

Lincoln City - Lancaster County

PLANNING COMMISSION AGENDA

PLANNING COMMISSION

Dennis Scheer: Chair
Tracy Corr: Vice-Chair
Thomas Beckius
Dick Campbell
Tracy Edgerton
Deane Finnegan
Cristy Joy

PLANNING STAFF

David R. Cary: Director
Geri Rorabaugh: Administrative Officer
Rhonda Haas: Office Specialist

July 24, 2019

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, July 24, 2019, at 1:00 p.m. in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

****PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of "FINAL ACTION". Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

AGENDA

WEDNESDAY, July 24, 2019

Approval of minutes of the regular meeting held July 10, 2019.

1. **CONSENT AGENDA**
(Public Hearing and Administrative Action):

CHANGE OF ZONE AND RELATED USE PERMIT:

Page 01 1.1a CHANGE OF ZONE 19019, from R-4 (Residential District) to O-3 (Office Park District), on property generally located at 643 North 45th Street.
Staff recommendation: Approval
Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

Page 09 1.1b USE PERMIT 19007, to allow for office uses and related improvements, with waivers, on property generally located at 643 North 45th Street.
Staff recommendation: Conditional Approval
Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

2. **REQUESTS FOR DEFERRAL:**

3. **ITEMS REMOVED FROM CONSENT AGENDA:**

4. **PUBLIC HEARING AND ADMINISTRATIVE ACTION:**

COMPREHENSIVE PLAN AMENDMENT WITH RELATED ITEMS:

Page 25 4.1a COMPREHENSIVE PLAN AMENDMENT 19003, to amend the 2040 Lincoln-Lancaster County Comprehensive Plan, to change the Future Land Use designation from Commercial to Industrial on approximately 135 acres, on property generally bounded by Interstate 80 on the south, Highway 77 to the east, Bluff Road to the north, and N. 40th Street to the west.
Staff recommendation: Approval
Staff Planner: Rachel Jones, 402-441-7603, rjones@lincoln.ne.gov

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4.1b ANNEXATION 19007, to annex approximately 576 acres, on property generally located at Highway 77 and Interstate 80.
Staff recommendation: Conditional Approval
Staff Planner: Rachel Jones, 402-441-7603, rjones@lincoln.ne.gov
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4.1c CHANGE OF ZONE 19020, from AG (Agriculture District) to I-3 (Employment Center District) on approximately 590 acres, on property generally located at Highway 77 and Interstate 80.
Staff recommendation: Approval
Staff Planner: Rachel Jones, 402-441-7603, rjones@lincoln.ne.gov
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4.1d USE PERMIT 19008, to allow for the development of up to 2,000,000 square feet for a data center and associated uses, including waivers to screening and design standards, height and lot regulations, and specific use regulations of the I-3 zoning district, on property generally located at Highway 77 and Interstate 80.
Staff recommendation: Conditional Approval
Staff Planner: Rachel Jones, 402-441-7603, rjones@lincoln.ne.gov

**AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM
 NOT ON THE AGENDA, MAY DO SO**

Adjournment

PENDING LIST: *Special Permit 18045, to allow for a County AG (Agricultural District) CUP (Community Unit Plan), consisting of 148.49 acres, more or less, for 9 single family acreage lots on property generally located at North 14th Street and Rock Creek Road.*

Preliminary Plat 18002, to add 430 residential lots on approximately 152.1 acres, more or less, on property generally located at the SW corner of West Old Cheney Road and South Folsom Street.

Planning Department Staff Contacts:

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Ed Zimmer, <i>Historic Preservation Planner</i> .	402-441-6360..	ezimmer@lincoln.ne.gov

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**The Planning Commission meeting
which is broadcast live at 1:00 p.m. every other Wednesday
will be rebroadcast on Wednesdays at 7:00 p.m., Thursdays at 12:00 a.m. and Sundays
at 12:30 p.m. on 5 City TV, Cable Channel 5.**

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**The Planning Commission agenda may be accessed on the Internet at
<http://www.lincoln.ne.gov/city/plan/pcagenda/index.htm>**

ACCOMMODATION NOTICE

The City of Lincoln complies with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 guidelines. Ensuring the public's access to and participating in public meetings is a priority for the City of Lincoln. In the event you are in need of a reasonable accommodation in order to attend or participate in a public meeting conducted by the City of Lincoln, please contact the Director of Equity and Diversity, Lincoln Commission on Human Rights, at 402 441-7624 as soon as possible before the scheduled meeting date in order to make your request.

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING: Wednesday, July 10, 2019, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE Tom Beckius, Tracy Corr, Cristy Joy, Dick Campbell, Tracy Edgerton, Dennis Scheer and Deanne Finnegan. Steve Henrichsen, Brian Will, Dessie Redmond, Tom, Cajka, Stacy Groshong-Hageman, Geri Rorabaugh and Rhonda Haas of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Hearing

Chair Scheer called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Scheer requested a motion approving the minutes as revised for the regular meeting held June 26, 2019.

Rorabaugh requested a revision to the minutes to include the following language on page 4, line 2, under staff presentation, it references the western portion of Lot 1 and it should state the eastern portion of Lot 1.

Motion for approval of the minutes, as revised, made by Finnegan, seconded by Beckius and carried 6-0: Beckius, Corr, Edgerton, Joy, Finnegan and Scheer voting 'yes'; Campbell abstained.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

July 10, 2019

Members present: Beckius, Corr, Joy, Scheer, Campbell, Edgerton and Finnegan.

The Consent Agenda consisted of the following items: **Special Permit 16029A and Special Permit 19031.**

There were no ex parte communications disclosed.

SPECIAL PERMIT 19031 was removed from the Consent Agenda to have a separate public hearing.

Campbell moved approval of the remaining Consent Agenda, seconded by Edgerton and carried 7-0: Beckius, Campbell, Edgerton, Finnegan, Joy, Corr and Scheer 'yes'.

Note: This is **FINAL ACTION** on **Special Permit 16029A and Special Permit 19031** unless appealed by filing a letter in the Office of the County Clerk within 14 days. This is a recommendation to the City Council all other items.

SPECIAL PERMIT 19031, TO ALLOW FOR THE CONSTRUCTION OF AN OUTDOOR RECREATIONAL FACILITY, ON PROPERTY GENERALLY LOCATED AT 3100 NORTH 112TH STREET;
PUBLIC HEARING:

July 10, 2019

Members present: Beckius, Corr, Joy, Scheer, Campbell, Edgerton and Finnegan.

There were no ex parte communications disclosed.

Staff Recommendation: Conditional Approval

Staff Presentation: Tom Cajka, Planning Department, stated this request is for an outdoor recreational facility for Prairie Pines Nature Preserve located at North 112th and Adams. The recreational facility would consist of nature trails, gardening, special events and educational events. Prairie Pine Nature Preserve is a 145 acre property of woodland, grassland, wetlands and tallgrass prairie. This entire site is in a conservation easement and the property is owned by University of Nebraska Foundation and is maintained by the Nebraska Forest Service in collaboration with the Prairie Pine Partners. To help support their goal and mission they occasionally have special events as fundraisers. Under the city's zoning application, in the agriculture district, only one amusement license is allowed per year. The special permit for outdoor recreational would allow more than the one amusement license. The Planning Department, is suggesting, the number be limited to 8 per calendar year. They would still be required to get those amusement licenses through the County Board, with this special permit. The area is fairly isolated, with only a few houses ¼ to ½ mile from the event areas. The Planning Department supports this special permit and that it will have minimal impact on the surrounding neighbors.

Edgerton inquired if the applicant was comfortable with having 8 events per calendar year. Cajka said yes.

APPLICANT: Aaron Clare, Properties Manager for Nebraska Forest Services, came forward and stated in 1959 the Bagleys' purchased this property, and over time, it grew into grassland and diverse woodland to provide wildlife habitat to all types of wild life. Wanting to protect the property they put the first Environmental Conservation Easement in Nebraska on the property and then donated it to the University of Nebraska Foundation. The property is leased by the University of Nebraska Institute of Agriculture and Natural Resources and we manage this property on their behalf. The Nebraska Forest Service makes the property available to the public in collaboration with the Prairie Pines partners. Prior, to 2017 the property was not open to the public and in an effort to increase the public awareness to the property we started doing an open house once a month. There have been requests for more access and more events and that is why we came up with a couple more activities for this year. One of the events will be this Saturday, and the other, is planned for Saturday, August 10, which is a fundraiser for Prairie Pines connecting its trail to the Murdock Trail. Community Crops has growing plots on the site, and they have been using the one event each year for their fundraising. The Foundation, gave permission to apply for a special permit. We think that making this property accessible to the community would be a benefit for Lincoln and Lancaster County. He stated that there is adequate parking and the access to do this, and it will not have a negative impact on neighbors.

Finnegan inquired if the parking was through the gated area. Clare said yes, it is within the property and there is a number of areas that have been cleared out for parking.

Corr asked how they decided that it would be eight permits. Clare explained that it was a Planning Department recommended and based on the site plan that was provided at the time. Corr asked what if you are approached by someone that is wanting to have a wedding. Clare stated that so far, they have decided not to do weddings, which would be a larger event that they are not equipped for.

There was no testimony in support or opposition.

Staff questions:

Corr asked Cajka for verification that the open houses do not need an amusement license. Cajka stated that when they are doing the open houses, they are more like an educational event and it was determined they are not a big public gathering type event.

SPECIAL PERMIT 19031

ACTION BY PLANNING COMMISSION:

July 10, 2019

Edgerton moved Conditional Approval, seconded by Campbell.

Edgerton stated that she has had the opportunity and privilege of meeting Mr. & Mrs. Bagley when they owned this property, and they would be thrilled that this was the use of the property and that the public was getting out there.

Campbell stated that he knew Walt very well, and has toured the property. Agreeing that Bagley would be very supportive of this.

Scheer stated that it really enhances the use of the property.

Motion of Conditional Approval carried, 7-0: Beckius, Campbell, Edgerton, Finnegan, Joy, Corr and Scheer 'yes'.

Note: This is FINAL ACTION on Special Permit 19031 unless appealed by filing a letter in the Office of the County Clerk within 14 days. This is a recommendation to the City Council all other items.

Chair Sheer stated no Requests for Deferral.

CHANGE OF ZONE 19018

FROM AG (AGRICULTURAL DISTRICT) TO AG WITH HISTORIC LANDMARK OVERLAY, ON PROPERTY LOCATED AT 17185 BLUFF ROAD

AND

SPECIAL PERMIT 19033

**TO ALLOW FOR THE HOSTING OF SPECIAL EVENTS AT A HISTORIC LANDMARK, ON PROPERTY
GENERALLY 17185 BLUFF ROAD
PUBLIC HEARING:**

July 10, 2019

Members present: Beckius, Corr, Joy, Campbell, Edgerton, Scheer and Finnegan.

Staff recommendation: Approval of Change of Zone 19018
 Conditional Approval of Special Permit 19033

There were no ex parte communications disclosed on this item.

Rorabaugh noted that there have been a number of public comments submitted to the Planning Department, both in support and opposition to these applications.

Staff Presentation: **Stacy Hageman, Planning Department**, stated this property is located roughly at the intersection of Interstate 80 and Bluff Road. The Cooley-Dodge Farmstead is an ensemble of well preserved and maintained buildings that includes a large farmhouse, garage, barn, chicken coop, corn crib and machine shop. The farmstead, is surrounded by shelter belt of trees and an open pasture to the north. This being a good example of an early farmstead in the early 20th century. The house is in the American Foursquare style that is oriented to the east towards the driveway. It has a two story enclosed porch on the east side and on the first floor that porch wraps around. The farmhouse and the outbuilding are well maintained and in active use. The landmark application was unanimously approved by the Historic Preservation Committee. **Steve Henrichsen, Planning Department**, stated once the property has been designated for Historic Preservation, the local landmark has the option to use a special permit. The special permit, would allow for any use to preserve the local landmark. In this case, the application is on the north side of the homestead, just outside the tree line is where the event center would go with a small parking lot. The site plan will be detailed once approved. The final decision of what the site will look like will go through the Historic Preservation Commission for review. They wouldn't want something that is a false representation of history, so this will be something modern that fits in nicely with the site. The impact of this special permitted use on the surrounding areas would be compatible with the adjacent uses around it, with the closest residences being 1100 feet to ¼ mile away and farther. In terms of the traffic flow, most of the people will be coming from the west on Bluff Road. The County Engineer does not have any objection to the plan as presented.

Corr asked if the parking area would be paved or rock and if there is a requirement. Henrichsen stated there is not a parking chapter in county regulations. This would be looked at as part of the future application when it comes forward, and would probably be a detail that is worked out as part of the application. If there became an issue with dust the Health Department does have the ability to regulate in terms of a dust complaint, or it could be looked at as part of the special permit. Corr asked if putting historic overlay on something would decrease the property tax bill. Henrichsen stated this would be a separate decision of the County Assessor, who in the past has ignored a historic overlay. On a local landmark the owner not able to make any additions or changes to the buildings on their property, without prior approval. New construction on the property would increase the value of the property. Corr stated that in theory there is no tax break for pursuing a historic landmark designation and may make it harder for the land owner to comply with the standards of any changes to property. Hageman said yes, with there being an additional layer of review. Corr inquired about tax incentives from the State

Government for some of the improvements, although it would not change the tax you paid. Hageman stated the incentives would not include a newly constructed building. There is an even higher level of review with the State and detached single family units would not qualify for the tax credit. Corr wanted more clarification on the newly constructed building, and that it would not fall under the historic overlay. Henrichsen stated the new building is not being designated historic itself. Corr asked if they needed to adhere to the historic standards on this building. Hageman stated they would have to adhere to the historic standards, because of the condition that HPC has recommended that it comes to them for a certificate of appropriateness. Corr stated there have been questions on how a business could be appropriate in an Ag zoned area. Henrichsen stated that Ag Zoning District area does allow for other uses by a special permit. There are recreational facilities, campgrounds and other things that are truly not farming, but are allowed and an agricultural area.

Edgerton stated because of the use in this circumstance, without the historic landmark overlay this use would not be entitled to a special permit, asking if that would that be correct? Henrichsen stated the county does have an expanded home occupation special permit, which could have been another route that they could have gone. Edgerton inquired if through the process there was any kind of evaluation of the traffic on Bluffs Road. Henrichsen said not in terms of a traffic study.

Corr stated that on the Camp Creek Thresher grounds in was noted there are couple of residences, is there someone living there? Henrichsen stated one is owned by the campground, but he is unsure of how it is being use.

APPLICANT: Carol and Jed Hartweg, 17185 Bluff Road, came forward and stated she grew up on farm like the one she currently lives on and has a deep appreciation of the agriculture community. She stated that there have been conversations with the Mayor of Waverly, Mike Werner, on the paved road and how close it is to town. The Mayor, then suggested to them that it would be a great place to have a Christmas tree farm or pumpkin patch. Looking into the Christmas tree farm idea then there was the flood, and that is when it was decided to hold a fundraiser in the barn to help the farmers and ranchers. It was discovered, during that process the barn does not meet any of the standards that are required for hosting any events. She stated that they have received several requests regarding the use of their barn and that is what gave them the idea. With the expense of getting their current barn up to code to hold events, they decided to build a new building away from their house.

Edgerton asked how long they have owned the property. Carol Hartweg stated over a year.

Corr thanked the Hartwegs' for doing their due diligence upfront and going through the proper process and asked if they would be employing anyone. Carol Hartweg stated it would just be their children. Corr asked if caterers would be helping with the events. Carol Hartweg said yes. Corr asked about the Thresher campground and if someone was living there. Carol Hartweg stated the past owner has moved and she has not been able to contact her.

Campbell asked about an agreement to use some of the Threshers property for parking at the events. Carol Hartweg stated they had contacted the Threshers Camp, in the past, when they were wanting to do the event for the flood relief, if extra parking was needed. Jed Hartweg stated it was just going to be the backup plan if needed.

Corr asked if they have had discussions with the neighbors in the area. Carol Hartweg said yes, she has stopped by the homes on Bluff Road in the surrounding area. She stated that almost everyone that she has spoken with is in support.

Edgerton asked about new concerns of traffic increase on 176th and McKelvie, south of the interstate. Jed Hartweg stated that there would not be traffic coming from that area. Carol Hartweg stated that Google maps would keep drivers on the paved roads and not direct them in that direction.

Proponents:

1. Mike Warner, Mayor of Waverly, stated that the City of Waverly supports this type of venue. Currently, the city struggles on where to have a larger event. He stated that he likes the idea of a restricted building use. He also wants to protect the 80 acres of the Threshers Camp and the surrounding area. He stated he would like a building built that blends into the surrounding and the general area. There is a need for a place like this for people to go.

Opponents:

1. Clarence Althouse, 8650 N. 134th Street, Waverly, came forward and stated he is in opposition to the landmark designation and doesn't understand what it does. He has spent several hours on this land, with his grandparents working hard, and they would not want this. He stated that neighbors were not contacted. He found out about this from the newspaper.

2. Andrew Stock, 9503 286th Street, Murdock, stated that he owns property that borders the south & east of this property and he did not hear about this proposal until he received a letter for the City. Using the historical overlay is just a way to get a commercial facility onto a farm. He stated that he actively farms his land and is concerned about being restricted to do his farming. Thresher with their activities understands this is a farm and there will be dust and noise.

Corr asked Stock about events at Camp Creek Thresher and if he has had to make any changes to what he would be doing. Stock said he operates as normal. Corr asked if Camp Creek Thresher and there activities interferes with his operations. Stock said no.

3. Marlan Johnson, 5218 N. 202nd Street, Alvo, stated he owns property to the east northeast of this property and more property to the east, which is at a "T" intersection. He stated that people are always driving onto his property because of this intersection and not seeing the turn. With this event center people will be drinking and they do not need this type of traffic. Adding, with all of the farm equipment on the roads there could be more accidents. He stated the first he heard of this was when he received a letter from the city in the mail.

4. Mary Johnson 17705 Bluff Road, Waverly, stated that they purchased their land in 2017 and are currently remodeling the house. She stated that the letter from the City is how she first heard of this. Having concerns about needing more security in the area for events. There needs to be more information about this project.

Corr inquired what it is like when Camp Creek Thresher has an event. Johnson stated it is very well organized and quiet, they don't have alcohol at events.

5. Mary Alice Johnson, 11651 N. 176th Street, Waverly, stated she had lived on this property for 41 years and it is located ½ mile to the north. Over the years, people have dumped trash on her property and with this event center and alcohol it will get worse. She stated the noise level will affect them and they moved to the country for peace and quiet. If this is something that Waverly wants then they should build it.

Staff Questions:

Scheer asked Henrichsen for a brief summary of this project if it moves forward today with the approval of the motions to consider. Henrichsen stated the site plan needs to be revised on what the building will look like. There will be additional meetings with planning on the building and parking on this site. It will go before the Historic Preservation Committee for review and also Building & Safety. Certainly, there will be SDL's applied for and the County Board can revoke any special permit if there are issues or if they are not following the rules.

Finnegan inquired if they would need to get an SDL for events. Henrichsen stated they (property owners) would use a vendor and the vendor is the one to get the permit.

Corr stated that she did not see anything in the report to show that the County Engineer has weighed in on the roads and asked if they were concerned about the traffic. Henrichsen stated he believed it was routed to them and has heard nothing back. Corr inquired about putting up a sign on Bluff Road and if this would be allowed if the county has not required it. Henrichsen stated that sign permits go through the Planning Department and the County Engineer does not always require a sign be put up.

Joy inquired if you need this to be a historic designation to have an event center. Henrichsen said no, he stated that you might need to ask for a waiver, because there is a limit of two persons engaged in the home occupation that do not live there.

Edgerton stated that this type of opportunity would be a limiting factor in terms of the types of events you could have. Henrichsen said yes, with the expanded home occupation you would have some type of limits.

Finnegan stated there have been questions on if this is really a historical landmark and asked Hageman if she is comfortable that this meets those requirements. Hageman said yes, explaining that this property meets the requirement because of the people and events, namely the Cooley Family. This is a typical example of what a farmstead would have looked like in the early 20th Century.

Edgerton wanting to clarify, asking without the historical overlay the special permit as presented would not be allowed on this site. Henrichsen said correct. Edgerton stated that is because we are in an Ag Zoning District and that would have been seen as not compatible with traditional uses of agricultural land. Henrichsen state this special permit is specifically for the Historic Preservation and you are allowed to have additional uses. Edgerton asked if the numbers would be determined later in the process for the event center. Henrichsen said that is correct, and that the site plan shows a 60' by 100' building for this site and that is what you are approving.

Campbell inquired if the Fire Marshal would set a limit on the number with this being a public facility. Henrichsen said correct.

Corr inquired if it's a normal process for someone to make sure they have a solid business plan that passes before they put money into more details. Steve said yes, they don't want to spend a lot of money and then be turned down. Corr asked if this would be considered a commercial building. Henrichsen said yes, this would be considered a commercial building. Corr inquired about the right to farm. Henrichsen stated it does not put restrictions on someone else's farm and that this would not change the farming environment.

