

2008 Annexation Study

Prepared by the
Lincoln/ Lancaster County Planning Department

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Introduction

In order for the City of Lincoln to develop in an efficient and orderly fashion the City has spent a considerable amount of time in the development and implementation of the Comprehensive Plan. The Comprehensive Plan is the City's guide for decisions regarding both development and annexation. The 2030 Lincoln/Lancaster County Comprehensive Plan contains both guidelines on annexation and a phasing plan for development. Specifically, the City has adopted Lincoln Area and Lancaster County "Future Land Use" maps and an "Urban Growth Tiers With Priority Areas" map on pages 17 - 21 of the Comprehensive Plan. The future service limit delineates those areas that are anticipated to be included in the city limits at some point in the future.

Properties on the urban edge already benefit from many City services, such as libraries, streets, parks, trails, and snow removal on adjacent streets, without paying City taxes and fees. Businesses on the edge of the City benefit from the adjacent customer base and those same services listed previously, without paying City sales and property taxes or fees. These properties, once they are annexed, can expect to have some city services available immediately, such as schools, street maintenance, fire and police protection. Other services, such as water and wastewater, may be immediately available or available in the near term. Annexation balances the provision of appropriate and reliable services with the payment of the fair share of city taxes and fees.

As part of the City's Concurrency Policy, services are not provided to properties that lie outside the City limits. In general, when urban development occurs on the fringes of the city, annexation of properties is processed along with other development applications. In this way, properties are supplied with City services when they are needed, and the City benefits from the property taxes, utilities and other fees that City residents pay. In order to maximize the efficiency of this system and to assure that those who receive services help to pay for them, it makes sense to annex properties that require minimal public investment to serve. Because these properties may not necessarily be interested in further development, annexation may not occur at the request of the property owner and can be initiated by the City.

The Mayor requested that the Planning Department prepare a list of possible annexation areas for review. The Planning Department prepared a list of sites based on the methodology described in more detail in the next section. The initial findings were discussed among city departments and with the Mayor. The following are the preliminary findings on areas that appear to be appropriate for further review for annexation for review by the City Council at a pre-Council meeting.

If there is a consensus of City Council members that the process should proceed, the Planning Department will work further with various City departments and County agencies to gather more detailed information regarding services, costs and benefits of each annexation. (A City Council recommendation to proceed is not a formal action and does not bind the Council to future action.) Staff will also hold an open house in order to provide property owners with more information regarding annexation and to answer questions. The annexations could be forwarded individually or together, and in most cases will not proceed till later in fall 2008. It is anticipated that the earliest annexation would take place is in February 2009.

There are several factors that should be considered when making a decision regarding annexation. This report will briefly review these factors by reviewing state statutes and court cases on annexation, the city's past annexation history, the City's current annexation policy, and comments and analysis from City departments. The report concludes with a brief review of the annexation review process and the potential sites for annexation.

Methodology

In June 2008 the City Council unanimously adopted Comprehensive Plan Amendment #08011 which amended the Annexation Policy and Concurrency Policies of the Plan. This amendment emphasized that the annexation policy can best be summarized in the new language on page 154 of the Plan:

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

This study is the first of the planned annual review of potential annexation areas. A list of criteria for identifying potential annexation areas was based on the policies in the Comprehensive Plan, specifically the Annexation and Concurrency Policies found on pages 153 and 154. In general the criteria used in this study was as follows:

- Only reviewed land in Priority A, Tier I
- Land subject to annexation agreements will be annexed as land is changed to urban zoning district
- Land which is engulfed by the city limits was proposed for annexation in first year
- Land which is contiguous to the city limits and is in urban zoning (other than AG or AGR) was proposed for annexation in first year
- Land which is contiguous to the city limits and is in agricultural zoning, in which basic infrastructure is in place or planned for in the near term **and** is in urban character
 - **proposed for annexation in first year**, if land is
 - 1) currently occupied by one or more dwelling units, and
 - 2) utilities are in place or planned for in next 2 to 3 years, and
 - 3) does not substantially add county roads to city limits (due to costs to upgrade and maintain compared to value of land added)
 - proposed for annexation in second year or later if land is in farm use (no dwellings,) is greater than 40 acres in size & city services are 3 or more years away

After potential annexation areas were identified using the above criteria, information and comments were solicited from City staff in various departments. Staff were asked to give comments on the impacts to capital improvement programs, operation and maintenance budgets,

Planning collected comments and formulated recommendations for each of the potential areas. The City Council is being asked for direction on which of these areas to pursue further. Once areas are selected, landowners will be contacted and given information regarding issues related to annexation. This contact will be made far in advance of the actual annexation so that landowners have time to plan for the transition.

