

FACTSHEET

TITLE: CHANGE OF ZONE NO. 3346, from I-1 Industrial to H-3 Highway Commercial, requested by Ross Engineering, Inc. on behalf of Chameleon & Company, Inc., on property generally located at North 1st & Charleston Streets.

STAFF RECOMMENDATION: Deferral--*revised to approval* on 11/28/01

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 11/14/01 and 11/28/01
Administrative Action: 11/28/01

RECOMMENDATION: Approval (7-0: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn voting 'yes'; Bills and Duvall absent).

FINDINGS OF FACT:

1. The original staff recommendation was to defer this change of zone request to discuss an alternative change to H-4 (instead of H-3). However, after meeting with the developer and discussing the potential uses envisioned, the staff revised its recommendation to approval, based upon the "Analysis" as set forth on p.4-6, concluding that a change from I-1 Industrial to H-3 Highway Commercial zoning would reduce the number of permitted uses and increase the required yards. The I-1 zoning district permits all uses, except those which are specifically excluded or designated as special permitted uses. H-3 removes some permitted I-1 uses, such as paper mills and other manufacturing, which might be incompatible with the proposed student housing. However, warehouses, assembly facilities and dry cleaning establishments are all permitted under H-3 zoning. H-3 zoning, with its increased yards and limitations on permitted uses, eliminates some potential conflicts with the proposed student housing.
2. There was no testimony at the original public hearing on November 14, 2001, because the applicant requested a two-week deferral to work with the staff (p.16).
3. At the November 28, 2001, continued public hearing, the staff recommendation was revised to approval and the applicant's testimony is found on p.7-8. The applicant had submitted another request for a two-week deferral; however, that request was withdrawn when the staff recommendation was revised to approval (p.17).
4. There was no testimony in opposition.
5. The Planning Commission agreed with the revised staff recommendation and voted 7-0 to recommend approval (See Minutes, p.8).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: December 3, 2001

REVIEWED BY: _____

DATE: December 3, 2001

REFERENCE NUMBER: FS\CC\FSCZ3346

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3346

DATE: ~~October 31, 2004~~
Revised November 28, 2001

PROPOSAL: A request to change the zoning from I-1 Industrial to H-3 Highway Commercial on property generally located at N. 1st and Charleston.

LAND AREA: 50.5 acres, more or less

CONCLUSION: A Change from I-1 Industrial to H-3 Highway Commercial zoning would reduce the number of permitted uses and increase the required yards.

The I-1 zoning district permits all uses, except those which are specifically excluded or designated as special permitted uses. H-3 removes some permitted I-1 uses, such as paper mills and other manufacturing, which might be incompatible with the proposed student housing. However, warehouses, assembly facilities and dry cleaning establishments are all permitted under H-3 zoning.

~~H-4 zoning with a special permit for Planned Service Commercial would allow the area to be planned and would mitigate the potential environmental concerns on the property while permitting uses which are compatible with the proposed residential uses to the west.~~

H-3 zoning, with its increased yards and limitations on permitted uses, eliminates some potential conflicts with the proposed student housing.

RECOMMENDATION:	Deferral to allow further discussion with applicant <u>Approval</u>
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 71 I.T., located in Section 23, T10N, R6E; Lot 263 I.T., located in Section 22, T10N, R6E; and Lot 81 I.T., located in Section 15, T10N, R6E, Lancaster County, Nebraska.

LOCATION: N. 1st Street and Charleston Street

**APPLICANT/
OWNER:** Chameleon & Company, Inc.
641 Pier 1
Lincoln, NE 68528

CONTACT: Ron Ross
Ross Engineering
201 N. 8th Street - Suite 401
Lincoln, NE 68508
474-7677

EXISTING ZONING: I-1 Industrial

EXISTING LAND USE: Vacant

SURROUNDING LAND USE AND ZONING:

North:	I-1	Miniwarehouses and commercial building
South:	I-1	Railroad tracks and an industrial park further south
East:	P	City impound lot
West:	I-1	Veterinary clinic

HISTORY: On **October 17, 2001**, Planning Commission recommended the approval of Change of Zone #3329 and Special Permit #1928 on property to the west. If these items are approved by City Council, the zoning would change to R-3 and the Community Unit Plan would permit 157 dwelling units, including 120 dwellings for non-related persons.

This area was converted from K Light Industrial and L Heavy Industrial to I-1 Industrial in the **1979 zoning update**.

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Plan designates this area as Industrial.

