

City Council Introduction: **Monday**, June 2, 2008
Public Hearing: **Monday**, June 9, 2008, at **1:30 p.m.**

Bill No. 08-63

FACTSHEET

TITLE: ANNEXATION NO. 08003, requested by Robert and Victoria Rokeby and Larry Schmieding, annexing approximately 63.13 acres, more or less, generally located at N. 35th Street and Superior Street.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUESTS: Change of Zone No. 08019 (08-64)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 05/21/08
Administrative Action: 05/21/08

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

FINDINGS OF FACT:

1. This annexation request was heard by the Planning Commission in conjunction with the associated Change of Zone No. 08019, from R-3 Residential to H-3 Highway Commercial, and the Superior Crescent Preliminary Plat No. 08004 for ten lots, one outlot for open space and one outlot for a private roadway.
2. The staff recommendation to approve the annexation request is based upon the "Analysis" as set forth on p.4, concluding that the proposal is consistent with the City's annexation policy. The staff presentation is found on p.5.
3. The applicant's testimony is found on p.6.
4. There was no testimony in opposition. The record consists of a letter in support of the annexation but opposed to the associated change of zone and preliminary plat because of the floodplain (p.10).
5. On May 21, 2008, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of the annexation request.
6. On May 21, 2008, the Planning Commission also voted 8-0 to recommend approval of the associated Change of Zone No. 08019, and to adopt Resolution No. PC-01121, approving the associated Superior Crescent Preliminary Plat No. 08004. The preliminary plat site plan is attached for information purposes (p.11).

FACTSHEET PREPARED BY: Jean L. Preister

DATE: May 27, 2008

REVIEWED BY: _____

DATE: May 27, 2008

REFERENCE NUMBER: FS\CC\2008\ANNEX.08003+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for MAY 6, 2008 PLANNING COMMISSION MEETING

PROJECT #: Annexation #08003

PROPOSAL: Annex approximately 63.13 acres.

LOCATION: N. 35th Street and Superior Street

LAND AREA: 63.13 acres, more or less

CONCLUSION: The proposal is consistent with the City's annexation policy.

<u>RECOMMENDATION:</u>	Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 79 and 80, Irregular Tracts, located in the SE 1/4 of Section 6-10-7, Lancaster County, Nebraska.

EXISTING ZONING: R-3

SURROUNDING LAND USE AND ZONING:

North:	AG	Undeveloped, wetlands, floodplain, and stream corridor
	P	Undeveloped, wetlands, floodplain, and stream corridor
	R-3	Undeveloped, wetlands, floodplain, and stream corridor
South:	I-3	Undeveloped, commercial uses, and industrial uses
	R-3	Undeveloped, wetlands, floodplain, and stream corridor
East:	H-3	Undeveloped
	R-3	Boosalis Park
West:	R-3	Undeveloped, wetlands, floodplain, and stream corridor
	H-3	Undeveloped, and auto dealership
	I-3	Undeveloped, commercial uses, and industrial uses

EXISTING LAND USE: Undeveloped, wetlands, stream corridor, floodplain, Salt Creek

COMPREHENSIVE PLAN SPECIFICATIONS:

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

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

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

Land which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed; land which is contiguous to the City and generally urban in character may be annexed; and land which is engulfed by the City should be annexed.

Annexation generally implies the opportunity to access all City services. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (e.g., water, sanitary sewer), and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area.

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

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

Plans for the provision of services within the areas considered for annexation shall be carefully coordinated with the Capital Improvements Program of the City and the County. (Page 154)

HISTORY:

1979: The southern portion of the proposed preliminary plat was annexed (Lots 77 and 78 Irregular Tracts).

1979: The property was zoned A-A before the 1979 update that changed it to R-3.

