FACTSHEET

TITLE: Annexation No. 17010 - Annex approximately 211 acres (North 56th Street and Fletcher Avenue).

APPLICANT: Planning Department

STAFF RECOMMENDATION: Approval.

SPONSOR: Planning Department

REASON FOR LEGISLATION:
This is a City-initiated request to annex approximately 211 acres that are completely surrounded by the City of Lincoln.

DISCUSSION / FINDINGS OF FACT:
1. On September 27, 2017, this proposed annexation was removed from the Consent Agenda of the Planning Commission and opened for public hearing.

2. The staff recommendation of approval of this annexation request is based upon the “Analysis” as set forth on pp.3-4, concluding that the area was recommended for annexation in the 2017 Annexation Study completed by the Planning Department. It is in Growth Tier I Priority B, surrounded by city limits, and basic infrastructure is available. The staff presentation, as the applicant, is found on pp.10-11.

3. There was no testimony in support of this application.

4. Testimony in opposition is found on pp.11-12.

5. Planning Commission discussion with staff is found on p.12.

6. On September 27, 2017, the Planning Commission voted 7-0 to recommend approval of this annexation request.

7. Should this annexation request be approved, the Planning staff is recommending that the Council ordinance assign the newly annexed area to Council District #1.

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer

REVIEWED BY: David R. Cary, Director of Planning

DATE: September 29, 2017
COMPATIBILITY WITH THE COMPREHENSIVE PLAN
Per the Annexation Policy in the Comprehensive Plan, the city should annex areas in Growth Tier 1, Priority B that are completely engulfed by the city. This area is in Growth Tier 1, Priority B and surrounded on all sides by the city.
KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 12.3 - This site is shown as Environmental Resources and Ag Stream Corridor on the 2040 Lincoln Area Future Land Use Plan.

Pg. 1.10 - This site is shown in Tier 1, Priority B on the Growth Tier Map.


Annexation policy is a potentially powerful means for achieving many of the goals embodied in the Plan’s Vision. Annexation is a necessary and vitally important part of the future growth and health of Lincoln. The annexation policies of the City of Lincoln include but are not limited to the following:

The provision of municipal services must 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 should be predicated upon annexation of the area by the City. City annexation must occur before any property is provided with water, sanitary sewer, or other potential City services.

The areas within Tier I, Priority A that are not annexed serve as the future urban area for purposes of annexation per state statute and are appropriate for immediate annexation upon final plat. These areas have approved preliminary plans.

To demonstrate the City's commitment to the urbanization of land in Tier I, Priority B, the City should annex land that is contiguous to the City and generally urban in character, as well as land that is engulfed by the City. Land that is remote or otherwise removed from the limits of the City of Lincoln will not be annexed. The City should review for potential annexation all property in Priority B for which basic infrastructure is generally available or planned for in the near term.

Annexation generally implies the opportunity to access all City services within a reasonable period of time. 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 annexation of large projects may be done in phases as development proceeds.

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 annexation 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.
UTILITIES & SERVICES

A. Sanitary Sewer: A trunk sewer main is adjacent to the site. The property owner would be responsible for the cost to extend local mains to serve the site.

B. Water: A 16” water main is adjacent to the site. The property owner would be responsible for the cost to extend local mains to serve the site.

C. Roads: No new roads would be annexed into the city with this proposal.

D. Fire Protection: The site is currently served by the Raymond and Waverly Fire Districts. It would be served by Lincoln Fire and Rescue (LFR) upon annexation. The nearest LFR station is at Touzalin and Fremont, approximately three miles from the site.

ANALYSIS

1. This request is to annex approximately 211 acres that are completely surrounded by city limits. The property owner is not requesting the annexation; the applicant is the City of Lincoln.

2. This site was identified for annexation in the 2017 Annexation Study completed by the Planning Department (see attached page on this area from the study). The annexation recommendation is based on the Annexation Policy found in the Comprehensive Plan and page 2 of this staff report. The complete study is available at lincoln.ne.gov keyword: annstudy17.

