

**LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT**

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**for April 28, 2004 PLANNING COMMISSION MEETING**

**P.A.S.:** Change of Zone 04026

**PROPOSAL:** To change the zoning on approximately 25 blocks within the Irvingdale & Country Club Neighborhoods from R-4 Residential to R-2 Residential.

**LOCATION:** Generally located between 17<sup>th</sup> and 30<sup>th</sup> Streets, from South to Woodcrest Streets.

**LAND AREA:** 117 acres, more or less.

**CONCLUSION:** These neighborhoods appears to have reached a point where the density and mix of residential uses seems appropriate. The current mix is approaching a tipping point, at which additional density would start to affect the stability and overload the carrying capacity of the neighborhood. Approval of this change of zone would preserve the current development pattern in the interior blocks, and allow for more influence on how land along South Street might eventually redevelop.

**RECOMMENDATION:**

**Approval**

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:**

The following additions and parts of additions:

**Ryons Addition** Lots 1-9, 15-24, Block 1 and Lots 1-24, Block 2,;

**Marion Heights Addition** Lots 1-10, Block 1, Lots 1-10, Block 2, Lots 1-10, Block 3, and

**Cherry Hill Place** Lots 1-10, Block 4

**Youngs Subdivision** Lots 1-48, Lots 1-12, Block 1, Lots 1-12, Block 2,;

**Alexander Subdivision** Lots 1-18,;

**Chapline Subdivision** Lots 1-4,;

**Sewell's Addition** Lots 59-62 I.T.; Lots 1-14, Block 1, Lots 1-10, Block 2, Lots 1-24, Block 3, Lots 1-9, Block 6, Lots 1-16, Block 7, Lots 1-25, Block 8, Lots 1-6, Block 9, Lots 1-6, Block 10; Lot 1, Block 1;

**Replat of Sewell's Addition** Lots 2-24, Block 1 and Lots 1-24, Block 2,;

**Randall Place** Lots 1-24, Block 1 and Lots 1-24, Block 2,;

**Homecrest** Lots 1-24, Block 1, Lots 1-24, Block 2, Lots 1-24, Block 3,;

**Yates and Thompsons Subdivision** Lots 1-12, Block 1,;

**Sheridan Place** Lots 1-13, 16-24, Block 1, Lots 1-3, 6-11, Block 2, Lots 1-8, 14-20, Block 4, Lots 1-6, 12-16, Block 5, Lots 1-4, 10-12, Block 8, all located in the south ½ of Section 36-10-6;

**Sheridan Park** Lots 1-11, Block 1, Lots 1 and 2, Block 12, Lots 4-14, Block 14, Lots 4-7, Block 15, Lots 1 and 2, Lots 12-23, Block 16, located in the SW 1/4 of Section 31-10-7, Lancaster County, Nebraska.

**EXISTING ZONING:** R-4 Residential

**EXISTING LAND USE:** Single-, Two-, and Multiple-Family dwellings, churches,

**SURROUNDING LAND USE AND ZONING:**

North:	Residential, Public, and Commercial uses	R-4, R-6 Residential, P-Public, B-3 and B-1, Commercial
South:	Residential and Public uses	R-2 Residential and P Public
East:	Residential uses	R-2 and R-5 Residential
West:	Residential uses	R-4 Residential and B-3 Commercial

**HISTORY:**

Prior to the 1979 zoning update, this area was zoned B Two-Family Dwelling and C Multiple Dwelling. As a result of the update, the zoning changed to R-4 Residential, which substantially reflected the previous zoning.

**HISTORY OF OTHER RESIDENTIAL DOWNZONING:**

Dec 2003 Zone #3424 from R-4, R-5, R-6 Residential and B-3 Commercial to R-2 Residential was approved for an area within the Everett Neighborhood. The Planning Staff recommended approval.

Sept 2003 Change of Zone #3416 from R-4 Residential to R-2 Residential was approved for an area within the Witherbee Neighborhood. The Planning Staff recommended denial.