From Industrial Land:

Goals

- *Provide adequate and appropriately located areas for industrial development... (p 68)*

From Wetland and Water Bodies:

Goals

- *Maintain, preserve and enhance existing wetlands and restore degraded wetlands. (p 70)*

From Future Commercial Needs and Plan:

Goals

- *Provide geographically convenient and accessible retail areas throughout the City and County so as to provide the widest possible variety of goods and services.*
- *Discourage strip development and spot zoning and encourage more compact and higher quality retail and commercial development.*
- *Provide for the location of employment areas at sites which are convenient to existing and proposed residential areas throughout the county and accessible from the existing or proposed transportation system.*
- *Discourage strip development and encourage more compact and higher quality development.*
- *Assure that economic development is accomplished with respect for environmental quality. (p 54)*

From Urban Design and Historic Preservation:

A. Urban Design

Goals

- *Protect and improve important vistas and entryways to the city. (p 175)*

TOPOGRAPHY: Flat

TRAFFIC ANALYSIS: The Department of Public Works & Utilities notes that the potential relocation of Sun Valley Boulevard crosses this property. Direct access to the new street will be limited or prohibited.

ENVIRONMENTAL CONCERNS: Development in the flood plain. Preservation of saline wetlands. The presence of a former landfill on site.

AESTHETIC CONSIDERATIONS: H-3 zoning permits parking in the front yard setback. The proposed zoning would allow, by right, development similar to West "O" Street or portions of Cornhusker Highway; a planned business district would allow public review of development proposals.

ALTERNATIVE USES: H-4 zoning with a special permit for Planned Service Commercial. The special permit could limit uses, such as warehouses, which are not desirable adjacent to the proposed student housing.

ANALYSIS:

1. The Comprehensive Plan lists criteria for the review of zoning proposals. These include portions of Nebraska Revised Statutes Section 15-902;
 1. **Safety from fire, flood and other dangers;**
The entire parcel is within the 100 year flood plain.
 2. **Promotion of the public health, safety, and general welfare;**
The area of the proposed change of zone contains a former landfill.
 3. **Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development;**
Planning Commission recommended approval of a change of zone to R-3 Residential with a Community Unit Plan on property to the west. The realignment of Sun Valley Boulevard, the construction of Haymarket Park, and the proposed student housing development are examples of public and private investment to improve this neighborhood. Development of this parcel should be planned so that it will not feature strip commercial, will be in harmony with the surrounding improvements, and presents an appealing entryway to the City.
 4. **Conservation of property values; and**
If the change to H-3 spurs development on the property, this change of zone would increase its value. Under I-1 zoning, this property has been vacant for decades.
 5. **Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.**
The Land Use Map identifies this area as Industrial. If an application does not match the Land Use Map but does meet the zoning criteria it can be found in conformance with the Comprehensive Plan.

b. Rezoning and Comprehensive Plan Amendments. The city and county future land use plans are specific maps. In some situations, applications will be made for land use changes that are not in conformance with those maps. In each case, the Planning Department will complete an advisory review of Comprehensive Plan compliance for the Planning Commission and the City Council or County Board. This assessment will follow these guidelines:

- If an application is generally consistent with the land use map and the zoning criteria, it will be considered to be consistent with the comprehensive plan.
- If an application is not consistent with the land use maps but meets the zoning criteria, the proposal will be found to be inconsistent with the land use plan but compliant with the general concepts of the comprehensive plan. An amendment to the land use plan may be approved along with the rezoning

proposal. The land use plan can then be updated on an annual basis to remain current. (Amendment 9416)

- If an application is inconsistent with both the land use plan and zoning criteria, it will be considered to be inconsistent with the comprehensive plan. Approval of the project will require an amendment to the comprehensive plan. (p 190)

There are seven specific criteria established in the Plan for review including;

a. Infrastructure: the availability of the water, sewer, drainage and the transportation systems.

Water and sewer are generally available. The State Department of Roads has filed corridor protection in the area in anticipation of the realignment of Highway 6/Sun Valley Boulevard, which is shown as connecting to N. 1st Street.

b. Compatibility: harmony and suitability with the surrounding land uses and the natural environment.

This is an environmentally sensitive site - it contains a former landfill and saline wetlands. This property is at least 85 feet away from the closest proposed apartment building.

c. Health and Safety: protection against natural and man-made hazards including noise; air, ground and water pollution; flooding; and hazards from industrial or agricultural processes or products.

Any development in this area would have to comply with the City's flood plain regulations. The proposed zone allows fewer uses than I-1, although it includes uses, such as coal yards and warehouses, which may be incompatible with the proposed residential uses to the west. The reduction in types of permitted uses is an improvement over the present situation.

d. Physiographic Features: the topography, suitability of proposed land uses with streams, lakes, soil types, natural vegetation or wildlife habitat.

The City's saline wetlands inventory identifies a Category I saline wetland on the western portion of the property.

e. Accessibility: availability, or lack thereof, of public transportation, arterial connections and pedestrian linkages.

