

City Council Introduction: **Monday**, April 25, 2005  
Public Hearing: **Monday**, May 2, 2005, at **1:30** p.m.

Bill No. 05-49

## **FACTSHEET**

**TITLE:** CHANGE OF ZONE NO. 05023, from R-2 Residential District to R-3 Residential District, requested by Richard Evans, on property generally located at the northwest corner of 64<sup>th</sup> Street and Orchard Street.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda, 04/13/05  
Administrative Action: 04/13/05

**STAFF RECOMMENDATION:** Approval

**RECOMMENDATION:** Approval (9-0: Carlson, Sunderman, Marvin, Pearson, Carroll, Krieser, Larson, Taylor and Bills-Strand voting 'yes').

### **FINDINGS:**

1. This is a request to change the zoning on a one-half block area from R-2 Residential to R-3 Residential. This change would allow the applicant to move an existing house onto an existing lot and meet the R-3 setback requirements. The dimensions of the house and the lot do not meet the R-2 setback requirements.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-4, concluding that the change is consistent with the general zoning pattern in the area and with the Comprehensive Plan.
3. On April 13, 2005, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On April 13, 2005, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** April 18, 2005

**REVIEWED BY:** \_\_\_\_\_

**DATE:** April 18, 2005

**REFERENCE NUMBER:** FS\CC\2005\CZ.05023

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for April 13, 2005 PLANNING COMMISSION MEETING

- PROJECT #:** Change of Zone 05023
- PROPOSAL:** Change the zoning on a one-half block area from R-2 to R-3.
- LOCATION:** Northwest corner of 64<sup>th</sup> and Orchard Streets.
- LAND AREA:** 47,718 square feet, or 1.1 acres, more or less.
- CONCLUSION:** This change is consistent with the general zoning pattern in the area and with the Comprehensive Plan.

<b>RECOMMENDATION:</b>	Approval
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## GENERAL INFORMATION:

**LEGAL DESCRIPTION:** South ½ of Block 77, Bethany Heights, located in the NE 1/4 of Section 21 T10N R7E, Lancaster County, Nebraska.

**EXISTING LAND USE AND ZONING:** Single-family dwellings R-2 Residential

## **SURROUNDING LAND USE AND ZONING:**

North:	Single-family dwellings	R-2 Residential
South:	Commercial	B-1 Local Business
East:	Commercial	B-1 Local Business
West:	Multiple-family dwellings	R-3 Residential

## **HISTORY:**

May 1979 The zoning update changed the zoning in this area from A-2 Single Family Dwelling to R-2 Residential.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The 2025 Future Land Use Plan shows this area as Urban Residential. (F 25)

**TRAFFIC ANALYSIS:** 63<sup>rd</sup>, 64<sup>th</sup>, and Orchard Streets are identified as Local Streets, both now and in the future. (E 49, F 103) Local streets essentially serve as connectors between abutting properties and higher order streets. (F 105)

## **ANALYSIS:**

1. This is a request to change the zoning on a one-half block area from R-2 to R-3 Residential.
2. This change would allow the Applicant to move an existing house onto an existing lot and meet the R-3 setback requirements. The dimensions of the house and the lot do not meet the R-2 setback requirements.
3. Applicant has worked with the Building and Safety Department to find a way to make this work within the existing zoning regulations. One R-2 provision allows corner lots created prior to November 2, 1953 to have a buildable width of at least 35', and a front yard along one street side of no less than 5'. This provision may have provided adequate relief from the R-2 setbacks, except this lot was not created until July 9, 1963.

Another zoning provision allows adjustments to front yards in most zoning districts, where the prevailing pattern of development has front yards of less depth than required. In order to establish a prevailing pattern, the same block face must have at least two buildings with the reduced setback. Then, the lots developed with the reduced setback must total at least 40% of the length of the block. Here, a prevailing pattern could not be established to provide the necessary adjustment.

4. The uses allowed in the R-2 and R-3 districts are identical, with the one exception that R-3 allows greenhouses by special permit. The lot area requirements are largely the same. The only differences are in setback; the front yard setback for all uses is 20' in R-3, compared to 25' in R-2, and the non-common wall side yard setback for two-family dwellings is 5' in R-3, compared to 10' in R-2.
5. According to County Assessor records, the house to be moved measures 36' by 57'. The lot this house will be moved to is a corner lot measuring 75' by 94'. Since this is a corner lot, there will be a front yard setback along each street, the remaining two sides will be a side yard and a rear yard.

