

City Council Introduction: **Monday**, August 28, 2000
Public Hearing: **Monday**, September 11, 2000, at **1:30 p.m.**

Bill No. 00-159

FACTSHEET

TITLE: CHANGE OF ZONE NO. 3206, from AGR Agricultural Residential to B-1 Local Business, requested by Realty Trust Group, on property generally located at the southwest corner of South 70th Street and Pine Lake Road.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 07/12/00
Administrative Action: 07/12/00

STAFF RECOMMENDATION: DENIAL

RECOMMENDATION: DENIAL (6-1: Schwinn, Carlson, Steward, Taylor, Newman and Bayer voting 'yes'; Krieser voting 'no'; Hunter and Duvall absent).

FINDINGS OF FACT:

1. The Planning staff recommendation to deny this change of zone request is based upon the "Analysis" as set forth on p.5-7, concluding that at this time the 84th & Highway 2 Subarea Plan has not yet been submitted. However, an approved 84th and Highway 2 Subarea Plan is not a procedural requirement for the processing of this change of zone. The 84th & Highway 2 Subarea Plan and studies may or may not provide information that is applicable to this request. While these studies are incomplete, an approved Subarea Plan is not the basis for denial of this application. The basis for denial of this application continues to be based on the facts of this particular location and the overall lack of conformance with the land use plan and the goals and policies of the Comprehensive Plan. It is not in conformance with the specific strategies and goals of the commercial section of the Plan. This single lot is a poor location for commercial use. Commercial access this close to the intersection may impact traffic flow on both Pine Lake Road and S. 70th Street in the future. The B-1 zoning and subsequent commercial use on this lot may impact adjacent existing and future residential uses. Adoption of this change of zone would be for the benefit of the property owner to the detriment of surrounding property and the community as a whole. This area is more than adequately served by neighborhood commercial opportunities.
2. The applicant's presentation and testimony is found on p.8.
3. Testimony in opposition is found on p.8-9, and the record consists of a petition in opposition bearing 19 signatures plus 2 additional names submitted by email and 8 letters and emails in opposition (See p.013-023).
4. On July 12, 2000, the Planning Commission voted 6-1 to agree with the Planning staff recommendation of denial (See Minutes, p.9).
5. On July 14, 2000, the applicant submitted a written request that this application not be scheduled for public hearing before the City Council until September 11, 2000 (See p.024).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: August 21, 2000

REVIEWED BY: _____

DATE: August 21, 2000

REFERENCE NUMBER: FS\CC\FSCZ3206

EXISTING LAND USE:

Single family acreage

SURROUNDING LAND USE AND ZONING:

Single family acreages and is zoned AGR.

COMPREHENSIVE PLAN SPECIFICATIONS:

The Land Use Plan shows the site as Urban Residential.

The Comprehensive Plan shows approximately twice as much land area for commercial than is projected to be needed in the planning period.

The conceptual 84th & Highway 2 Subarea Plan, an appendix to the Comprehensive Plan, involves an area approximately one and one-half miles in radius from the intersection of Highway 2 and 84th Street. This site is located within this one and one-half mile radius. The conceptual subarea plan states that “zoning of land in the subarea plan will not occur until after the completion” of traffic, environment, infrastructure and community facilities, and staging/phasing studies have been completed and a subarea plan is finished through a public process.

HISTORY:

In 1979 the site was converted from AA Rural and Semi-Public to AGR Agricultural Residential.

The **1977** Comprehensive Plan changed the site to Rural Use 1st Phase.

The **1985** Comprehensive Plan kept the site as Rural Use 1st Phase.

The **1994** Comprehensive Plan changed the site to Low Density Residential.

In **April 1999**, as part of the 1999 Comprehensive Plan Annual Review, the area was changed to Urban Residential.

SPECIFIC INFORMATION:

UTILITIES:

Public Works & Utilities reports that sewer and water can be provided to this lot when the appropriately sized mains are built.

A 24" water main exists in Pine Lake Road abutting this site.

The Comprehensive Plan proposes a 12" water main in 70th Street between Pine Lake Road and Yankee Hill Road. The 1999-2005 Lincoln Capital Improvement Program does not include this water main.

The Comprehensive Plan shows the extension of a trunk sanitary sewer to serve the site. The 1999-2005 Lincoln Capital Improvement Program includes this trunk sanitary sewer in the fiscal year 1999-2000.

TOPOGRAPHY:

The elevation of the site drops approximately 18' from south to north.

TRAFFIC ANALYSIS:

Pine Lake Road and S. 70th Street are both paved with a 2 lane rural cross section.

The Existing Classification for Pine Lake Road is Urban Collector.

The Future Classification for Pine Lake Road is Urban Minor Arterial.

S. 70th Street is not classified south of Pine Lake Road.

Pine Lake Road and 70th Street, including the intersection, are shown as four through lanes, left turn lane and raised medians within 100' ROW on Figure 32, Improvements for Future Road Network (1 - 10 year Program) in the Comprehensive Plan.