Sun Valley Boulevard/N. 1st Street is identified as a Principal Arterial in the Future Functional Street and Road Classification.

f. Open Space: availability of sufficient open space and recreational areas to accommodate a project's residents and employees.

H-3 zoning requires more open space than I-1 zoning, although it permits parking in the front yard while I-1 does not.

2. The following table compares the yard requirements of I-1 and H-3 zoning:

District	Front Yard	Side Yard	Rear Yard
I-1	15'	0' (smaller of 20' or 10% of lot width if abutting residential district)	0' (smaller of 20' or 10% of lot width if abutting residential district)
H-3	30' [†]	Smaller of 15' or 10% of lot width (20' if abutting residential district)	Smaller of 30' or 20% of lot depth

[†]Parking is permitted in the front yard.

3. The on-site wetlands and landfill present unique environmental challenges which can be addressed more effectively through a planned commercial district such as H-4 with a special permit for Planned Service Commercial. This would permit the area to be planned and would mitigate the potential environmental concerns as well as ensure compatibility with surrounding uses.
4. H-3 zoning, with its increased yards and limitations on permitted uses, would eliminate some potential conflicts with the proposed student housing.
5. The proposed change does not match the Land Use Plan but it is generally compliant with the zoning criteria outlined in the Comprehensive Plan. The proposed change to H-3 is in compliance with the general concepts of the Comprehensive Plan.

Prepared by:

Jason Reynolds
Planner

CHANGE OF ZONE NO. 3346

PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 14, 2001

Members present: Krieser, Newman, Steward, Bills, Taylor, Duvall, Carlson, Hunter and Schwinn.

Staff recommendation: Deferral to allow further discussion with the applicant.

Jason Reynolds of Planning staff submitted a written request from the applicant for a two-week deferral in order to meet with the staff.

Carlson moved to defer with continued public hearing and administrative action scheduled for November 28, 2001, seconded by Hunter and carried 9-0: Krieser, Newman, Steward, Bills, Taylor, Duvall, Carlson, Hunter and Schwinn voting 'yes'.

There was no public testimony.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 28, 2001

Members present: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn; Bills and Duvall absent.

Jason Reynolds of the Planning Department submitted a revised staff report changing the staff recommendation from deferral to approval, finding that the change of zone generally conforms with the concepts in the Comprehensive Plan.

Proponents

1. Ron Ross, Ross Engineering, testified on behalf of the applicant. This request came about somewhat in conjunction with the Oak Creek Apartments project, which has been approved and is moving forward to the City Council. There have been ongoing discussions with this land developer and with developers on the north side of W. Charleston Street and the south side of the Chameleon property. The owners are looking for this whole area to be an upscale redevelopment area, doing away with the hard core potential uses, one of which previously was a salvage yard. The Dinerstein Companies, the developer of the Oak Creek Apartments, did have concerns about the overall development of this area and that is what started these discussions.

This proposal is 50 acres and the owner has agreed that the overall redevelopment of the area is good for them. The same theme is carrying through with the other landowners, which is part of a subarea plan that has been submitted. Ross showed the 50 acres on the map. He noted that they did discuss H-4 with the staff; however, a desired potential use is hotel and motel and

H-4 does not allow this use. Therefore, staff has now agreed that H-3 is acceptable. The change from industrial to highway commercial for a redevelopment area is certainly the right direction for the city along with this being an entrance to the community.

Carlson sought clarification that the hotel/motel use was the issue. Ross concurred, stating that there are not too many uses that are not compatible in the H-3 and H-4, except that H-4 does not allow hotels and motels. This was one of the potential uses on the applicant's list for the 50 acres.

Carlson referred to the table in the staff report comparing I-1 to H-3. Beyond the motel/hotel issue, are there other differences in setbacks and use permits? Reynolds commented that truck terminals are permitted in H-4 but not H-3. In general, H-3 and H-4 are similar in terms of the uses that are permitted, i.e. retail, contractors yards, warehouses, office, etc. H-4 has larger setbacks and H-3 has the distinguishment of allowing parking in the front yard setback. There are landscaping standards for screening parking lots in both H-3 and H-4.

Steward inquired whether this in any way affects the city property held in this area. Reynolds advised that the city property would remain zoned P Public Use, referring to the impound lot directly east and the material storage area. There is no planned change for any of the city property as far as Reynolds knows.

There was no testimony in opposition.

Public hearing was closed.