Applicant Rebuttal: Carol Hartweg stated that they do want to be good neighbors. She stated that anyone that comes to them for an event should know that this is in the country, and they will put something in their contract about the noise. Jed Hartweg stated that the neighbors that were contact we not the farm land owners, but the nearby houses. Corr asked if they would be willing to have neighborhood meeting and if they would put up signs. Carol Hartweg said of course. Corr inquired on the size of the building and it capacity. Jed Hartweg stated it will be for a maximum of 300. Carol Hartweg stated it would be for 299, needing to stay under 300, otherwise they would need fire sprinklers. Corr asked how long before they would be up and running. Jed Hartweg stated by spring.

CHANGE OF ZONE 19018

ACTION BY PLANNING COMMISSION:

July 10, 2019

Campbell moved approval, seconded by Corr and carried 7-0: Beckius, Campbell, Edgerton, Finnegan, Joy, Corr and Scheer 'yes'.

Campbell stated he believe this meets the Historic Design standards.

Finnegan agreed with Campbell.

Joy stated that it appears to have gone through the processes that we have in place and a vote from a committee that recommends this.

Edgerton stating that it is an example of early 20th Century farming, which is important, especially here and to also preserve this area.

Scheer agreeing with Edgerton and that she has made a great point.

Corr stated that growing up with this type of property makes it seem normal, but they really are dwindling, so we have to take precautions to protect them.

SPECIAL PERMIT 19033

ACTION BY PLANNING COMMISSION:

July 10, 2019

Beckius moved approval, seconded by Finnegan and carried 7-0: Beckius, Campbell, Edgerton, Finnegan, Joy, Corr and Scheer 'yes'.

Beckius stated that the proposed special permit is appropriate in this site with the historic overlay and there is some distance from residence. He stated that he fully expects all of the agricultural uses will continue and would not support any restrictions on the surrounding properties.

Campbell stated with all of the emails that were received he noticed that the closest addresses were in support and the ones that were farther were the ones that are having problems with this, and he strongly believes they have done their due diligence.

Corr encourage the applicants to have a neighborhood meeting because of their concerns with the traffic. She also stated this was well thought out.

Scheer stated it fits the property and that the agricultural work will continue. He is impressed with the Mayors comments and thinks it will be a good addition for the City of Waverly.

[Break 2:50 P.M.

Resumed 3:00 P.M.]

SPECIAL PERMIT 19030

TO ALLOW FOR A NEW ADU (ACCESSORY DWELLING UNIT), WITH WAIVERS TO INCREASE THE FLOOR AREA AND TO HAVE A SEPARATE SEPTIC SYSTEM, ON PROPERTY GENERALLY LOCATED AT 14000 NW 27TH STREET

PUBLIC HEARING:

ACTION BY PLANNING COMMISSION:

July 10, 2019

Members present: Beckius, Corr, Joy, Campbell, Edgerton, Scheer and Finnegan.

Staff Recommendation: Conditional Approval

There were no ex parte communications disclosed on this item.

Staff Presentation: Tom Cajka, Planning Department, stated this is for an Accessory Dwelling Unit (ADU) on 20 acres, located on NW 27th and North on West Mill Road, just outside the Raymond area. Lancaster County recently amended the zoning regulations to allow for Accessory Dwelling Units in December 2018. This ADU is proposed on a lot that is 20.69 acres and will have 2 bedrooms, share the driveway with the principal dwelling and meets the required setbacks. The applicant is requesting a waiver to allow the ADU to have its own septic system this is due to the location of the other septic system, several existing underground waterlines and utility lines. The other waiver is to increase the floor area from 40 percent of the principal dwelling to 45 percent. The proposed ADU is 870 sq. ft. and the 40 percent would only allow a dwelling of 763 sq. ft.

Corr inquired why an ADU, why not something else on this lot. Cajka stated that they can't. Corr inquired why. Cajka stated in the Ag District this lot is not large enough to subdivide the property to build another house.

Applicant: Kelly and Wade Walling, 14000 NW 27th, Raymond, Kelly Walling stated that the father lives in the primary dwelling and this will allow the father to live out his retirement in his home. This will also allow them to grow their family, while continuing to care for the father. Building a house on a different property would not help make it easier to care for their father.

Campbell inquired if the father would be living in the new unit. Kelly Walling stated that the father will continue to live in the primary unit, which he has just remodeled.

There was no testimony in support or opposition.

Beckius moved approval, seconded by Joy and carried 7-0: Beckius, Campbell, Edgerton, Finnegan, Joy, Corr and Scheer 'yes'.

Corr stated she has concerns that this exceeds the 40 percent and questions if this ADU really needs to be over that percentage.

Campbell stated that there are several ADU's in Village Gardens and the only restriction they placed was less than 1000 feet, so he approves this.

Joy stated that she was on the County ADU, and they had discussions on this and with this being less than 1000 feet, she will also approve.

Edgerton stated that she has no concerns with this and approves.

Beckius stated that even though this application has a couple of waivers this is exactly what this is for to have multiple generations on a homestead and is in support.

Scheer agreed with Beckius.

Note: This is **FINAL ACTION** on **Special Permit 19030** unless appealed by filing a Letter of Appeal with the Office of the City Clerk within 14 days.

SPECIAL PERMIT 19032

TO ALLOW FOR SOIL EXCAVATION, ON PROPERTY GENERALLY LOCATED AT NORTH 112TH STREET AND HAVELOCK AVENUE

PUBLIC HEARING:

ACTION BY PLANNING COMMISSION:

July 10, 2019

Members present: Beckius, Corr, Joy, Campbell, Edgerton, Scheer and Finnegan.

Staff Recommendation: Conditional Approval

There were ex parte communications disclosed on this item.

Finnegan stated she had received a text from Tim Baker on this item.

Staff Presentation: Tom Cajka, Planning Department, stated this request is on property that is 105 acres. The applicant has indicated they would be removing 800,000 cubic yards over the next 3 years on this property. The site plan will need to be revised and pulled back some, because of a requirement that you can't excavate within a 1000 ft. of a private well, unless you have done a ground water report. They have decided not to do the ground water report, so they will be revising the site plan. Currently, the site

plan shows access off 112th Street and Havelock Street. Operating hours are limited to daylight Monday thru Saturday. The applicant, estimates truck traffic to be 6 to 7 trucks an hour and some days up to 10 trucks an hour. The County Engineer is requiring a road maintenance agreement with the applicant and one of the requirements is the control of dust onsite. Typically, they will require dust control on adjacent roads as well.

Finnegan asked if up to ten trucks an hour was typical. Cajka stated he was unsure.

Edgerton talked about a letter in opposition because of the proximity to Prairie Pines and asked there location. Cajka showed location.

Finnegan inquired if there was communication between Prairie Pines and the applicant. Cajka said she was unsure.

APPLICANT: Mike Eckert, Civil Design, came forward and stated they were wanting to keep this on schedule and they could always go back at a later time to do the water studies. So, the site plan will be reduced to allow for the 3 wells that are within 1000 ft. of the excavation site and this will limit them to the center of the site. Even if, the well study is done in the future, they would need to have a 300 ft. buffer from surrounding properties. Also stating, that he contacted the resident that owns the land to the east and lives offsite and has concerns if there would be grading onsite, because they do not want their fence disturbed. Prairie Pines, who he also spoke with, have concerns with the traffic in the area. It has been worked out that Gana will be operating this property and they said they would be using the Havelock entrance, so the entry on 112th Street would be removed. There will be a county maintenance agreement signed, giving the county the right to require that Gana waters the roads to help with the dust. This special permit is unique, because it expires in 3 years, with Building & Safety having the ability to do an annual inspection. We can only have 20 acres open at a time on this property. As for traffic, Gana thought on the busiest days the most that they could load would be 10 trucks an hour, and that will depend on use.

Finnegan asked about Eckert's statement of 10 trucks a day when the report says 10 trucks an hour. Eckert stated on a busy day it would be 10 per hour, but otherwise, it will be less than ten per day.

Scheer inquired about the stripping of the top soil and wanted to verify it was not leaving the site. Eckert said that is correct.

Opponents:

1. Nancy Oluffsen, 12101 Havelock, stated she is on the east side and has had conversations with Mike Eckert, and is in opposition of this. She does not want her fence removed, it has been there for 40 years and she still has live stalk on this property. Weed control is also a concern.

2. David Cole, 4200 North 48th Street, stated he has spent a lot of time and money on his property and his house is only 100 feet from the road. He thinks that the number of trucks is low and you could double the number they have said. This will create a lot of dust in the area and it will affect the quality of life. He has concerns with all of the traffic that this will make and they should restrict them to just using the Havelock entrance.

3. Joel Armstrong, 10000 Benton Street, stated that he is across from the potential driveway on the west and even though they say they will use Havelock they will use whichever route is easiest. He stated Gana created a lot of issues when they were working on the event center. He has concerns on where Gana going to get the water, and if this will affect the water table if they need to put in a well.

4. Sue Kohles, Prairie Pines Partners, 3100 N. 112th Street, stated they feel that activities of at the excavation site will increase large trucks, noise and dust. This will result in a significant disturbance that will impact the Nature Center and will undermine its use and benefits to the public. Currently, they are working on connecting Prairie Pines trail with the Murdock trail and the trucks are a concern.

4. Tim Becker, 7631 Erin Court, stated he live at about 84th and Adams and has concerns with the traffic that this will create and the fact that this is final action. With some of the surrounding roads still closed this will create traffic problems. We have school children crossing on 84th Street, which is already a problem with safety.

Applicant Rebuttal:

Eckert stated that they won't get near the fence and will need to have a 300 strip buffer by her property. Gana did work for event center and that road should be finished in a couple of weeks. For a water source they have water trucks that they use and the water will be brought in. Talking with Sue, the neighbor to the south, they will only be excavating 20 acers at a time. The traffic is a concern and they think that can be manageable. With the earlier discussion this special permit does expire and there will be reviews.

Edgerton asked if since they would not be using 112th Street if they would be moving the driveway on Havelock. Eckert said no they will mark the area off and just use the same driveway.

Corr asked if this needed to be amend. Eckert said yes. Corr move to add a condition requiring that access to the area only be from Havelock and to approve the special permit.

Finnegan stated that she drove out to all of the properties and they were not able to get anywhere, she stated that she is concerned about traffic and is opposed to this.

Beckius stated that the restriction that has been added will help. One of the many reasons that we build roads is to facilitate travel and commerce, and this dirt will provide a lot of benefits.

Campbell stated he will support this and worked with Gana on the south project and it was well maintained. He agreed that shutting down 112th Street will help.

Corr stated that she appreciates all of the concern that there is with the trucks, and is in support.

Scheer stated he is in support and if we have to depend on site to support the building we have less buildings.

Corr moved approval as amended, seconded by Campbell and carried 6-1: Beckius, Campbell, Edgerton, Joy, Corr and Scheer 'yes'; Finnegan dissenting.

Note: This is **FINAL ACTION** on **Special Permit 19032** unless appealed by filing a Letter of Appeal with the Office of the City Clerk within 14 days.

There being no further business to come before the Commission, the meeting was adjourned at 4:14p.m.

Note: These minutes will not be formally approved by the Planning Commission until their next regular meeting on Wednesday, July 24, 2019.

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LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

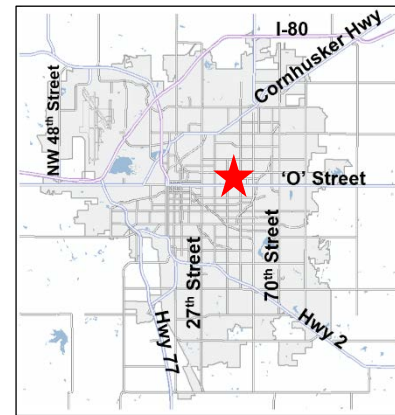
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Change of Zone 19019	FINAL ACTION? No	OWNER Stuart Development Partnership
PLANNING COMMISSION HEARING DATE July 24, 2019	RELATED APPLICATIONS Use Permit 19007	PROPERTY ADDRESS 643 N 45 th Street

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for a change of zone over a 2.25 acre property from R-4 Residential District to O-3 Office for the vacant property at the southwest corner of Vine and N. 45th Streets. The proposed office use would include two buildings, one with 15,000 square feet and one 10,000 square feet of commercial floor area. As part of associated UP19007, a 24' access easement would be provided that would allow connection from N. 45th Street, which is the one street access for the site, to the planned apartment development to the west. Adjacent uses include the Lancaster County government office to the south, commercial uses to the east across N. 45th Street, and residential uses to the north across Vine Street.



JUSTIFICATION FOR RECOMMENDATION

The proposed O-3 zoning is appropriate for this location as it will continue the general pattern of office zoning along the west side of N. 45th and will provide for a transition from the commercial to the east to the future planned multi-family residential to the west.

APPLICATION CONTACT

Kent Seacrest, (402) 435-6000 or kent@sk-law.com

STAFF CONTACT

George Wesselhoft, (402) 441-6366 or gwesselhoft@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The future land use map designates the property as residential-urban density, though this property is at a transition point with commercial designation to the east and south. Office use as part of O-3 zoning will be compatible within this transition area and will utilize existing infrastructure at this intersection location.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

- P. 1.9 This site is shown as residential-urban density on the 2040 Lincoln Area Future Land Use Plan.
- p. 5.2 Seek to efficiently utilize investments in existing and future public infrastructure to advance economic development opportunities.
- p. 5.2 Provide flexibility to the marketplace in siting future commercial and industrial locations.
- p. 5.2 Strive for predictability for neighborhoods and developers.

UTILITIES: All utilities are available. The public sanitary sewer as part of the proposed development will be extended from its existing terminus south of Vine Street on the west side of N. 45th Street.

TRAFFIC ANALYSIS: Vine Street and N. 45th Street are identified as minor arterials in the Access Management Plan. The only access to the site from these streets would be one proposed driveway off N. 45th Street which will be opposite the commercial use driveway to the east.

PUBLIC SERVICE: The closest fire stations include Fire Station #2 at 1545 N. 33rd Street and Fire Station #9 at 901 N Cotner Boulevard.

ANALYSIS

1. This is a request for a change of zone from R-4 Residential District to O-3 Office District over a vacant property located at the southwest corner of Vine and N. 45th Street. This property is approximately 2.25 acres in size.
2. The O-3 district requires approval of a use permit for development. Related UP19007 includes proposed office uses for the site. The office uses would include two buildings, one 15,000 square feet and one 10,000 square feet of commercial floor area.
3. As part of the associated UP19007 a 24' access easement would be provided that would allow connection from N. 45th Street, which is the sole street access for the site, to the planned apartment development to the west. The latter was approved as part of SP15043 Wyuka Vine Street CUP and will include up to 193 dwelling units as part of a Community Unit Plan.
4. The future land use map in the 2040 Comprehensive Plan designates the property for residential-urban density. Tanglewood Apartments to the southwest and the planned Wyuka Vine Street CUP to the west are also identified for residential-urban density. Future commercial is identified to the east along N. 45th Street and between N. 44th and N. 46th Streets south to O Street.
5. The O-3 district permits single-family, two-family and multi-family housing as well as office uses. Retail sales and personal services are conditional permitted uses in the O-3 district with significant restrictions on floor area, and must be located entirely within a building containing office or residential uses. This site is identified in the Comprehensive Plan for future residential land uses. However, O-3 zoning would be appropriate in this location as it would continue the established pattern of office uses on the west side of N. 45th/N 46th Streets between Q street and the property. The property to the south is zoned P Public for the Lancaster County Department of Motor Vehicles and is also office in nature. O-3 zoning would also serve as a transition from the commercial zoning to the east to the future multi-family residential on the property to the west.
6. The Comprehensive Plan supports locating medical office and small-scale commercial uses within walking distance of neighborhoods while also limiting the impacts and encroachment into those neighborhoods. Any combination of small scale commercial or office uses would be in keeping with the character of this transitional area and would be supported by the goals of the Comprehensive Plan.

EXISTING LAND USE & ZONING: Vacant; R-4 Residential

SURROUNDING LAND USE & ZONING

North: Single Family Residential, Multi-Family; R-2 Residential
South: Lancaster County Office; P Public
East: Commercial; B-1 Commercial
West: Broadcast Tower, Vacant; R-4 Residential

APPROXIMATE LAND AREA: 2.25 acres

LEGAL DESCRIPTION: See attached.

Prepared by

George Wesselhoft, Planner

Date: July 11, 2019

Applicant/Owner: Stuart Development Partnership
2001 Pine Lake road
Suite 400
Lincoln, NE 68512
402-499-7965
Stuart3j@windstream.net

Contact: Kent Seacrest
1128 Lincoln Mall
Suite 105
Lincoln, NE 68508
402-435-6000
kent@sk-law.com

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2018 aerial

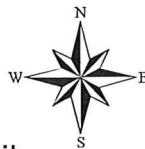
**Change of Zone #: CZ19019 (R-4 to O-3)
and Use Permit #: UP19007
N 45th St & Vine St**

Zoning:

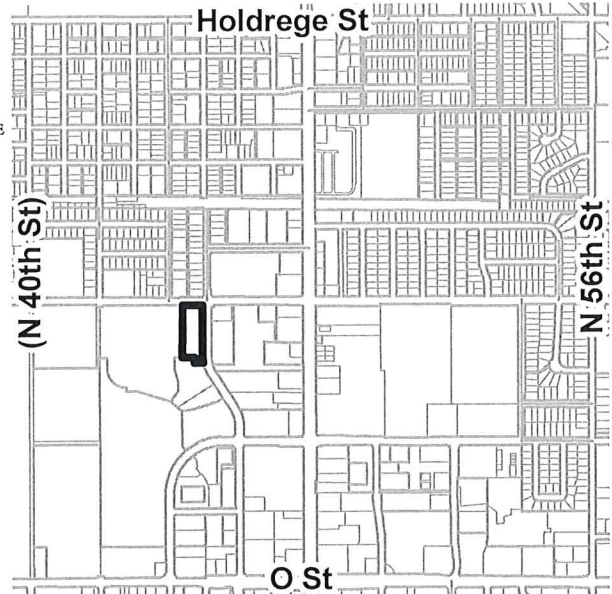
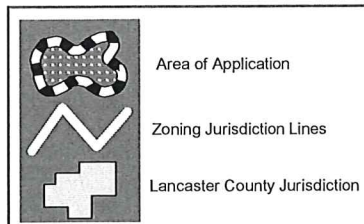
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial 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

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**One Square Mile:
Sec.20 T10N R07E**





SEACREST & KALKOWSKI, PC, LLO

KENT@SK-LAW.COM | DANAY@SK-LAW.COM

June 19, 2019

HAND DELIVERY

David Cary, Director
Planning Department
555 South 10th Street
Lincoln, NE 68508

RE: Change of Zone from R-4 Residential District to O-3 Office Park District

Dear David:

Our office represents Stuart Development Partnership (“**Stuart**”) who has entered into a Purchase and Sale Agreement with Stough Real Estate Holdings, LLC (“**Stough**”). Stuart owns the property located at 643 N 45th Street, Lincoln, Nebraska 68503 (Parcel ID: 17-20-300-001-000). Under the terms of the purchase agreement between Stuart and Stough, Stuart is to seek a rezoning of the property from R-4 Residential District to O-3 Office Park District to allow Stough’s intended purpose as a plasma center. Planning Department officials have recommended to the undersigned that an O-3 Use Permit application should accompany the O-3 rezoning request. Under the terms of the purchase agreement, Stough will prepare and submit an O-3 Use Permit application, letter stating the purposes of the O-3 Use Permit application, list of applicable waivers(s), fee, Site Plan and materials pursuant to Section 27.27 and Section 27.63 of the Lincoln Municipal Code. Stuart and Stough have agreed to work together and diligently pursue the Rezoning application and Use Permit application.

Attached, please find a map that shows the location of Stuart and Stough’s property and the legal description for the property.

Enclosed, please find the City of Lincoln Application Request Form, along with the application fee for the change of zone in the amount of \$988. If you have any questions regarding the enclosed or need any additional information, please feel free to contact me.

Very truly yours,

KENT SEACREST
For the Firm

Enclosures

cc: James Stuart III, stuart3j@windstream.net
Scott Stough, SStough@stoughgroup.com
Kristin L. Woeste, klwoeste@vorys.com
Daniel F. Stroh, dfstroh@vorys.com
Nate Ohlrich, nate@accesscommercial.com
Thomas C. Huston, thuston@clinewilliams.com
City Council Member James Michael Bowers, jbowers@lincoln.ne.gov
Steve Henrichsen, shenrichsen@lincoln.ne.gov

Part of Lot Six (6), J. G. Miller Subdivision of the Southwest Quarter (SW¼), Section Twenty (20), Township Ten (10) North, Range Seven (7) East of the 6th P.M., Lincoln, Lancaster County, Nebraska, more particularly described as commencing at the Northeast corner of Lot Six (6), J. G. Millers Subdivision in the South One-Half (S½) of Section Twenty (20), Township Ten (10) North, Range Seven (7) East of the 6th P.M., and running thence South along the East line of said Lot Six (6), a distance of 500 feet; thence West parallel with the North line of said Lot Six (6), a distance of 500 feet; thence North parallel with the East line of said Lot Six (6), a distance of 500 feet, to the North line of said Lot Six (6); thence East along the North line of said Lot Six (6), a distance of 500 feet, to the place of beginning, and excepting therefrom that portion of the aforesaid property conveyed to the City of Lincoln, along with other property, on October 25, 1965, and recorded in [Book 701, Page 231](#); records of Lancaster County, Nebraska.

