

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT
for December 14, 2011, PLANNING COMMISSION MEETING**

PROJECT #: Comprehensive Plan Amendment No. 11003

PROPOSAL: Amend the County Future Land Use Plan on pages 1.8 and 12.2 to show commercial and industrial uses at the intersection Highway 2 and Highway 43/ S. 162nd Street and add language to page 5.5 that clarifies the intent that the commercial uses be those that generally support the agricultural and traveling community and the industrial area be reserved for a potential large employer.

AREA: Interchange of Highway 2 and Highway 43/S. 162nd Street

CONCLUSION: There is a long history of directing commercial and industrial development to the City of Lincoln and other incorporated towns in Lancaster County, as evidenced by a review of the City/County Comprehensive Plans over the past 35 years. This history is the result of many public conversations with City, village and rural residents who have consistently expressed a desire to maintain the rural landscape the Lancaster County has a long history of protecting. The 2040 Comprehensive Plan continues this long tradition by encouraging new commercial and industrial development within Lincoln and the other incorporated towns of the county as a way to strengthen the tax base, provide reliable services to businesses, and provide jobs convenient to the residents of those places.

For this reason the Planning Department does not support this amendment and recommends its denial.

RECOMMENDATION:

Denial

HISTORY:

2040 Comprehensive Plan Process:

LPlan 2040, the update of the Lincoln and Lancaster County Comprehensive Plan, is a public process that began in spring of 2010. The process involved input from elected and appointed officials, a 20 person advisory committee, City, County, State and Federal staff, business and special interest groups, and thousands of members of the public. In July of 2011 a draft of this plan was posted to the website and distributed to the public. In September of 2011 the Planning Commission approved an amended draft and forwarded it to the City Council and County Board for their consideration. A public hearing was held on October 18th with both City Council and County Board in attendance.

During the County Board's review, three amendments affecting the County' jurisdiction were suggested by Board members which they were unable to act upon without review and action by the Planning Commission. These related to the ways that smaller lots can be subdivided and sold, "build-through" standards, and the land use designation at the Bennet Corner in the area of S. 162nd and Highway 2. The 2040 Plan was adopted without these amendments by the County Board on October 25 and by City Council on October 31, with the understanding that these three amendments would be sent to the Planning Commission subsequently as proposed Comprehensive Plan Amendments.

Prior Applications:

This corner has been the subject of conversation at several times over the past many years. On several occasions the Village of Bennet has been approached on the matter and their input has been collected.

There have been a few applications for change of zone to this section over the past 8 years. In 2004 an application for a change of zone from AG to Industrial (I) on the Northeast corner of S 162nd and Highway 2, for the development of a cement plant. This application was recommended for approval by the Planning Department and Planning Commission, but denied by the County Board. Also in 2004 a special permit for a wireless facility was approved on the southwest quarter of the section.

In 2005 an application for change of zone from AG to AGR on 80 acres in the northeast quarter of this section was withdrawn before the decision of the Planning Commission, in part to await final design of the roadway now known as Hooper Road. In early 2008 an application for change of zone from AG to AGR and B on this same site was denied by the Planning Commission and withdrawn by the applicant before it reached the County Board. Later in 2008 a third application for a change of zone for this same site from AG to AGR was approved. In 2010 a preliminary plat for this same site was approved for 19 acreage lots, six of which have since been final platted.

Public Input:

On September 29, the Board directed staff to mail notices to property owners about a special public hearing that the County Board has set for October 11 to consider an amendment to the proposed land use for this area. There were two members of the public and one representative who came forward to testify on this possible amendment at that meeting. One individual represented the Village of Bennet Planning Commission and Village Board. He did not speak for or against the proposal, but did request more time to study the issue. Another was an acreage owner who expressed some concern about the intensity of the development and the possible light, noise and odor issues that could arise. Ken Halvorsen testified that Lancaster Rural Water District 1 did have service to this area and depending on the actual uses, should be able to serve development there. In addition, the County Board received two formal requests, from the Village of Bennet Planning Commission and Village Board, to postpone action and allow the village more time for consideration of the proposal. Additional comments were received via email. The Bennet Planning Commission and Village Board are scheduled to review this proposal on November 30 and December 12, respectively.

