

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3397

DATE: March 10, 2003

PROPOSAL: To change the zoning on approximately nine blocks in the “Franklin Heights Local Landmark District” of the Near South neighborhood from R-4 to R-2.

LAND AREA: 35 acres, more or less

CONCLUSION: This change of zone within areas designated as a landmark district in 1995 is responsive to strategies in the 2025 Comprehensive Plan for preserving single family housing in existing residential areas. The applicant has reported that a petition was circulated to every property owner in the affected area, which the applicant believes to be about 171, of which 125 responded. 120 out of 125 respondents supported the application. These results show that at the least, 70% of the affected land-owners (120 out of 171) support it, and at the most 96% (120 out of 125 of the responses) support it. This suggests that the rezoning reflects the expectations of a substantial majority of the property owners.

RECOMMENDATION:	Approval.
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached

LOCATION: Generally S. 24th Street to S. 26th Street, from South to Sumner Streets.

APPLICANT: Near South Neighborhood Association
Dallas Jones, NSNA Board
1900 South 25th Street
Lincoln, NE 68502
(402) 475-1075

CONTACT: same

EXISTING ZONING: R-4 Residential

EXISTING LAND USE: Single, two, and multiple-family dwellings

SURROUNDING LAND USE AND ZONING:

North: R-4 Residential uses and B-1 Business uses
South: R-2 and R-4 Residential uses
East: R-4 Residential uses and B-1 Business uses
West: R-4 Residential uses

HISTORY:

The “Franklin Heights” area was platted in 1889 by two Pennsylvania couples. In the early 1900s, Mark and George Woods and Charles Boggs bought out the original investors and began promoting the addition as “the most beautiful residence district in the City of Lincoln.” Various types of houses were built between 1906 and the 1920s, ranging from small bungalows to mansions, which proved to be desirable, as 130 lots were sold in the first three years. Residents of the area have demonstrated an interest in preserving the landscaping and historic architecture by restoring their homes and keeping gardens. The historic residents, including business leaders, teachers, and land developers also add significance to the area.

The January 1940 zoning map identifies this area as Residence “A”, which permitted “dwellings for not more than two families or households living independently of each other.” No minimum area was specified.

By 1956, the majority of the area was identified as “B” Two-Family Dwellings, with a small area on the north side of South Street identified as “C” Three and Four-Family Dwellings. These were converted to R-4 multi-family Residential District in the 1979 Zoning Update. In 1995, the “Franklin Heights” area of the Near South Neighborhood was designated as the Franklin Heights Lincoln Landmark Historic Residential District. That listing included all of the land within the current application.

COMPREHENSIVE PLAN SPECIFICATIONS: The 2025 Comprehensive Plan designates this area as Urban Residential.

Several portions of the Comprehensive Plan address preserving historic resources and existing single family homes within the mixed housing types of older neighborhoods. These strategies are listed below from the most general in the “Community Form” Chapter to the most specific In the “Future Conditions–Residential” Chapter.

Guiding Principles from the Comprehensive Plan Vision:

Quality of Life Assets

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln’s great strengths and their conservation

is fundamental to this plan. The health of Lincoln's varied neighborhoods and districts depends on implementing appropriate and individualized policies. The Comprehensive Plan is the basis for zoning and land development decisions. It guides decisions that will maintain the quality and character of the community's established neighborhoods. (page F 15)

Guiding Principles for the Urban Environment: Overall Form

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. (page F 17)

In "Future Conditions—Residential," the ***Overall Guiding Principles*** include:

One of Lincoln's most valuable community assets is the supply of good, safe, and decent single family homes that are available at very affordable costs when compared to many other communities across the country. Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership. (page F 65)

Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (page F 65)

In the same chapter, the ***Guiding Principles for Existing Neighborhoods*** include:

Preserve, protect, and promote city and county historic resources. Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements. (page F 68)

Promote the continued use of single-family dwellings and all types of buildings, to preserve the character of neighborhoods and to preserve portions of our past. (page F 68)

Preserve the mix of housing types in older neighborhoods. (page F 68)

The "Existing Neighborhood Image" on page F 68 depicts some of these principles in an exemplary illustration of a developed neighborhood. The plan illustrates and describes a mix of housing types within the area, but separates them by blockface, explaining in the text annotating the illustration:

