

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 05029**, from R-3 Residential District to H-3 Highway Commercial District, requested by Dennis R. Schworer, LLC, on property generally located at North 33<sup>rd</sup> and Superior Streets.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda: 04/27/05  
Administrative Action: 04/27/05

**STAFF RECOMMENDATION:** Approval

**RECOMMENDATION:** Approval (9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes').

**ASSOCIATED REQUESTS:** Annexation No. 05010 (06-46) and Annexation Agreement (06R-57)

### **FINDINGS OF FACT:**

1. This proposed change of zone request was heard in conjunction with the associated Annexation No. 05010.
2. The staff recommendation to approve the change of zone request is based upon the "*Analysis*" as set forth on p.3-4, concluding that the proposed change of zone is in conformance with the Comprehensive Plan and the Zoning Ordinance.
3. On April 27, 2005, this application appeared on the Planning Commission Consent Agenda and was opened for public hearing. No one came forward to speak.
4. On April 27, 2005, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** March 20, 2006

**REVIEWED BY:** 

**DATE:** March 20, 2006

**REFERENCE NUMBER:** FS\CC\2006\CZ.05029+

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**for April 27, 2005 PLANNING COMMISSION MEETING**

- PROJECT #:** Annexation #05010, **Change of Zone #05029**
- PROPOSAL:** This is a request to annex and change the zoning from R-3, Residential to H-3, Highway Commercial.
- LOCATION:** N. 33<sup>rd</sup> and Superior Streets.
- LAND AREA:** ANX: 11 acres, more or less.  
CZ: 14 acres, more or less.
- CONCLUSION:** The request is in conformance with the Comprehensive Plan, and Zoning Ordinance.

<b>RECOMMENDATION:</b>	
Annexation # 05010	Approval, subject to an Annexation Agreement
Change of Zone #05026	Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See attached.

**EXISTING ZONING:** R-3, Residential.

**SURROUNDING LAND USE AND ZONING:**

North:	Undeveloped	R-3
East:	Undeveloped	R-3
West:	Undeveloped	R-3
South:	Car dealership	H-3

**EXISTING LAND USE:** Undeveloped.

**COMPREHENSIVE PLAN SPECIFICATIONS:** This area is shown as Industrial and commercial in the Comprehensive Plan (F-25)

The ANNEXATION POLICY is found on pages F-154 and 155 of the 2025 Comprehensive Plan.

The N. 33<sup>rd</sup> Street area was annexed by the City Council in February 2000.

**SPECIFIC INFORMATION:**

**DESCRIPTION OF PROPERTY:** The southern portion of the lot is already within the boundaries of the City limits and is presently zoned H-3. The northern portion of the lot is outside the City limits and is presently undeveloped. The west portion of the lot abutting N. 33<sup>rd</sup> Street is within the City limits and was included in the N. 33<sup>rd</sup> Street annexation in February 2000. This portion of the lot was included in the previous annexation due to assignment of financial obligations of N. 33<sup>rd</sup> Street.

## UTILITIES & SERVICES:

- A. **Sanitary Sewer:** Available to the site.
- B. **Water:** Available to the site.
- C. **Roads:** Superior and N. 33<sup>rd</sup> Streets are arterial roads and an existing street stub in this lot will provide future access and also to lots east of this request. The dedication of a street in order to provide future access will be required in the annexation agreement.
- D. **Parks and Trails:** A trail is planned east of this property along the creek.
- E. **Fire Protection:** Available to the site. The nearest fire station is located at 1440 Adams Street.

## ANALYSIS:

1. Annexation policy:
  - Land which is remote from the limits of the City of Lincoln will not be annexed; land which is contiguous and generally urban in character may be annexed; and land which is engulfed by the City should be annexed.
  - Annexation generally implies the opportunity to access all City services. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (i.e., water, sanitary sewer) and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area.
  - Plans for the provision of services within the areas considered for annexation should be carefully coordinated with the Capital Improvements Program of the city and the county."
2. The request is in conformance with the annexation policy in the Comprehensive Plan.
3. The applicant requests the remaining portion of this lot be annexed and the zoning changed to H-3. The southern portion of the lot is presently zoned H-3. The applicant indicated they preferred to continue the H-3 zoning because the Zoning Ordinance specifically permits car sales in the H-3 district.
4. Planning staff believes the H-3 district is appropriate because additional landscaping standards apply to car dealerships. There are no additional screening requirements in the industrial districts for car dealerships. The Land Use map in the Comprehensive Plan indicates this area as commercial and industrial. The map is a guide and the exact boundary of each land use is flexible. Since this is an existing lot with partial commercial zoning, the expanded use for this lot is appropriate. The lot meets the criteria for the H-3 zoning district, having access from a major highway.

