

City Council Introduction: **Monday**, April 7, 2008
Public Hearing: **Monday**, April 14, 2008, at **1:30** p.m.

Bill No. 08-38

FACTSHEET

TITLE: **ANNEXATION NO. 08002**, by the Director of Planning at the request of the Lincoln/Lancaster County Health Department, to annex approximately 64 acres, more or less, generally located at Cornhusker Highway and Fletcher Avenue.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 03/26/08
Administrative Action: 03/26/08

STAFF RECOMMENDATION: Approval.

RECOMMENDATION: Approval (6-0: Carroll, Esseks, Francis, Larson, Taylor and Sunderman voting 'yes'; Cornelius and Gaylor Baird absent).

FINDINGS OF FACT:

1. The Lincoln/Lancaster County Health Department has recommended this proposed annexation in order to give the affected properties access to City water in the interest of public health. Groundwater has been tested in this area and found to be contaminated. The City's policy is that land must be annexed in order to be served by City water or sewer.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.4-5, concluding that the proposed annexation is consistent with the City's annexation policy and the Comprehensive Plan. This land is basically engulfed by the City, and one of the properties already has City water service.
3. On March 26, 2008, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On March 26, 2008, the Planning Commission agreed with the staff recommendation and voted 6-0 to recommend approval (Cornelius and Gaylor Baird absent).

FACTSHEET PREPARED BY: Jean L. Preister

DATE: March 31, 2008

REVIEWED BY: _____

DATE: March 31, 2008

REFERENCE NUMBER: FS\CC\2008\ANNEX.08002

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for MARCH 26, 2008 PLANNING COMMISSION MEETING

PROJECT #: Annexation #08002

PROPOSAL: Application by the Director of Planning at the request of the Lincoln/Lancaster County Health Department.

LOCATION: Cornhusker Highway and Fletcher Avenue

LAND AREA: 64 acres, more or less.

CONCLUSION: The proposal is consistent with the City of Lincoln's annexation policy as outlined in the 2030 Comprehensive Plan.

RECOMMENDATION:	Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached.

EXISTING ZONING: I-1

SURROUNDING LAND USE AND ZONING:

North:	I-1 & AG	Industrial uses, highway, railroad, and agriculture
South:	I-1	Industrial uses
East:	I-1	Industrial uses and agriculture
West:	I-1 & AG	Industrial uses, highway, railroad, and agriculture

EXISTING LAND USE: Industrial uses, contractor offices and storage yards, and one residential property.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page 21 - Urban Growth Tiers - This site is in Tier 1, Priority Area A of the City's Future Service Limit.

Page 23 - The Comprehensive Plan includes three tiers of growth for the City of Lincoln. Tier I reflects the "Future Service Limit," where urban services and inclusion in the city limits are anticipated by 2025 within the 25 year planning period. Infrastructure planning, especially for water and sanitary sewer facilities, can reach beyond the 25 year time horizon to 50 years and further. Tier II respects this extended planning horizon by showing areas where long term utility planning is occurring today with the expectation that these areas will follow Tier I as the next in line for urban growth. Tier III reflects an even more distant planning area — both in time and geography. Little active planning of utilities or service delivery is likely to occur in the near term in Tier III. A fuller description of each Tier is provided below:

Tier I: Defines the City of Lincoln's near term growth area – a 52 square mile area which could reasonably expect urban services within the next twenty five year period. Land within this area should remain generally in the present use in order to permit future urbanization by the City.

Page 30 - Capitalize on Public Infrastructure Investments - The community should seek to efficiently utilize the community's investments in existing and future public infrastructure to advance economic development opportunities.

The City and County will foster responsible land use and development through the timely provision of infrastructure and transportation system improvements, while at the same time maintaining the environmental values and stewardship they wish to sustain.

Page 154 - The City's Annexation Policy of the 2030 Comprehensive Plan:

Annexation policy is a potentially powerful means for achieving many of the goals embodied in the Plan's Vision. The annexation policies of the City of Lincoln include but are not limited to the following:

The provision of municipal services shall coincide with the jurisdictional boundaries of the City – in short, it is not the intent of the City of Lincoln to extend utility services (most notably, but not necessarily limited to, water and sanitary water services) beyond the corporate limits of the City.

The extension of water and sanitary sewer services shall be predicated upon annexation of the area by the City. City annexation shall occur before any property is provided with water, sanitary sewer, or other potential City services.