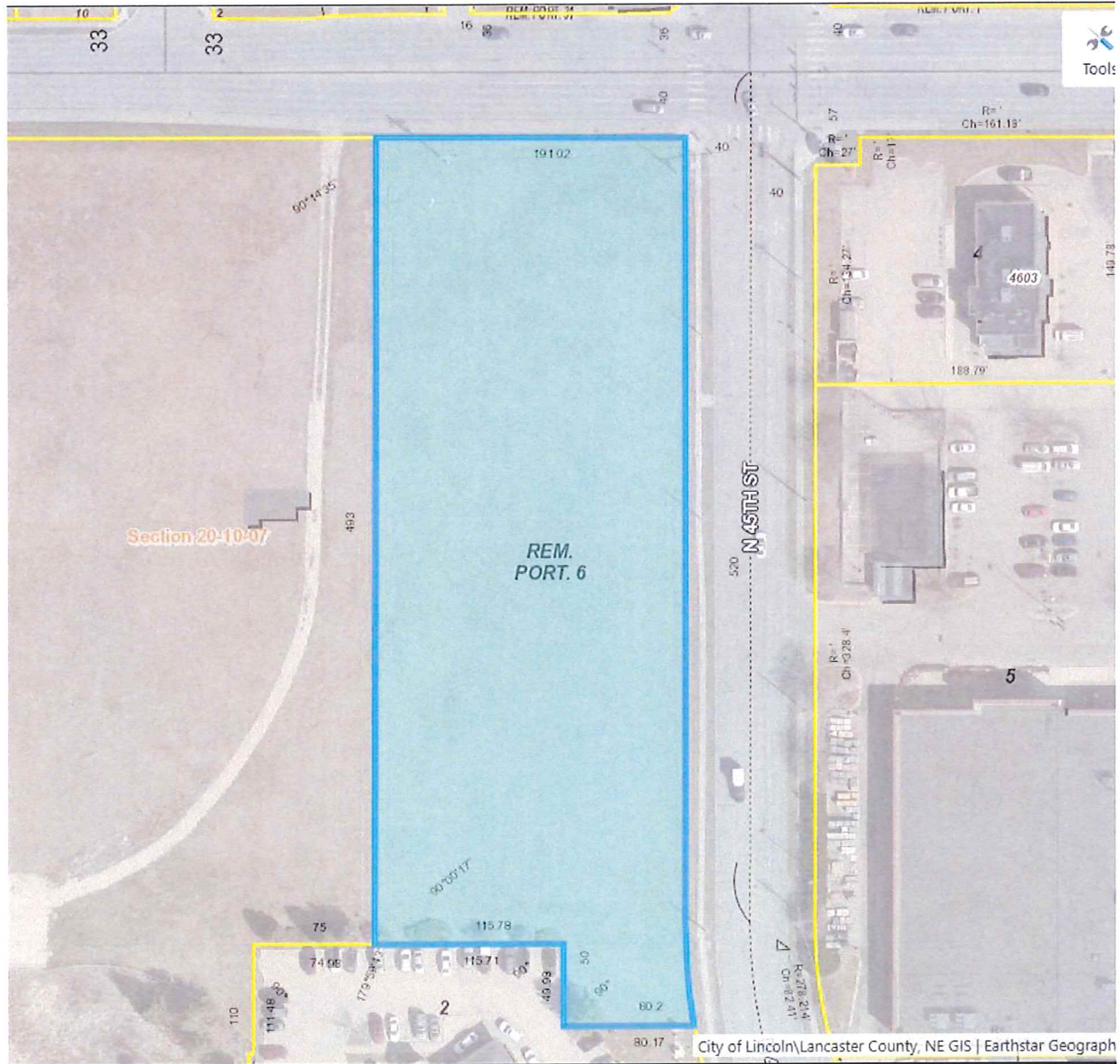
AND EXCEPT the North 7 feet of the West 191.02 feet of the East 500.0 feet of said Lot Six (6) conveyed to the City of Lincoln, Nebraska, by the Corporation Deed recorded July 16, 1968 in [Book 731, Page 287](#); AND EXCEPT that portion of said Lot Six (6) platted as [48th & Vine Plaza Addition](#), [48th & Vine Plaza Addition Corrected Plat](#), and [48th & Vine Plaza 1st Addition](#); in the records of Lancaster County, Nebraska;

TOGETHER WITH:

A portion of Lot Six (6), J. G. Miller's Subdivision of the Southwest Quarter (SW¼) of Section Twenty (20), Township Ten (10) North, Range Seven (7) East of the 6th P.M., Lincoln, Lancaster County, Nebraska, more particularly described as follows:

Commencing at a point six hundred ninety-four and sixty-six hundredths (694.66) feet West and thirty-three (33) feet South of the Northeast corner of the Southwest Quarter (SW¼) of Section Twenty (20), Township Ten (10) North, Range Seven (7) East, being the Southwest corner of 46th and Vine Streets in the City of Lincoln, and the Northeast corner of said Lot Six (6), and thence continuing South along the West line of 46th Street and the East line of Lot Six (6) a distance of five hundred (500) feet to the point of beginning; thence West parallel with the South line of Vine Street and the North lot line of Lot Six (6) a distance of seventy-five (75) feet; thence South parallel with the East line of Lot Six (6) distance of fifty (50) feet; thence East parallel with the South line of Vine Street and the North line of Lot Six (6) a distance of seventy-five (75) feet to the East lot line of Lot Six (6) and the West line of 46th Street; thence Northerly along the East line of Lot Six (6) and the West line of said 46th Street a distance of fifty (50) feet back to the point of beginning. This property is also known as the East seventy-five (75) feet of the South fifty (50) feet of the North five hundred fifty (550) feet of Lot Six (6), J. G. Miller's Subdivision of the Southwest Quarter (SW¼) of Section Twenty (20), Township Ten (10) North, Range Seven (7) East of the 6th P.M., Lincoln, Lancaster County, Nebraska.

Exhibit A
Legal Description
R-4 Residential District to O-3 Office Park District



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

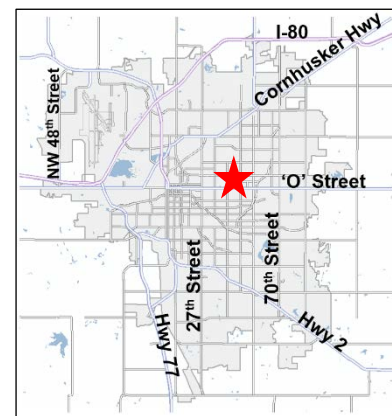
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Use Permit 19007	FINAL ACTION? No	DEVELOPER Stough Real Estate Holdings, LLC
PLANNING COMMISSION HEARING DATE July 24, 2019	RELATED APPLICATIONS Change of Zone 19019	PROPERTY LOCATION 643 N. 45 th Street

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for a Use Permit to develop the property located at the southwest corner of Vine Street and North 45th Street into office uses. The proposed office uses would include two buildings, one 15,000 square feet and one 10,000 square feet of commercial floor area. A 24' access easement would be provided that would allow connection from N. 45th Street, which is the only street access for the site, to the planned apartment development to the west. Waivers requested include 0' setbacks on internal lot lines for Lot 1, Lot 2 and Outlot A.



JUSTIFICATION FOR RECOMMENDATION

This Use Permit in conjunction with the change of zoning to O-3 will allow small-scale commercial development subject to conditions providing adequate measures for traffic flow. The waivers from the setbacks are justifiable since they are to allow internal flexibility with the lots and outlot with the overall setbacks for the property as a whole still maintained.

APPLICATION CONTACT

Tim Gergen, (402) 477-9291 or tim.gergen@clarkenersen.com

STAFF CONTACT

George Wesselhoft, (402) 441-6366 or gwesselhoft@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan supports locating medical office and small scale commercial uses with walking distance of neighborhoods while limiting the impacts and encroachment into those neighborhoods. This proposal will utilize existing public infrastructure at this intersection location while serving as a transition from the commercial to the east and residential to the west.

WAIVERS

1. 0' Setbacks internal to the site for the commercial lots. (Recommend Approval)
2. 0' Setback internal to the site for Outlot A. (Recommend Approval)

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

- P. 1.9 This site is shown as residential-urban density on the 2040 Lincoln Area Future Land Use Plan.
- p. 5.2 Seek to efficiently utilize investments in existing and future public infrastructure to advance economic development opportunities.
- p. 5.2 Provide flexibility to the marketplace in siting future commercial and industrial locations.
- p. 5.2 Strive for predictability for neighborhoods and developers.

ANALYSIS

1. This request is for a new O-3 use permit with up to 25,000 square feet of commercial floor area. Lot 1 will include up to 15,000 square feet of commercial floor area, Lot 2 will including up to 10,000 square feet of commercial floor area, and Outlot A will be reserved for stormwater quality and open space. The applicant notes in their letter that the intended purpose for the property is a plasma center, which is an office use.
2. The developer will be required to construct a new right turn lane into the property off N. 45th Street. This requirement is based on Access Management Plan which identifies N. 45th as a minor arterial and which unless a traffic study is submitted that negates the need for the turn lane, a right turn lane is required.
3. Public utilities are available at this location. The public sanitary sewer will be extended for Lot 2, the southern lot, from its existing terminus south of Vine Street on the west side of N. 45th Street.
4. Associated Change of Zone No. 19019 will change the zoning from R-4 Residential to O-3 Office Park District for the property. This change of zone will continue the general office zoning pattern from Q Street to Vine Street on the west side of N. 45th/N. 46th Streets. The Department of Motor Vehicles office immediately to the south is zoned P Public as it is a government office use. The general zoning pattern is such that the office areas provide a buffer between the H-2 and B-1 commercial areas to the east and the R-4 and R-5 residential areas to the west.
5. The storm water quality is being accounted for Lots 1 and 2 on Outlot A. Stormwater detention is proposed to be provided in the Wyuka regional detention cell.
6. Waivers associated with this Use Permit include 0 foot setbacks for the two commercial lots for the mutual property line between these properties. Also, a 0 foot setback for the mutual property line between Outlot A and the adjacent commercial lot. These waivers are justifiable as they will not affect external setbacks.
7. Subject to the recommended conditions of approval, this request complies with the Zoning Ordinance and Comprehensive Plan.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: Vacant; R-4 Residential

SURROUNDING LAND USE & ZONING

North: Single Family Residential, Multi-Family; R-2 Residential
South: Lancaster County Office; P Public
East: Commercial; B-1 Commercial
West: Broadcast Tower, Vacant; R-4 Residential

APPROXIMATE LAND AREA: 2.25 acres

LEGAL DESCRIPTION: See attached.

Prepared by

George Wesselhoft
George Wesselhoft, Planner

Date: July 11, 2019

Owner: Stuart Development Partnership
2001 Pine Lake Road
#400
Lincoln, NE 68512
stuart3j@windstream.net

Applicant: Stough Real Estate Holdings, LLC
1128 Main Street
Suite 200
Cincinnati, OH 45202
[sstough@stoughgroup.com](mailto:ssstough@stoughgroup.com)

Contact: Tim Gergen
1010 Lincoln Mall
Lincoln, NE 68508
(402) 477-9291
tim.gergen@clarkenersen.com

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CONDITIONS OF APPROVAL - USE PERMIT 19007

This approval permits 25,000 square feet of commercial with waivers to allow 0' setbacks internal to the site for the commercial lots and 0' setback internal to the site for Outlot A.

Site Specific Conditions:

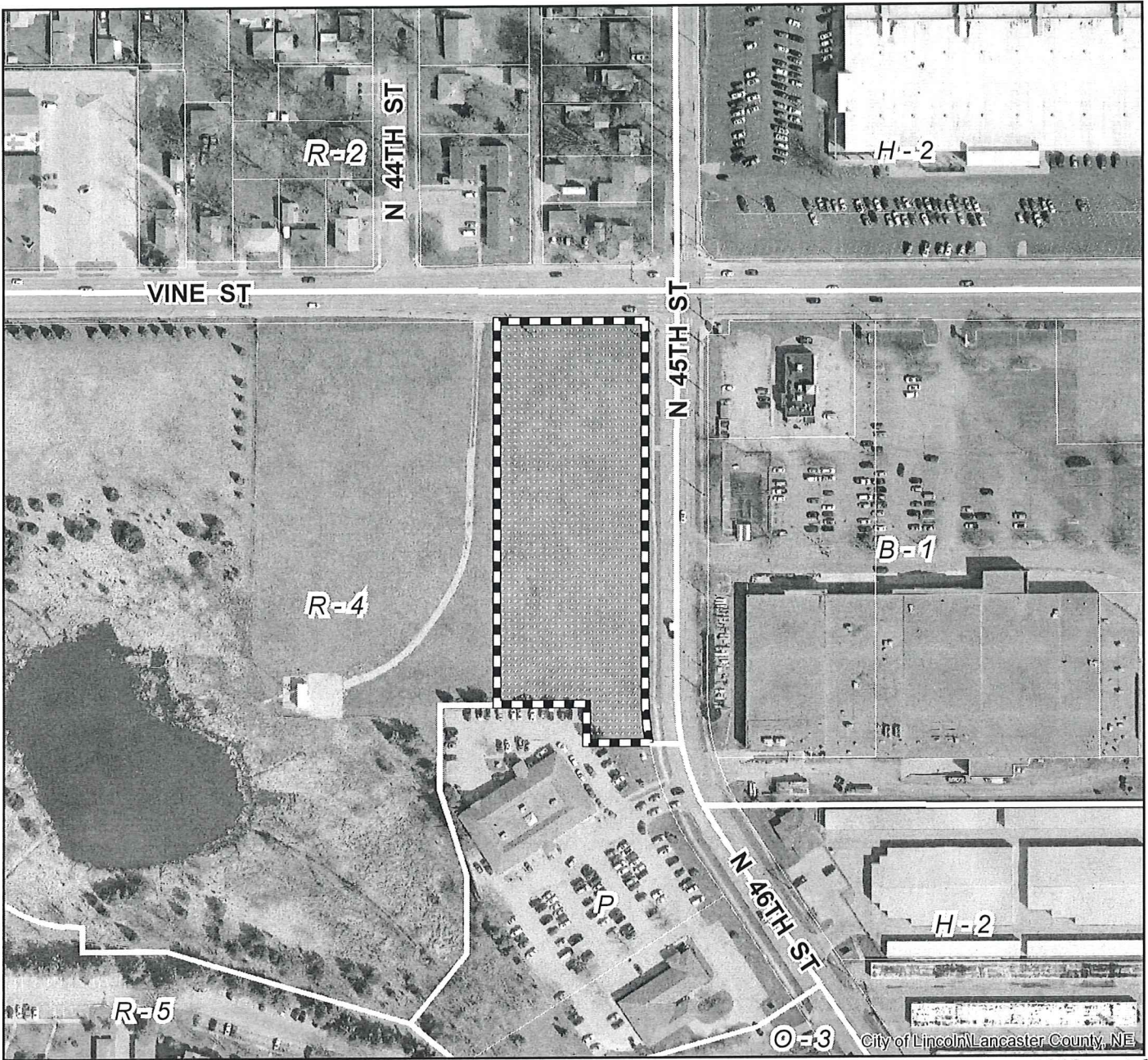
1. The City Council approves associated requests:
 - 1.1 Change of Zone 19019
2. The permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below upon approval before receiving building permits.
 - 2.1 Revise note 12 under General Notes to allow up to 25,000 SF of commercial floor area.
 - 2.2 Add note next to 24' Access Easement that prior to building permit, a final plat will be approved which creates a 24' wide access easement as shown to provide access to N. 45th Street to the adjacent property to the west.
 - 2.3 Confirm that right of way dedication is sufficient or provide 30' utility easement for sanitary sewer.
 - 2.4 Dedicate 20' by 20' triangle of right of way at the corner of Vine Street and N. 45th Street.
 - 2.5 At developer expense provide an Executive Order to construct a new right turn lane (south bound on N. 45th Street) into the property and dedicate sufficient right of way to accommodate said turn lane or in the alternative submit a deviation request which if approved to remove right turn lane requirement.
 - 2.6 Submit required information and corrections to LTU-Watershed per their July 8, 2019 comments.
 - 2.7 Add utility easements per July 8, 2019 LES comments.

Standard Conditions:

3. The following conditions are applicable to all requests:
 - 3.1 Before occupying the buildings all development and construction is to substantially comply with the approved plans.
 - 3.2 All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City.
 - 3.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
 - 3.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant. Building permits will not be issued unless

the letter of acceptance has been filed.

- 3.6 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions/ordinances approving previous permits remain in force unless specifically amended by this resolution.

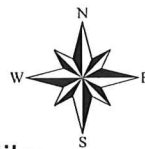


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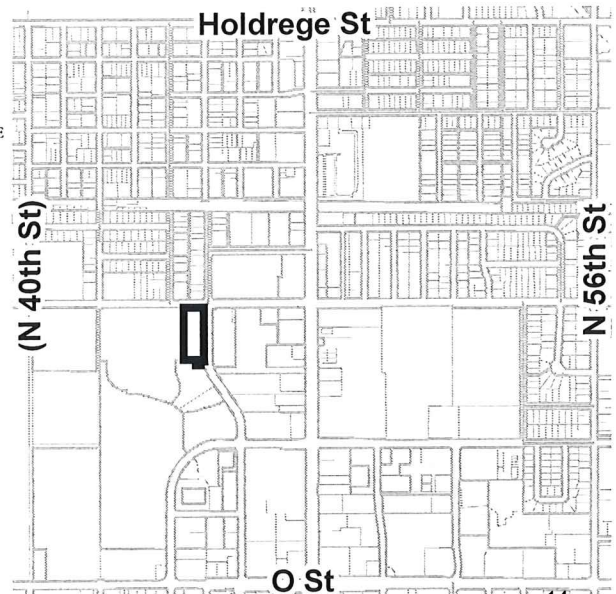
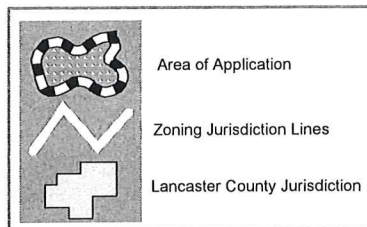
**Change of Zone #: CZ19019 (R-4 to O-3)
and Use Permit #: UP19007
N 45th St & Vine St**

Zoning:

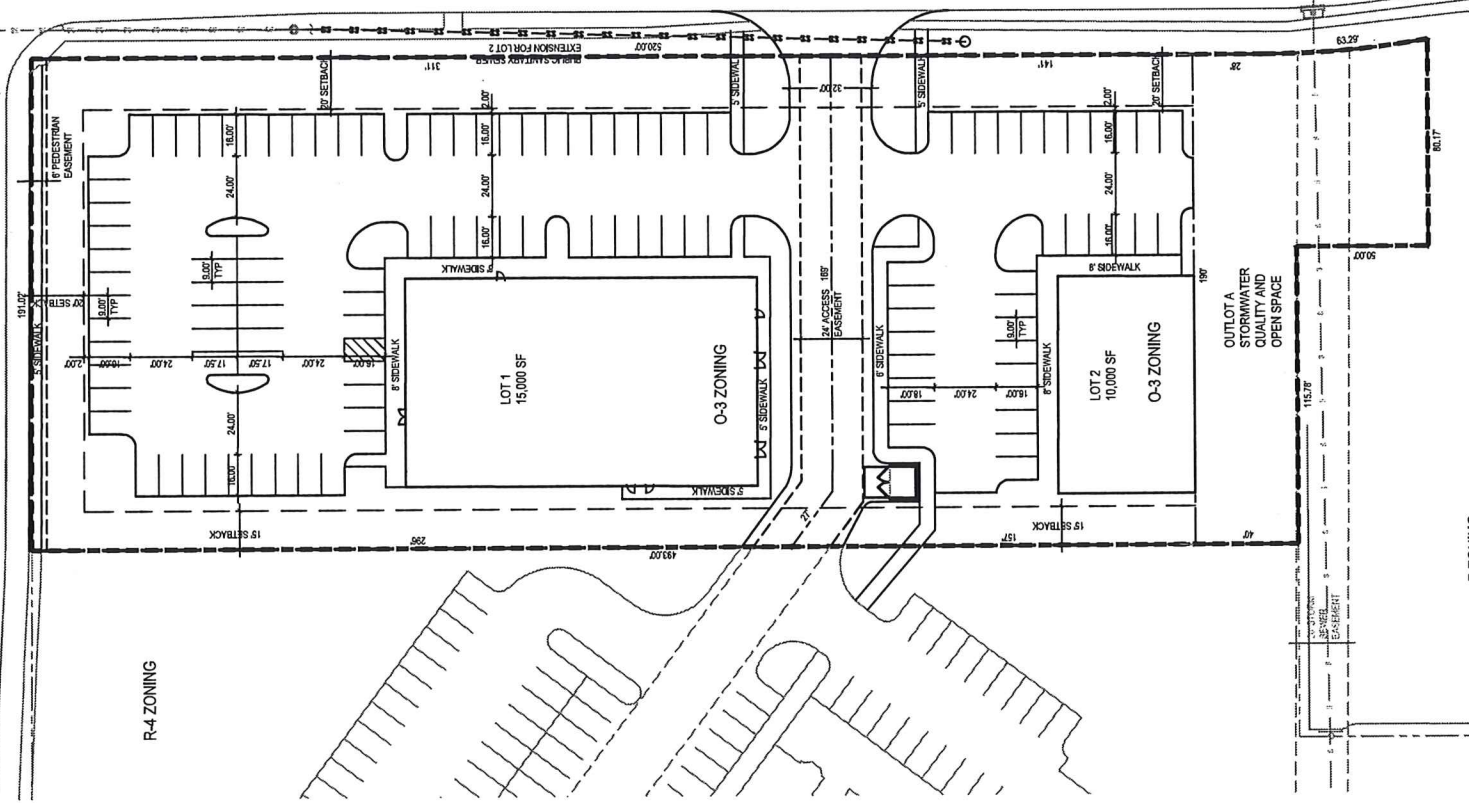
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
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- B-2 Planned Neighborhood Business 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.20 T10N R07E**



N. 45TH STREET



R-4 ZONING

LOT 1
15,000 SF
O-3 ZONING

LOT 2
10,000 SF
O-3 ZONING

OUTLOT A
STORMWATER
QUALITY AND
OPEN SPACE

P ZONING

WAIVERS

- 0' SETBACK ON INTERNAL LOT LINES FOR LOT 1, LOT 2 AND OUTLOT A.