5. A stub street exists into this lot. This stub street was intended to provide access to N. 33<sup>rd</sup> Street for lots east of this request. The annexation agreement will include a provision for the dedication of a street from this stub to the east property line in order to provide this intended future access. No final plats are required for this property and this dedication requirement must be included in the annexation agreement at this time, as no other opportunity will likely present itself prior to the development of the lots east of this request.
6. The developer will be responsible for any required contribution to the rural fire district.

Prepared by:

Becky Horner  
441-6373, [rhorer@lincoln.ne.gov](mailto:rhorer@lincoln.ne.gov)  
Planner

**DATE:** April 6, 2005

<b>APPLICANT:</b>	Dennis R. Schworer, LLC	<b>CONTACT:</b>	Mike Eckert
	417 Ridgewood Drive		1111 Lincoln Mall
	(402)734-3330		(402)474-6311

**ANNEXATION NO. 05010  
and  
CHANGE OF ZONE NO. 05029**

**CONSENT AGENDA  
PUBLIC HEARING & ADMINISTRATIVE ACTION  
BEFORE PLANNING COMMISSION:**

April 27, 2005

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

The Consent Agenda consisted of the following items: **COUNTY CHANGE OF ZONE NO. 05027; COUNTY FINAL PLAT NO. 05023, PRAIRIE LAKE ESTATES 1<sup>ST</sup> ADDITION; COUNTY FINAL PLAT NO. 05027, WHITETAIL RUN ADDITION; COUNTY FINAL PLAT NO. 05030, NORTH BRANCHED OAK ESTATES; ANNEXATION NO. 05010; and CHANGE OF ZONE NO. 05029.**

Ex Parte Communications: None.

**Item No. 1.4, County Final Plat No. 05030, North Branched Oak Estates**, was removed from the Consent Agenda and scheduled for separate public hearing.

Carroll moved to approve the remaining Consent Agenda, seconded by Marvin and carried 9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.



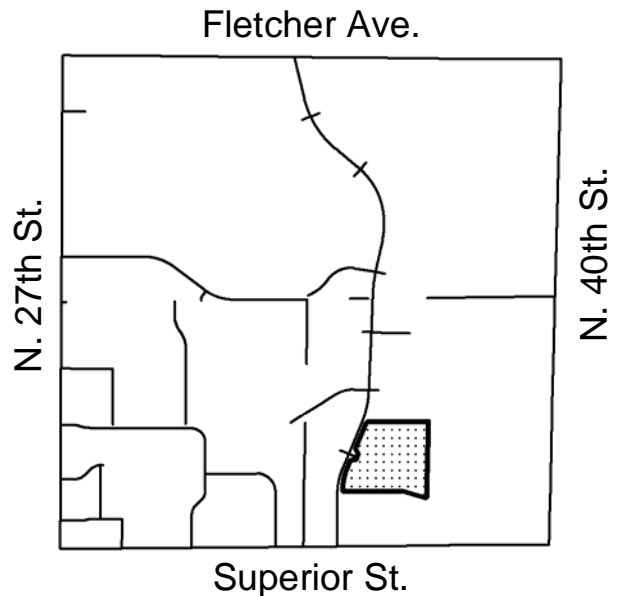
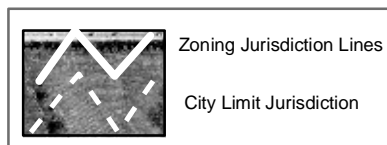
2002 aerial