Aug 2003 Change of Zone #3412 from R-4 Residential to R-2 Residential was approved for an area within the Antelope Park Neighborhood. The Planning Staff recommended approval.

Apr 2003 Change of Zone #3397 from R-4 Residential to R-2 residential was approved for an existing landmark district within the Near South Neighborhood. The Planning Staff recommended approval.

- Oct 2002 Change of Zone #3378 from R-5 and R-6 Residential to R-2 Residential was approved within the existing Mount Emerald Neighborhood landmark district. The Planning Staff referred to new language in the recently adopted Comprehensive Plan on preserving the character of the existing neighborhoods.
- Feb 2002 Change of Zone #3354 from R-4 Residential to R-2 Residential was approved for the area located immediately adjacent and southeast of this application. The area included approximately 106 dwelling units. The Planning Staff recommended denial because the change would cause 35% of the lots to become nonstandard and the R-4 district allows a diversity of housing types.
- Jun 1995 Change of Zone #2890 from R-4 Residential to R-2 Residential was approved for a small area located immediately adjacent and west of this application. The area included 23 dwelling units (21 single-family and 2 duplex units). The Planning Staff recommended denial because the change would result in 57% of the lots becoming nonstandard.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan shows the area as Urban Residential. (F 25)

**Urban Residential:** Multi-family and single-family residential areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling unit per acre. (F 27)

**COMP PLAN SPECIFICATIONS THAT SUPPORT THIS CHANGE OF ZONE:**

The **Overall Guiding Principles** for future residential planning 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. (F 65)

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. (F 68)

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

**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. (F 72)

**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. (F 73)

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. (F 17)

The **Guiding Principles for the Urban Environment: Residential Neighborhoods** include:

Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood. (F 18)

One **Quality of Life Asset** from the **Guiding Principles from the Comprehensive Plan Vision** states:

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. (F 15)

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. (F 73)

**COMP PLAN SPECIFICATIONS THAT DO NOT SUPPORT THIS CHANGE OF ZONE:**

The **Guiding Principles for the Urban Environment: Overall Form** include:

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. (F 17)

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

**AESTHETIC CONSIDERATIONS:**

Many of the homes in the area appear to be of the same vintage, with similar architectural characteristics. The streetscapes appear consistent with older single-family areas; there is a rhythm to the size and shape of houses, there is some, but not a significant amount of parking on the streets, and many homes are still single-family.

Patrons of the area may be eligible for landmark district designation.

**ANALYSIS:**

1. This is a request by the Irvingdale and Country Club Neighborhood Associations to change the zoning for approximately 25 blocks within the Irvingdale and Country Club Neighborhoods from R-4 to R-2 Residential. The reason for the downzoning of this area is to preserve and enhance the single-family atmosphere of the area and prevent the overtaxing of the neighborhood's infrastructure and rectify residential zoning inconsistent with the traditional and current property uses.
2. A review process for change of zone proposals is not defined within the Zoning Ordinance. However, Neb. Rev. Stat. §15-902 provides a list of considerations that has traditionally been utilized for such reviews.

**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 fulfill several of the policies and guidelines enumerated in the Comprehensive Plan. However, there are also some Comprehensive Plan policies and strategies that would suggest this downzoning is not appropriate.

**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 is primarily single-family, with some two-family and multiple-family units. The majority of the approximately 520 primary structures in the area appear to have been constructed as single-family homes and are still in that use today. There also appears to be 33 two-family dwellings (66 units) and 7 multiple-family dwellings (28 units). Some of these have been converted from single-family dwellings, while others were constructed for their current use.

**D. Conservation of property values.**

It is difficult to determine the effect a change of zoning will have on property values. On one hand, property values could diminish if houses could no longer be converted into duplexes, due to increased lot area requirements. On the other hand, this may have the effect of encouraging home ownership, which could stabilize or increase property values.