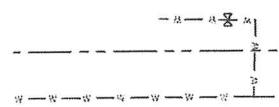
GENERAL NOTES

- ZONING IS CURRENTLY R-4. PROPOSED ZONING IS O-3.
- ALL DIMENSIONS ALONG CURVES ARE CHORD DISTANCES.
- ALL DIMENSIONS ARE TO BACK OF CURB.
- SIGNS NEED NOT BE SHOWN ON THIS SITE PLAN, BUT NEED TO BE IN COMPLIANCE WITH CHAPTER 27.69 OF THE LINCOLN ZONING ORDINANCE, AND MUST BE APPROVED BY BUILDING AND SAFETY DEPARTMENT PRIOR TO INSTALLATION.
- ALL ELEVATIONS ARE BASED ON NAVD 1988.
- LOT DIMENSIONS ARE APPROXIMATE AND MAY VARY AT THE TIME OF FINAL PLAT.
- THE YARD SETBACKS REGULATE STRUCTURAL WALLS ONLY AND DOES NOT RESTRICT OVERHANGS, PATIOS, DOOR SWINGS, WINDOW SWINGS, ETC., FROM ENCRoACHING INTO THE SETBACKS.
- DIRECT VEHICULAR ACCESS TO N 45TH STREET AND VINE STREET IS RELINQUISHED EXCEPT AS SHOWN.
- PARKING WILL BE AS REQUIRED BY THE ZONING ORDINANCE.
- LANDSCAPING PLAN WILL BE PROVIDED AT TIME OF BUILDING PERMIT.
- THE LOCATION OF BUILDINGS AND PARKING STALLS ARE CONCEPTUAL AND ARE SUBJECT TO MINOR CHANGES.
- USE PERMIT MAY CONTAIN UP TO 15,000 SF OF COMMERCIAL FLOOR AREA.
- STORMWATER QUALITY IS ACCOUNTED FOR LOTS 1 AND 2 ON OUTLOT A. STORMWATER DETENTION IS BEING PROVIDED ON THE WYUKA REGIONAL DETENTION CELL.

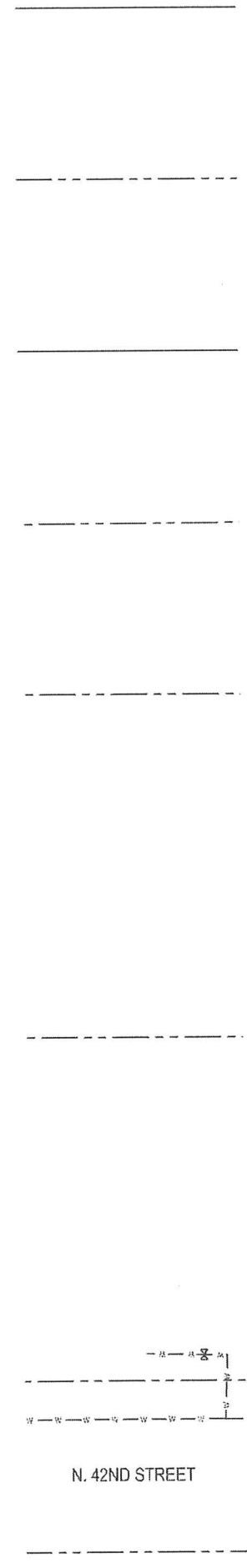
LEGEND

-  USE PERMIT BOUNDARY
-  PROPERTY LINE
-  PROPERTY SETBACK LINE
-  EASEMENT LINE
-  ROADWAY CENTERLINE
-  EXISTING WATER MAIN
-  EXISTING SANITARY SEWER
-  EXISTING STORM SEWER
-  EXISTING CURB INLET
-  EXISTING MANHOLE
-  WATER VALVE

TOTAL SITE AREA
97,874 SF = 2.25 AC



N. 42ND STREET



PHILLIES
 USE PERMIT

100 YR INFLOW TO REGIONAL DETENTION CELL

OUTFLOW COMPARISON

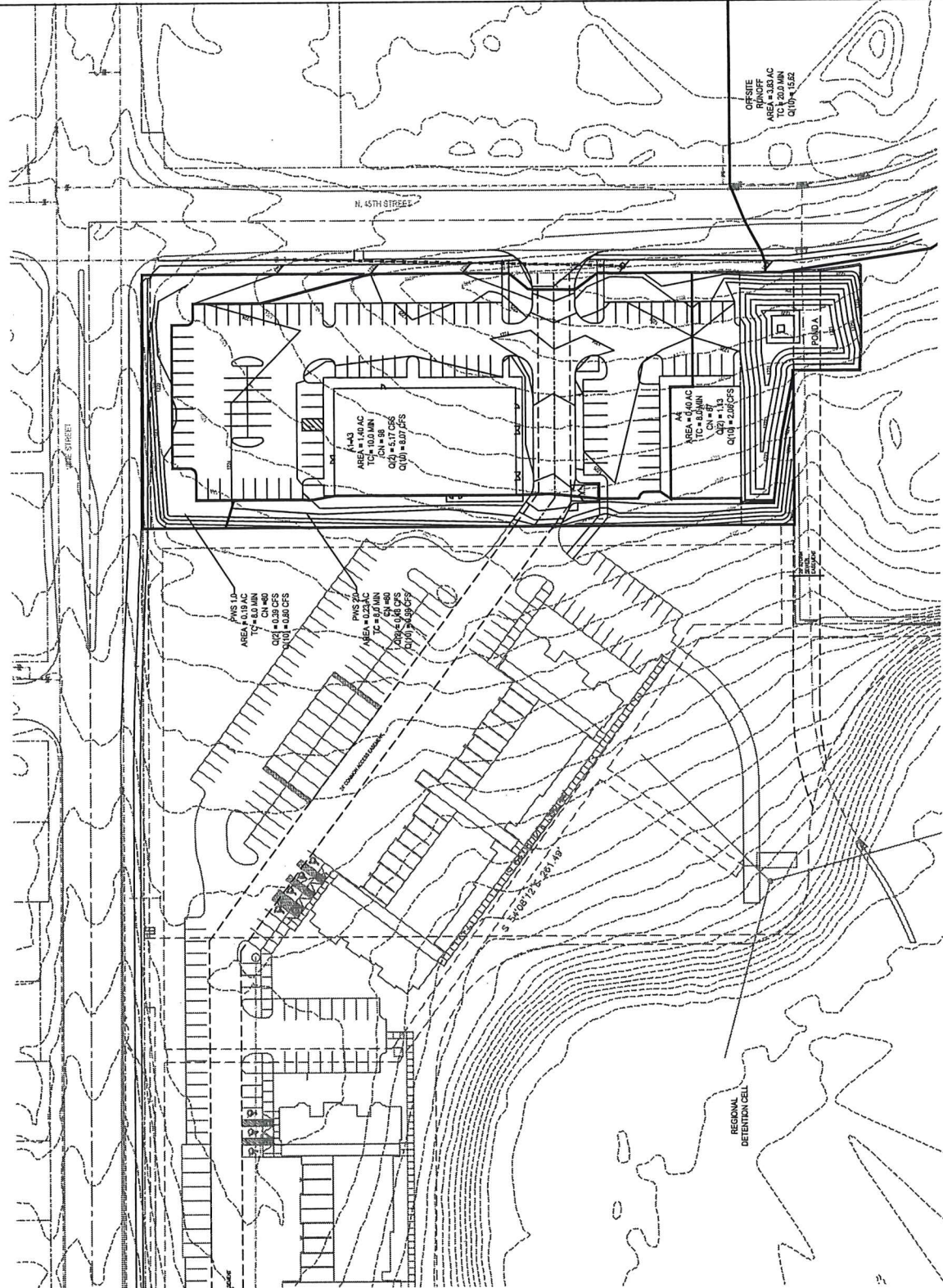
PROPOSED DRAINAGE CALCULATIONS

EXISTING DRAINAGE CALCULATIONS

EXISTING DRAINAGE CALCULATIONS:
 100 YR INFLOW TO REGIONAL DETENTION CELL: 1,100,000 GPD
 100 YR INFLOW TO REGIONAL DETENTION CELL: 1,100,000 GPD
 100 YR INFLOW TO REGIONAL DETENTION CELL: 1,100,000 GPD

PROPOSED DRAINAGE CALCULATIONS:
 100 YR INFLOW TO REGIONAL DETENTION CELL: 1,100,000 GPD
 100 YR INFLOW TO REGIONAL DETENTION CELL: 1,100,000 GPD
 100 YR INFLOW TO REGIONAL DETENTION CELL: 1,100,000 GPD

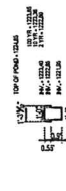
OUTFLOW COMPARISON:
 100 YR INFLOW TO REGIONAL DETENTION CELL: 1,100,000 GPD
 100 YR INFLOW TO REGIONAL DETENTION CELL: 1,100,000 GPD
 100 YR INFLOW TO REGIONAL DETENTION CELL: 1,100,000 GPD



RATING CURVE FOR PROPOSED DETENTION POND A

WATER SURFACE ELEVATION (FEET)	STORAGE (CUBIC FEET)	PEAK FLOW (CFS)
100.00	0	0
100.10	100,000	100
100.20	200,000	200
100.30	300,000	300
100.40	400,000	400
100.50	500,000	500
100.60	600,000	600
100.70	700,000	700
100.80	800,000	800
100.90	900,000	900
101.00	1,000,000	1,000

WATER QUALITY CONTROL VOLUME
 VOLUME OF STORAGE: 1,000,000 CU FT
 PEAK FLOW: 1,000 CFS
 TIME OF CONCENTRATION: 1.0 HOURS
 TIME OF TRAVEL: 1.0 HOURS
 TIME OF STORAGE: 1.0 HOURS
 TIME OF RELEASE: 1.0 HOURS
 TIME OF TREATMENT: 1.0 HOURS
 TIME OF DEPOSIT: 1.0 HOURS
 TIME OF REMOVAL: 1.0 HOURS
 TIME OF RECOVERY: 1.0 HOURS
 TIME OF RESTORATION: 1.0 HOURS
 TIME OF REUSE: 1.0 HOURS
 TIME OF REPAIR: 1.0 HOURS
 TIME OF REPLACEMENT: 1.0 HOURS
 TIME OF RECONSTRUCTION: 1.0 HOURS
 TIME OF REDEMPTION: 1.0 HOURS
 TIME OF REDEMPTION: 1.0 HOURS



LEGEND
 DRAINAGE AREA
 PROPOSED MAJOR CONTROL STRUCTURE
 PROPOSED MINOR CONTROL STRUCTURE
 DETENTION CELL

PROPOSED GRADING & DRAINAGE
 SCALE: 1" = 20' HORIZONTAL
 SCALE: 1" = 4' VERTICAL

Phillies
 Use Permit
 643 N. 45th St.
 Lincoln, NE
 TCEP No.: 296-001-19
 June 26, 2019



Proposed Grading & Drainage
3 of 4

L. BRUCE WRIGHT
 ROBERT J. ROUTH
 DAVID R. BUNTAIN
 SCOTT D. KELLY
 TERRY R. WITTLER
 MARK A. CHRISTENSEN
 RICHARD P. GARDEN, JR.
 SHAWN D. RENNERT
 JOHN C. MILES
 THOMAS C. HUSTON
 DON R. JANSSEN
 SUSAN K. SAPP
 KEVIN J. SCHNEIDER
 GARY R. BATENHORST
 JILL GOSSIN JENSEN
 JOHN C. HEWITT
 ROCHELLE A. MULLEN
 TRENTEN P. BAUSCH
 MICHAEL C. PALLESEN
 RICHARD P. JEFFRIES
 TRACY A. OLDEMAYER
 PAMELA EPP OLSEN
 TRENT R. SIDDEERS
 ANDRE R. BARRY
 DAVID J. ROUTH
 JASON R. YUNGTUM
 MEGAN S. WRIGHT
 THERESA D. KOLLER
 AUSTIN L. MCKILLIP
 KEITH T. PETERS
 ANDREW R. WILLIS
 TARA A. STINGLEY
 SEAN D. WHITE
 MICHELLE L. SITORIUS

CLINE WILLIAMS
 WRIGHT JOHNSON & OLDFATHER, L.L.P.

ATTORNEYS AT LAW

ESTABLISHED 1857

233 SOUTH 13TH STREET
 1900 U.S. BANK BUILDING
 LINCOLN, NEBRASKA 68508-2095

(402) 474-6900 • FAX (402) 474-5393

www.clinewilliams.com

June 26, 2019

MICHAEL J. WHALEY
 RUSSELL J. SPRAGUE†
 RENEE A. EVELAND
 HENRY L. WIEDRICH
 DANIEL W. OLDENBURG
 ADAM W. BARNEY
 GREGORY S. FRAYSER
 JENNIE A. KUEHNER
 TRAVIS W. TEITENBORN
 BEAU B. BUMP
 HEATHER A. CARVER
 SHANNON E. FALLON
 JODY N. DUVALL
 KATIE A. JOSEPH
 LILY AMARE
 JORDAN R. HASAN
 JOHN F. ZIMMER, V
 MICHAEL L. SHOLES
 NATHAN D. CLARK
 ALISON K. JANECEK
 TAMARA I. KELLEY†
 JACLYN L. KLINTOE
 SYDNEY M. HUSS
 BRITTNEY M. HOLLEY
 AMANDA C. CARTER

STEPHEN E. GEHRING
 RICHARD A. SPELLMAN
 DAVID O. COLVER†
 KIMBRA L. KILLIN†
 DONALD F. BURT (INACTIVE)
 STEPHEN H. NELSEN (INACTIVE)

DANIEL R. STOGSDILL (1957-2018)

†ATTORNEYS ADMITTED IN COLORADO ONLY

VIA HAND DELIVERY

David Cary
 Planning Director
 Lincoln/Lancaster County Planning Department
 555 South 10th Street, Suite 213
 Lincoln, NE 68508

Re: Development Project at 45th and Vine Streets
 Our File No.: 25139.001

Dear Mr. Carey:

This letter shall serve as the explanatory letter relating to the Use Permit Application filed for the medical office building development project located, generally, at 45th and Vine Streets in Lincoln.

Developer

I represent Stough Development Corporation from Cincinnati, Ohio, which proposes to develop this property. The project includes the construction of a new building which is approximately 11,100 sq. ft. to be used as a medical office and clinic for a plasma center. The site plan envisions approximately 80 parking stalls. The investment in this development project is in the approximate range of \$3.5 - \$4 million.

Use Permit

Stough Development Corporation is seeking a Use Permit for this medical office use under the "O-3" Office Park District. The owner of the property, Stuart Development Partnership, is concurrently submitting an application to change the zone from the "R-4" Residential District to the "O-3" Office Park District. The

12910 PIERCE STREET
 SUITE 200
 OMAHA, NE 68144-1105
 (402) 397-1700

1207 M STREET
 P.O. BOX 510
 AURORA, NE 68818
 (402) 694-6314

416 VALLEY VIEW DRIVE
 SUITE 304
 SCOTT'SBLUFF, NE 69361
 (308) 635-1020

215 MATHEWS STREET
 SUITE 300
 FORT COLLINS, CO 80524
 (970) 221-2637

216 SOUTH INTEROCEAN AVENUE
 HOLYOKE, CO 80734
 (970) 854-2264

David Cary
June 25, 2019
Page 2

use permit will reflect the medical office building on this site in addition to the parking stalls.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Huston", with a large, sweeping initial "T" and a horizontal line extending from the end of the signature.

Thomas C. Huston
For the Firm

Part of Lot Six (6), J. G. Miller Subdivision of the Southwest Quarter (SW¼), Section Twenty (20), Township Ten (10) North, Range Seven (7) East of the 6th P.M., Lincoln, Lancaster County, Nebraska, more particularly described as commencing at the Northeast corner of Lot Six (6), J. G. Millers Subdivision in the South One-Half (S½) of Section Twenty (20), Township Ten (10) North, Range Seven (7) East of the 6th P.M., and running thence South along the East line of said Lot Six (6), a distance of 500 feet; thence West parallel with the North line of said Lot Six (6), a distance of 500 feet; thence North parallel with the East line of said Lot Six (6), a distance of 500 feet, to the North line of said Lot Six (6); thence East along the North line of said Lot Six (6), a distance of 500 feet, to the place of beginning, and excepting therefrom that portion of the aforesaid property conveyed to the City of Lincoln, along with other property, on October 25, 1965, and recorded in Book 701, Page 231; records of Lancaster County, Nebraska.

AND EXCEPT the North 7 feet of the West 191.02 feet of the East 500.0 feet of said Lot Six (6) conveyed to the City of Lincoln, Nebraska, by the Corporation Deed recorded July 16, 1968 in Book 731, Page 287; AND EXCEPT that portion of said Lot Six (6) platted as 48th & Vine Plaza Addition, 48th & Vine Plaza Addition Corrected Plat, and 48th & Vine Plaza 1st Addition; in the records of Lancaster County, Nebraska;

TOGETHER WITH:

A portion of Lot Six (6), J. G. Miller's Subdivision of the Southwest Quarter (SW¼) of Section Twenty (20), Township Ten (10) North, Range Seven (7) East of the 6th P.M., Lincoln, Lancaster County, Nebraska, more particularly described as follows:

Commencing at a point six hundred ninety-four and sixty-six hundredths (694.66) feet West and thirty-three (33) feet South of the Northeast corner of the Southwest Quarter (SW¼) of Section Twenty (20), Township Ten (10) North, Range Seven (7) East, being the Southwest corner of 46th and Vine Streets in the City of Lincoln, and the Northeast corner of said Lot Six (6), and thence continuing South along the West line of 46th Street and the East line of Lot Six (6) a distance of five hundred (500) feet to the point of beginning; thence West parallel with the South line of Vine Street and the North lot line of Lot Six (6) a distance of seventy-five (75) feet; thence South parallel with the East line of Lot Six (6) distance of fifty (50) feet; thence East parallel with the South line of Vine Street and the North line of Lot Six (6) a distance of seventy-five (75) feet to the East lot line of Lot Six (6) and the West line of 46th Street; thence Northerly along the East line of Lot Six (6) and the West line of said 46th Street a distance of fifty (50) feet back to the point of beginning. This property is also known as the East seventy-five (75) feet of the South fifty (50) feet of the North five hundred fifty (550) feet of Lot Six (6), J. G. Miller's Subdivision of the Southwest Quarter (SW¼) of Section Twenty (20), Township Ten (10) North, Range Seven (7) East of the 6th P.M., Lincoln, Lancaster County, Nebraska.

