

City Council Introduction: **Monday**, August 28, 2000

Public Hearing: **Monday**, September 11, 2000, at **1:30 p.m.**

Bill No. 00-160

FACTSHEET

TITLE: CHANGE OF ZONE NO. 3207, from AG Agriculture to B-2 Planned Neighborhood Business District, requested by Realty Trust Group, on property generally located northwest of South 84th Street and Old Cheney Road.

SPONSOR: Planning Department

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

STAFF RECOMMENDATION: DENIAL

RECOMMENDATION: DENIAL (5-2: Carlson, Steward, Taylor, Newman and Bayer voting 'yes'; Schwinn and 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 the basis for denial of this application continues to be based on the facts of this particular location and the lack of overall 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 is a poor location for commercial use. Commercial access this close to the intersection may impact traffic flow on both Old Cheney Road and S. 84th Street in the future. The commercial use on this lot may impact adjacent 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. 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.
2. The applicant's presentation and testimony is found on p.8 and 10. Other testimony in support on behalf of the Lincoln Christian School Foundation is found on p.9, and the record consists of a letter submitted on behalf of Lincoln Christian School (p.014).
3. Testimony in opposition is found on p.9, and the record consists of two letters in opposition (one on behalf of the Sanitary and Improvement District #2 of Lancaster County [Pine Lake], and one on behalf of the Pioneer/Mar-Ma-Ra-Lo Heights Home Owners Association. (See p.015-016).
4. On July 12, 2000, the Planning Commission voted 5-2 to agree with the Planning staff recommendation of **denial**. (See Minutes, p.10)
5. On July 14, 2000, the applicant submitted a written request that the public hearing before the City Council not be scheduled until September 11, 2000 (p.017).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: August 21, 2000

REVIEWED BY: _____

DATE: August 21, 2000

REFERENCE NUMBER: FS\CC\FSCZ3207

EXISTING LAND USE:

One single family acreage and vacant

SURROUNDING LAND USE AND ZONING:

To the north is a single family acreage and is zoned AG,
to the east across S. 84th Street are single family acreages and vacant and are zoned AG and R-3,
to the south across Old Cheney Road is a private school and is zoned R-3 with a special permit,
to the west is vacant and a single family acreage and is zoned R-3.

COMPREHENSIVE PLAN SPECIFICATIONS:

The Land Use Plan shows the site as Urban Residential, Commercial on the southeast corner of S. 84th Street and Old Cheney Road, and an Urban Village on the west side of S. 84th Street about half way between Pioneers Boulevard and Old Cheney Road.

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:

During the **1979** Zoning Update the area was converted to AG.

On **July 15, 1996**, the area to the west and south was changed from AG to R-3.

On **July 27, 1998**, the area to the east was changed from AG to R-3.

As part of the **1997 Comprehensive Plan Annual Review** approximately 20 acres on the southeast corner of 84th Street and Old Cheney Road was changed from Urban Residential to Commercial. The Plan anticipates the development of 200,000 square feet of floor area on the site.

SPECIFIC INFORMATION:

UTILITIES:

The area can be served with public sewer and water.

TOPOGRAPHY:

The land slopes down approximately 30' in elevation from the southwest and northwest corners to the northeast corner.

TRAFFIC ANALYSIS:

84th Street and Old Cheney Road have two paved lanes with a rural cross section.

Old Cheney Road is classified as an Urban Minor Arterial west from S. 84th Street.

S. 84th Street is classified as an Urban Principal Arterial.

Figure 32, Improvements for Future Road Network (1 - 10 year program) shows the 84th & Old Cheney Road intersection as four through lanes, 2 left turn lanes/1 right turn lane, raised medians, and 120' ROW.

The Lincoln Capital Improvement Program has S. 84th Street adjacent to this site improved during the 2001-2002 fiscal year and Old Cheney Road during the 2002-2003 fiscal year.

The Public Works & Utilities Department states that the proposed change of zone to commercial use on this small frontage site (650' x 450') will make providing commercial access difficult. A driveway providing left and right turn access within the frontage of this lot is not recommended. Residential zoning would provide the opportunity to provide access for left turns from a local residential street system a desirable distance from the 84th and Old Cheney intersection.

PUBLIC SERVICE:

The nearest fire station is located at 84th and South Streets.

REGIONAL ISSUES:

Commercial development could occur before street improvements to S. 84th Street and Old Cheney Road have been completed.

