

FACTSHEET

TITLE: CHANGE OF ZONE NO. 05010, from R-3 Residential District to O-3 Office Park District, requested by Engineering Design Consultants on behalf of Thompson Creek, LLC, on property generally located at South 56th Street and Thompson Creek Boulevard.

STAFF RECOMMENDATION: **Denial**

ASSOCIATED REQUESTS: Letter of Appeal to Conditions #1.1.8, #1.1.9 and #1.3 of Use Permit No. 141A (05R-67).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 03/02/05
Administrative Action: 03/02/05

RECOMMENDATION: **Approval** (7-2: Sunderman, Krieser, Taylor, Larson, Marvin, Pearson and Bills-Strand voting 'yes'; Carroll and Carlson voting 'no').

FINDINGS OF FACT:

1. This request for change of zone and the associated Use Permit No. 141A were heard at the same time before the Planning Commission.
2. This purpose of the proposed change of zone is to allow the associated amendment to Use Permit No. 141 to remove two residential lots from the Thompson Creek Community Unit Plan and add them to the Thompson Creek Use Permit as commercial lots.
3. The staff recommendation to **deny** this change of zone request is based upon the "Analysis" as set forth on p.3-4, concluding that the proposed change of zone does not in conformance with the Comprehensive Plan or the approved Thompson Creek Use Permit and Community Unit Plan. The existing zoning pattern was approved because it encouraged commercial uses clustered together rather than lined up along an arterial. This proposal would facilitate spreading the same amount of commercial floor area over a greater area and increase the length of commercial development along South 56th Street.
4. The applicant's testimony is found on p.5-6, including proposed amendments to the conditions of approval on the associated use permit amendment. The applicant indicated that this change is market driven.
5. There was no testimony in opposition.
6. The Planning Commission discussion with staff is found on p.7, and the response by the applicant is found on p.8.
7. On March 2, 2005, the majority of the Planning Commission disagreed with the staff recommendation and voted 7-2 to recommend **approval** (Carroll and Carlson dissenting).
8. On March 2, 2005, the Planning Commission also voted 7-2 to adopt Resolution No. PC-00905 approving Use Permit No. 141A; however, the Commission did not adopt the applicant's proposed amendments to the conditions of approval. The applicant has appealed the associated Use Permit No. 141A to the City Council (05R-67). Staff intends to submit a separate memo to City Council justifying the conditions being appealed.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: March 21, 2005

REVIEWED BY: _____

DATE: March 21, 2005

REFERENCE NUMBER: FS\CC\2005\CZ.05010

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for March 2, 2005 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #05010

PROPOSAL: Change the zoning from R-3 Residential to O-3 Office Park.

LOCATION: South 56th Street & Thompson Creek Boulevard

LAND AREA: 2.16 acres, more or less

CONCLUSION: This change of zone does not conform to the Comprehensive Plan or to the approved Thompson Creek Use Permit and CUP.

<u>RECOMMENDATION:</u>	Denial
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 7, Block 1 and Lot 1, Block 2, Thompson Creek, located in the NW 1/4 of Section 21 T9N R7E, Lancaster County, Nebraska.

EXISTING LAND USE AND ZONING:

Vacant; planned for multiple-family residential R-3 Residential

SURROUNDING LAND USE AND ZONING:

North:	Vacant	AG Agricultural
South:	platted single-family	R-3 Residential
East:	platted single-family attached	R-3 Residential
West:	plated multiple-family	R-3 Residential

ASSOCIATED APPLICATIONS: UP #141A, AA #05008 to SP #1930

HISTORY:

Sep 2004 Administrative Amendment #04053 to Use Permit #141 approved several site plan changes, including a revised parking lot layout, new easement over Outlot E, and revised land use table.

Jun 2004 Administrative Amendment #04044 to Use Permit #141 revised general site plan note 10.

Jan 2004 Administrative Amendment #04003 to Use Permit #141 corrected the dimensions of Lot 14, Block 3.

