

## FACTSHEET

**TITLE:** CHANGE OF ZONE NO. 14033  
(R-4 and O-2 to B-3 - South 48<sup>th</sup> and Meredith)

**BOARD/COMMITTEE:** Planning Commission

**APPLICANT:** Mark Hunzeker on behalf of  
Casey's Retail Company

**RECOMMENDATION:** Approval (8-1: Weber,  
Sunderman, Corr, Cornelius, Harris, Scheer,  
Hove and Lust voting 'yes'; Beecham voting 'no').

**STAFF RECOMMENDATION:** Approval

**OTHER DEPARTMENTS AFFECTED:** N/A

**SPONSOR:** Planning Department

**OPPONENTS:** None.

**REASON FOR LEGISLATION:** To change the zoning from R-4 Residential District and O-2 Suburban Office District to B-3 Commercial District, on property generally located northwest of the intersection of South 48<sup>th</sup> Street and Meredith Street.

### **DISCUSSION/FINDINGS OF FACT:**

1. This change of zone request and an associated Special Permit No. 14054, for the expansion of a nonconforming use for the sale of alcohol for consumption off the premises, were heard at the same time before the Planning Commission.
2. The purpose of this proposal is to accommodate the planned redevelopment of the site which includes a new Casey's convenience store.
3. The staff recommendation to approve the change of zone request is based upon the "Analysis" as set forth on p.4-6, concluding that the change of zone will facilitate redevelopment and revitalization of an existing business in one of Lincoln's older business districts. Split zoning across a block, as is the case with this project, typically is less than ideal as vastly different land uses can be located immediately adjacent to one another. A better solution is to create zoning districts where the district lines exists in streets and alleys, both of which help to serve as clear boundaries and provide separation. This request will provide adequate space for redevelopment and will locate the zoning district boundary in the street rather than in the middle of the block. This type of renovation/redevelopment activity is key to maintaining the viability and vitality of Lincoln's older commercial districts, and is supported by the Comprehensive Plan. The staff presentation is found on p.7-9.
4. The testimony on behalf of the applicant is found on p.9-11.
5. There was no testimony in opposition.
6. The Planning Commission discussion with the applicant and the staff is found on p.10-12. There was considerable discussion about the encroachment of businesses into older neighborhoods and the need for developers and neighbors to work together to come up with redevelopment plans for these older neighborhoods (See Minutes, p.13-14).
7. On January 7, 2015, the majority of the Planning Commission agreed with the staff recommendation and voted 8-1 to recommend approval (Commissioner Beecham dissenting).
8. On January 7, 2015, the Planning Commission also voted 8-1 to adopt Resolution No. PC-01430 approving Special Permit No. 14054, which expands a nonconforming use for authority to sell alcoholic beverages for consumption off the premises. The special permit has not been appealed to the City Council.

**FACTSHEET PREPARED BY:** Jean Preister, Administrative Officer

**DATE:** January 20, 2015

**REVIEWED BY:** David R. Cary, Acting Director of Planning

**DATE:** January 20, 2015

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for January 7, 2014 PLANNING COMMISSION MEETING

**PROJECT #:** Change of Zone #14033 - Casey's Retail Company

**PROPOSAL:** From R-4 Residential and O-2 Suburban Office to B-3 Commercial

**LOCATION:** Northwest of the intersection of South 48<sup>th</sup> and Meredith Streets

**LAND AREA:** Approximately .65 acres.

**EXISTING ZONING:** R-4 Residential, O-2 Suburban Office

**PROPOSED ZONING:** B-3 Commercial

**CONCLUSION:** If approved, this request facilitates redevelopment and revitalization of an existing business in one of Lincoln's older business districts. While a portion of the new site is already zoned O-2 and B-3, a portion is also zoned R-4 and so is expanding commercial zoning to the west. There are sites where this type of expansion of commercial zoning is not appropriate, however that is not the case here. The zoning pattern in the College View area is irregular, and based largely on a historical development pattern dating back to the early 1900's. As a result there are several commercially-zoned sites that are not adequately sized to accommodate redevelopment given modern-day constraints. Split zoning across a block, as is this case with this project, typically is less than ideal as vastly different land uses can be located immediately adjacent to one another. A better solution is to create zoning districts whose lines exist in streets and alleys, both of which help to serve as clear boundaries and provide separation. This request will provide adequate space for redevelopment, and locate the commercial zoning district boundary so it is located in the street rather than in the middle of the block. This type of renovation/redevelopment activity is key to maintaining the viability and vitality of Lincoln's older commercial districts, and is supported by the Comprehensive Plan.

**RECOMMENDATION:**

Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** R-4 to B-3 - Lots 7 through 9, Block 39, College View  
O-2 to B-3 - Lot 10, Block 39, College View

**EXISTING LAND USE:** Residential, Commercial

**SURROUNDING LAND USE AND ZONING:**

North:	Residential, Commercial	O-2, B-3
South:	Residential	R-4
East:	Commercial	B-3
West:	Residential	R-4

**ASSOCIATED APPLICATION:**

**SP#14054** - A request for a special permit to expand a nonconforming use for off-sale alcohol.

**HISTORY:**

**SEP 1979** - CZ#1722 was approved changing the zoning from R-4 to O-2 for the O-2-zoned lot involved in this request (on Lot 10, Block 39, see the attached Casey's change of zone exhibit with lot numbers).

