

City Council Introduction: **Monday**, February 9, 2009  
Public Hearing: **Monday**, February 23, 2009, at **5:30** p.m.

Bill No. 09-16

## **FACTSHEET**

**TITLE: ANNEXATION NO. 08010**, by the Director of Planning, to annex 443 acres, more or less, generally located from South 66<sup>th</sup> Street to South 84<sup>th</sup> Street, from Pine Lake Road to the railroad tracks north of Yankee Hill Road.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 01/28/09  
Administrative Action: 01/28/09

**STAFF RECOMMENDATION:** Approval.

**RECOMMENDATION:** Approval (8-0: Carroll, Esseks, Francis, Larson, Cornelius, Gaylor Baird, Taylor and Sunderman voting 'yes'; Partington absent).

### **FINDINGS OF FACT:**

1. This is a request to annex 443 acres, more or less, generally located from South 66<sup>th</sup> Street to South 84<sup>th</sup> Street from Pine Lake Road to the railroad tracks north of Yankee Hill Road, pursuant to the City's annexation policy as set forth in the Comprehensive Plan.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.4-5, concluding that the property can be provided the full-range of City services now or in the future, is generally urban in character and is contiguous with the city limits. This annexation is consistent with the City's annexation policy.
3. Neighborhood meetings were held on September 2 and October 2, 2008, and written notification of the public hearing before the Planning Commission was mailed to owners of the property proposed to be annexed on December 29, 2008.
4. The staff presentation is found on p.6. Testimony by a representative of the Fire Department relating to response times is found on p.6.
5. Testimony in support, only if the proper infrastructure is in place prior to annexation, is found on p.7.
6. Testimony in opposition is found on p.7, and the record consists of three letters expressing concerns in opposition (p.11-13).
7. The Planning Commission discussion with staff is found on p.7-8.
8. On January 28, 2009, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval (Partington absent).

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

**DATE:** February 3, 2009

**REVIEWED BY:** \_\_\_\_\_

**DATE:** February 3, 2009

**REFERENCE NUMBER:** FS\CC\2009\ANNEX.08010

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for January 28, 2008 PLANNING COMMISSION MEETING

**PROJECT #:** Annexation #08010

**PROPOSAL:** Application by the Director of Planning to annex approximately 443 acres.

**LOCATION:** Approximately from South 66<sup>th</sup> Street to South 84<sup>th</sup> Street from Pine Lake Road to the railroad tracks north of Yankee Hill Road

**LAND AREA:** 443 areas more or less.

**CONCLUSION:** These properties can be provided the full-range of City services now or in the near future, are generally urban in character, and are contiguous with the city limit. Their annexation is consistent with the City's annexation policy.

<b><u>RECOMMENDATION:</u></b>	Approval
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lots 52, 53, 19, 18, 29, 30, 65, 48, 47, Lots 76-79 and remaining portions of Lots 10 and 46, all located in Section 21-9-7; Lots 56, 77 and that portion of Lot 71 lying outside the city limits, all located in Section 15-9-7; the remaining portion of Lot 16, Lots 1-5, Block 1, Lot 1, Block 2, Lots 1-4 and 6-10, Block 3 and Lots 1-10, Block 4, Clarendon Hills Addition; Lots 1-5, Block 1, Lots 1-11, Block 2, Lots 1-7, Block 3, Lots 1-5 and Lot 8, Block 4, Clarendon Hills 1<sup>st</sup> Addition, Lots 1 and 2, Stauffer Addition; that portion of Outlot D, Grand Terrace Addition outside the city limit; Lot 1, Block 1, Lot 1, Block 2, Lots 1-6, Block 3, Amber Hill Estates; Lots 1-4, Block 1, Lots 1 and 2, Block 2, Amber Hill Estates 1<sup>st</sup> Addition; Lots 1 and 2, Amber Hill Estates 2<sup>nd</sup> Addition; Lots 1-5, Block 1, Portsche Heights 3<sup>rd</sup> Addition; and Lots 1 and 2, Portsche Heights 4<sup>th</sup> Addition; and adjacent rights-of-way and railroad right-of-way, located in Section 22-9-7; all located in Lancaster County, Nebraska, generally located at S. 70<sup>th</sup> Street and Pine Lake Road.

**EXISTING ZONING:** AG Agriculture, AGR Agricultural Residential, R-3 Residential.

**EXISTING LAND USE:** The area proposed for annexation is developed and includes approximately 86 dwelling units and one non-profit organization.

## **COMPREHENSIVE PLAN SPECIFICATIONS:**

**Pg 21** - The proposed annexation is within the City's Future Service Limit.

**Pg 154** - Annexation Policy - 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 sewer 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.