As with any corner lot, there are two possible setback layouts, made by switching the side and rear yards. Under R-2 zoning, neither layout will accommodate this house. Under R-3 zoning, one layout does not work, but if the house faces Orchard Street and the rear yard is located north of the house, the buildable area measures 69' by 36' and appears to accommodate the house.

6. Applicant was advised prior to submitting this request that County Assessor building dimensions may not be exact, and a field survey should be conducted to establish the actual measurement of the house to determine whether it will fit within the R-3 setbacks. Applicant has stated the house appears to be about 4.8' too long to comply with R-2 yard requirements. Changing the zoning to reducing the front yard setback by 5' should accommodate the house.
7. Should this one-half block area be changed to R-3, it will be bordered by R-3 to the west, R-2 to the north, and B-1 to the south and east. The existing residences on this half block should not be impacted by this change, other than their required front yard setback would be reduced by 5'.

8. Although this change affects a small area of land and provides a benefit to the Applicant, it should not be characterized as spot zoning. Spot zoning generally occurs where a lot or parcel of land held by a single owner is rezoned such that a use is allowed that is not available to adjacent property owners, i.e. a commercial use in a residential area. In this situation, the change applies to 6 parcels with 6 different owners, and both zoning districts are residential, allowing only single- and two-family dwellings.

Prepared by:

Greg Czaplewski  
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**Date:** March 29, 2005

**Applicant  
and  
Contact:** Richard Evans  
1124 North Cotner Boulevard  
Lincoln, NE 6850  
402.432.4159

## CHANGE OF ZONE NO. 05023

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

April 13, 2005

Members present: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 05023 AND PRELIMINARY PLAT NO. 05004, MOUNT OLIVE.**

Krieser moved to approve the Consent Agenda, seconded by Taylor and carried 9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on the Mount Olive Preliminary Plat No. 05004, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.



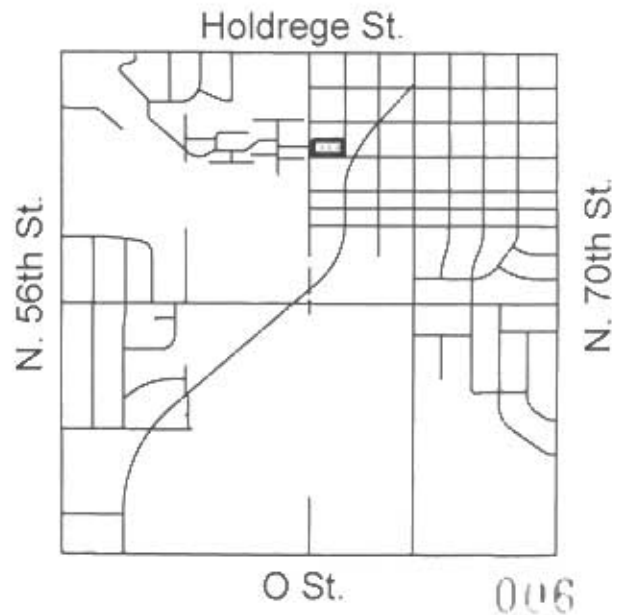
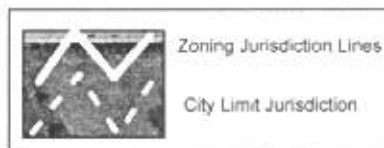
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## Change of Zone #05023 N. Cotner Blvd and Orchard St.

### 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-6 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. 21 T10N R7E



To: City of Lincoln

We are requesting a zone change of the property at 1201 <sup>N. 64<sup>th</sup></sup> Orchard from R2 to R3. We would like to move a house we own at 1140 No. Cotner Blvd. across the street to 1201 Orchard. The house is a 3 bedroom ranch with a garage. The garage is approximately 5 feet too long to fit on the property with an R2 zoning. An R3 zoning change would only alter the property setbacks slightly and would allow us enough room to move the house. The house would fit in with existing houses on the street and be an asset to the neighborhood

Respectfully,



Richard and Thomas Evans