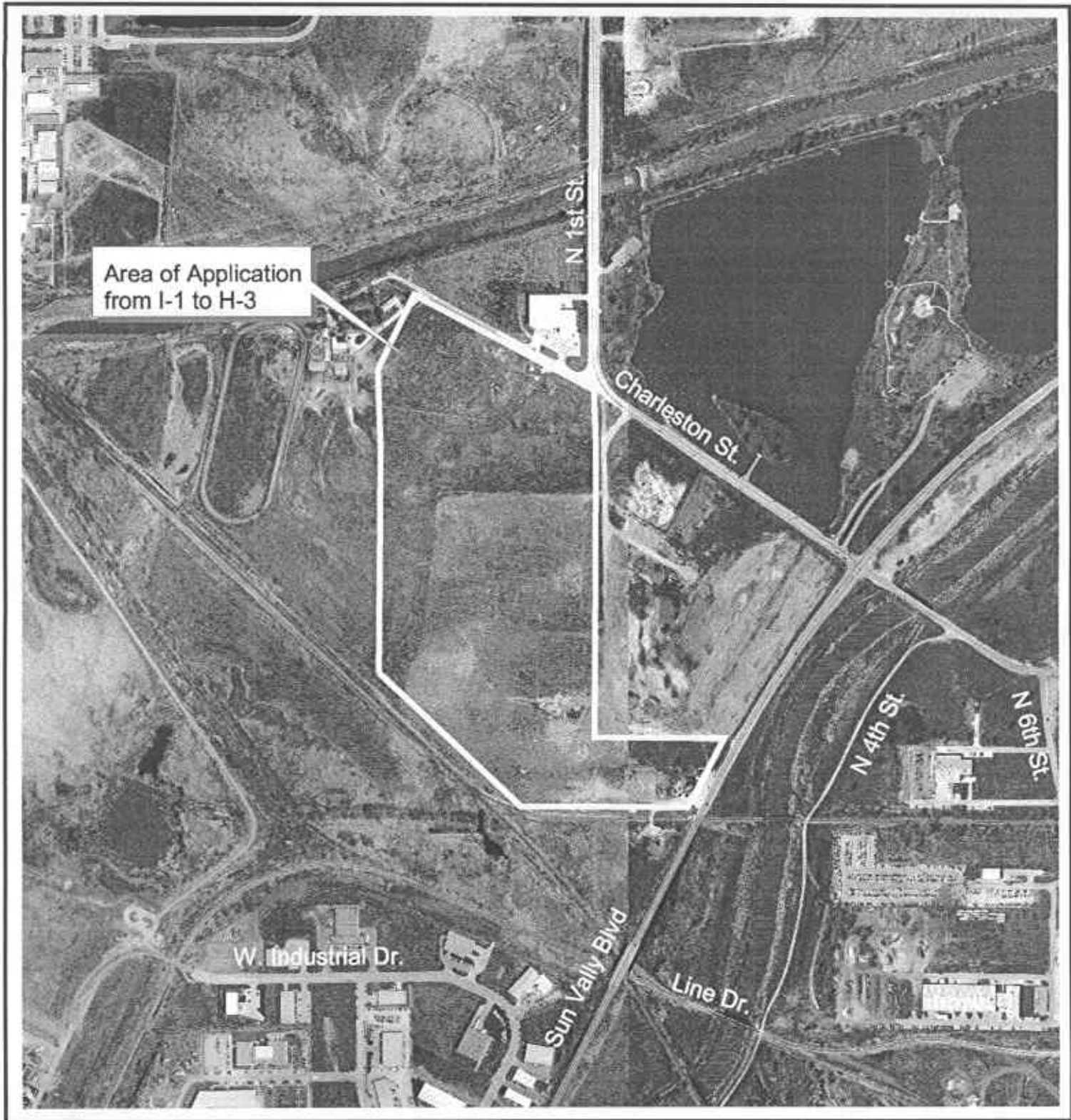
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 28, 2001

Steward moved approval, seconded by Hunter.

Schwinn thanked the applicant for trying to put the subarea plan together. Schwinn voted against the impound lot. This will be a good step forward for the Haymarket redevelopment and the ball fields. He believes this will be an area we will all be proud of in the future.

Motion for approval carried 7-0: Hunter, Carlson, Taylor, Krieser, Newman, Steward and Schwinn voting 'yes'; Bills and Duvall absent.