The character of existing residential areas should be respected as much as possible during the annexation process. When low density "acreage" areas are proposed for annexation due to the City's policy, additional steps should be taken to ease the transition as much as possible, such as public meetings, advance notice and written explanation of changes as a result of annexation. In general, many aspects of acreage life may remain unchanged, such as zoning or covenants. However, any annexation of existing residential areas will include some costs which must be the responsibility of property owners.

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.

## **SPECIFIC INFORMATION:**

### **UTILITIES & SERVICES:**

**Sanitary Sewer:** A sanitary sewer line crosses Highway 2 at Pine Lake Road, and is the same line which was tapped to serve the Grand Terrace development at South 84<sup>th</sup> & Highway 2, approved and annexed in 2006. The City is completing constructing on a sanitary sewer line adjacent to the railroad tracks just south of the Clarendon Hills subdivision, and any areas that cannot be served by the main adjacent to Highway 2 can be served by it.

**Water:** There is a water main in South 84<sup>th</sup> Street from Yankee Hill Road extending north, and in South 70<sup>th</sup> Street to Pine Lake Road. Water is generally available to serve the area proposed for annexation, however those properties south of Pine Lake Road fronting South 70<sup>th</sup> Street on the west may require an extension of the water main in South 70<sup>th</sup> Street. The City had appropriated funds in the 2004-2005 Capital Improvements Program to install this main, but placed the plans on

hold pending requests from developers needing the service. Those plans could be brought forward with renewed demand, and would require approximately a 1-2 year lead time.

**Roads:** South 84<sup>th</sup> Street is designated as a major arterial street, and South 70<sup>th</sup> Street and Pine Lake Road are designated as minor arterial streets. South 70<sup>th</sup> is a two-lane asphalt street south of Pine Lake Road. South 84<sup>th</sup> Street is improved to city standards to approximately Amber Hill Road, and Pine Lake road is a two lane asphalt street from approximately South 60<sup>th</sup> Street to Highway 2.

A paving district was formed in 2007 and the streets within Clarendon Hills development were paved with asphalt. The assessment against the benefitting properties to pay for the paving improvements will continue to be collected after annexation until the debt is paid off.

**Fire/Police/Public Safety:** Those areas outside the city are currently served by the Southeast Rural Fire District and Lancaster County Sheriff. If approved, the Lincoln Fire and Police Departments will be responsible for providing protection to those areas within the city limit. For fire protection, it is anticipated that the first responders would be from Stations #12 (South 84<sup>th</sup> & South Streets) and #6 (South 48<sup>th</sup> and Claire Streets). No reimbursement to the Southeast Rural Fire District is anticipated.

#### **ANALYSIS:**

1. The proposed annexation area includes approximately 86 dwellings and one non-profit organization. As a result of the existing development pattern and proximity to the city, this area is urban in character.
2. The areas proposed for annexation are contiguous with the city limit.
3. Recently approved developments in this area have brought the city limit closer. Public water and sewer mains have been extended accordingly making connection to them possible for the areas proposed for annexation. Grand Terrace, located southwest of the intersection of South 84<sup>th</sup> Street & Highway 2, is a residential development for 267 dwelling units and was approved in 2006. Yankee Hill Townhomes, located northeast of the intersection of South 84<sup>th</sup> Street and Yankee Hill Road, is a residential development for up to 164 dwelling units, and was approved in 2007. The Woodlands at Yankee Hill, located south of Yankee Hill Road between South 70<sup>th</sup> and South 84<sup>th</sup> Streets, is approved for up to 325,000 square feet of commercial floor area and 1,350 dwelling units, and was approved in 2005.
4. The area proposed for annexation is contiguous with the city limit. However, due to recent development and annexations, the city limit is irregular in this area. As a result there are properties inside the city surrounded by those that aren't, and vice versa. Such irregular city limit boundaries can be challenging for service providers, such as determining when emergency services must respond or not, or for snow plow drivers clearing streets.
5. Serving these developments will be a water main which has been installed in Yankee Road between South 70<sup>th</sup> and South 84<sup>th</sup> Streets, and existing water main in South 84<sup>th</sup> Street, and sanitary sewer which is being installed adjacent to the railroad line extending from

approximately South 66<sup>th</sup> & Pine Lake Road to South 84<sup>th</sup> Street between Amber Hill Road and Dunrovin Road.

6. Any property owner with a well may continue to use the well after annexation, but owners wishing to continue using private wells must apply for a bi-annual permit. The fee for the permit includes annual inspections conducted by the Health Department.
7. All other city services can be provided to this area.
8. The properties within this area are in three different school districts, as the boundaries of Lincoln Public Schools, Waverly Public Schools, and Norris Public converge here. After annexation, all properties will be inside the Lincoln Public School District boundary.