Land which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed; land which is contiguous to the City 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 (e.g., 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.

Annexation to facilitate the installation of improvements and/or possible assessment districts is appropriate if it is consistent with the annexation policies of the Plan listed above.

Plans for the provision of services within the areas considered for annexation shall be carefully coordinated with the Capital Improvements Program of the City and the County.

HISTORY:

- February 27, 2008: Letter from Planning Department to the property owners notifying them of the reason for the proposed annexation.

- February 19, 2008: Health Department recommended annexation of the properties in order to give them access to City water in the interest of public health.

- January 11, 2008: Letter to George Brockley from the Health Department notifying him that water from the well on his property at 7909 Cornhusker Highway should not be used for domestic purposes until the well has received final clearance from the inspectors.

- December 17, 2007: Letter to the residents Tom and Chris Featherstone at 7909 Cornhusker Highway reporting that the sample collected on December 13, 2007 detected coliform bacteria and that the well water should not be used for domestic purposes until the well has received final clearance from the inspectors.

- November 19, 2007: Letter to the residents Tom and Chris Featherstone at 7909 Cornhusker Highway reporting that the samples collected between September 17th and October 26th, 2007 detected coliform bacteria in their new well and it has not been cleared for use.
- July 10-12, 2007: The United States Environmental Protection Agency (EPA) collected a water samples at 7909 Cornhusker Highway and surrounding properties and detected levels of carbon tetrachloride above the EPA drinking water standard.

SPECIFIC INFORMATION:

UTILITIES & SERVICES:

- A. **Sanitary Sewer:** With the construction of local sanitary sewers, the area of annexation can be served by the 72" sewer which runs through a portion of the 7909 Cornhusker Highway property (see attached). Typically the property owners will need to pay their share of the cost of the sewer needed to serve their property. Impact fees will also be charged for connection to the sewer when service is requested.
- B. **Water:** The properties can be served with existing mains, or in the case of 7845 Fletcher Avenue, served by constructing an extension from existing mains. 5500 N. Cotner (Purina Mills) is currently served with City water. The existing mains have been paid for by Lincoln Water System. A connection fee may be required to be paid by the property owner in addition to an impact fee if they choose to take City water service.
- C. **Roads:** Cornhusker Highway is designated as a Principal Arterial in the 2030 Comprehensive Plan. Fletcher Avenue is not currently entirely paved from Cornhusker Highway to N. 84th Street, but is designated in the 2030 Comprehensive Plan as a Minor Arterial. Fletcher Avenue has a 50 foot Building Line District.
- D. **Parks and Trails:** The 2030 Comprehensive Plan shows a future trail along Fletcher Avenue in the area of this annexation.
- E. **Fire Protection:** The closest City fire station is located at Touzalin Avenue and Fremont Street.

ANALYSIS:

1. The land is contiguous, generally urban in character, and is engulfed by the City limits. Annexation generally implies the opportunity to access all City services.

2. The proposed annexation is zoned I-1, is adjacent to the City, is located in Tier 1, Priority A, and has ready access to utilities such as water and sewer.
3. The City has decided to proceed earlier with this annexation due to the potential health risks of the contaminated wells.
4. All of the properties included in the proposed annexation, in addition to others in the area and around the City, were already being considered for annexation by the City in 2008.
5. The Health Department plans for a possible text amendment to their code to require owners to cease using a well that has chemical contamination. It is expected to be reviewed by the Health Board and placed on the same City Council agenda with this annexation item.

Prepared by:

Brandon M. Garrett, AICP
Planner

DATE: March 14, 2008

APPLICANT: Marvin S. Krout
Director of Planning
555 S. 10th Street
Lincoln, NE 68508

CONTACT: Brandon Garrett
Planning Department
555 S. 10th Street
Lincoln, NE 68508
(402) 441-6373
bgarrett@lincoln.ne.gov

ANNEXATION NO. 08002

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

March 26, 2008

Members present: Carroll, Esseks, Francis, Larson, Sunderman and Taylor; Gaylor Baird and Cornelius absent.

The Consent Agenda consisted of the following items: **USE PERMIT NO. 137A, ANNEXATION NO. 08002, CITY MISCELLANEOUS NO. 08004 and COUNTY MISCELLANEOUS NO. 08005.**

Ex Parte Communications: None

Larson moved to approve the Consent Agenda, seconded by Sunderman and carried 6-0: Carroll, Esseks, Francis, Larson, Sunderman and Taylor voting 'yes'; Gaylor Baird and Cornelius absent.



