



Introduce: 10-13-08

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Change of Zone 08041

ORDINANCE NO. 19168

1 AN ORDINANCE amending the Lincoln Zoning District Maps attached to and made a
2 part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln
3 Municipal Code, by changing the boundaries of the districts established and shown thereon.

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

5 Section 1. That the "Lincoln Zoning District Maps" attached to and made a part of Title
6 27 of the Lincoln Municipal Code be and they are hereby amended by changing the boundaries
7 of the districts established and shown on said Maps as follows:

8 Lot 64 and 66 Irregular Tracts, located in the Northeast Quarter of
9 Section 21, Township 9 North, Range 7 East of the 6th P.M.,
10 Lancaster County, Nebraska,

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

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

CRS:ESL Per

1 1. This approval permits 11 dwelling units and 53,000 square feet of commercial
2 floor area with an adjustment to the required minimum lot area in the R-3 Residential District
3 from 5,000 square feet to 4,300 square feet.

4 2. The City Council must approved the associated request, Annexation 08006.

5 3. Before receiving building permits or before a final plat is approved, the Permittee
6 shall cause to be prepared and submitted to the Planning Department a revised and
7 reproducible final plot plan including 5 copies showing the revisions listed below.

8 a. Label both intersections of South 69th Street/Pine Lake Road and the
9 south driveway onto South 70th Street as "FUTURE RIGHT-IN/RIGHT
10 OUT ACCESS ONLY."

11 b. Label the driveway onto South 70th Street as "TEMPORARY", and revise
12 General Note #5 to include the following sentence: "THE TEMPORARY
13 DRIVEWAY ONTO SOUTH 70TH STREET TO BE REMOVED AT SUCH
14 TIME AS SOUTH 69TH STREET IS EXTENDED TO THE SOUTH OF
15 THIS PROPERTY AND THE INTERSECTION OF SOUTH 70TH STREET
16 AND REVERE LANE IS CONSTRUCTED."

17 c. Extend the driveway from South 69th Street to the west property line and
18 indicate that a public access easement will be granted with the final plat
19 of this property.

20 d. Revise General Note #2 to state "MAXIMUM OF 53,000 SQUARE FEET
21 OF COMMERCIAL FLOOR AREA ALLOWED. CONVENIENCE
22 STORE/GAS STATION, FAST FOOD RESTAURANT WITH DRIVE-
23 THROUGH FACILITY, AND BANK WITH DRIVE-THROUGH FACILITY
24 ARE PROHIBITED. COMMERCIAL LAND USES ARE LIMITED TO A
25 MAXIMUM OF 23,000 SQUARE FEET OF RETAIL AND 10,000
26 SQUARE FEET OF MEDICAL OFFICE.

27 e. Revise the floor areas inside the building envelopes to reflect the
28 maximum allowed floor areas in General Note #2.

29 f. Add easements per the LES review.

30 g. Revise General Note #11 to include the following sentence: "SIDEWALKS
31 IN THE COMMERCIAL AREA TO OTHERWISE BE PROVIDED IN
32 COMPLIANCE WITH CHAPTER 3.105 OF THE DESIGN STANDARDS."

33 h. Revise General Note #20 to state "STREET TREE PLAN SHALL BE
34 SUBMITTED AT HE TIME OF FINAL PLAT, AND INDIVIDUAL
35 LANDSCAPE PLANS TO BE SUBMITTED AT THE TIME OF BUILDING
36 PERMIT, ALL IN COMPLIANCE WITH LINCOLN MUNICIPAL CODE
37 AND DESIGN STANDARDS. LANDSCAPING AND SCREENING IN

1 THE COMMERCIAL AREA TO BE PROVIDED CONSISTENT WITH THE
2 REQUIREMENTS FOR THE B-2 ZONING DISTRICT.

- 3 i. Show additional right-of-way and turn lanes in Pine Lake Road and South
4 70th Street as required by Public Works.
- 5 j. Show all revisions/comply with all requirements noted in the reviews of
6 Public Works Engineering Services and Watershed Management.

7 4. Before receiving building permits:

- 8 a. The construction plans substantially comply with the approved plans.
- 9 b. Provide documentation from the Register of Deeds that the letter of
10 acceptance as required by the approval of the planned unit development
11 has been recorded.
- 12 c. Final plats within the area of this PUD must be approved by the City.

