City Council Introduction: October 26, 2015
Public Hearing: November 2, 2015 Bill No. 15-132

FACTSHEET

TITLE: ANNEXATION NO. 15009
(North 56th & Alvo Road)

BOARD/COMMITTEE: Planning Commission

APPLICANT: REGA Engineering Group on behalf of Roger H. Schwisow Revocable Trust

RECOMMENDATION: Approval (8-0: Beecham, Cornelius, Harris, Lust, Sunderman, Weber, Scheer and Hove voting 'yes'; Corr absent.

STAFF RECOMMENDATION: Approval

OTHER DEPARTMENTS AFFECTED: Public Works will be responsible for the maintenance and replacement of the streets and utilities in the new addition, and other departments will provide City services to the area and its residents.

SPONSOR: Planning Department

OPPONENTS: None present at hearing.

REASON FOR LEGISLATION: To annex approximately 4 acres, more or less, generally located at North 56th & Alvo Road.

DISCUSSION/FINDINGS OF FACT:

1. This annexation request and the associated Change of Zone No. 15026 from AG to R-3 (Bill #15-133), were heard at the same time before the Planning Commission.

2. The purpose of this proposal is to allow the development of approximately 14 single-family residential lots.

3. The staff recommendation for approval of the annexation request is based upon the "Analysis" as set forth on p.5, concluding that the subject property is contiguous to the City Limits on the north and the associated Change of Zone No. 15026 (Bill #15-133) to R-3 is consistent with the Future Land Use Map in the 2040 Comprehensive Plan. The staff presentation is found on p.7-8.

4. The testimony on behalf of the applicant is found on p.8-9.

5. On October 14, 2015, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of this annexation request.

8. On October 14, 2015, the Planning Commission also voted 8-0 to recommend approval of the associated Change of Zone No. 15026 (Bill #15-133).

7. Should this annexation request be approved, the Planning staff is recommending that the Council ordinance assign the newly annexed area to **Council District #1**.

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer **DATE:** October 19, 2015

REVIEWED BY: David R. Cary, Acting Planning Director **DATE:** October 19, 2015

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LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for October 14, 2015 PLANNING COMMISSION MEETING

PROJECT #: Annexation No. 15009
Change of Zone No. 15026

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items.

PROPOSAL: To annex approximately 4.02 acres and change the zoning from AG Agricultural to R-3 Residential.

LOCATION: N. 56th Street and Alvo Road

LAND AREA: AN15009: 4.02 acres, more or less
CZ15026: 4.02 acres, more or less

EXISTING ZONING: AG Agricultural

CONCLUSION: This annexation and change of zone are in conformance with the Comprehensive Plan. The property is contiguous to the City limits on the north and the change of zone to R-3 is consistent with the Future Land Use Map.

RECOMMENDATION:	
Annexation	Approval
Change of Zone	Approval

PROPOSED CITY COUNCIL DISTRICT ASSIGNMENT: District #1

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached

EXISTING LAND USE: Vacant (undeveloped) land

SURROUNDING LAND USE AND ZONING:

North:	R-3	Open space, Single Family Residential
South:	AG	Undeveloped land
East:	AG, P	Undeveloped land, Salt Creek, N. 48th Street Construction and Demolition Debris Landfill
West:	AG	Undeveloped land

HISTORY:

This property is part of the Northbank Junction development located north and south of Alvo Road and west of N. 56th Street. Preliminary Plat #03004 for Northbank Junction was approved in April 2004. Areas to the north and east within Northbank Junction were annexed and re-zoned from AG to R-3 and H-4 in April 2004. Final platting for those areas was approved as part of the Northbank Preserve Addition Final Plat and the Northbank Preserve 1st Addition Final Plat. This property is currently in review for final platting under Northbank Preserve 2nd Addition Final Plat #15107.

COMPREHENSIVE PLAN SPECIFICATIONS:

This area is shown as Urban Residential in the Future Land Use Plan of the 2040 Comprehensive Plan (p.12.3)

Continue the City's growth policy of contiguous urban growth; urban development will occur in areas immediately abutting the city that reflect a logical and timely extension of urban infrastructure (p.11.2)

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

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

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

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

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

Annexation generally implies the opportunity to access all City services within a reasonable period of time.

Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (e.g., water, sanitary sewer), and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area. The annexation of large projects may be done in phases as development proceeds.