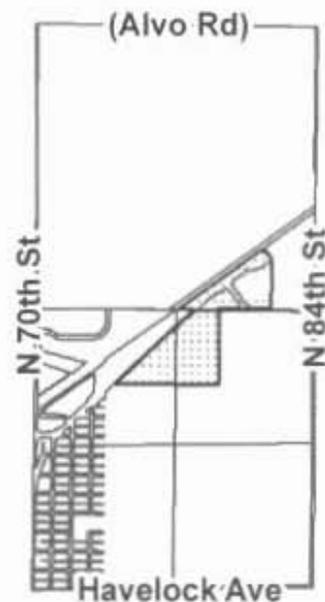
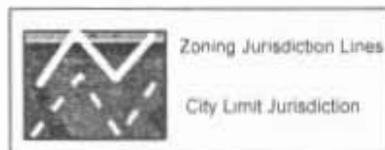
2007 aerial

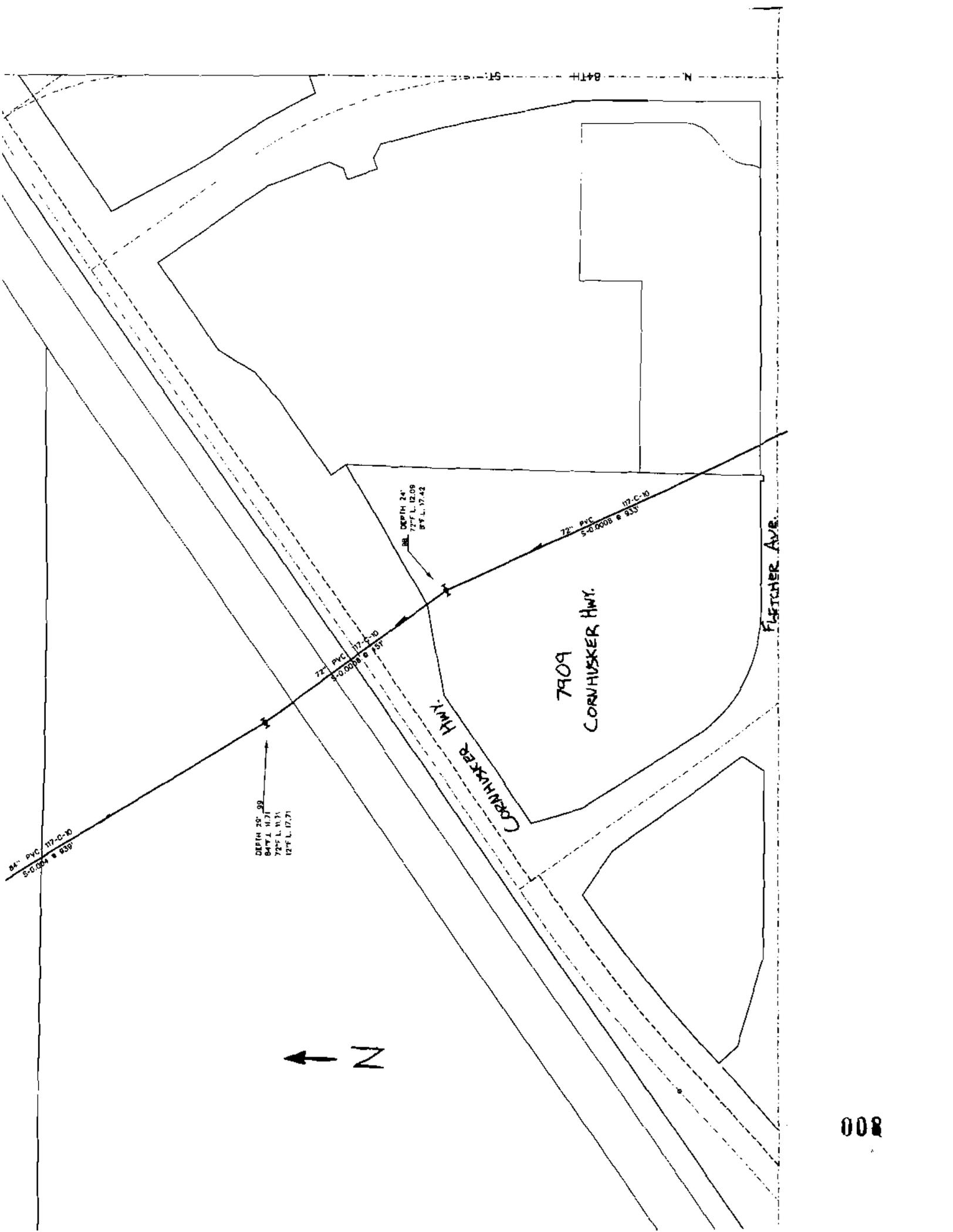
Annexation # 08002 Hwy 6 & Fletcher Ave

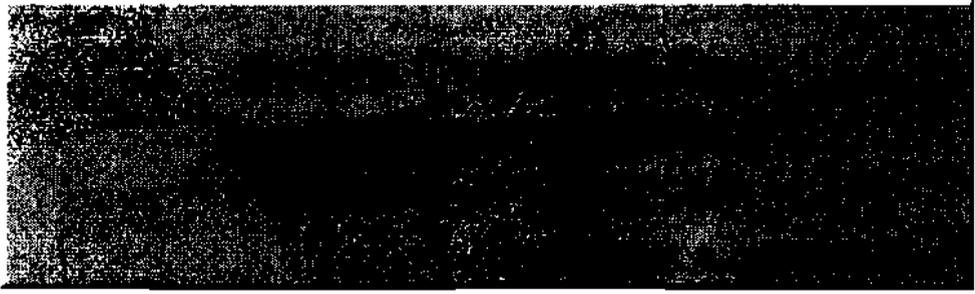
Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential 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

Two Square Miles
Sec. 34 T11N R7E
Sec. 3 T10N R7E







Status of Review: Active

Reviewed By ANY

Comments:

Status of Review: Active

Reviewed By 911 ANY

Comments:

Status of Review: Active

Reviewed By Alltel ANY

Comments:

Status of Review: No Rev Req

Reviewed By Building & Safety Terry Kathe

Comments:

Status of Review: Active

Reviewed By County Attorney ANY

Comments:

Status of Review: Complete

03/06/2008 5:08:08 PM

Reviewed By Fire Department ANY

Comments: We have no issues from the perspective of our department.

Status of Review: Approved

03/07/2008 2:27:03 PM

Reviewed By Health Department

ANY

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

TO: Brandon Garrett DATE: March 7, 2008

DEPARTMENT: Planning FROM: Chris Schroeder
ATTENTION: DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: Cornhusker Hwy
EH Administration Annexation
AN #08002

The Lincoln-Lancaster County Health Department has reviewed the annexation application with the following noted:

Water wells existing when annexation occurs may continue to exist and be used for domestic (household) or non-domestic (irrigation) use if the use is consistent with the use prior to annexation. A biennial well permit is required for all wells within the city limits.

If the city sewer system is more than 300 feet away from the building or premise, the building or premise may maintain its current on-site wastewater system provided the system is not failing. When the city sewer is within 300 feet and available the building or premise must connect to the city sewer. The existing system must then be properly abandoned.