The 1999-2005 Lincoln Capital Improvement Program schedules the improvement of Pine Lake Road after the 2004-2005 fiscal year.

The Public Works & Utilities Department states that the small sized lot will make access to the site difficult for a commercial use. Future street projects will likely preclude left turn access into this lot. If this lot stays residential future subdivisions will likely provide a local street system that will have median opening access at an acceptable location a farther distance away from the 70th and Pine Lake Road intersection.

PUBLIC SERVICE:

The nearest fire station is located at 27th & Old Cheney Road.

REGIONAL ISSUES:

Commercial development could occur before street improvements to Pine Lake Road have been completed.

The B-1 District does not require a public hearing on the site plan by the Planning Commission.

ENVIRONMENTAL CONCERNS:

The site has many trees.

AESTHETIC CONSIDERATIONS:

The B-1 District requires a 20' front yard. However the B-1 District permits parking in the front yard and in the rear yard.

ANALYSIS:

1. The change of zone does not conform to the Comprehensive Plan. Specifically, it does not conform to the land use plan which designates this property as urban residential and it is not in conformance with the goals and policies of the plan.

2. The goals of the Comprehensive Plan state:

Preserve the rural quality of life by assuring that changing rural residential land uses or growth is compatible with adjacent and surrounding land uses (Page 37)

Discourage strip development and spot zoning and encourage more compact and higher quality retail and commercial development. (Page 54)

3. The section on commercial use in the Comprehensive Plan encourages the following types of commercial centers:

1. *Downtown*
2. *Traditional Business Districts*
3. *Neighborhood Centers*
4. *Community Sized Centers*
5. *Rural Centers*
6. *General Commercial Areas*
7. *Gateway and East Park*
8. *Other Mixed Use Areas*
9. *Urban Villages*

4. This proposal does not meet any of the criteria for the nine types of commercial areas encouraged in the Comprehensive Plan. It is not large enough for a community center or mixed use area. This property falls within the size range of neighborhood centers, but it does not meet the specific criteria of the Plan for a neighborhood center.

5. The Comprehensive Plan section on neighborhood centers states:

“Specific sites should be determined for those growth areas, using the following location criteria:

1. *Urban residential areas should generally be no further than one mile from neighborhood commercial services;*
 2. *Neighborhood centers should have access to major streets;*
 3. *Neighborhood centers should correspond to the boundaries of two or more residential neighborhoods;*
 4. *Neighborhood centers should be integrated into Plan Unit Developments or Community Unit Plans.*
6. Existing or future urban residential neighborhoods in this area are within a mile of planned or existing neighborhood commercial services at 56th and Pine Lake Road, 56th and Old Cheney Road, and the northeast corner of 70th and Pine Lake Road.
7. The Comprehensive Plan states:
- “Provide and encourage an adequate number of appropriate locations for neighborhood centers. Locational criteria include the intersection of major arterial streets; halfway between two arterial streets; nodes at the edges of residential neighborhoods; the boundaries of two or more neighborhoods; or integrated into Planned Unit Developments and Community Unit Plans. Specific site and traffic criteria should be developed to determine when neighborhood centers should be located halfway between two arterial streets rather than at the intersection of major arterial streets. (Page 64)”*
8. In March 1998, during the Third Annual Review, the Plan was amended to generally designate the area north of Pine Lake Road between 70th Street and Highway 2 as commercial. In March 2000, Comprehensive Plan Amendment #94-48 to change the designation from commercial to residential was defeated.
9. The application did not demonstrate that the studies required in the S. 84th & Highway 2 Subarea Plan have been completed. The developer of the 84th and Highway 2 center is working on completing the studies.
10. The B-1 District does not require a public hearing on the site plan. The front yard setback in B-1 is 20 feet, the side yard is 10 feet if abutting a residential district. Parking is permitted in the front yard setback in the B-1 district.
11. The Comprehensive Plan states:
- “Discourage “four corner” commercial zoning at the intersections of arterial streets in order to improve traffic movement on arterial streets. (Page 64)”*
12. The improvement of Pine Lake Road and 70th Street will likely preclude left turn access into this site. Commercial development on this corner lot will likely impact traffic movement on the arterial street due to limited distance between the location of potential access points to this site and the turn lanes of the intersection.

13. The Comprehensive Plan states:

“Maintain zoning and traffic patterns that are compatible with existing land uses and retain the character of rural and urban neighborhood.” (Page 81)

14. On February 9th, the Planning Commission placed this request on pending at the request of the applicant. This action was based on the January 31st letter from Realty Trust Group requesting that “we will delay the zoning request on the basis of bringing forward for a comprehensive plan amendment.”

15. The applicant met with the Planning Department on February 29th to discuss this and other zoning requests of the applicant. At that time staff reiterated that this application did not merit a Comprehensive Plan Amendment. The development of the new Comprehensive Plan is scheduled for completion by December 31, 2001.