## Change of Zone #05029 N. 33rd & Superior St.

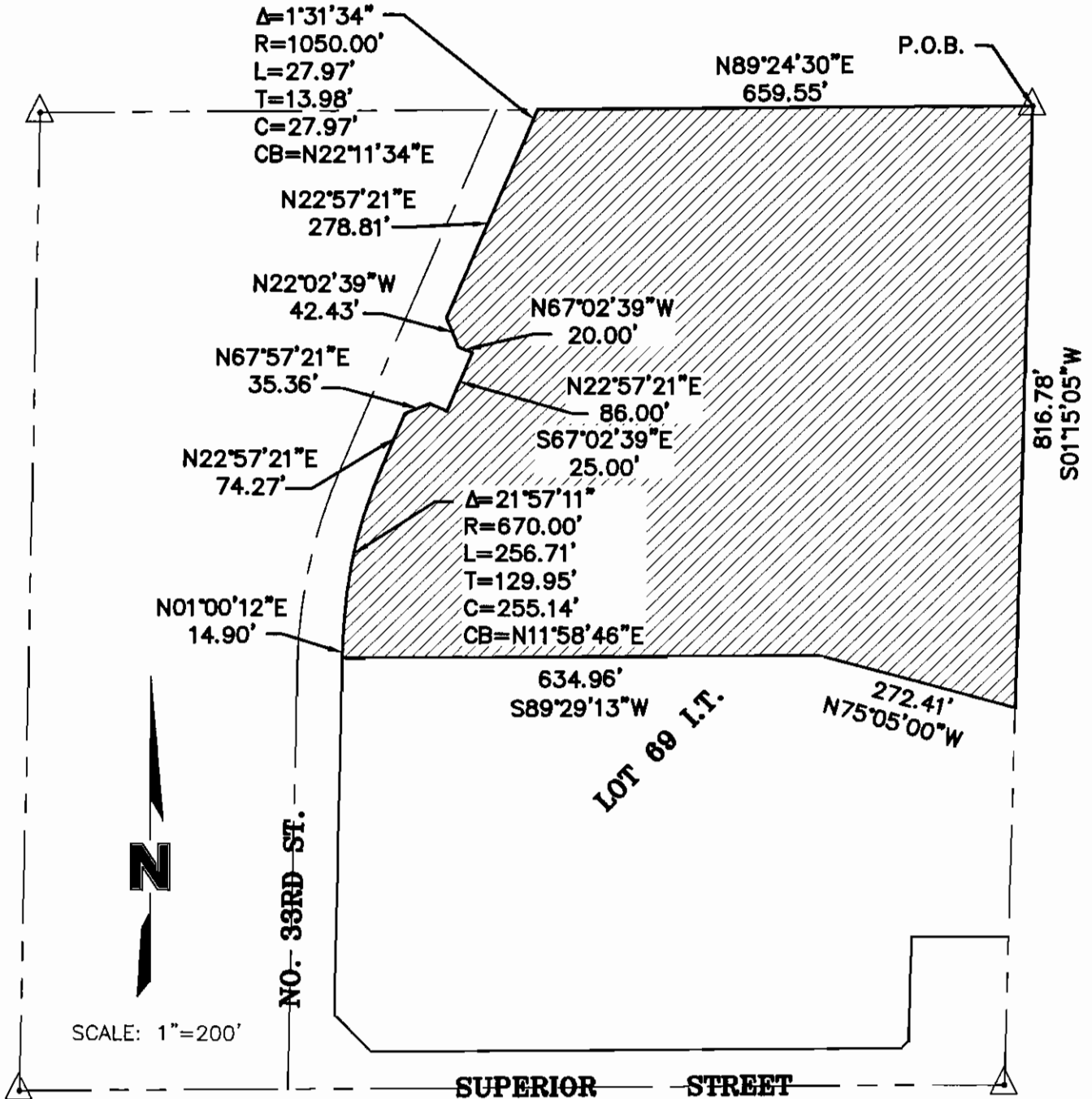
### Zoning:

- 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. 6 T10N R7E



# CHANGE OF ZONE EXHIBIT



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**LEGAL DESCRIPTION  
CHANGE OF ZONE**

