

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Change of Zone #18019	FINAL ACTION? No	OWNER Steven and Sara Schott
PLANNING COMMISSION HEARING DATE June 20, 2018	RELATED APPLICATIONS None	PROPERTY ADDRESS 1430 Furnas Avenue

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for a change of zone from H-3 Highway Commercial District to R-2 Residential District over one property comprised of two lots. This change of zone would make the existing single family dwelling a conforming use.



JUSTIFICATION FOR RECOMMENDATION

The proposed change of zone conforms to the intent of the 2040 Comprehensive Plan. Although new residential zoning would be created within 300 feet of industrial zoning, it would allow an existing condition to continue that matches the overall zoning and land use pattern of the block and neighborhood.

APPLICATION CONTACT

Steven and Sara Schott, (402) 476-2064 or sschott@neb.rr.com

STAFF CONTACT

Rachel Jones, (402) 441-7603 or rjones@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The future land use map designates this property and the block face fronting N. 14th Street to the south for commercial uses. The future land use reflects the existing zoning in this area. This change of zone is supported by several goals of the Comprehensive Plan including the preservation of existing housing in established neighborhoods.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 12.3 - this site is shown as future commercial on the 2040 Lincoln Area Future Land Use Plan.

P. 12.4 - Commercial. Areas of retail, office, service and residential mixed uses. Commercial uses may vary widely in their intensity of use and impact. Individual areas designated as commercial in the land use plan may not be appropriate for every commercial zoning district.

P. 5.17 - There are considerations for industrial uses in regard to the potential impact on adjacent property. In 2005, a Joint Committee of the Board of Health and Planning Commission began to meet regularly to discuss issues of common interest; including industrial land uses that use and store hazardous materials. The Joint Committee developed reports called Use and Storage of Hazardous Materials and Pipelines Carrying Hazardous Materials.

P. 5.18 - Public Health & Safety Measures: Industrial zoning districts should be primarily for industrial uses. Risk Reduction: In areas where industrial and residential uses are already close, efforts should focus on changes in the quantity and type of hazardous materials used and on increasing the distance between where hazardous materials are stored and residential districts. Notification: Persons living in close proximity to businesses with hazardous materials should be notified of the hazards.

P. 7.1 - In existing neighborhoods, preservation, maintenance, and rehabilitation of existing housing should continue to be the focus.

P. 7.2 - Neighborhoods & Housing Guiding Principles

- Promote sustainability and resource conservation by preserving and improving housing in existing neighborhoods.
- Distribute and preserve affordable housing throughout the community to be near job opportunities and to provide housing choices within existing and developing neighborhoods.
- Make available a safe residential dwelling for all citizens.
- Provide a wide variety of housing types and choices for an increasingly diverse and aging population.
- Strive for predictability for neighborhoods and developers for residential development and redevelopment.

ANALYSIS

1. This is a request for a change of zone from H-3 Highway Commercial District to R-2 Residential District over one lot with an existing single family dwelling.
2. The use of the property as a dwelling makes it a legal nonconforming use because housing is not a permitted use in the H-3 district. This change of zone would cause the house to become a conforming use. Under R-2 zoning, the owners could rebuild by right in conformance with the R-2 setbacks if the home were significantly damaged.

Section 27.61.050 states: **“When the use of a building is nonconforming as defined in this chapter and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty percent of its fair market value, it 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 [approval by the Board of Zoning Appeals], Section 27.63.280 [the Special Permit for Expansion of Nonconforming Uses], or this chapter.”**

3. The house was constructed in 1930. The H-3 zoning on this property and the property to the south were likely rezoned from residential to H-3 prior to 1979. The O-2 zoning one block to the south at N. 14th Street and Garber Avenue was approved in 1990 with Change of Zone #1694. The lot to the west was originally included in the H-3 boundary but was re-zoned to R-2 in 1990 with Change of Zone #2533.
4. The future land use map in the 2040 Comprehensive Plan designates this property and the block face fronting N. 14th Street to the south for commercial uses. All other frontage on the west side of N. 14th Street between Cornhusker Highway and Superior Street is zoned and designated for residential uses except for the two schools and cemetery. The future land use in this area follows the existing zoning pattern and should not serve as the sole

guide for determining the appropriateness of the proposed change of zone. The other applicable sections of the Comprehensive Plan listed above provide the best guidance in this case.