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14 If any final plat on all or a portion of the approved planned unit
15 development is submitted five (5) years or more after the approval of the
16 planned unit development, the city may require that a new planned unit
17 development be submitted, pursuant to all the provisions of section
18 26.31.015. A new planned unit development may be required if the
19 subdivision ordinance, the design standards, or the required
20 improvements have been amended by the city; and as a result, the
21 planned unit development as originally approved does not comply with
22 the amended rules and regulations.

23 Before the approval of a final plat, the public streets, private roadway
24 improvements, sidewalks, public sanitary sewer system, public water
25 system, drainage facilities, land preparation and grading, sediment and
26 erosions control measures, storm water detention/retention facilities,
27 drainageway improvements, street lights, landscaping screens, street
28 trees, temporary turnaround and barricades, and street name signs, must
29 be completed or provisions (bond, escrow or security agreement) to
30 guarantee completion must be approved by the City Law Department.
31 The improvements must be completed in conformance with adopted
32 design standards and within the time period specified in the Land
33 Subdivision Ordinance. **A cash contribution to the City in lieu of a
34 bond, escrow, or security agreement may be furnished for sidewalks
35 and street trees along major streets that have not been improved to
36 an urban cross section. A cash contribution to the City in lieu of a
37 bond, escrow, or security agreement may be furnished for street
38 trees on a final plat with 10 or fewer lots.**

- 39 d. Permittee shall enter into a Subdivision Agreement with the City wherein
40 Permittee, as Subdivider, agrees:

- 41 i. To complete the street paving of public streets and temporary
42 turnarounds and barricades located at the temporary dead-end of

- 1 the streets shown on the final plat within two (2) years following
2 the approval of the final plat.
- 3 ii. To complete the paving of private roadway shown on the final plat
4 within two (2) years following the approval of this final plat.
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- 6 iii. To complete the installation of sidewalks along both sides of the
7 streets and private roadways as shown on the final plat within four
8 (4) years following the approval of the final plat.
- 9 iv. To complete the public water distribution system to serve this plat
10 within two (2) years following the approval of the final plat.
- 11 v. To complete the public wastewater collection system to serve this
12 plat within two (2) years following the approval of the final plat.
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- 14 vi. To complete the enclosed public drainage facilities shown on the
15 approved drainage study to serve this plat within two (2) years
16 following the approval of the final plat.
- 17 vii. To complete the enclosed private drainage facilities shown on the
18 approved drainage study to serve this plat within two (2) years
19 following the approval of the final plat.
- 20 viii. To complete land preparation including storm water
21 detention/retention facilities and open drainageway improvements
22 to serve this plat prior to the installation of utilities and
23 improvements but not more than two (2) years following the
24 approval of the final plat
- 25 ix. To complete the installation of public street lights within two (2)
26 years following the approval of the final plat.
- 27 x. To complete the installation of private street lights within this plat
28 within two (2) years following the approval of the final plat.
- 29 xi. To complete the planting of the street trees within four (4) years
30 following the approval of the final plat.
- 31 xii. To complete the installation of the street name signs within two (2)
32 years following the approval of the final plat.
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- 34 xiii. To complete the installation of the permanent markers prior to
35 construction on or conveyance of any lot in the plat.
- 36 xiv. To complete any other public or private improvement or facility
37 required by Chapter 26.23 (Development Standards) of the Land
38 Subdivision Ordinance in a timely manner which inadvertently may
39 have been omitted from the above list of required improvements.

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- xv. To submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
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- xvi. To comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
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- xvii. To complete the public and private improvements shown on the Planned Unit Development
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- xviii. To keep taxes and special assessments on the outlots from becoming delinquent.
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- xix. To maintain the outlots and private improvements in a condition as near as practical to the original construction on a permanent and continuous basis.
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- xx. To maintain the street trees along the private roadways on a permanent and continuous basis.
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- xxi. To maintain and supervise the private facilities which have common use or benefit in a condition as near as practical to the original construction on a permanent and continuous basis, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development and that these are the responsibility of the land owner.
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- xxii. To retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Subdivider may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:
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- (1) Subdivider shall not be relieved of Subdivider's maintenance obligation for each specific private improvement until a register professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.
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- (2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and

1 approved by the City Attorney and filed of record with the
2 Register of Deeds.

3 xxiii. To pay all design, engineering, labor, material, inspection, and
4 other improvement costs except those cost the City Council
5 specifically subsidizes as follow:

6 xxiv. To inform all purchasers and users that the land is located within
7 the 100 year floodplain and that the grading of the lots and outlots
8 shall be in conformance with the grading plan approved with the
9 PUD or as amended by the Director of Planning. The volume of
10 fill material brought into each lot and outlot from outside the
11 floodplain shall not exceed that shown on the approved grading
12 plan accompanying the PUD.