**Change of Zone #3346
N. 1st & Charleston St.**

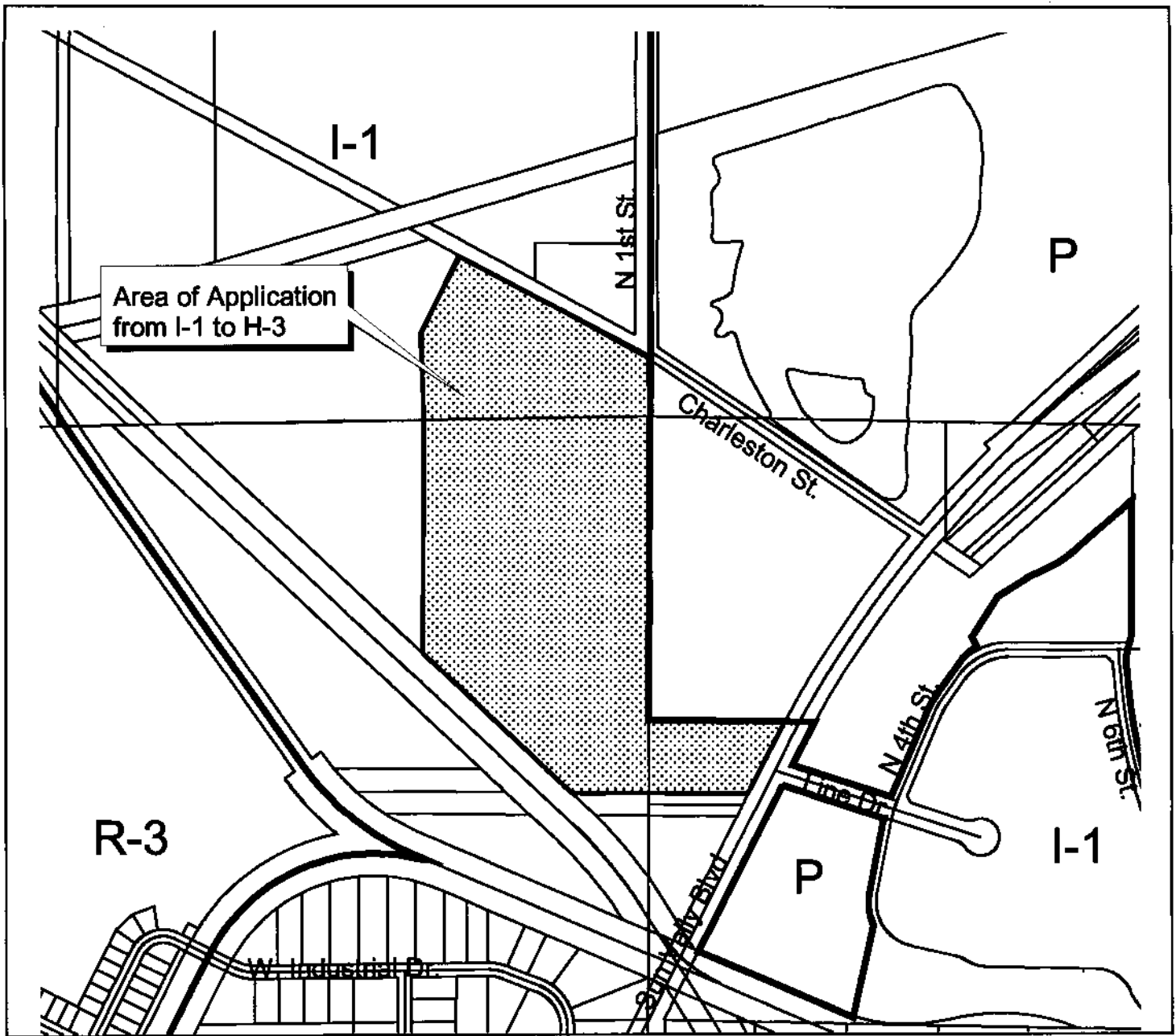


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10/31/01

Photograph Date: 1997 & 1999

Lincoln City - Lancaster County Planning Dept.

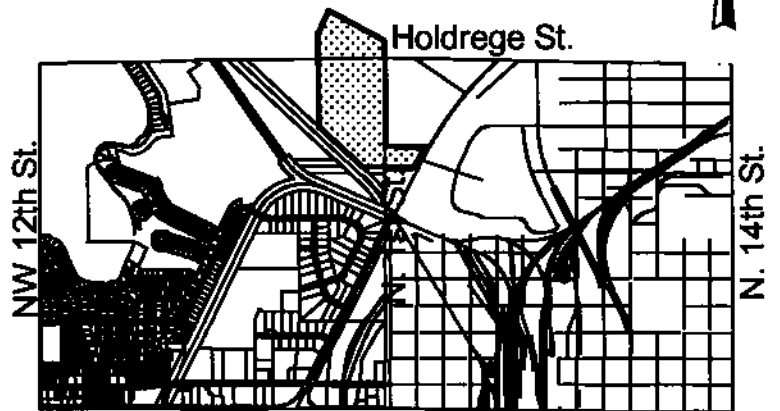
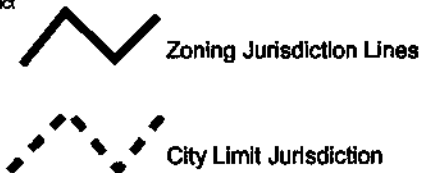