ASSOCIATED REQUEST:

Preliminary Plat #08004 Superior Crescent
Change of Zone #08019

SPECIFIC INFORMATION:

UTILITIES & SERVICES:

- A. **Sanitary Sewer:** City sanitary sewer service is available to serve the site.
- B. **Water:** City water service is available to serve the site.
- C. **Roads:** Superior Street is classified in the Comprehensive Plan as an Urban Principal Arterial.
- D. **Parks and Trails:** A bike trail is shown within this plat area in the Comprehensive Plan.
- E. **Fire Protection:** Fire Station #2 is located at 1545 N. 33rd Street
Fire Station #5 is located at 3640 Touzalin Avenue
Fire Station #10 is located at 1440 Adams Street

ANALYSIS:

1. The area is adjacent to the City limits on the south and west sides. The City owns the land to the east and north of the proposed annexation. The Lower Platte South Natural Resources District owns the land north of the proposed annexation.
2. The property is located near commercial uses along N. 33rd Street and Superior Street.
3. This is the last piece of privately-owned land north of Superior Street, south of Fletcher Avenue between N. 33rd Street and N. 44th Street that is not annexed into the city.
4. A large portion of the proposed annexation includes Salt Creek and other undevelopable property.
5. Salt Creek runs south to north through the east side of the property. The entire property is in the floodplain and floodway. Wetlands have been identified on the site.
6. Boosalis Park is adjacent to this property to the east.

Prepared by:

Brandon M. Garrett, AICP
Planner

DATE: May 13, 2008

OWNER: Robert and Victoria Rokeby
150 Jackson Cove Crescent
Eureka Springs, AR 72631

Larry Schmieding
8101 N. 1st Street
Lincoln, NE 68531

CONTACT: Robert L. Dean
RD Engineering, Inc.
6801 Crooked Creek Drive
Lincoln, NE 68516

**ANNEXATION NO. 08003,
CHANGE OF ZONE NO. 08019
and
PRELIMINARY PLAT NO. 08004, SUPERIOR CRESCENT**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 21, 2008

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

Ex Parte Communications: None.

Staff presentation: **Brandon Garrett of Planning staff** noted that the letter the Commission received in opposition related to concerns about the floodplain issues in this area and development in the floodplain.

The subject property is located at N. 35th and Superior. Garrett acknowledged that part of this preliminary plat includes 100-year floodplain, floodway and the actual creek of Salt Creek. All of that property is included in Outlot B. Most of the buildable lots have been platted to be outside of the floodway. There are two lots near the southern edge along Superior Street where they extend into the floodway, but there is a note on the site plan that says any property located in the floodway would be for parking only, with no structures in the floodway.

Carroll observed that some of the property has already been filled. Garrett agreed. The developer already received the proper permits to do fill in the floodplain. This area was zoned R-3 previously so the floodplain regulations for new growth areas do not apply.

Esseks inquired about the policies which specify how much of a parcel can be filled. Garrett believes that the boundary for the storage cells stops at Superior Street. **Ben Higgins of Public Works, Watershed Management**, clarified that the subject property is outside the storage cell area. Esseks wondered about the effect of filling here on properties downstream. Higgins explained that this property is located in an existing urban area. The Floodplain Task Force divided the city into a "new growth area" and an "urban area". This property is in the urban area so it follows the local state and federal floodplain standards. The difference here is that along Salt Creek it is channelized with the levees put in by the Corps of Engineers. It is an artificial floodway along Salt Creek between Superior Street and Calvert Street to the south. We could either have a real wide floodway through there or narrow it with the Salt Creek storage areas. Since the levee ends at Superior Street, that was the natural place to not have the storage anymore. Esseks inquired whether there is anything in process for the area north of Superior Street to minimize the negative effects of development along the floodplain. Higgins advised that there is a local project being done now and they are doing a feasibility study to help offset and mitigate flooding in these areas. They are considering widening the stream channel on Turner Ditch.

Carroll inquired as to what has been filled on this site. Higgins showed what has been filled on the map. It is a locally adopted map that is now before FEMA for adoption. The fill that is out there has already been taken into account on that map.

Proponents

1. **Charlie Humble**, 301 S. 13th, Suite 400, appeared on behalf of the applicants, **Robert and Vickie Rokeby and Larry Schmieding**. The staff report notes that all utilities are available and the property is adjacent to the city and ready to be urbanized.

Humble also pointed out that the staff finds that the change of zone is in compliance with the land use plan; the surrounding property is a mix of I-3 and H-3; the H-3 here would offer opportunity for more intensive commercial and industrial uses which would be in character with the surrounding uses in the area.

With regard to the preliminary plat, Humble noted that the property is in the Tier I priority area of the city's future service limit, and sanitary sewer and water can be extended. In connection with the waivers, Humble pointed out that the staff finds the requests to be justified and acceptable, i.e. stormwater detention because of proximity to Salt Creek; and the waiver to allow sanitary sewer depth less than 9' is justified because of commercial development.