**E. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.**

The Comprehensive Plan encourages efficient use of existing infrastructure and diversity of housing choices. At the same time, the Comp Plan identifies

Lincoln's commitment to its neighborhoods, as well as an encouragement to preserve existing single-family homes for single-family uses. This area has developed over time as a predominantly single-family neighborhood, with approximately 8% (40 out of 520) of the parcels now devoted to more than 1 family. However, this 8% of structures includes 16% of all dwelling units (94 out of 576). This neighborhood is likely using its existing infrastructure as efficiently as it can with its current mix of development. This area appears to have reached a density comparable to other neighborhoods downzoned in recent years.

3. There are several differences between R-2 and R-4 lot and area requirements. The table at the end of this report shows the requirements for residential uses in each district.
4. The uses allowed in these districts are quite similar. The R-2 district conditional uses require a greater separation between group homes, and a less dense domestic shelter than the other districts. The R-2 district special uses add garden centers, clubs, and mobile home courts and subdivisions to the special uses typically found in the other districts.
5. LMC §27.61.040 provides that a nonconforming use "shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the building or premises is located" or a special permit is obtained. Additionally, §27.61.050 provides nonconforming uses damaged to an extent of more than 60% of their value "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 [variance], or Section 27.63.280 [special permit]."
6. However, §27.13.080(g) of the R-2 district regulations provides that "multiple family dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61 [nonconforming and nonstandard uses]." This rule allows multiple-family dwellings to be reconstructed, altered, and restored after damage by treating such uses as nonstandard rather than nonconforming.
7. Pursuant to LMC §27.03.460, nonstandard lots are defined as those that fail to meet the minimum lot requirements for the district, such as lot area, lot width, density, setbacks, height, unobstructed open space, or parking.
8. Pursuant to LMC §27.61.090, nonstandard uses, whether existent prior to the ordinance or due to changes in the zoning, may be enlarged, extended, or reconstructed as required by law for safety, or "if such changes comply with the

minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space...”

9. Therefore, any residential use within this area, whether single- or two-family, that is a nonstandard use, may be altered or rebuilt provided it meets setbacks, height, and open space requirements. This may result in a slightly different building footprint for a two-family dwelling, but there is no need under the current zoning ordinance for a variance or special permit if these requirements are met.
10. In the case of a nonstandard use that wants to extend into one of the required yards, a special permit is available. This is a less difficult hurdle than a standard use would face in order to occupy a required yard. A standard use would be required to seek a variance from the Board of Zoning Appeals.
11. The total number of nonstandard and nonconforming uses, both before and after this change of zone, are presented below.

Use type	Current	Proposed R-2	Total units
Single-family	67 nonstd.	42 nonstd.	109
Two-family	3 nonstd.	30 nonstd.	33
Multiple-family	7 nonstd./ 7 noncof.	0 nonstd./ 0 nonconf.	7
Other	1 nonstd./ 1 noncof.	1 nonstd./ 1 noncof.	<u>1</u>
			150

12. There are six existing special permits within this area. These include parking lots, lot coverage for a church, health care facility, dwellings for members of religious orders, and an addition to a nonstandard home into the required yard. Such uses are also allowed by special permit in the R-2 district.
13. This area is predominantly surrounded by R-2 Residential. Small pockets of commercial zoning occur to the northwest and to the northeast. In addition to R-2 Residential districts there is a limited amount of R-5 and R-4 residential districts.
14. This area appears to be fully built. There appears to be no vacant lots available, nor are there any large lots within the area that could be accumulated and combined to produce an area large enough for a multiple-family development. Therefore, the primary opportunity for additional two- or multiple-family dwellings appears to be converting existing single-family dwellings or demolition and replacement.
15. An argument can be made that reducing the density in the city effectively increases the need for more units in another location, namely the edge of the city, which increases the burden for all taxpayers by creating the need to fund new infrastructure. By

retaining the existing zoning districts in this location, a greater number of housing units may be supplied through infill development and reuse of existing structures.

