

FACTSHEET

TITLE: CHANGE OF ZONE NO. 06009,
requested by Southwood Lutheran Church and
Buckshot Farms, from AG Agricultural District to
R-3 Residential District and R-4 Residential
District, on property generally located at South
40th Street and Rokeby Road.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUESTS: Annexation No.
05016 (06-28) and Annexation Agreement.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda, 03/01/06
Administrative Action: 03/01/06

RECOMMENDATION: Approval (6-0: Krieser,
Carroll, Sunderman, Esseks, Taylor and Carlson
voting 'yes'; Strand and Larson absent).

FINDINGS OF FACT:

1. This proposed change of zone request was heard in conjunction with the associated Annexation No. 05016.
2. The staff recommendation of approval is based upon the "*Analysis*" as set forth on p.4-5, concluding that the proposed change of zone is in conformance with the Comprehensive Plan.
3. On March 1, 2006, this application appeared on the Planning Commission Consent Agenda and was opened for public hearing. No one came forward to speak.
4. On March 1, 2006, the Planning Commission agreed with the staff recommendation and voted 6-0 to recommend approval (Larson and Strand absent).
5. On March 1, 2006, the Planning Commission also voted 6-0 to recommend approval of the associated Annexation No. 05016, subject to an Annexation Agreement.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: March 28, 2006

REVIEWED BY: _____

DATE: March 28, 2006

REFERENCE NUMBER: FS\CC\2006\CZ.06009+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for March 1, 2006 PLANNING COMMISSION MEETING

This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application.

PROJECT #: Annexation #05016
Change of Zone #06009

PROPOSAL: An annexation and change of zone from AG to R-3 and R-4.

LOCATION: South 40th Street and Rokeby Road

LAND AREA: Approximately 240 acres.

CONCLUSION: This proposed annexation is voluntary and at the request of the property owners involved. The finding can be made that the request complies with the annexation policy of the Comprehensive provided the owners enter into annexation agreements with the City of Lincoln. Those agreements will specify the conditions under which annexation will occur, to the mutual satisfaction of both the City and the owners. The change of zone is in compliance with the Comprehensive Plan.

<u>RECOMMENDATION:</u> Annexation #05016 <u>Change of Zone #06009</u>	Conditional Approval <u>Approval</u>
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GENERAL INFORMATION:

LEGAL DESCRIPTION:
AN#05016 - See attached two-part legal description.

CZ#06009 - See attached legal descriptions.

EXISTING ZONING: AG Agriculture

SURROUNDING LAND USE AND ZONING:

North	Agriculture, Residential	AG, R-3
East	Agriculture, Acreages	AG, AGR
South	Agriculture, Acreages	AG
West	Agriculture, Residential	AG, R-3

EXISTING LAND USE: Agriculture

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F23 - The Land Use Map of the Comprehensive Plan designates Urban Residential land uses for the areas involved in the annexation and change of zone applications.

Page F154 - The Annexation Policy of the Comprehensive Plan.

UTILITIES & SERVICES:

- A. **Sanitary Sewer:** The Upper Southeast Salt Valley Basin trunk sewer from South 20th Street to approximately South 40th Street and Yankee Hill Road, and the Sub-basin Upper Southeast Salt Valley Basin trunk sewer to South 40th Street must be constructed to provide sanitary sewer service to the area to be annexed. Funds are shown in years 2005-06 in the Capital Improvement Program (CIP) for these sewer mains.
- B. **Water:** Funds to construct water distribution mains from South 27th Street to South 40th Street in Rokeby Road, and from Yankee Hill Road to Rokeby Road in South 40th Street are shown in years 2005-06 in the CIP.
- C. **Roads:** South 40th Street from Yankee Hill Road to Rokeby Road is a two-lane, asphalt county road. Rokeby Road is a gravel road from South 27th Street to South 40th Street, but does not exist east of South 40th Street. Both are designated as arterial streets. Funds to improve either street to the City's urban paving standard are not included in the six-year CIP.
- D. **Parks and Trails:** The Comprehensive Plan shows the bike trail system crossing Yankee Hill Road at approximately South 37th Street following the drainage south through the section bounded by South 27th and South 40th Streets, and by Yankee Hill and Rokeby Roads. The trail splits midpoint in the section and proceeds both east and west, with grade-separated crossings at the creek crossings near South 40th Street just north of Rokeby Road, and at Rokeby Road at approximately South 30th Street. Funds to construct these trail segments are not included in the six-year CIP.