Comprehensive Plan:

There is a long history of directing commercial and industrial development to the City of Lincoln and other incorporated towns in Lancaster County, as evidenced by a review of the City/County Comprehensive Plans over the past 35 years. There is also a long history of showing the area bordered by Highway 2, S. 148th Street, 162nd Street and Hooper Road as “agricultural”. The Agricultural Land Use category is defined as “Land principally in use for agricultural production. Agricultural land may be in transition to a more diversified agribusiness ventures such as growing and marketing of products (e.g., horticulture, silvaculture, aquaculture) on site.” (p.12.4). This section has been shown as Agricultural, since Lancaster County began planning. The Comprehensive Plan history at the end of the Analysis section of this report provides further details.

ANALYSIS:

1. This is a proposal by the County Board to amend the 2040 Comprehensive Plan as follows:

a. Designate an area of over 200 acres for commercial and/or light industrial use about two miles north of Bennet, surrounding the intersection of Highway 2 and Highway 43/South 162nd. This would be a change to the “2040 Lancaster County Future Land Use Plan” which appears as Map 1.1 on page 1.8 and Map 12.1 on page 12.2 of the new plan to show approximately 75 acres of commercial land use surrounding the interchange of Highway 2 and Highway 43/S. 158th Street, and approximately 140 acres of industrial land use to the northwest of that interchange. (See page 11, Option C)

b. Add language to page 5.5 of Business & Economy: Lancaster County, Outside of Lincoln to read:

Uses near the interchange of Highway 2 and Highway 43 (the Bennet exit) should be limited to commercial immediately surrounding the interchange that generally supports the agricultural community and those traveling through the area. The remainder of the designated area should be reserved for a potential large industrial employer which may desire to locate in a rural area with limited services and would be compatible with the surrounding rural residential area.

2. On October 11, the Lancaster County Commissioners directed the Planning Department to begin the process of gathering public input and bringing this proposal, along with two other proposals, to the Planning Commission for their consideration. Three alternative land use patterns were prepared for discussion with the County Board on October 27 (see p. 11). Of these three possible land use patterns, Option C was chosen to proceed for discussion with the public.

3. The 2040 Comprehensive Plan emphasizes the importance of directing

commercial and industrial development toward the incorporated areas, both to preserve the agricultural character of the unincorporated areas and to support municipalities by directing tax and fee paying business to their jurisdictions and providing close by jobs for their residents. This has proven to be a very successful policy as evidenced by the relatively stable economies of Lincoln and other Lancaster County towns and by the lack of sprawl seen in the unincorporated areas.

4. The Comprehensive Plan has, for many decades supported the development of residential, commercial, and industrial development within the City of Lincoln and other Lancaster County towns. At the same time, options for residential development in the agricultural areas of the county have also been supported in the Plan. However, the development of Commercial and Industrial uses in the unincorporated areas of the county has been discouraged for many reasons, including the following important considerations:

a. Municipalities lose tax and utility revenues: Commercial and industrial developments inside municipal areas contribute to the tax base of those municipalities **as well as** to county government, allowing the towns to provide affordable public services for their residents and property owners. To the extent that these unincorporated sites are successful, cities will lose the payback on tax dollars they have invested in infrastructure, and will miss out on tax revenues that business and industry traditionally bring to the cities in which they locate.

b. Municipalities have existing capacity: By encouraging business locations in unincorporated areas through the lure of cheaper land and fewer taxes, a new form of competition will be created for sites that are ready or being readied in Lincoln and the other municipalities. The research for LPlan 2040 indicates that the City of Lincoln has about 6,000 acres available for commercial development, and another 4,500 undeveloped acres zoned for industrial development, including tracts of similar size to the County Board's proposed site. In addition, the current and proposed plans identify several "potential opportunity areas" for major employment centers that require a full square mile or more and may require rail access – neither of which is met by the County Board's proposed new site. Those designated areas are outside of Lincoln's 30-year growth area, but close enough to Lincoln that priorities could be adjusted and services extended to properly support new development. These sites would be able to provide the urban services required for a very large employer, such as an IBM.

Bennet also has future commercial and industrial land identified in their comprehensive plan. Approximately 20 additional acres of commercial on the north side of Bennet and 10 additional acres of Industrial on the south side are shown. An additional commercial area of about 5 acres is shown on the southwest corner of Highway 43 and Highway 2, reflecting the existing 5 acre gas station site on the southeast corner. These land uses are shown in the Lancaster County Future Land Use Plan as well.

- c. *Public service availability:* Lincoln and the other cities offer a full array of public services to support this kind of development. Experiments by commercial and industrial developments in locating outside of cities have frequently resulted in outcomes that are not happy for the businesses or the community. Individual sanitary sewage treatment systems commonly fail and pollute local area water resources. Individual water supply systems are not treated and may become polluted, or are inadequate in quantity.

