



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Plan Commission

FROM: Paul Lindahl, Planner I

DATE: June 29, 2006

SUBJECT: Plan Case 1998-M-06: A request to rezone a part of the Stone Creek Commons office park development from R-4, Medium Density Multiple Family Residential to B-3, General Business.

Introduction

This case is a request by The Atkins Group, LLC to rezone a 3.6 acre part of the Stone Creek Commons office park development from R-4, Medium Density Multiple Family Residential to B-3, General Business. Stone Creek Commons is a 40 acre tract of land located east and south of the intersection of Philo and Windsor Roads. This rezoning will essentially move an existing B-3/R-4 zoning boundary southwards to conform to the south side of the future Boulder Drive right of way where it will connect to Philo Road. The area proposed for rezoning is distant from any residential land uses (See attached maps)

The petitioners intend to develop the area immediately southeast of Windsor and Philo Roads as “The Pines at Stone Creek Commons” shopping center. The Pines will contain a mix of upscale commercial uses such as shops and restaurants to serve the city and nearby neighborhoods. The subject property would comprise the south end of the intended Pines shopping center. This property is closer to the intersection of Philo Road and Windsor road than the majority of the R-4 zoned areas in Stone Creek Commons to the south and east. Due to the future configuration of Boulder Drive the property is more logically a component part of the Pines commercial development on the B-3 zoned property than the R-4 zoned property. (See Exhibits “B” and “C”)

Background

In April 1997, the Urbana City Council approved an amended annexation and development agreement with the Atkins Group that included the area proposed to be rezoned. The agreement was primarily directed toward the Stone Creek golf course development but it also addressed zoning, storm water detention, and other issues related to the 40 acre area that was then known as “the Rose Tract” and which is now called Stone Creek Commons.

Zoning was an issue of special concern for Stone Creek Commons. The property has split zoning with B-3 in the north part and R-4 on the south part. The split in zoning was a deliberate part of the annexation and development agreement that brought Stone Creek Commons into the city and was

intended to create a transition from higher intensity commercial uses in the northwest corner near Philo and Windsor roads and low intensity office uses to the south and east which were closer to the existing residential subdivisions of Myra Ridge and Deerfield Trails.

The following is an excerpt from the text of the Annexation and Development Agreement approved by Council Ordinance 9697-86.

*Article III - Representations and Obligations of the Corporate Authorities –
Section 2. - Zoning and Zoning Approvals.*

“In as much as the Rosewood and associated developments are to be developed in the manner of a planned unit development pursuant to the authority of Section XI-14, the application of Section V-3 governing multiple buildings on a single lot of the Urbana Zoning Ordinance is hereby modified and the Corporate Authorities grant approvals for multiple buildings on a single lot in the areas to be zoned R-4 Medium Density Multiple Family Residential, R-5 Medium High Density Multiple Family Residential and B-3 General Business. In addition, the Corporate Authorities grant approval for what would otherwise be classified as special or conditional uses for the following uses:

(a) In the area to be zoned R-4 Medium Density Multiple Family Residential, the following uses are hereby approved: Residential Planned Unit Development, Professional and Business Office, and Private Kindergarten or Day Care Facility;

(b) In the area to be zoned R-5 Medium High Density Multiple Family Residential, the following uses are hereby approved: Private Kindergarten or Day Care Facility; and

(c) In the area to be zoned B-3 General Business, the following uses are hereby approved: Convenience Shopping Center/Commercial PUD, General Shopping Center/Commercial PUD and Private Kindergarten or Day Care Facility.

These provisions make it clear that while the area under consideration for rezoning could include multifamily residential uses by right under R-4 zoning, it was also considered appropriate for professional and business office uses in a business park type setting. This demonstrates the land at this location was always intended for business uses rather than residential uses.

Current Zoning: R-4, Medium Density Multiple Family Residential

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the R-4, Medium Density Multiple Family Residential Zoning District is as follows:

“The R-4, Medium Density Multiple-Family Residential District is intended to provide areas for multiple-family dwellings at low and medium densities.”