**Change of Zone #3346
N. 1st & Charleston St.**

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

Two Square Mile
Sec. 22 T10N R6E
23 T10N R6E



010

10/3/01

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Jason Reynolds

DATE: 10/31/2001

DEPARTMENT: Planning

FROM: Chris Schroeder

ATTENTION:

DEPARTMENT: Health

CARBONS TO: Bruce Dart, Director
EH File
EH Administration

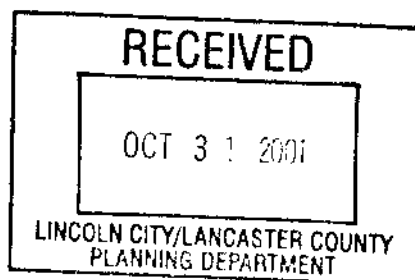
SUBJECT: CZ 3346

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the application for change of zone #3346 for any possible negative public health impacts.

Of note, the applicant requests a change of zone from I-1 to H-3 for a parcel of land that is east from the proposed Oak Creek Student Housing. From a public health perspective, LLCHD considers this proposed downzone from I-1 to H-3 to be an improvement over the current zoning.

However, according the H-3 zoning district's permitted and conditionally permitted uses, mini warehouses, dry cleaning establishments, warehouses, vehicle body repair shops, auto repair, and assembly facilities could be potential neighbors to the future occupants of the proposed Oak Creek Student Housing. All of the aforementioned uses could pose a public health risk either through the storage of hazardous materials with a possibility of an offsite release or hazardous air emissions.

If you have any questions, please contact me at 441-6272.



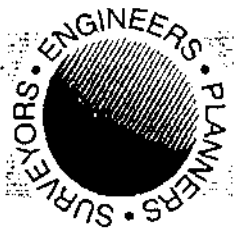
M e m o r a n d u m

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To: Jason Reynolds, Planning
From: Dennis Bartels, Engineering Services
Subject: Change of Zone 3346, I1 to H3
Date: October 25, 2001
cc: Roger Figard
Nicole Fleck-Tooze
Virendra Singh

Engineering Services has reviewed the proposed change zone located west of Sunvalley south of Charleston and has the following comments:

1. The area of the change of zone is in the flood plain and has areas of potential wetlands and was previously used as a landfill. Consideration should be given to a planned commercial district. This may give more flexibility to the developer and the City to plan for and mitigate the potential environmental concerns about this property.
2. The potential relocation of Sunvalley Boulevard crosses this property. Direct access to the new street will be limited or prohibited.



ROSS
Engineering,
Inc.

October 18, 2001

Lincoln - Lancaster County Planning Commission
555 South 10th Street
Lincoln, Nebraska 68508

Re: Change of Zone
Chameleon & Company, Inc.
No. 1st Street and Charleston Street
Lincoln, Nebraska
REI Project No. 129801-N

ESTABLISHED

1974

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Dear Ladies and Gentlemen:

On behalf of Chameleon & Company, we are herewithin submitting an Application for a Change of Zone from I-1 Industrial District to H-3 Highway Commercial District, for approximately 50.049 acres of land referred to as Lot No. 81 I.T., 203 I.T., and 71 I.T., generally located south and west of the intersection of No. 1st Street and Charleston Street. The purpose of this request is to plan for this area to be part of the redevelopment of this general area and to use the property for commercial purposes allowed by the H-3 District.

Enclosed you will find the following:

1. Petition to Amend the Zoning Ordinance
2. Change of Zone Exhibit
3. Filing Fee in the amount of \$585.00

Sincerely,

ROSS ENGINEERING, INC.

Ron E. Ross
Ron E. Ross, PE
President

Cc: Gary Nicholson

The Candy Factory
201 North 8th Street
Suite 401
Lincoln, NE 68508
Phone 402.474.7677
Fax 402.474.7678