The Comprehensive Plan shows a neighborhood park in the area halfway between Yankee Hill and Rokeby Roads on South 40th Street.

- E. **Police/Fire Protection:** Police and fire protection is currently provided by the Lancaster County Sheriff and the Southeast Rural Fire Department. After annexation those service will be provided by the Lincoln Police and Fire Departments. The Fire Department notes concern over the lack of Fire Department facilities in the area and their ability to provide the level of service that citizens have grown to expect. The nearest fire stations are located at South 48th Street and Claire Avenue and South 27th Street and Old Cheney Road.

ANALYSIS:

1. The annexation request includes two tracts of land, one west of South 40th Street and another east of South 40th Street. The tract west of South 40th Street is owned by Lincoln Federal Savings and Loan. The tract to the east is owned by Southwood Lutheran Church, Sundance LLC, and Buckshot Farms.
2. The change of zone request from AG to R-3 and R-4 affects only the tract east of South 40th Street, and is consistent with the Urban Residential designation in the Comprehensive Plan. No change of zone is proposed for the tract west of South 40th Street at this time and it will remain AG.
3. The intent of these requests is to provide water and sanitary sewer service to the tract east of South 40th Street. Applications to develop (preliminary plat, planned unit development, community unit plan, etc.) have not been submitted for any of the land involved. Building permits have been issued to allow construction of the new Southwood Lutheran Church on Lot 40 I.T. (located midway between Yankee Hill and Rokeby Roads, east of South 40th Street as shown on the attached annexation exhibit). Before the church will receive a certificate of occupancy, it must either be served by an approved septic system or be connected to the City's sanitary sewer system.
4. The tract east of South 40th Street is not contiguous to the city limit and cannot be annexed until it is contiguous to the city limits. To be contiguous, additional land has to be annexed. The land owner of the tract west of South 40th Street has voluntarily agreed to annexation to extend the city limits to South 40th Street.
5. Annexation policy:
 - A. 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.
 - B. 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.
 - C. 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."
6. The owners of all lands involved in the annexation will be required to enter into an annexation agreement with the City of Lincoln. As noted in paragraph B of the Annexation Policy, annexation implies the availability of city services, and if these lands are annexed the owners can reasonably expect to be provided with all city services unless modified by agreement. Funding is shown in the CIP for sewer and water to serve this area, but the facilities have not been constructed. In fact, the design of all the facilities is not yet complete. While the funds to build them are programmed, the annexation agreements will acknowledge that the timing

of construction is not date-certain, and as a result the City will not be required to provide services in advance of the CIP.

7. Public Works has concerns regarding the proposed annexation, and has made it clear that a recommendation of approval of these applications by the Planning Commission does not mean Public Works has approved all aspects of the proposed developments. Public Works has strong reservations concerning one of the terms of the proposed agreement which directs wastewater impact fees to reimburse the applicants' front-end costs to extend sanitary sewer mains to serve their properties because it may adversely affect other projects in the CIP. This issue will be discussed further with the applicants in negotiations about the annexation agreement, prior to scheduling these applications for the City Council.

CONDITIONS:

AN#05016

1. The owners will enter into annexation agreements with the City of Lincoln.

Prepared by:

Brian Will
441-6362, bwill@lincoln.ne.gov
Planner
February 15, 2006

APPLICANT: Southwood Lutheran Church
5511 South 27th Street
Lincoln, NE 68512
(402) 423-5511

OWNER: Southwood Lutheran Church
5511 South 27th Street
Lincoln, NE 68512
(402) 423-5511

Buckshot Farms
3730 South 14th Street
Lincoln, NE 68502
(402) 435-6000

CONTACT: Kent Seacrest
1111 Lincoln Mall Ste. 350
Lincoln, NE 68508

**ANNEXATION NO. 05016
and
CHANGE OF ZONE NO. 06009**

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

March 1, 2006

Members present: Carlson, Carroll, Esseks, Sunderman, Krieser and Taylor; Larson and Strand absent.