**MAR 2008** - CZ#08003 to change the zoning from O-2 to B-3 and SP#08007 (on Lots 10-12, Block 39) to expand a nonconforming use for off-sale alcohol were denied by the City Council.

**AUG 2009** - CZ#09016 to change the zoning from O-2 to B-3 (on Lot 10, Block 39) was withdrawn.

**ASSOCIATED APPLICATIONS:**

**SP#14054** - A special permit to allow the expansion of a nonconforming use for off-sale alcohol.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

**Pg 1.9** - The Future Land Use Map designates residential and commercial land uses for these lots.

**Pg 2.7** - Guiding Principles for Community Form.

- The Urban Environment The community's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in existing neighborhoods, redevelopment of underperforming commercial

areas into mixed use redevelopment areas that include residential, retail, office and entertainment uses, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods.

- 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.

- Mixed use redevelopment, adaptive reuse, and well-designed and appropriately-placed infill development, including residential, commercial and retail uses, are encouraged. These uses may develop along transit routes, at major nodes, and near employment centers to provide residential opportunities for persons who do not want to or cannot drive an automobile.

**Pg 5.15 - Strategies for Commercial Infill.**

- Discourage auto-oriented strip commercial development and seek opportunities for residential mixed use redevelopment and/or transit oriented development of existing commercial strips.

- Develop infill commercial areas to be compatible with the character of the area.

- Maintain and encourage businesses that conveniently serve nearby residents, while ensuring compatibility with adjacent neighborhoods.

- Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, are properly screened, fulfill a demonstrated need and are beneficial to health and safety.

**Pg. 7.10 - Detailed Strategies for Existing Neighborhoods**

- Encourage a mix of compatible land uses in neighborhoods:

a. Similar uses on the same block face.

**ANALYSIS:**

1. This request seeks to change the zoning from R-4 to B-3 for Lots 7-9, and from O-2 to B-3 on Lot 10, all in Block 39, College View (see attached Casey's Change of Zone exhibit submitted by the applicant).
2. The change of zone is needed to accommodate the planned redevelopment of the site which includes a new Casey's convenience store. Of the six lots in the south one-half of Block 39, Lots 7-9 are zoned R-4, Lot 10 is zoned O-2, and Lots 11 and 12 (upon which the existing store is located) are zoned B-3.
3. There was a failed re-zoning attempt in 2008 which was opposed by some in the neighborhood, including an adjacent neighbor. That request was initiated by the previous owner of the convenience store, Kabredlo's, and only included Lot 10.
4. The store has since been sold to Casey's. In contrast to the previous re-zoning attempts, this one proposes to extend the B-3 across all the lots in the south one-half of Block 39.

The proposed site plan shows Lots 8-12 being redeveloped to accommodate a new Casey's convenience store. Lot 7, the westernmost lot, is under different ownership and the owner-occupied single-family dwelling will remain. This lot could be converted to a commercial use in the future.

5. In anticipation of submitting these associated requests, Casey's representatives invited the neighbors to an informational meeting at Calvert Elementary School and were shown the attached site plan. Of the neighbors in attendance, including the owner of Lot 7, Block 39, they were generally supportive of the request.
6. With respect to this re-zoning request, the Planning Department suggested that those neighbors from South 47<sup>th</sup> to South 48<sup>th</sup> streets on both sides of Meredith be given the opportunity to join in the change of zone request. The owner of Lot 7, Block 39 chose to join this request, but the owners on the south side have not.

The zoning pattern in this area is irregular, and it would promote compatibility among land uses if all of Block 39 and Block 46 (the block on the south side of Meredith Street) were commercially zoned. Viewed in the broader context, the lots fronting onto Meredith Street between South 47<sup>th</sup> to South 48<sup>th</sup> streets are the only residentially zoned lots in the blocks. Otherwise, there is commercial on the remainder of the blocks.

If the lots on the south side of Meredith Street are re-zoned in the future, B-3 zoning will be fully one block deep on the west side of South 48<sup>th</sup> Street extending from Cooper Avenue to Pioneers Blvd, including both sides of Lowell and Prescott Avenues.

7. Zoning district lines are best located in streets or other features which serve to provide natural separation and logical boundaries. Split zoning across a block or individual lots can result in incompatible land uses being located next to one another. It also increases the level of uncertainty for residential property owners, as there is a higher probability that commercial areas will expand at the expense of residential uses.
8. Lincoln's older commercial districts, such as Havelock, Uni Place, and College View, began to form around the turn of the 20<sup>th</sup> century. At that time there was less dependence upon the automobile, and the commercial centers primarily served the surrounding neighborhoods. Retailers were generally smaller as compared to their modern day counterparts, and they typically did not have to dedicate much, if any, space to parking lots for cars.

The zoning pattern which exists today in these older commercial districts is reflective of the historic land use pattern dating from the first half of the 20<sup>th</sup> century.