www.rossengineering.com

OCT 18 2001

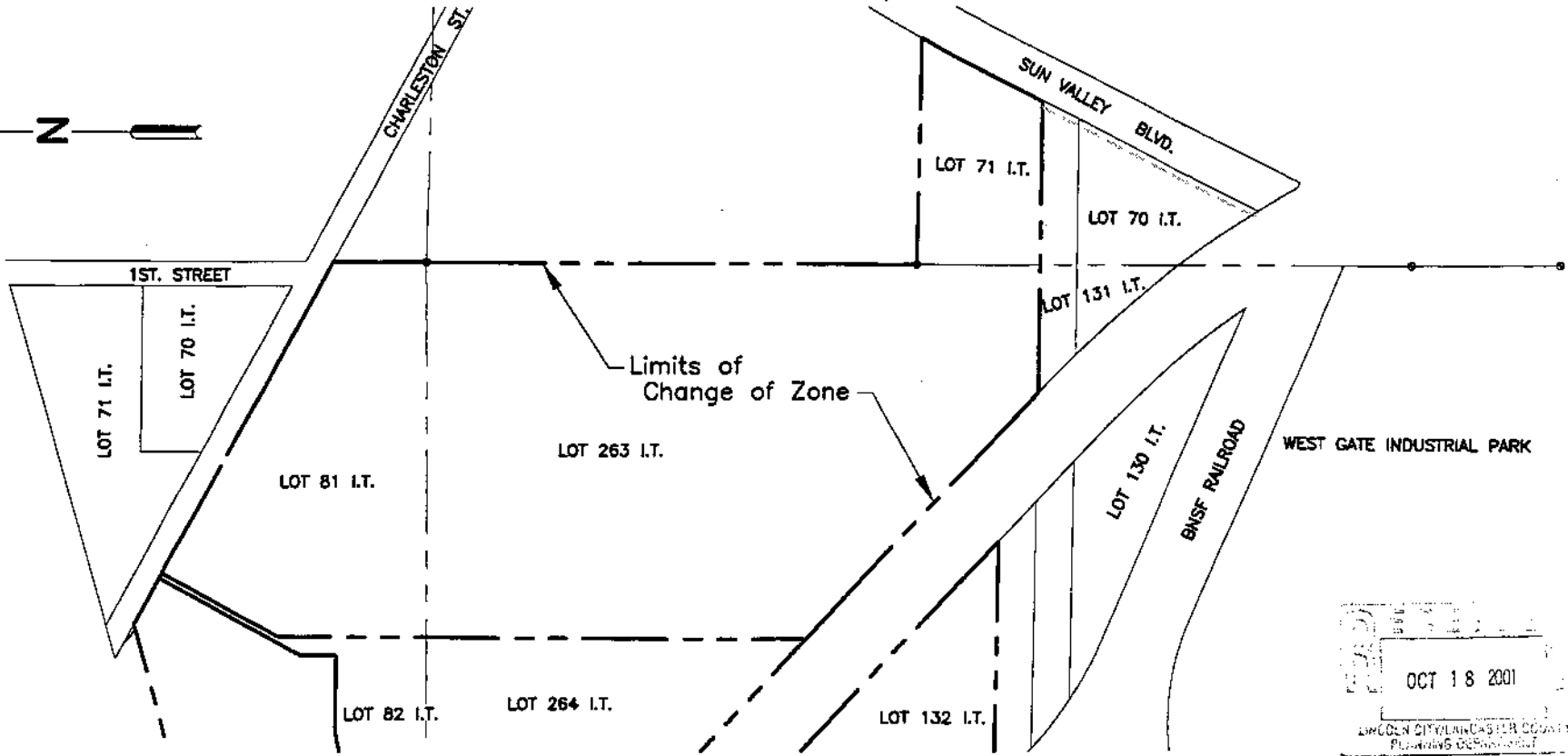
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Ross
Engineering,
Inc.

The Candy Factory
201 North 9th Street, Suite 401
Lincoln, NE 68508
Phone 402-414-7677
FAX 402-414-7678

CHANGE OF ZONE EXHIBIT FOR I-1 to H-3 CHAMELEON AND CO, INC.



OCT 18 2001
LINCOLN CITY/CASSIA COUNTY
PLANNING COMMISSION

RECEIPT NO. _____

CHANGE OF ZONE NO. 3346

FEE \$585.00

ADDRESS OR LOCATION

North 1st Street and Charleston Street

PETITION TO AMEND THE ZONING ORDINANCE

Lincoln, Nebraska October 18, 2001

HONORABLE CITY COUNCIL
City of Lincoln, Nebraska

The undersigned hereby petitions to amend the Zoning Ordinance of the City of Lincoln to change:

1. The zoning district map from I-1 Industrial to H-3 Highway Commercial

on property legally described as:

*See attached Legal Description

and as shown on the attached map.

2. L.M.C. Section(s) _____

with text to read as shown on the attached sheet(s).

This text amendment is proposed for the reasons listed on the attached sheet(s).

Petitioner Ron E. Ross

(Please Print)

Petitioner's Interest in Property consulting engineer for Owner

Petitioner's
Signature

Ron E. Ross

Telephone No.

(402) 474-7677

Petitioner's Address

201 North 8th Street, Suite 401, Lincoln, NE

Contact
Person

Ron E. Ross

Telephone No.