The Comprehensive Plan supports the preservation of existing housing and neighborhoods. With regards to areas where industrial and residential uses are already close, the plan states that efforts should focus on tracking changes in the quantity and type of hazardous materials used in the industrial area and on increasing the distance between hazardous materials storage and residential districts.

5. New industrial zoning is generally discouraged within 300 feet of residential zoning. There is an existing condition wherein I-1 zoning is located approximately 260 feet to the east across N. 14th Street. This lot does not have sufficient area to construct a duplex by right under R-2 zoning, which limits the potential density. The Lincoln-Lancaster County Health Department reviewed this application and recommends approval of this change of zone. The LLCHD has historically advocated against locating residential zoning within 300 feet of industrial zoning. However, the LLCHD supports this change of zone because of the existing residential use and the fact that there is limited potential to increase the residential density on this parcel.
6. R-2 zoning is appropriate in this location. This property is an existing single family dwelling that was made nonconforming through a zoning action several decades ago. The future land use is a reflection of the existing zoning pattern which included several piecemeal changes of zone along N. 14th Street from residential to commercial. The H-3 zoning does not reflect an intent to phase out an inappropriate use as might be the case in other locations. This change of zone will make the existing house a conforming use and will not cause any properties to become nonconforming.

EXISTING LAND USE & ZONING: Single family dwelling; H-3

SURROUNDING LAND USE & ZONING

North: Single family dwelling; R-2
South: Motorized vehicle sales; H-3
East: Commercial; H-3
West: Two-family dwelling; R-2

APPLICATION HISTORY

- April 1887 The Belmont Addition to Lincoln final plat was approved.
- 1909 This property was annexed into the City limits.
- 1930 The existing house was built.
- May 1979 This property was likely re-zoned from A-2 Single Family Dwelling District to H-2 Highway Commercial District prior to 1979 but a record of the action could not be located. This property was zoned H-2 at the time of the May 1979 zoning update. The zoning was changed to H-3 Highway Commercial District with the update.

APPROXIMATE LAND AREA: 0.20 acres, more or less

LEGAL DESCRIPTION: Lots 43-44, Block 6, Belmont Addition, located in the NE ¼ of Section 14-10-6, Lincoln, Lancaster County, Nebraska.

Prepared by

Rachel Jones, Planner

Date: June 14, 2018

Applicant/Owner: Steven and Sara Schott
1340 Furnas Avenue
Lincoln, NE 68521
(402) 476-2064
sschott@neb.rr.com

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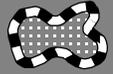
2016 aerial

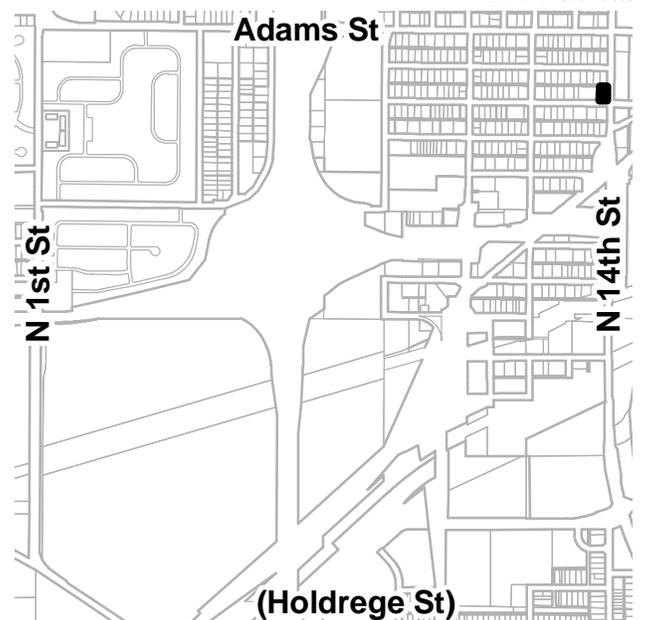
**Change of Zone #: CZ18019 (H-3 to R-2)
N 14th St & Furnas Av**