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

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

UTILITIES:

All utilities are existing and available at this site. A public sanitary sewer trunk and water main were constructed in association with the Northbank Junction Conditional Annexation and Zoning Agreement for a previous phase of the Northbank Junction development north of this property and south of Alvo Road. Water and sewer lines have been extended south and are constructed approximately 0.1 miles north of this property along N. 50th Street. Extension of the water and sewer lines will continue south along N. 50th Street. Lincoln Electric System already serves this area. Because N. 50th Street is a local street and utilities are available, the developer would be responsible for the cost of installing utilities and street paving on this property.

TOPOGRAPHY:
The site is generally flat, and slopes up slightly from north to south.

TRAFFIC ANALYSIS:
N. 56th Street is classified as a Principal Arterial in the 2040 Comprehensive Plan.

PUBLIC SERVICE:
The nearest Lincoln Fire and Rescue station is located at Touzalin Avenue and Benton Street.

AESTHETIC CONSIDERATIONS: There are no residential or commercial design standards for this area.

ALTERNATIVE USES: The Comprehensive Plan shows this area as Urban Density Residential on the Future Land Use Map. This is a requested change of zone from AG to R-3 with the intention of constructing single-family residential. Therefore, the annexation and change of zone are in agreement with future land use identified for the area, and no alternative uses are suggested.

ENVIRONMENTAL CONCERNS:
This property is adjacent to Salt Creek and was previously located within the FEMA 100-year floodplain. However, a Letter of Map Revision Based on Fill (LOMR-F) was approved in October 2006 to remove the property from the designated floodplain.

There are existing wetlands on the property. The owners entered into a Conservation Easement Agreement with the City in April 2007. The Agreement protects flood storage capacity by restricting development and future use of certain areas (the Easement Area) within the part of Northbank Junction east of N. 56th Street and south of Alvo Road. The owner agreed to maintain the Easement Area as required by the Corps of Engineers permit #NE2002-11389, in order to preserve the wetlands by restricting the use of the easement area to open space or area that will not significantly impair or interfere with the preservation of the wetlands. The Easement Area is adjacent to this property on the east and southwest sides.

ANALYSIS:

1. This request is to annex approximately 4.02 acres and a change of zone from AG to R-3 over the same area. The land is contiguous to the City limits on the north. This land is covered by a previous annexation agreement.

2. The purpose of the change of zone and annexation is to allow the property owner to continue with the next phase of Northbank Junction Preliminary Plat #03004, which is on the south end of the project. The City has a policy of not changing the zoning on property from agricultural to commercial, industrial or residential unless the property is annexed.

3. The Future Land Use Map in the 2040 Comprehensive Plan identifies this area as Urban Density Residential.

4. The property owner will need to extend a sanitary sewer line to the property. The water main will not be extended until further development occurs on the site. Currently the nearest City water main and sanitary sewer line are approximately 450 feet to the north of this property within the Northbank Junction Preliminary Plat.

5. It is possible that if Final Plat #15107 is approved, the land could be automatically annexed and this annexation can be withdrawn.

6. The area of annexation is contiguous to the City limits on the north. The area of annexation is within the future service limits and Tier One Priority A as identified in the 2040 Comprehensive Plan. 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. Priority A serves as the "future urban area" for purposes of annexation per state statute, and these areas are appropriate for immediate annexation upon final plat approval. A previous annexation agreement covers the necessary infrastructure to serve the area.

Prepared by:

Rachel Jones
Planner

DATE: September 30, 2015

APPLICANT: REGA Engineering Group, Inc.
601 Old Cheney Road, Suite A
Lincoln, NE 68512

OWNER: Roger H. Schwisow Revocable Trust
1354 Pelican Bay Place
Lincoln, NE 68528

CONTACT: Marcia L. Kinning
601 Old Cheney Road, Suite A
Lincoln, NE 68512

ANNEXATION NO. 15009

ANNEXATION NO. 15009
TO ANNEX APPROXIMATELY 4 ACRES, ON
PROPERTY GENERALLY LOCATED AT
NORTH 56TH STREET AND ALVO ROAD

and

CHANGE OF ZONE NO. 15026
FROM AG AGRICULTURAL TO R-3 RESIDENTIAL
ALL GENERALLY LOCATED AT
NORTH 56TH STREET AND ALVO ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: **October 14, 2015**

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

Staff recommendation: Approval.

These applications were removed from the Consent Agenda for further discussion due to a letter received in opposition.

There were no ex parte communications disclosed.