9. There are many areas in the older districts, as with College View, where the commercial zoning is only as deep as the lot fronting onto the major street. Commonly only 150' deep, redevelopment options are constrained when attempting to accommodate both commercial floor area and adequate parking consistent with current parking standards.
10. The Comprehensive Plan has elements when viewed in isolation both support and discourage a change of zone like this one. For that reason, the applicable elements must be taken together as a whole and viewed in a larger context. One of the Plan's preeminent goals is maintaining and nurturing the older commercial districts. So while they contribute greatly to Lincoln's urban fabric and provide a living connection to our historic past, they also provide a range of goods and services to nearby neighborhoods and help reduce vehicle trips.
11. If approved, this request would allow an existing business to upgrade and modernize an aging facility. Such renovation and redevelopment is key to maintaining the viability of the older business districts located throughout the City and is supported by the Comprehensive Plan.

Prepared by:

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December 19, 2014

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**CHANGE OF ZONE NO. 14033  
and  
SPECIAL PERMIT NO. 14054**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Sheer, Hove and Lust.

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

Staff presentation: **Brian Will of Planning staff** presented the proposal for the area at 48<sup>th</sup> and Meredith, about one block northwest of 48<sup>th</sup> & Pioneers Boulevard. This application pertains to the south half of Block 39. Lots 11 and 12 are the existing Casey's convenience store. The lot to the west is zoned O-2. There had been an older 2-story building with an office use until recently; the three westernmost lots (7, 8 and 9) consist of single-family dwellings and a duplex. The special permit is for the expansion of a nonconforming use. The change of zone will provide consistent B-3 zoning across the entire south half of the block.

Will went on to explain the rationale for the staff recommendation of approval. The circumstances for every change of zone are unique. He discussed the zoning pattern in the area, which is kind of irregular going down South 48<sup>th</sup> Street. Part of the logic for approving this change of zone is that the zoning district boundary line runs through the middle of the block creating split zoning through the block. The staff is suggesting that the split zoning is not an ideal circumstance. Ideally, the zoning district boundaries run down the street or through the alleys, which is the case to the north. In fact, staff is suggesting that it makes sense that all of the area eventually become B-3.

Will advised that the applicant did have a neighborhood meeting and one of the notions suggested at that meeting was how the owners feel about changing the zoning of the residential lots to B-3. There was no opposition. In fact, there was some support and one of those property owners has joined in this application. Will believes there is good rationale to rezone these lots.

Relative to the special permit for expansion of a nonconforming use, Will believes that the site plan preserves the character of the area; however, the staff first recommended to the applicant to flip the site plan to be something more reflective in keeping with the historic character and zoning pattern in College View. Obviously, that is not the plan that is going forward; however, the staff is still supportive of redevelopment of this area. The site plan represents an improvement of the store that is there and would benefit from redevelopment and rehabilitation. Will noted that there is a driveway very close to the intersection of Meredith and 48<sup>th</sup> Street that will be removed. The driveway adjacent to the alley will also be removed. There will be street trees along both 48<sup>th</sup> and

Meredeth. There is a screen along the western edge between this development and the adjacent residence. Staff submits that the benefits outweigh any disadvantages.

Beecham asked for the neighborhood's response at the neighborhood meeting. Will stated that he did not get a comment back from the association specifically, so he assumes they have no objection. In fact, there are property owners in the area that have become part of this application.

Beecham wondered why only Lot 7 joined this application if all of the property owners were okay with this. Will clarified his statement, stating that of the properties being rezoned, they are either part of this application or have not objected. The properties to the south are not being rezoned to B-3. Staff would recommend that happen, but the property owners were not ready to do that at this time, although they have not submitted any opposition.

Beecham pointed out that this is a very large chunk of residences. She does not understand why this makes sense. A lot of these older neighborhoods have a business along the front with a lot of housing behind. Will stated that he was attempting to explain that there are principles to be applied, but you cannot do that the same way in every circumstance. As we look at this one specifically, one of the goals of the Comprehensive Plan is to encourage these older districts to redevelop. We hear that constantly. You have to weigh those goals against each other. In this case, it is not without precedent that we don't have commercial zoning a block deep. Will believes this is part of the College View commercial district.

Beecham pointed out that we also hear that it is difficult to revitalize a neighborhood that is struggling when we put a large business district in the middle of a neighborhood. This one troubles her – we are being asked to change the zoning on an entire block of properties that are currently being used as residences. They are bounded on the other sides by a residential district. So far the unique circumstances are only because it would look nicer if we moved it to the street. She needs more. She would rather the applicant and the staff sit down with the neighborhood association and plan a redevelopment plan if we're going to do the entire block. If they are all being used as residences, why are we changing them to B-3 other than a cleaner zoning district line? Will pointed out that there is commercial zoning right against residential zoning. It is not that it is running down a street – it's right next door. In the long term, what is the future for the residential properties adjacent to the commercial zoned lots? Beecham suggested that maybe the future is to live close to a business district. She does not think it is good planning to put commercial next to this residential. This establishes a precedent – changing a whole block to commercial simply because the edge along the street is business. It appears to her that we are really wanting to change this to business so that we can have alcohol sales. She needs to understand why the alcohol sales are so critical to this change of zone.

Will explained that the special permit is nonconforming relative to not meeting the separation for alcohol sales. The use already exists. This would allow them to

demolish and redevelop the site with the store on the western edge and still continue to have alcohol sales. The dwelling on the westernmost lot will remain.

