

FACTSHEET

TITLE: CHANGE OF ZONE NO. 2463E
(R-3 PUD to B-2 PUD, 4701 Old Cheney Road)

BOARD/COMMITTEE: Planning Commission

APPLICANT: 2 Amigos Properties, LLC

RECOMMENDATION: Conditional Approval
(9-0: Beecham, Harris, Cornelius, Hove, Weber,
Scheer, Sunderman, Corr and Lust voting 'yes').

STAFF RECOMMENDATION: Conditional
Approval

OTHER DEPARTMENTS AFFECTED: None.

SPONSOR: Planning Department

OPPONENTS: None present.

REASON FOR LEGISLATION:

To change the zoning from R-3 Planned Unit Development to B-2 Planned Unit Development to allow the sale of alcohol in conjunction with a restaurant and to adjust the parking requirement, on property generally located at 4701 Old Cheney Road.

DISCUSSION / FINDINGS OF FACT:

1. This is a request to amend the planned unit development to re-zone the commercial portion of the PUD to B-2. The intent is to allow the sale of alcohol in conjunction with a restaurant and to reduce the parking requirement for all uses in the B-2 area to 1 space per 300 square feet of floor area.
2. The staff recommendation for approval of this change of zone request is based upon the "Analysis" as set forth on p.3-5, concluding that re-zoning the commercial area to B-2 zoning was representative of the character and uses already allowed. The sale of alcohol was found to be generally consistent with other commercial centers around the city where on-sale alcohol is allowed in conjunction with a restaurant. It was noted that the commercial part of this PUD was designed as an integral part from the beginning. As a result, adequate separation to the surrounding apartments was provided for in the original plan, which were also buffered from the commercial area by garages, yards and landscaping.
3. Staff also recommended approval of the adjustment to the parking requirement. Staff found the adjustment appropriate for the range of uses allowed in the B-2 zoning district. In this case the adjusted parking requirement also acknowledged the shared parking arrangement with the commercial property to the east. The amount of parking provided should be adequate given the differing peak demand times of the various uses involved.
3. On August 19, 2015, this application appeared on the Consent Agenda of the Planning Commission.
4. On August 19, 2015, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend conditional approval of this change of zone request.

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer

DATE: August 25, 2015

REVIEWED BY: David R. Cary, Acting Planning Director

DATE: August 25, 2015

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for September 23, 2009 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 2463E - Highpointe Planned Unit Development (PUD).

PROPOSAL: To change the zoning from R-3 PUD to B-2 PUD for the commercial component of the PUD

LOCATION: Southwest of the intersection of South 48th Street and Old Cheney Road

LAND AREA: Approximately 1.3 acres

EXISTING ZONING: R-3 PUD **Proposed Zoning:** B-2 PUD

ADJUSTMENTS:

1. Allow the sale of alcohol for consumption on the premises when associated with a restaurant as a permitted use.
2. Adjust the parking to one space per 300 square feet of floor area for all uses in the B-2 portion of the PUD.

CONCLUSION: This PUD has been built out for years, and was built out as designed. The small commercial component is integrated with the larger residential area which includes both apartments and single-family dwellings. Allowing the sale of alcohol in conjunction with a restaurant meets all of today's standards except for the separation from a residential zoning district since the property is currently zoned R-3 Residential. However, an exception to this requirement is not unusual in a PUD where there is often a single underlying zoning district and adequate separation to residential uses is otherwise provided.

The adjustment to the parking requirement is appropriate for the range of uses allowed in the B-2 zoning district, and acknowledges the shared parking arrangement with commercial property to the east. The amount of parking provided should be adequate given the differing peak demand times of the various uses involved. Subject to the recommended conditions of approval, this request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan.

RECOMMENDATION:

Conditional Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 2, Block 1, Highpointe Addition

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Multiple-family Residential, Commercial	R-2, B-2
South:	Multiple-family Residential	R-3
East:	Commercial	O-2
West:	Multiple-family Residential, Clubhouse	R-3

HISTORY:

Jun 1989 - CZ#2463 approving the Highpointe PUD was approved.

May 1990 - CZ#2463A was approved adding two single-family dwellings as part of the PUD.