Status of Review: Active

Reviewed By Lancaster County Sheriff Department

ANY

Comments:

Status of Review: Active

Reviewed By Law Department

ANY

Comments:

Status of Review: Active

Reviewed By Lincoln Electric System

JIM HENNESSY

Comments:

Status of Review: Active

Reviewed By Lincoln Police Department

DON SCHEINOST

Comments:

Status of Review: Active

Reviewed By Natural Resources District

Any

Comments:

Status of Review: Active

Reviewed By Nebraska Department of Roads

ANY

Comments:

Status of Review: Approved

Reviewed By Parks & Recreation

ANY

Comments:

Status of Review: Complete

Reviewed By Planning Department

RAY HILL

Comments:

Status of Review: Active

Reviewed By Planning Department

BRANDON GARRETT

Comments:

Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

Status of Review: Complete

03/05/2008 10:13:06 AM

Reviewed By Public Works - Development Services

SIETDQ

Comments: Memorandum□□

To:□Brandon Garrett, Planning Department
From:□Dennis Bartels, Engineering Services
Subject:□Cornhusker Highway Annexation
Date:□March 5, 2008
cc:□Randy Hoskins
Roger Figard
Doug Luedtke
Nick McElvain

□
Engineering Services has reviewed the proposed annexation of property south of Cornhusker Highway west of 84th Street and has the following comments:

1.□The property can be served with existing mains or in the case of 7845 Fletcher Avenue, served by constructing an extension from existing mains. The existing mains have been paid for by Lincoln Water System. A connection fee may be required to be paid by the property owner in addition to an impact fee if they choose to take City water service.