Harris inquired how this relates to any kind of future and big picture for walkability services in the neighborhood. Does this tie into those desirable factors that we talk about? Will stated that staff believes it could do better. The staff had suggested that the applicant flip the layout to bring the store closer to the street. There is a lot of pedestrian traffic in this area and having the front of that business visible and accessible to pedestrians would be in keeping with the historical development pattern.

Harris then inquired, from a zoning perspective, taking the layout out of the equation, does the zoning tie into services, walkability, and growing the neighborhood? Will suggested that there are some competing issues, but the staff report is saying that overall, the benefit outweighs any disadvantages.

Lust asked whether there is any improvement for walkability with the layout proposed by the applicant. Will would not say improvement per se. There will be sidewalks adjacent to both 48<sup>th</sup> Street and Meredith Street; there will be a sidewalk connection to the store; the alley is going to be paved; and the building is closer to the residential.

### Proponents

**1. Mark Hunzeker** appeared on behalf of **Casey's General Stores**, the applicant. Casey's is in the process of expanding the existing convenience store at the corner of 48<sup>th</sup> Street and Meredith Street. It currently exists on two lots and the driveway into the site from Meredith Street is barely around the corner and past the sidewalk along 48<sup>th</sup> Street. Hunzeker submitted that moving those driveways to the west will help with congestion, both with vehicular traffic as well as keeping traffic from backing up across the sidewalk along 48<sup>th</sup> Street. There is not enough parking and not enough pumps to meet the demand at that site today.

Hunzeker advised that three people showed up at the neighborhood meeting, one of whom was the neighbor immediately to the west of the existing store; one owns property on the south side of Meredith Street; and one owns property on the north side of the alley. One of those property owners is hoping the alley will be paved, and Hunzeker acknowledged that the alley will indeed be paved with this application. The neighbor on the south side was generally interested in what was going to happen in this vicinity – this owner chose not to join the application, but there is at least one and maybe two on the south side of Meredith Street which are owned by the owners of a commercial property on 48<sup>th</sup> Street. So we think, probably for the purpose of providing access, it will only be a matter of time before we see an application to rezone some of that property. This application will improve the alley from 47<sup>th</sup> Street to 48<sup>th</sup> Street. The store will be expanded to a modern new design which is a much more attractive building and design. It will be larger, but it will still not meet the 100' setback for alcohol sales. That is the reason for the special permit to expand the nonconforming use. The

owner to the west said he was willing to include his property if it would facilitate this project because he was in favor of the project. The access, circulation, parking and the need for more pumps and products was something he was in favor of.

In a more broad scope, Hunzeker suggested that it is important to understand that every site is unique – but one of the important things about neighborhood preservation and revitalization has to do with preserving housing stock, of course, but the desire of people to live in a neighborhood has a lot to do with the ability to access neighborhood services and goods in a way that you could if you were living somewhere else. In many of these areas, you have commercial development patterns which are just very, very restrictive with respect to modern requirements for commercial development. You need more land to do that, and in some places like this, it is necessary to expand the depth of the commercial district in order to accommodate it. If we do not get approval of this proposal, then this store sits there in a really inadequate, antiquated and relatively poor condition. It is clearly a substandard store for Casey's, which may mean they simply find another place to go to do business in this part of the community or it continues to be a substandard store, which is unfair to the people who live in that area. The same is true in areas where we have small drug stores or grocery stores, e.g. the building and parking at Russ's IGA. Those kinds of incremental changes need to be able to be accommodated to maintain viability for the neighborhood. He believes this is one of those applications. Most of the residential on the south side is not owner-occupied and it is in the hands of people who are likely to want to have some other use for their property at some point in the future. He does not believe this is going to be of any harm to the neighborhood. In fact, Hunzeker believes it will do a great deal of good for the neighborhood.

Lust asked Hunzeker why they refused to reorient the site as suggested by staff. Hunzeker acknowledged that it was discussed and from Casey's perspective, it is simply not in the model that they prefer. It makes circulation of trucks more difficult and penetrates deeper into the residential area with large transport trucks to service the pumps put back further into the residential area. The people at the neighborhood meeting did not want the orientation flipped because it puts the canopy, lights, traffic, and noise further back into the neighborhood and they do not want that. The gentleman to the west wants the building there to shield the lights and prevent the activity and noise from being next to his property.

Lust inquired about the future of the other properties. Hunzeker stated that the duplex and house are not in very good condition, both of which are under contract to sell to Casey's to maintain the existing building while the new building is being constructed.

Corr inquired whether notices were sent to the neighbors for the neighborhood meeting. Hunzeker stated yes, and that he got the list of owners from the Planning Department. The neighborhood meetings were held about a week or so before Thanksgiving. Corr stated that she is active in this neighborhood association because she owns property over there. She knows that Casey's has been a good neighbor, but her problem is that the neighborhood association was not contacted and she has a huge problem with that. We can't simply say that because we don't hear from someone that they are not

opposed. Hunzeker suggested that perhaps the neighborhood association was not on the list of property owners that he received from the Planning Department.

Beecham suggested that the best way to get businesses to be successful is to work with the people in the area to figure out what they want. She asked Hunzeker whether he has checked to see if this neighborhood has a redevelopment plan and whether he has talked to the neighborhood about their vision and what they are looking for. Hunzeker stated that he has not had a separate meeting with the neighborhood association. They just met with the property owners that would receive notice of the change of zone.