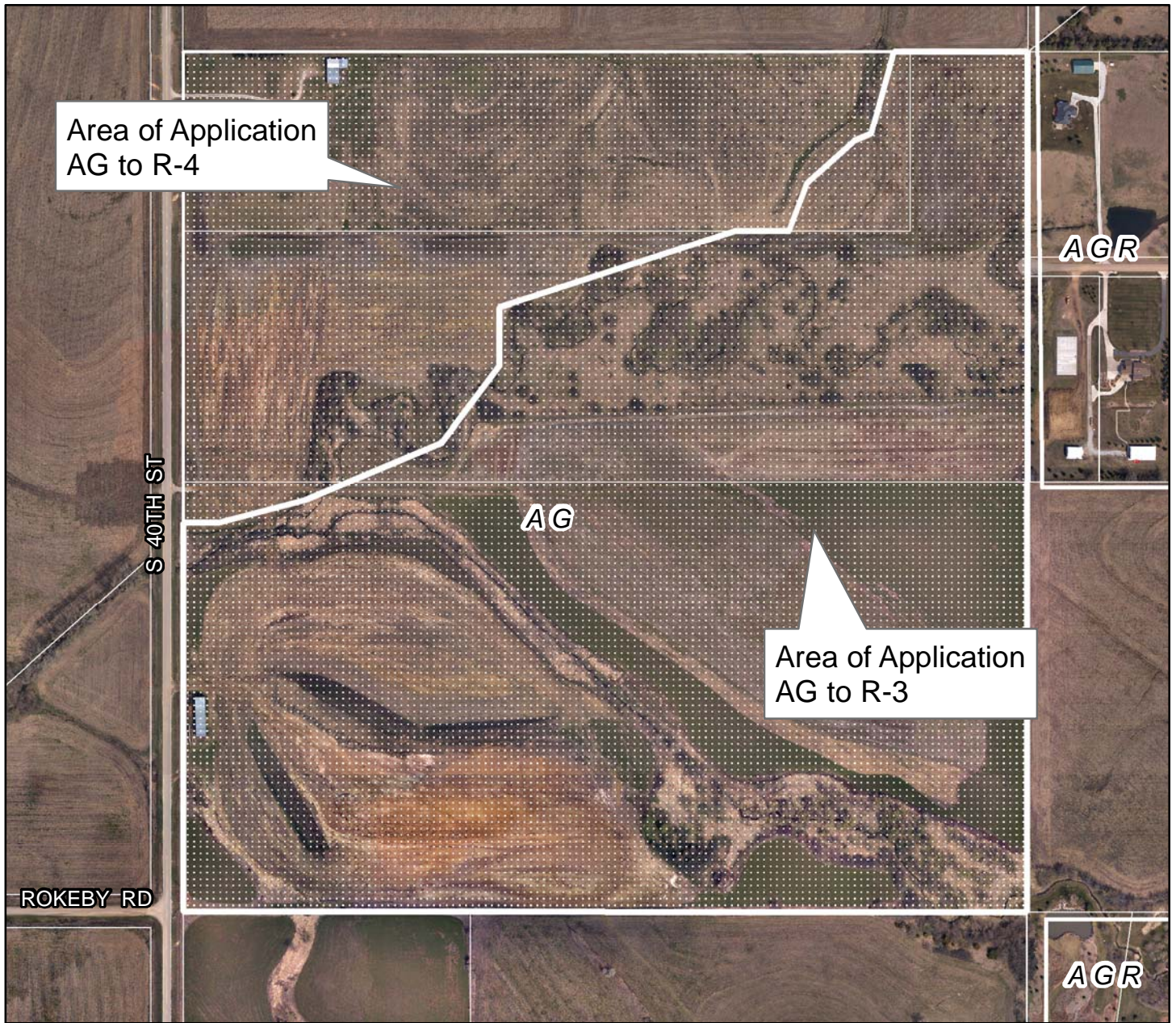
The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 06007; COUNTY CHANGE OF ZONE NO. 06008; CHANGE OF ZONE NO. 06011; USE PERMIT NO. 84B; ANNEXATION NO. 05019; CHANGE OF ZONE NO. 05085, FALLBROOK PLANNED UNIT DEVELOPMENT; ANNEXATION NO. 05016; CHANGE OF ZONE NO. 06009; and SPECIAL PERMIT NO. 06006.**

Ex Parte Communications: None.