2.□No abutting sewer is available to the lots proposed for annexation. An outlet is available to the Stevens Creek trunk sewer. Abutting local size sewers must be built to serve the lots being accessed. Typically the property owners will need to pay their share of the cost of the sewer needed to serve their property. Impact fees will also be charged for connection to the sewer when service is requested.

3.□Since the properties can be served with City services, Engineering Services recommends approval of the proposed annexations.

Status of Review: Active

Reviewed By Public Works - Long Range Planning

ANY

Comments:

Status of Review: Active

Reviewed By Public Works - Watershed Management

ANY

Comments:

Status of Review: Active

Reviewed By Rural Fire District

ANY

Comments:

Status of Review: Active

Reviewed By School District

ANY

Comments:

Status of Review: Active

Reviewed By US Post Office

ANY

Comments:



Scott E Holmes/Notes

11/05/2007 04:44 PM

To Brandon M Garrett/Notes@Notes, Marvin S
Krout/Notes@Notes, Stephen S Hennrichsen/Notes@Notes
cc John J Chess/Notes@Notes, Scott E Holmes/Notes@Notes,
James A Newman/Notes@Notes

bcc

Subject 7900 Cornhusker area, etc.

Brandon, et. al

I met with John Chess and Jim Newman and went through all the data we have gathered, both from EPA and our own. As part of EPA's "Northeast Lincoln Groundwater CERCLIS ID. No. NEN000705539", Brian Mitchell, EPA Region VII Nebraska Site Assessment Manager, conducted site investigations on various properties to the north and east of ADM. EPA has conducted some level of site assessment at the following properties that were discussed today in the meeting:

Punna Mills

Mt. Godwin

Brockely 3.66 acre

Brockely 10.33 acre

Each of these properties had carbon tetrachloride levels found either through testing of water from wells or from geoprobe borings. A water sample from a well on the Dobson Brothers property did not detect contamination with carbon tetrachloride. EPA sent letters in mid September to inform the property owners of their findings.

Bottled water is currently being used by Dobson Brothers, Mt. Godwin and Lincoln Truck Repair for drinking water.

So, per our discussion, this covers what testing has been done, what EPA found, who EPA contacted and if they have been informed of EPA's findings.

We will find out if the Phillips 66 station (Whitehead property) has had recent VOC testing of their water well.

It should be noted that Telex Communications is another historical source of contamination in the area (different volatile organic chemicals). However, it is on the other side Stevens Creek.

http://www.epa.gov/Region7/factsheets/fs_telex_lincoln_ne.pdf

If you have any other questions, please let me know.

Scott



Scott E Holmes/Notes
02/19/2008 02:54 PM

To: Stephen S Henrichsen/Notes@Notes
cc: Brandon M Garrett/Notes@Notes, Chris M Schroeder/Notes@Notes, Marvin S Krout/Notes@Notes, James A Newman/Notes@Notes, John J
bcc:
Subject: Re: 80th & Fletcher Annexations

Steve,

Re: Do you agree that Brockley and Mount Godwin are the only contaminated properties? The extent of the contamination is not yet fully determined (EPA is still conducting an investigation). Jim Newman, Environmental Health Specialist II, who works for John Chess, put together the following information, which was in reference to your email of 2/15/08 subject Annexation:

Purina Mills is on City Water per Bill Fish of LWS and Jerry Wolf of Purina. The results shown on the attached map are from bore holes.

Dobson Bros domestic well was sampled by EPA with a result of .5 ppm Carbon Tetrachloride. The industrial well, located in city limits, was not sampled for Carbon Tetrachloride since there was no contact exposure. The well is used for cement mixing and dust suppression only.

The property at 7701 Cornhusker Hwy was tested by EPA with a result above the MCL for Carbon Tetrachloride as shown on the attached map.

I would suggest annexation of all these properties since the only well with a low level, 7845 Fletcher, would be surrounded by city limits after annexation of properties with contaminated water wells or are connected to Lincoln Water System.