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.” (Page 63)*

6. In regards to neighborhood centers, the Plan further 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) “

7. Existing or future urban residential neighborhoods in this area are within a mile of planned or existing neighborhood commercial services at 70th and Pioneers Blvd (Lenox Village) and directly across the street on the southeast corner of 84th and Old Cheney Road.
8. In February 1997, during the Annual Review, the Comprehensive Plan was amended to designate the neighborhood center for this area on the southeast corner of 84th and Old Cheney Road. In that approval, it was noted that the southeast corner had adequate space (20 acres) to provide for buffering, transitional uses, pedestrian connection and open space, while accommodating a neighborhood center of 100,000 to 150,000 SF.
9. In addition, an “Urban Village” was designated at 84th and Glynoaks Drive approximately 1/4 mile to the north of this site. This Urban Village also has the potential to provide neighborhood commercial services to the surrounding neighborhood.
10. 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.
11. The B-2 District does require a public hearing on the site plan.
12. 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)”
13. The improvement of Old Cheney Road and S.84th 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.
14. On June 23rd a preliminary plat for 115 single family lots and 20 townhome lots was submitted for the adjacent property to the north and west. The proposed Hartland Homes East 1st preliminary plat also included a proposed day care center to the north of this site.
15. 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)

16. On March 22nd, the Planning Commission recommended denial 6-2 of Change of Zone #3245 from AG to O-2 Suburban Office on the northeast corner of 84th and Old Cheney Road. This application is currently on pending before the City Council.
17. On February 9th, the Planning Commission placed this Change of Zone (#3207) 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.”
18. 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.
19. On June 15th the applicant requested the application be taken off pending.

CONCLUSION:

The basis for denial of this application continues to be based on the facts of this particular location and the lack of overall 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 the Plan.

This is a poor location for commercial use. Commercial access this close to the intersection may impact traffic flow on both Old Cheney Road and S. 84th Street in future. The commercial use on this lot may impact adjacent 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.

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.

STAFF RECOMMENDATION:

Denial

Prepared by:

Ray Hill
Planner

CHANGE OF ZONE NO. 3207

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 a letter in opposition from the Pioneer/Mar-Ma-Ra-Lo Heights Homeowners Association because of the additional traffic on 84th Street. Turning in and out of these small areas creates traffic problems.

Proponents

1. Mike Marsh of Realty Trust Group presented the application. This property sits at the northwest corner of 84th & Old Cheney. This is the first time for a zone change request to B-2. It consists of 6.5 acres located inside the city limits with access to public utilities. Marsh reviewed the uses on the four corners, including residential/apartments; 20 acres owned by Bob Hampton; and Lincoln Christian School.

The applicant invited the neighbors to a meeting on October 13, 1999, and received no opposition at that time. The applicant had signed a declaration of use restriction with Lincoln Christian School which prohibits x-rated movies, adult magazines and no business with more than 50% of its business derived from alcohol. The concept is for a Lincoln Christian Center incorporating the Lincoln Christian School using the existing structure as their administrative offices, sort of like Piedmont. The integral part of this proposal is to have Lincoln Christian School utilize this property. At this time, without zoning, Lincoln Christian School cannot utilize the property free of charge as an administrative office.

Steward realizes it is not a requirement at this time, but he asked whether the applicant could give a sense of the footprint for this site and the overall square footage. Marsh indicated that they do not yet have a conceptual plan, but he suggested the Commission envision Piedmont Shopping Center—something of that nature with a similar layout, incorporating the existing structure for the Lincoln Christian School administrative offices.

Bayer asked whether the applicant has any ownership in this property. Marsh stated that the property is owned by Realty Trust Group. Bayer inquired whether this owner has had any conversations with Hampton or the owners to the east about an overall plan for the intersection. Marsh's response was that Hampton had no conflict with this zone change. As far as going to the south and east, Hartland Homes has purchased that property and it will become residential. He has had conversations with Duane Hartman regarding access and they will be working together, if at all possible. It will be a neighborhood convenience center. Bayer noted that it is much easier for the Commission to make decisions when the proposal for the zone change comes forward with an actual plan tied to the change of zone.