However, the Comp Plan also stresses “preservation of [single-family] homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership,” and “the rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers.” (F 65, 72)

16. The Planning Staff has used the terms “tipping point” and “carrying capacity” in recent discussions involving downzoning, although these terms are not explicitly defined. These terms are used to identify the concept of a point at which a neighborhood will have a certain density and mix of single-, two-, and even multiple-family dwellings that works well for the existing infrastructure and for encouraging reinvestment. The occurrence of this point will depend on infrastructure factors such as water and sewer capacities, traffic capacities, and availability of off-street parking, as well as character and compatibility with the surrounding neighborhood, and a recognition of the historic development pattern and the expectations of current residents. Each neighborhood not only has its own tipping point, but that point may change as the contributing factors change.
17. The Planning Staff believes an appropriate density and balance between single-, two-, and multiple-family residences currently exists within these two neighborhoods. The existing density of this area is 4.9 units per acre, which compares to densities of 3.8 to 6.5 units per acre in the neighborhoods where R-2 zoning was recently approved. Additional two, and multiple-family dwellings would impact the availability of off-street parking, may cause increased congestion on narrow streets, and could disrupt the character of the neighborhood. Certainly, it is possible to design dwellings that respect and address these types of concerns; however, the current Neighborhood Design Standards are not adequate to assure this.
18. At the time of this report, 246 property owners out of a approximate 576 within this area have signed a petition in support of this change. The Applicant has stated that all of the property owners have been contacted for their opinion, and more letters of support may yet be submitted. Two property owners have responded in opposition to the downzoning. This calculates to a 99% rate of support of those that responded, and a 43% rate of support of all property owners. A copy of one page of the submitted petition is attached as an example. The remaining pages of the petition are part of the file, and may be viewed at the Planning Department
19. Another important issue among neighborhood downzonings is the owner-occupied/renter occupied ratio among properties in the study area. Tax records

indicate that 79 percent of the properties in the petition area are owner-occupied. This statistic indicates a relatively healthy area, but one that may need the reinforcement of more zoning protection.

20. A special area of interest to this study area is South Street, which is the northern boundary of this downzone. Due to the smaller lots, deferred maintenance, and absentee ownership characteristic of this property along South Street, future redevelopment of this property from less intensive uses to more intensive may become a reality. However, downzoning this frontage would provide the City with the authority to review plans and encourage redevelopment that involved assembly of lots and consolidation of access.
21. Given the number of recent, pending, and potential requests to downzone established neighborhoods within the core of the city, the Planning Staff recommends that policies and strategies to address and improve the common issues in these applications be analyzed. The Planning Staff believes there are options to R-2 zoning that might better balance the competing goals of preservation and with efficiency/affordable housing in the Comprehensive Plan. These might include a changes to the existing residential district standards that would provide more opportunity for converting single family homes to duplexes - especially if owner occupied, a change to the CUP provisions, a new zoning district, and/or strengthening the Neighborhood Design Standards.

**Comparison of R-2 and R-4 lot and area requirements:**

	R-2	R-4
Lot area, single family	6,000 sq. ft.	5,000 sq. ft.
Lot area, two family	5,000 per family	2,500 per family
Lot area, townhouse	N/A	N/A
Lot area, multiple-family	N/A	N/A
Avg. lot width, single family	50 feet	50 feet
Avg. lot width, two family	40 feet per family	25 feet per family
Avg. lot width, townhouse	N/A	N/A
Avg. lot width, multiple-family	N/A	N/A
Front yard, single-family	25 feet	25 feet
Front yard, two family	25 feet	25 feet
Front yard, townhouse	N/A	N/A
Front yard, multiple-family	N/A	N/A

