

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for August 20, 2003 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone 3416

PROPOSAL: To change the zoning on approximately 12 blocks within the Witherbee Neighborhood from R-4 Residential to R-2 Residential.

LOCATION: Generally located between the west side of South 37th Street and the east side of South 42nd Street, from "J" Street to Randolph Street.

LAND AREA: 34.85 acres, more or less.

CONCLUSION: This neighborhood is lower in density than other established neighborhoods that have been "downzoned" in recent years. It appears that some dwellings could be added to this area, hopefully in a more sensitive manner than the current example being considered for one of these blocks, that would not disrupt the stability or overload the carrying capacity of the neighborhood. Denial of this change of zone would preserve the potential for additional density within the area, and provide additional housing opportunities, as recommended in the Comprehensive Plan. Staff should work with all the various stakeholders on this issue of infill and density in established neighborhoods toward developing new regulations that fall somewhere between those in the existing R-2 and R-4 districts to balance the goals of stability and efficiency.

RECOMMENDATION:

Denial

GENERAL INFORMATION:

LEGAL DESCRIPTION:

The following additions and parts of additions:

Buckey's Subdivision, Lots 1-12,

Cornells Subdivision Lots 1-12,

Meeks 1st Addition, Lots 1-4, and

Irregular Tracts 67, 71, 72, 73, 75, 76, 221-226,

all located in the NW 1/4 of Section 29-10-7, Lancaster County, Nebraska, and

Rex Subdivision, Lots 1-5,

Doane Acres, Lots 2-10,

Frost's Subdivision, Lot 22,

Bannister Subdivision, Lots 1-12,

Sutton's Subdivision, Lots 1-6 and the vacated north-south alley adjacent thereto,

Riley and Whitney's Subdivision, Lots 2 and 4, and the vacated north-south public right-of-way adjacent to lot 4,
Giestlinger's Subdivision, Lots 1-5, and
Lyman Park Subdivision, Lots 1-12,
all located in the NE 1/4 of Section 30-10-7, Lancaster County, Nebraska

EXISTING ZONING: R-4 Residential

EXISTING LAND USE: Single- and Two-Family dwellings

SURROUNDING LAND USE AND ZONING:

North:	Residential uses	R-4 Residential
South:	Residential uses	R-4 Residential
	Commercial uses	B-1 Local Business
East:	Residential uses	R-4 Residential
West:	Residential uses	R-4 Residential

HISTORY: Prior to the 1979 zoning update, this area was zoned B Two-Family Dwelling. As a result of the update, the zoning changed to R-4 Residential, which substantially reflects the B Two-Family District.

HISTORY OF OTHER RESIDENTIAL DOWNZONING

Aug 2003 Change of Zone #3412 from R-4 Residential to R-2 Residential received a recommendation of Approval from the Planning Commission. This is for an area within the Antelope Park Neighborhood. The Planning Department recommended approval as well.

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 Department 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 Department 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 Department 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 Department 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:

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 **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)

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)

Strategies for New Residential Areas

Structure incentives to encourage more efficient residential and commercial development to make greater utilization of the community's infrastructure. (F 72)

COMP PLAN SPECIFICATIONS THAT ARE NEUTRAL TO THIS CHANGE OF ZONE:

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)

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)

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)

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.

ANALYSIS:

1. This is a request by the Witherbee Neighborhood Association to change the zoning for approximately 12 blocks within the Witherbee Neighborhood from R-4 Residential to R-2 Residential. The Applicant has stated the goal of the Association is to return in the future with an application to downzone the entirety of their association boundaries, from 33rd to 56th Streets, and "O" to Randolph Streets. The reason for the downzoning of the area is to limit future two-family dwellings by increasing the minimum lot size for such uses, as well as prohibit high density community unit plans from being approved within the area.
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 several 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 units. The majority of the approximately 133 primary structures in the area appear to have been constructed as single-family homes and are still in that use today. It appears as though there are also 8 two-family homes. Some of these have been converted from single-family dwellings, while others may have been 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 coverage 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, and it has only a small number of two-family dwellings distributed throughout. This neighborhood could likely use its existing infrastructure more efficiently with additional two-family dwellings. This area has not reached the density of the kind of mix of single- and two-family uses that is seen in other neighborhoods that have been downzoned in recent years.