(402) 474-7677

Contact Person's
Address

201 North 8th Street, Suite 401, Lincoln, NE

* NOTE: Please designate one individual. All information and questions will be directed this person.

RECORD OWNER
& ADDRESS

Chameleon & Company, Inc.

641 Pier 1, Lincoln, NE, 68528

Has the petitioner informed the record owner of this petition?

Yes

No

Date of Planning Commission Hearing

Initial Review of Petition by

[Signature]

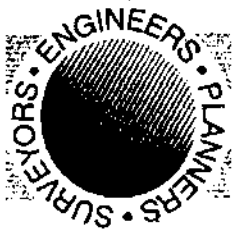
(Planning Staff)

cz.doc

April 20, 2000

OCT 18 2001

ITEM NO. 3.1: CHANGE OF ZONE NO. 3346
(p.91 - Public Hearing - 11/14/01)
November 14, 2001



ROSS
Engineering,
Inc.

Lincoln-Lancaster Planning Commission
555 So. 10th Street
Lincoln, Nebraska 68508

RE: Oak Creek Apartments
North 1st Street and West Charleston Street
Change of Zone No. 3346
REI Project No. 129801-N

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Dear Ladies and Gentlemen:

The purpose of this letter is to request a two week delay in the action of the Planning Commission in connection with the proposed Change of Zone from I-1 Industrial District to H-3 Highway Commercial, generally located at North 1st Street and West Charleston Street in Lincoln, Nebraska. The Developer, Chameleon and Company, Inc., has agreed to a meeting with the Planning Staff to discuss H-3 Zoning verses H-4 Zoning. We plan to schedule a meeting during the week of November 19th to accomplish this purpose.

Sincerely,

ROSS ENGINEERING, INC.

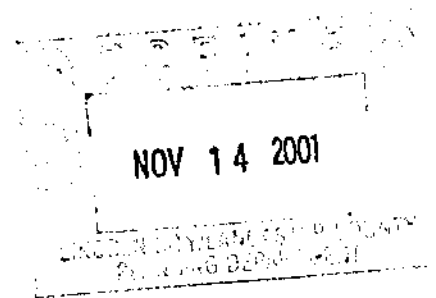
Ron E. Ross, P.E.
President

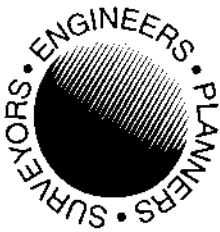
cc: Jason Reynolds
Gary Nicholson

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The Candy Factory
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Lincoln, NE 68508
Phone 402.474.7677
Fax 402.474.7678

www.rossengineering.com

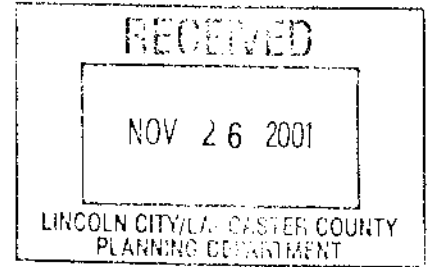




ROSS
Engineering,
Inc.

November 21, 2001

C23346



Lincoln-Lancaster Planning Commission
555 So. 10th Street
Lincoln, Nebraska 68508

RE: Oak Creek Apartments
North 1st Street and West Charleston Street
Change of Zone No. 3346
REI Project No. 129801-N

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Dear Ladies and Gentlemen:

Gary Nichelson, representing Chameleon and Company, and myself met with Jason Reynolds with the Planning Department to discuss the request for Change of Zone for approximately 50 acres of No. 1st Street and Charleston Street from I-1 Industrial to H-3 Highway Commercial. The Planning Department has suggested that a Change of Zone to H-4 Highway Commercial with a Special Permit for a Planned Service Commercial District might better serve the needs of this redeveloping area, located across from Haymarket Park and Oak Lake.

Although currently the Developer of this property prefers the H-3 Highway Commercial District, the Planning Staff has suggested some benefits to the Developer in assuming the continued upscale development of this property and the surrounding area. There are several uses, such as motels and hotels which are allowed in the H-3 Zoning that are not permitted within the H-4 Zoning District. Jason has agreed to look into some of the uses and discuss alternatives that might allow for them to be incorporated into the Development Plan. The Developer also plans to meet with several other departments and organizations in order to determine the best course of action for the Developer to take.

We would request that this matter be deferred for two weeks in order for City Staff and the Developer to continue with further meetings and discussions in connection with the proposed Change of Zone.

Sincerely,

ROSS ENGINEERING, INC.

Ron E. Ross, P.E.
President

The Candy Factory
201 North 8th Street
Suite 401
Lincoln, NE 68508
Phone 402.474.7677
Fax 402.474.7678

cc: Kathleen Sellman
Gary Nichelson

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