From: Tim M. Zach

Sent: Monday, July 8, 2019 12:02 PM

To: Tim Gergen <tim.gergen@clarkenersen.com>; George J. Wesselhoft <GWesselhoft@lincoln.ne.gov>

Subject: RE: UP19007 Phillies - Missing Info

Tim,

Here are my comments for the 1st submittal of the Phillies Use Permit

1. Detention:
 - a. It appears that detention is provided in the water quality basin, and using the Wyuka detention is not necessary.
 - b. If the Wyuka detention is going to be used for this site, a signed agreement from the owner must be provided to the City prior to approval of this Use Permit.
2. Water Quality:
 - a. Water quality basin needs to have a 10 ft embankment top width, and at least 5 ft level buffer from all parking lots and buildings. The top of the embankment elevation can be at the 100-year water surface elevation, and does not need to have 1 ft of freeboard over this elevation.
 - b. The proposed water quality basin is located over a City storm pipe. The lowest point of the basin needs to be at least 2 ft over the top of the pipe, which is at about 1221.

Let me know if you have any questions. Thanks.

Tim Zach

Engineer | Watershed Management

City of Lincoln Transportation and Utilities

O: 402-441-7018

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

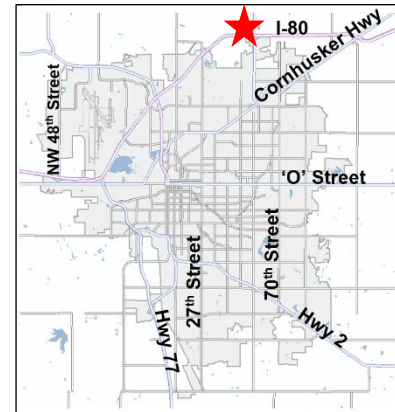
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Comprehensive Plan Amendment #19003 - I-80 and US-77 Development	FINAL ACTION? No	DEVELOPER Agate, LLC
PLANNING COMMISSION HEARING DATE July 24, 2019	RELATED APPLICATIONS Annexation #19007 Change of Zone #19020 Use Permit #19008	PROPERTY LOCATION US Highway 77 and Interstate 80

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

Proposal to amend the 2040 Future Land Use Plan to revise approximately 145 acres from “Commercial” future land use to “Industrial” on property located northwest of Highway 77 and Interstate 80. The change relates to the proposed I-80 and US-77 Development Change of Zone from AG Agriculture District to I-3 Employment Center District and Use Permit which requests approval of a data center and associated uses.



JUSTIFICATION FOR RECOMMENDATION

The proposed change to land use is appropriate based on the character of the proposed development and is supported by the Comprehensive Plan in several ways. The current land use designations were based on a previous development plan as an employment center with a mix of industrial and commercial uses. With the proposed single use employment center it is appropriate to change the future use of the site to all industrial.

APPLICATION CONTACT

Joseph Shields, (402) 399-4833 or joe.shields@hdrinc.com

STAFF CONTACT

Rachel Jones, (402) 441-7603 or rjones@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposed future land use designation is supported by the goals of the Comprehensive Plan related to providing flexibility in siting of industrial sites and consideration of the impacts of industrial uses on adjacent property. Demand for industrial property is anticipated throughout the planning period and is encouraged by the Comprehensive Plan in appropriate locations that protect sensitive land uses.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 12.3 - This site is shown as a combination of future industrial and commercial on the 2040 Lincoln Area Future Land Use Plan.

P. 12.4 - Industrial. Areas where railroads, manufacturing, trucking and transportation facilities are the dominant land use, with some commercial activities.

P. 12.4 - Commercial. Areas of retail, office, service and residential mixed uses. Commercial uses may vary widely in their intensity of use and impact. Individual areas designated as commercial in the land use plan may not be appropriate for every commercial zoning district.

P. 4.3 - This site is within a Capitol View Corridor.

P. 4.7 - Continue to identify and maintain high-value Capitol View Corridors and protect those views through regulations and guidelines, including vistas that gain in prominence as the community grows. Structures that may interfere with these public corridors should be reviewed by the Capitol Environs Commission and a recommendation made within the context of their overall effect upon the view.

P. 4.8 - This site is located along a Primary Entryway Corridor.

P. 4.7 - Preserve and enhance the character of key entry points and corridors into the City of Lincoln through enhanced landscaping and public art in rights-of-way, and respectful development of adjacent properties.

P. 5.17 - This property is identified as a proposed Light Industrial Center.

P. 5.17 - There are considerations for industrial uses in regard to the potential impact on adjacent property. In 2005, a Joint Committee of the Board of Health and Planning Commission began to meet regularly to discuss issues of common interest; including industrial land uses that use and store hazardous materials. The Joint Committee developed reports called Use and Storage of Hazardous Materials and Pipelines Carrying Hazardous Materials.

ANALYSIS

1. This application includes changes to future land use associated with the I-80 and US-77 Development Use Permit and Change of Zone applications (UP#19008 and CZ#19020). The proposal is to change the future land use designation from Commercial to Industrial on property located northwest of Highway 77 and Interstate 80.
2. The area of change is approximately 145.14 acres. The majority of the overall application area is currently designated as future Industrial. However, the southeast corner with frontage on Highway 77 and I-80 is designated for Commercial. It is proposed to change this Commercial area to Industrial.
3. The I-80 and US-77 Development proposes to re-zone the application area to I-3 Employment Center District for up to 2,000,000 square feet of floor area for a data center and related uses. This Comprehensive Plan Amendment would result in their entire site being designated for future industrial uses in accordance with the change of zone.
4. The area was first designated for future industrial land use in the Comprehensive Plan in approximately September 2006. It was identified as a future Light Industrial Center called the North Bluff Employment Center. As originally envisioned by the developer, the entire 600 acre parcel was proposed to develop as a whole with multiple parcels for many separate businesses including industrial uses and highway oriented uses such as restaurants, hotels and gas stations.
5. The area is continues to be identified as a future light industrial center and has a future land use designation of industrial and commercial. The Comprehensive Plan states that Light Industrial Centers are planned to be a minimum of 50 acres in size and primarily for lighter manufacturing uses with some additional office and retail uses. Light Industrial Centers can be located more closely to residential uses than Moderate to Heavy Industrial Centers but residential uses should be buffered through landscaping, setbacks, and transitional uses. It is now proposed to develop as a single user campus with no other uses. Based on the new development plan, the future land use change is appropriate.
6. Established policy recommends against new residential uses within 300 feet of industrial zoning. There is an

existing residential area to the north. The Use Permit addresses the policy by prohibiting hazardous materials and industrial uses within 300 feet of any residential property line. There are no other future residential areas planned nearby at this time, because surrounding areas to the east, west and north are outside the future service limit and do not yet have an urban land use designation in the Comprehensive Plan.

7. The associated Use Permit will designate a 300-foot buffer between any residential property line and the storage or use of hazardous chemicals around the west and north boundary lines of the property. A buffer was not shown on the east and south boundaries because the landfill and interstate on those respective sides make a buffer distance unnecessary. The buffer addresses concerns regarding proximity of industrial uses to existing and future houses. There are several dwellings to the north and west of the site, four of which are in the Sunshine Hills Community Unit Plan (CUP). The Sunshine Hills CUP was approved by the City Council in November 2002. The final plat was approved in April 2003. The Comprehensive Plan amendment that designated this site for industrial use took place approximately 3 years after the Sunshine Hills lots were final platted. The area has been designated as industrial in the Comprehensive Plan for the past 13 years. During these 13 years, urban services have been brought to this site to serve development. The change from future commercial to industrial land use is approximately 1,900 feet from the nearest residential subdivision.
8. The Comprehensive Plan indicates that industrial property is in high demand and encourages the development of industrial sites, which can be difficult to locate. In addition, the proposed future land use is supported by the goals of the Comprehensive Plan related to providing flexibility for development and reducing conflict between residential and industrial uses.

EXISTING LAND USE & ZONING: Agriculture and vacant; AG

PROPOSED AMENDMENT:

Amend the 2040 Lincoln/Lancaster County Comprehensive Plan as follows:

1. Amend the Lancaster County Future Land Use plan on pages 1.8 and 12.2 and the Lincoln Area Future Land Use Plan on pages 1.9 and 12.3 to reflect changes in land use and all other maps, figures, and plans where the future land use is displayed.

Prepared by



Rachel Jones, Planner

Date: July 18, 2019

Owners: Eldine L. Dove Revocable Living Trust
5524 Enterprise Drive
Lincoln, NE 68521

North Bluff Employment Center LLC
7211 S. 27th Street
Lincoln, NE 68512

State of Nebraska
Attn: DAS/State Bldg Division P.O. Box 98940
Lincoln, NE 68509-8940

William & Nancy Shields
6509 N. Park Street
Gladstone, MO 64118

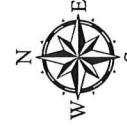
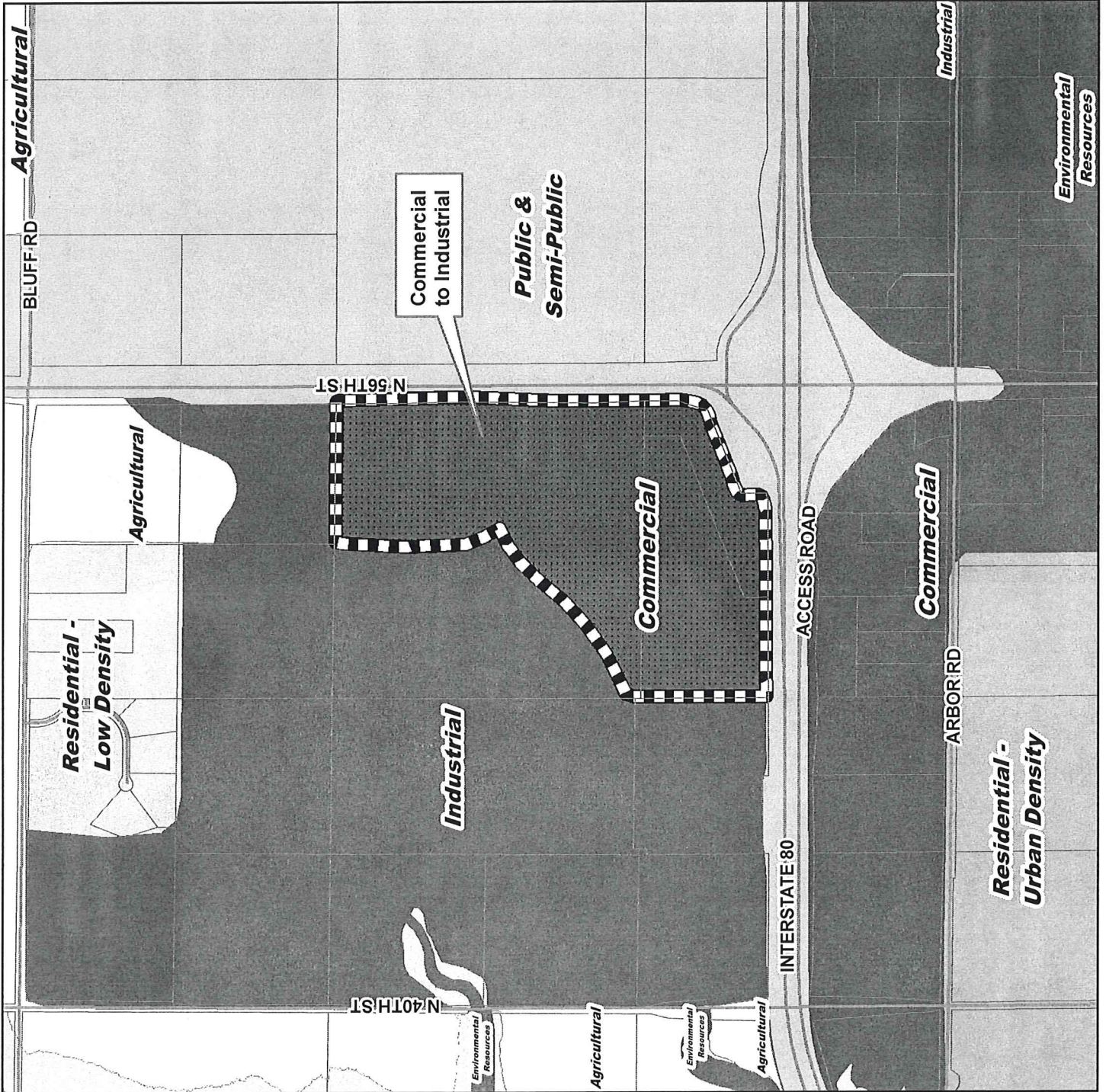
Applicant: Agate LLC
2801 Centerville Road, 1st floor PMB 811
Wilmington, DE 19808
(515) 698-5938 or bkautzky@lolaw.com

Contact: Joseph R. Shields, PE
1917 S. 67th Street
Omaha, NE 68106-2973
(402) 399-4833 or joe.shields@hdrinc.com

F:\DevReview\CPA\19000\CPA19003 I-80 and US-77 Development.rkj.docx

CPA # 19003
N 56th St & I-80

Proposed Land Use Change



LINCOLN - LANCASTER COUNTY
PLANNING DEPARTMENT
GIS
Jeffrey M. Smith, Director
333 South 1000 West
Lincoln, Nebraska 68502
PH: 402.477.1000 FAX: 402.477.1001





June 25, 2019

Mr. David Cary
Planning Director
Planning Department
555 South 10th St., Suite 213
Lincoln, NE 68508

Re: I-80 and US-77 Development
Applications for Annexation, Change of Zone to I-3, Comprehensive Plan Amendment
and Use Permit

Dear Mr. Cary,

Agate, LLC ("Developer") is under contract to purchase multiple parcels located at the Northwest corner of the intersection of Interstate 80 and U.S. Route 77 (the "Property"). Developer is requesting a Use Permit for the Property, as well as a comprehensive plan amendment, annexation and a change of zone from AG to I-3.

The proposed Use Permit encompasses 590 acres that includes all or a portion of eleven parcels. A draft Annexation Agreement will be submitted under separate cover to the City of Lincoln to address the infrastructure improvements required to serve development of the Property. The development team has met with City Staff several times to discuss the proposed applications. The Developer is requesting annexation so that City services including water and sanitary sewer will be extended to serve the Property.

Enclosed please find the following:

1. City of Lincoln Application, including:
 - a. Annexation of the Property
 - b. Change of Zone from AG to I-3
 - c. Comprehensive Plan Amendment
 - d. Use Permit
2. Application fees in the amount of \$5,683.
3. Preliminary Site Plan
4. Traffic Study
5. Authorization Forms from all Property Owners
6. Property Owner and Parcel Number List
7. Legal Description for the area to annexed and rezoned

Grading and drainage plans and calculations will be prepared and submitted with our Building Permit application in the future.

The proposed roadway improvements describe access points that have been discussed with City staff. Access improvements to U.S. Route 77 will be constructed to provide safe access to the development. The entry road into the site is shared with a property owner to the North will be constructed and dedicated to the city. The annexation agreement details the improvements and public road dedication to be completed for this development.



The Use Permit site plan includes code clarifications and waivers to address screening requirements relative to the substantial setbacks afforded by the site layout. Building material, fencing, parking and height waivers are also requested to accommodate the Developer's program for Light Industrial buildings. The waiver table from the Use Permit is enclosed for reference.

Plans and other supporting documents will be submitted to ProjectDox upon notification from the Planning Staff. If you require further information or have any questions, please do not hesitate to contact me at jshields@hdrinc.com or (402) 399-4833.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Shields'.

Joe Shields, PE

Enclosure

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

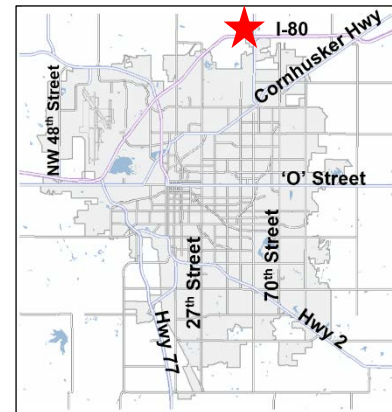
APPLICATION NUMBER Annexation #19007 Change of Zone #19020 Use Permit #19008	FINAL ACTION? No	DEVELOPER Agate LLC
PLANNING COMMISSION HEARING DATE July 24, 2019	RELATED APPLICATIONS Comprehensive Plan Amendment #19003	PROPERTY LOCATION US Highway 77 and Interstate 80

RECOMMENDATIONS: CONDITIONAL APPROVAL - ANNEXATION AND USE PERMIT APPROVAL - CHANGE OF ZONE

BRIEF SUMMARY OF REQUEST

This is a combined staff report for Annexation, a Change of Zone from AG Agriculture District to I-3 Employment Center District, and a Use Permit on property bounded by N. 40th Street, Highway 77, Interstate 80 and Bluff Road.

The proposal is for development of a maximum of 2,000,000 square feet of floor area for a data center and associated uses. Development in the first phase would primarily be located in the east portion of the property based on the site plan and infrastructure availability. Several waivers are requested to facilitate development of the site to suit the user’s needs including waivers to building height and fence regulations as well as waiver of certain screening requirements.



JUSTIFICATION FOR RECOMMENDATION

The proposed I-3 Employment Center zoning fits the character of the proposed development and conforms to the Comprehensive Plan future land use map pending approval of the related Comprehensive Plan Amendment. The property to be annexed is contiguous to the City limits and is suitable for annexation based on its location inside of the future service limit and the general availability of City water and sanitary sewer service.

APPLICATION CONTACT

Joseph Shields, (402) 399-4833 or joe.shields@hdrinc.com

STAFF CONTACT

Rachel Jones, (402) 441-7603 or rjones@lincoln.ne.gov

The Annexation, Use Permit site plan, and waivers are appropriate in consideration of the conditions of approval including a Conditional Annexation Agreement. Grading and drainage, street profiles, water quality information, and an interstate screening plan will be approved with a future administrative amendment.

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

According to the Annexation Policy in the Comprehensive Plan, the City should annex areas in Growth Tier I, Priority B that are contiguous to the City and generally urban in character. This area is in Growth Tier I, Priority B, contiguous to the city, and basic infrastructure is available in the vicinity and could be extended to serve it in a future phase, therefore meeting the Annexation Policy. The proposed zoning fits the future land use as proposed to be modified with Comprehensive Plan Amendment 19003.

WAIVERS

1. Waiver to Section 27.51.030.c, Specific Use Regulations of the I-3 District, to allow engineered or insulated metal panels on 100% of accessory building facades. (Recommend Approval)
2. Waiver to Section 27.62.060, Utilities Use Group, waiving the screening of public utility structures adjacent to residential districts if utility structures are set back 300 feet or more from the residential district, and exempting transmission line towers from screening requirements. (Recommend Approval)
3. Waiver to Section 27.51.075, Pedestrian Circulation Regulations in the I-3 District, waiving the requirement for a Pedestrian Circulation Plan. (Recommend Approval)
4. Waivers to Chapter 27.72, Height and Lot Regulations: (Recommend Approval)
 - a. Increase the maximum building height for all buildings to 75 feet.
 - b. Mechanical appurtenances shall be permitted to extend 20 feet in height above the maximum permitted in the district in which they are located.
 - c. All of said appurtenances shall be set back a minimum of 15 feet from all faces of a building when adjacent to and located within 150 feet of a street.
 - d. Chimneys, cooling towers, exhaust flues, roof access stairways and elevator bulkheads are exempt from the height regulations.
5. Waiver to Section 27.72.140, Fences, allowing chain link security fencing with barbed wire to exceed one hundred two inches in height but shall not exceed 14 feet. Fencing can be installed within setback areas however not nearer than one foot of any public way. The barbed wire element of the fence shall be at least 5 feet above ground. (Recommend Approval)
6. Minor modifications to the Design Standards Chapter 3.5, Design Standards for Screening and Landscaping to be approved by the Planning Director. (Recommend Approval)

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 12.3 - This area is shown as future commercial and industrial on the 2040 Lincoln Area Future Land Use Plan.

P. 12.4 - Industrial. Areas where railroads, manufacturing, trucking and transportation facilities are the dominant land use, with some commercial activities.

P. 12.4 - Commercial. Areas of retail, office, service and residential mixed uses. Commercial uses may vary widely in their intensity of use and impact. Individual areas designated as commercial in the land use plan may not be appropriate for every commercial zoning district.

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

P. 12.7 - Priority B areas are designated for development in the first half of the planning period (to 2026), are generally contiguous to existing development, and should be provided with basic infrastructure as they develop.

P. 4.3 - This site is within a Capitol View Corridor.

P. 4.7 - Continue to identify and maintain high-value Capitol View Corridors and protect those views through regulations and guidelines, including vistas that gain in prominence as the community grows. Structures that may interfere with these public corridors should be reviewed by the Capitol Environs Commission and a recommendation made within the context of their overall effect upon the view.

P. 4.8 - This site is located along a Primary Entryway Corridor.

P. 4.7 - Preserve and enhance the character of key entry points and corridors into the City of Lincoln through enhanced landscaping and public art in rights-of-way, and respectful development of adjacent properties.

P. 5.1-5.2 - Business & Economy Guiding Principles

- Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.
- Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.
- Seek to efficiently utilize investments in existing and future public infrastructure to advance economic development opportunities.
- Provide flexibility to the marketplace in siting future commercial and industrial locations.
- Strive for predictability for neighborhoods and developers.