3. There are several differences between R-2 and R-4 zoning requirements. The following table shows the requirements of each district.

	R-2	R-4
Lot area, single family	6,000 sq. ft.	5,000 sq. ft.
Lot area, two family	10,000 sq. ft. (5,000 per family)	5,000 sq. ft. (2,500 per family)
Avg. lot width, single family	50 feet	50 feet
Avg. lot width, two family	80 feet (40 per family)	50 feet (25 per family)
Front yard	25 feet	25 feet
Side yard, single family	5 feet	5 feet
Side yard, two family	10 feet (0 feet at common wall)	5 feet (0 feet at common wall)
Rear yard	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth

4. The Permitted Uses in the R-4 and R-2 districts are nearly identical. The only two differences among Conditional Uses between these districts are the requirement that group homes be separated by 1,200 feet in R-4 and by one-half mile in R-2, and that the density of residents within a domestic shelter within the R-4 district is one per 1,000 square feet, while the R-2 district allows 1 per 2,000 square feet. The only difference among Special Uses is that garden centers are allowed in R-2 but not in R-4.
5. 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.
6. Under the current zoning designation, there are 4 single-family and 2 two-family dwellings that are nonstandard. If the zoning is changed to R-2, there will be 7 single-family and 5 two-family dwellings that are nonstandard. All of these lots are nonstandard based upon lot area only.
7. 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 may otherwise be made “if such changes comply with the minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space...”
8. 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.

9. 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 faces in obtaining a variance from the Board of Zoning Appeals in order to occupy a required yard.
10. The total number of nonstandard and nonconforming uses, both before and after this change of zone, are presented below.

Unit type	Current R-4	Proposed R-2	Total units
Single-family	4 nonstd.	7 nonstd.	125
Two-family	2 nonstd	5 nonstd	<u>8</u>
			133

11. This area is not adjacent to any existing R-2 Residential districts. The distance to an R-2 district varies from approximately 2-1/2 blocks to the south, to approximately 16 blocks to the west. This area represents the outer edge of what could be considered a transition from more dense residential areas located towards Downtown, and less dense residential areas located towards the city's edge.
12. This area appears to be fully built. There appears to be no vacant lots available. However, there are a number of large lots within the area, some of which could be combined to produce an area large enough for a multiple-family development. Therefore, the primary opportunities for additional two- or multiple-family dwellings are to convert existing single-family dwellings or accumulate enough property to propose a community unit plan.
13. 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 R-4 Residential zoning district at 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 that “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 that “the rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers.” (F 65, 72)

14. The Planning Department 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 that there is a point at which a neighborhood will have a certain 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.

15. The Planning Department recommends this neighborhood has not reached a point that can be characterized as an ideal balance between single- and two-family residences. The existing density of this area is 3.8 units per acre. This compares to densities of 4.9 to 6.5 units per acre in the neighborhoods where R-2 zoning was recently approved.
16. The R-4 district requires all new construction to meet the City of Lincoln Design Standards, Chapter 3.75 Neighborhood Design Standards. These standards are designed to recognize that certain areas of Lincoln “retain much of the traditional physical character of their original lower density development,” even though they may have experienced recent higher density development. These standards do not apply to the R-2 district. There does exist a possibility for new construction that would come under the review of these regulations, such as the Randolph Square CUP and daycare proposals. The Neighborhood Design Standards should be reviewed, clarified, and, staff believes, strengthened. However, these standards offer a level of protection to this neighborhood that would be lost if this application is approved.
17. At the time of this report, the Applicant has stated that 98 property owners out of a potential 133 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. No property owners have indicated they are in opposition or indifferent to this change. This calculates to a 100% rate of support of those that responded, and a 74% 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
18. Given the number of recent, pending, and potential requests to downzone established neighborhoods within the core of the city, the Planning Department recommends that policies and strategies to address and improve the common issues of the applicants be analyzed. The Planning Department would like to consider options to R-2 zoning that might better balance the competing goals of preservation and efficiency in the Comprehensive Plan. These might include a change to the existing R-4 district

standards, a change to the R-4 CUP provisions, a new zoning district, and/or a change to the neighborhood Design Standards.

