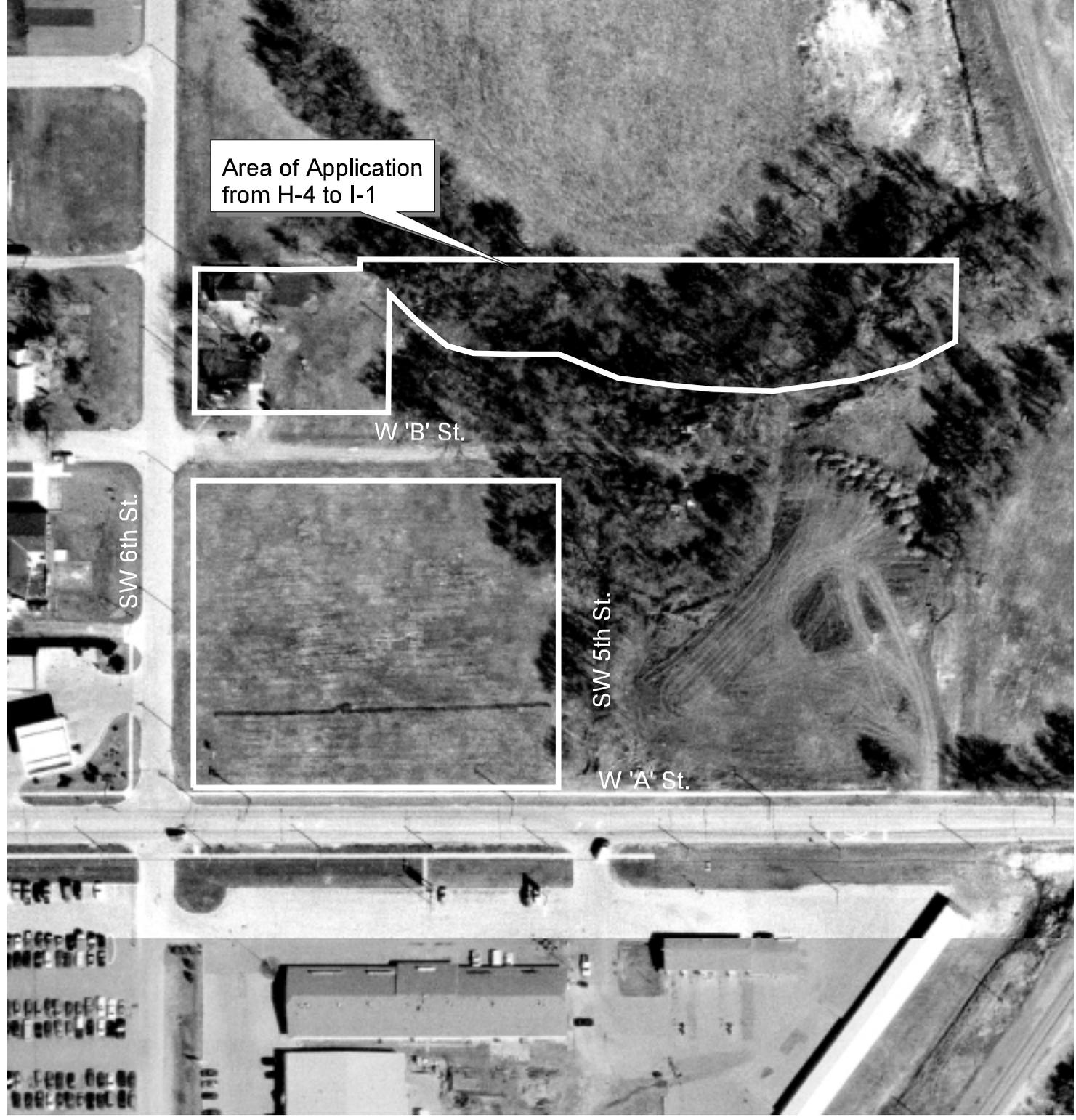
4. As was noted in the previous staff report for CZ#3351, that while a change of zone for a portion of the H-4 to I-1 was not consistent with the Comprehensive Plan

because of the commercial designation, it generally complied with the zoning criteria outlined in the Plan. However, a change of zone for the entire H-4 to I-1 is both inconsistent with the Plan's Land Use Map, and item B (Compatibility) of the zoning criteria noted above.