P. 5.5-5.6 - Commercial and Industrial Development Strategies

- It is the policy that Commercial and Industrial Centers in Lancaster County be located:
 - Within the City of Lincoln or incorporated villages.
 - Outside of saline wetlands, signature habitat areas, native prairie and floodplain areas (except for areas of existing commercial and industrial zoning).
 - Where urban services and infrastructure are available or planned for in the near term.
 - In sites supported by adequate road capacity – commercial development should be linked to the implementation of the transportation plan.
 - In areas compatible with existing or planned residential uses.
 - In existing underdeveloped or redeveloping commercial and industrial areas in order to remove blighted conditions and to more efficiently utilize existing infrastructure.
 - In areas accessible by various modes of transportation (i.e. automobile, bicycle, transit, and pedestrian).
 - So that they enhance entryways or public way corridors, when developing adjacent to these corridors.
 - In a manner that supports the creation and maintenance of green space as indicated in the environmental resources section of this Plan.
 - Encourage public-private partnerships, strategic alliances, and collaborative efforts as a means to accomplish future economic objectives.
 - Explore additional opportunities for streamlining the permitting process.

P. 5.1 - Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.

P. 5.16 - LPlan 2040 foresees the demand for nearly 1,400 acres of additional industrial property over the planning period.

P. 5.17 - This property is identified as a proposed Light Industrial Center.

P. 5.17 - There are considerations for industrial uses in regard to the potential impact on adjacent property. In 2005, a Joint Committee of the Board of Health and Planning Commission began to meet regularly to discuss issues of common interest; including industrial land uses that use and store hazardous materials. The Joint Committee developed reports called Use and Storage of Hazardous Materials and Pipelines Carrying Hazardous Materials.

P. 5.18 - Public Health & Safety Measures: Industrial zoning districts should be primarily for industrial uses. Risk Reduction: In areas where industrial and residential uses are already close, efforts should focus on changes in the quantity and type of hazardous materials used and on increasing the distance between where hazardous materials are stored and residential districts. Notification: Persons living in close proximity to businesses with hazardous materials should be notified of the hazards.

P. 12.14-12.15 - The ANNEXATION POLICY

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.

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.

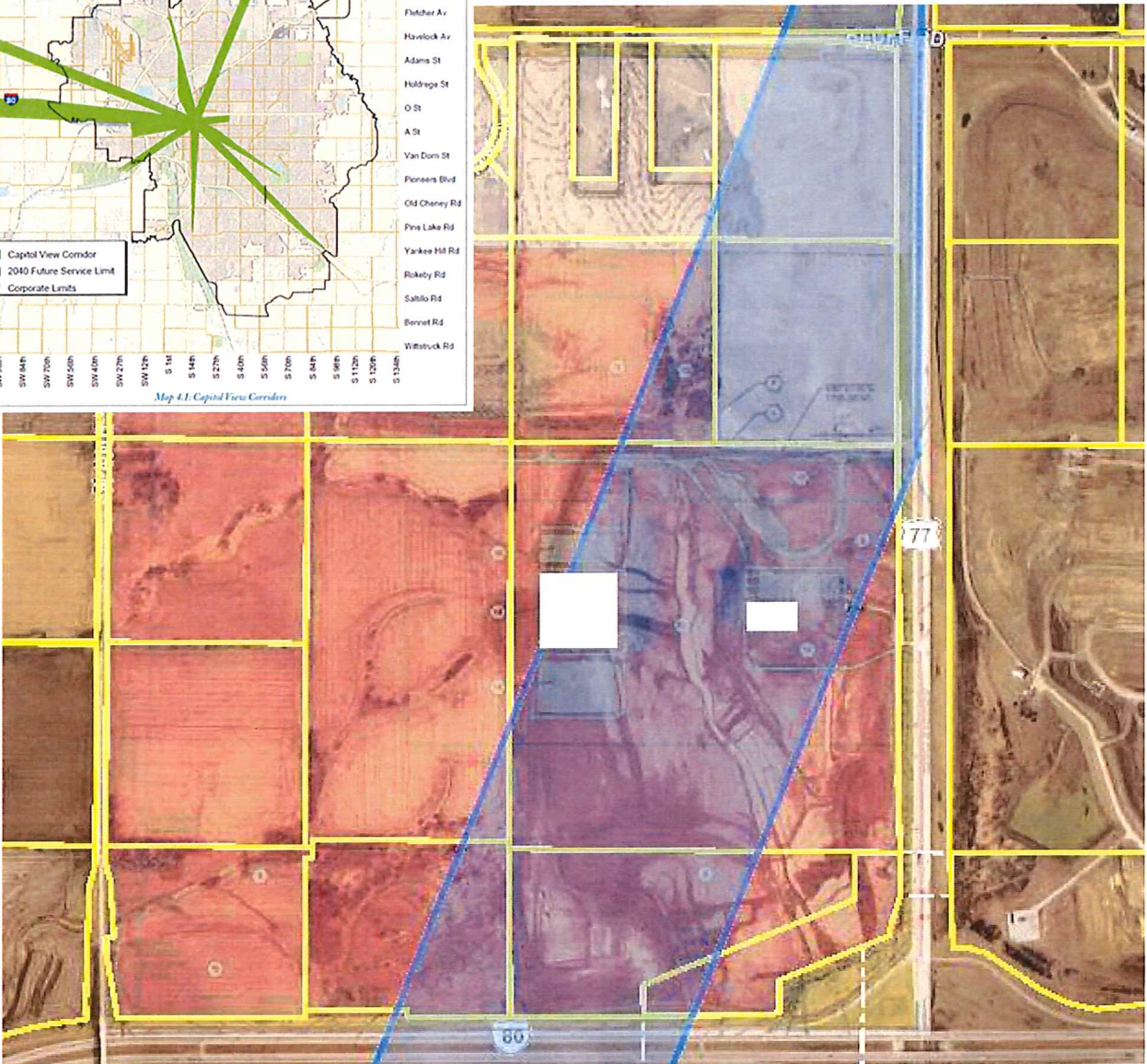
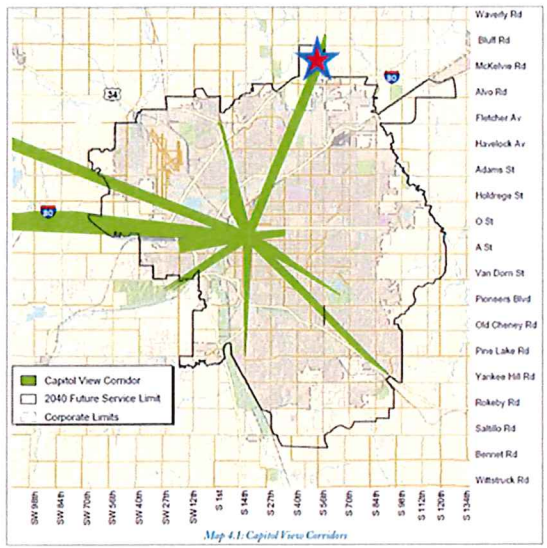
Annexation to facilitate the installation of improvements and/or possible assessment districts is appropriate if it is consistent with the annexation policies of the Plan listed above.

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.

ANALYSIS

1. This request is to annex approximately 573 acres, a Change of Zone from AG Agriculture to I-3 Employment Center District, and a Use Permit for up to 2,000,000 square feet of floor area for a data center and related uses. The property is contiguous to the city limits on the south. The Annexation area is slightly less than the Use Permit and Change of Zone because a portion of the property in the southeast corner is already annexed.
2. Growth Tier I reflects the "Future Service Limit" where urban services and inclusion in the City limits is anticipated within the 30-year planning period. Tier I includes three Priority Areas for phasing development. Priority A is comprised of undeveloped land within the City limits, as well as areas that are not yet annexed but which have approved preliminary plans such as preliminary plats, use permits, community unit plans, or planned unit developments. Priority B is comprised of areas designated for development in the first half of the planning period (to 2025) generally contiguous to existing development and should be provided with basic infrastructure as they develop. In contrast, areas within Priority C are actively planned for in the longer term but lack most infrastructure to support development. The property proposed for annexation is within Tier I Priority B.
3. The related Comprehensive Plan Amendment would revise the future land use from a combination of industrial and commercial to all industrial. The current land use designations were based on a previous development plan as an employment center with a mix of industrial and highway-oriented commercial uses. With the proposed single use campus it is appropriate to change the future use of the site to all industrial.
4. A Conditional Annexation Agreement is being finalized that would outline the developer and City responsibilities for improvements to water and wastewater infrastructure, roads, impact fee collection, right-of-way dedication, and other topics. The following describes the availability of utilities and services in this area:

- a. Water and sanitary sewer are available to serve the site with mains located at the southeast corner. The portion of the property identified for development drains generally south. The western portion of the project area adjacent to N. 40th Street is not currently served by water and sanitary sewer. The Conditional Annexation Agreement will address the needed improvements and funding responsibilities to serve the west portion in a future phase.
 - b. Roads: This annexation would bring all adjacent roads into City jurisdiction along the annexation boundary: N. 40th Street, Highway 77, Bluff Road, and Interstate 80. The City will assume responsibility to maintain approximately 2 miles of additional streets and .75 miles of interstate due to the annexation. N. 40th Street and Bluff Road are both gravel streets. There would be additional impact to the City to maintain these roads. The annexation of adjacent roads has been reviewed by the Transportation and Utilities Department.
 - c. Fire Protection: The majority of the site is currently served by Raymond Volunteer Fire and Rescue. The annexed portion is served by Lincoln Fire & Rescue (LFR). The area served by Raymond would be served by LFR upon annexation. The nearest LFR stations are at Touzalin Avenue and Benton Street in Havelock and on NW 1st Street in the Highlands neighborhood. The City would owe a contribution to Raymond Volunteer Fire and Rescue upon annexation as compensation for lost district area in an estimated amount of approximately \$2,068.
5. A Traffic Analysis was submitted that summarizes anticipated traffic operations and provides recommendations for improvements. Traffic volumes were developed for four horizon year scenarios. The analysis will inform the road improvements that are identified in the Conditional Annexation Agreement.
 6. The associated Use Permit will designate a 300-foot buffer between any residential property line and the storage or use of hazardous chemicals around the west and north boundary lines of the property. A buffer was not shown on the east and south boundaries because the landfill and interstate on those sides make a buffer distance unnecessary. The buffer addresses concerns regarding proximity of industrial uses to existing and future houses. The 300-foot buffer is shown on the site plan. The Health Department recommends a revision to the general note on the plan that discusses the buffer to define it more consistently with previous similar applications.
 7. The site is located within a Capitol View Corridor identified in the Comprehensive Plan. This application will be discussed at the July 25th meeting of the Nebraska Capitol Environs Commission (NCEC). The NCEC reviews the impact of proposals on the identified view corridors. *(Following Page - Top Image: Project location indicated by  ; Bottom Image: Overlay of Capitol view corridor on project site plan.)*



The Comprehensive Plan notes (p. 4.2,4.3) that “Protecting key vistas that provide important public views to the Capitol, along with identification and enhancement of new view corridors as the community grows, are important urban design strategies of this plan.” Highway 77 is also identified as a major entryway into Lincoln and as such it is recommended that it “should be studied, protected, and enhanced to create and express community pride.” (p. 4.6)

The Nebraska Capitol Environs Commission (NCEC) reviews the impact of proposals on the identified view corridors. NCEC does not have the binding design review authority over these corridors as it does within the confines of the Capitol Environs District, but rather serves as a key advisor to city government on these applications. The Commission’s design standards address the corridors as follows:

Design Standard 8: Capitol Views

View corridors to the Capitol listed in the Lincoln-Lancaster County Comprehensive Plan should be protected. Additional significant view corridors should continue to be identified and their protection enhanced. Improvements within the view corridors should not obstruct the enjoyment of those vistas of the Capitol.

Guideline 8.1:

The Commission encourages conscious incorporation of views of the Capitol tower into the design of buildings and landscape elements.

While the Project Agate application requests a height limit of 75 feet for the whole site, the accompanying illustrative site plan suggests two building footprints. Planning staff prepared the following illustrations of the impact of 75 foot volumes on those sites relative to vistas of the Capitol from two points along that corridor. Point A is just south of Bluff Road and Point B is approximately 0.2 miles south, and Point C is approximately 0.4 miles further south.



Site Plan with white rectangles indicating building sites on Project Agate illustrative

The Capitol is indicated in red to make it more apparent in this illustration. This image from Point A suggests the buildings would frame this key vista to the Capitol, perhaps heightening travelers' impression of the tower.



From Point B, buildings of 75' would largely or completely block the tower view for southbound travelers. Possibly that view would reopen south of such buildings.

Point C illustrates the view to the Capitol if the tree mass on the northeast portion of the site is removed. Travelers would have another unobstructed view to the Capitol before descending down the hill.



NCEC will meet July 25th to review and advise the City Council on Project Agate relative to the Highway 77 view corridor. The identified corridors are used to evaluate impacts of various proposals, not to argue against any or all development within these sweeping corridors. These images will be presented to NCEC for the purpose of their discussion.

8. A number of waivers (listed above) are requested to the screening and design standards, height and lot regulations, and specific use regulations of the I-3 zoning district. The waivers allow for greater development flexibility and are supported on the basis that they are not anticipated to adversely affect adjacent properties based on the identified setbacks and building envelopes shown on the Use Permit.
9. Due to this property's location along a Primary Entryway Corridor, screening standards are proposed along the interstate frontage. The proposed interstate corridor screening standards as described in the waivers are generally acceptable and the details will be finalized by administrative amendment in order to allow submission and review of a landscape plan with plant specifications.
10. The Sunshine Hills Community Unit Plan (CUP) was approved by the City Council in November 2002. The final plat was approved in April 2003. A portion of the Use Permit located southeast of N. 40th Street and Bluff Road includes land within the boundary of the CUP. That area is part of an outlot identified on the CUP as existing farmland uses to remain. A condition of approval would require the applicant to submit an amendment to the CUP to remove that area from the boundary and a Change of Zone to re-zone the remaining CUP from AG Agriculture to AGR Agricultural Residential. These conditions are being required because removal of the area would cause the CUP to no longer conform to the density calculation regulations for AG-zoned CUPs in Chapter 27.65. Rezoning the CUP to AGR would allow the dwellings to meet the requirements of an AGR-zoned CUP and remain in conformance with the Zoning Ordinance. The AGR district has less restrictive density and setback regulations and therefore the Change of Zone should not negatively impact the existing residents.
11. The proposed I-3 zoning is appropriate for use as a single user campus for a data center and associated uses. The annexation and development of the site is supported by staff under the conditions of approval in this staff report. No City departments expressed opposition to the applications.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: Agriculture and vacant; AG

SURROUNDING LAND USE & ZONING:

North: Single family dwellings, agriculture; AG

South: Interstate 80, agriculture, single family dwellings and commercial; AG and H-1

East: Lincoln Landfill; AG

West: Agriculture; AG

APPROXIMATE LAND AREA:

Annexation: 572.92 acres

Change of Zone and Use Permit: 587.68 acres

PROPOSED CITY COUNCIL DISTRICT ASSIGNMENT: District #1

LEGAL DESCRIPTIONS: See attached.

Prepared by



Rachel Jones, Planner

Date: July 18, 2019

Owners: Eldine L. Dove Revocable Living Trust
5524 Enterprise Drive
Lincoln, NE 68521

North Bluff Employment Center LLC
7211 S. 27th Street
Lincoln, NE 68512

State of Nebraska
Attn: DAS/State Bldg Division P.O. Box 98940
Lincoln, NE 68509-8940

William & Nancy Shields
6509 N. Park Street
Gladstone, MO 64118

Applicant: Agate LLC
2801 Centerville Road, 1st floor PMB 811
Wilmington, DE 19808
(515) 698-5938 or bkautzky@lolaw.com

Contact: Joseph R. Shields, PE
1917 S. 67th Street
Omaha, NE 68106-2973
(402) 399-4833 or joe.shields@hdrinc.com

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CONDITIONS OF APPROVAL - ANNEXATION 19003

Before the City Council approves the annexation:

The applicant signs the Conditional Annexation Agreement.

CONDITIONS OF APPROVAL - USE PERMIT 19008

This approval permits a maximum floor area of 2,000,000 square feet for a data center and associated uses that may or may not be in the same building, with the following waivers:

1. Waiver to Section 27.51.030.c, Specific Use Regulations of the I-3 District, to allow engineered or insulated metal panels on 100% of accessory building facades.
2. Waiver to Section 27.62.060, Utilities Use Group, waiving the screening of public utility structures adjacent to residential districts if utility structures are set back 300 feet or more from the residential district, and exempting transmission line towers from screening requirements.
3. Waiver to Section 27.51.075, Pedestrian Circulation Regulations in the I-3 District, waiving the requirement for a Pedestrian Circulation Plan.
4. Waivers to Chapter 27.72, Height and Lot Regulations:
 - a. Increase the maximum building height for all buildings to 75 feet.
 - b. Mechanical appurtenances shall be permitted to extend 20 feet in height above the maximum permitted in the district in which they are located.
 - c. All of said appurtenances shall be set back a minimum of 15 feet from all faces of a building when adjacent to and located within 150 feet of a street.
 - d. Chimneys, cooling towers, exhaust flues, roof access stairways and elevator bulkheads are exempt from the height regulations.
5. Waiver to Section 27.72.140, Fences, allowing chain link security fencing with barbed wire to exceed one hundred two inches in height but shall not exceed 14 feet. Fencing can be installed within setback areas however not nearer than one foot of any public way. The barbed wire element of the fence shall be at least 5 feet above ground.
6. Minor modifications to Design Standards Chapter 3.5, Design Standards for Screening and Landscaping to be approved by the Planning Director.

Site Specific Conditions:

1. The City Council approves associated requests:
 - 1.1 Annexation #19007
 - 1.2 Change of Zone #19020
 - 1.3 Comprehensive Plan Amendment #19003
2. The permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 2 copies with all required revisions and documents as listed below upon approval before receiving building permits or before a final plat is approved, whichever comes first:
 - 2.1 Submit an administrative amendment application to the Sunshine Hills Community Unit Plan Special Permit #1982 to remove the area proposed to include within this Use Permit boundary, and submit a Change of Zone application from AG to AGR over the remaining portion of the Community Unit Plan.
 - 2.2 Update the legal description on the Use Permit drawing to match the corrected version attached to this staff report. Ensure that the dimensions and bearings labels on the perimeter match the legal description.
 - 2.3 Add sheet numbering 1 of 2, and 2 of 2, to the Use Permit drawing and Site Plan Exhibit A - Public Road drawing, respectively. These two sheets will comprise the final approved plan for the Use Permit.