Prepared by:

Brian Will, 441-6362, [bwill@ci.lincoln.ne.us](mailto:bwill@ci.lincoln.ne.us)

Planner

January 13, 2009

**APPLICANT:**

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(402) 441-7491

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(402) 441-6362

## ANNEXATION NO. 08010

### PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 28, 2009

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

Ex Parte Communications: None.

Staff recommendation: Approval

Staff presentation: **Steve Henrichsen of Planning staff** gave a brief overview of the annexations on today's agenda. The staff began studying these proposals last year. Planning Commissioners received a briefing. Neighborhood meetings were held in September, October and December of 2008. Through mailings and the Planning Department Web site, staff has tried to disseminate as much information as possible. The reasons for moving forward with these annexations are that they conform to state statutes, they are adjacent to the city limit, services can be provided, they are urban in character in that they relate to the urban area, and city streets are used to come and go.

People who have contacted staff in opposition have noted the tough economic times. Henrichsen can understand. Everyone is in tough times. There are pluses and minuses for living in the city. City residents don't receive burn permits and cats and dogs must be licensed. There are a lot of pluses also, including is a very fast response time for Police and Fire.

**Brian Will of Planning staff** stated that this is a request for annexation initiated by the Planning Director for the area bounded by Pine Lake Rd. on the north, Yankee Hill Rd. on the south and goes from 70<sup>th</sup> St. to 84<sup>th</sup> St. The city has been growing this direction for some time now. The sewer line has been extended. Given the proximity of the utilities being available and proximity to the city limit, this area is appropriate for annexation. Staff has chosen to leave out the area to the south while the city continues to resolve some issues with the rural water district. It is the intent to bring that area forward for annexation in the future.

Esseks would like the Fire Chief to address response times in proximity to existing fire stations.

**Deputy Fire Chief Derald Murrell** stated that the closest station to this area is at 48<sup>th</sup> and Claire Avenue. The response location depends on whether it is a medical call or a full fire response. The closest ladder truck comes from Cotner Boulevard and "A" St. The second engine company comes from 84<sup>th</sup> and South St. Our average response throughout the city is about 4.6 to 5 minutes response time for most calls. It is a little longer for the outside perimeter of the city.

Esseks is concerned with response times as the city grows and the budget continues to be tight. Murrell acknowledged that as the city grows, it is a challenge to meet the response times. Additional stations are in the planning stage and until Capital Improvements funds are approved, that is where they remain.

## Proponents

1. **Tom Olson**, 7500 Boone Trail, is for the proposal if the city has proper infrastructure. He has no fire hydrants or city water. This annexation puts the cart before the horse. The Fire Dept. does not have the capability to provide the proper response. He is retired from the Lincoln Fire Dept. He believes it would take about five fire engines to provide a relay to reach his house from the existing hydrant. Annexation before infrastructure is in place puts the residents in jeopardy. He would like to be annexed but wonders if this isn't putting the cart before the horse.

## Opposition

1. **Norman Hunt**, 7201 Pine Lake Rd., testified in opposition. He believes that the city comes out and does nothing to take over. He has his own utilities. We are in a severe recession and this would involve expenses he does not need.

2. **Peter Katt** testified in opposition. He has clients in all three of the annexation areas (Annexation No. 08010, Annexation No. 08015 and Annexation No. 08016) coming up for public hearing today. He asked the Commission to remember and consider that the proposed annexation areas are very large and are vastly underdeveloped. Today there is a lot of undeveloped land in the city. There is no demand for land on the fringes today. It is not advantageous to the homeowners. He believes it would be best to defer these annexations due to current economic circumstances.

## Staff questions

Esseks questioned the financial implications to property owners that are being annexed. Will replied that they are subject to tax valuations going up, but they will have the availability of city services. Some of the property owners could subdivide and sell off some of their land once they are annexed.

Esseks noted that these properties use city roads but do not pay city wheel tax. Will responded that to be correct. There are other taxes involved with licensing vehicles that the city does not receive from people in the county. After annexation, city services will receive their share of these funds. He doesn't believe the fire response would be any worse after annexation than before. You have to be annexed to receive city utilities.

Francis wondered if someone will be forced to hook up to city water and sewer. Will replied that as long as the property has a functioning septic system that presents no threat to the public health, they can continue to use it.

Gaylor Baird noted that irregular city limits can cause confusion for emergency services and snow plows. Will stated that not to be the issue that generated this request; however, this is a good example of a jurisdictional issue. There are people across the road from each other who are in the city and the county.

Response by the Applicant

Henrichsen stated that Lincoln Fire and Rescue will still get to the scene quicker than a Rural Fire District with a tanker truck.