Beecham inquired whether "singles" are sold at this Casey's store. She agreed that Casey's is a good neighbor in the city and she thought they agreed not to sell singles when the store is located close to neighborhoods. Hunzeker does not believe this question has been asked previously, but if they agreed in the past, they might agree to it here. He did not know.

There was no testimony in opposition

#### Staff questions

Lust asked staff about the notification. Will stated that the Planning Department list on any zoning action consists of those property owners within 200' of the boundary of the zoning area and any neighborhood association for which the Department has a contact as part of the database. A neighborhood meeting was held by the applicant; the list generated by the Planning Department was given to the applicant; and the Planning Department sends notice of the Planning Commission meeting to the property owners. Will acknowledged that perhaps the list given to the applicant did not include the neighborhood association contacts. Corr wants this resolved because it keeps falling through the cracks. Corr does not believe the neighborhood association was contacted.

Beecham discussed the encroachment of businesses into older neighborhoods, which is a concern to her. This application changes residential to business with that business taking up five city lots, which would then be across from several houses. Are there other businesses in this area that take up such a sizable footprint? Is this sized appropriately? She understands that the applicant can be more successful if they expand, but sometimes a smaller store makes the most sense in some neighborhoods. We are changing a whole lot of zoning – five lots is pretty sizable considering there are houses backing up to it and houses across the street from it.

**Steve Henrichsen of Planning staff** offered that there was a former grocery store on the southwest corner of 48<sup>th</sup> Street and Pioneers Boulevard that is now a multi-tenant building taking up the entire block. In terms of the zoning pattern, Henrichsen offered that there have been discussions with this neighborhood previously and the staff has heard that the neighbors on the south side of Meredith Street are also interested at some point in commercial development. The staff shares the concern about a bad zoning pattern, but staff does not view this as a precedent when the dividing line of 47<sup>th</sup>

Street is the dividing line between commercial and residential. On Meredith Street, half of the block face is commercial and the other half of the block face is residential. Looking ahead into the future, the staff foresees that probably this entire block on both sides of Meredith would be commercial zoning, but the people on the south side did not want to be a part of this particular commercial zoning action at this time.

Beecham stated that she is not opposed to this concept, but she has big concerns. The idea of this clean zoning pattern makes her nervous because in older neighborhoods we don't always have clean zoning patterns. She believes it is a mistake to knock down those five houses to make it look cleaner. That is not the right approach. Some don't mind being next to a business because they like the small houses and street trees to walk by. A big change like this doesn't just impact the people owning the houses. It has a reverberating impact for the entire neighborhood. If we are talking about changing a big chunk like this, then it is important enough that they have not come forward. We need to work together and look at what this could be – not “you didn't pay attention so you missed out”. We need to invite them to the table. Neighbors like businesses – they want good businesses. The concern they have is when things happen without being in the loop. In the older neighborhoods it is important to work on that partnership rather than the blame game. We need to find a way to work together for the future.

Referring to the subject property as it sits now, Sunderman sees a business on a short little lot. The likelihood of that being redeveloped or invested in is not great. The business will stay the same or get worse. And the houses next to it are not going to be next to prime real estate. Will acknowledged that to be the practical reality that staff is trying to describe. We are just trying to acknowledge the practical difficulty of developing in today's constraints on these small strips of commercial development.

Will then offered that the Planning Department initiated a meeting with the neighbors back in 2008 about this same question and rezoning a larger area. There was no opposition at that time to what is being proposed today.

Beecham wondered whether there would be any restrictions on the kind of businesses that could be developed if this change of zone is approved. For example, could there be a car wash at this location, or a cabinet workshop? Will stated that anything allowed in the B-3 district would be allowed. There is no zoning agreement. There is a special permit. That special permit could be rescinded if they did not want to do alcohol sales. There are no restrictions in this change of zone. Beecham is still worried about the fact that this is right across the street from residences.

#### Response by the Applicant

Hunzeker did not know whether the list he received from the Planning Department included the neighborhood association contacts. His focal point was on making sure to notify the property owners within that area. One of the comments about the change of zone from one of the owners of property on the south side of Meredith is fairly reflective of the kinds of owners who have the property on that side of the street. He is

not a developer. He is a small landlord with a piece of property there for which he has no immediate plans for other uses. His concern about including his property without an alternative use, was the taxes on his property. He chose not to be included but was not opposed to the idea of his property becoming a part of the larger and better commercial use.

Hunzeker confirmed that Casey's does not have a car wash and that there is no room for it. There are currently three sets of pumps (6 filling stations). The new site plan shows six sets of pumps (12 filling stations).

**CHANGE OF ZONE NO. 14033**

**ACTION BY PLANNING COMMISSION:**

January 7, 2015

Hove made a motion to approve, seconded by Harris.

Cornelius began his comments by reiterating the point made that changes of zone like this are almost always unique in their situation; there are other locations where a conscious decision was made in the past to locate the boundary between a business district and a residential district at the half-block line. When you look at this map, you can see that, by and large, that location is at the full block line. In this case, there is a deviation from that to the half block. When he considers applications like this, he does weigh the input from the surrounding neighbors fairly heavily. Here we have a case where there was no clear opposition. In other cases we may find opposition. He does not feel strongly that he opposes this change of zone, and does not necessarily support commercial next to residential, but in this case it does not seem inappropriate.