Items No. 1.2a and 1.2b, Change of Zone No. 06011 and Use Permit No. 84B; and Items No. 1.3a and 1.3b, Annexation No. 05019 and Change of Zone No. 05085, Fallbrook Planned Unit Development, were removed from the Consent Agenda and had separate public hearing.

Taylor moved approval of the remaining Consent Agenda, seconded by Carroll seconded and carried 6-0: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson voting 'yes'; Strand and Larson absent.

Note: This is final action on Special Permit No. 06006, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days following the action by the Planning Commission.

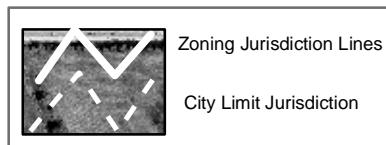


Change of Zone #06009 S. 40th & Rokeyby Rd.

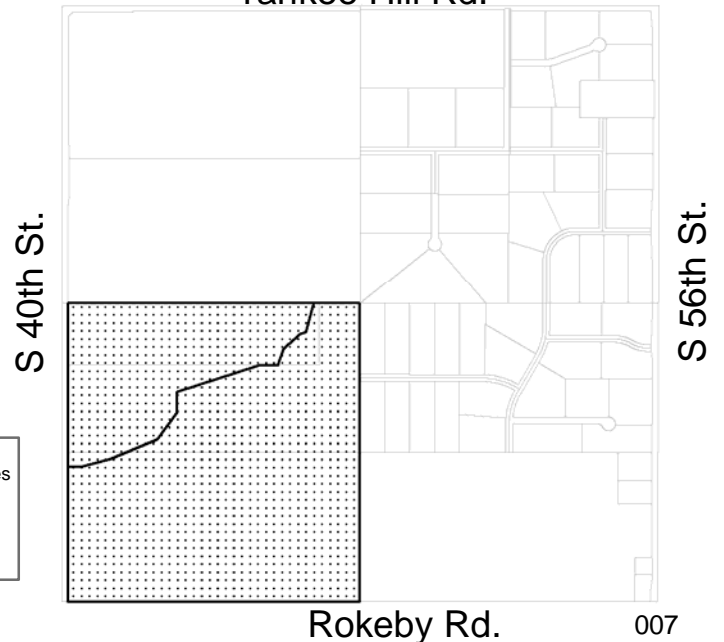
Zoning:

- 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. 29 T9N R7E



2005 aerial
Yankee Hill Rd.



**LEGAL DESCRIPTION
CHANGE OF ZONE
R-3**

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF LOTS 32 I.T., 39 I.T., AND 40 I.T., ALL LOCATED IN THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, STATE OF NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 32 I.T., SAID POINT BEING 50.00 FEET EAST OF THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER, SAID POINT BEING ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER, SAID POINT BEING ON THE EAST LINE OF SOUTH 40TH STREET RIGHT-OF-WAY, SAID POINT BEING **THE TRUE POINT OF BEGINNING**; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 32 I.T., SAID LINE BEING 50.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER, SAID LINE BEING THE EAST LINE OF SOUTH 40TH STREET RIGHT-OF-WAY ON AN ASSUMED BEARING OF NORTH 00 DEGREES 02 MINUTES 07 SECONDS WEST, A DISTANCE OF 1,190.20 FEET TO A POINT, THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS EAST, A DISTANCE OF 105.45 FEET TO A POINT, THENCE NORTH 75 DEGREES 17 MINUTES 30 SECONDS EAST, A DISTANCE OF 275.20 FEET TO A POINT, THENCE NORTH 67 DEGREES 11 MINUTES 12 SECONDS EAST, A DISTANCE OF 454.81 FEET TO A POINT, THENCE NORTH 36 DEGREES 44 MINUTES 26 SECONDS EAST, A DISTANCE OF 294.79 FEET TO A POINT, THENCE NORTH 00 DEGREES 00 MINUTES 01 SECONDS EAST, A DISTANCE OF 179.67 FEET TO A POINT, THENCE NORTH 72 DEGREES 03 MINUTES 09 SECONDS EAST, A DISTANCE OF 756.50 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF LOT 39 I.T., THENCE NORTH 89 DEGREES 58 MINUTES 56 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 39 I.T., A DISTANCE OF 166.49 FEET TO A POINT, THENCE NORTH 20 DEGREES 36 MINUTES 50 SECONDS EAST, A DISTANCE OF 155.93 FEET TO A POINT, THENCE NORTH 48 DEGREES 16 MINUTES 54 SECONDS EAST, A DISTANCE OF 197.58 FEET TO A POINT, THENCE NORTH 67 DEGREES 59 MINUTES 48 SECONDS EAST, A DISTANCE OF 53.53 FEET TO A POINT, THENCE NORTH 15 DEGREES 21 MINUTES 26 SECONDS EAST, A DISTANCE OF 261.97 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF LOT 40 I.T., SAID POINT BEING ON THE NORTH LINE OF SAID SOUTHWEST QUARTER, THENCE NORTH 89 DEGREES 58 MINUTES 56 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 40 I.T., AND THE NORTH LINE OF LOT 39 I.T., SAID LINE BEING THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 410.18 FEET TO THE NORTHEAST CORNER OF SAID LOT 39 I.T., SAID POINT BEING THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER, THENCE