1. Encourage mix of compatible land uses in neighborhoods, but similar uses on same block face. Similar housing faces each other: single

family faces single family, change to different use at rear of lot. (page F 69)

4. Encourage a mix of housing types, including single family, duplex, attached single family units, apartments, and elderly housing all within one area. Encourage multi-family near commercial areas. (page F 69)
5. Encourage retention of single family uses in order to maintain mix of housing. (page F 69)
6. Encourage historic preservation and the rehabilitation and maintenance of buildings. (page F 69)

Certain recommendations apply to both new and existing residential areas:

Strategies for New & Existing Residential Areas

Single family homes, in particular, add opportunities for owner-occupants in older neighborhoods and should be preserved. The rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first- time home buyers. (page F 72)

Finally, the 2025 Comprehensive Plan incorporates the following strategies:

Strategies for Existing Residential Areas

In existing neighborhoods adjacent to the Downtown, retain existing predominately single family blocks in order to maintain the mix of housing types. The current mix within each neighborhood provides ample housing choices. These existing neighborhoods have significantly greater populations and residential densities than the rest of the community. Significant intensification could be detrimental to the neighborhoods and be beyond infrastructure capacities. Codes and regulations which encourage changes in the current balance of housing types, should be revised to retain the existing character of the neighborhoods and to encourage maintenance of established older neighborhoods, not their extensive conversion to more intensive uses. (page F 73)

Develop and promote building codes and regulations with incentives for the rehabilitation of existing buildings in order to make it easier to restore and reuse older buildings. Encourage reconversion of single family structures to less intensive (single family use) and/or more productive uses. (page F 73)

ANALYSIS:

1. The review of zoning proposals traditionally addresses the following issues (based in part on Nebraska Revised Statutes Section 15-902):
 - A. Safety from fire, flood and other dangers;**
No apparent impact.
 - B. Promotion of the public health, safety, and general welfare;**
This proposal appears to have a positive impact on the public health, safety, and welfare.
 - C. Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development;**
The housing within this proposed change of zone includes single-family, two-family, and multiple-family dwellings. The historic character of the area was recognized by the designation of Landmark District in 1995. The majority of the approximate 170 principal structures in the area appear to have been built as single family homes and are still in that use today, while we believe about 15 have been converted to existing duplex and about 3 to existing multiple family dwellings.
 - D. Conservation of property values;**
This change of zone would increase the required lot area for a new duplex from 5,000 to 10,000 square feet. This may diminish the value of the few undeveloped, buildable lots in the area. It is also possible that property values could be increased by this change of zone if it encourages home-ownership. Some existing legal uses would become legal nonstandard uses if the change was implemented. A nonstandard use may be enlarged, extended, or reconstructed without a special permit, unlike a nonconforming use. Therefore a change of zone would not necessarily present a problem to landowners of duplexes and multiple family dwellings in this respect. Property values in the area have increased substantially since the designation of the landmark district in 1995, but it would be difficult to establish a direct causal link between those increases and the landmark designation. Increases in assessed valuation are based on purchase prices of these and comparable properties, and investments in upgrading these houses. It does appear likely that many of these individual decisions regarding purchases and investments were motivated by the historic character of the area and the recognition and partial protection afforded by the landmark designation.
 - E. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.**
The 2025 Comprehensive Plan encourages preservation of historic resources and of existing single family housing. The current R-4 zoning district of the

subject area is described in the Zoning Code as intended to provide a “stable area of residential use” and that “some redevelopment will occur in this district.” The most appropriate use of the land included in this application is preservation of the existing buildings (as indicated by the landmark district designation of 1995) and encouragement of single-family housing, so its current R-4 zoning to encourage higher density redevelopment is inconsistent with the strategies 2025 Comprehensive Plan. The proposed R-2 zoning is more consistent with the Comprehensive Plan.

