

## FACTSHEET

**TITLE:** CHANGE OF ZONE NO. 14026

**BOARD/COMMITTEE:** Planning Commission

**APPLICANT:** R & D Development, Inc.

**RECOMMENDATION:** Approval  
(6-0: Sunderman, Harris, Beecham, Cornelius, Hove and Lust voting 'yes'; Weber, Scheer and Corr absent).

**STAFF RECOMMENDATION:** Approval

**OTHER DEPARTMENTS AFFECTED:** N/A

**SPONSOR:** Planning Department

**OPPONENTS:** None

### **REASON FOR LEGISLATION:**

To change the zoning from AG Agricultural District to I-1 Industrial District and H-3 Highway Commercial District, on property generally located at S.W. 56th Street and West O Street.

### **DISCUSSION / FINDINGS OF FACT:**

1. This change of zone request and the associated Annexation No. 14005 (Bill #14-134) were heard at the same time before the Planning Commission.
2. The staff recommendation to approve the change of zone request is based upon the "Analysis" as set forth on p.4-5, concluding that the property has an approved special permit for a limited landfill and is served by City services. This change of zone is consistent with the industrial and commercial designation of the property in the 2040 Comprehensive Plan.
3. On October 1, 2014, 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 October 1, 2014, the Planning Commission agreed with the staff recommendation and voted 6-0 to recommend approval of this change of zone request.
5. On October 1, 2014, the Planning Commission also voted 6-0 to recommend approval of the associated Annexation No. 14005 (Bill #14-134).

**FACTSHEET PREPARED BY:** Jean Preister, Administrative Officer

**DATE:** October 6, 2014

**REVIEWED BY:** Marvin Krout, Director of Planning

**DATE:** October 6, 2014

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**for October 1, 2014 PLANNING COMMISSION MEETING**

**PROJECT #:** *Change of Zone No. 14026* and Annexation No. 14005

Note: 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.

**PROPOSAL:** *Change of zone from AG Agriculture to I-1 Industrial on 35.96 acres and from AG to H-3 Highway Commercial on 2.31 acres* and to annex 39.03 acres including adjacent right-of-way of W. O Street.

**LOCATION:** Generally located at S.W. 56<sup>th</sup> Street and W. O Street.

**LAND AREA:** Approximately 39 acres more or less.

**EXISTING ZONING:** AG Agricultural

**CONCLUSION:** This property is has an approved special permit for a limited landfill. And is served by City services. Annexing and changing the zoning of this property is consistent with the industrial and commercial designation of this property in the 2040 Comprehensive Plan.

**RECOMMENDATION:**

*Change of Zone No. 14026*

Annexation No. 14005

*Conditional Approval*

Conditional Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See Attached

**EXISTING LAND USE:** There is a special permit for a limited landfill on this property as well as an administrative permit for a Temporary Concrete Paving Plant.

**SURROUNDING LAND USE AND ZONING:**

**North:** H-3 Highway Commercial along W. O Street, used for limited landfill and construction business

**South:** AG Agriculture - Rail road tracks and Salt Creek

**East:** AG Agriculture - Vacant

**West:** AG Agriculture - vacant but shown as Phase II on Limited Landfill special permit.

**HISTORY:** This area was changed from AA Rural and Public Use to AG Agriculture in the 1979 Zoning Update.

April 2000 Planning Commission Approved Special Permit No. 1773 for a limited landfill for up to 450,000 cubic yards of construction rubble such as concrete, brick and asphalt. The landfill may be open from 7:00am to 6:00pm Monday through Saturday.

January 2001 Administrative Amendment No. 00070 to Special Permit No. 1773 was approved by the Planning Director to adjust the building and drive locations on the site plan.

November 2001 City Council approved Annexation No. 01003 and Change of Zone No. 3314 from AG Agriculture to H-3 Highway Commercial.

September 2014 An Administrative Special Permit No. 14003 was approved by the Planning Director for a Temporary Concrete Paving Plant on a portion of this property.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

This property is shown as Commercial and Industrial on the 2040 Future Land Use Map

The ANNEXATION POLICY- page 12.14 of the 2040 Comprehensive Plan.