16. On June 15th the applicant requested the application be taken off pending.

CONCLUSION:

At this time the 84th & Highway 2 Subarea Plan has not yet been submitted. However, an approved 84th and Highway 2 Subarea Plan is not a procedural requirement for the processing of this change of zone. The 84th & Highway 2 Subarea Plan and studies may or may not provide information that is applicable to this requests. While these studies are incomplete, an approved Subarea Plan is not the basis for denial of this application.

The basis for denial of this application continues to be based on the facts of this particular location and the overall lack of conformance with the land use plan, goals and policies of the Comprehensive Plan. It is not in conformance with the specific strategies and goals of the commercial section of the Plan.

This single lot is a poor location for commercial use. Commercial access this close to the intersection may impact traffic flow on both Pine Lake Road and S. 70th Street in future. The B-1 zoning and subsequent commercial use on this lot may impact adjacent existing and future residential uses. Adoption of this change of zone would be for the benefit of the property owner to the detriment of surrounding property and the community as a whole.

This area is more than adequately served by neighborhood commercial opportunities.

STAFF RECOMMENDATION:

Denial

Prepared by:

Ray Hill
Planner

CHANGE OF ZONE NO. 3206

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 12, 2000

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

Planning staff recommendation: Denial.

Ray Hill of Planning staff submitted six letters in opposition and a petition in opposition signed by 19 residents on South 66th Street and on Pine Lake Road.

Proponents

1. **Mike Marsh** presented the application on behalf of **Realty Trust Group**. Realty Trust Group has recently developed Alpine Village at 48th & Normal and the Gateway Executive Office Building at Cotner and Vine.

This is the first time for a change of zone request on this property located at 70th & Pine Lake Road, consisting of 5 acres, located on the southwest corner. The property is within the city limits and has access to city utilities. The property is catty/corner across the street from the Livingston property that is zoned commercial. The road has become four-laned to the property line. Realty Trust Group did have a meeting with the immediate neighbors on October 11, 1999, at the Berean Church. The tone of the neighbors at that meeting was that they appreciated being invited to provide input. They expressed that they realistically see development coming here. They do have concerns with businesses that would have late hours and high volume and they are concerned about screening. The applicant took that input, and is thinking about a medical convenience center with drug store and medical group much like at 56th & Pine Lake Road. That group is so pleased with their facility that they have provided this applicant with the names of several doctors who will be interested in this area.

Carlson inquired whether the B-1 as opposed to office zoning is what allows the drug store. Marsh indicated that to be partially the reason. They originally wanted B-2 but with the road widening they do not have enough acres. Being less than 5 acres, they had to request B-1. They have B-1 zoning at 48th & Normal.

Steward inquired whether the applicant is aware of the opposition. Marsh indicated that he just received a copy of the petition today. Steward wondered whether any of these individuals who are opposed attended the neighborhood meeting. Marsh stated that he has not reviewed the petition but those that wrote letters were not at the neighborhood meeting.

Opposition

1. **Renee Stephenson**, 7250 Pine Lake Road, testified in opposition. She clarified that Mary Jo Livingston does not own all the property that is catty/corner from the proposal. She owns 7 acres with a small nursery and is opposed to this change of zone.

Ray Hill of Planning staff clarified that the Mary Jo Livingston property has not been rezoned and that Alpine Village is zoned R-T--not B-1.

Schwinn asked whether there is site plan review with the B-1 zoning. Hill concurred that there is no site plan review in B-1 zoning. The O-3 would be the district that would allow for offices with site plan review. O-3 would also allow a drug store if it is located inside the office building, but would be limited to a pharmacy type business.

Response by the Applicant

Mike Marsh agreed that Alpine Village is zoned R-T where the office is located. They also had some B-1 along Normal which was sold to J Marie's.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Newman moved to deny, seconded by Steward.

Newman does not think it is time yet. She would like to have site plan review and we want to avoid four-corner development.

Steward agreed. He also believes that with the degree of neighborhood opposition it is obvious that there has not been a consensus reached in the neighborhood. He believes this is probably inevitable, but in that case it would be better if the applicant and the neighbors were much more on the same page.

Schwinn commented that it seems like some of these corners have been held out in hopes that maybe something could come at a later date. 56th & Pine Lake Road is probably one of the original pieces in that whole puzzle that was put in place so that everyone would be aware of what was going to be there when they built their houses. He can't pay much attention to the neighbors not wanting this because the neighbors cannot choose what a property owner does with his own property. However, this needs a Comprehensive Plan amendment, in his opinion.

Bayer commented that it would be a fine project if it were part of a complete project for the whole neighborhood.

Motion to deny carried 6-1: Carlson, Schwinn, Steward, Taylor, Newman and Bayer voting 'yes'; Krieser voting 'no'; Hunter and Duvall absent.