See the attached exhibit “H” for further details on uses and regulations of the R-4 district.

Proposed Zoning: B-3, General Business

According to Section IV-2 of the Zoning Ordinance, the purpose and intent of the B-3, General Business

Zoning District is as follows:

“The B-3, General Business District is intended to provide areas for a range of commercial uses wider than that of Neighborhood Business but at a lower intensity than Central Business, meeting the general business needs of the City.”

See the attached exhibit “I” for further details on uses and regulations of the B-3 district.

Adjacent Land Uses and Zoning Designations

This area is part of southeast Urbana that is developing a mix of residential and commercial uses. The majority of the Stone Creek Commons area is currently vacant but will eventually develop to the south and east. Further north across Windsor Road is vacant land owned by Meijer Inc. which is also zoned B-3, General Business. To the west is the University of Illinois Pomology agricultural research farm. In the event the university sells or leases the land for development the Urbana Comprehensive Plan designates the area for a future land use of mixed residential development and with community business at the southwest corner of Philo and Windsor Roads.

Zoning and Land Use Table

The following is a summary of surrounding zoning and land uses for the subject site:

Location	Zoning	Existing Land Use	2005 Comprehensive Plan – Future Land Use
Subject Property	R-4, Medium Density Multiple-Family Residential	Vacant	Office
North	B-3, General Business	Vacant	Community Business
South	R-4, Medium Density Multiple-Family Residential	Vacant	Office
East	R-4, Medium Density Multiple-Family Residential	Open space and office	Office
West	County AG-2 Agriculture	Agriculture / Institutional	Mixed Residential Suburban Pattern

Issues and Discussion

2005 Comprehensive Plan

The Urbana 2005 Comprehensive Plan, Map #13 and #14, show the area of the property with two different Future Land Use designations: Community Business and Office. (See Exhibit “D”) The area on the map at the corner of Windsor and Philo Roads shown as Community Business is intended to be a general indication of what development is expected in the area without delineating an exact land use boundary. Both designations are generally compatible with the proposed B-3, General Business zoning. The proposed B-3 zoning will offer the most flexibility to the developer for commercial uses at this location. It is likely both the public and the property owner will be better served by the higher value of

the property under the proposed B-3 zoning. In summary, the proposed rezoning would be generally consistent with the overall goals and intent of the 2005 Comprehensive Plan.

Consideration

The petitioner is requesting rezoning of 3.6 acres to B-3 General Business to conform to the southern boundary of a proposed subdivision called the Pines at Stone Creek Commons which will be heard at the same hearing as this case. The developers propose a mixed use commercial development on this property. B-3 zoning has the closest fit to match the petitioners goals, the Comprehensive Plan Future Land Use designation, and the function of the property as it relates to the important intersection of Philo and Windsor Roads.

In considering the zoning map amendment for the subject property, the Plan Commission must consider effects upon the public health, safety, comfort, morals and general welfare of the community. The City's 2005 Comprehensive Plan and zoning law decisions in the Illinois Courts provide a framework for this consideration.

Comprehensive Plan Goals, Objectives and Policies

The proposed Zoning Amendment should be considered in light of other goals, objectives and policies contained in the 2005 Comprehensive Plan. The following objectives of the 2005 Urbana Comprehensive Plan relate to this case:

Goal 16.0 Ensure that new land uses are compatible with and enhance the existing community.

Objectives

16.1 Encourage a mix of land use types to achieve a balanced growing community.

Goal 17.0 Minimize incompatible land uses.

Objectives

17.1 Establish logical locations for land use types and mixes, minimizing potentially incompatible interfaces, such as industrial uses near residential areas.

17.2 Where land use incompatibilities exist, promote development and design controls to minimize concerns.

Goal 25.0 Create additional commercial areas to strengthen the City's tax base and service base.

Objectives

25.2 Promote new commercial areas that are convenient to existing and future neighborhoods.

25.4 Find new locations for commercial uses and enhance existing locations so Urbana residents can fulfill their commercial and service needs locally.