Even in the case of a rural water district (the Bennet Corner can be served by RWD #1), the supply does not provide the pressure or sustained flow to assist with firefighting. Rural fire districts are not equipped to get to the scene of a fire or chemical spill quickly or have the training and equipment to deal with those issues. Insurance costs for businesses without adequate fire protection are significantly higher.

Roadways surrounding this area were designed to serve agricultural uses and would require significant upgrades (at taxpayer expense) to be able to serve commercial and industrial development of this size. According to the professional opinion of the County Engineer the existing two lane roadway will not be adequate to handle volumes generated by 200 acres of commercial and industrial development. Hooper Road would likely require redesign to a four lane section from Highway 2 to Yankee Hill Rd. Although the Nebraska Department of Roads is reluctant to comment without specific site design and traffic counts, it is reasonable to assume the existing two lane bridge with left turn lanes would not be adequate to serve this development. Any large employer who might consider opening a new plant in Lancaster County will look for sites that have full public services and are as close as possible to its labor force; the Bennet corner simply does not meet this definition.

- d. *Available housing:* The 2040 Plan reinforces the idea that housing and employment places should be concentrated to reduce the time and length and cost of travel in the county. This kind of “rural sprawl” will result in more

travel, which will increase energy consumption and air pollution in the county.

The 2040 Plan reinforces the importance of “place-making” in Lincoln and the county – in paying more attention to the visual character of our community: building to good design standards, protecting entryway corridors to the state capital such as Highway 2. The County zoning code is not equipped to handle this kind of development; there are no standards for landscaping, screening, lighting, noise and odors, and the highway frontage could very well end up being lined by large billboards. In fact County Board members in the past have decried the appearance of commercial areas that they approved, such as at O and 134th Streets. The Bennet corner without full municipal services is most likely to attract more marginal type businesses, with primarily open storage uses, used car lots, etc. that will detract from the plan’s goals.

- e. Precedent for others.* The Bennet corner, along with the intersection of Hwy 77 and 33/Roca Road, are the only rural locations not on I-80 with grade-separated highway interchanges. But that should not be the sole criterion used to determine the appropriateness of a land use. More important, this distinction will be lost on landowners in other parts of the County who will see this dramatic change in policy and encouragement for them to request the same kind of designation.
5. The Bennet corner area is a mile beyond the one mile zoning and planning jurisdiction that is guaranteed by statute to cities of the first class. But Bennet’s self-designated planning area extends up to Highway 2, and the proposed land use change certainly is close enough to have a significant impact on their community. City officials said no to commercial development when asked in 2008 and no commercial development beyond the ten acres on the south side of Highway 2 shows in their official plan. It is understandable for towns to be wary of the impact of commercial/industrial development along highways outside their limits, with many communities having seen their Main Street businesses die out due to new business areas developing on the highways outside their jurisdiction. The Bennet Planning Commission, when informed last month of the County Board’s proposed land use change, officially requested that the County Board delay action and work with Bennet in a more deliberate, inclusive manner on this issue.
 6. If some land in this area were to be designated and developed for commercial/industrial use, the south side of Hwy 2 would seem to make more sense than the north side suggested by the County Board. It would expand on

already existing commercial development/zoning on that side of the highway, and could be more easily served by and annexed into Bennet someday.

7. As discussed earlier, there is some history of zoning requests in this general area. There are other areas of the county where requests for commercial and industrial zoning have been made, although relatively infrequently. The zoning regulations for the county commercial and industrial uses have generally served the purpose of regulating the existing, pre-zoning era uses, described in the section discussing the 1977 plan above. These regulations are not designed to manage new development and are without the controls and regulations standard in zoning regulations that are so designed. This is a reflection of the intent of the county zoning regulations, rather than by any sort of oversight.