19. Should the Planning Commission desire to recommend other than Denial, this application should be placed on Pending until such time as the City can develop a set of policies and a process to review and make recommendations on this type of application. However, with current workload demands, the Planning Department is not able to begin looking at this issue in the near future.

Prepared by:

Greg Czaplewski
Planner

Date: July 16, 2003

Applicant: Witherbee Neighborhood Association
3794 "H" Street
Lincoln, NE 68510
475.2333
486.4073

Contact: Mike Fitzgerald, Association President
3794 "H" Street
Lincoln, NE 68510
475.2333
486.4073

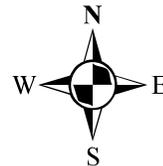


Change of Zone #3416 S. 37th & J Street





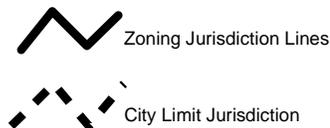
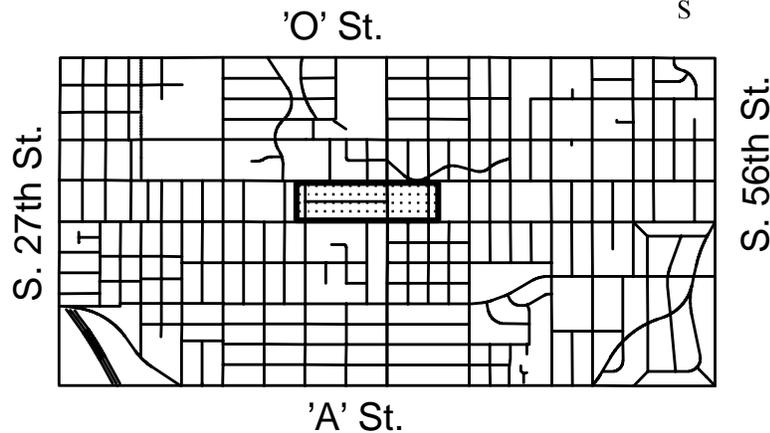
Change of Zone #3416 S. 37th & J Street



Zoning:

Two Square Mile
Sec. 29 T10N R7E
Sec. 30 T10N R7E

- 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



WITHERBEE NEIGHBORHOOD ASSOCIATION

July 23, 2003

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

Dear Members:

Please find attached the application for change of zone submitted by the Witherbee Neighborhood Association concerning land within the Association boundaries, and more properly described by the legal description attached to the application. The purpose of this letter is to accompany and clarify the Petition to Amend the Zoning Ordinance.

Goals for the Witherbee Neighborhood Association include working for stability, including reasonable, well-planned development, within the Association's borders. We seek also to protect the health, safety and welfare of the current residents.

Witherbee Neighborhood Association boundaries are 33rd St. to 56th St., O St. to Randolph St. We are located in the heart of Lincoln and are working to preserve and enhance the best elements of the area for the benefits of residents here as well as for those throughout Lincoln. Our area includes four schools that are within walking distance for many of the children. It also encompasses neighborhoods filled with architecturally distinct homes, stately mature trees and brick streets.

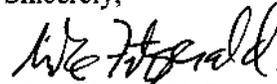
The current R4 zoning in the Association's boundaries allows for high-density development that does not take into account the character of the neighborhood, the size of the streets, the safety concerns of its families, and the quality of life that is enjoyed by the families residing here.