NE_Lin_GW_Investigation.pdf

So, groundwater contamination has been found so far under other properties and may very well be found under all properties out there.

In addition, as you go further N and E on Cornhusker, the Telex facility has groundwater contamination, which was discovered a long time ago and is in an ongoing clean up phase.

Scott

Stephen S Henrichsen/Notes



Stephen S Henrichsen/Notes
02/19/2008 11:29 AM

To: Scott E Holmes/Notes@Notes
cc: Brandon M Garrett/Notes@Notes, Marvin S Krout/Notes@Notes, Chris M Schroeder/Notes@Notes
Subject: 80th & Fletcher Annexations

Scott

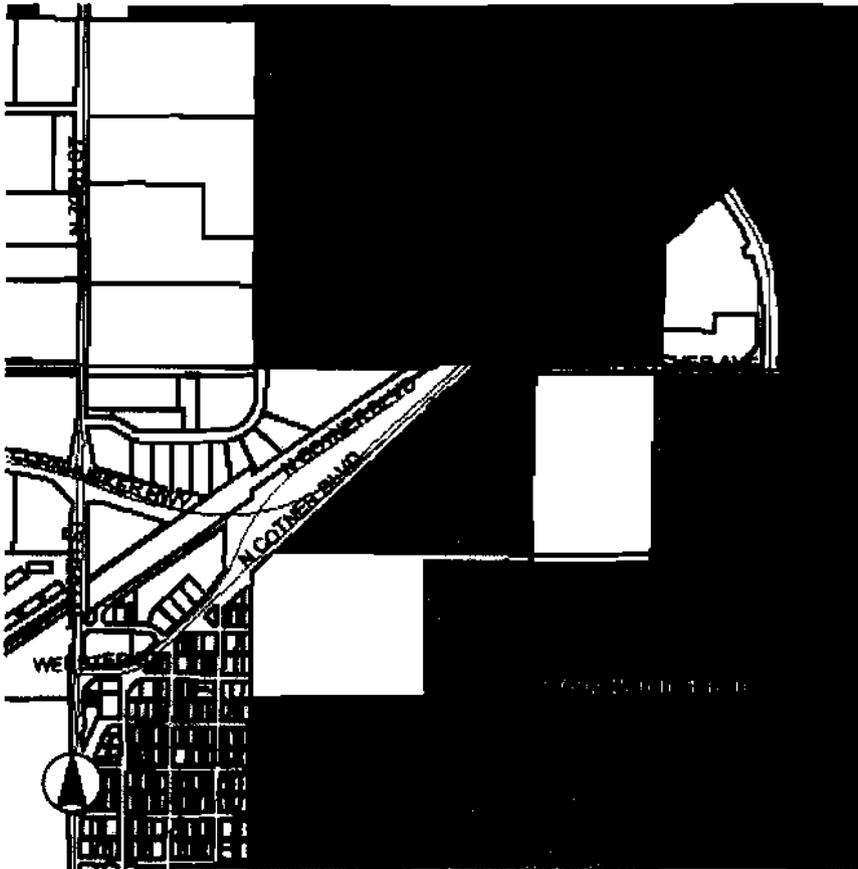
According to ADM, the Mount Godwin property (former Millard Lumber see map below) also has a contaminated well. ADM has an agreement with the owners/ tenants of Mount Godwin, a company

known as K2 (?) to pay the costs of water hookup.

If Mount Godwin, as well as the two George Brockley properties are contaminated, then we would annex all three. This will cause two properties to the south of them, owned by Purina Mills and Dobson Brothers Construction to become surrounded by the city limits – meaning they should be included in the annexation, even though they don't have contamination issues.

Do you agree that Brockley and Mount Godwin are the only contaminated properties?

Steve



NOTE:

**WHITE AREA IS WITHIN CITY LIMITS
GRAY AREA IS OUTSIDE CITY LIMITS**

INTER-DEPARTMENT COMMUNICATION



DATE March 7, 2008
TO: Brandon Garrett, City Planning
FROM: Sharon Theobald (Ext. 7640) *ST*
SUBJECT: DEDICATED EASEMENTS
DN #60N-78E

AN #08002

Referencing the Annexation Request – Cornhusker Highway & Fletcher Ave.