Humble advised that the conditions of approval are acceptable to the applicant.

Humble acknowledged that the developer does have a current floodplain permit through August of 2008, which allows the applicant to fill according to the plan and this plat does not change that. The fill that has been done is in accordance with the permit.

Esseks inquired about the wetlands on the property and whether they will be protected. **Bob Dean of RD Engineering** showed the floodway on the map. The area to the south and west of the floodway has already been filled. The area to the north is currently being filled in accordance with the floodplain permit that was issued. The site will likely be filled about one foot lower than the permit shows. They are proposing to generate fill for this site to go into the floodway area to excavate and generate some dirt, which will help increase the storage capacity in the floodway. As far as the wetlands, they will be filling around the wetlands. None of the wetlands will be taken out. The wetlands will be protected during construction operations.

There was no testimony in opposition.

ANNEXATION NO. 08003

ACTION BY PLANNING COMMISSION:

May 21, 2008

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

CHANGE OF ZONE NO. 08019
ACTION BY PLANNING COMMISSION:

May 21, 2008

Larson moved approval, seconded by Taylor.

Cornelius commented that this appears to be consistent with the Comprehensive Plan and the surrounding uses, so it seems appropriate.

Carroll also commented that the property is surrounded by the city, so it is a good choice to annex and change the zone.

Motion for approval carried 8-0: Cornelius, Sunderman, Gaylor Baird, Larson, Esseks, Francis, Taylor and Carroll voting 'yes'. This is a recommendation to the City Council.

PRELIMINARY PLAT NO. 08004
ACTION BY PLANNING COMMISSION:

May 21, 2008

Cornelius moved to approve the staff recommendation of conditional approval, seconded by Francis and carried 8-0: Cornelius, Sunderman, Gaylor Baird, Larson, Esseks, Francis, Taylor and Carroll voting 'yes'. This is final action, unless appealed to the City Council within 14 days.



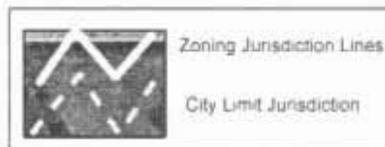
**Annexation # 08003
Superior Crescent
N 35th & Superior St**