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 which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed. Annually 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:** Existing

**TOPOGRAPHY:** Sloping from the north to the south. There are drainage ways on the north and south of this property, and one north/south through the center of the project.

**TRAFFIC ANALYSIS:** The access to the site is provided from West ‘O’ Street/ Hwy 6. West ‘O’ street

**ENVIRONMENTAL CONCERNS:** This property has been brought out of the floodplain.

**ALTERNATIVE USES:** Due to the proximity to both W. O Street to the north and the flood plain and railroad to the south, industrial and commercial uses are the most appropriate for this area.

**ANALYSIS:**

1. The property to be annexed is served by City utilities.
2. This property is shown as Tier 1, Priority A in the 2040 Comprehensive Plan. Tier 1, Priority A means that the property is appropriate for immediate annexation. The Comprehensive Plan also shows this as Industrial with Commercial along W. O Street.
3. The change of zone to H-3 is along W. O Street and will be adjacent to existing H-3 Highway Commercial zoning.
4. This property has been used for a limited landfill since 2000. The portion zoned H-3 has been used for contractor services. It appears that the contractor’s service

business in the H-3 district has expanded beyond the boundaries of the existing H-3 district. The change of zone to I-1 will allow for industrial and contractor services on this property outside of the existing H-3 zoning.

5. W. O Street is an entryway corridor. Approximately 287 feet of the proposed area to be annexed has of frontage on W. O Street. Entryway corridors provide community identity and orientation. They are the “first impression” by visitors to our community. The City is working on standards to improve entryway corridors.
6. State statute requires the City to reimburse a Rural Fire District for the value lost to the City by the annexation of land in the rural fire district taxing area. In this case the reimbursement is \$163.74. Rather than doing a separate annexation agreement for \$163.74, the City is asking the developer to make this payment to the City prior to approval of the annexation. The City will pay the Southwest rural fire district a lump sum for all annexations in their area at a future date.

**CONDITIONS OF APPROVAL for Change of Zone No. 14026:**

1. **The City Council approves associated request AN14005 to annex approximately 39 acres:**

**CONDITIONS OF APPROVAL for Annexation No. 14005:**

1. The applicant submits a check to the Planning Department, equivalent to what the City owes the Rural Fire District (\$163.74.) for the annexation.

Prepared by:

Christy Eichorn, Planner  
402-441-7603  
ceichorn@lincoln.ne.gov

**DATE:** September 18, 2014

**APPLICANT/ CONTACT:** ESP, Inc  
601 Old Cheney Road, Suite A  
Lincoln, NE 68512  
402-421-2500

**OWNER:** R&D Development, Inc.  
Roger Schwisow  
1354 Pelican Bay Place  
Lincoln, NE 68528

**ANNEXATION NO. 14005  
and  
CHANGE OF ZONE NO. 14026**

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

**October 1, 2014**

Members present: Sunderman, Harris, Beecham, Cornelius, Hove and Lust; Weber, Scheer and Corr absent.

The Consent Agenda consisted of the following items: **ANNEXATION NO. 14005 and CHANGE OF ZONE NO. 14026.**

There were no ex parte communications disclosed.

Cornelius moved approval of the Consent Agenda, seconded by Hove and carried 6-0: Sunderman, Harris, Beecham, Cornelius, Hove and Lust voting 'yes; Weber, Scheer and Corr absent.