Goal 28.0 Develop a diversified and broad, stable tax base.

Objectives

28.6 Increase the allocation of land devoted to tax-generating commercial uses in appropriate locations.

Goal 49.0 Avoid development patterns that can potentially create an over-dependency on the automobile.

Objectives

49.2 Increase land use densities to promote availability of transit service and walkability.

Rezoning Criteria

In the case of *La Salle National Bank of Chicago v. County of Cook* (the “La Salle” case), the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed by the Petitioner.

1. *The existing land uses and zoning of nearby property.*

This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.

The change from the R-4 to B-3 zoning district designation will better recognize the long standing plans for a separation of commercial and office park uses to the north and south of Boulder Drive. It would also be consistent with the B-3 zoning designation of the property to the north, and would not impact the R-4 zoned property to the south.

2. *The extent to which property values are diminished by the restrictions of the ordinance.*

This is the difference in the value of the property as R-4, Medium Density Multiple-Family Residential and the value it would have if it were rezoned to B-3, General Business to permit the proposed use.

The petitioners propose to create a mixed use general business project at the southeast corner of Windsor and Philo Roads. The project will benefit from the expansion into the 3.6 acre area proposed to be rezoned. The value of the existing B-3 area and the added area proposed to be rezoned will be enhanced by their combination into a larger area with more flexible B-3 zoning.

It should be noted that City Planning Division staff are not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact of zoning on the value of the property. Therefore, any discussion pertaining to specific property values should be considered speculative.

3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public.*

4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*

The question here applies to the current zoning restrictions: do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?

There is no advantage to the public welfare created by the current R-4 zoning of the subject property. In addition, both the public and the property owner will be better served by the higher value of the property under the proposed B-3 zoning.

5. *The suitability of the subject property for the zoned purposes.*

The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.

The site is located at the intersection of two major roadways and is within walking distance of several growing residential subdivisions. With the B-3 zoning, the subject property will have the same zoning as the rest of the Pines mixed use commercial development extending southward from the corner of Philo and Windsor Roads. This type of commercial property is best served by the flexibility in different land uses permitted by the B-3 zoning designation. In addition, the planned route of Boulder Drive and the existing drainage lake offer a natural southern border for the extent of B-3 commercial zoning.

6. *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.*

Another test of the validity of the current zoning district is whether it can be shown that the property has remained vacant for a significant period of time because of restrictions in that zoning district.

The petitioners have made no claim that the subject property has remained vacant due to the restrictions of the current R-4 zoning.

Summary of Staff Findings

1. The proposed B-3, General Business zoning district for the subject site is generally consistent with the overall goals and intent of the 2005 Comprehensive Plan as well as the Future Land Use designation for the area.
2. The location of the site in close proximity to the major intersection of Windsor and Philo Roads in south Urbana makes it appropriate for rezoning to the B-3, General Business zoning district. The proposed zoning would also be consistent with the B-3 zoning designation of the property immediately to the north.
3. The rezoning complies with the intent of the land use provisions of the annexation agreement that brought Stone Creek Commons into the city.
4. The petitioner's request would allow for an upscale commercial development proposal to proceed which would be generally compatible with city goals for development in the vicinity.
5. The proposed rezoning appears to generally meet the LaSalle Case criteria.

Options

The Plan Commission has the following options for recommendations to the City Council. In Plan Case 1998-M-06, the Plan Commission may:

- a. Forward this case to City Council with a recommendation for approval of the request to rezone the subject property from R-4, Medium Density Multiple Family Residential to B-3, General Business.
- b. Forward this case to City Council with a recommendation for denial of the request to rezone the subject property from R-4, Medium Density Multiple Family Residential to B-3, General Business.

Staff Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Plan Commission forward Plan Case No. 1998-M-06 to the Urbana City Council with a recommendation for **APPROVAL**.

