

Change of Zone 05004

ORDINANCE NO. \_\_\_\_\_

1           AN ORDINANCE amending the City of Lincoln Zoning District Maps attached to  
 2 and made a part of Title 27 of the Lincoln Municipal Code, changing the boundaries of the  
 3 districts established and shown on said City of Lincoln Zoning District Maps as provided in  
 4 Section 27.05.020 of the Lincoln Municipal Code and approving the designation of the area  
 5 hereinafter described as a planned unit development.

6           BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

7           Section 1. That the "Lincoln Zoning District Maps" attached to and made a part  
 8 of Title 27 of the Lincoln Municipal Code be and they are hereby amended by changing the  
 9 boundaries of the districts established and shown on said Zoning District Maps as follows:

10                 Lots 90, 91, and 113 of Irregular Tracts, located in the Southeast  
 11                 Quarter of Section 10, Township 9 North, Range 7 East of the 6th  
 12                 P.M., Lancaster County, Nebraska,

13 be and they hereby are (1) transferred from the AG Agricultural District to the R-3 Residential  
 14 District and are hereby made a part of the R-3 Residential District; (2) designated as a Planned  
 15 Unit Development pursuant to and in accordance with Chapter 27.60 of the Lincoln Municipal  
 16 Code entitled "Planned Unit Development District"; and (3) governed by all the provisions and  
 17 regulations pertaining to the R-3 Residential District except as modified by the Development  
 18 Plan approved in Section 2 below.

19           Section 2. Realty Trust Group's Development Plan for Pine Garden Planned Unit  
 20 Development as set forth in its application and site plan be and the same is hereby approved  
 21 upon condition that construction and operation of said Planned Unit Development by Realty  
 22 Trust Group and its successors and assigns be in strict compliance with said application, the  
 23 site plan, and the following express terms and conditions and requirements:

1 a. This approval permits Realty Trust Group, Inc. as "Permittee" to construct 28  
2 dwelling units and 22,000 square feet of commercial floor area and grants the following waivers  
3 to the R-3 Residential District, Land Subdivision Ordinance, and City of Lincoln Design Standard  
4 requirements:

- 5 (1) The preliminary plat process, provided that if any final plat on all or a  
6 portion of the approved planned unit development is submitted five (5)  
7 years or more after approval of the development plan, the City may require  
8 that a new development plan be submitted pursuant to all the provisions of  
9 § 26.31.015. A new development plan may be required if the subdivision  
10 ordinance, the design standards, or the required improvements have been  
11 amended by the City; and as a result the development plan as originally  
12 approved does not comply with the amended rules and regulations.
- 13 (2) The rear and front yard setbacks on Lots 1 through 20, are reduced as  
14 shown on the plans.
- 15 (3) Commercial lots without frontage and access to a public street are  
16 approved.
- 17 (4) Lots 1 through 20 may exceed the maximum width-to-depth ratio as shown  
18 on the plans.
- 19 (5) Nonstandard cul-de-sac radius for South 83rd Court is approved as shown  
20 on the plans.
- 21 (6) A 22-foot paving width in South 83rd Court, south of the roundabout is  
22 approved.
- 23 (7) Up to two non-resident employees are allowed for in home occupations in  
24 Units 11- 20.
- 25 (8) Up to 50% of the unit floor area in Units 11 - 20 may be used for home  
26 occupations.

27 b. Final plats will be approved by the Planning Director after:

28 (i) The private roadway improvements, sidewalks, sanitary sewer system,  
29 water system, drainage facilities, land preparation and grading, sediment and erosion control  
30 measures, stormwater detention/ retention facilities, drainage improvements, street lights,  
31 landscaping screens, street trees, and street name signs, must be completed or provisions  
32 (bond, escrow or security agreement) to guarantee completion must be approved by the City

1 Law Department. The improvements must be completed in conformance with adopted design  
2 standards and within the time period specified in the Land Subdivision Ordinance.

3 (ii) The Permittee as Subdivider has signed a subdivision agreement that binds the  
4 Subdivider and Subdivider's successors and assigns:

5 (1) to complete the paving of South 83<sup>rd</sup> Court shown on the final plat within  
6 two (2) years following the approval of this final plat.

7 (2) to complete the installation of sidewalks along the west side of South 84th  
8 Street, the north side of Old Cheney Road, and both sides of South 83rd  
9 Court as shown on the final plat within four (4) years following the approval  
10 of the final plat.

11 (3) to complete the public water distribution system to serve this plat within  
12 two (2) years following the approval of the final plat.

13 (4) to complete the public wastewater collection system to serve this plat  
14 within two (2) years following the approval of the final plat.

15 (5) to complete the enclosed public drainage facilities shown on the approved  
16 drainage study to serve this plat within two (2) years following the approval  
17 of the final plat.