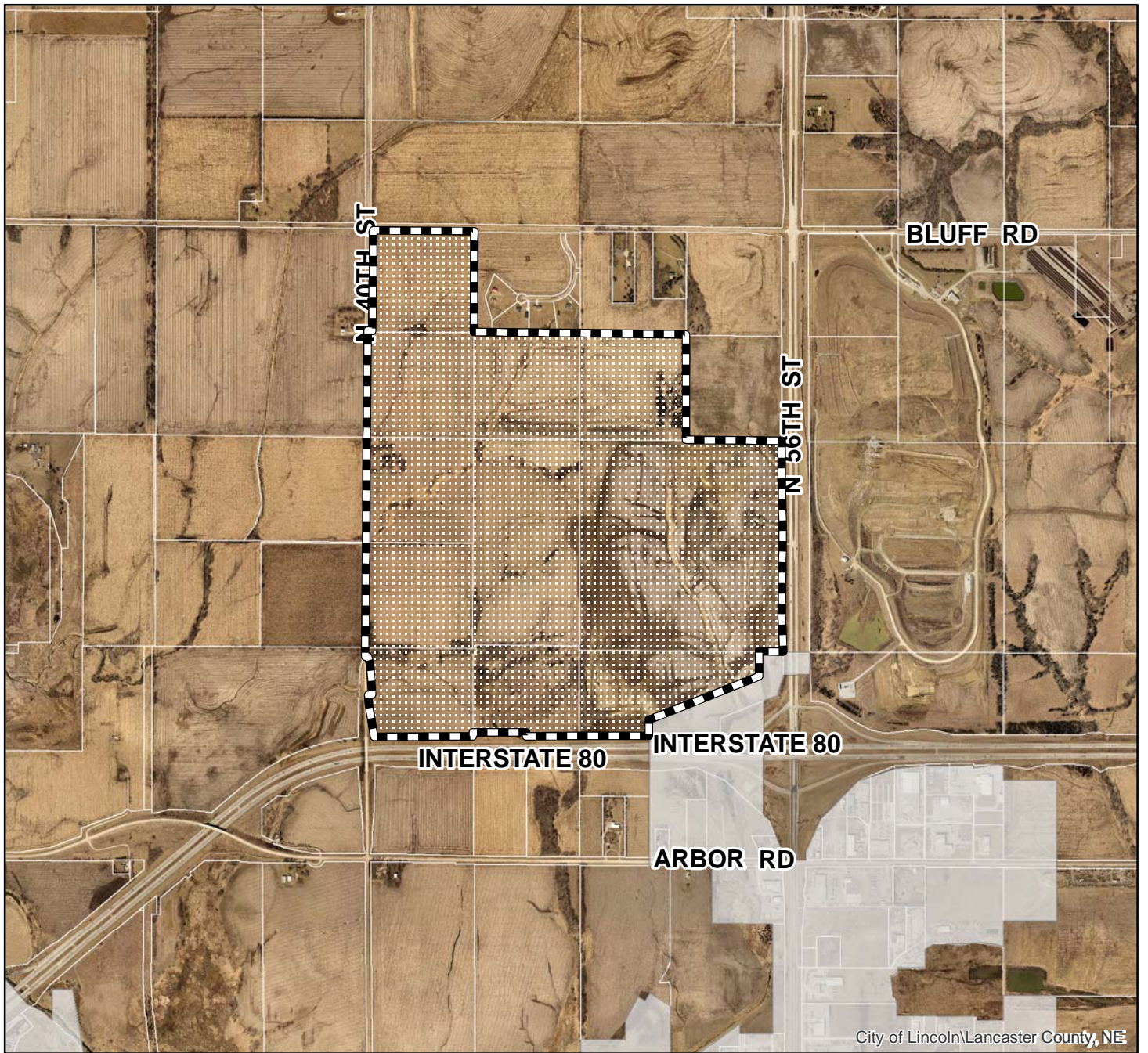
- 2.4 Make the following revisions to the Use Permit drawing:
 - 2.4.1 Label the building envelope.
 - 2.4.2 Due to the thickness of the blue boundary line, the 20 foot setback line is barely visible. Revise the lines so the setback is visible.
 - 2.4.3 Revise the header in the top left corner to read, "LEGAL DESCRIPTION - USE PERMIT".
 - 2.4.4 In General Note 3, delete the word "Office" to avoid confusion since the specific use is a data center.
 - 2.4.5 Dimension the 300-foot setback on the west side, as it appears slightly narrower than in other locations, and clarify whether it is being measured from the property line.
 - 2.4.6 Replace General Note 7 with the following as recommended by the Health Department: "The owner or operator shall prohibit the use, storage, or manufacture of chemicals listed in 40 CFR Part 68, Section 130 in quantities that exceed the threshold values specified in Table 1 and explosives as defined by LMC 19.03 Fire Code within 300 feet of a residential property line as shown on the plan. If 40 CFR Part 68, Section 130 is amended and additional chemical(s) are added to the list, the Lincoln-Lancaster County Health Department will establish a modified threshold quantity for the new chemical(s)."

(Note: The Table 1 referenced in the note above is included as an attachment to this staff report.)
 - 2.4.7 Add the attached chemical table to the Use Permit drawing and label it as "Table 1". This table is referenced in the revised General Note 7.
 - 2.4.8 Add to the General Notes, "Off-premises signs are not allowed. Signs need not be shown on this site plan, but need to be in compliance with Chapter 27.69 of the Lincoln Zoning Ordinance, and must be approved by the Building & Safety Department prior to installation".
- 2.5 Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the use permit has been recorded.
- 2.6 An interstate corridor landscape plan approved by the Director of Planning.
- 2.7 Submit an application for a final plat to dedicate the proposed public street.
3. Final plat(s) is/are approved by the City.

Standard Conditions:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying the buildings all development and construction is to substantially comply with the approved plans.
 - 4.2 All privately-owned improvements are to be permanently maintained by the Permittee or an appropriately established association approved by the City.
 - 4.3 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.

- 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.



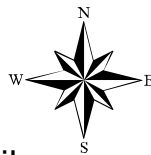
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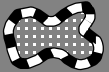


Annexation #: AN19007
N 56th St & I-80

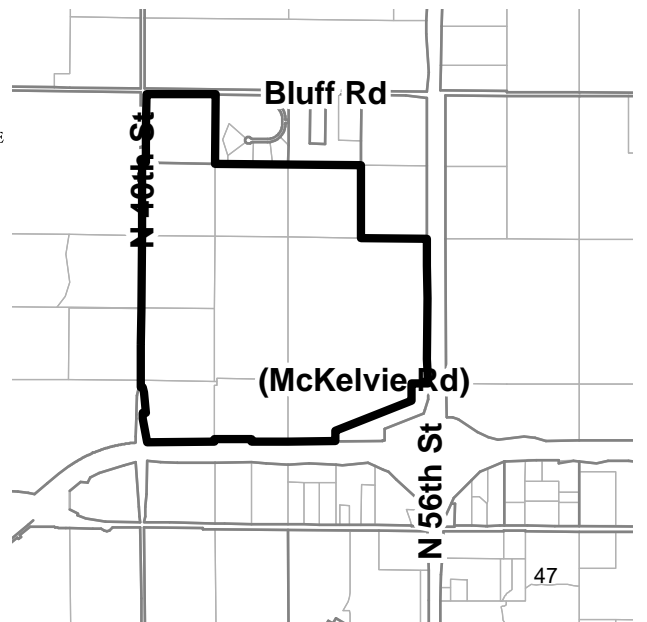
Zoning:

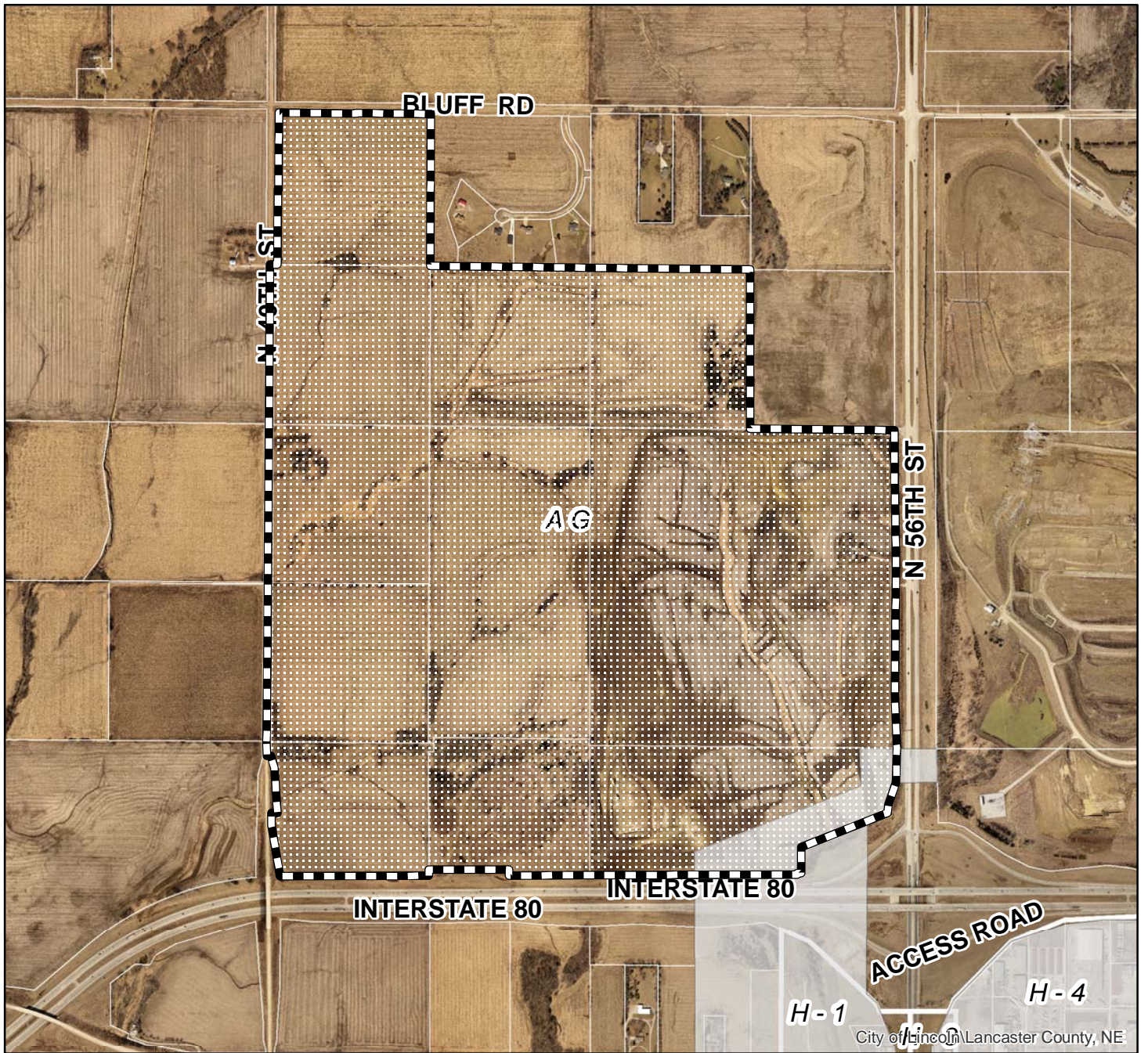
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial 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.20 T11N R07E
 Sec.29 T11N R07E



	Area of Application
	Zoning Jurisdiction Lines
	Existing City Limits





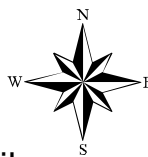
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**Change of Zone #: CZ19020 (AG to I-3) and
Use Permit #: UP19008
N 56th St & I-80**

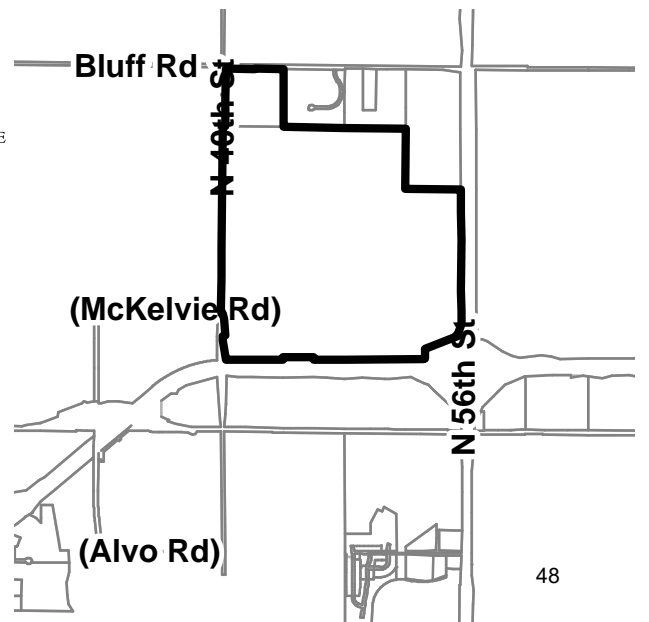
Zoning:

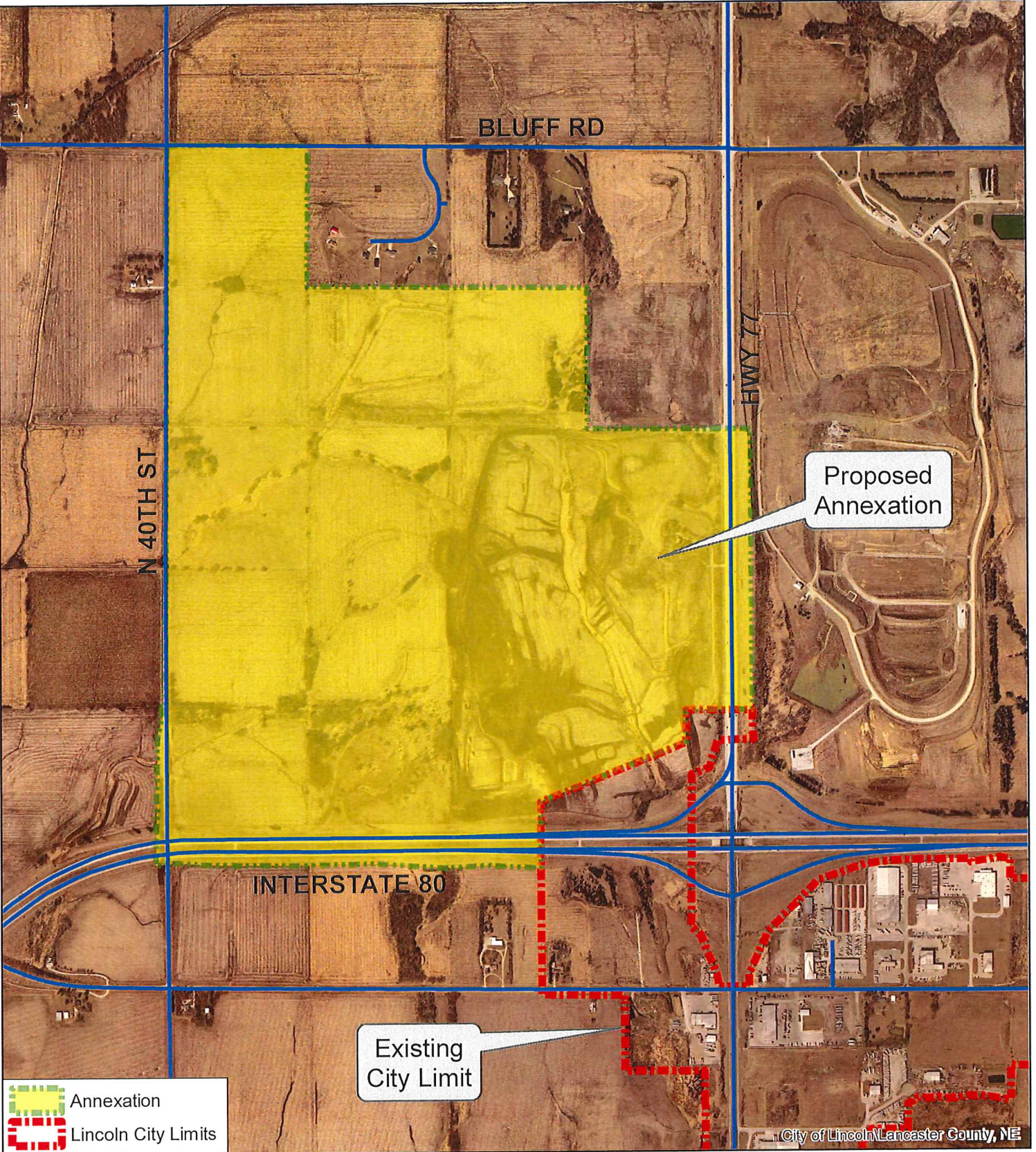
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- P Public Use District

Two Square Miles:
Sec.20 T11N R07E
Sec.29 T11N R07E



	Area of Application
	Zoning Jurisdiction Lines
	Existing City Limits



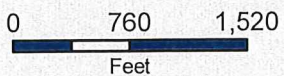


Lincoln Transportation & Utilities

I-80 and US-77 Development

AN19007

Jul 05, 2019



Waiver Table

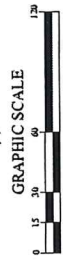
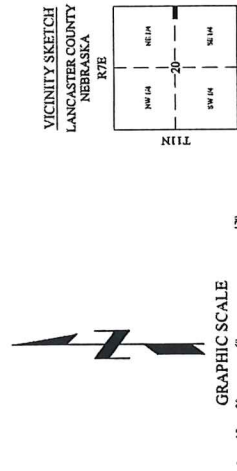
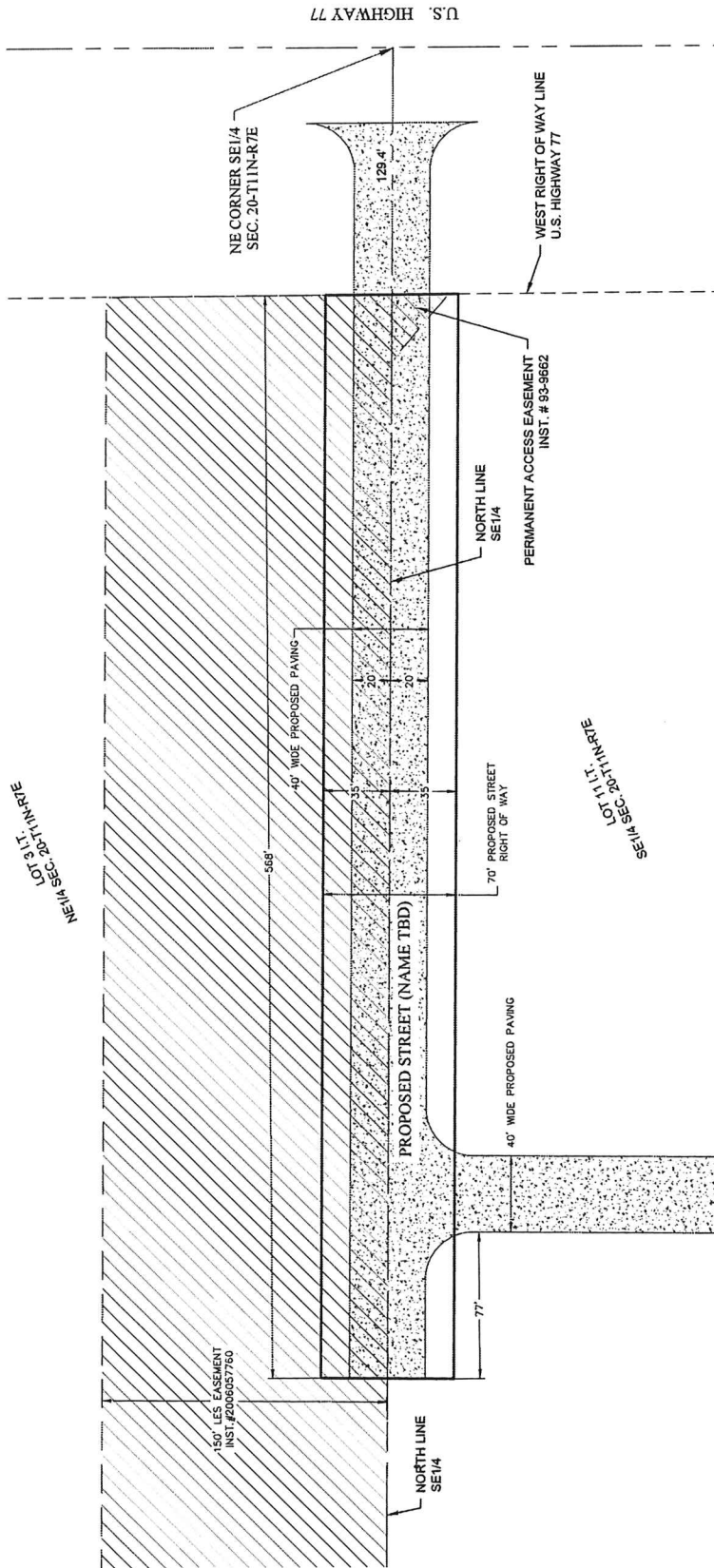
Item #	Section	Code	Requirement
1.0000	27.51.030	Lincoln Municipal Code	Engineered Metal Panel or Insulated Metal Panels are permitted on 100% of accessory building facades.
2.0000	27.62.060	Lincoln Municipal Code	Screening of public utility structures adjacent to residential districts shall not be required if utility structures are setback 300 feet or more from the residential district. Additionally, transmission line towers are exempt from screening requirements.
3.0000	27.51.075	Lincoln Municipal Code	A Pedestrian Circulation Plan is not required. The City of Lincoln Design Standards for Pedestrian Circulation in Commercial and Industrial areas do not apply. The site is secured and not open to the public. Any internal roads and sidewalks will be constructed as per the company's standards and requirements for secured sites.
4.0000	27.72.050	Lincoln Municipal Code	"The maximum height requirements within the boundaries of the I-3 industrial zoning district under this use permit shall be as follows: The maximum height for all buildings, including, but not limited to, data centers, manufacturing, offices and storage uses shall be seventy-five feet (75'). Mechanical appurtenances shall be permitted to extend twenty feet (20') in height above the maximum permitted in the district in which they are located. All of said appurtenances, shall be set back a minimum of fifteen (15) feet from all faces of a building when adjacent to, and located within one hundred feet (100') of a street. Chimneys, cooling towers, exhaust flues, roof access stairways and elevator bulkheads are exempt from the height regulations. Height shall be measured using the Lincoln Municipal Code definition for "Buildings, Height of" in Section 27.02.030B."
5.0000	27.72.140	Lincoln Municipal Code	Chain link security fencing with barbed wire may exceed one hundred two inches in height but shall not exceed 14 feet. Fencing can be installed within setback areas however not nearer than one foot of any public way. The barbed wire element of the fence shall be at least 5 feet above ground.
6.0000	Chapter 3.50	Design Standards for Screening and Landscaping	<ol style="list-style-type: none"> 1. Perimeter screening for parking lots, parking areas and driving aisles shall be in accordance with the landscape design standards adopted by the City of Lincoln except as excluded or exempted herein. No screen shall be required for parking lots set back a minimum of three hundred feet (300') from the property line. Such setbacks shall be permitted to include the entire width of the public right of way. 2. Permanent screening for adjacent agricultural and residential land uses and zoning districts. When all buildings or structures abutting a residential or agricultural district are set back a minimum of three-hundred feet (300') from the property line, no screening shall be required. Non-industrial uses shall be permitted within 300 feet (300') of abutting residential districts when screened in accordance with the landscape design standards. 3. A Landscape Plan is required to be submitted with the Building Permit. Landscape screening for adjacent land uses abutting Interstate corridors shall be in accordance the following requirements. <ol style="list-style-type: none"> a. Provide four (4) evergreen trees for every one hundred and fifty (150') feet extending along the entire length of the property line, or provide berming to cover at least sixty percent (60%) of the surface area of a vertical plane extending along the entire length of the property line and from the ground elevation to a height of ten feet (10') above the adjacent ground elevation. Screening shall not be required where the property line is located more than ten feet (10') above or below the primary roadway elevation as determined by a measurement from the roadway grade at a ninety degree angle from the property line. b. The screen shall be evenly distributed horizontally but may vary in height. c. The screen shall generally be located adjacent to the property line abutting the interstate corridor. d. The side slopes of berms shall not exceed three to one (horizontal to vertical) without the use of retaining material. e. The land surface of berms shall be protected to prevent erosion. The means of protection shall be either: <ol style="list-style-type: none"> i. Sodding, to be done as soon as weather permits; ii. Seeding with grass if permitted, depending on erosion control measures and the steepness of the slope; or iii. planting with an approved permanent ground cover. 4. The screening details in #3 for interstate corridors shall be finalized by administrative amendment.