2. The area of the application consists of the majority of the Franklin Heights Landmark District, designated in 1995, with the exception of lots located in the B-1 district. The applicant did not include the B-1 district area of this historic landmark district, as their focus is on the residential area of the district. In addition, Lot 2, Block 7, of Franklin Heights Replat, which was also zoned B-1 until 1999, was not included in this application. In 1999, change of zone #3170 rezoned this lot from B-1 to R-4. The application was filed by the owner of that lot, and enabled him to use the lot for a duplex (as dwelling units on the first floor are not allowed in the B-1 district). Therefore, even though the current application, CZ#3397, did not include this lot, it does not seem to present a problem for either the land-owner of Lot 2, Block 7 of Franklin Heights Replat, or the current application.
3. The approval of this application will leave a strip of R-4 remaining along the south side of South Street, resulting in a break of an otherwise large area of R-2 both to the north and south. This area along South Street, along with Lot 2, Block 7 of Franklin Heights Replat, could perhaps benefit by a change of zone from R-4 to R-2 at some point in the future.
4. R-2 and R-4 districts both allow single-family and two-family dwellings. Neither of these districts allow multiple-family dwellings.

The multiple-family dwellings that currently are located in this area, which is zoned R-4, are considered nonconforming uses, and may only be enlarged, extended, reconstructed or otherwise structurally altered by special permit.

The change of zone from R-4 to R-2 would change the identification of these multiple-family dwellings from nonconforming to nonstandard uses. There is a specific provision in the R-2 district which states “Multiple dwellings existing in this district on the effective date of this title shall be considered nonstandard uses...” (LMC27.13.080[g]).

The effective date referred to is May 8, 1979 in title 27.13.080[g]. There does not appear to be any apartment buildings constructed after 1979, and so any such structures would be considered nonstandard and could be rebuilt without a special permit if damaged.

Nonstandard uses in R-2 may be enlarged, extended, or reconstructed without a special permit. These changes “may be made as required by law, ordinance, by the Director of Building and Safety to secure the safety of the structure” (LMC27.61.090[a]). An example of this necessity would be damage resulting from fire or wind. These changes “may otherwise be made if such changes comply with the minimum requirements as to front yard, side yard, rear yard, (and) height” (LMC 27.61.090[b]). If a change of zone were approved, structures may be rebuilt without a special permit, are not required to conform to current parking standards or lot area per dwelling unit, but must meet yard requirements, which may result in a slightly different building footprint.