COMPREHENSIVE PLAN HISTORY:

1977 Comprehensive Plan

- Commercial and industrial uses in unincorporated Lancaster County, corresponding directly to historical commercial and industrial uses at SW 42nd and Pella Road (Sheldon Station, NPPD), SW 12th and Highway 33 (Centerville gas station), Saltillo Road at about Highway 77/S 14th Street, N 134th and Highway 34/East O St., N 148th and Waverley Road, and N 190th and Mill Road, and uses in the unincorporated villages of the county.
- Bennet corner identified in the future land use map as future Agricultural
- “Major portions of the county should be designated for agricultural uses. Uses to be permitted should include primarily farming and the facilities and services necessary to support this activity. Residential, commercial, recreational, and other activities not necessary to the conduct of farming operations should not be allowed. (p. 59)”
- Other applicable policies: 1) Encourage a vigorous agricultural industry throughout the county; 2) Encourage continued agricultural production through strong control of urban sprawl, and protect existing rural areas from urban sprawl through planned development; 3) Concentrate new growth in the Lincoln urban area and in the villages throughout Lancaster County; 4) Restrict commercial uses in rural areas other than existing villages. (p. 59)

1985 Comprehensive Plan

- Bennet corner shown Agricultural
- “Land uses permitted should primarily include farming and the facilities and services necessary to support this activity. Residential, commercial, recreational,

and other activities not necessary for farming operations should not be allowed.” (p. 56)

- Southeast corner of Highways 43 and 2 is shown as Commercial/Industrial as part of a 1988 amendment to this plan.
- “The rural land use plan includes a few locations for industrial, commercial, and public or semi-public land uses. These locations are existing land uses which are expected to remain during the planning period. The plan discourages future expansion of these uses into adjacent agricultural areas and, in general, new industrial, commercial, and public and semi-public uses are not expected beyond the urban area.” (p. 59)

1994 Comprehensive Plan

- Bennet corner shown Agricultural which is described as areas that “encompass land principally used for agricultural purposes.” (p. 43).
- 5 acres of commercial shown southeast of Highway 43 and Highway 2 intersection
- “It is the policy of the Comprehensive Plan that new growth be located in the cities and villages of the county where services can be provided. Strategies: Encourage the location of commercial and industrial uses at existing communities.” (p. 65)
- “Strategies: Actively communicate and coordinate growth and implementation with other incorporated places in Lancaster County. Actively direct new growth opportunities to the other incorporated communities of Lancaster County.” (p. 76)

2006 (2030) Comprehensive Plan

- Vision for Economic: “Residential, commercial and industrial development take place in the City of Lincoln and within incorporated towns. This ensures that there are convenient jobs and a healthy tax base to support the public safety, infrastructure and services within the communities. While location in the cities and towns of the county is a priority, unique site requirements of a business may necessitate consideration of other suitable and appropriate locations in the county.” (p. 7)
- Guiding Principles for Community Form: the Rural Community “Support new commercial, residential, and industrial development within the incorporated towns in the county.” Is one of five guiding principles (p. 9)
- Additional 5 acres of commercial land on the southwest corner of Highways 43 and 2, reflecting the Bennet Comprehensive Plan which shows areas beyond the Bennet jurisdiction in the “horizon” plan.
- Location criteria for commercial and industrial districts, including: “within the City of Lincoln or incorporated villages; where urban services and infrastructure are available or planned for in the near term; in site supported by adequate road

capacity; in areas compatible with existing or planned residential uses; so that they enhance entryways or public way corridors, when developing adjacent to these corridors". (p. 35)

- "All new commercial and industrial development should be within Lincoln or the incorporated communities." (p. 38)

2011 (2040) Comprehensive Plan:

The above Comprehensive Plan history is the result of many public conversations with City, village and rural residents who have consistently expressed a desire to maintain the rural landscape the Lancaster County has a long history of protecting. The 2040 Comprehensive Plan continues this long tradition by encouraging new commercial and industrial development within Lincoln and the other incorporated towns of the county as a way to strengthen the tax base, provide reliable services to businesses, and provide jobs convenient to the residents of those places.

CONCLUSION:

The effect of commercial development so near the existing main street commercial area of a small town could be devastating to that small economy. Small towns generally have businesses such as restaurants and taverns, mechanic shops, grain elevators, beauty and barber shops, small groceries and other retail. The residents of the small town often patronize these businesses on a regular basis, but the business owners also rely on those living in the surrounding area to provide the sales volume needed to survive. If these, or similar, businesses are located outside of small towns they will not contribute to the life of the community and may draw off customers from the surrounding area that would otherwise have taken the short detour to enter the town and patronize the local businesses. Without the additional business from residents of the surrounding area, the small town businesses may not be able to survive.

The Planning Department is not opposed to revisiting the current and proposed longstanding policies, and discussing the potential for limited scale commercial development at certain locations in the county -- particularly if related to the local agricultural industry or providing travel services. But a blanket designation for over 200 acres along a mile-long strip of Highway 2 land, with no public services available, is in direct opposition to the growth policies that have served Lancaster County well for over 30 years.