- Aug 2003 Administrative Amendment #03096 to Special Permit #1930 approved several site plan changes, including conversion of some lots from two-family to single-family, note revisions, and street name changes.
- Mar 2003 Final Plat #02046 Thompson Creek Addition approved.
- Jul 2002 Use Permit #141 approved 114,500 sq. ft. of office space, which included 37,000 sq. ft. of live/work office space and 16 dwelling units. Preliminary Plat #01015 approved Thompson Creek with 285 lots and 8 outlots. Special Permit #1930 approved Thompson Creek CUP with 352 dwelling units. Change of Zone #3338 changed the zoning designation of the CUP from AG Agricultural to R-3 Residential. Change of Zone #3339 changed the zoning designation of the Use Permit from AG Agricultural to O-3 Office Park. Annexation #01007 annexed the Thompson Creek development.
- Mar 1979 The zoning for this area was changed from A-A Rural and Public Use to AG Agricultural as part of the 1979 zoning update.

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Plan identifies this area as Urban Residential. (F 25) This site is identified as part of a Neighborhood Center. (F 41)

Guiding Principles applying to all Commerce Centers include:

Commerce Centers should develop as compact clusters or hubs with appropriate site design features to accommodate shared parking, ease of pedestrian movement, minimize impacts on adjacent areas, and possess a unique character.

Commerce Centers should generally contain a mix of land uses, including residential uses. Higher density residential uses should be included in and/or adjacent to all commerce centers.

Strip commercial development is discouraged. Commerce Centers should not develop in a linear strip along a roadway nor be completely auto oriented.

New or established commercial uses should not encroach upon, or expand into, existing neighborhoods.

The most intensive commercial uses, such as restaurants, car washes, grocery stores, gasoline/convenience stores and drive thru facilities should be located nearer to the major street or roadway and furthest from the residential area. (F 41, 42)

ANALYSIS:

1. This is a request to change the zoning from R-3 residential to O-3 Office Park on property already approved for 72 multiple-family dwelling units.
2. This proposal is in an area shown as Urban Residential in the Land Use Plan. The approval of the existing zoning was based upon the mixture of low and medium density residential around a common, dense commercial area.
3. The existing zoning pattern was approved along with a use permit because it encouraged commercial uses clustered together rather than lined up along an arterial. This proposal would facilitate spreading the same amount of commercial floor area over a greater area and increasing the length of commercial development along South 56th Street from 800' to 1,320'.

4. The Comprehensive Plan promotes compact development and efficient use of infrastructure, especially at the edges of Lincoln. The existing zoning pattern and approved plans succeed in meeting these objectives. Approval of this proposed change would undermine past and future attempts to follow the Comprehensive Plan's strategies for compact and efficient growth, mix of land uses, and discouraging strip commercial development.

Prepared by:

Greg Czaplewski
441-7620, gczaplewski@lincoln.ne.gov

Date: January 19, 2005

**Applicant
and
Owner:** Thompson Creek, LLC
3801 Union Drive, Suite 102
Lincoln, NE 68516
434.5650

Contact: Jason Thiellen
Engineering Design Consultants
2200 Fletcher Avenue, Suite 102
Lincoln, NE 68516
438.4014

**CHANGE OF ZONE NO. 05010
and
USE PERMIT NO. 141A,
AMENDMENT TO THOMPSON CREEK,**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 2, 2005

Members present: Sunderman, Krieser, Taylor, Larson, Carroll, Marvin, Carlson, Pearson and Bills-Strand.

Staff recommendation: Denial.

Ex Parte Communications: None.

Proponents

1. Jason Thiellen of Engineering Design Consultants, testified on behalf of the applicant, **Thompson Creek LLC**, which is proposing to amend the Thompson Creek use permit by adding two lots that are currently under the CUP and changing the zoning on those two lots from R-3 to O-3. After three years of marketing these lots as residential, they have determined that there is no interest for residential lots at this time. All of the existing lots in the commercial area or office area have been sold. This proposal adds just a little more than two acres to the use permit, bringing the total acreage for office use to 7.5 acres.

Thiellen went on to state that the applicant understands that the initial intent was not to have a strip mall look along S. 56th, and this was agreed upon before the uses to the south of this plat were known. At this time, there is a fire station adjacent to the plat. Thiellen does not believe that adding these two lots as office use will result in the strip mall commercial look that is undesired. The existing commercial/office area is not a strip mall look at all. It is a cluster of buildings. There are residential units past the fire station that are being built at this time. The developer is losing 72 residential lots by making this change.