3. The following paragraph from the Annexation Policy describes areas appropriate for annexation.

   To demonstrate the City’s commitment to the urbanization of land in Tier I, Priority B, the City should annex land that is contiguous to the City and generally urban in character, as well as land that is engulfed by the City. Land that is remote or otherwise removed from the limits of the City of Lincoln will not be annexed. The City should review for potential annexation all property in Priority B for which basic infrastructure is generally available or planned for in the near term.

   The 2017 Annexation Study used this policy to identify four specific criteria for annexation. Areas that meet at least one of the following criteria may be appropriate for annexation. This site meets multiple criteria (A, B, and D), so it is appropriate for annexation.

   a. Land in Tier I Growth Area, Priorities A and B. This site is within Tier I, Priority B.
   b. Land which is engulfed by the city limits. This site is completely surrounded by city limits.
   c. Land which is contiguous to the city limits and in urban zoning. This site is zoned AG, so it is not in urban zoning.
   d. Land which is contiguous to the city limits, in agricultural zoning, in which basic infrastructure is in place or planned in the near term, and is in urban character. Urban character is defined by a site’s relation to the urban area. Even though this site is being used for agriculture and open space, it is surrounded by city limits and available for urbanization. Therefore, it is considered to be urban in character.

4. Reasons for annexation include:

   a. Equity for taxpayers. Property owners on all sides of this area pay city taxes. This property should be subject to the same tax levy as its neighbors.
   b. Clarity for emergency services. This site includes two parcels. The west parcel is served by Raymond Volunteer Fire and Rescue, and the east parcel is served by Waverly Rural Fire District. The entire surrounding area already is served by LFR. The property would be served by LFR upon annexation.
   c. Allow for continued growth of Lincoln in an efficient and orderly fashion. As Lincoln continues to grow, it doesn’t make sense to have areas in rural jurisdictions surrounded by the city.
5. The property is currently designated as Greenbelt for tax purposes. The Greenbelt program is administered by the State and provides reduced valuations for properties in agricultural use near cities. Property owners cannot keep their Greenbelt designation once the property is annexed unless a conservation easement is obtained. The site currently does not include a conservation easement.

6. The 2017 assessed value of this land is approximately $860,000. Estimated annual property tax revenue for the city, based on the existing levy, would be approximately $2,900. The valuation would likely change upon annexation due to loss of the Greenbelt designation.

7. The City of Lincoln’s ability to annex property comes from state authorization. Per Nebraska Revised Statute 15-104, the City Council may “at any time” annex “any contiguous or adjacent lands, lots, tracts, streets, or highways.” Additional information about state statutes and court cases relating to annexation in Nebraska can be found in the 2017 Annexation Study.

8. The existing zoning is AG Agriculture. This application would not change the zoning on the site.

9. This site formerly included a rock crusher that is shown on the aerials. The rock crusher has since been removed.

10. City staff conducted four informational meetings in August to answer property owners’ questions about annexation.

11. The site was proposed for City-initiated annexation in 2008, and the application was withdrawn in 2010 so Nebco could acquire a conservation easement on the property. It was intended that the conservation easement would be obtained within a reasonable timeframe, and the annexation application would be reintroduced. As of the time of this report, no conservation easement has been obtained for the property. It was never the intent to delay the annexation for so long, and at this point it is appropriate to annex the site even if no conservation easement is obtained.

EXISTING LAND USE & ZONING: Agriculture, Open Space
AG Agriculture

SURROUNDING LAND USE & ZONING
North: Salt Creek, Industrial H-4 General Commercial
South: Industrial I-1 Industrial
East: Industrial, Agriculture I-1, AG
West: Open Space P Public

APPLICATION HISTORY
2008-2010 The site was proposed for City-initiated annexation in 2008 with Annexation No. 08008. The City withdrew the application in November 2010 to allow Nebco to acquire a conservation easement on the property.

APPROXIMATE LAND AREA: 211 acres

PROPOSED CITY COUNCIL DISTRICT ASSIGNMENT: City Council District #1

LEGAL DESCRIPTION: Lot 30 in the NW ¼ of Section 33-11-7, Lot 4, Lot 43 except the east 350 feet in the NE ¼ of Section 33-11-7.