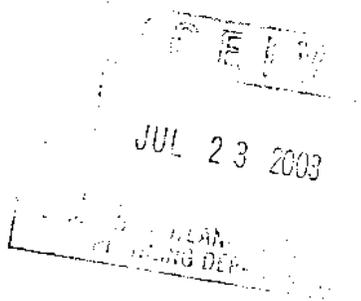
The attractive nature of the community and the safety of its residents will be compromised by large-scale or out-of-character development within its borders. Unfortunately, certain design standards within the Lincoln Municipal Code may provide for large-scale development (given a developer buys enough property) within an R4 zoned area. However, such large-scale development does not take into account the unique character of the neighborhood or the safety of its residents. Homeowners and other residents within the Association's borders overwhelmingly support a change to the R2 zoning because they recognize it as a tool that has protected the character, ensured safety of residents, resulted in appropriate traffic, and promoted home ownership in other nearby residential areas.

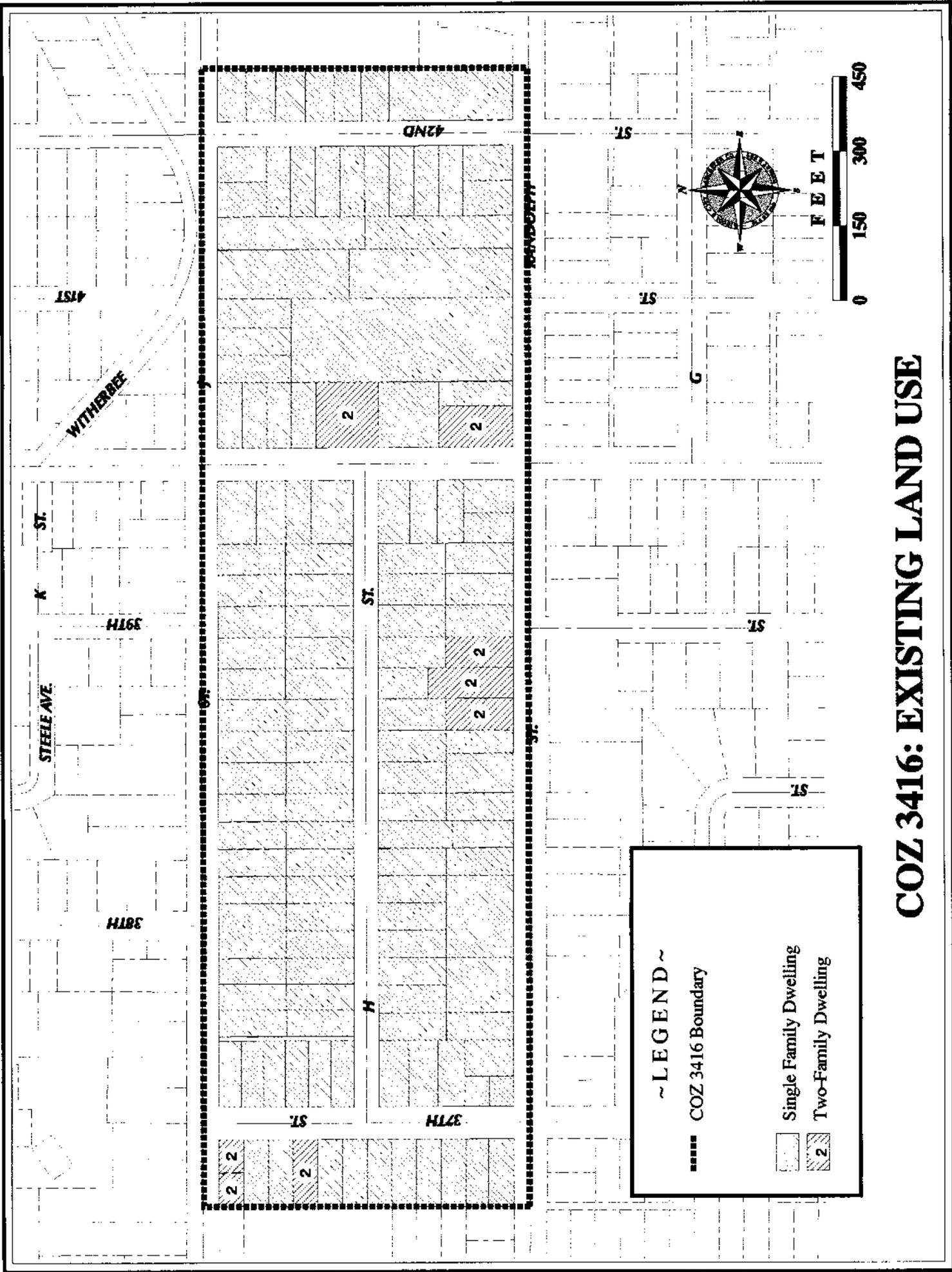
We believe that all of us, residents, developers and city leaders, have an obligation and an opportunity to work to make the best of our neighborhoods and city. We should not settle for the lowest common denominator. We take guidance from the Lincoln-Lancaster County Comprehensive Plan that says single-family ownership is the foundation on which successful communities are built. It also states that neighborhoods are one of Lincoln's greatest strengths and their conservation is fundamental to the plan. We believe the many and diverse writers of the Plan realized the quality of 1930s to 1950s work (platting, infrastructure and home construction) which established our neighborhood. This area is now at the center of Lincoln and R2 zoning can help preserve it.