Thiellen then addressed the conditions of approval and advised that the 12" water main in Union Drive and the 8" water main in S. 56th Street will fulfill Conditions #1.1.1, #1.1.2 and #1.1.4. There is also sanitary sewer in S. 57th Street, which will be extended and provide the sewer in relation to Condition #1.1.4.

Condition #1.1.7 requires sidewalks along both sides of So. 57th Street with connections to the commercial lots. Thiellen pointed out that sidewalks were not originally required for S. 57th Street; however, the developer will not object to constructing the sidewalks.

Condition #1.1.8 requires paving in South 57th Street to be 33' wide. Thiellen does not believe that this was ever a requirement and it is not a design standard. Therefore, he requested that Condition #1.1.8 be deleted.

Likewise, Condition #1.1.9 requires angle parking along South 57th Street. Angle parking was never required with the previous amendment and it is not a design standard. Therefore, Thiellen requested that Condition #1.1.9 be deleted.

Thiellen advised that they do have the right-of-way or easement for the turn lanes required by Condition #1.1.10.

Thiellen requested that Condition #1.3 be deleted, which requires a traffic study. This proposal reduces the total amount of use for this area that the original traffic study envisioned. In fact, the proposed uses will decrease the traffic. Therefore, Thiellen does not believe there is an additional need for a traffic study.

With regard to Comprehensive Plan conformance, Thiellen suggested that the Comprehensive Plan is a working document much like development. It needs to be flexible and subject to change when the situation calls for it. This is one of those situations. The applicant needs some flexibility because they cannot make the original intent of the development work due to market demands.

Bills-Strand inquired whether the four buildings have employees. Thiellen stated that they do not. Those four buildings were just platted a few months ago. One building is under construction at this time.

Bills-Strand clarified that the two areas the applicant is seeking to change would be along an arterial and are not the most desirable for single family use. Thiellen agreed, adding that he did receive a phone call from the west residential property owner and she was not opposed to the new use.

Carroll noted that there are residential lots to the east of Block 1, Lot 7. Are those built? Thiellen advised that they have not been built upon at this time.

2. Bob Lewis of Hampton Development, the applicant, reiterated that this development sits on 80 acres. There are some elements of new urbanism that the developer has been trying to incorporate into this development over the past three years. They have come back to Planning numerous times with changes in the lot sizes for the residential and some changes on the commercial. The approved O-3 area has been replatted. These two lots do abut S. 56th Street. All of the infrastructure conditions that are required can be met. This request is market driven. There has been no interest in additional multi-family residential over the last three years in this area, but there has been interest in commercial.

Lewis noted that staff is concerned about strip development along 56th Street, but at the time of the original approval, the property to the south was not developed. There is a 60' wide LES easement directly south that will have a future bike trail to serve the school, and south of that is a platted property owned by the City for a future fire station. The use across the street is owned by Lincoln Housing Authority. This proposal for additional commercial area does not encroach on any new neighbors.

Bills-Strand clarified that the Campbell property adjoins to the north. Lewis concurred and believes that Campbells will continue to use the garden center as a commercial use. There is a connection to the north at Cross Creek Drive. Immediately abutting Campbells is a commercial development on the east side of Cross Creek and a required detention structure on the west side.

There was no testimony in opposition.

Staff questions

Considering that So. 56th Street will at some point become a connector to the beltway, Marvin assumes it would be a main thoroughfare at that point. Which is more viable at that point – apartments or commercial along 56th Street? Greg Czaplewski of Planning staff suggested that the apartments that have been shown there work better with this plan and work well along 56th St. Single family is probably not appropriate along 56th, but these were apartments and were a good use between a major arterial and single family to the east.

Taylor inquired as to the reason for the staff recommendation of denial. Czaplewski suggested that it goes back to the original plan and the new urbanism element they were trying to incorporate -- with a compact density populated area, alley ways and rear loaded lots in the single family lots all combined together to make this development as unique as it is. They are chipping away at the new urbanism elements by putting the commercial along 56th Street, which would not seem to conform to the Comprehensive Plan. The staff is more interested in the plan that was originally approved.