Weber commented that initially, he felt like this was jutting into the neighborhood but after seeing the zoning maps, he is of the opinion that it fits in better. He does listen to opposition but apparently there is none here. Given there was no reaction from the neighbors, and that this will improve the neighborhood, he will support it. If he lived in the neighborhood, he believes he would enjoy the new store more than the old.

Hove believes this is a good redevelopment opportunity in an area that has seen some blight. He appreciates that someone is willing to invest and Casey's is a good neighbor. There is no opposition from the neighbors, so he will support it.

Scheer expressed his appreciation that the staff report outlined the previous history. The changes in College View over the past 10 years are great. Union College is going to be embarking on a master plan process. He thinks this is a continuum, creating opportunity and a very rational kind of approach.

Beecham agreed and disagreed. She agreed that this is a neighborhood that needs reinvestment. A big key to her frustration is that several years ago, we had money in our city budget so that the Urban Development Department could work with neighbors and developers to come up with redevelopment plans for these neighborhoods. Those funds were cut from the budget. If we had that service to offer today, this change of zone might be a non-issue. She is disappointed there is no money in the city budget to

do this. There are houses all around this area, whether rentals or not. We are looking at a really large piece. It is five lots in a neighborhood with a lot of single lots. She agreed that Casey's is a good neighbor but she does not believe this is the right development for this location. She does not believe that every time someone wants to redevelop, we have to make it fit. We have seen time and again where someone wanted to do something and is turned down, yet down the road we have seen things come forward. This is not a good fit.

Corr believes this is a good project for this area. It improves accessibility on this corner. This Casey's has been a good neighbor to the neighborhood. She does not know why the neighborhood association was not contacted by the developer. That being said, she agrees with Beecham that it would be nice to have some kind of vision; she wishes there was some unifying vision for this street and area because there is a lot of uncertainty. However, she will support the change of zone because it fixes up some things and it will be a nice addition to the neighborhood.

Lust stated that she will also support this application. She tried to put herself in the shoes of the neighbors and finds herself asking, do I want to live in a neighborhood that has a convenience store and easy access to gas station and services I might want? And the answer is "yes". So, if the answer is yes, do I want the best convenience store with the easiest access? The answer is also "yes". So I have to support the redevelopment of what is there for a business that we all agree has been a good neighbor who wants to reinvest in the neighborhood and make their facilities better for the neighborhood.

Motion for approval carried 8-1: Weber, Sunderman, Corr, Cornelius, Harris, Scheer, Hove and Lust voting 'yes'; Beecham voting 'no'. This is a recommendation to the City Council.