Nov 1993 - CZ#2463B was approved allowing an expanded range of commercial uses in the commercial component of the PUD.

Jun 1994 - CZ#2463C was approved allowing parking stalls in side yard setback.

Sep 2009 - CZ#2463D was approved to allow a 50 square foot in area, 6'-tall changeable copy sign for the commercial component of the PUD.

ANALYSIS:

1. This amendment to the Highpointe PUD seeks to change the zoning over the commercial portion from R-3 PUD to B-2 PUD. As part of the change of zone to amend the PUD, two zoning adjustments are included. The first seeks to allow the sale of alcohol for consumption on the premises in conjunction with a restaurant as a permitted use. The second seeks to reduce the required parking to require one space per 300 square feet of floor area.
2. This PUD was originally approved in 1989 and included commercial floor area, along with multiple-family and single-family dwellings. There is a transition of uses from the small commercial component (located adjacent to Old Cheney Road), to apartments, to single-family dwellings which occupy approximately the south one-half of the PUD.
3. The layout of the PUD placed the apartment complex's clubhouse and garages closest to the commercial area, and provided more than 100' of separation between the nearest apartment building, and over 300' to the nearest single-family dwelling.

4. The commercial area was intended to serve the apartment complex along with the nearby residential neighborhood, but the range of allowed uses was originally limited. With the 1993 amendment, the use limitation was essentially removed by permitting a range of uses similar to the B-1 zoning district, including restaurants.
5. The sale of alcohol for consumption on the premises is a conditional use in the B-2 zoning district. In this case, it meets all the requirements of LMC 27.62.110(b), except for the door opening being more than 100' away from a residential zoning district.
6. Restaurant was allowed as a permitted use in the PUD prior to adoption of regulations pertaining to the sale of alcohol. At that time, the sale of alcohol was a permitted use and could have commenced at the restaurant without any other approval or adjustment.
7. Allowing the sale of alcohol in conjunction with a restaurant in this case meets all of today's standards, except for the separation from a residential zoning district since the commercial building is residentially zoned. However, an exception to this requirement is not unusual in a PUD where there is often a single underlying zoning district and adequate separation to residential uses is otherwise provided. The flexibility of a PUD allows for an integrated design to enhance compatibility between residential and commercial uses. There are several existing PUD's around the city which contain similar provisions such as Crown Pointe (S. 84th & Van Dorn) and The Woodlands at Yankee Hill (S. 70th & Yankee Hill).
8. The requested parking adjustment is to allow parking to be provided at the rate of 1:300 for all uses. The parking requirement for the B-2 zoning district is 1:300, but certain uses are required to provide more. A common use with a higher requirement is restaurant at 1:100.

There is one 10,800 square foot, multi-tenant building with 75 parking spaces on the subject property, which results in a ratio of one space per 144 square feet of floor area overall. In 2011 a parking agreement was executed allowing shared parking between the subject property and the adjacent O-2-zoned lot to the east, both of which have the same owner. The agreement was required by the approval of a special permit over the adjacent lot to expand a nonconforming use. The special permit allowed medical office in a portion of the building, but adjusted the amount of parking required from 1:225 to 1:300. The parking agreement acknowledged the shared parking which occurs between the two lots to accommodate times of peak demand and overflow parking.

Adjusting the parking requirement to 1:300 for all uses will accommodate the range of uses allowed in the B-2. The shared parking agreement with the neighboring lot will accommodate any overflow parking in those instances where it is necessary.

This approval changes the zoning for Lot 2, Block 1 from R-3 PUD to B-2 PUD, and allows the sale of alcohol for consumption on the premises in conjunction with a restaurant as a permitted use in the B-2 area, and adjusts the parking requirement to one space per 300 square feet of floor for all uses in the B-2 area.

CONDITIONS OF APPROVAL:

Site Specific:

1. The developer shall cause to be prepared and submitted to the Planning Department four copies of a revised final plan as listed below upon approval of the planned unit development by the City Council before receiving the sale of alcohol:
 - 1.1 Delete the “Permitted Uses in Commercial Building” notes.
 - 1.2 Add a General Note which states “Uses for the B-2 area are as per the B-2 zoning district, except the sale of alcohol for consumption on the premises in conjunction with a restaurant is a permitted use.
 - 1.3 The parking requirement for the B-2 are is one space per 300 square feet of floor area, regardless of use.
 - 1.4 Consolidate the other notes located throughout the site plan under ‘General Notes’.