Prepared by
Andrew Thierolf, Planner
September 18, 2017
Applicant/ Andrew Thierolf
Contact: Lincoln-Lancaster County Planning Department
        (402) 441-6371, athierolf@lincoln.ne.gov

Owner: Nebco, Inc
        1815 Y Street
        Lincoln, NE 68508
Annexation #: AN17010
N 56th St & 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

One Square Mile: Sec.33 T11N R07E

2016 aerial
**AREA B**

**N 56TH STREET & FLETCHER AVENUE**

**Area**
211 Acres

**Uses**
Vacant/Agriculture

**Assessed Valuation**
$858,200

**Zoning**
AG

**Comprehensive Plan**
Growth Tier I, Priority B

**Current Jurisdictions**
Lincoln Public Schools
Raymond Volunteer Fire and Rescue (west parcel)
Waverly Rural Fire District (east parcel)

The area is completely surrounded by existing City. It is almost entirely within the 100-year floodplain. The property is currently designated as greenbelt for tax purposes. It would lose greenbelt status upon annexation unless a conservation easement is obtained. The aerial image shows a rock crushe on the southeast portion of the site, but the business is no longer operating in this location.

This annexation would clarify service areas for emergency response. The site is currently split between the Raymond and Waverly Fire Districts, even though it is completely surrounded by the City. This area would be served by LFR upon annexation. The nearest LFR station is at Touzalin and Fremont, approximately three miles from the site.

**UTILITIES**
Water and sewer are available.

**ROADS**
No new roads would be annexed into the City.

**SUMMARY OF ESTIMATED CITY COSTS AND ReVENUES**

<table>
<thead>
<tr>
<th>Annual City Costs and Revenues</th>
<th>One-Time Payments by City</th>
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<tbody>
<tr>
<td>Property Tax</td>
<td>Motor Vehicle Tax</td>
</tr>
<tr>
<td>$2,900</td>
<td>$0</td>
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</tbody>
</table>

1. Taxes are based on 2016/2017 rates and 2017 proposed valuations.
2. The fire department has no net dept per the formula used to calculate reimbursement.
3. This area is not within the RWD boundary.
# Current Project - Agency Review Report

<table>
<thead>
<tr>
<th>Agency Name</th>
<th>User Name</th>
<th>Review Cycle</th>
<th>Review Status</th>
<th>Comments</th>
<th>Assignment</th>
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</thead>
<tbody>
<tr>
<td>County Engineer</td>
<td>ken schroeder</td>
<td>1</td>
<td>Recommend Approval</td>
<td>Upon review, this office has no direct objections to this submittal. September 11, 2017 (kds)</td>
<td>Individual</td>
</tr>
<tr>
<td>County Health</td>
<td>chris schroeder</td>
<td>1</td>
<td>Recommend Approval</td>
<td>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. An annual well permit is required for all wells within the city limits. Unused wells must be properly decommissioned by a licensed well driller.</td>
<td>Individual</td>
</tr>
<tr>
<td>Development Review Manager</td>
<td>steve henrichsen</td>
<td>1</td>
<td>Recommend Approval</td>
<td></td>
<td>Individual</td>
</tr>
<tr>
<td>Fire Department</td>
<td>patrick borer</td>
<td>1</td>
<td>Recommend Approval</td>
<td>Lincoln Fire and Rescue recommends approval of this application as long as all parties are aware development of these parcels are currently beyond our four minute travel time for fire engines.</td>
<td>Individual</td>
</tr>
<tr>
<td>Lincoln Police Department</td>
<td>sgt randy clark</td>
<td>1</td>
<td>Recommend Approval</td>
<td>We approve the annexation as long as the city recognizes that as the city grows, there will continue to be the need to maintain appropriate staffing levels for police to keep pace with the growth of Lincoln.</td>
<td>First In Group</td>
</tr>
<tr>
<td>Long Range Manager</td>
<td>paul barnes</td>
<td>1</td>
<td>Recommend Approval</td>
<td></td>
<td>Individual</td>
</tr>
<tr>
<td>Lower Platte South NRD</td>
<td>kyle hauschild</td>
<td>1</td>
<td>Recommend Approval</td>
<td>ok</td>
<td>Individual</td>
</tr>
<tr>
<td>Public Works - Engineering Services</td>
<td>brion perry</td>
<td>1</td>
<td>Recommend Approval</td>
<td>9-7-17</td>
<td>First In Group</td>
</tr>
</tbody>
</table>
ANNEXATION NO. 17010