Findings

The Planning Department has identified fourteen areas that appear suitable for near term annexation. These areas are within the future service limit (Tier I) of the Comprehensive Plan and appear to be ready for annexation (see attached Annexation Study: Index map):

<u>Area</u>	<u>Subdivision/ Location</u>	<u>Comments</u>
1	S. of Arbor, 56 th to 70 th	Floodplain and wetland areas on Salt Creek
2	Cornhusker, 74 th to 84 th	Commercial and industrial properties
3	S 70 th & Yankee Hill Rd	108 dwellings, 1 non-profit organization, (Portsche Heights, Clarendon Hills, Amber Hills Estates, Dunrovin Acres, Walnut Heights & broadcast equipment)
4	S 40 th & Yankee Hill	1 dwelling and Yankee Hill golf course
5	27 th & Rokeby Rd	4 dwellings
6	Warlick & Salt Creek	Prairie Bowmen archery club
7	8 th & Pioneers Blvd and 1 st & Van Dorn St	1 dwelling, state owned property and Vacant I-1 zoned industrially land
8	S Folsom and W Calvert	101 dwellings, 4 commercial properties
9	NW 48 th & I-80	5 dwellings and vacant commercial land
10	NW 39 th & W Adams St	Vacant, Airport Authority
11	NW 12 th & Hwy 34	Narrow strip of vacant land
12	N 7th & Fletcher Ave	48 dwellings (Cumberland Heights, Garden Valley, Grove Park)
13	N. 27 th & I-80	Vacant land for future development
14	N. 48 th & Superior	Gun club, Boosalis Park and vacant land

Each of these sites is generally urban in character and contiguous to the city limits. Each can be served with city services currently or will require an extension of city sewer or water lines that are already planned for or under construction. Staff recommends these sites since they meet the Annexation Policy considerations included in the Comprehensive Plan. More details on these sites are provided at the end of the report.

State Statutes/ Court Cases on Annexation

The City of Lincoln's ability to annex property comes from state authorization. State statutes regarding annexation differ between cities and villages of different classes. The City Attorney's Office has prepared an analysis of these varying state statutes and court cases relating to annexation in Nebraska. The following is summarized from former City Attorney Bill Austin's report on annexation for the City of Lincoln:

- the City may at any time annex "contiguous or adjacent" lands,
- according to State statutes "land shall be deemed contiguous although a stream, embankment, strip or parcel of land, not more than 500 feet wide, lies between such land and the corporate limits,
- the Nebraska Supreme Court has voided "strip, corridor or flag" annexations in which the land is adjacent by only a narrow strip or neck of land,
- the City automatically annexes adjacent property upon subdivision if it is within the future service limit and must include adjacent county roads during an annexation.

In addition, state statutes also cover annexation and its effect on rural fire and school districts. The City is required to compensate rural fire districts as a result of annexation. The reimbursement costs are based on the value of the property annexed and the liabilities of the fire district. Typically, the city expense is less than \$1,000.

With regard to schools, if a property is outside the Lincoln Public School District (LPS) at time of annexation it is automatically included in the LPS district (State Statutes 79-408). LPS is not required to reimburse the other school district. However, property owners in the annexation area are required to continue paying their levy on any outstanding school bonds that were approved while they were in the other district. In 1998, LPS and the City of Lincoln approved an agreement whereby those property owners paying for bonds in other districts will not have to pay for past LPS bonds. However, they will have to pay on any LPS bonds approved after annexation.

Past City of Lincoln Annexation History

The early history of annexation in the City of Lincoln included annexation of independent communities such as Havelock, University Place and College View between 1926 and 1930. Since these early annexations of small towns, Lincoln has mainly annexed vacant land prior to development and some subdivisions. Prior to 1996, annexations primarily occurred due to requests from developers, landowners, neighborhood boards, as a result of subdivision or due to road assessment projects. Unlike many other communities which experience urban development outside of the city limits, nearly all urban development in Lincoln has happened within the city limits. Thus, unlike most other communities in the United States, annexation of developed land outside of the city limits has not been a major concern. The last major annexation of an urban subdivision occurred in June 2007 when the 304-acre Firethorn subdivision was annexed.