**SPECIAL PERMIT NO. 14054**

**ACTION BY PLANNING COMMISSION:**

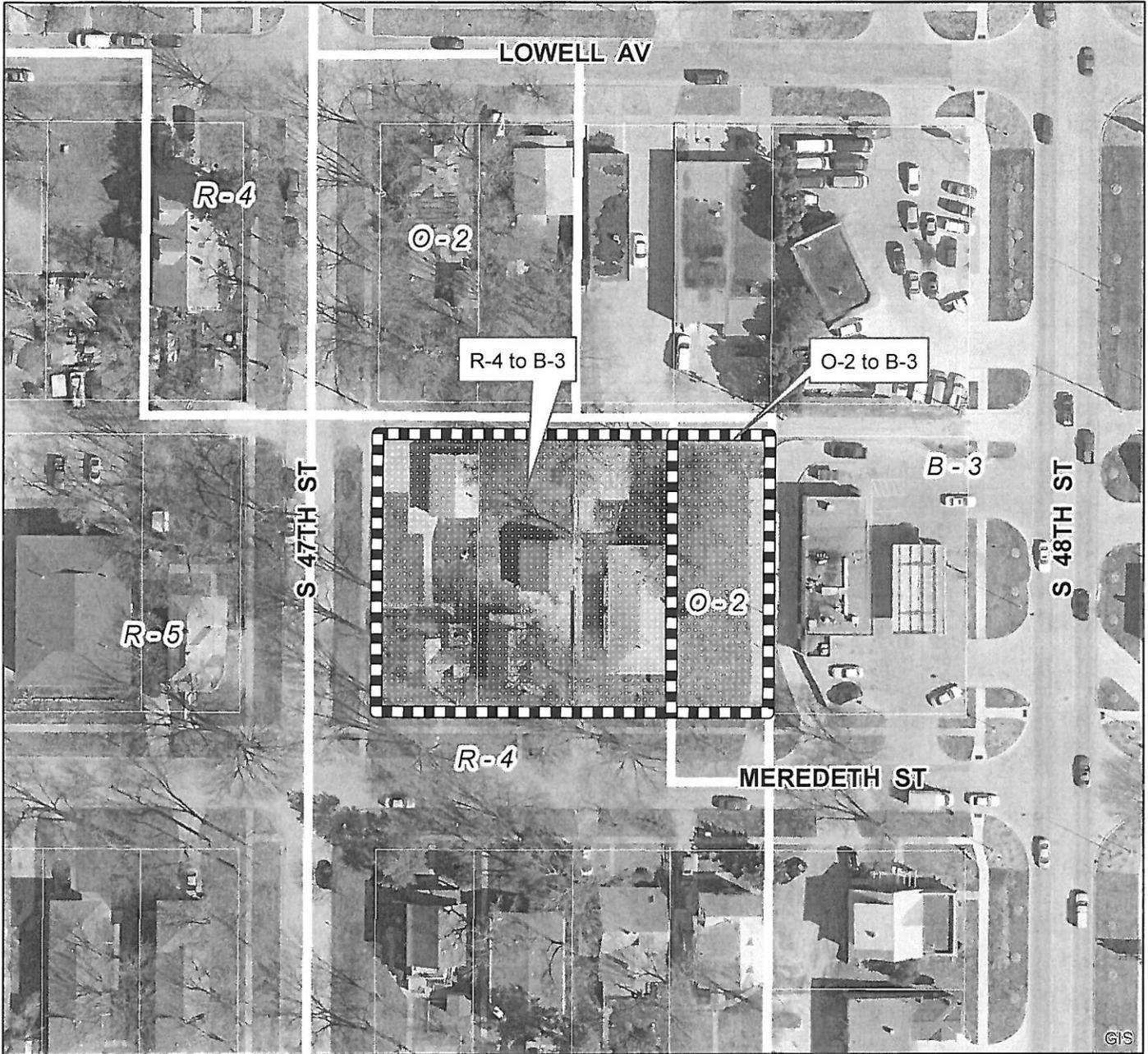
January 7, 2015

Corr requested permission to ask another staff question. If this special permit is not approved, could Casey's still sell alcohol at this location? Will informed that the special permit is going to have to be approved for Casey's to sell alcohol from the new store.

Cornelius moved to approve the staff recommendation of conditional approval, seconded by Hove.

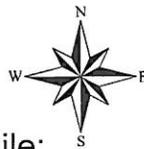
Lust commented that the existing Casey's store is already allowed the nonconforming use for sale of alcohol. This special permit just allows the new and improved building to continue to sell alcohol, so she will support it.

Motion for conditional approval carried 8-1: Weber, Sunderman, Corr, Cornelius, Harris, Scheer, Hove and Lust voting 'yes'; Beecham voting 'no'. This is final action, unless appealed to the City Council within 14 days.

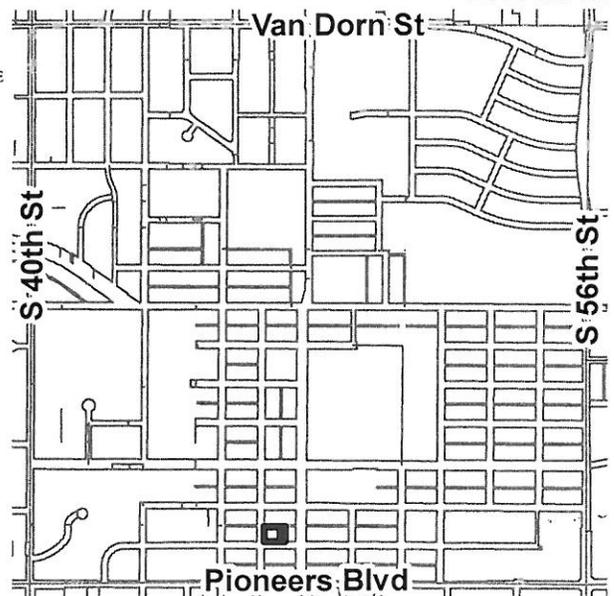


2013 aerial

**Change of Zone #: CZ14033**  
**S 48th & Meredith St**



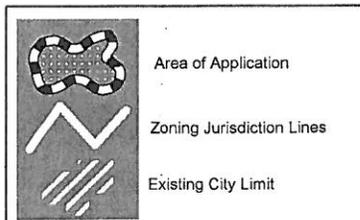
One Square Mile:  
 Sec.05 T09N R07E



015

**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





RANDALL L. GOYETTE\*  
STEPHEN S. GEALY  
GAIL S. PERRY  
DALLAS D. JONES  
JILL GRADWOHL SCHROEDER  
DAVID A. DUDLEY  
BRENDA S. SPILKER  
W. SCOTT DAVIS  
MARK A. HUNZEKER  
WILLIAM G. BLAKE  
PETER W. KATT

WILLIAM F. AUSTIN  
DARLA S. IDEUS  
JARROD S. BOITNOTT  
TIMOTHY E. CLARKE\*  
ANDREW M. LOUDON  
CHRISTINA L. BALL\*\*  
JENNY L. PANKO  
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SARA M. HUGHES\*  
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THOMAS B. SHIRES♦  
EMILY R. MOTTO\*

OF COUNSEL  
WALTER E. ZINK II  
DONALD R. WITT  
ROBERT T. GRIMIT

ALSO ADMITTED IN:  
\*IOWA  
\*\*KANSAS  
♦ IOWA ONLY

November 14, 2014

Marvin Krout, Director  
Lincoln/Lancaster County Planning Department  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Change of Zone Application

Dear Mr. Krout:

Attached is an application for change of zone from R-4 and O-2 to B-3 on property generally located between 47<sup>th</sup> and 48<sup>th</sup> along the north side of Meredith. The purpose of the application is to allow for construction of a new, larger Casey's store on Lots 8 through 12, Block 39, College View. Lot 7 being the only remaining residential lot, we have included it in the change of zone with the owner's permission.