Attachments: Common Exhibit Packet for the Pines at Stone Creek Commons Plan Cases:
1998-M-06, Stone Creek Commons Rezoning
2003-S-06, Preliminary and Final Plat of The Pines at Stone Creek Commons

Cc:

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Common Exhibit Packet

The Pines at Stone Creek Commons

Plan Cases:

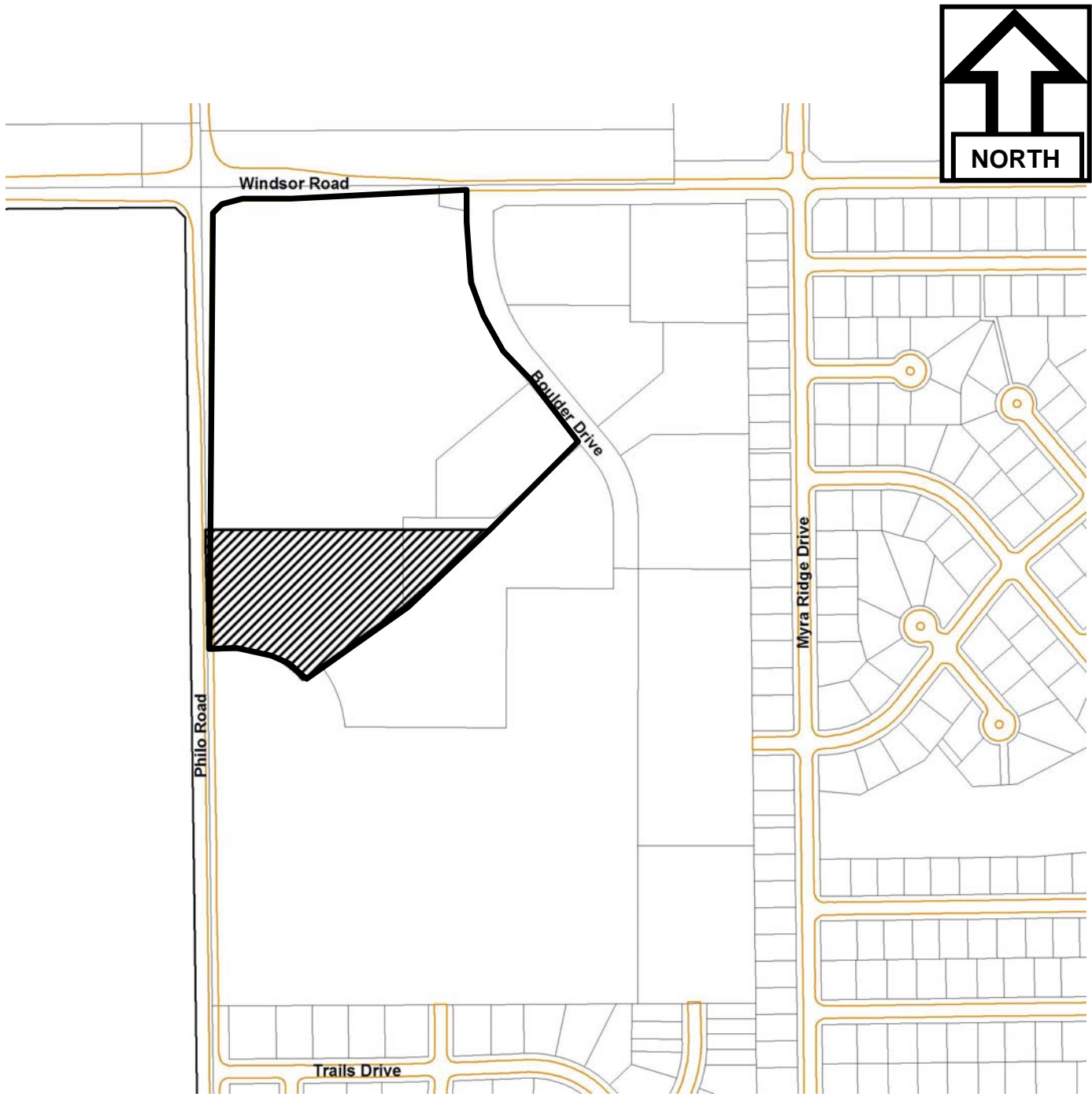
1998-M-06, Stone Creek Commons - Rezoning