From 1995 to 1999, the Planning Department, at the request of the City Council, developed an Annexation Study process. Areas were identified that were potentially appropriate for annexation, with or without the request of the owners. These areas were evaluated, open houses were conducted,

and some or all of the areas were moved along to the City Council for their consideration. In most cases, these areas were eventually annexed.

This process has not been used since the last annexation study in 1999. Development on the City's edge since that time has resulted in some areas which are becoming increasingly surrounded by the City, but which have no impetus for requesting annexation. In such cases, it may be appropriate for the City to initiate the annexation process.

Current Annexation Policy

One of the main principles of the Comprehensive Plan Vision is stated in the "One Community Vision" (page 5 of the Plan.) One part of this main principle of the Plan is that residences and businesses should be inside the City of Lincoln, equally participating in the costs and benefits of the Lincoln community.

The current Comprehensive Plan provides guidance on the issue of annexation. On page 154 of the 2030 Comprehensive Plan it states the following:

"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 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 water 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.*
- *To demonstrate the City's commitment to the urbanization of land in Tier I Priority A, the City should promptly annex land in Priority A which is contiguous to the City and generally urban in character, as well as land which is engulfed by the City. Land which is remote or otherwise removed from the limits of the City of Lincoln will not be annexed. Annually, the City should review for potential annexation all property in Priority A in which basic infrastructure is generally available or planned for in the near term.*
- *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 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 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.*
- *Each town in Lancaster County will have their own procedures for annexation.”*

General Considerations for Annexation Areas:

Upon annexation some City services are immediately available. Among those are Fire & Rescue and Police services. One of the benefits to the policy of annexing property which is surrounded, or nearly surrounded, by the city limits is the clarity of boundaries for these public safety personnel. A city edge along which adjacent properties may be alternately in and out of the city limits makes it difficult to identify the jurisdictions of the sheriff vs. police, or the fire & rescue vs rural fire departments.

Rural fire districts that carry debt may request that the portion of the debt assessed to a property which is annexed by Lincoln be paid to that rural fire district. The City of Lincoln is obliged to keep this assessed amount in an account in case the rural district makes such a request. Rural water districts may make a similar request.

Conclusion

The City of Lincoln has been very successful in having development occur within the city limits. The Planning Department recommends that the City Council proceed with the 14 areas for potential annexation in approximately February 2009. Areas 1, 6, and 14 may take additional time to be annexed since they have land use issues, such as the Gun Club and archery range uses, which may take additional time to resolve.

Direction by the City Council to proceed with additional review and comment on these potential areas does not obligate the City Council to annex these areas. It only directs staff to review the areas in more detail. Once additional information has been obtained on each of the areas, they will be forwarded to the Planning Commission and City Council for further review and public hearings.

The proposed annexation areas are generally developed and contiguous to the city limits. City utilities are already available or are in the vicinity and in most cases do not require a substantial

utility extension. However, a special assessment district may be needed in some cases to provide water or sanitary sewer service to these areas.

It is important to note that annexation of this large an area will bring into the City additional roads that will need to be maintained. Unless the City's budget is increased for street maintenance, including items such as snow removal, street sweeping, patching and repairing, the same resources will be spread over a greater area. This will lead to less time and resources being spent to maintain and snow plowing streets within the city today.

Notes on Area Review

The following descriptions of annexation areas contain comments that apply to that specific area. Comments are broken into Current Jurisdictions, Utilities, Roads, Revenue and Other Comments. Any specific comments submitted by departments are included in those categories. In addition, some departments submitted general comments which are summarized below.

Current Jurisdiction

Name of current rural fire district, school district, and rural water district, if applicable. Lincoln Public Schools and county agencies have not yet been contacted for comment.

Emergency Services

Lincoln Fire and Rescue commented that most areas are near existing fire facilities, Areas 2 through 6 are not and response time would be greater. Generally, areas in the northeast, east, southeast and south are in the greatest need of new fire facilities. The Lincoln Fire & Rescue noted that a substantial number of homes would have a lesser standard of City fire protection due to the absence of city water and fire hydrants – unless the owners petition to extend water lines. However, these areas will receive a faster response time than the current rural volunteer fire district service time. Lincoln Police Department stated they did not have any comment on the study.

Utilities

Based on comments from Public Works and Utilities Department (PWU), there would be an increase over time in operations and maintenance costs. In most cases, the cost would start at zero upon annexation and gradually rise as development occurs and services are connected. It is important to note that these costs are calculated using the current budgeted increases in utility fees. These scheduled increases should be met and additional maintenance and operation staff may be needed to meet the demands of increased system. Operation and Maintenance costs are calculated by using a City average of \$245/acre for wastewater and \$330/acre for water.