Side yard, single family	5 feet	5 feet
Side yard, two family	10 feet (0 at common wall)	5 feet (0 at common wall)
Side yard, townhouse	N/A	N/A
Side yard, multiple-family	N/A	N/A
Rear yard	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth

Prepared by:

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Planner

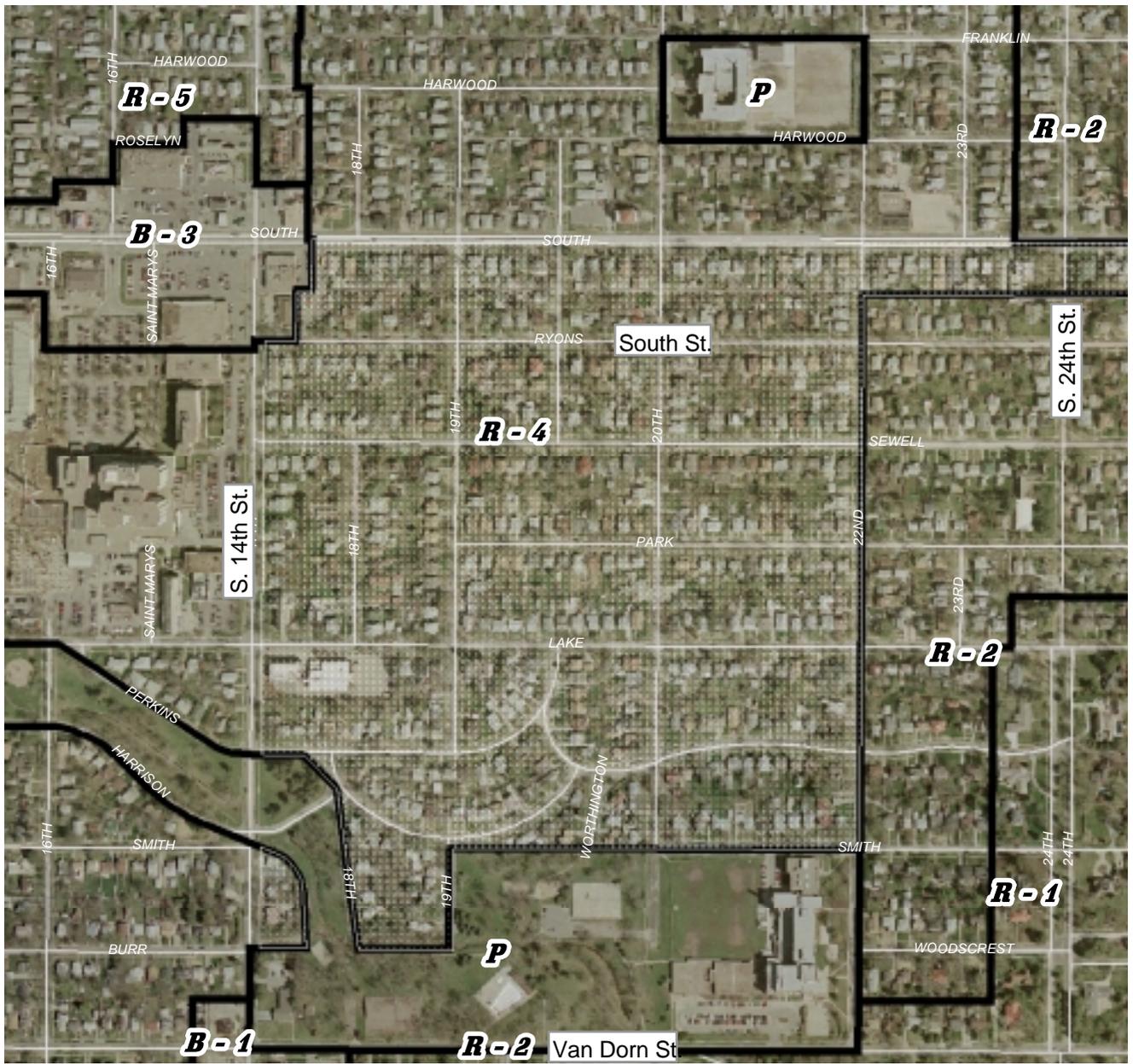