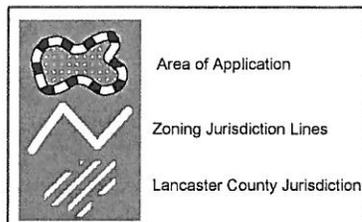
**Change of Zone #: CZ14026**  
**Schwisow Limited Landfill**  
**SW 56th & W O St**

2013 aerial

**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.25 T10N R05E



LEGAL DESCRIPTION ZONE: AG TO ZONE: I-1:

THAT PART OF LOT 29 I.T., LOCATED IN THE NE 1/4 OF SECTION 25, TOWNSHIP 10 NORTH, RANGE 5 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHEAST CORNER OF SAID SECTION 25; THENCE S00°08'46"W, ON THE EAST LINE OF THE NE 1/4 OF SAID SECTION 25, 485.13 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUING ON THE SAID EAST LINE, S00°08'46"W, 1435.27 FEET, TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BURLINGTON NORTHERN & SANTA FE RAILROAD, ALSO BEING A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 5629.65 FEET, A CENTRAL ANGLE OF 13°53'39", A CHORD (1361.86 FEET) THAT BEARS N69°05'57"W; THENCE ON AN ARC OF SAID CURVE TO THE RIGHT, ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF BURLINGTON NORTHERN & SANTA FE RAILROAD, 1365.20 FEET; THENCE N00°39'46"W, 955.79 FEET; THENCE S89°43'10"E, 1286.98 FEET, TO THE POINT OF BEGINNING.

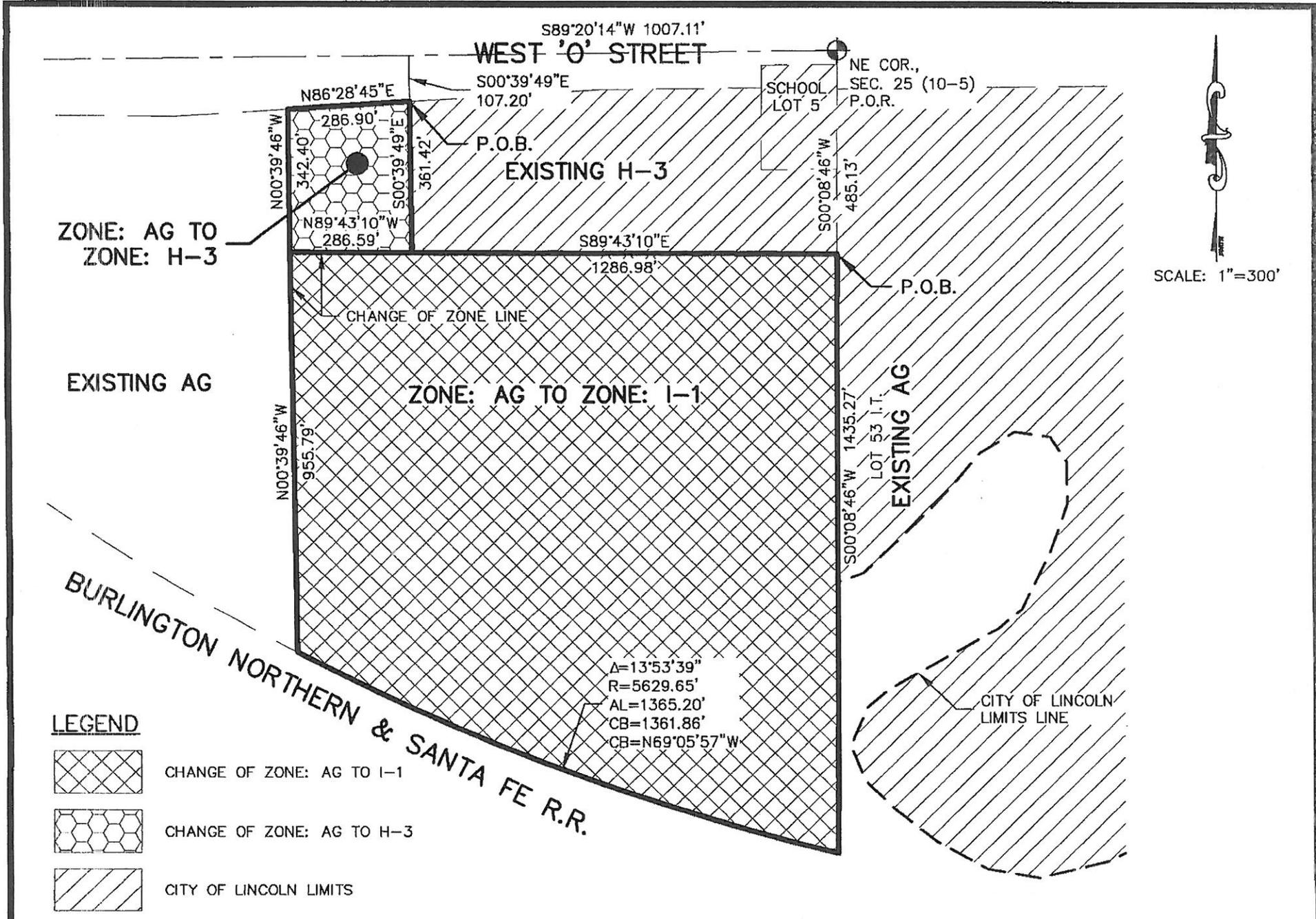
CONTAINING A TOTAL CALCULATED AREA OF 35.96 ACRES.

LEGAL DESCRIPTION ZONE: AG TO ZONE: H-3:

THAT PART OF LOT 29 I.T., LOCATED IN THE NE 1/4 OF SECTION 25, TOWNSHIP 10 NORTH, RANGE 5 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHEAST CORNER OF SAID SECTION 25; THENCE S89°20'14"W, ON THE NORTH LINE OF THE NE 1/4 OF SAID SECTION 25, 1007.11 FEET; THENCE S00°39'49"E, 107.20 FEET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF WEST "O" STREET, ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING S00°39'49"E, 361.42 FEET; THENCE N89°43'10"W, 286.59 FEET; THENCE N00°39'46"W, 342.40 FEET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF WEST "O" STREET; THENCE N86°28'45"E, ON THE SAID SOUTH RIGHT-OF-WAY LINE, 286.90 FEET, TO THE POINT OF BEGINNING.

CONTAINING A TOTAL CALCULATED AREA OF 2.31 ACRES.



  
 SCALE: 1"=300'

**LEGEND**

-  CHANGE OF ZONE: AG TO I-1
-  CHANGE OF ZONE: AG TO H-3
-  CITY OF LINCOLN LIMITS

600



File No. 14-0098  
August 22, 2014

Mr. Marvin Krout, AICP  
Director of Planning  
Christy Eichorn, Planner  
City of Lincoln/ Lancaster County  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: D & R DEVELOPMENT INC.  
Administrative Amendment to Special Permit #1773  
Change of Zone from 'AG' to 'I-1' and 'A-G' to 'H-3'  
Annexation

Dear Marvin,

On behalf of Roger Schwisow, we request Annexation of 39.03 acres, a Change of Zone from 'AG' to 'H-3' on 2.31 acres adjacent to West 'O' Street and a Change of Zone from 'AG' to 'I-1' on 35.96 acres which is located to the south of the proposed and existing 'H-3' zoning. We also request an administrative amendment to the Limited Landfill Permit of Special Permit #1773.

This development is located at approximately SW 56<sup>th</sup> Street & West 'O' Street. The annexation and change of zones are requested to bring the current uses into compliance with the zoning district.

Most of the area within the limits of the limited landfill permit has been removed from the floodplain. An approval Letter of Map Revision based on Fill (LOMR-F) was received on November 15, 2000 from FEMA. Their case number was listed as 00-07-588A. The administrative amendment to the landfill permit updates the application to reflect this revision, a site for a temporary concrete paving plant, as well as the actual grading currently underway and for the future.

Please contact me if you have any questions or comments.  
Sincerely,

A handwritten signature in black ink, appearing to read "Marcia L. Kinning", is written over a light blue horizontal line.

Marcia L. Kinning  
Cc: Roger Schwisow

Enclosures: Admin. Amend./COZ/Annexation Application  
Admin. Amend. Application Fee of \$165.00  
Change of Zone Application Fee of \$792.00

010