



15R-194

Introduce: 9-14-15

RESOLUTION NO. A- 89257

1 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

2 That the Conditional Annexation and Zoning Agreement which is attached hereto,
3 marked as Exhibit "A" and made a part hereof by reference, between the City of Lincoln
4 and Monte and Lisa Froehlich, relating to the annexation of a portion of property generally
5 located at 70th Street and Arbor Road and legally described as Lot 59 I.T., located in the
6 Southwest Quarter of Section 27, Township 11 North, Range 7 East of the 6th P.M., Lincoln,
7 Lancaster County, Nebraska and the re-zoning of a part of the annexed portion of Lot 59
8 I.T. from AG Agricultural District to H-3 Highway Commercial District, as set out in the
9 Agreement is hereby approved and the Mayor is authorized to execute the Conditional
10 Annexation and Zoning Agreement on behalf of the City.

11 BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully
12 executed copy of the Conditional Annexation and Zoning Agreement to Tom Cajka,
13 Planning Department, for distribution to the Owners.

14 BE IT FURTHER RESOLVED that the City Clerk is directed to record the
15 Conditional Annexation and Zoning Agreement with the Register of Deeds to be indexed
16 against Lot 59 I.T., located in the Southwest Quarter of Section 27, Township 11 North,
17 Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska. Recording fees are
18 to be paid in advance by Monte and Lisa Froehlich.

19 BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy
20 of this Agreement to Michaela Dugan, Impact Fee Administrator.

Introduced by:

Paul Stang

AYES: Christensen, Eskridge,
Fellers, Gaylord Baird, Lamm,
Raybould; NAYS: None; ABSENT:
Camp.

Approved as to Form and Legality:

Jeffrey R. Webster
City Attorney

ADOPTED
SEP 21 2015
BY CITY COUNCIL

Approved this 24th day of Sept., 2015:

Clayton
Mayor

CONDITIONAL ANNEXATION AND ZONING AGREEMENT

THIS CONDITIONAL ANNEXATION AND ZONING AGREEMENT

("Agreement") is made and entered into this 4th day of September, 2015, by and between **MONTE and LISA FROEHLICH**, husband and wife, hereinafter collectively referred to as "Owner," and the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation, hereinafter referred to as "City."

RECITALS

- A. Owner is the owner of Lot 59 I.T. located in the Southwest Quarter of Section 27, Township 11 North, Range 7 East of the 6th Principal Meridian, Lancaster County, Nebraska ("Lot 59 I.T.").
- B. Lot 59 I.T. is located outside of the corporate limits of the City of Lincoln and is zoned AG Agricultural District.
- C. Owner is requesting the City to annex a portion of Lot 59 I.T. and rezone a part of the annexed portion of Lot 59 I.T. from AG Agricultural District to H-3 Highway Commercial District. The property to be annexed and that portion of the annexed property to be rezoned are legally described in Attachment "A", attached hereto and incorporated herein by this reference
- D. It is a policy of the City to not re-zone AG Agricultural District zoned land until such land is annexed into the corporate limits.
- E. Lot 59 I.T. cannot currently be served by the City's public wastewater system and water system and the City does not currently have sufficient funds or plans for the extension of such systems to serve Lot 59 I.T.

F. Owner has represented to the City that Owner does not desire or need the City's public wastewater system or water system to be extended to serve Lot 59 I.T. if Lot 59 I.T. is rezoned to H-3 Highway Commercial District.

G. Lot 59 I.T. is located within the Waverly Rural Fire Protection district. *Neb. Rev. Stat. § 35-514*, dealing with the City's annexation of territory from rural fire protection districts, provides in part that: "(7) Areas duly incorporated within the boundaries of a municipality shall be automatically annexed from the boundaries of the district notwithstanding the provisions of § 31-766 and shall not be subject to further tax levy or other charges by the district, except that before the annexation is complete, the municipality shall assume and pay that portion of all outstanding obligations of the district which would otherwise constitute an obligation of the area annexed or incorporated." The City is willing to annex Lot 59 I.T. as requested by Owner provided Owner agrees to pay all costs needed for the City to assume and pay that portion of all outstanding obligations of the district which would otherwise constitute an obligation of Lot 59 I.T. being annexed.

NOW, THEREFORE, in consideration of the above recitals and mutual covenants contained herein, the parties agree as follows:

1. Annexation by the City. The City agrees to annex that portion of Lot 59 I.T. described in Attachment "A".

2. Change of Zone. The City agrees to rezone a portion of the annexed part of Lot 59 I.T. from AG Agriculture District to H-3 Highway Commercial District.

3. Public Sanitary Sewer and Water. Owner understands and agrees that Lot 59 I.T. cannot be served by the City's wastewater system and water system. Owner understands and acknowledges that the cost to design and construct extensions of the City's wastewater system and

water system is not shown in the City's current Capital Improvement Program. Notwithstanding the lack of public sewer and water Owner desires that the portion of Lot 59 I.T. described in Attachment "A" be immediately annexed into the City of Lincoln. Therefore, as an inducement for the City to annex that portion of Lot 59 I.T., Owner agrees that Owner shall not request the City to provide Owner with public sewer and water earlier than contemplated in the Lincoln/Lancaster County 2040 Comprehensive Plan as the same may be amended. As a further inducement for such annexation, Owner certifies that Owner does not desire or need the City's public wastewater system and water system to be extended to serve Lot 59 I.T. for its proposed use as a storage facility and/or contractor services in the H-3 Highway Commercial District. Owner further certifies that Owner shall not convert nor request to convert the use of Lot 59 I.T. to a use which requires City public wastewater and public water service to Lot 59 I.T. until such time as the City's public wastewater system and water system are extended to serve Lot 59 I.T.

4. Further Development. Owner acknowledges and agrees that in the event he/she desires to further develop Lot 59, I.T. beyond the portion being rezoned hereby, he/she will need to submit a preliminary plat with the City and comply with any and all applicable zoning and subdivision requirements. Further, Owner agrees that current access to the site is subject to change at such time as the property is further developed.

5. Fire Protection Services. Owner understands and acknowledges that until such time as the public water system is extended to serve Lot 59 I.T. City fire protection services available to Lot 59 I.T. will not have fire hydrants and the Fire Department will have to use water from less desirable alternative means.

6. On-site Wastewater and Individual Water Wells. City and Owner acknowledge that the wastewater and water service needs for Lot 59 I.T. shall be served by an

on-site wastewater treatment system and individual water wells until such time as the City's public wastewater system and water system, respectively, is within 300 feet and available to serve Lot 59 I.T. Said on-site wastewater system and individual water wells shall comply with Lincoln/Lancaster County Health Department Standards and Regulations.

7. Contribution for Rural Fire District. Owner understands and acknowledges that the City's annexation of Lot 59 I.T. lying within the boundaries of the Waverly Rural Fire District shall not be complete except upon the City assuming and paying that portion of all outstanding obligations of the District which would otherwise constitute an obligation of Lot 59 I.T. being annexed. Owner agrees to pay the City whatever amount which must be paid by the City to Waverly Rural Fire District in order for the annexation to be complete.

8. Binding Effect. This Agreement shall run with the land and be binding upon and inure to the benefit and burden of successors and assigns of the respective parties.

9. Amendments. This Agreement may only be amended or modified in writing signed by the parties hereto.

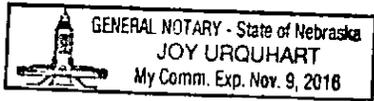
10. Governing Law. All aspects of this Agreement shall be governed by the laws of the State of Nebraska.

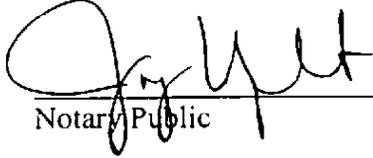
11. Authority. This Agreement has duly executed and delivered by the parties and constitutes a legal, valid and binding obligation of each party, enforceable against the same in accordance with its terms.

12. Recording. This Agreement or summary memorandum thereof shall be recorded by the City with the Register of Deeds of Lancaster County, filing fees therefor to be paid in advance by the Owner.

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 4th day of September, 2015, by Monte Froehlich, Husband.

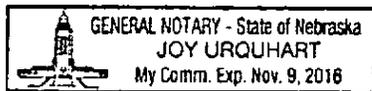


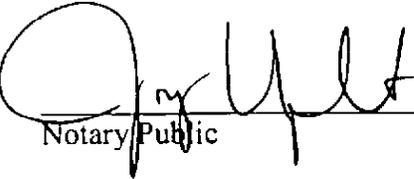


Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 4th day of September, 2015, by Lisa Froehlich, Wife.





Notary Public

Change of Zone AG to H-2
70th & Arbor Road

A legal description of a portion of Lot 59 I.T. located in the Southwest Quarter of Section 27, Township 11 North, Range 7 East, of the Sixth P.M., Lincoln, Lancaster County Nebraska and more particularly described as follows:

Beginning at the Northwest corner of Lot 59 I.T. thence Easterly on the North line of Lot 59 I.T. and the Southerly Right-of-Way of Arbor Road and on an assumed bearing of S 88°21'19" E for a distance of 133.30'; Thence S 01°38'41" W for a distance of 5.00'; Thence S 88°21'19" E continuing on the North line of Lot 59 I.T. and the Southerly Right-of-Way of Arbor Road for a distance of 78.81'. Thence S 01°38'41" W for a distance of 221.75'; Thence N 89°57'31" W for a distance of 175.64' to a point on the Westerly lot line of Lot 59 I.T. Thence northerly to a point on the West line of Lot 59 I.T. N 02°02'29" E for a distance of 118.31'; Thence N 88°15'10" W for a distance of 30.05'; Thence N 00°02'29" E for a distance of 113.39' to the Point of Beginning and containing a calculated area of 1.01 Acres more or less.

Annexation
70TH & Arbor Road

A legal description of a portion of Lot 59 I.T. located in the Southwest Quarter of Section 27, Township 11 North, Range 7 East, of the Sixth P.M., Lincoln, Lancaster County Nebraska and more particularly described as follows:

Beginning at the Northwest corner of Lot 59 I.T. thence Easterly on the North line of Lot 59 I.T. and the Southerly Right-of-Way of Arbor Road and on an assumed bearing of S 88°21'19" E for a distance of 133.30'; Thence S 01°38'41" W for a distance of 5.00'; Thence S 88°21'19" E continuing on the North line of Lot 59 I.T. and the Southerly Right-of-Way of Arbor Road for a distance of 78.81'. Thence S 01°38'41" W for a distance of 221.75'; Thence S 00°02'12" W for a distance of 945.05' to a point on the South line of said Lot 59 I.T., Thence in a Westerly direction on the South line of said Lot 59 I.T. on a bearing of N 88°14'16" W for a distance of 175.79 feet to the southwest corner of said Lot 59 I.T., Thence Northerly on the West line of said Lot 59 I.T. on a bearing of N 00°02'29" W for a distance of 1058.08 feet, Thence N 88°15'10" W for a distance of 30.05'; Thence N 00°02'29" E for a distance of 113.39' to the Point of Beginning and containing a calculated area of 4.81 Acres more or less.