The Planning Department maintains the principles held in the Comprehensive Plan for the past several decades, encouraging the preservation of rural areas, supporting growth in small towns and Lincoln, and directing commercial and industrial development to areas

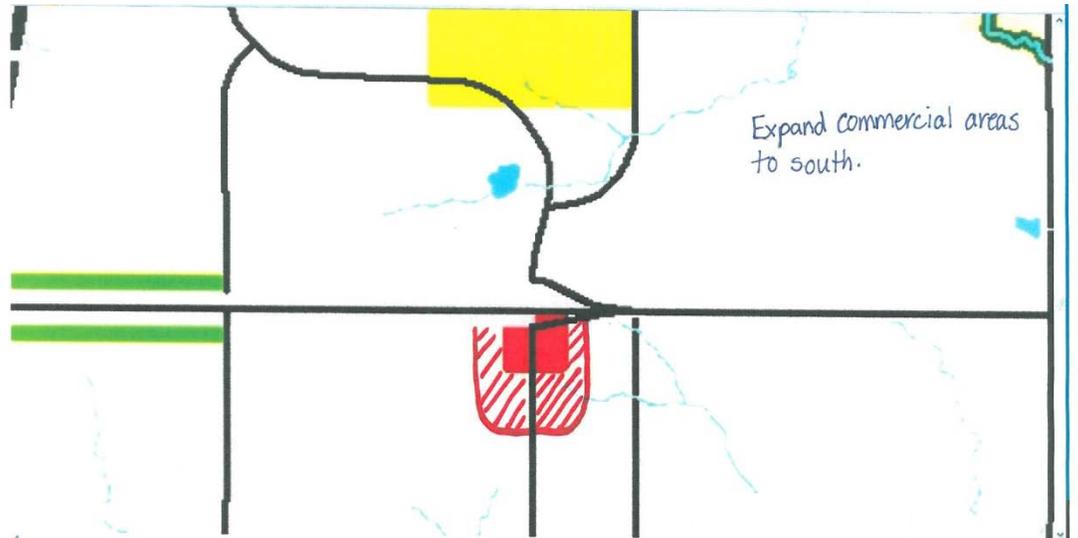
where it can be properly supported with full infrastructure and nearby employees and customers. It is possible there may be some room for discussion of commercial and industrial uses that are appropriate for more rural areas, particularly those that support agricultural needs and the traveling public along major highways. The Planning Department is willing to review these policies and discuss future additions to the County zoning regulations. However, under the current regulations and planning policies, this amendment is not appropriate.

Prepared by:

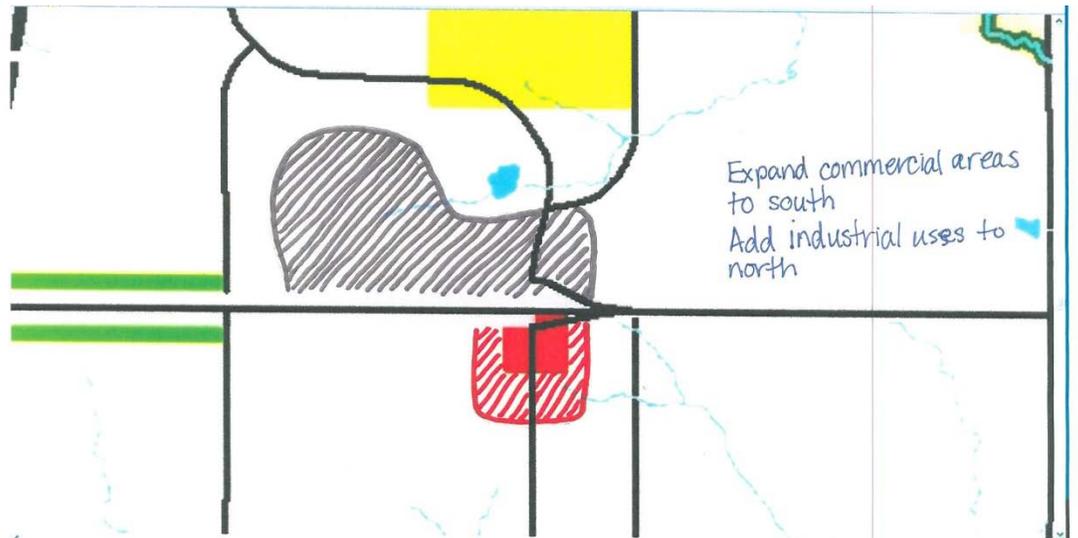
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Option A



Option B



Option C