13 xxv. To protect the trees that are indicated to remain during
14 construction and development.

15 xxvi. To relinquish the right of direct vehicular access to Pine Lake
16 Road and South 70th Street except as shown.
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18 5. Before occupying the dwelling units/buildings all development and construction is
19 to substantially comply with the approved plans.

20 6. All privately-owned improvements shall be permanently maintained by the
21 Permittee or an appropriately established property owners association approved by the City
22 Attorney.

23 7. The physical location of all setbacks and yards, buildings, parking and circulation
24 elements, and similar matters must be in substantial compliance with the location of said items
25 as shown on the approved site plan.

26 8. The terms, conditions, and requirements of this ordinance shall run with the land
27 and be binding upon the Permittee, its successors and assigns.

28 9. The Permittee shall sign and return the letter of acceptance to the City Clerk
29 within 60 days following the approval of the change of zone, provided, however, said 60-day
30 period may be extended up to six months by administrative amendment. The clerk shall file a
31 copy of the ordinance approving the change of zone and the letter of acceptance with the
32 Register of Deeds, filling fees therefor to be paid in advance by the Permittee.

1 Section 3. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall
2 be posted on the official bulletin board of the City in lieu of and in place of newspaper
3 publication with notice of passage and such posting to be given by publication one time in the
4 official newspaper by the City Clerk. This ordinance shall take effect and be in force from and
5 after its passage and publication as herein and in the City Charter provided.

Introduced by:

Jon A. Camp

Approved as to Form & Legality:

John V. Hendry
City Attorney

AYES: Camp, Cook, Emery,
Marvin, Spatz, Svoboda; NAYS:
None; ABSENT: Eschliman.

PASSED
OCT 27 2008
BY CITY COUNCIL

Approved this 31 day of Oct, 2008:
[Signature]
Mayor

LETTER OF ACCEPTANCE

City of Lincoln
Lincoln, Nebraska

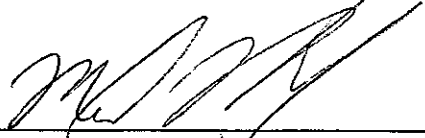
RE: **Change of Zone 08041**

To The City Clerk:

The undersigned, "Permittee" under **Change of Zone 08041** granted by **Ordinance 19168**, passed by the City Council of the City of Lincoln, Nebraska, on **October 27, 2008**, hereby files this Letter of Acceptance and certifies to the City of Lincoln that the Permittee is fully aware of and understands all the conditions of said Resolution and that Permittee consents to and agrees to comply with the same.

Permittee further certifies that the person whose signature appears below has the authority to bind Permittee to the terms and conditions of this Letter of Acceptance, including Permittee's financial obligations under said Change of Zone.

Dated this 10 day of November, 2008.


_____, Permittee

By: Michael Marsh
Title: CEO of Realty Trust Group

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, an individual.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, general partner of _____, a Nebraska general partnership.

Notary Public

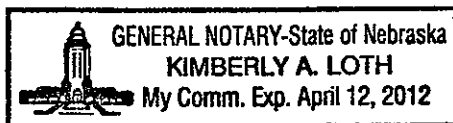
STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, Member, on behalf of _____, a Nebraska limited liability company.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 10th day of November, 2008, by Michael Marsh, President CEO of Realty Trust Group, a Nebraska corporation.



Kimberly A. Loth
Notary Public

C E R T I F I C A T E

I, Teresa J. Meier, Deputy City Clerk of the City of Lincoln, Nebraska, do certify that the above & foregoing is a true & correct copy of Ordinance #19168 -Change of Zone 08041 - Application of Realty Trust Group for a change of zone from AGR Agricultural Residential District to R-3 Residential District PUD and for approval of a development plan for modifications to the Zoning and Land Subdivision Ordinances to develop approximately 11 dwelling units and approximately 53,000 square feet of office, retail and/or commercial floor area on property generally located at South 70th Street and Pine Lake Road, as the original appears of record in my office, & is now in my charge remaining as City Clerk aforesaid.

IN WITNESS WHEREOF, I have hereunto set my hand officially & affixed the seal of the City of Lincoln, Nebraska, this 3rd day of November, 2008.

Teresa J. Meier
Deputy City Clerk