SOUTH 00 DEGREES 04 MINUTES 10 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 39 I.T., AND THE EAST LINE OF LOT 32 I.T., SAID LINE BEING THE EAST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 2,639.22 FEET TO THE SOUTHEAST CORNER OF SAID LOT 32 I.T., SAID POINT BEING THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER, THENCE NORTH 89 DEGREES 55 MINUTES 24 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 32 I.T., SAID LINE BEING THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 2,581.03 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 4,885,369.91 SQUARE FEET OR 112.15 ACRES, MORE OR LESS.

December 8, 2005
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**LEGAL DESCRIPTION
CHANGE OF ZONE
R-4**

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF LOTS 32 I.T., 39 I.T., AND 40 I.T., ALL LOCATED IN THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, STATE OF NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

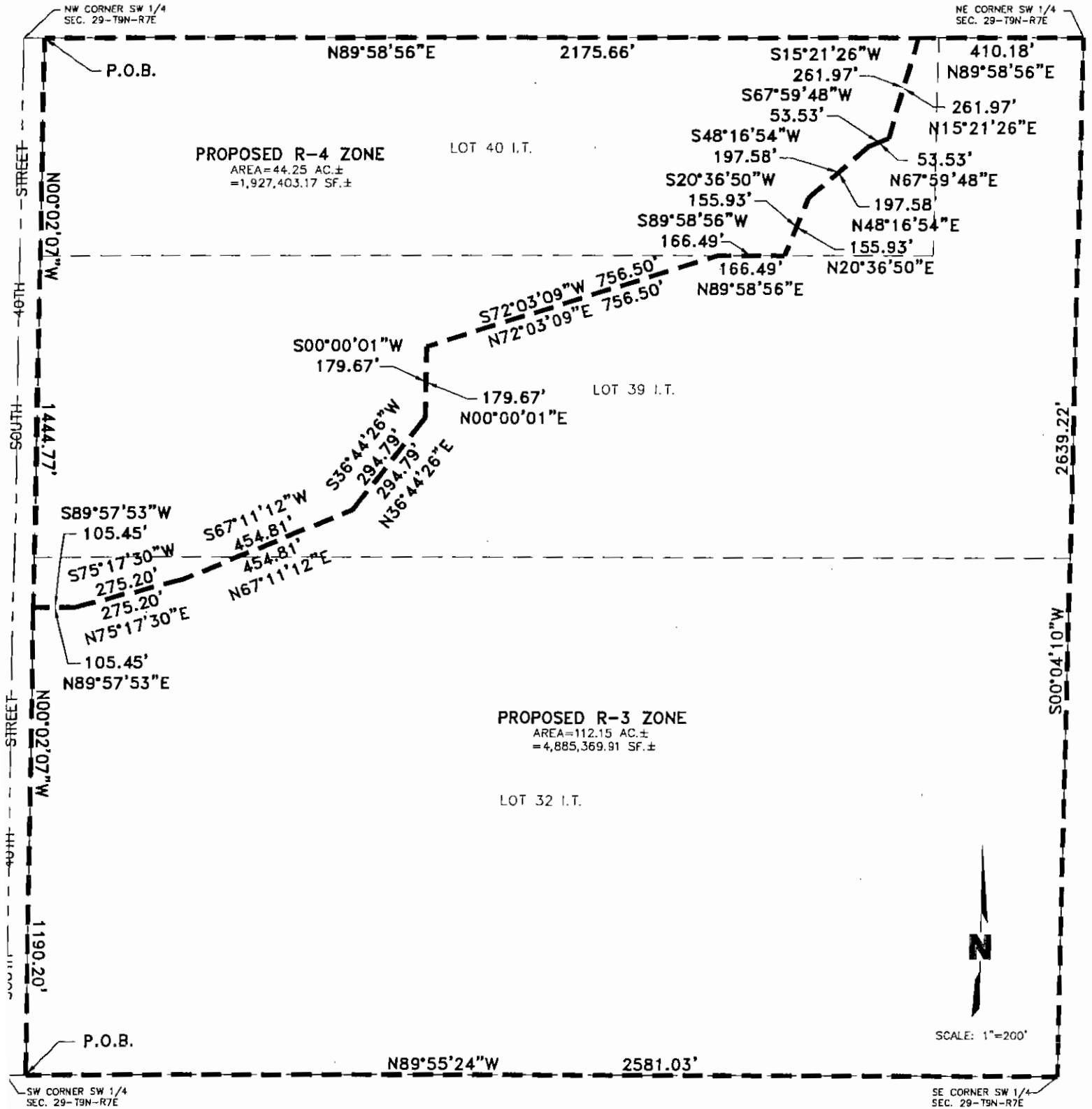
COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 40 I.T., SAID POINT BEING 50.00 FEET EAST OF THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER, SAID POINT BEING ON THE NORTH LINE OF SAID SOUTHWEST QUARTER, SAID POINT BEING ON THE EAST LINE OF SOUTH 40TH STREET RIGHT-OF-WAY, SAID POINT BEING **THE TRUE POINT OF BEGINNING**; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 40 I.T., SAID LINE BEING THE NORTH LINE OF SAID SOUTHWEST QUARTER ON AN ASSUMED BEARING OF NORTH 89 DEGREES 58 MINUTES 56 SECONDS EAST, A DISTANCE OF 2,175.66 FEET TO A POINT, THENCE SOUTH 15 