2. Peter Schroeder, of the Lincoln Christian School Foundation, submitted a summary of a meeting held with the Mayor and the Director of Planning. Lincoln Christian School is excited for the potential space to be used across the street and looking at expansion in the near future. When they met with the Mayor and the Planning Director, they found out that the whole property has to be rezoned before Lincoln Christian School can use it. The Lincoln Christian School use would be low impact, short term, and they definitely support this change of zone. The Lincoln Christian School environment is protected by covenants with Hampton and Realty Trust Group as to liquor and adult entertainment. This property's mission is in alignment with the school and it will provide some continued space for the administration of the school. On behalf of the 400 families of Lincoln Christian School, Schroeder requested that the Commission give serious consideration to approval of the B-2 zoning.

Bayer asked Schroeder whether there has been any discussion about how the property would be used and how the buildings would be laid out. Since Lincoln Christian School is not the property owner, Schroeder did not want to attempt to explain.

Opposition

1. Peter Katt appeared on behalf of **Hartland Homes**, in opposition. Hartland Homes is the only adjoining neighbor to this change of zone request. The two parcels were purchased by Realty Trust in July and September of 1999. Hartland Homes has been an owner since 1994 as a part of the Hartland Homes East plat for continued expansion of the residential area in this neighborhood. Mr. Marsh was correct in that they did have conversations with Hartman early on, and Hartman had suggested that it might be beneficial for them to jointly pursue a development plan for this property in that the typical access points for the corner would be located further back on Old Cheney and 84th Street. The preferred access points are not accessible from this corner. Notwithstanding Mr. Hartman's contact with them about a joint effort, the applicant has expressed no interest in proceeding together jointly. Hartman has now proceeded with completing the development plans for his property as R-3 single family residential. That submission is currently in the Planning Department and will move forward. Hartman has worked with the owner of the "urban village" area and that area will be more than sufficient to take care of the commercial service needs for this area. Hartland Homes is opposed to the commercial zoning. The Comprehensive Plan shows that this area will remain residential.

Schwinn asked Katt to speak further about the urban village. Katt stated that his client has worked with Hampton Enterprises so that the layout of the Hartland Homes area will be compatible with that urban village.

Steward inquired whether Hartland Homes has participated with Planning on the So. 84th/Hwy 2 subarea plan. Katt stated that his office has not. Hartland Homes rarely asks for anything of them other than to be able to build affordable homes in this community. Hartman is concerned with how this change of zone would impact his ability to market and sell homes on his adjacent property and that is why Katt is appearing in opposition to this change of zone request on Hartman's behalf.

Steward asked staff to provide a briefing on the subarea plan. Ray Hill of Planning staff advised that the applicant's attorney for the 84th & Hwy 2 subarea plan has been doing the studies that are required and has indicated they would be submitted sometime in the near future. Steward believes

it to be unclear as to why this change of zone does not connect to that planning process. Hill explained that it is the developer of the 84th & Hwy 2 project that is doing the subarea plan. This property is within 1 ½ miles, as pointed out in the staff report.

Bayer referred to the Lincoln Christian School's comment about covenants with Realty Trust Group. If we change the zone to B-2, can a covenant control what is built there by right? Hill indicated that it can, but the city does not enforce covenants. Bayer commented that B-2 allows a lot of different commercial uses.

Response by the Applicant

Marsh asked the Commission to keep in mind that the B-2 does give the community ample opportunity to have input into the site plan. What Realty Trust Group has developed in other areas should also be kept in mind. They want to be proud of what they have done. They want nothing more than to integrate into the residential and commercial uses in the City. Marsh is impressed with the commercial centers in south Kansas City and how they are integrated into the nice neighborhoods. This is what this developer desires, as well as integration with Lincoln Christian School, free of charge.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 12, 2000

Newman moved denial, seconded by Carlson.

Newman is just not ready for this one. There is a presumption of consistency.

Carlson believes it is always nice to have a sense of what's going to be there--if nothing else but to have a sense of what's going on around it. He appreciates the integration goals, but anytime these projects come forward, the best projects always integrate with the projects around them with everyone on board.

Bayer commented that the best example is the developers and individuals between 84th & Holdrege and 84th & Adams, who brought in a complete package for the entire area with a multitude of landowners. There is enough property involved in this area to have discussions with all of the landowners.

Motion to deny carried 5-2: Carlson, Steward, Taylor, Newman and Bayer voting 'yes'; Schwinn and Krieser voting 'no'; Hunter and Duvall absent.