**Date:** April 14, 2004

**Applicant:** Irvingdale Neighborhood Association  
PO Box 22624  
Lincoln, NE 68508

Country Club Neighborhood Association  
PO Box 21953  
Lincoln, NE 68542

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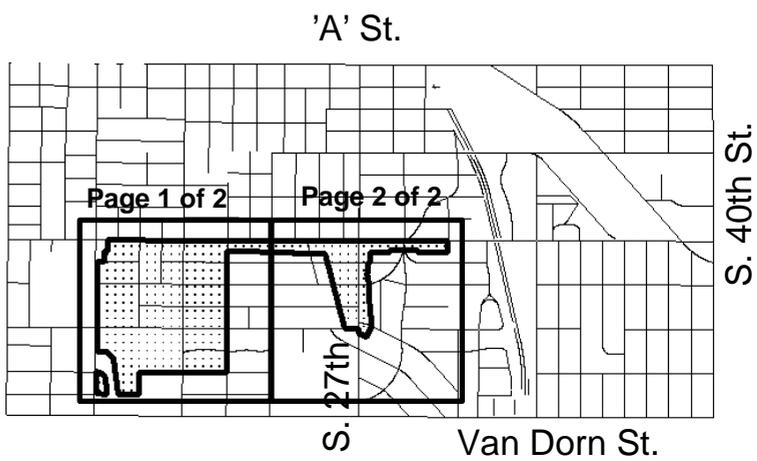


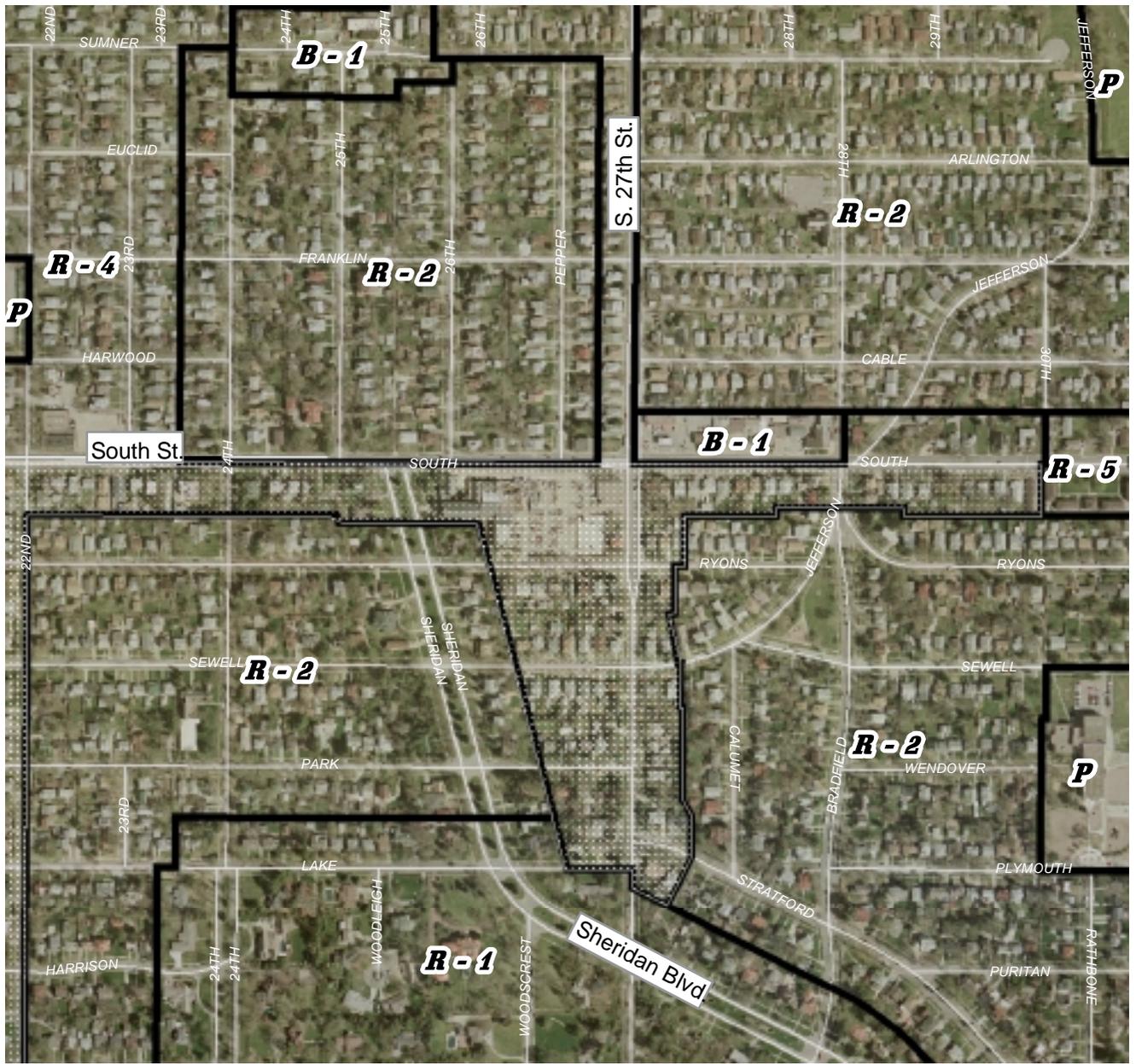
# Change of Zone #04026 Downzone - Irving Dale and Country Club