5. Staff understands that Mr. Von Busch wants to relocate his garbage collection service to this site, however the previous change of zone from B-2 to H-4 was designed to accommodate this. The stated rationale for the change of zone from H-4 to I-1 is that the setbacks and off-street parking requirements in the H-4 prohibit him from developing the site as planned. The adjacent H-4 property owners are requesting a change of zone to I-1 to cooperate with Mr. Von Busch and prevent an H-4 district of less than five acres from being created.
6. No compelling justification has been presented to support this change of zone that outweighs the incompatibility created by locating R-2 adjacent to I-1. In this case, a change of zone for all the H-4 to I-1 is the least preferred alternative to accomplish Mr. Von Busch's goal because it represents the greatest impact upon the neighborhood of the options available. Rather than a change of zone, other alternatives exist that may assist Mr. Von Busch in developing the site as planned, and are less intrusive to the neighborhood. Some alternatives include:
 - A. Petitioning to vacate Southwest 5th Street - This would provide Mr. Von Busch with an additional 25' of land along the west edge of his property and reduce the 50' front yard setback to a 20' side yard setback on that side.
 - B. Seek a variance to either or both the setback and off-street parking requirements of the H-4 district if he can demonstrate there are unusual circumstances in connection with this parcel of land and as a result the strict application of the Zoning Ordinance is denying reasonable use of his land.
7. If the Planning Commission is inclined to approve a change of zone to I-1, a revised application to include re-zoning a 50' wide strip along Southwest 6th Street from H-4 to R2 should be required. This would provide a buffer to the neighborhood to the west, while allowing the R-2 to be used for off-street parking with a special permit when the site is developed. Appropriate landscaping and screening could then be made conditions of approval for that special permit for off-street parking. This would be similar to the change of zone used for Lincoln Plating at Southwest 6th and West E Streets.

Prepared by:

Brian Will, AICP
Planner



Area of Application
from H-4 to I-1

W 'B' St.

SW 6th St.

SW 5th St.