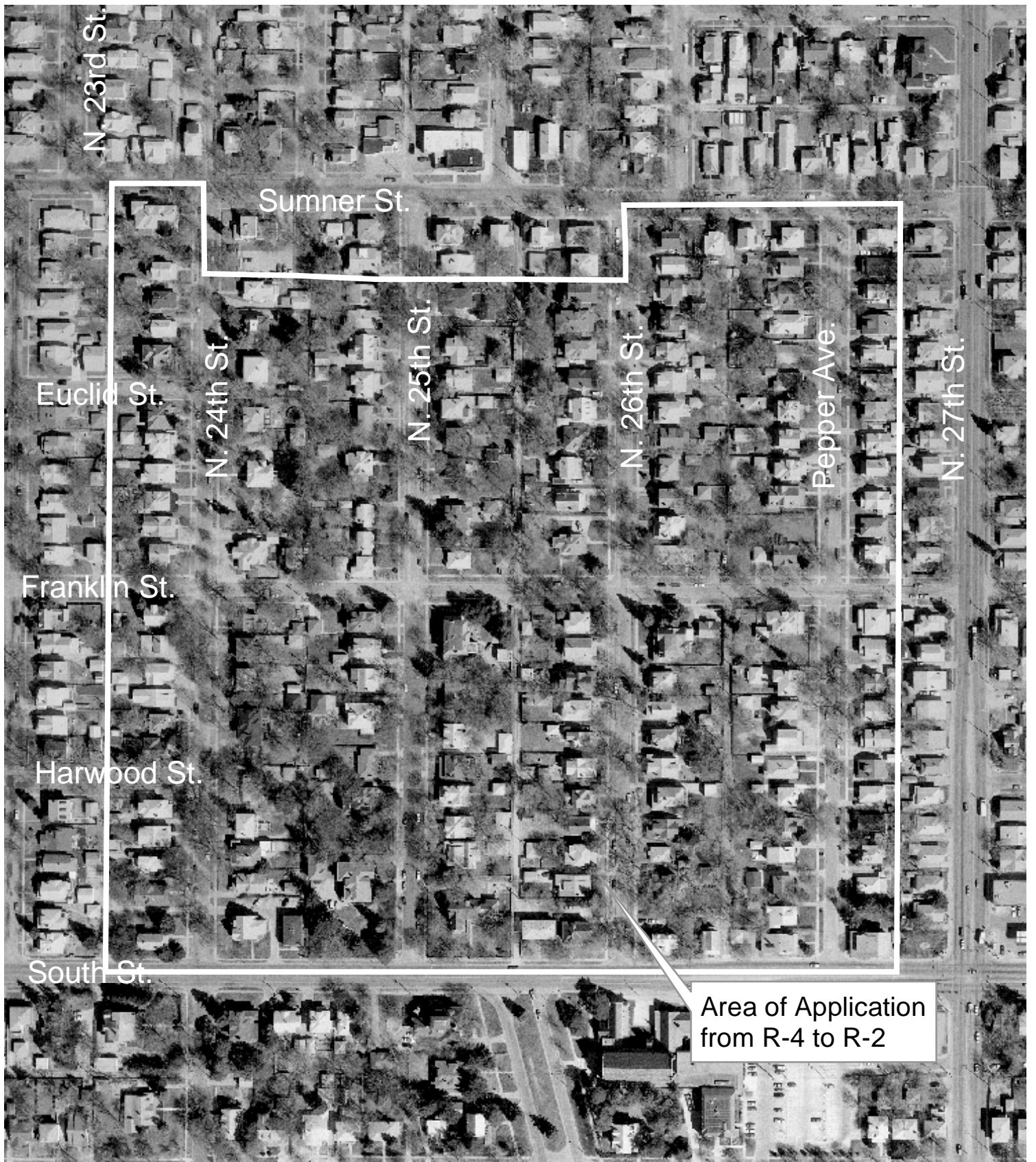
5. In both R-2 and R-4 the requirements for front, side, and rear yard setbacks are all the same, as is height. The lot width required for a duplex is 80 feet for R-2, but only 50 feet for R-4.
6. A major difference between the existing zoning district, R-4, and the proposed district R-2 is in the size of lots required for various uses. R-2 requires 6,000 square feet for a single-family dwelling and 10,000 square feet for a duplex, while the requirements for R-4 are 5,000 square feet for a single-family and 5,000 square feet for a duplex.
7. The setbacks for accessory buildings, such as garages, are identical in the R-2 and R-4 districts, with the exception of a greater number of location options for garages on double-frontage lots in R-2. Therefore, if an existing, legally located, garage is destroyed by a tree for example, it may be rebuilt even if the district changes from R-4 to R-2.
8. The R-4 District requires new construction meet the Lincoln Neighborhood Design Standards. The R-2 District does not require this, yet because this area is a Local Landmark Historic District, the design review process of the Historic Preservation Commission does apply, therefore providing an avenue to preserve the historic atmosphere and design of the neighborhood.
9. The applicant has reported that their analysis found approximately 171 property owners in the affected area. They succeeded in contacting 125 of them. Of those contacted, 120 indicated support. These numbers show that at the least, 70% of the affected land-owners support the application, and at the most, 96% of the land-owners that responded (120 out of 125) supported the application.

10. The Historic Preservation Commission was asked by the applicant to review this application, and is anticipated to be in support of it. A public hearing will be held on March 20, 2003.

Prepared by:

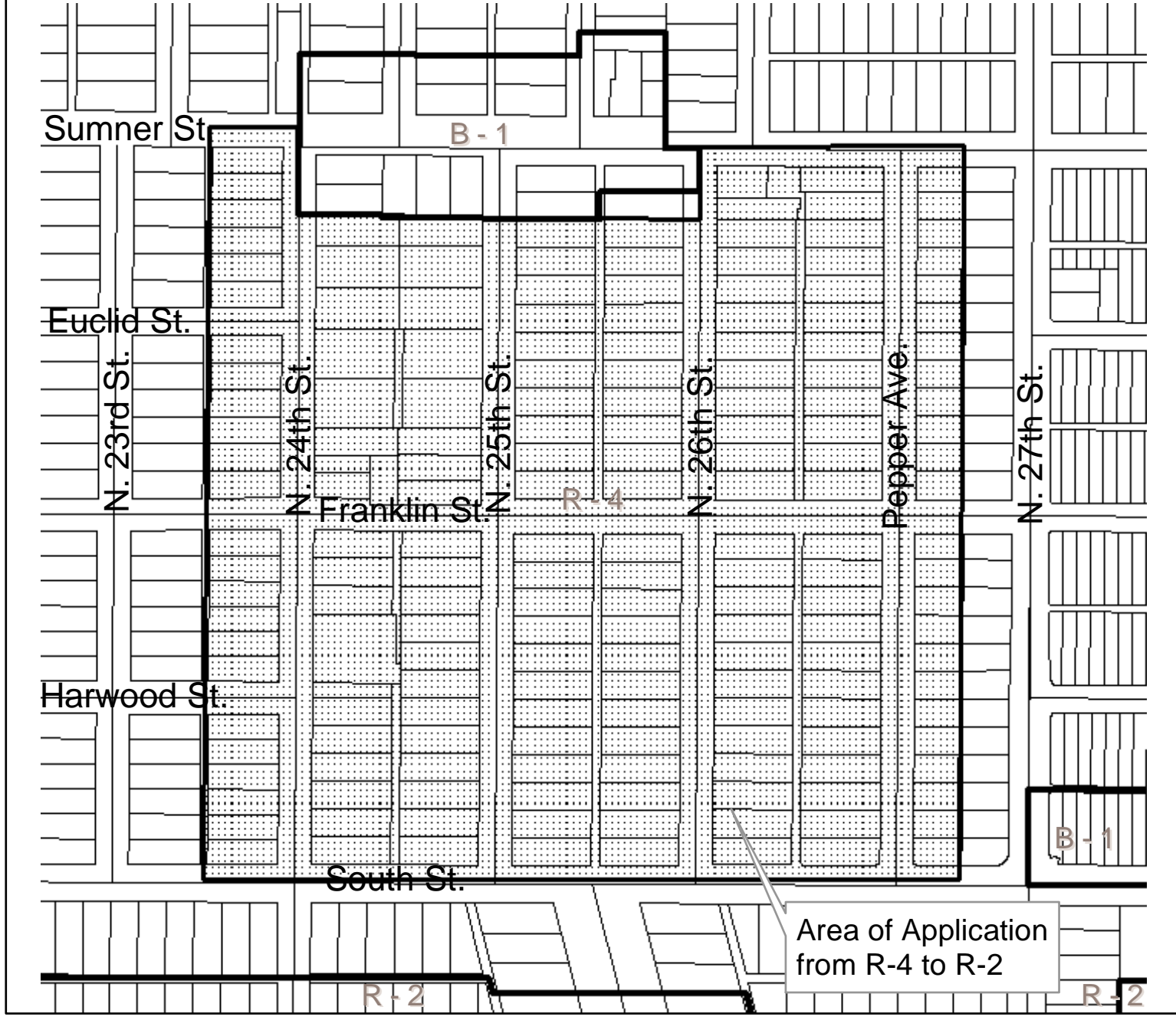
Abigail Davis
Planner

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**Change of Zone #3397
S. 27th & South St.**

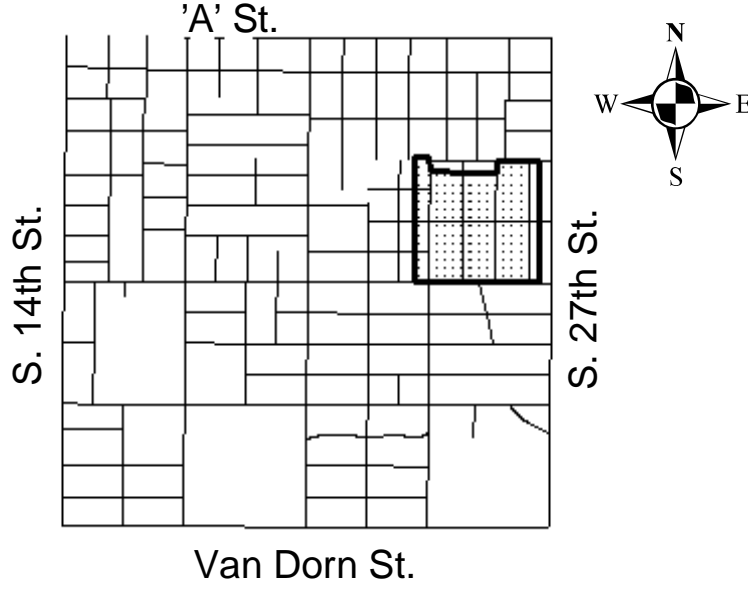
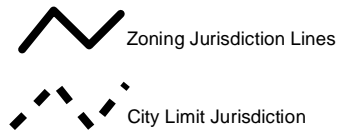