DEGREES 21 MINUTES 26 SECONDS WEST, A DISTANCE OF 261.97 FEET TO A POINT, THENCE SOUTH 67 DEGREES 59 MINUTES 48 SECONDS WEST, A DISTANCE OF 53.53 FEET TO A POINT, THENCE SOUTH 48 DEGREES 16 MINUTES 54 SECONDS WEST, A DISTANCE OF 197.58 FEET TO A POINT, THENCE SOUTH 20 DEGREES 36 MINUTES 50 SECONDS WEST, A DISTANCE OF 155.93 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID LOT 40 I.T., THENCE SOUTH 89 DEGREES 58 MINUTES 56 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 40 I.T., A DISTANCE OF 166.49 FEET TO A POINT, THENCE SOUTH 72 DEGREES 03 MINUTES 09 SECONDS WEST, A DISTANCE OF 756.50 FEET TO A POINT, THENCE SOUTH 00 DEGREES 00 MINUTES 01 SECONDS WEST, A DISTANCE OF 179.67 FEET TO A POINT, THENCE SOUTH 36 DEGREES 44 MINUTES 26 SECONDS WEST, A DISTANCE OF 294.79 FEET TO A POINT, THENCE SOUTH 67 DEGREES 11 MINUTES 12 SECONDS WEST, A DISTANCE OF 454.81 FEET TO A POINT, THENCE SOUTH 75 DEGREES 17 MINUTES 30 SECONDS WEST, A DISTANCE OF 275.20 FEET TO A POINT, THENCE SOUTH 89 DEGREES 57 MINUTES 53 SECONDS WEST, A DISTANCE OF 105.45 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF LOT 32 I.T., SAID POINT BEING 50.00 FEET EAST OF THE WEST LINE OF SAID SOUTHWEST QUARTER, SAID POINT BEING ON THE EAST LINE OF SOUTH 40TH STREET RIGHT-OF-WAY, THENCE NORTH 00 DEGREES 02 MINUTES 07 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 32 I.T., AND THE WEST LINE OF LOTS 39 I.T., AND 40 I.T., SAID LINE BEING 50.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER, SAID LINE BEING THE EAST LINE OF SOUTH 40TH STREET RIGHT-OF-WAY, A DISTANCE OF 1,444.77 FEET TO THE POINT OF

BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF
1,927,403.17 SQUARE FEET OR 44.25 ACRES, MORE OR LESS.

December 8, 2005

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CHANGE OF ZONE EXHIBIT



SEACREST & KALKOWSKI, P.C.

A LIMITED LIABILITY ORGANIZATION

1111 LINCOLN MALL, SUITE 350
LINCOLN, NEBRASKA 68508-3910

TELEPHONE (402) 435-6000
FACSIMILE (402) 435-6100

KENT SEACREST
E-MAIL: kent@sk-law.com

DANAY KALKOWSKI
E-MAIL: danay@sk-law.com

January 30, 2006

Marvin Krout
Planning Department
County-City Building
555 South 10th Street
Lincoln, NE 68508

Re: South 40th Street and Rokeby Road Area

Dear Marvin:

Our office represents Southwood Lutheran Church, Sundance, L.L.C. and Buckshot Farms (collectively "Landowners"). The enclosed Annexation Exhibit shows the Landowner's Property. City Staff (Ray Hill and Rick Peo) and the Landowners are working with the neighbor to the west; Lincoln Federal Bancorp, Inc. ("LFB"), in regards to the annexation of a portion of the LFB properties. It is our understanding that LFB has requested annexation of a portion of their property that would enable the Landowners' properties to be contiguous with the City municipal boundary upon annexation of the LFB properties.

The Landowners hereby request the following:

1. Annexation of the property shown on the map and legally described in Exhibit "A", ("Property").
2. Rezone the Property from AG Agricultural to R-3 and R-4, Residential as shown on the map and legally described in Exhibit "B" and Exhibit "C", respectively.

Enclosed, please find the following:

- A. Annexation Legal Description and Annexation Map, Exhibit "A";
- B. Change of Zone Application and Exhibit for the R-3 and R-4 rezoning, Exhibit "B" and Exhibit "C";
- C. Change of Zone Application Fee - \$370.00 for the R-3 and R-4 rezoning;

JAN 30 2006

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Southwood Lutheran Church officials have met with City Staff to review the proposed annexation and change of zone. A proposed annexation agreement has been provided to the City Administration as part of the annexation negotiation process.

Please contact us if you have any questions or require additional information.

Very truly yours,



KENT SEACREST

For the Firm

Enclosures

cc: Southwood Lutheran Church
Sundance, L.L.C.
Buckshot Farms
Michael Rierden

**Review Comments for
Application #: AN05016
SOUTHWOOD LUTHERAN CHURCH**

Comments as of: Wednesday, February 15, 2006

Status of Review: Active

Reviewed By 911 ANY

Comments:

Status of Review: Active

Reviewed By Alltel ANY

Comments:

Status of Review: Active

Reviewed By County Engineer JIM LANGTRY

Comments:

Status of Review: Active

02/06/2006 2:51:46 PM

Reviewed By Fire Department ANY

Comments: We have no issues with this annexation. My main concern is if we have a water supply and fire hydrants in the area for our use. Another issue is that we do not have fire facilities in the area that allows to provide the type of emergency service that our citizens of the city have grown to expect.

Status of Review: Active

02/13/2006 2:58:04 PM

Reviewed By Health Department ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION

TO: Brian Will DATE: February 13, 2006

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Southwood Lutheran

EH Administration Church

CZ #06009 AN #05016

The Lincoln-Lancaster County Health Department has reviewed the proposed change of zone and annexation and does not object to the approval of these applications.

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