Some of the areas also would require capital projects that may or may not be in the current CIP. While some of these costs are significant, the improvements, with a few exceptions, would have been built to serve new subdivisions and development regardless of whether these areas were annexed. The exceptions appear to be Areas 2 and 12. Area 2 would require a significant investment to serve commercial and industrial development, both current and future, while Area 12 would require a relatively minor improvement to serve increased residential uses that could develop.

Lincoln Electric commented overall that the areas identified can all be served and are within the LES service area boundary. They also noted that LES attempts to maintain a one to one-and-a-half mile buffer between LES's service area boundary and the Lincoln City Limits, per agreement with Norris Public Power. Annexation Area 15 would extend that buffer and the associated service area adjustments would have minor impact on Norris' service area and facilities. Norris Public Power has not yet been contacted for review and comment.

Roads

Based on comments from Public Works and Utilities Department both road Operations and Maintenance as well as capital projects may be extensive at full build out of the Comprehensive Plan. O & M budgets have not been keeping pace with needs over the past several decades and there is considerable catching up to be done. Increases in the number of lane miles to be maintained means more needs such as signals, striping, sidewalks, and drainage and the need for increased staff and equipment as well as funds. While many of these areas will have some O & M expense initially, this cost will not reach the City average until future development is realized.

Road O & M costs were based on the current budget and not actual road needs. The road maintenance budget is already below the needs of the community. The estimates are based on a general figure and are not based on an analysis of the road conditions and specific needs of each area. For the purposes of this analysis, the Initial O & M costs were based on an average of about \$8,500 per lane mile for rural arterial streets and about \$1,800 per lane mile for rural residential streets. The Future O & M cost estimate is based on a City average cost of \$650 per acre.

It is difficult to separate capital costs for street projects in a single area from the costs to build a transportation network for the entire City. The annexation areas alone do not require capital investment that is not already part of the 2030 Long Range Transportation Plan. These annexed existing homes and businesses and land for development will add to the property tax base and wheel tax revenue. But that revenue is minimal compared to the overall street needs of the community. Given limited street resources, it is important that as the City grows and adds more businesses and residents, the City's street budgets keep pace.

2007 Valuation

Data from County Assessors Office for 2007 based on assessed value.

Revenue

Estimates made by City Finance Department based on real and personal property tax valuation and estimates of motor vehicle tax and wheel tax. (Assumption of 2.5 personal vehicles per dwelling unit and motor vehicle tax estimated at \$100 per vehicle.) Payments that would need to be made to rural fire departments are included based upon individual fire district indebtedness. This is a one time payment that would be made upon request of the rural fire district. Additionally, Area 2 has two businesses which currently have Fire Protection Contracts with the City of Lincoln. These contracts are collected annually and would be voided with annexation. Rural Water District 1 also provides service to 15 of the proposed properties. An assumption of \$5,000 per household or per 20 acre parcel was used to calculate the repayment fee. Rural water has not yet been contacted for an actual fee calculation. Lincoln Public Schools has not yet been contacted for information regarding changes to their district.

Other Comments:

Comments received primarily from PWU - Watershed Management, but also from Lincoln and Lancaster County Health Department (LLCHD), Parks and Recreation, and through review by Planning staff.

LLCHD has jurisdiction over both the City of Lincoln and Lancaster County. As properties are annexed into the City, the City ordinances addressing environmental and health concerns would be applied to those properties. Some examples of City ordinances that may be different from County regulations are the City's smoking ban, animal control ordinances, and noise control ordinances. LLCHD, and, in some cases, the Police Department, are responsible for enforcing these ordinances.

The Health Department also has responsibility associated with individual septic and well systems. As additional areas are annexed into City Limits they will need to be inspected and existing wells documented and biennial water well permits obtained. Wells that were previously installed or repaired in the 3-mile limit should be on file with the LLCHD. Those wells that were previously installed or repaired outside the 3-mile limit will not be on file with LLCHD. Unless the well is located in the 3-mile limit at the time of installation, LLCHD does not require a permit, therefore LLCHD would not have information on the well. If a home or business is annexed with an onsite wastewater system that is operating within standards and is at least 300 feet away from being able to be connected, no permits or actions will be required. A building or premises within 300 feet, measured along a street, alley or easement, of a community sewer system shall be required to connect to that system.