Change of Zone #3397
S. 27th & South St.
Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conversion 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. 36 T10N R6E



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February 20, 2003

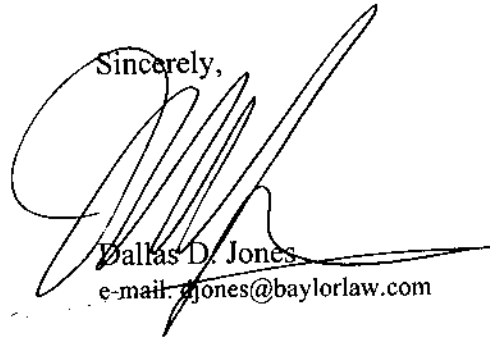
City of Lincoln
Planning Commission
555 South 10th Street
Lincoln, NE 68508

Dear Members:

I am enclosing an application to modify the zoning of the residential aspect of the Franklin Heights Landmark District from R4 to R2. Simply put, this effort is driven by the desire of residents of this Landmark District to protect and preserve this historic area and the investment that they have made in it. This proposed modification will make the applicable zoning more consistent with the purpose of the Landmark designation-preserving the integrity of this historically significant area-and more consistent the its present and highest use. The feedback received thus far from the vast majority of the residents is that this is something they desire and is a factor in their decision to make further investment in their residences located in this important Landmark District.

Thank you for your consideration.

Sincerely,



Dallas D. Jones
e-mail: djones@baylorlaw.com

ddj/klb

- Enc. 1. Application and attachments
2. Draft in the amount of \$290

RECEIVED
FEB 20 2003

PLANNING COMMISSION

LEGAL DESCRIPTION

Including all of the following six additions:

Franklin Heights Addition, Franklin Heights 1st Addition, Devoe Stewart & Smith Subdivision, Honeywell Place, Rivetts Addition, and Rivetts Replat; except lots 9-13; and portions of the following additions, as described:

Franklin Heights Replat: Block 1, Lots 13 through 24; Block 6, Lots 13 through 24; and all of Block 7, except lots 1, 2, 23 and 24

College Summit Addition: Block 1, Lots 1 through 6; Block 4, Lots 1 through 6;

Ames Subdivision: Block 1, Lots 1 through 6; Block 4, Lots 1 through 6;

and the following irregular tracts in the north half of Section 36, Township 10, Range 6 East: Lot 46 I.T., Lot 57 I.T., Lots 63-67 I.T.;

all in Lincoln, Lancaster County, Nebraska.

20 2003

PLAT



Edward Zimmer
03/07/03 10:33 AM

To: Abigail P Davis/Notes@Notes
cc:
Subject: Franklin Heights

FYI

----- Forwarded by Edward Zimmer/Notes on 03/07/03 10:30 AM -----



"Dallas D. Jones"
<djones@baylorlaw.com>
m>
03/06/03 12:38 PM

To: <ezimmer@ci.lincoln.ne.us>
cc:
Subject: Franklin Heights

Ed:

The numbers are slightly different that what I reported this am. I omitted one petition that was not signed because the individual didn't care. So, my letter to you will report that we received responses from 125, of which 120 were supportive, 4 opposed and 1 didn't care. Thus, 96% of the property owners in the neighborhood who responded are supportive. Not bad. By my count, there are about 171 properties, but I may be off by a few. In any event, we know for certain that at the very least, 70% of the property owners are supportive. The number may be higher but we just don't have the responses from everyone to know.

Let me know if there is anything else you need from me.

Dallas

To communicate with sender:

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