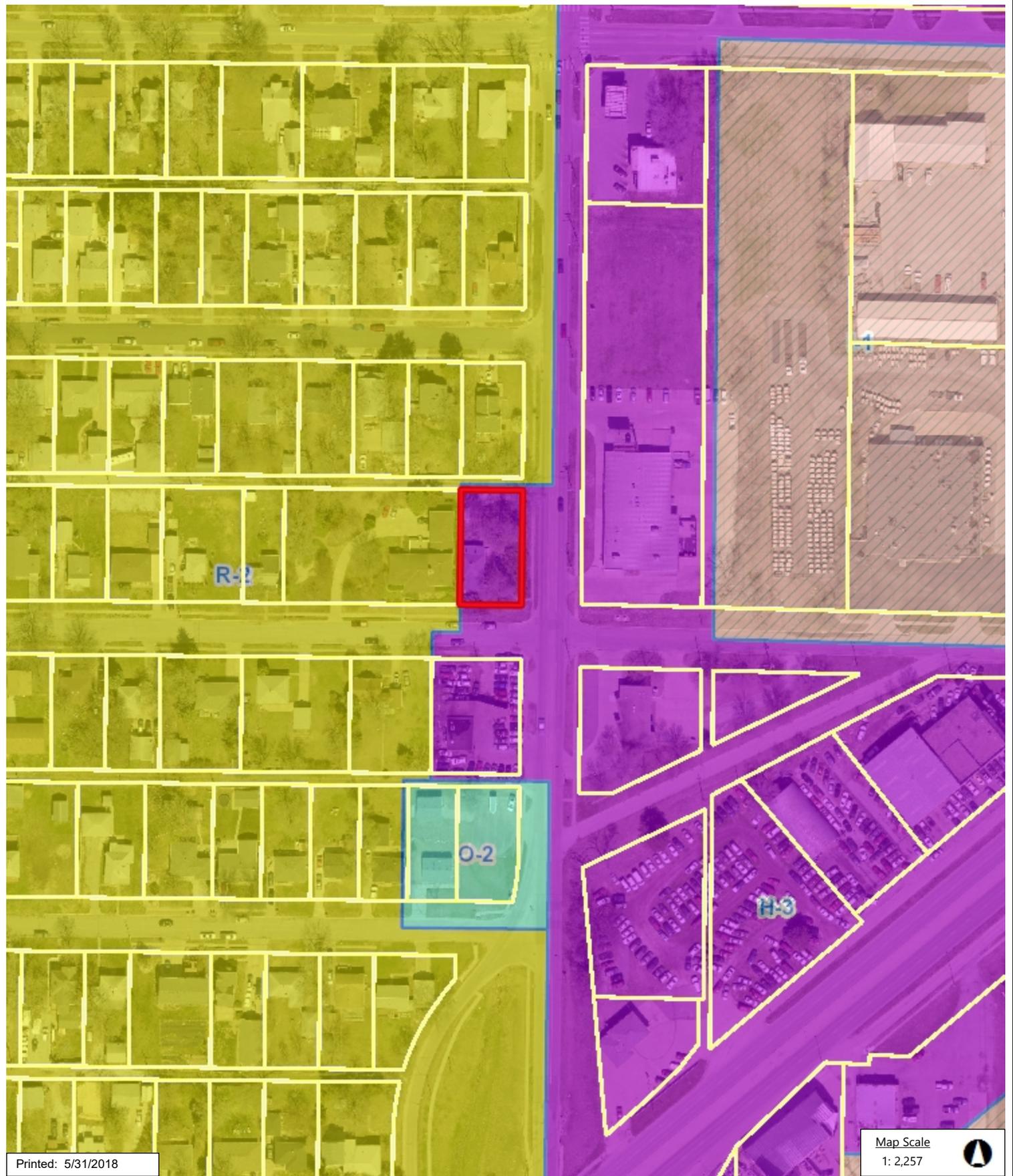
Zoning:

- 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

One Square Mile:
Sec.14 T10N R06E

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction





Printed: 5/31/2018

Map Scale
1: 2,257



DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email assessor@lancaster.ne.gov and you will be directed to the appropriate department.

1340 Furnas Avenue
Lincoln, Nebraska 68521

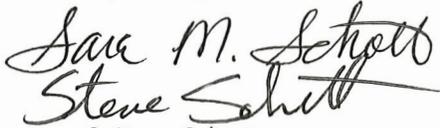
May 15, 2018

Dear Members of the Planning Commission,

We are writing to request a change of zoning for our residence at 1340 Furnas Avenue. We bought the property nearly 22 years ago, with a zoning of H-3. At the time, we had no trouble with getting a mortgage written for the property.

When we tried to refinance our mortgage, we were unable to do so because of the zoning. Banks would not write a new mortgage with the H-3 zoning. Our family has completely outgrown the house, and we need to move. In order to sell the house without complications, we request that it be rezoned to R-2. This would match all the other residences on the block.

Thank you for your consideration.


Sara & Steve Schott

