

FACTSHEET

TITLE: USE PERMIT NO. 138, requested by Brian D. Carstens and Associates on behalf of Krein Real Estate, for six 5,000 sq. ft. one-story, office/medical buildings and associated parking, with waiver requests to reduce the private roadway width of Waltz Road and to waive sidewalks along one side of the private roadways, on property generally located on the west side of the intersection of So. 56th Street and Waltz Road, 1/4 mile south of Old Cheney Road.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 04/04/01
Administrative Action: 04/04/01

RECOMMENDATION: Conditional Approval, with amendment (7-0: Carlson, Krieser, Hunter, Steward, Taylor, Newman and Schwinn voting 'yes'; Bayer and Duvall absent).

STAFF RECOMMENDATION: Conditional Approval

ASSOCIATED REQUESTS: Change of Zone No. 3306 (01-74).

FINDINGS OF FACT:

1. This use permit and the associated Change of Zone No. 3306 were heard at the same time before the Planning Commission.
2. The Planning staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.5, concluding that the revised use permit provides an appropriate transition from the heavier commercial uses east and north of Beal Slough to the residential neighborhoods to the west and south.
3. The minutes of the Planning Commission are found on p.9-10.
4. The applicant's testimony is found on p.9, including a request to amend Condition #1.1.15 to "Reduce the width of the south Private Driveway to 25'" (instead of 21').
5. There was no testimony in opposition.
6. The Commission discussion with staff is found on p.9-10.
7. On April 4, 2001, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend conditional approval, with the amendment to Condition #1.1.15 as requested by the applicant and accepted by the staff (See Minutes, p.10).
8. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been submitted by the applicant and approved by the reviewing departments.
9. ***Please note:*** Approval of this Use Permit No. 138 supersedes Use Permit No. 131, which is Bill No. 00R-271 on Council's pending list.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: April 16, 2001

REVIEWED BY: _____

DATE: April 16, 2001

REFERENCE NUMBER: FS\CC\FSUP138

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Use Permit #138
Country Plaza

DATE: March 22, 2001

****As Revised By Planning Commission, 04/04/01****

PROPOSAL: Construct six(6) 5,000 square foot, one story, office/medical buildings and associated parking; reduce the private roadway width of Waltz Road from 26' to 21' and waive sidewalks along one side of the private roadways, in R-T zoning as proposed in change of zone #3306.

GENERAL INFORMATION:

APPLICANT: Krein Real Estate, Inc.
4750 Normal Blvd., Suite 3
Lincoln, NE 68506

CONTACT: Brian D. Carstens & Associates
2935 Pine Lake Road, Suite H
Lincoln, NE 68516

LOCATION: The west side of the intersection of S. 56th St. and Waltz Rd., 1/4 mile south of Old Cheney Rd.

PURPOSE: To develop 30,000 sq. ft. of Office/Medical uses.

LEGAL DESCRIPTION: See attached sheet.

SIZE: 10.03 acres, more or less.

EXISTING ZONING: R-1 and R-2 Residential

EXISTING LAND USE: Single family house with accessory buildings and mostly covered with quality trees.

SURROUNDING LAND USE AND ZONING: To the north is a recreational facility by special permit and zoned R-1 and R-2, to the east across S. 56th Street is commercial and zoned H-4 with a special permit for planned commercial, directly to the east is the Country Plaza planned service commercial special permit with 44,400 sq ft of approved commercial use, to the south and west are R-1 and R-2 zoned single family homes.

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Plan shows the site as Urban Residential and Natural/Environmentally Sensitive along the Beal Slough drainage corridor.

HISTORY:

On **August 30, 1971**, City Council denied Change of Zone #1140, which would have changed the zoning east of S.56th and south of Old Cheney Rd. from A-1 Single Family Dwelling to K Light Industrial.

On **May 24, 1976**, City Council approved Special Permit #755 on land to the west, which allowed 349 single family and 170 multifamily dwellings under the Buckingham South CUP. The Buckingham South 2nd Addition Preliminary Plat (#76207) was also approved at that time.