Staff Presentation: **Rachel Jones of the Planning Department** came forward to state these two related applications cover the same area, generally located near N. 56th Street and Alvo Road. The area is covered by a previously approved preliminary plat and this would involve adding 14 additional residential lots to the development. The zoning from AG to R-3 would match the previously approved zoning to the north and the area is designated as future urban residential in the Comprehensive Plan. Sewer and water lines are already available along Alvo Road as part of the previous Annexation Agreement.

A resident in the area submitted comments regarding several concerns. Three of the comments related to drainage and standing water issues. Although these are important issues, Jones noted that they are not zoning related and these concerns were appropriately directed to Public Works. Jones said that it is her understanding that the applicant has been in contact with this neighbor and they are working on resolution of these item amongst themselves.

The fourth comment related to the fact that there is only one access point in and out of the development along Alvo Road connecting to N. 56th Street on the east. Jones noted that this is a temporary situation because there are several other access points planned for the future, including another connection to 56th Street and one connection to the north. It is important to note that there are natural barriers that prevent connections to the south and

west, such as Salt Creek, and an area of wetlands held by the Natural Resource District. The zoning and 2006 Annexation Agreement includes a provision which limits the owners to a maximum of 115 platted lots for dwellings over the preliminary plat area until a second permanent access point is constructed. So the basic idea is that there are limits in place to account for the single access and to prevent it from becoming overloaded. The agreement also provided that of the 115 maximum lots, 59 would be allowed north of Alvo Road and 56 would be allowed to the south. The 14 lots associated with these applications bring that south area to its maximum of 56 units.

Beecham asked if there was anyone from Public Works present. **Ben Higgins of the Public Works Department** came forward to answer questions.

Beecham asked Higgins to address the drainage issues in the area. Higgins stated that the letter from the concerned neighbor was reviewed. He stated that most of the drainage issues are from the final lot grading and there is a storm drain system in place. Public Works reviewed the plan and they are satisfied but not noted that there are definitely problems that occur with the final grading on individual lots.

Beecham asked what is done when those problems are reported. Higgins said they receive calls from homeowners and/or Building and Safety regarding these situations. If the building permit is closed, then it becomes a private property issue and has to be dealt with as such. If it is caught before the permit is closed, issues can be worked out to everyone's satisfaction.
It comes down to the final grading for each lot because they can affect each other.

Beecham went on to asked if, when an existing problem like this is brought forward by a homeowner, does it impact the decision for approval for an addition to that development. Higgins replied that it really does not impact the decision because that would create an unfair situation. Public Works makes a best effort to make the drainage work out well but individual builders can come through and change the grade on a lot. In that event, even the original developer does not have much say. It is a tough case and Public Works gets these types of calls every week.

PROPONENTS:

Roger Schwisow, co-owner of Northbank Reserve Development, 1354 Pelican Bay Place, came forward to state that unfortunately the grading on the house belonging to the homeowner who wrote the letter is very flat – there is a one-half percent grade in that area. Since it wasn't graded properly, the water will not drain properly. He stated he has met with that neighbor and the realtor and is working to solve the problem, which will involve burying part of the pipe.

Hove asked if the neighbor is now satisfied. Schwisow stated that they are as satisfied as they can be at this point. The property is not draining yet because another house was started right behind them and dirt was piled up against their property. This should be removed and, hopefully, resolved by next week.

Beecham asked if the grading will be better in the newly developed areas. Schwisow said it will still be approximately a one-half percent grade, but this area will not have anything behind it, so water can drain away into a ditch on either side. The street will be flat, but behind the properties there will be quite a bit more slope. He added that builders who buy lots are also now required to sign a deal stating that the final grade be inspected before they lay the sod to avoid this happening again.

ANNEXATION NO. 15009
ACTION BY PLANNING COMMISSION: October 14, 2015

Beecham moved approval, seconded by Harris.

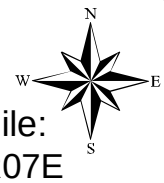
Motion for approval carried 8-0: Beecham, Cornelius, Harris, Hove, Lust, Scheer , Sunderman and Weber voting 'yes'; Corr absent. This is a recommendation to the City Council.