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF LOT 69 I.T., LOCATED IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, STATE OF NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 69 I.T., SAID POINT BEING **THE TRUE POINT OF BEGINNING**, THENCE SOUTH ON AN ASSUMED BEARING OF SOUTH 01 DEGREES 15 MINUTES 05 SECONDS WEST, A DISTANCE OF 816.78 FEET TO A POINT, THENCE NORTH 75 DEGREES 05 MINUTES 00 SECONDS WEST, A DISTANCE OF 272.41 FEET TO A POINT, THENCE SOUTH 89 DEGREES 29 MINUTES 13 SECONDS WEST, A DISTANCE OF 634.96 FEET TO A POINT OF INTERSECTION WITH A WEST LINE OF SAID LOT 69 I.T., THENCE NORTH 01 DEGREES 00 MINUTES 12 SECONDS EAST ALONG A WEST LINE OF SAID LOT 69 I.T., A DISTANCE OF 14.90 FEET TO A POINT OF CURVATURE OF A NON TANGENT CURVE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 21 DEGREES 57 MINUTES 11 SECONDS, A RADIUS OF 670.00 FEET, A ARC LENGTH OF 256.71 FEET, A CHORD BEARING OF NORTH 11 DEGREES 58 MINUTES 46 SECONDS EAST ALONG A WEST LINE OF LOT 69 I.T., AND A CHORD DISTANCE OF 255.14 FEET TO A POINT, THENCE NORTH 22 DEGREES 57 MINUTES 21 SECONDS EAST ALONG A WEST LINE OF SAID LOT 69 I.T., A DISTANCE OF 74.27 FEET TO A POINT, THENCE NORTH 67 DEGREES 57 MINUTES 21 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 69 I.T., A DISTANCE OF 35.36 FEET TO A POINT, THENCE SOUTH 67 DEGREES 02 MINUTES 39 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 69 I.T., A DISTANCE OF 25.00 FEET TO A POINT, THENCE NORTH 22 DEGREES 57 MINUTES 21 SECONDS EAST ALONG A WEST LINE OF SAID LOT 69 I.T., A DISTANCE OF 86.00 FEET TO A POINT, THENCE NORTH 67 DEGREES 02 MINUTES 39 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 69 I.T., A DISTANCE OF 20.00 FEET TO A POINT, THENCE NORTH 22 DEGREES 02 MINUTES 39 SECONDS WEST ALONG A WEST LINE OF SAID LOT 69 I.T., A DISTANCE OF 42.43 FEET TO A POINT, THENCE NORTH 22 DEGREES 57 MINUTES 21 SECONDS EAST ALONG A WEST LINE OF SAID LOT 69 I.T., A DISTANCE OF 278.81 FEET TO A POINT OF CURVATURE, THENCE ALONG A CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 01 DEGREES 31 MINUTES 34 SECONDS, A RADIUS OF 1,050.00 FEET, A ARC LENGTH OF 27.97 FEET, A CHORD BEARING OF NORTH 22 DEGREES 11 MINUTES 34 SECONDS EAST ALONG A WEST LINE OF SAID LOT 69 I.T., AND A CHORD DISTANCE OF 27.97 FEET TO THE NORTHWEST CORNER OF SAID LOT 69 I.T., THENCE NORTH 89 DEGREES 24 MINUTES 30



SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 69 I.T., A DISTANCE OF 659.55 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 600,561.92 SQUARE FEET OR 13.7870 ACRES, MORE OR LESS.

March 29, 2005  
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**OLSSON ASSOCIATES**  
ENGINEERS • PLANNERS • SCIENTISTS • SURVEYORS

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Lincoln/Lancaster County Planning Department  
ATTN: Becky Horner  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

**RE: Purpose Statement for Change of Zone Application**

Dear Ms. Horner:

Please consider the attached Change of Zone application for a parcel of property (Lot 69 IT, 6-10-7) owned by Dennis R. Schworer, LLC just northeast of the intersection of N. 33<sup>rd</sup> Street and Superior (see attached change of zone legal) We are requesting a change of zone from R-3 to H-3. Mr. Schworer previously attained a change of zone for a portion of this parcel which he operates a car dealership on.

This change of zone will encompass the remaining portion of the lot that Mr. Schworer owns to the north of his current business. This change is consistent with the comprehensive plan that shows an Industrial designation along North 33<sup>rd</sup> Street corridor where this land is located. We have determined that the H-3 zoning is the preferred zoning for Mr. Schworer's proposed use, an automobile dealership, as it is a permitted conditional use in this district that allows for the display of vehicles in the front yard setback of the lot (up to a 12' from the property line) with proper landscape screening. Additionally, the lot is adjacent to a major arterial necessary for the H-3 zoning, and completes a contiguous block of H-3 zoning with the land that he owns to the south.

The land to the north is zoned industrial, the land to the south is zoned H-3 and the land to the west is zone R-3 (it is also owned by Mr. Schworer) and the land to the east is zoned R-3 and we have been in communication with that owner about our intent to obtain this change of zone.

At this time, we would also like to request the annexation of the portion of the Lot 69 IT, 6-10-7 that is not currently annexed (see attached annexation legal). This annexation is contiguous with the annexation that exists to both the south, north and west and would finalize the annexation of all Lot 69 IT, 6-10-7 that Mr. Schworer owns. All city utilities are immediately available to the parcel and would be connected to by Mr. Schworer.

Please let me know if you have any questions regarding this change of zone and request for annexation.

Sincerely,

Mike Eckert, AICP  
1111 Lincoln Mall  
on behalf of Dennis R. Schworer, LLC

MAR 31 2005