Taylor inquired about the need for the traffic study. Czaplewski noted that the drawings show a drive-thru facility of some kind. That use has prompted the interest in a revised traffic study. Dennis Bartels of Public Works & Utilities acknowledged that a local traffic study was done with the initial development of the commercial area. The drive-up facility was noted on this proposal, presumably a bank, and the traffic study did not show that kind of intense use at that location. At this point, he does not know whether it will show more or less traffic, but since they were required to submit a traffic study with the original application, Public Works is requesting they revise the traffic study to conform to the application as submitted.

Carlson confirmed that this proposal does not increase the amount of square footage for commercial uses. Czaplewski concurred. From a planning perspective, Carlson inquired as to the advantage of this proposal. He knows that it gains more parking spots, but what's the advantage of using this land by spreading out the commercial? Czaplewski believes that the reason they did not ask for an increase is because they had surplus for what has not been built. They do not have anywhere to put it in their commercial area as proposed. Czaplewski suggested that keeping that commercial area more compact and putting that additional square footage into that commercial area would probably be a better decision.

Bills-Strand questioned the 33' wide paving requirement on S. 57th Street. Bartels advised that the design standards do not specifically address commercial streets, but 33' is the minimum size for a public street in a commercial area. There were no public or private streets to the commercial area in the initial application. It was all one lot and they decided to get a public water main, changed it and put a private street in here. A second amendment moved some lots around, and now we have a third amendment showing private and public streets. The right angle parking stalls off a 26' wide street

would require using the entire roadway width to back out of the parking stalls. This would not be allowed on a 26' wide street. They are showing it as a private street connecting to two through streets so the public will have the right to drive through there and it should be made a safe public street.

Response by the Applicant

Bob Lewis stated that they are keeping the same commercial square footage in exchange for the loss of two lots that they could potentially market and sell as multi-family units. That was a decision that was made by the developer in-house based on the time/value of money and how long they wanted to sit on those two empty lots versus the transfer to the use permit.

Lewis also commented that the traffic study was originally done with 4.2 acres approved for 55,000 sq. ft. When they got to the point of marketing the units and laying them out to sell the property, the buyers came back and said they have to have five parking stalls per 1,000 sq. ft. That is the market. That is how they came to the lesser square footage. They could not fit the square footage on 4.2 acres.

Lewis also pointed out that this is an office complex zoned O-3. To meet the design standards to serve this with public water, they had to have a private roadway that allowed the city to get in to maintain the water main. In addition, they had to put in private water, at a cost of \$50,000 to put in a meter house. So the developer elected not to do that.

With regard to the paving width (33' versus 26'), Lewis stated that the developer wants new urbanism and they want cluster, and now the city is wanting more paving and wider streets. This developer is trying to be as dense as possible with the 26' wide private roadway to try to maximize the property. It was all a market decision.

Thiellen added that a smaller street with parking up against it always gets people to slow down and makes it a safer environment. The developer is opposed to the 33' in order to keep the traffic movement safe. Thiellen also pointed out that the developer did advise Planning of the developer's intentions with this piece when they came forward with the first amendment. They knew staff was going to oppose it, but the developer has been very up front about this plan. Lewis added that when they determined they could not get the square footage, they advised the staff that they would be coming back for this proposal.

Thiellen advised that the drive-thru lot is a concept only, which can be removed if it is a problem. Lewis pointed out that the drive-through could have been done on the original plan.

CHANGE OF ZONE NO. 05010

ACTION BY PLANNING COMMISSION:

March 2, 2005

Larson moved approval, seconded by Bills-Strand.

Larson commented that they are taking two lots that are marginally acceptable as residential and using already allocated office space. There is no chance that it is going to spread further, so he thinks it is natural and should be approved.

Bills-Strand believes that there is a need to allow the Comprehensive Plan to change with market demands because it is hard to predict the market 20 years from now.

Carlson believes this is a tough decision because the Comprehensive Plan does call to encourage new urbanism. The officials are pleased when a developer brings in something that shows those concepts, and then they make a market decision to go a different way later, which makes it tough.