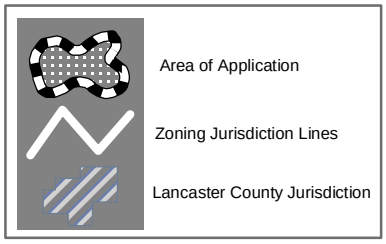
2013 aerial

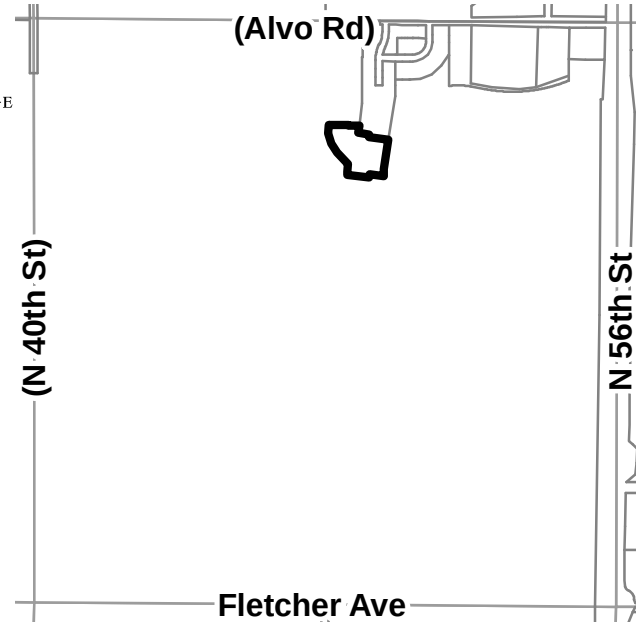
Change of Zone #: CZ15026 (AG to R-3) and
Annexation #: AN15009
Northbank Preserve
N 56th SSt & Alvo Rd
Zoning:

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.32 T11N R07E







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REGA
ENGINEERING
GROUP, INC.

File No. 151257

September 11, 2015

Mr. David Cary
Acting Director of Planning
Tom Cajka, Planner
City of Lincoln/ Lancaster County
555 South 10th Street
Lincoln, NE 68508

RE: NORTHBANK JUNCTION
CHANGE OF ZONE FROM 'AG' TO 'R-3' and ANNEXATION

Dear David,

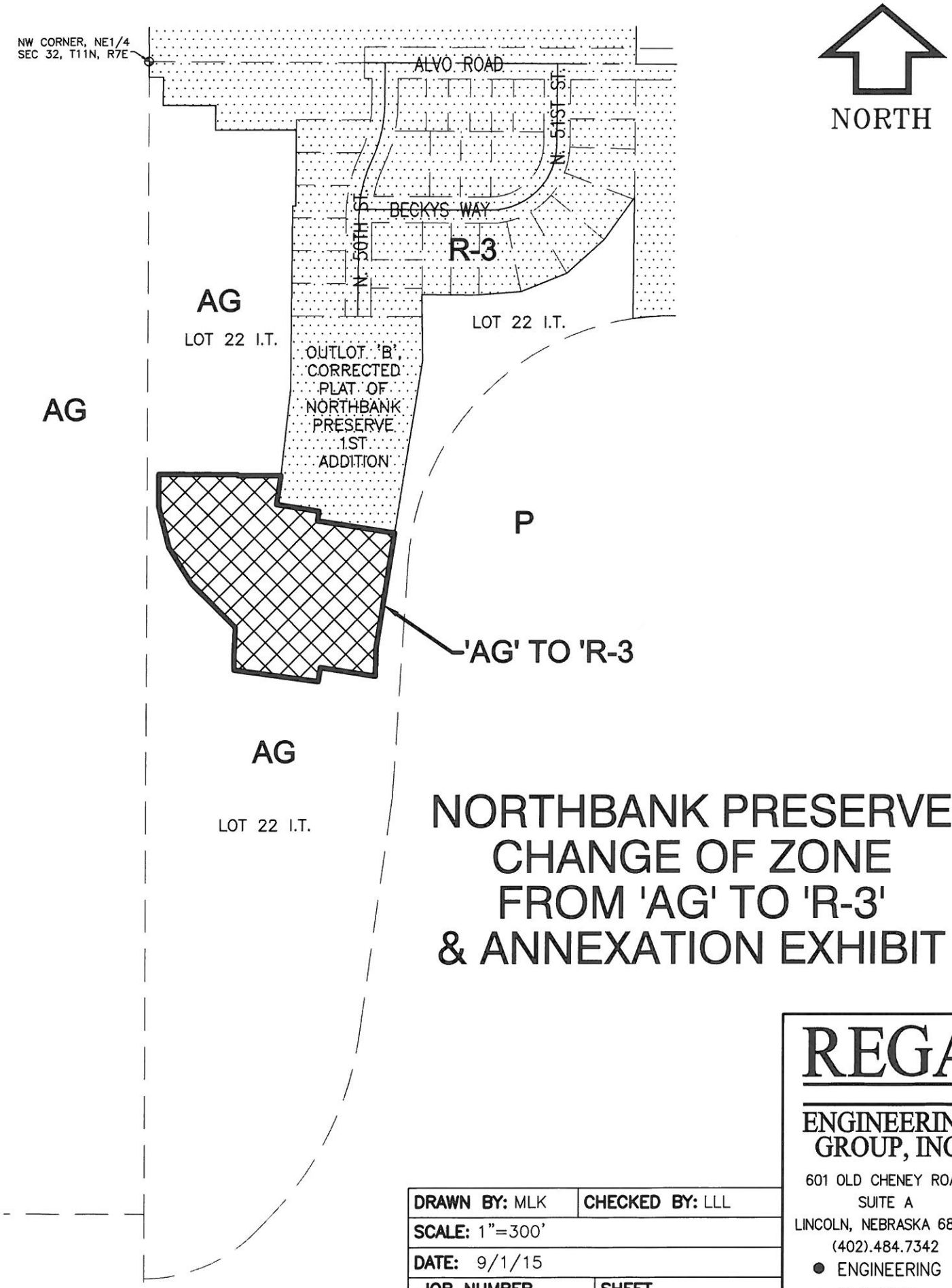
On behalf of Roger Schwisow, we are requesting a change of zone from 'AG' to 'R-3' and annexation on the next phase of Northbank Junction Preliminary Plat #03004 which is on the south end of the project. The change of zone consists of 4.02 acres within Lot 22 of Irregular Tracts in Section 22, Township 11 North, Range 7 East.

An administrative amendment to the preliminary plat and a final plat are being applied for separately, however they are related to this application.

Please contact us if you have any questions or concerns.

Sincerely,

Marcia L. Kinning
Cc: Roger Schwisow
Enclosed: Application Form
Application Fee of $792.00
Change of Zone and Annexation Exhibit
Legal Description



NORTHBANK PRESERVE CHANGE OF ZONE FROM 'AG' TO 'R-3' & ANNEXATION EXHIBIT

DRAWN BY: MLK	**CHECKED BY:** LLL
SCALE: 1"=300'	
DATE: 9/1/15	
JOB NUMBER	**SHEET**
151257	1OF1

REGA
ENGINEERING GROUP, INC.
601 OLD CHENEY ROAD
SUITE A
LINCOLN, NEBRASKA 68512
(402).484.7342
- ENGINEERING
- PLANNING

NORTHBANK PRESERVE
CHANGE OF ZONE FROM 'AG' TO 'R-3'
& ANNEXATION
LEGAL DESCRIPTION

A legal description of a portion of Lot 22 of Irregular Tracts located in the Northeast Quarter of Section 32, Township 11 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska and more particularly described as follows:

Commencing at the Northwest Corner of the Northeast Quarter of said Section 32 and extending thence S00°00'17"W along the west line of said Northeast Quarter a distance of 945.02 feet; Thence S89°37'24"E, a distance of 27.35 feet to the **POINT OF BEGINNING;**

THENCE continuing S89°37'24"E, a distance of 180.00 feet;
THENCE S00°22'36"W, a distance of 2.16 feet;
THENCE S89°37'24"E, a distance of 100.00 feet;
THENCE S08°57'36"W, a distance of 66.75 feet;
THENCE S81°02'24"E, a distance of 100.00 feet;
THENCE S08°57'36"W, a distance of 22.20 feet;
THENCE S81°02'24"E, a distance of 180.00 feet;
THENCE S08°57'36"W, a distance of 265.00 feet;
THENCE S01°37'08"W, a distance of 65.54 feet;
THENCE N81°02'24"W, a distance of 128.37 feet;
THENCE S08°57'36"W, a distance of 22.26 feet to a circular curve to the left, having a radius of 470.00 feet, a central angle of 01°13'59" and whose chord (10.12 feet) bears S08°20'37"W;
THENCE on the arc of said circular curve 10.12 feet;
THENCE N82°16'23"W, a distance of 197.04 feet;
THENCE N00°03'43"E, a distance of 27.09 feet;
THENCE N02°38'56"E, a distance of 70.61 feet;
THENCE N45°02'39"W, a distance of 142.16 feet;
THENCE N32°14'02"W, a distance of 97.50 feet;
THENCE N14°04'48"W, a distance of 97.66 feet;
THENCE N00°22'36"E, a distance of 73.01 feet to the **POINT OF BEGINNING,** containing a calculated area of 175,209.46 square feet or 4.02 acres.