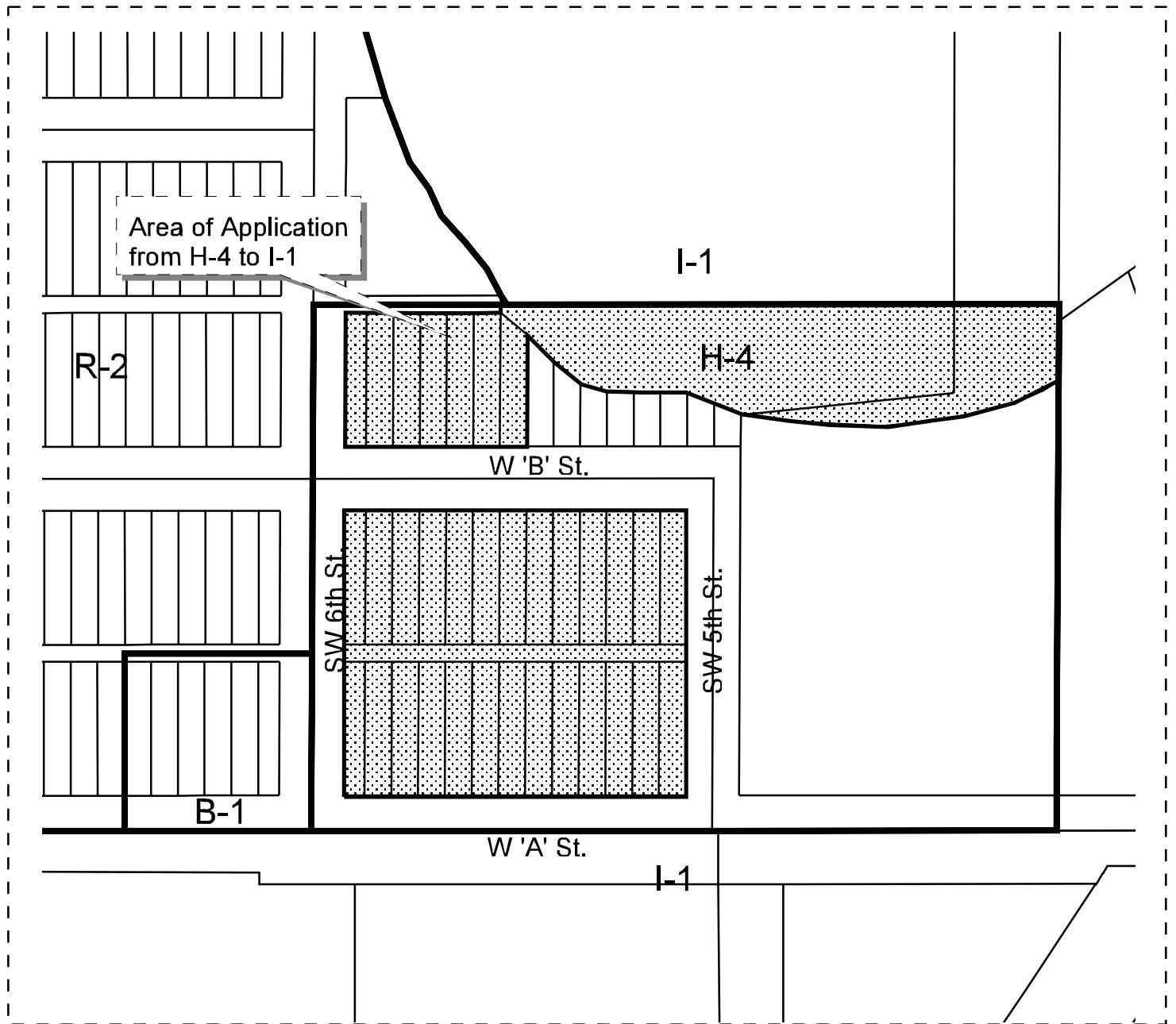
W 'A' St.

**Change of Zone #3358
SW 6th & W 'A' St.**



Photograph Date: 1997

Lincoln City - Lancaster County Planning Dept.

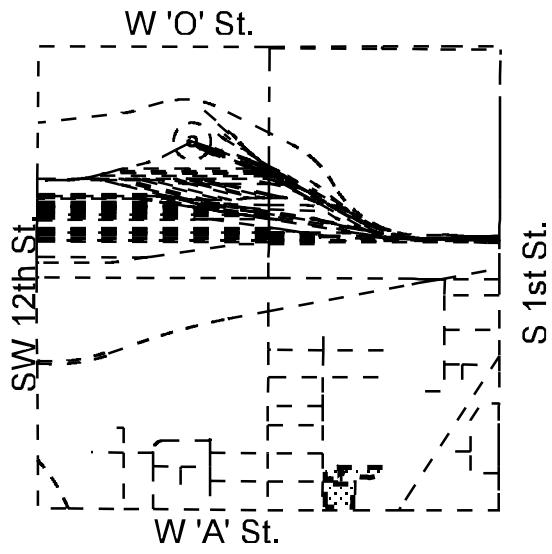


Change of Zone #3358 SW 6th & W 'A' St.