Also attached is an application for a special permit to expand the nonconforming use of sale of alcoholic beverages for consumption off the premises. The existing Casey's store sells alcoholic beverages, and the special permit to expand the nonconforming use is required for that use to continue in the new store. Casey's Retail Company is the owner of lots 10 through 12, and is the contract purchaser of lots 8 and 9. Please contact me if there are questions, or if additional information is needed.

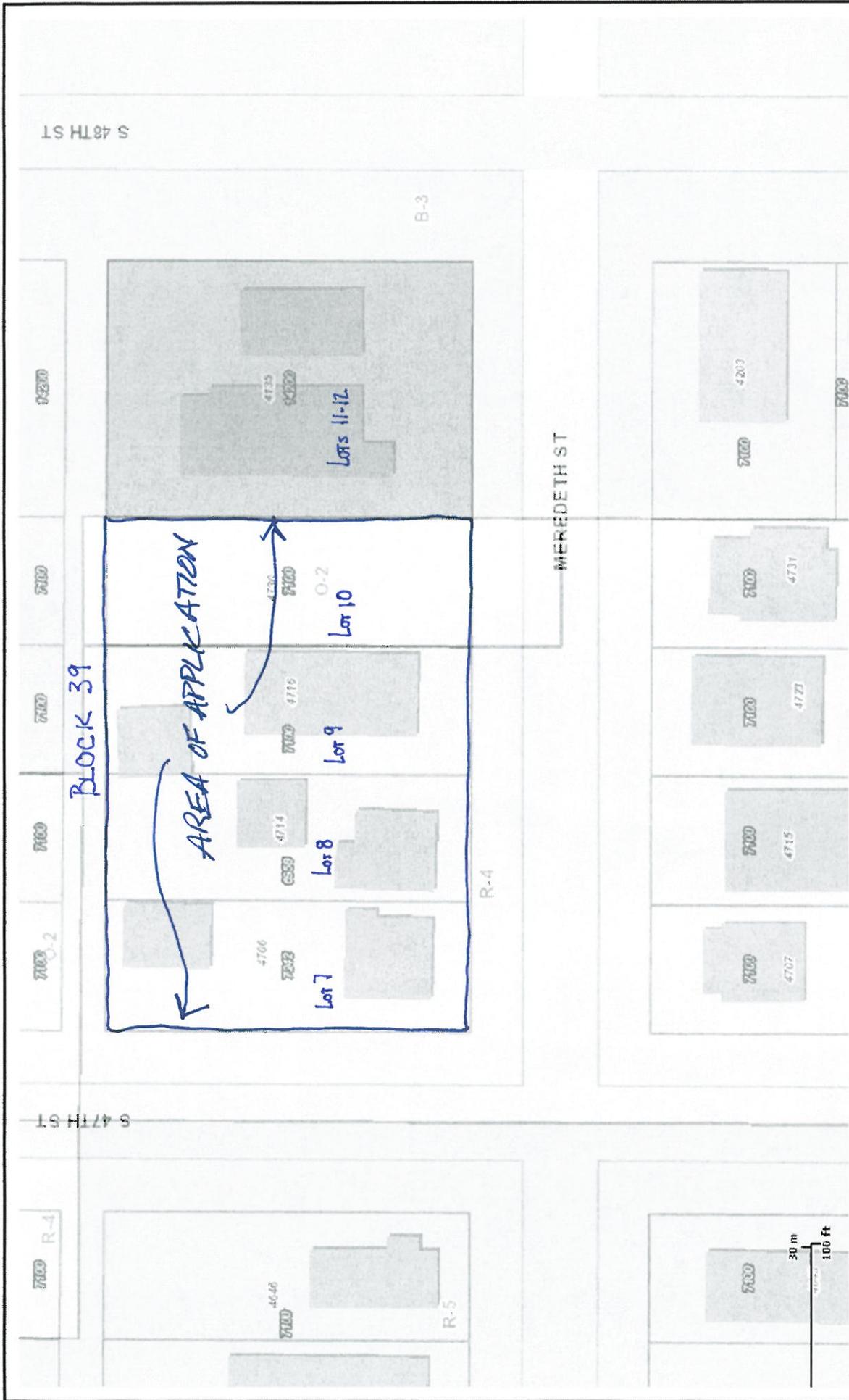
Sincerely,

Mark A. Hunzeker  
For the Firm  
mhunzeker@baylorevnen.com

MAH/swilkinson  
Enc: Application for Change of Zone, Application for Special Permit, Check # 60879

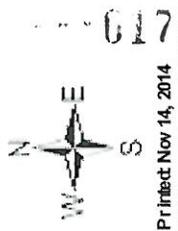
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# Lancaster County/City of Lincoln GIS Map

## Casey's Change of Zone



Printed: Nov 14, 2014

DISCLAIMER: The information is presented on a best effort 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 [ags@lincolncountyne.gov](mailto:ags@lincolncountyne.gov) and you will be directed to the appropriate department.