To assist you in evaluating our request for rezoning, we will submit in the near future petitions signed by the residents and property owners within the proposed rezone area who support the change from R4 to R2. Should you have any questions or concerns regarding the application or any of its attachments, please feel free to contact me at your convenience.

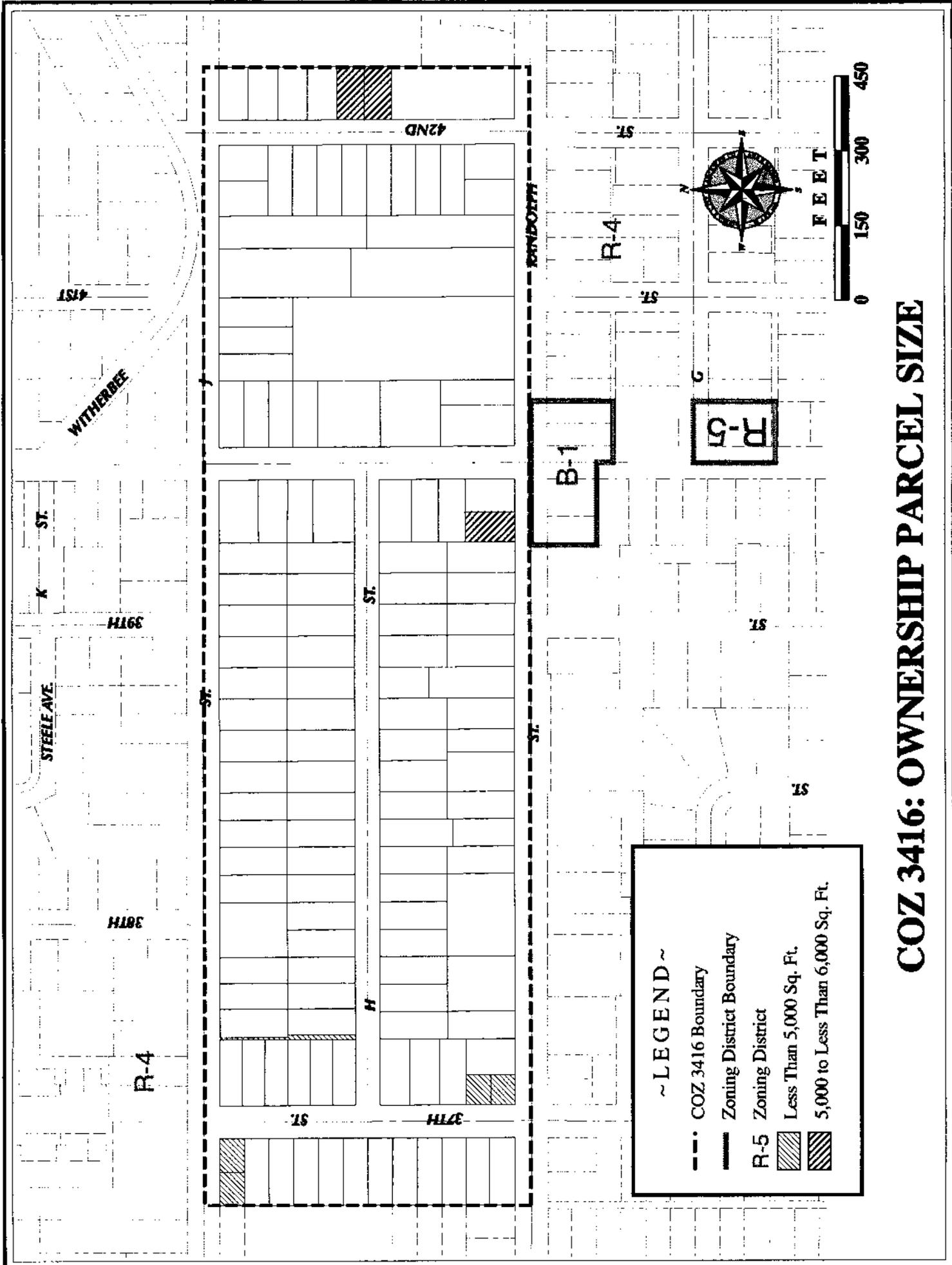
Sincerely,


Mike Fitzgerald, President
Witherbee Neighborhood Association





COZ 3416: EXISTING LAND USE

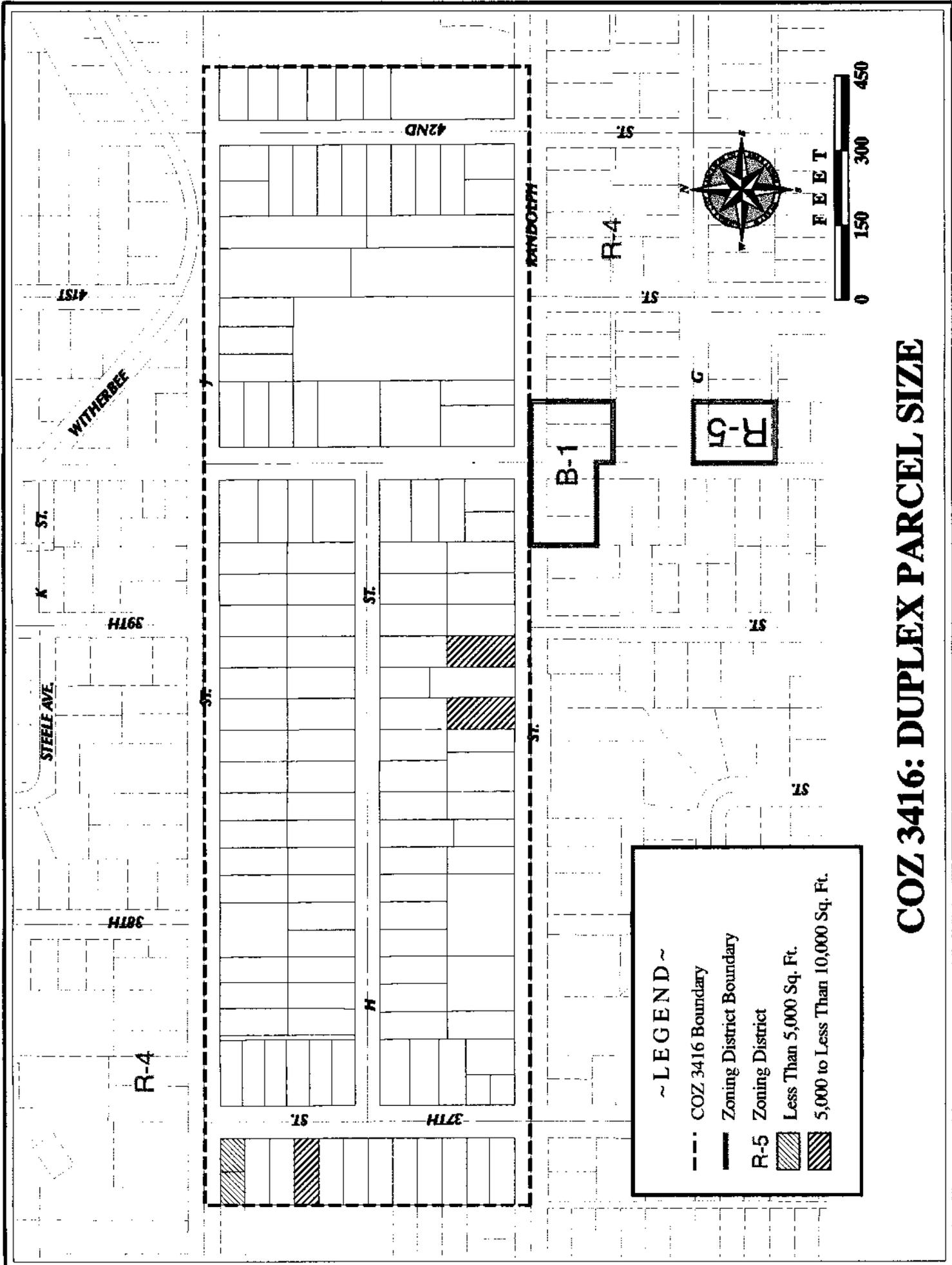


~ LEGEND ~

- - - COZ 3416 Boundary
- Zoning District Boundary
- R-5 Zoning District
- ▨ Less Than 5,000 Sq. Ft.
- ▩ 5,000 to Less Than 6,000 Sq. Ft.

COZ 3416: OWNERSHIP PARCEL SIZE

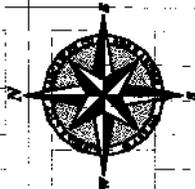