ANNEXATION NO. 17010, FOR A CITY-INITIATED ANNEXATION OF APPROXIMATELY 211
ACRES, MORE OR LESS, ON PROPERTY GENERALLY LOCATED AT NORTH 56TH STREET AND
FLETCHER AVENUE:

September 27, 2017

Members present: Beckius, Corr, Edgerton, Harris, Hove, Scheer and Washington; Finnegan and Joy absent.

Staff recommendation: Approval.

There were no ex parte communications disclosed on this item.

Staff Presentation: Andrew Thierolf of the Planning Department stated this area was identified in the 2017 Annexation Study as a good candidate for annexation. The study was released in July. Normally, annexations happen at the request of the property owner, often when they are seeking City services such as paved surfaces and attachment to City sewer and water lines. There are, however, areas that are already developed or that will not otherwise request annexation for various reasons. In those cases, the City may initiate annexations to ensure equity among tax payers, to provide clarity for emergency services, and to make sure the City grows in an orderly and efficient way; it doesn’t make sense to have an overwhelmingly urban area with holes of County jurisdiction scattered within.

The methodology in determining which areas were ready for annexation included examination of all areas that met any or all of the following criteria: all land is within Tier I, Priority A and B; all areas are engulfed by the City; contiguous areas with urban characteristics; and agricultural areas with enough City infrastructure in place as to make it urban in character. These characteristics are noted and supported by the Comprehensive Plan which includes an established annexation policy.

Eight areas were identified as being appropriate for annexation. Four public meetings were held and letters went out to all property owners in each area. The process has been very open throughout.

This particular annexation is for approximately 211 acres that are zoned AG and completely surrounded by the City. The area includes two parcels and is part of the Lincoln Public Schools system. When it comes to emergency services, the western portion is served by Raymond and the east by Waverly. All of the surrounding area is within the Lincoln Fire and Rescue jurisdiction. It is easy to understand how this creates a potentially confusing situation. The property currently has Greenbelt status so it qualifies for reduced taxation. The area was originally proposed for Annexation in 2008 but it was excluded to give Nebco the opportunity to seek a conservation easement to protect that Greenbelt status. There is still no easement in place, so this is the time for annexation.

Harris noted there was a change to the annexation policy in 2008. She wondered what changed with regards to the Comprehensive Plan and what the guiding philosophical principles were in making changes. Thierolf responded that there are 10 paragraphs that discuss different aspects of annexation. The piece used for these City-initiated annexations did not change at all. At a
future meeting, there will be discussion related to changes in policy as applied to acreages.

Harris commented that the overruling principle for annexation is still owner-initiated. She wondered if the idea was to roll out changes slowly and what the reason was for the gap in time between the City-initiated annexations in 2008 and now. Thierolf said Staff looked at thousands of acres. There was no policy or intention behind waiting so long; it was simply the case that there were other priorities that came first. Moving forward, Staff intends to do the City-initiated annexations more frequently in order to keep up with City growth.

Washington noted that the agency review mentioned the distance from sewer lines but does not say how far away they are. She also wanted to know the cost difference between taxation with the Greenbelt status and without. Thierolf said that if a main building on a property is within 300 feet, it is required to connect to the sewer line. That rule does not apply for this particular annexation since there is no main building. Under Greenbelt status, value is assessed at 75 percent of the ag value. If that status is lost, the property would be assessed at full value, which includes its development potential. The majority of the property is floodway and cannot be easily developed.

Beckius asked if Watershed Management has been contacted about the Greenbelt status. Thierolf said they are aware of this property, but he does not know of any specific requests.