2005-S-06, The Pines at Stone Creek Commons Subdivision
– Preliminary and Final Plat

- A: Location Map
- B: Zoning Map
- C: Existing Land Use and Aerial Photo Map
- D: Future Land Use Map
- E: Petition for Plat of Major Subdivision
- F: Petition for Rezoning
- G: Rezoning Neighbor Notice Letter and Mailing List
- H: R-4, Medium Density Multiple Family Residential zoning description sheet
- I: B-3, General Business zoning description sheet
- J: Proposed Preliminary and Final Plat of The Pines Subdivision
- K: The Pines Conceptual Site Plan

Location

EXHIBIT "A"



Plan Case: 1998-M-06 – Rezoning
2005-S-06, The Pine Subdivision
Petitioner: Atkins Group
Location: 2900 block South Philo Road – Stone Creek Commons
Subject: Rezone from R-4, Medium Density Multiple Family Residential to B-3, General Business

Existing Zoning:
R-4, Medium Density Multiple Family Residential
Prepared 6/26/06 by Community Development Services - pal



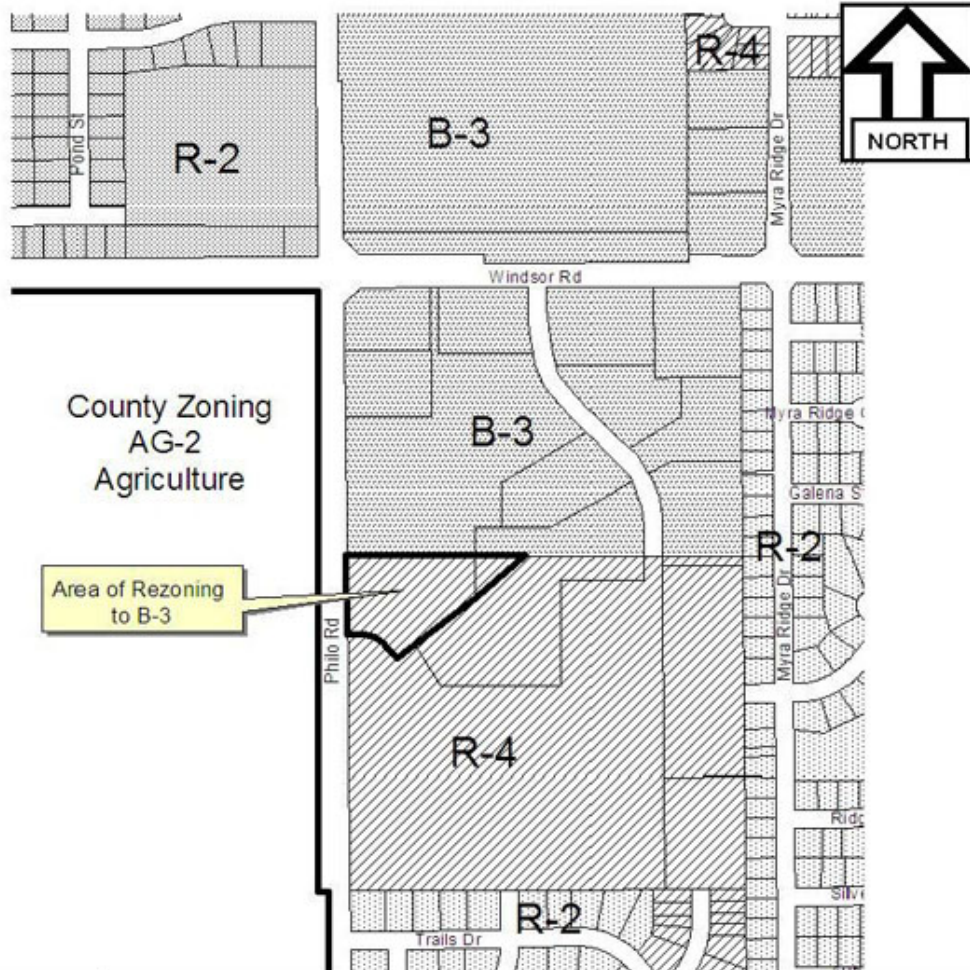
Area of Proposed
Rezoning from
R-4 to B-3