In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

Windstream, Time Warner Cable, and the Lincoln Electric System will offer no comments regarding the proposed annexation of the properties listed on Cornhusker Highway and Fletcher Avenue in your February 27th Memo.

ST/nh
Attachment
c: Terry Wiebke
Easement File

Lancaster

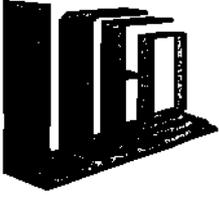
County

Engineering

Department

DON R. THOMAS - COUNTY ENGINEER

**DEPUTY- KENNETH D. SCHROEDER
COUNTY SURVEYOR**



DATE: March 3, 2008
TO: Mike DeKalb
Planning Department
FROM: Ken D. Schroeder 
County Surveyor
SUBJECT: CORNHUSKER HIGHWAY ANNEXATION #AN08002

Upon review, this office has no direct objections to this
submittal.



"Sgt. Don Scheinost"
<lpd798@ciis.LINCOLN.NE.
GOV>

03/03/2008 09:49 AM

To Brandon Garrett <BGarrett@ci.lincoln.ne.us>

cc

bcc

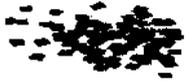
Subject Cornhusker Highway Annexation

Mr. Garrett,

The Lincoln Police Department does not object to the Cornhusker Highway Annexation, annexation # 08002.

Sergeant Don Scheinost
Management Services
Lincoln Police Department
575 South 10th Street
Lincoln, NE 68508
402.441.7215
mail to: lpd798@ciis.lincoln.ne.gov

017



Edwin Kouma/Notes
03/12/2008 03:28 PM

To: Brandon M Garrett/Notes@Notes
cc
bcc
Subject: Cornhusker Hwy Annexation # 08002

Brandon,
I have reviewed the annexation information for properties near Cornhusker Highway and Fletcher Avenue and have no comments.

Ed Kouma
Watershed Division
Public Works & Utilities Dept
901 N. 6th Street
Lincoln NE 68508
402-441-7018



Lincoln-Lancaster County 555 South 10th Street / Suite 213 Eugene W. Carroll, Chair
Planning Department Lincoln, Nebraska 68508 City-County
Marvin S. Krout, Director 402-441-7491 / fax: 402-441-6377 Planning Commission



MAYOR CHRIS BEUTLER

lincoln.ne.gov

February 27, 2008

RE: Annexation
Generally located at Cornhusker Highway and Fletcher Avenue

Dear property owner:

It has been brought to the attention of the City that chemical contaminants have been detected in wells either on your property or in the near vicinity of your property. The City proposes to annex the properties south of Cornhusker Highway in the area of the detected contamination in order to better serve the public health. The Health Department has not declared this a health emergency, but it is a health risk and the annexation will facilitate in connecting several properties to City water. This annexation is tentatively scheduled for the March 26th Planning Commission hearing.

The following properties are proposed to be annexed:

1. 5500 N. Cotner Boulevard
2. 7701 Cornhusker Highway and Lot 49 north of Fletcher Avenue right of way
3. 7909 Cornhusker Highway
4. 7845 Fletcher Avenue
5. 8000 Fletcher Avenue

All of these properties, in addition to others in the area and around the City, were already being considered for annexation by the City in 2008. The proposed annexation is zoned I-1, is adjacent to the City, and has ready access to utilities such as water and sewer. The City has decided to proceed earlier with this annexation due to the potential health risks of the contaminated wells.

The Lincoln/Lancaster County 2030 Comprehensive Plan states:

- Land which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed; land which is contiguous to the City 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.

Should you have questions regarding water or sewer connections, please contact Dennis Bartels, Public Works at 441-7595.

Should you have questions regarding well contamination, please contact John Chess, Health Department at 441-8027.

Should you have questions regarding the annexation, please contact Brandon Garrett, Planning Department at bgarrett@lincoln.ne.gov or 441-6373.

Sincerely,



Brandon M. Garrett, AICP
Lincoln/Lancaster County Planning Department

Attachment

cc: George B. & Jessie J. Brockley
Dobson Brothers Construction Company
Mount Godwin LLC
Purina Mills Inc.
Dennis Bartels, Public Works
John Chess, Health Department
Scott Holmes, Health Department
file

Q:\PC\ANX\Cornhusker and Fletcher Annexation Notification Letter.bmg.wpd