Zoning:

- | | |
|------------|--|
| R-1 to R-8 | Residential District |
| AG | Agricultural District |
| AGR | Agricultural Residential District |
| R-C | Residential Conservation District |
| O-1 | Office District |
| O-2 | Suburban Office District |
| O-3 | Office Park District |
| R-T | Residential Transition District |
| B-1 | Local Business District |
| B-2 | Planned Neighborhood Business District |
| B-3 | Commercial District |
| B-4 | Lincoln Center Business District |
| B-5 | Planned Regional Business District |
| H-1 | Interstate Business 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. 27 T10N R6E



RECEIPT NO. 264397

CHANGE OF ZONE NO. 3358

FEE 585.00 ADDRESS OR LOCATION SW 6th + West "A"

PETITION TO AMEND THE ZONING ORDINANCE

HONORABLE CITY COUNCIL
City of Lincoln, Nebraska

Lincoln, Nebraska Feb 7, 2002

The undersigned hereby petitions to amend the Zoning Ordinance of the City of Lincoln to change:

1. The zoning district map from H4 to I1

on property legally described as: Lots 1-26 + vacated alley Block 6 Elmwood Addition + Lots 7-13 Block 5 Elmwood Addition

SW SE 1/4 SEC 27-10-6 AND ^{THOSE PORTIONS OF} LOT 1, IMS 1ST ADDITION; AND REMAINING PORTION LOT A ELMWOOD ADDITION SOUTH OF THE CENTERLINE TO THE ALLEY
and as shown on the attached map.

NORTH OF LOTS 7-12, BLOCK 5, ELMWOOD ADDITION EXTENDED EAST TO THE EAST LINE OF REM. POND, LOT A.

2. L.M.C. Section (s) _____ with text to read as shown on the attached sheet(s).

This text amendment is proposed for the reasons listed on the attached sheet(s).

Petitioner Robert Stephens
(Please Print)

Petitioner's interest in property Owner of Lots 1-26 B6

Petitioner's Signature _____ Telephone No. (402) 525-8788

Petitioner's Address 1542 S. 1ST Street 68502

Contact Person Robert Stephens Telephone No. (402) 475-8087

Contact Person's Address 1542 S. 1ST Street 68502

• Note: Please designate one individual. All information and questions will be directed to this person.

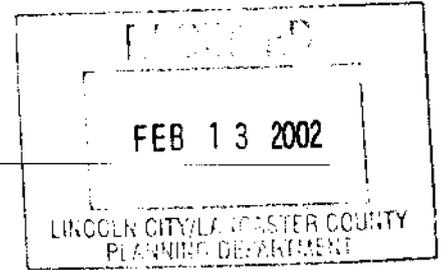
RECORD OWNER & ADDRESS Smith + Stephens Real Estate

Has the petitioner informed the record owner of this petition? Yes No

Date of Planning Commission Hearing 3-6-02

Initial Review of Petition by _____ (Planning Staff)

M e m o r a n d u m



To: Brian Will, Planning

From:  Dennis Bartels, Engineering Services

Subject: Change of Zone 3358, Southwest 6th and A Street

Date: February 13, 2002

cc: Roger Figard
Nicole Fleck-Tooze
Randy Hoskins

Engineering Services has reviewed the proposed change of zone #3358 to change the zone of the property H4 to I1 located west of Southwest 6th north of West 'A' and finds it satisfactory. It is noted that the existing street system in West 'A' and Southwest 6th is "substandard" in regard to design standards for industrial zoning or the existing H4 zoning. Paving does not exist on West 'B' or Southwest 5th in the area of the rezoning.

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Brian Will

DATE: 2/25/2002

DEPARTMENT: Planning

FROM: Chris Schroeder

ATTENTION:

DEPARTMENT: Health

CARBONS TO: Bruce Dart, Director
EH File
EH Administration

SUBJECT: CZ #3358

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed change of zone, #3358 for negative public health impacts. The following is noted:

- While the LLCHD does not advocate or endorse industrial zoning adjacent to residential zoning, the LLCHD does not view the requested change of zone from H-4 to I-1 as a serious threat to public health.

If you have any questions, please contact me at 441-6272.