Area of Subdivision

Zoning

EXHIBIT "B"



County Zoning
AG-2
Agriculture

Area of Rezoning
to B-3



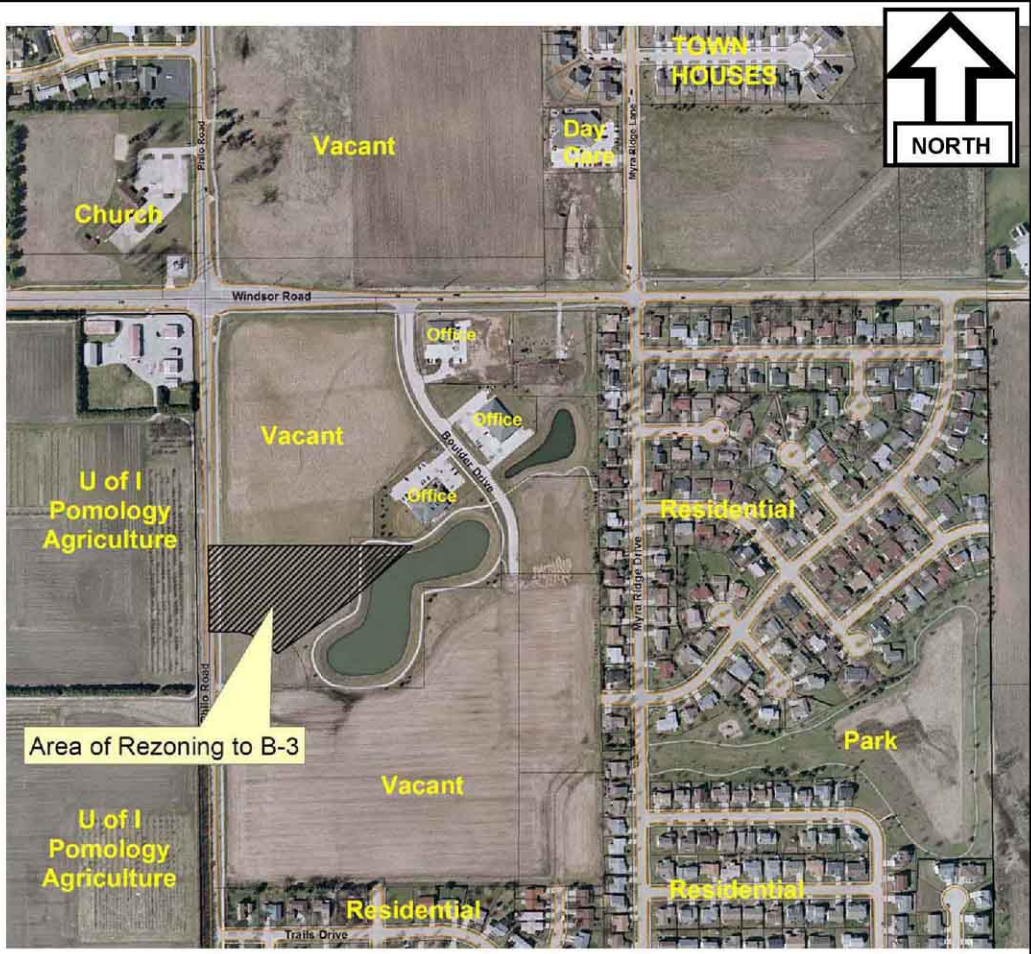
Plan Case: 1998-M-06 - Rezoning
Petitioner: Atkins Group
Location: 2900 block South Philo Road – Stone Creek Commons
Subject: Rezone from R-4, Medium Density Multiple Family Residential to B-3, General Business
Existing Zoning: R-4, Medium Density Multiple Family Residential