GENERAL NOTES

1. MAXIMUM FLOOR AREA IS 2,000,000 SQ FT FOR A DATA CENTER AND ASSOCIATED USES THAT MAY OR MAY NOT BE IN THE SAME BUILDING.
2. FUEL STORAGE IS AN ACCESSORY USE AND NOT SUBJECT TO STORAGE TANK SIZE LIMITS. SCREENING OF STORAGE TANKS SHALL NOT BE REQUIRED IF SETBACK MORE THAN 300 FEET FROM THE PROPERTY LINES.
3. APPLICANT IS AN OFFICE USER OF 75,000 SF OR MORE AND SHALL NOT BE SUBJECT TO THE LIMITATION OF USING A MAXIMUM OF 30% OF THE BUILDABLE SQUARE FOOTAGE OF THE LAND INCLUDED WITHIN THE BOUNDARIES OF THE USE PERMIT ASSUMING A FLOOR-TO-AREA RATIO OF ONE TO FOUR.
4. DATA CENTER PARKING REQUIREMENT SHALL BE TWO (2) SPACES PER THREE (3) EMPLOYEES ON LARGEST SHIFT. THE LOADING SPACE REQUIREMENT SHALL BE ONE (1) SPACE PER 100,000 SF OF GROSS FLOOR AREA. LAND IS AVAILABLE BUT NOT SPECIFICALLY RESERVED TO PROVIDE PARKING FOR USES IN THE UNDERLYING ZONING DISTRICT IN THE EVENT THE DATA CENTER IS CHANGED TO ANOTHER USE.
5. PERIMETER SCREENING SHALL NOT BE REQUIRED FOR PARKING LOTS SET BACK MORE THAN 300 FEET FROM THE PROPERTY LINE.
6. THE FOLLOWING SHALL BE APPROVED BY A FUTURE ADMINISTRATIVE AMENDMENT PRIOR TO APPROVAL OF THE FINAL PLAT AND BUILDING PERMITS: STREET PROFILES, GRADING AND DRAINAGE, INTERSTATE SCREENING PLAN AND WATER QUALITY INFORMATION.
7. STORAGE OR USE OF HAZARDOUS MATERIALS OR SUBSTANCES SHALL NOT BE ALLOWED WITHIN 300 FEET OF A RESIDENTIAL DWELLING AS SHOWN ON THE PLAN.
8. THE BUILDINGS, PARKING AND EQUIPMENT YARDS ARE ALLOWED ANYWHERE WITHIN THE BUILDING ENVELOPES.
9. THE USE PERMIT AREA IS CONSIDERED ONE PREMISES FOR PURPOSES OF MEETING THE TOTAL REQUIRED PARKING COUNT ACROSS ALL USES.
10. SIGNS ARE ALLOWED IN ACCORDANCE WITH CHAPTER 27.67 OF THE LINCOLN MUNICIPAL CODE. SIGNS NEED NOT BE SHOWN ON THE SITE PLAN AND WILL BE REVIEWED AT THE TIME OF SIGN PERMIT.
11. THE PARKING AND BUILDING LAYOUT IS PRELIMINARY AND REVISIONS MAY BE MADE BASED ON FINAL DESIGN. THE FINAL LAYOUT WILL BE REVIEWED AT TIME OF BUILDING PERMIT.
12. PROPOSED UTILITY LINES SHOWN ARE SCHEMATIC. EXACT LOCATIONS WILL BE REVIEWED AT TIME OF FINAL PLAT OR AT TIME OF BUILDING PERMIT, WHICHEVER COMES FIRST.



SECTION 20-T11N-R7E SIXTH P.M.
LANCASTER COUNTY NEBRASKA
PROPOSED ROAD RIGHT OF WAY
EXHIBIT



NOTE: ALL BEARINGS ARE ASSUMED.

PROJECT NO.	182028
DATE	6/17/2019
DRAWN BY	AWH
FILE NAME	SV-182028_ROAD.dwg
FIELD BOOK	
FIELD CREW	
SURVEY FILE NO.	

LEGAL DESCRIPTION (ANNEXATION)

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, LOT 12 IRREGULAR TRACTS, LOT 11 IRREGULAR TRACTS, THE SOUTH 50 FEET OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER EXCEPT THE WEST 50 FEET THEREOF, AND PART OF OUTLOT A, SUNSHINE HILLS ADDITION, ALL IN SECTION 20, TOWNSHIP 11 NORTH, RANGE 7 EAST OF THE SIXTH P.M.; AND LOT 26 IRREGULAR TRACTS, LOT 43 IRREGULAR TRACTS, PART OF LOT 45 IRREGULAR TRACTS AND PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 29, TOWNSHIP 11 NORTH, RANGE 7 EAST OF THE SIXTH P.M., LANCASTER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE S89°22'06"E (ASSUMED BEARING) ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20, A DISTANCE OF 33.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF NORTH 40TH STREET AND THE POINT OF BEGINNING; THENCE N00°24'44"E ON SAID EASTERLY RIGHT OF WAY LINE, PARALLEL WITH AND 33.00 FEET DISTANT FROM THE WEST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 1299.40 FEET TO THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE N00°28'45"E CONTINUING ON SAID EASTERLY RIGHT OF WAY LINE, PARALLEL WITH AND 33.00 FEET DISTANT FROM THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1331.99 FEET TO THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE N00°21'14"E CONTINUING ON SAID EASTERLY RIGHT OF WAY LINE, PARALLEL WITH AND 33.00 FEET DISTANT FROM THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 20, A DISTANCE OF 1319.24 FEET TO THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER; THENCE S89°21'17"E ON SAID NORTH LINE, A DISTANCE OF 27.00 FEET TO THE SOUTHWEST CORNER OF OUTLOT "A", SUNSHINE HILLS ADDITION, LANCASTER COUNTY, NEBRASKA; THENCE N00°21'12"E ON THE WEST LINE OF SAID OUTLOT "A", A DISTANCE OF 619.40 FEET; THENCE S88°18'23"E CONTINUING ON SAID WEST LINE, A DISTANCE OF 5.04 FEET; THENCE N00°20'26"E CONTINUING ON SAID WEST LINE, A DISTANCE OF 635.09 FEET TO THE NORTHWEST CORNER OF SAID OUTLOT "A"; THENCE S89°19'04"E ON THE NORTH LINE OF SAID OUTLOT "A", A DISTANCE OF 635.05 FEET; THENCE N00°04'10"E CONTINUING ON SAID NORTH LINE, A DISTANCE OF 4.94 FEET; THENCE S89°18'55"E CONTINUING ON SAID NORTH LINE, A DISTANCE OF 623.54 FEET TO THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 20; THENCE S00°15'55"W ON SAID EAST LINE, A DISTANCE OF 1258.51 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER; THENCE S89°21'17"E ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 20, A DISTANCE OF 1325.62 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE S89°21'13"E ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 20, A DISTANCE OF 1324.61 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE S00°05'54"W ON THE EAST LINE OF SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, A DISTANCE OF 1317.22 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND THE NORTH LINE OF LOT 11,

IRREGULAR TRACTS, IN THE SOUTHEAST QUARTER OF SAID SECTION 20; THENCE S89°23'05"E SAID NORTH LINE, A DISTANCE OF 1196.36 FEET TO THE NORTHEAST CORNER OF SAID LOT 11 AND THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 77; THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT 11 AND ON SAID WESTERLY RIGHT OF WAY LINE THE FOLLOWING DESCRIBED COURSES: S00°12'29"E 487.49 FEET; S01°08'30"E, 600.08 FEET; S00°35'40"W, 1100.10 FEET; S02°06'51"E, 445.40 FEET TO THE SOUTHEAST CORNER OF SAID LOT 11 AND THE EXISTING CORPORATE LIMITS LINE OF THE CITY OF LINCOLN, NEBRASKA AS DESCRIBED IN ANNEXATION NO. 03007 IN ORDINANCE NO. 18880; THENCE N89°23'22"W ON THE NORTH LINE OF LOT 45, IRREGULAR TRACTS, IN THE NORTHEAST QUARTER OF SAID SECTION 29, AND ON SAID CORPORATE LIMITS LINE, A DISTANCE OF 300.03 FEET; THENCE S00°09'47"E ON SAID CORPORATE LIMITS LINE, A DISTANCE OF 309.81 FEET; THENCE S68°20'13"W ON SAID CORPORATE LIMITS LINE, A DISTANCE OF 1483.38 FEET; THENCE S00°18'55"E ON SAID CORPORATE LIMITS LINE, A DISTANCE OF 195.98 FEET TO THE SOUTH LINE OF SAID LOT 45; THENCE S89°46'31"W ON SAID SOUTH LINE, A DISTANCE OF 867.13 FEET TO THE SOUTHWEST CORNER OF SAID LOT 45; THENCE S89°45'14"W ON THE SOUTH LINE OF A TRACT OF LAND DESCRIBED IN INSTRUMENT NUMBER 80-3185 AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR LANCASTER COUNTY, NEBRASKA AND SAID NORTHERLY RIGHT OF WAY LINE OF INTERSTATE 80, A DISTANCE OF 665.90 FEET; THENCE N00°11'29"W CONTINUING ON SAID SOUTH LINE AND NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 50.00 FEET; THENCE S89°48'31"W CONTINUING ON SAID SOUTH LINE AND NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 665.15 FEET TO THE EAST LINE OF LOT 43, IRREGULAR TRACTS, IN THE NORTHWEST QUARTER OF SAID SECTION 29; THENCE S00°24'29"E ON SAID EAST LINE AND SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 50.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 43; THENCE S89°49'01"W ON THE SOUTH LINE OF SAID LOT 43 AND SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1230.74 FEET TO THE SOUTHWEST CORNER OF SAID LOT 43; THENCE NORTHERLY ON THE WESTERLY LINE OF SAID LOT 43 AND THE EASTERLY RIGHT OF WAY LINE OF NORTH 40TH STREET THE FOLLOWING DESCRIBED COURSES: N09°32'08"W, 431.22 FEET; N00°35'38"W, 99.36 FEET; N89°24'19"E, 50.00 FEET; N03°55'14"W, 374.52 FEET; N16°22'43"W, 103.94 FEET TO THE EASTERLY RIGHT OF WAY LINE OF NORTH 40TH STREET; THENCE N00°35'38"W ON SAID EASTERLY RIGHT OF WAY LINE, PARALLEL WITH AND 33.00 FEET DISTANT FROM THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 120.67 FEET TO THE POINT OF BEGINNING, CONTAINING 572.92 ACRES, MORE OR LESS.

LEGAL DESCRIPTION (CHANGE OF ZONE AND USE PERMIT)

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, LOT 12 IRREGULAR TRACTS, LOT 11 IRREGULAR TRACTS, THE SOUTH 50 FEET OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER EXCEPT THE WEST 50 FEET THEREOF, AND PART OF OUTLOT A, SUNSHINE HILLS ADDITION, ALL IN SECTION 20, TOWNSHIP 11 NORTH, RANGE 7 EAST OF THE SIXTH P.M.; AND LOT 26 IRREGULAR TRACTS, LOT 43 IRREGULAR TRACTS, LOT 45 IRREGULAR TRACTS AND PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 29, TOWNSHIP 11 NORTH, RANGE 7 EAST OF THE SIXTH P.M., LANCASTER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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Table 1 - Chemical Quantity Thresholds
(Referenced in Use Permit Conditions of Approval 2.4.6 and 2.4.7)

NAME	CAS Number	Threshold Level (lbs)
Acrolein [2-Propenal]	107-02-8	1
Acrylonitrile [2-Propenenitrile]	107-13-1	100
Acrylyl chloride [2-Propenoyl chloride]	814-68-6	100
Allyl alcohol [2-Propen-1-ol]	107-18-6	100
Allylamine [2-Propen-1-amine]	107-11-9	500
Ammonia (anhydrous)	7664-41-7	100
Ammonia (conc 20% or greater)	7664-41-7	2,000
Arsenous trichloride	7784-34-1	1
Arsine	7784-42-1	100
Boron trichloride [Borane, trichloro-]	10294-34-5	500
Boron trifluoride [Borane, trifluoro-]	7637-07-02	500
Boron trifluoride compound with methyl ether (1:1) [Boron, trifluoro [oxybis [metane]]-, T-4-	353-42-4	1,000
Bromine	7726-95-6	500
Carbon disulfide	75-15-0	100
Chlorine	7782-50-5	10
Chlorine dioxide [Chlorine oxide (ClO ₂)]	10049-04-4	100
Chloroform [Methane, trichloro-]	67-66-3	10
Chloromethyl ether [Methane, oxybis[chloro-]	542-88-1	10
Chloromethyl methyl ether [Methane, chloromethoxy-]	107-30-2	10
Crotonaldehyde [2-Butenal]	4170-30-3	100
Crotonaldehyde, (E)- [2-Butenal, (E)-]	123-73-9	100
Cyanogen chloride	506-77-4	1,000
Cyclohexylamine [Cyclohexanamine]	108-91-8	10,000
Diborane	19287-45-7	100
Dimethyldichlorosilane [Silane, dichlorodimethyl-]	75-78-5	500
1,1-Dimethylhydrazine [Hydrazine, 1,1-dimethyl-]	57-14-7	10
Epichlorohydrin [Oxirane, (chloromethyl)-]	106-89-8	100
Ethylenediamine [1,2-Ethanediamine]	107-15-3	5,000
Ethyleneimine [Aziridine]	151-56-4	1
Ethylene oxide [Oxirane]	75-21-8	10
Fluorine	7782-41-4	10
Formaldehyde (solution)	50-00-0	100
Furan	110-00-9	100
Hydrazine	302-01-2	1
Hydrochloric acid (conc 37% or greater)	7647-01-0	500
Hydrocyanic acid	74-90-8	10
Hydrogen chloride (anhydrous) [Hydrochloric acid]	7647-01-0	500
Hydrogen fluoride/Hydrofluoric acid (conc 50% or greater) [Hydrofluoric acid]	7664-39-3	100
Hydrogen selenide	7783-07-5	10
Hydrogen sulfide	7783-06-4	100
Iron, pentacarbonyl- [Iron carbonyl (Fe(CO) ₅), (TB-5-11)-]	13463-40-6	100
Isobutyronitrile [Propanenitrile, 2-methyl-]	78-82-0	1,000

Isopropyl chloroformate [Carbonochloridic acid, 1-methylethyl ester]	108-23-6	1,000
Methacrylonitrile [2-Propenenitrile, 2-methyl-]	126-98-7	500
Methyl chloride [Methane, chloro-]	74-87-3	1,000
Methyl chloroformate [Carbonochloridic acid, methylester]	79-22-1	500
Methyl hydrazine [Hydrazine, methyl-]	60-34-4	10
Methyl isocyanate [Methane, isocyanato-]	624-83-9	10
Methyl mercaptan [Methanethiol]	74-93-1	100
Methyl thiocyanate [Thiocyanic acid, methyl ester]	556-64-9	10,000
Methyltrichlorosilane [Silane, trichloromethyl-]	75-79-6	500
Nickel carbonyl	13463-39-3	1
Nitric acid (conc 80% or greater)	7697-37-2	1,000
Nitric oxide [Nitrogen oxide (NO)]	10102-43-9	10
Oleum (Fuming Sulfuric acid) [Sulfuric acid, mixture with sulfur trioxide] ¹	8014-95-7	1,000
Peracetic acid [Ethaneperoxoic acid]	79-21-0	500
Perchloromethylmercaptan [Methanesulfenyl chloride, trichloro-]	594-42-3	100
Phosgene [Carbonic dichloride]	75-44-5	10
Phosphine	7803-51-2	5,000
Phosphorus oxychloride [Phosphoryl chloride]	10025-87-3	500
Phosphorus trichloride [Phosphorous trichloride]	7719-12-2	1,000
Piperidine	110-89-4	1,000
Propionitrile [Propanenitrile]	107-12-0	10
Propyl chloroformate [Carbonochloridic acid, propylester]	109-61-5	500
Propyleneimine [Aziridine, 2-methyl-]	75-55-8	1
Propylene oxide [Oxirane, methyl-]	75-56-9	100
Sulfur dioxide (anhydrous)	7446-09-5	500
Sulfur tetrafluoride [Sulfur fluoride (SF ₄), (T-4)-]	7783-60-0	100
Sulfur trioxide	7446-11-9	100
Tetramethyllead [Plumbane, tetramethyl-]	75-74-1	100
Tetranitromethane [Methane, tetranitro-]	509-14-8	10
Titanium tetrachloride [Titanium chloride (TiCl ₄) (T-4)-]	7550-45-0	100
Toluene 2,4-diisocyanate [Benzene, 2,4-diisocyanato-1-methyl-] ¹	584-84-9	100
Toluene 2,6-diisocyanate [Benzene, 1,3-diisocyanato-2-methyl-] ¹	91-08-7	100
Toluene diisocyanate (unspecified isomer) [Benzene, 1,3-diisocyanatomethyl-] ¹	26471-62-5	1,000
Trimethylchlorosilane [Silane, chlorotrimethyl-]	75-77-4	1,000
Vinyl acetate monomer [Acetic acid ethenyl ester]	108-05-4	1,000



June 25, 2019

Mr. David Cary
Planning Director
Planning Department
555 South 10th St., Suite 213
Lincoln, NE 68508

Re: I-80 and US-77 Development
Applications for Annexation, Change of Zone to I-3, Comprehensive Plan Amendment
and Use Permit

Dear Mr. Cary,

Agate, LLC ("Developer") is under contract to purchase multiple parcels located at the Northwest corner of the intersection of Interstate 80 and U.S. Route 77 (the "Property"). Developer is requesting a Use Permit for the Property, as well as a comprehensive plan amendment, annexation and a change of zone from AG to I-3.

The proposed Use Permit encompasses 590 acres that includes all or a portion of eleven parcels. A draft Annexation Agreement will be submitted under separate cover to the City of Lincoln to address the infrastructure improvements required to serve development of the Property. The development team has met with City Staff several times to discuss the proposed applications. The Developer is requesting annexation so that City services including water and sanitary sewer will be extended to serve the Property.

Enclosed please find the following:

1. City of Lincoln Application, including:
 - a. Annexation of the Property
 - b. Change of Zone from AG to I-3
 - c. Comprehensive Plan Amendment
 - d. Use Permit
2. Application fees in the amount of \$5,683.
3. Preliminary Site Plan
4. Traffic Study
5. Authorization Forms from all Property Owners
6. Property Owner and Parcel Number List
7. Legal Description for the area to annexed and rezoned

Grading and drainage plans and calculations will be prepared and submitted with our Building Permit application in the future.

The proposed roadway improvements describe access points that have been discussed with City staff. Access improvements to U.S. Route 77 will be constructed to provide safe access to the development. The entry road into the site is shared with a property owner to the North will be constructed and dedicated to the city. The annexation agreement details the improvements and public road dedication to be completed for this development.



The Use Permit site plan includes code clarifications and waivers to address screening requirements relative to the substantial setbacks afforded by the site layout. Building material, fencing, parking and height waivers are also requested to accommodate the Developer's program for Light Industrial buildings. The waiver table from the Use Permit is enclosed for reference.

Plans and other supporting documents will be submitted to ProjectDox upon notification from the Planning Staff. If you require further information or have any questions, please do not hesitate to contact me at jshields@hdrinc.com or (402) 399-4833.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Shields'.

Joe Shields, PE

Enclosure