~ LEGEND ~

- - - COZ 3416 Boundary
- Zoning District Boundary
- R-5 Zoning District
- ▨ Less Than 5,000 Sq. Ft.
- ▩ 5,000 to Less Than 10,000 Sq. Ft.

COZ 3416: DUPLX PARCEL SIZE



RECEIVED

AUG - 6 2003

R4 TO R2 PETITION ORIGINATED BY THE WITHERBEE NEIGHBORHOOD ASSOCIATION

We the undersigned property owners within the boundaries of the south side of J Street to the north side of Randolph and the west side of 42nd Street to the east side of 42nd Street, request a change in zoning from R4 to R2, for the purpose of preserving the character and the current surrounding density of the affected neighborhood, as well as protecting the health, safety and general welfare of the residents.

Name (print)	Address	Signature	Date
1 ✓ DAN WESOLOWSKI	3901 J Street	Dan Wesolowski	7-28-03
2 ✓ Cheryl Wesolowski	3901 J St.	Cheryl Wesolowski	7-28-03
3 ✓ Billie Johnson	3845 J St.	Billie Johnson	7-28-03
4 ✓ Michael Ryan	3835 J Street	Michael Ryan	07/28/03
5 ✓ Marcie Ryan	3835 J ST	Marcie Ryan	07/28/03
6 ✓ ANITA DUBO	3815 J ST.	Anita Dubo	7/28/03
7 ✓ Joe Bauer	3811 J St.	Joe Bauer	7/28/03
8 ✓ Lisa Bauer	3811 J St.	Lisa Bauer	7/28/03
9 ✓ RONALD STANHOPE	3911 J ST	Ronald Stanhope	7/28/03
10 ✓ Charles Becker	3803 J St	Charles Becker	7-28-03
11 ✓ Lori Krisk	3801 J St.	Lori Krisk	7/28/03
12 ✓ Gerald Southen	3755 J St	Gerald Southen	7.28.03
13 ✓ MAURICE MONTE MOSER	3921 "J" ST.	Maurice Monte Moser	7-29-03
14 ✓ James Howard	3743 J	James Howard	7/29/03
15 ✓ AL LEMON	3725 J	Al Lemon	7/29/03

Signatures collected by: Dan Wesolowski
Dan Wesolowski