Standard:

2. The following conditions are applicable to all requests:
 - 2.1 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established association approved by the City Attorney.
 - 2.2 This ordinance's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 2.3 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant. Building permits will not be issued and the sale of alcohol cannot commence unless the letter of acceptance has been filed.

3. The site plan as approved with this ordinance voids and supersedes all previously approved site plans, however all ordinance approving previous permits remain in force unless specifically amended by this ordinance.

Prepared by:

Brian Will, 441-6362, bwill@lincoln.ne.gov
Planner
August 4, 2015

CONTACT: Matt Langston
601 P Street
Lincoln, NE 68508
402-474-6311

OWNER: 3 Amigos Properties, LLC
6121 South 58th Street, Suite C
Lincoln, NE 68516

CHANGE OF ZONE NO. 2463E

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

August 19, 2015

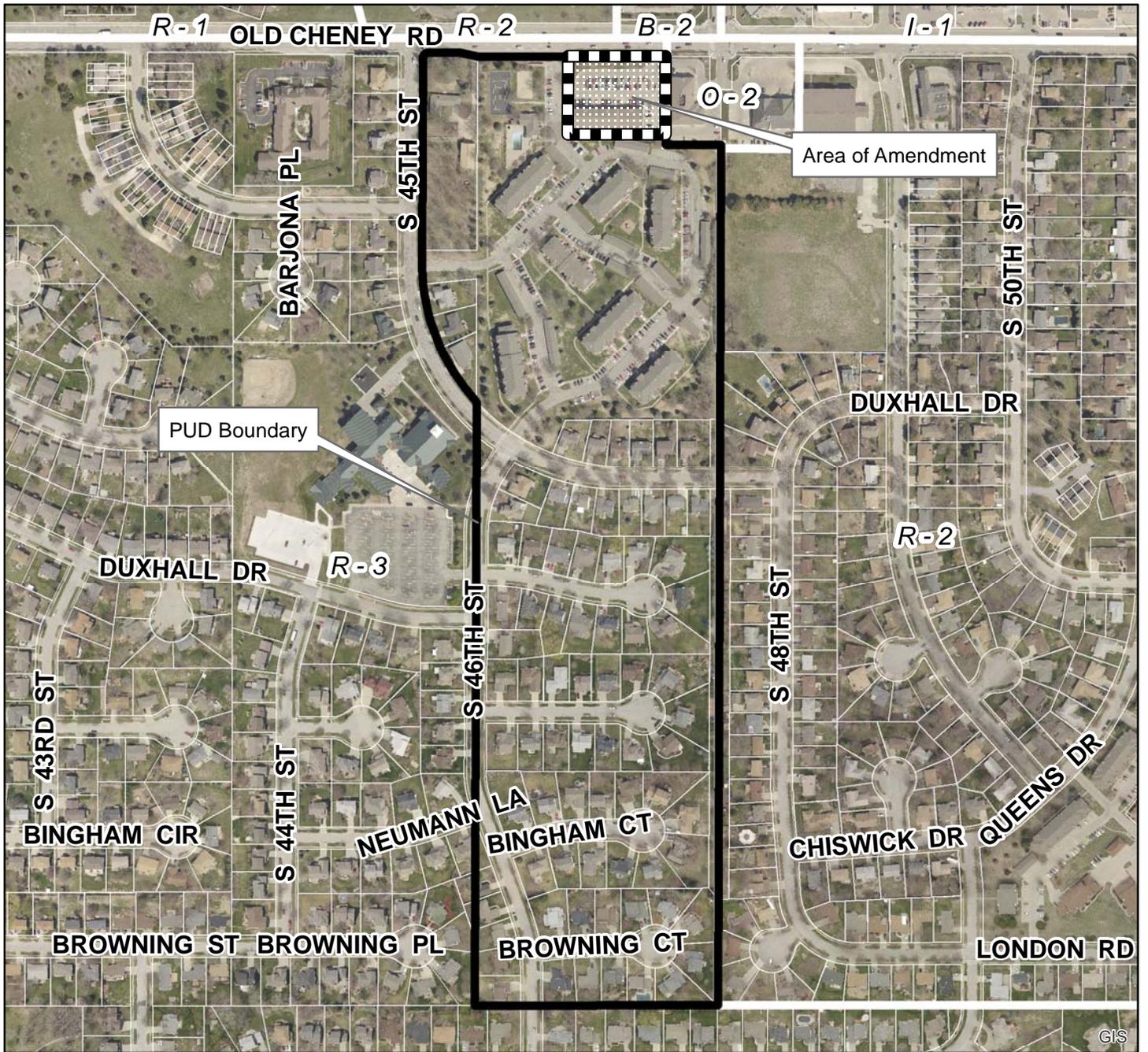
Members present: Lust, Beecham, Scheer, Corr, Cornelius, Harris, Hove, Sunderman, and Weber.

The Consent Agenda consisted of the following items: **ANNEXATION NO. 15007, CHANGE OF ZONE NO. 15020, ANNEXATION NO. 15008, CHANGE OF ZONE NO. 15022, and CHANGE OF ZONE 2463E.**

Use Permit No. 126D was removed from the Consent Agenda, as the applicant requested a 2-week deferral.

There were no ex parte communications disclosed.

Scheer moved to approve the Consent Agenda, seconded by Beecham carried 9-0.



Change of Zone #: CZ2463E
Amendment - R-3PUD to B-2PUD
Highpoint
S 48th St & Old Cheney Rd
Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential 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

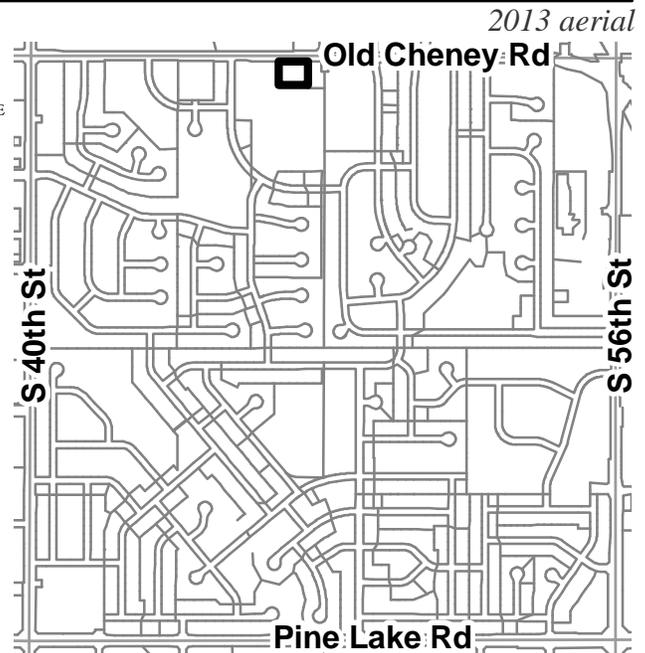
One Square Mile:
 Sec.17 T09N R07E



Area of Application

Zoning Jurisdiction Lines

Lancaster County Jurisdiction



2013 aerial



July 22, 2015

Brian Will
Lincoln Lancaster Planning Department
County-City Building
555 South 10th Street, Suite 213
Lincoln, NE 68508

Re: Highpointe Addition
Amendment to AA10015, CZ 2463E

Dear Brian,

On behalf of the owner, 3 Amigos Properties, LLC. We are requesting an Amendment to the Use Permit for Highpointe Addition, located at 4701 Old Cheney Road, Lincoln, Nebraska.

Through this Amendment we are proposing to add 'on-sale alcohol' as a permitted use for restaurants at this location and a zoning change for Lot 2 Block 1 from R-3 to B-2. While restaurants are currently a permitted use, the original permit was approved prior to 1994 when alcohol sales were allowed without special designation. We believe this amendment to meet the original intent of the permit and shall update the PUD to current regulations.

Please let me know if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Langston', with a long horizontal flourish extending to the right.

Matt Langston
Olsson Associates