R-2, Single Family Residential
R-4, Medium Density Multiple Family Residential
B-3, General Business

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Existing Land Use w/ Aerial Photo

EXHIBIT "C"



Area of Rezoning to B-3



Plan Case: 1998-M-06 - Rezoning
Petitioner: Atkins Group
Location: 2900 block South Philo Road – Stone Creek Commons
Subject: Rezone from R-4, Medium Density Multiple Family Residential to B-3, General Business

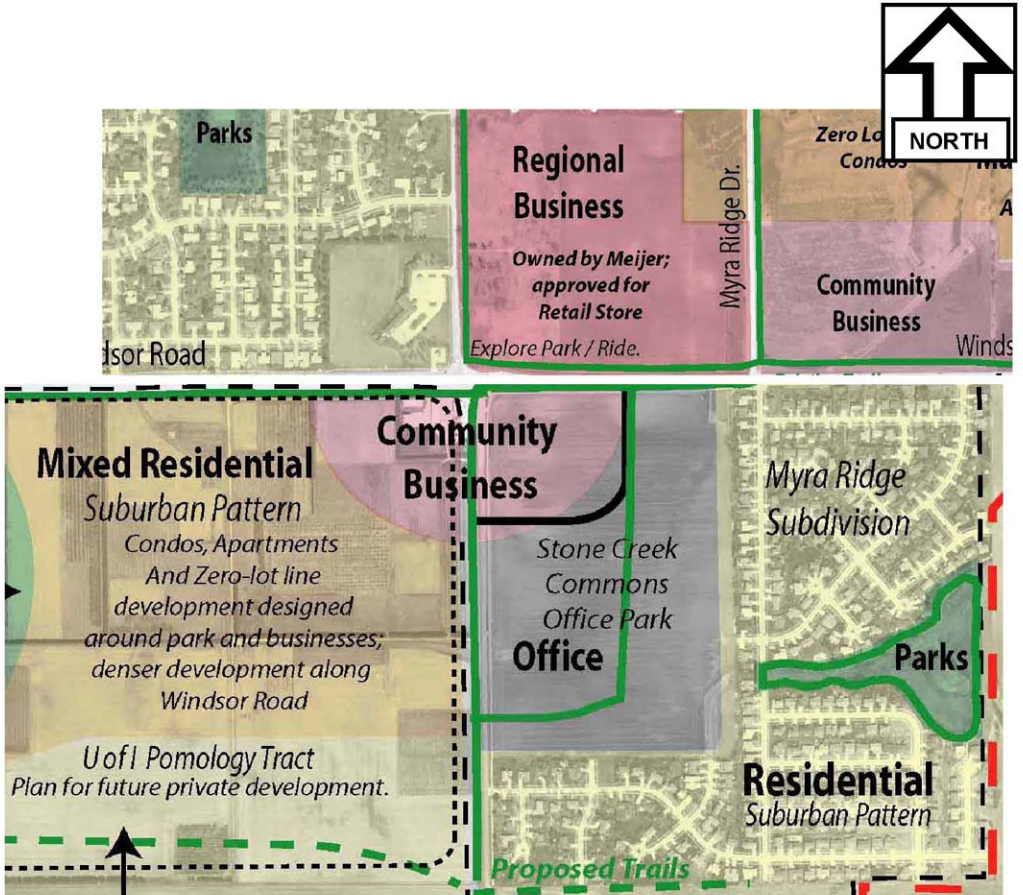
Existing Zoning:
 R-4, Medium Density Multiple Family Residential

Prepared 6/06/06 by Community Development Services - pai

Future Land Use

EXHIBIT "D"

Source: Comprehensive Plan Future Land Use
Map # 13 and 14, p.84-85 – Detailed Composite Section



Plan Case: 1998-M-06 - Rezoning
Petitioner: Atkins Group
Location: 2900 block South Philo Road – Stone Creek Commons
Subject: Rezone from R-4, Medium Density Multiple Family Residential to B-3, General Business
Existing Zoning: R-4, Medium Density Multiple Family Residential

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