18 (6) to complete land preparation including storm water detention/retention  
19 facilities and open drainageway improvements to serve this plat prior to  
20 the installation of utilities and improvements but not more than two (2)  
21 years following the approval of the final plat.

22 (7) to complete the installation of public streetlights along the west side of  
23 South 84th Street and the north side of Old Cheney Road within two (2)  
24 years following the approval of the final plat.

25 (8) to complete the installation of private street lights along South 83rd Court  
26 within this plat within two (2) years following the approval of the final plat.

27 (9) to complete the planting of the street trees along the west side of South  
28 84th Street, the north side of Old Cheney Road, and both sides of South  
29 83rd Court within this plat within four (4) years following the approval of the  
30 final plat.

31 (10) to complete the planting of the landscape screen within this plat within two  
32 (2) years following the approval of the final plat.

33 (11) to complete the installation of the street name signs within two (2) years  
34 following the approval of the final plat.

- 1 (12) to timely complete any other public or private improvement or facility  
2 required by Chapter 26.23 (Development Standards) of the Land  
3 Subdivision Ordinance which inadvertently may have been omitted from  
4 the above list of required improvements.
- 5 (13) to submit to the Director of Public Works a plan showing proposed  
6 measures to control sedimentation and erosion and the proposed method  
7 to temporarily stabilize all graded land for approval.
- 8 (14) to complete the public and private improvements shown on the Planned  
9 unit Development.
- 10 (15) to continuously and regularly maintain the street trees along the private  
11 roadways and landscape screens.
- 12 (16) to submit to the lot buyers and home builders a copy of the soil analysis.
- 13 (17) to pay all design, engineering, labor, material, inspection, and other  
14 improvement costs for the right turn lanes in Old Cheney Road and South  
15 84th Street, and for the improvements in 84th Street at Wendell Way  
16 necessary to allow left turning movements from Wendell Way onto 84th  
17 Street.
- 18 (18) to comply with the provisions of the Land Preparation and Grading  
19 requirements of the Land Subdivision Ordinance.
- 20 (19) to protect the trees that are indicated to remain during construction and  
21 development.
- 22 (20) to properly and continuously maintain and supervise the private facilities  
23 which have common use or benefit, and to recognize that there may be  
24 additional maintenance issues or costs associated with providing for the  
25 proper functioning of storm water detention/retention facilities as they were  
26 designed and constructed within the development, and that these are the  
27 responsibility of the land owner.
- 28 (21) To retain ownership of and the right of entry to the outlots in order to  
29 perform the above-described maintenance of the outlots and private  
30 improvements on a permanent and continuous basis. However,  
31 Subdivider may be relieved and discharged of such maintenance  
32 obligations upon creating in writing a permanent and continuous  
33 association of property owners who would be responsible for said  
34 permanent and continuous maintenance subject to the following  
35 conditions:
- 36 (a) Subdivider shall not be relieved of Subdivider's maintenance obligation  
37 for each specific private improvement until a register professional  
38 engineer or nurseryman who supervised the installation of said private  
39 improvement has certified to the City that the improvement has been  
40 installed in accordance with approved plans.

1 (b) The maintenance agreements are incorporated into covenants and  
2 restrictions in deeds to the subdivided property and the documents  
3 creating the association and the restrictive covenants have been  
4 reviewed and approved by the City Attorney and filed of record with the  
5 Register of Deeds.

6 (22) to relinquish the right of direct vehicular access to South 84th Street and  
7 Old Cheney Road, except as shown.

8 c. Before receiving building permits:

9 (1) The Permittee shall have submitted an acceptable revised and  
10 reproducible final plan.

11 (2) The construction plans shall comply with the approved plans.

12 (3) Final plats shall be approved by the City.

13 (4) The Permittee agrees to pay for the design and installation of the right-turn  
14 lane in Old Cheney Road.

15 (5) The Permittee agrees to pay for the design and construction changes  
16 necessary to allow left turns from Wendell Way onto 84th Street.

17 d. Before occupying the dwelling units all development and construction shall have  
18 been completed in compliance with the approved plans.

19 e. All privately-owned improvements shall be permanently maintained by the  
20 owner or an appropriately established homeowners association approved by the City Attorney.

21 f. The site plan approved by this ordinance shall be the basis for all interpretations  
22 of setbacks, yards, location of parking and circulation elements, and similar matters.

23 g. This ordinance's terms, conditions, and requirements run with the land and are  
24 binding upon the Permittee, and Permittee's successors and assigns.

25 h. The City Clerk shall file a copy of this ordinance and the Permittee's letter of  
26 acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.

1                   Section 3. That this ordinance shall take effect and be in force from and after its  
2 passage and publication according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this ___ day of _____, 2005:  _____ Mayor
---