The property was converted from A-1 Single Family Dwelling and A-2 Single Family Dwelling to R-1 and R-2 Residential in the **1979 Zoning Update**.

On **April 4, 1983**, City Council approved Change of Zone #2013 on property to the east (Lincoln Trade Center), which changed the zoning on 58.8 acres from AGR Agricultural Residential to H-4 General Commercial. At that time, they approved Special Permit #1013 on the same area, which allowed a 53.4 acre Planned Service Commercial development. At that time this site was shown as Parks & Open Space.

On **September 22, 1986**, City Council approved Special Permit #1013A on the Trade Center property to the east, which allowed 69,250 sq. ft. of Service Commercial and 70,400 sq. ft. of warehouse space on Trade Center property west of the railroad tracks.

On **July 10, 1989**, City Council approved Special Permit #1327 on land to the north, which allowed the construction of a miniature golf course, batting cages and a club house.

On **September 5, 1989**, City Council approved Special Permit #1013D on land to the east, which allowed the construction of a self-storage facility south of Waltz Road.

On **September 16, 1991**, City Council approved Special Permit #1327A on land to the north, which allowed outdoor seasonal sales of fireworks and Christmas trees.

On **October 9, 2000**, City Council approved Change of Zone #3269, Use Permit #131, and Special Permit #1855, changing the zone from R-1 and R-2 to H-4 and R-T, and approving 44,400 square feet of Planned Service Commercial on the east side of Beal Slough and 35,000 square feet of medical/office buildings on the west side of Beal Slough. At the Mayor's request, City Council reconsidered the Change of Zone and the Use Permit on **November 6, 2000**. Council re-passed the Change of Zone, minus the R-T area, and placed the Use Permit on pending.

SPECIFIC INFORMATION:

UTILITIES: The Public Works & Utilities Department reports:

Existing water and sewer are adequate to serve the development.

Drainage - According to information provided, the crossing of Beal Slough by Waltz Road is overtopped by the 25 year design storm. The lots west of Beal Slough will be isolated during any events above the 25 year storm since there is no other access shown. The grading plan is satisfactory provided that appropriate permits are obtained to construct the improvements in the Beal Slough flood plain.

TOPOGRAPHY: The slope from the west property line to the east side of the buildings on Lots 5 and 6 is 11%, on Lot 4 is 6.4%, on Lot 3 is 4%, on Lot 2 is 8%, and from the south property line to the south side of the building on Lot 1 is 10%.

Beal Slough flows through the area with an average bank 8' in depth.

TRAFFIC ANALYSIS: S. 56th Street is classified as an Urban Principal Arterial Street.

S. 56th Street is planned to be improved to have four through lanes, left turn lane, and raised medians inside a 100' ROW.

The plan shows an eight foot wide bike path with a 14' wide easement through the site along Beal Slough. This meets the requirements of the Land Subdivision Ordinance

The Public Works & Utilities Department reports:

Streets - Public Works had previously requested that access to Lots 1 and 2 be connected to Lots 3 - 6. This was not shown in the previously submitted application that was reviewed by the Planning Commission. Providing this connection would provide an alternate access to Lots 3 - 6 during storm events.

The driveway access to South 56th Street south of Beal Slough is too close to London Road to provide left turn ingress and egress at both this driveway and London Road. This driveway should be approved only for right turn in and out because of its location. The connection of the two areas of this development by an access road would provide the left turn access desirable for the medical offices. Otherwise commercial traffic from this development will use the residential street, London Road, to gain access north from this site. The right turn in and out access at this driveway needs to be acknowledged and shown if this development is to be approved.

PUBLIC SERVICE: The nearest fire station is located at S. 27th Street and Old Cheney Road

REGIONAL ISSUES: Increase in storm water run-off into Beal Slough.

ENVIRONMENTAL CONCERNS: The intrusion of land grading in order to locate buildings and parking lots on land that has steep slopes and wooded areas west and south of Beal Slough.

The Beal Slough Stormwater Master Plan was adopted by the City Council on June 5, 2000 and by the County Board on July 18, 2000 as an official component of the Comprehensive Plan. The Plan identifies water quality issues related to urbanization and includes capital cost elements to improve

water quality within the Basin. Parking lots tend to be associated with high pollutant loads. The Beal Slough Stormwater Master Plan notes that the range and average values for oil and grease within the Slough increases as the contributing drainage area increases. "There also appears to be a correlations with the presence of commercial and industrial land uses (i.e., parking lots)" (p. 39).

The Army Corps of Engineers issued a permit on January 4, 2000 for the construction of a road crossing over Beal Slough. They further state, "the project plans provided to this office show that there are no further impacts to wetlands or waterways under our jurisdiction, and therefore, a permit is not required."

The Lower Platte South Natural Resources District states, "the constructed wetlands designed to accommodate runoff from parking lots need to be designed showing the method of containment... The proposed constructed wetland east of office/medical Lot 3 should be designed to protect the shaped bank of Beal Slough directly adjacent to it."

AESTHETIC CONSIDERATIONS: Tree masses will be destroyed in order to locate the buildings south and west of Beal Slough.

ALTERNATIVE USES: Develop only the area along S. 56th Street east and north of Beal Slough.

ANALYSIS:

1. The Country Plaza Use Permit #131 is currently on City Council's pending list. If approved, this application will replace Use Permit #131 and these plans will supercede the previously submitted plans.
2. The private driveway has poor access to S. 56th Street due to its proximity to London Road. It is also wider than Waltz Place, which serves more parking spaces.
3. The Use Permit states "all grading shown... shall not reduce the existing 100 year flood plain storage capacity." The site plan shows constructed wetlands adjacent to parking lots.
4. When compared to the previous Use Permit #131, the revised Use Permit #138 reduces the amount of building coverage, preserves more of the tree mass, reduces the amount of impervious surface in the flood plain, provides better trail access and reduces the amount of grading in this sensitive area.

STAFF CONCLUSION:

The revised Use Permit provides an appropriate transition from the heavier commercial uses east and north of Beal Slough to the residential neighborhoods to the west and south.

STAFF RECOMMENDATION:

Conditional Approval

CONDITIONS:

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

- 1.1 Revise the site plan to show:
 - 1.1.1 Correct the arrows indicating building envelopes so that the building envelopes do not appear to lie within required yards.
 - 1.1.2 Remove the "limits of public access easement" labels and crosshatching from the parking areas. They contradict the statement in Note 4, which provides for public access over private roadways, drives, driving aisles, parking stalls and sidewalks.
 - 1.1.3 In Note 17, replace "is done" with "commences".
 - 1.1.4 In Note 19, change "NGVD" to "NAVD".
 - 1.1.5 Delete Note 23 and label the south driveway as right turn in and right turn out only.
 - 1.1.6 Correct the parking stall count numbers on the southern portion of the site.
 - 1.1.7 Orient the Vicinity Map so that north matches the site plan.
 - 1.1.8 Correct the orientation of the north arrow.
 - 1.1.9 In the title block, remove "A" from the Use Permit number and remove "First Addition".
 - 1.1.10 Change all references from "Use Permit 131A" to "Use Permit 138".
 - 1.1.11 On the Grading Plan Note 2, replace "bases" with "basis".
 - 1.1.12 On the Grading Plan Note 3, replace "is done" with "commences".
 - 1.1.13 On the Landscape Plan, replace Scotch Pine with a species less susceptible to Pine Wilt Disease. If the replacement has a design spread smaller than Scotch Pine, more additional trees may be required.

- 1.1.14 Show the method of containment used in the constructed wetlands as requested by the Lower Platte South NRD.
- 1.1.15 Reduce the width of the south Private Driveway to 24' 25'. (**Per Planning Commission, 04/04/01**)

2.1 This approval permits:

30,000 total square feet of floor area in 6 buildings.

A waiver to the private roadway design standards to allow 21' pavement width.

A waiver of the sidewalk requirements to allow sidewalks on only one side of the private roadways.

2.2 This approval voids and supercedes Resolution A-80486 - Use Permit 131; the site plan as approved with this resolution voids and supersedes all previously approved site plans.

General:

3. Before receiving building permits:

- 3.1 The permittee shall have submitted a revised and reproducible final plan and 5 copies to the Planning Department
- 3.2 The construction plans shall comply with the approved plans.
- 3.3 The City has approved the final plats.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:

- 4.1 Before occupying the buildings all development and construction shall have been completed in compliance with the approved plans.
- 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established owners association approved by the City Attorney.
- 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
- 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

4.5 The City Clerk shall file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.

Prepared by:

Jason Reynolds
Planner

**CHANGE OF ZONE NO. 3306
and
USE PERMIT NO. 138**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 4, 2001

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

Planning staff recommendation: Approval of the change of zone and conditional approval of the use permit.

Proponents

1. **Brian Carstens** appeared on behalf of **Bill Krein**, the applicant. About 7-8 months ago a similar use permit and special permit came before the Planning Commission. This application has been revised at the request of the City Council and now includes a plan on the west and south side of Beal Slough that is a little more sensitive to Beal Slough as well as the existing tree masses. Carstens requested that Condition #1.1.15 be amended, "Reduce the width of the south Private Driveway to 25'." (instead of 21'). The submittal had shown 27' and Carstens believes that staff will support 25'.

Comparing the previous application with the revised application, Carstens explained that they have basically deleted one building and saved the existing tree mass. The density on the south and west side of Beal Slough has been reduced.

Carlson inquired about impact on floodplain. Carstens advised that all grading is outside of the floodway. There will be no fill in the floodplain. They are not importing any fill. As far as the roadway over the channel, the applicant has a no net rise letter on that issue.

There was no testimony in opposition.

Staff questions

Hunter inquired about the staff conclusion that the proposal is inconsistent with the Land Use Plan but complies with the general concepts of the Comprehensive Plan. Is this recommended development in this area? Jason Reynolds of the Planning staff explained that the Land Use Map shows a different color coding indicating the type of land use generally recommended for the area. In this case, it showed urban residential and natural environmentally sensitive along the Beal Slough drainage corridor. The Comprehensive Plan states that there are other zoning criteria that can be used to analyze something that is not consistent with the Land Use map and that criteria is outlined in the staff analysis. Staff finds that this application is generally compatible with the zoning criteria and thus is then consistent with the principles of the Comprehensive Plan.

Steward observed that even on that finer point of protection of environmental conditions, it would be true that the urban residential might have proposed greater damage to the tree mass and ground coverage than this use. Reynolds agreed that it is certainly a possibility.

Reynolds indicated that the staff agrees with the proposed amendment to Condition #1.1.15.

Public hearing was closed.

CHANGE OF ZONE NO. 3306

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 4, 2001

Hunter moved approval, seconded by Krieser and carried 7-0: Carlson, Krieser, Hunter, Steward, Taylor, Newman and Schwinn voting 'yes'; Bayer and Duvall absent.

USE PERMIT NO. 138

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

April 4, 2001

Hunter moved approval, with conditions, with the amendment to Condition #1.1.15 as requested by the applicant, seconded by Steward.

Newman thinks she likes this better now. She didn't like it the first time around.

Carlson expressed appreciation to the developer for being sensitive to the tree masses and the sensitive area of Beal Slough. He believes this will probably work.

Motion to approve the Planning staff recommendation of conditional approval, with amendment to Condition #1.1.15, carried 7-0: Carlson, Krieser, Hunter, Steward, Taylor, Newman and Schwinn voting 'yes'; Bayer and Duvall absent.