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**Zoning:**  
One Square Mile  
Sec. 36 T10N R6E

- 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 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



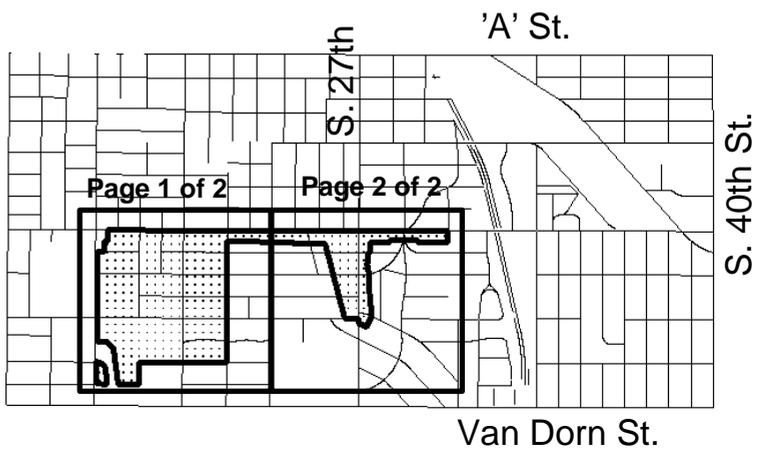


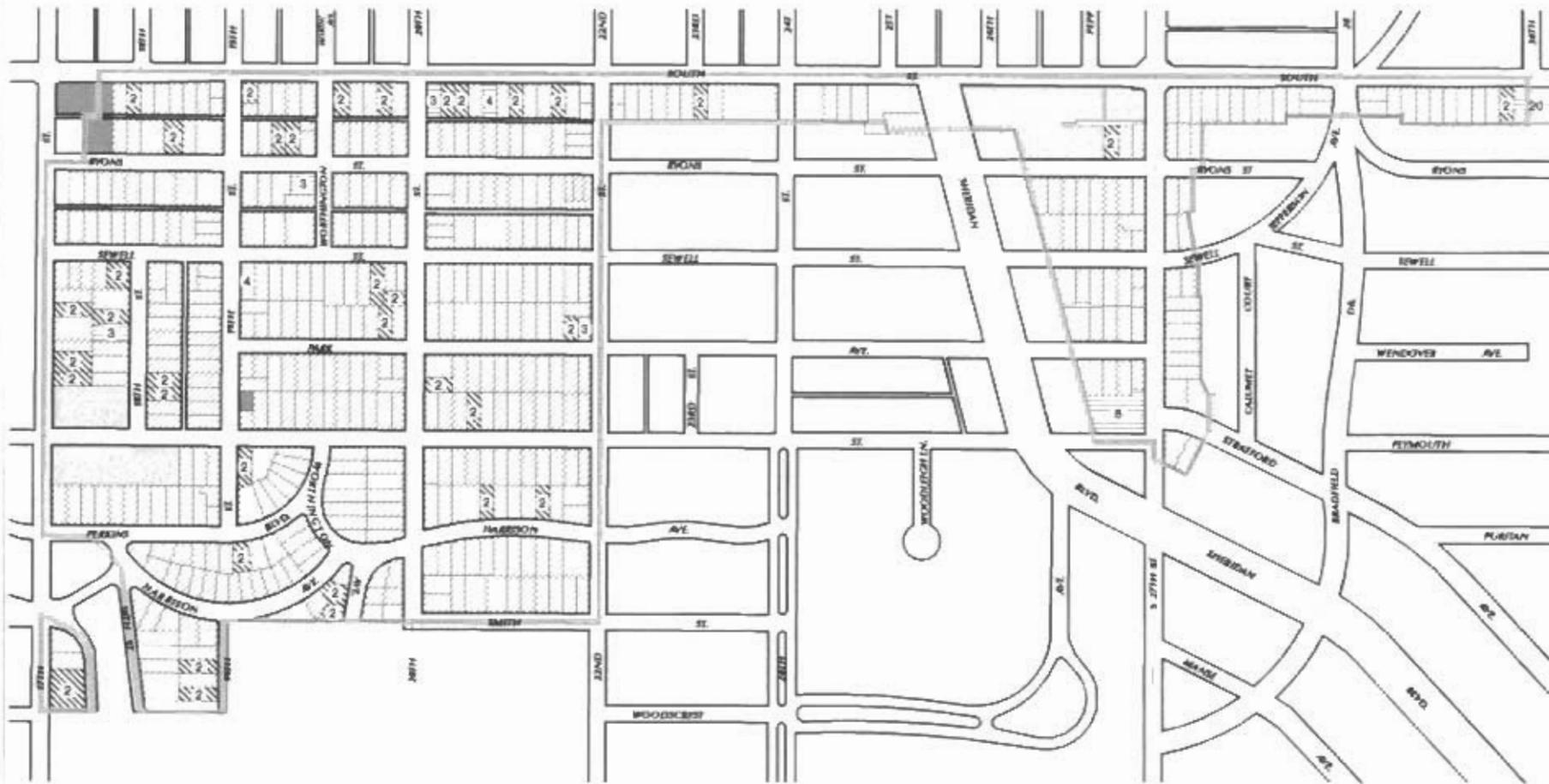
# Change of Zone #04026 Downzone - Irving Dale and Country Club

2002 aerial  
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**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 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

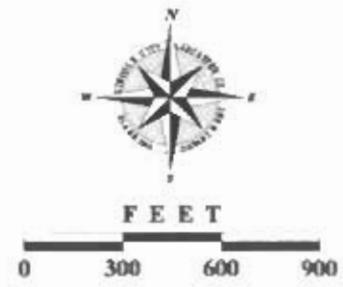
One Square Mile  
Sec. 36 T10N R6E





~LEGEND~

-  COZ 04026 Boundary
-  Single Family Dwelling
-  Two-Family Dwelling
-  Multi-Family (# Units)
-  Commercial Use
-  Public/Semi-Public Use



## COZ 04026: EXISTING LAND USE