**Opponents:**

1. **Bob Caldwell, Nebco, Inc., 6101 Luann Lane,** stated Nebco has a long history of development around Lincoln. Their goal has always been to cooperate and collaborate with the City on projects and there is no animosity over this proposed annexation. That said, the attributes of this property do not lend themselves to this annexation. The reason the property has not been developed is that the northern portion is all floodway and on the west, there is a drainage canal with an easement granted by Nebco to the NRD to enlarge that portion to Salt Creek. Only a small area along the south, abutted by two active creeks, and a small strip along the east could be developed. Nebco has even referred to this property as the “duck preserve.” Farming occurs only when there is no standing water.

The main points for annexation do not apply to this area. No one is on the property drawing from City services so there is no case for tax equity. In terms of clarity for emergency services, there are no buildings on the property to protect. The City avoids taking on wetland maintenance, which is what this property would entail. Finally, Nebco owns many of the surrounding properties, which are annexed and properly zoned. To say that annexation should allow for continued growth is not applicable since the property is so difficult to develop. Though the area is included in Tier I, no reputable study would find this land easily developable. Furthermore, this land does not include any houses or churches like many of the other proposed areas. If there was need for services, annexation would make more sense. Nebco is currently studying the area to decide what can be done. Until that decision is made, we are opposed to the annexation.

Beckius asked what the current use of the property is. Caldwell said it is farmed when there is no standing water. Beckius noted that in an aerial photo, there appeared to be a large rock pile on the property and he wondered the history of that use. Caldwell said there was a concrete pile there for 30 years. Nebco was informed it was not allowed and the operation has since been moved.
Hove asked for the reason the conservation easement has not been applied for. Caldwell said consideration of that easement is part of the research being done now. It is important to understand the tax consequences and what entities might be interested in the property. If the annexation does not move forward, the research into the easement and potential development will continue. There is a reason that this property has been empty for so long.

Washington asked for clarification about the flood map and whether Nebco is prohibited from building in the floodplain. Caldwell said there is no access from 56th Street. In order to develop, a bridge would have to be constructed across the drainage way which is set to be enlarged by the NRD. There are active creeks in the area and the floodplain would have to be built up.

**Staff Questions:**

Harris asked Staff to address the points regarding the lack of benefit from annexation, given that the property will not be developed and City services will not have the same benefit. Thierolf said there are many areas of floodplain and flood way throughout the City and if they were never annexed, there would be holes all over the City. The properties surrounding the area pay City taxes. The argument for clarification of emergency services is strong since there are currently three jurisdictions.

Hove asked if there are any plans to alleviate some of the flood issues. Thierolf said not that he is aware of.

**ANNEXATION NO. 17010**

**ACTION BY PLANNING COMMISSION:**

Corr moved for Approval, seconded by Beckius.

Washington said this area was considered for annexation in 2008 and was excluded in order to allow time for a conservation easement. She is disappointed that the easement has been left unattended, though she also understands why they are not interested in moving forward at this time. For tax payer equity, it seems right to treat the property as others are treated.

Beckius agreed with Staff that if all flood areas were left unannexed, there would be gaps all over the City. This parcel is completely surrounded. Nebco has purchased the abutting property. There is continued investment in the area, overall, so it is equitable for tax payers, even though this particular area has limited use, to become part of the City.

Harris agreed with some of what has been said. This is similar to talking about development agreements in that the scope of this body is limited; even if there are other issues and bigger questions, much of that falls outside of the purview of the Planning Commission. Within the strict confines of appropriate land use and conformance with the Comprehensive Plan, this checks all of the boxes. This is not a typical piece of land, but it merits a robust discussion at the City Council level regarding how to do this equitably, and how interests are weighed so that the greater good wins and everyone is treated fairly throughout the process.

Scheer agreed with Harris regarding the limited perspective of the Planning Commission.
Motion carried, 7-0: Beckius, Corr, Edgerton, Harris, Hove, Washington, and Scheer voting 'yes'; Finnegan and Joy absent.

Note: This is a recommendation to the City Council.