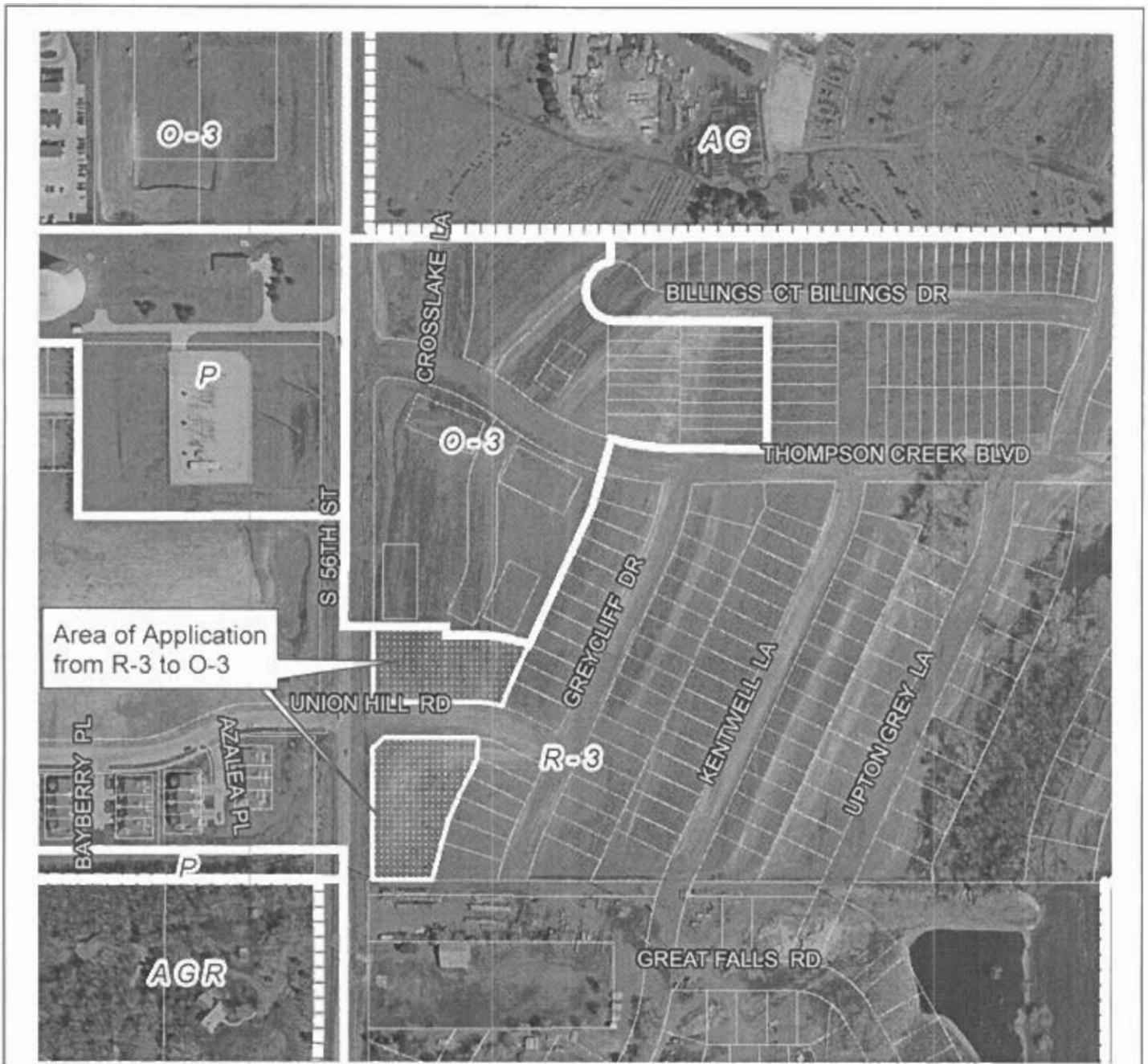
Motion for approval carried 7-2: Sunderman, Krieser, Taylor, Larson, Marvin, Pearson and Bills-Strand voting 'yes'; Carroll and Carlson voting 'no'. This is a recommendation to the City Council.

USE PERMIT NO. 141A

ACTION BY PLANNING COMMISSION:

March 2, 2005

Larson moved approval, with conditions as set forth in the staff report, seconded by Krieser and carried 7-2: Sunderman, Krieser, Taylor, Larson, Marvin, Pearson and Bills-Strand voting 'yes'; Carroll and Carlson voting 'no'. This is final action, unless appealed to the City Council within 14 days.



2002 aerial

Change of Zone #05010 S. 56th & Union Hill Rd.

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation 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. 21 T9N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction