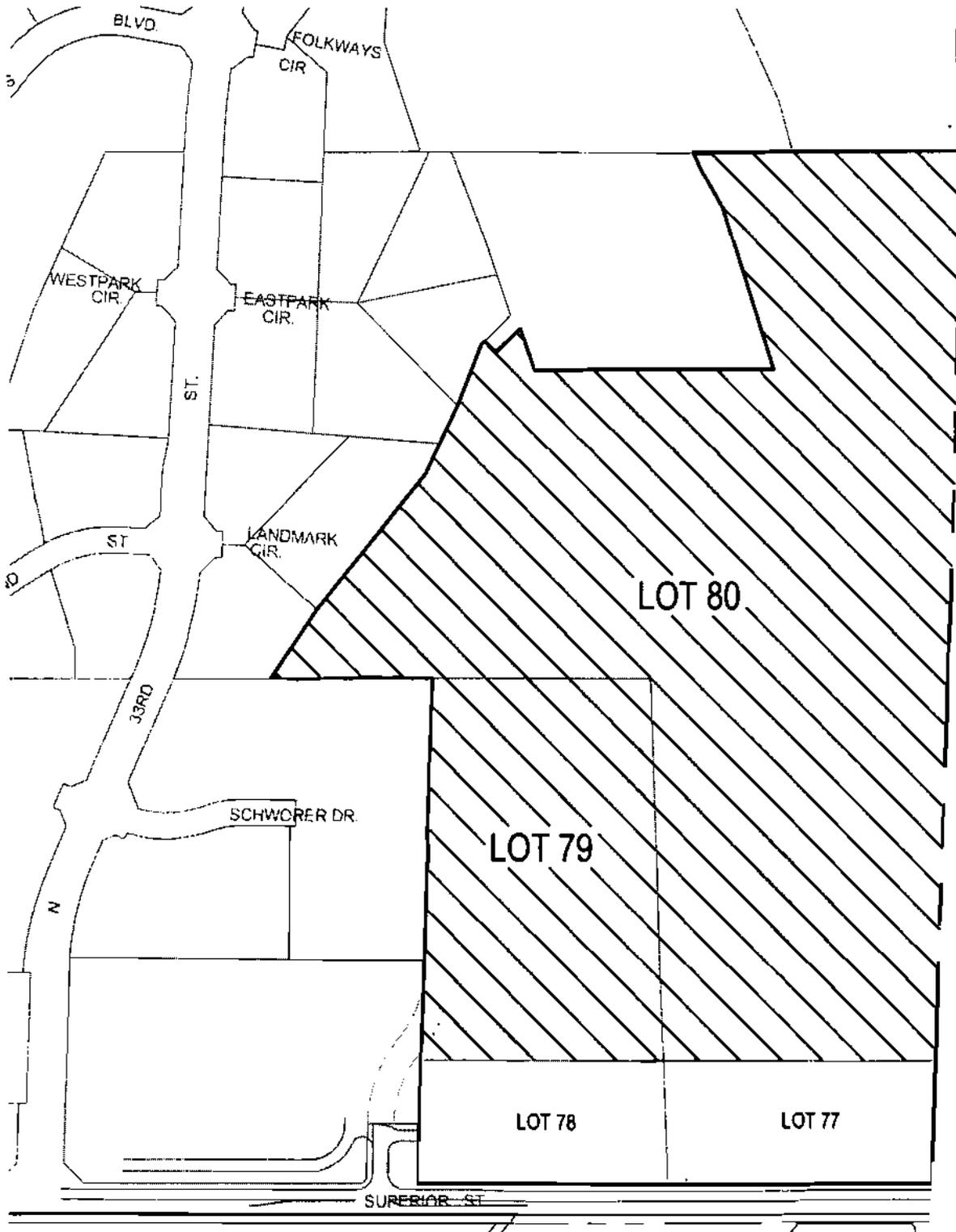
2007 aerial

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
Sec. 6 T10N R7E





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Date: 04/21/2008

Sht. 1 of 1

ANNEXATION EXHIBIT

Legal Description:
 Lot 79SE & Lot 80SE, Sec 6, T10N, R7E, 6th PM

009

SUPPORT for Annexation
OPPOSITION to Change of Zone
and Preliminary Plat

ITEM NO. 1.2a,b,c: ANNEXATION NO. 08003
CHANGE OF ZONE NO. 08019
PRELIMINARY PLAT NO. 08004

(p.11 Public Hearing ~ 5/21/08)



tedandphylls72@aol.com

05/15/2008 07:57 PM

To bgarrett@lincoln.ne.gov, plan@lincoln.ne.gov

cc

bcc

Subject RE: Annexation No. 08003, Change of Zone No. 08019 and
Preliminary Plat No 08004

Mr. Garrett,

I am contacting you regarding the proposed changes at 35th and Superior. First I am in favor of the annexation and opposed to the Change of Zone and the Preliminary Plat. I have in the past noted, most recently during the discussion about the 100 year flood plain, that we continue to take actions which long term are detrimental to our community.

The history of this particular property is that the current ownership has filled in the land to raise the overall grade by 4-6 feet. This in my opinion contributed to a change in the 100 year flood plain. Now that the land has been raised up any flooding in the area, and this IS a Flood Plain, will flow over the same land that was lower prior to being filled in. Where does this water go? It flows into the homes adjacent to and now in the Flood Plain and into any Business built in the Flood Plain and overall will be as a higher level than would have been experienced if we had not filled in the area.

Why do we continue to develop our Flood Plains? The reason is we have not had a record flood in the area for over 35 years (I have lived in Lincoln for about 34 years and do not recall any big flood in this area.) and as a result we have an Institutional Blind Spot. At some point this area will flood, the dikes and levees will not hold this water out, and the losses to businesses and home owners will be substantial.

Why learn the consequences of this shortsighted action after the fact? People in other communities have heeded the need for effective Flood Ways and have stopped development of flood plains and in some cases taken back areas that were developed previously.

Maybe it is time we said "No" to continued development of these areas before it is too late.

Sincerely,

Ted Ericson, 4130 N 42nd St. Circle, Lincoln, NE 68504

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