Gaylor Baird wondered how often annexations are pursued by the Planning Department as opposed to the property owner. Henrichsen stated that in general, it has been eight years. At the last Comprehensive Plan review, staff was encouraged to look at areas appropriate for annexation.

**ACTION BY PLANNING COMMISSION:**

January 28, 2009

Larson moved approval, seconded by Taylor and carried 8-0: Gaylor Baird, Carroll, Cornelius, Esseks, Francis, Larson, Sunderman and Taylor voting 'yes'; Partington absent. This is a recommendation to the City Council.





REQUEST FOR DELAY

ITEM NO. 4.1: ANNEXATION NO. 08010  
(p.97 - Public Hearing - 01/28/09)



Tom Gapp  
<tgapp@neb.rr.com>  
01/27/2009 01:22 PM

To <plan@lincoln.ne.gov>  
cc  
bcc  
Subject Annexation #08010

Planning commissioners,

My initial request is to continue the public hearing for two weeks so that I could testify and have my concerns addressed. I am a land owner of over 33 acres within this annexation area. We are on an overseas mission to Africa and would be back before your next scheduled meeting.

If holding the hearing over is not possible, then please address at least these concerns:

- 1) The water line in 70th street that was delayed from the 2003/4 CIP had a cost of \$670,000 before it was dropped. Is that a cost to the city or to the annexed property holders by way of assessment districts?
- 2) The wordage in the staff report on this water line is "brought forward with renewed demand and ...a 1-2 year lead time". What is renewed demand, and can I be assured of a water line in two years if I begin development of my 33 acres?
- 3) Have sewer plans for Clarendon Hills already been planned and what will the cost be to the city and/or to the landowners, either directly or by assessment district? How by area would the assessment districts be formed?
- 4) Why was the land south of the railroad tracks removed from this annexation as originally proposed?
- 5) Why are properties that are under annexation agreements exempt from this process when they are the cause, and thus they may not be in the city for many years?
- 6) The revenue and cost estimates from the draft of July 14, 2008 seem to be very incomplete by leaving out the actual cost for sewer and water lines. Could an accurate report be made available?

Thank you for your considerations.

Tom and Linda Gapp



Tom Goeglein  
<tgoglein@bmgcpas.com>

01/28/2009 09:34 AM

Please respond to  
<tgoglein@bmgcpas.com>

To <bwill@lincoln.ne.gov>, <plan@lincoln.ne.gov>

cc

bcc

Subject: annexation no. 08010

Commissioners:

I live at 7401 Revere Lane which is located in the proposed annexation # 08010. I have spoken with Brian Will regarding my concerns of this annexation. Many of my neighbors and myself perceive no benefits of being annexed by the city, but realize it is impossible to stop this annexation.

One of my main concerns is the ability to obtain a burn permit from the Lincoln fire department if annexed. I have obtained at a minimum 10 burn permits in the past from the Pine Lake Volunteer fire department. The reason I have needed this permit is to burn pine trees that have the Scotch Pine wilt. I have cut down 105 trees and have disposed of these dead trees as proposed by The Nebraska state forester. I have done this timely as suggested by the state forester. I have approximately 350 additional trees that may/will die from pine wilt.

Brian Will has indicated to me that the fire department may issue a burn permit, but not likely. The city health department indicated to Brian that this is a health issue. Was the issuance of burn permits by the volunteer fire department considered a health issue?

I have a difficult time understanding the "DIVINE GUIDANCE" the health department has once we become "part of the city". After all I am just a taxpayer I trying to make a living and comply with the laws of the county and now potentially the City of Lincoln. If I do not continue to cut down this dead trees and dispose of them I can assure you the fire department would have a rather large fire to fight if these dead trees would accidentally catch fire.

Thank for your consideration.

Tom Goeglein  
7401 Revere Lane  
Lincoln, NE. 68516  
484-3777 work  
423-7349 home

JAN 16 2009

Lincoln/Lancaster Co.  
Planning DepartmentLincoln - Lancaster County  
Planning Department

January 15, 2009

Sirs:

I live in Clarendon Hills addition facing annexation. I am asking you to postpone this annexation. I am 76 years old, worked for the same company for 44 years with no pension, no vacation, no sick leave and no health insurance. Now the city thinks they are entitled to some of my years of savings, has decreased in value the past year.

I am self efficient and don't need city utilities. I have a new water system good for twenty or more years. Taxes will have to be payed to two places. In the next ten years with assessments and taxes it will cost me between \$90,000 to \$100,000. Does the city really expect and demand this from me and many others. I would pay wheel toy and have in the past. The economy is still on a downward trend so I ask you again to please put the annexation on hold.

NORMAN HUNT  
Norman Hunt  
7201 Pine Lake RD  
Lincoln, Ne. 68516