

# **Lincoln City - Lancaster County**

## **PLANNING COMMISSION AGENDA**

### **PLANNING COMMISSION**

Dennis Scheer: Chair  
Tracy Corr: Vice-Chair  
Thomas Beckius  
Dick Campbell  
Tracy Edgerton  
Deane Finnegan  
Maja V. Harris  
Cristy Joy  
Sandra Washington

### **PLANNING STAFF**

David R. Cary: Director  
Geri Rorabaugh: Administrative Officer  
Amy Huffman: Office Specialist

## **March 6, 2019**



**NOTICE:** The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, March 6, 2019, at 1:00 p.m. in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

**\*\*PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of "FINAL ACTION". Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

## AGENDA

WEDNESDAY, MARCH 6, 2019

Approval of minutes of the regular meeting held February 20, 2019.

1. **CONSENT AGENDA**  
**(Public Hearing and Administrative Action):**

**COMPREHENSIVE PLAN CONFORMANCE:**

- 1.1  
Page 01
- Comprehensive Plan Conformance 19002, to review as to conformance with the 2040 Lincoln Lancaster County Comprehensive Plan, a proposed conservation easement of 135 acres, more or less, to preserve native prairie and other natural features of the easement area, to be acquired as part of the Prairie Corridor on Haines Branch, on property generally located at 9600 SW 84th Street.  
**Staff recommendation: Conformance with the Comprehensive Plan**  
**Staff Planner: Andrew Thierolf, 402-441-6371, [athierolf@lincoln.ne.gov](mailto:athierolf@lincoln.ne.gov)**

**SPECIAL PERMITS:**

- 1.2  
Page 25
- Special Permit 15019A, allow for a 6,250-square foot expansion of the existing building for the sale of alcohol for consumption on and off the premises, on property generally located at 321 Victory Lane. **\*\*FINAL ACTION\*\***  
**Staff recommendation: Conditional Approval**  
**Staff Planner: Brian Will, 402-441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)**
- 1.3  
Page 37
- Special Permit 19010, to allow for the sale of alcoholic beverages for consumption off the premises, on property generally located at 301 Oak Creek Drive. **\*\*FINAL ACTION\*\***  
**Staff recommendation: Conditional Approval**  
**Staff Planner: Brian Will, 402-441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)**

2. **REQUESTS FOR DEFERRAL:**

3. **ITEMS REMOVED FROM CONSENT AGENDA:**

4. **PUBLIC HEARING AND ADMINISTRATIVE ACTION:**

**SPECIAL PERMIT:**

4.1 County Special Permit 14044A, to allow for an expansion of existing commercial  
Page feedlot by adding 86,000 broiler chickens in 4 barns, on property generally  
45 located at 7850 North 148th Street. **\*\*FINAL ACTION\*\***

**Staff recommendation: Conditional Approval**

**Staff Planner: Tom Cajka, 402-441-5662, [tcajka@lincoln.ne.gov](mailto:tcajka@lincoln.ne.gov)**

**AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM  
NOT ON THE AGENDA, MAY DO SO**

\*\*\*\*\*

**Adjournment:**

**PENDING LIST:**

*Special Permit 18045, to allow for a County AG (Agricultural District) CUP (Community Unit Plan), consisting of 148.49 acres, more or less, for 9 single family acreage lots on property generally located at North 14th Street and Rock Creek Road.*

*Annexation No. 18003, to annex approximately 24.1 acres, more or less, on property generally located at 7420 Yankee Hill Road.*

*Change of Zone No. 18015, from AGR (Agricultural Residential District) to R-3 (Residential District), on property generally located at 7420 Yankee Hill Road.*

*Special Permit No. 18022, for a 55 lot CUP (Community Unit Plan), with waivers to allow sanitary sewer to flow opposite street grades, block length, pedestrian easements, lot lines radial to streets, 2 to 1 side slope for detention embankments, and sidewalks along one side of a street, on property generally located at 7420 Yankee Hill Road. **\*\*FINAL ACTION\*\****

**Planning Department Staff Contacts:**

David Cary, *Director*.....402-441-6364 ..... [dcary@lincoln.ne.gov](mailto:dcary@lincoln.ne.gov)  
 Stephen Henrichsen, *Development Review Manager*.....402-441-6374 ..... [shenrichsen@lincoln.ne.gov](mailto:shenrichsen@lincoln.ne.gov)  
 Paul Barnes, *Long Range Planning Manager* .....402-441-6372 ..... [pbarnes@lincoln.ne.gov](mailto:pbarnes@lincoln.ne.gov)  
 Collin Christopher, *Planner* .....402-441-6372 ..... [cchristopher@lincoln.ne.gov](mailto:cchristopher@lincoln.ne.gov)  
 Michael Brienzo, *Transportation Planner* . .....402-441-6369 ..... [mbrienzo@lincoln.ne.gov](mailto:mbrienzo@lincoln.ne.gov)  
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 Stacey Groshong Hageman, *Planner* ... .....402-441-6361 ..... [shageman@lincoln.ne.gov](mailto:shageman@lincoln.ne.gov)  
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 George Wesselhoft, *Planner*.....402-441-6366 ..... [gwesselhoft@lincoln.ne.gov](mailto:gwesselhoft@lincoln.ne.gov)  
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 Kellee Van Bruggen, *Transportation Planner* .....402-441-6363 ..... [kvanbruggen@lincoln.ne.gov](mailto:kvanbruggen@lincoln.ne.gov)  
 Ed Zimmer, *Historic Preservation Planner* . .....402-441-6360 ..... [ezimmer@lincoln.ne.gov](mailto:ezimmer@lincoln.ne.gov)

\* \* \* \* \*

**The Planning Commission meeting  
which is broadcast live at 1:00 p.m. every other Wednesday  
will be rebroadcast on Wednesdays at 7:00 p.m., Thursdays at 12:00 a.m. and  
Sundays at 12:30 p.m. on 5 City TV, Cable Channel 5.**

**\* \* \* \* \***

**The Planning Commission agenda may be accessed on the Internet at  
<http://www.lincoln.ne.gov/city/plan/pcagenda/index.htm>**

### **ACCOMMODATION NOTICE**

The City of Lincoln complies with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 guidelines. Ensuring the public's access to and participating in public meetings is a priority for the City of Lincoln. In the event you are in need of a reasonable accommodation in order to attend or participate in a public meeting conducted by the City of Lincoln, please contact the Director of Equity and Diversity, Lincoln Commission on Human Rights, at 402 441-7624 as soon as possible before the scheduled meeting date in order to make your request.

**LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT**

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Comprehensive Plan Conformance #19002 Cochran Conservation Easement	FINAL ACTION? Yes	OWNER Cindy Cochran Revocable Trust
PLANNING COMMISSION HEARING DATE March 6, 2019	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 9600 SW 84 <sup>th</sup> Street

**RECOMMENDATION: IN CONFORMANCE WITH THE COMPREHENSIVE PLAN**

**BRIEF SUMMARY OF REQUEST**

The purpose of this application is to find that the acquisition of a permanent conservation easement conforms to the 2040 Comprehensive Plan. This easement is being acquired as part of the Prairie Corridor on Haines Branch, a cooperative project between the City of Lincoln, Lower Platte South NRD, and Spring Creek Prairie Audubon Center.



**JUSTIFICATION FOR RECOMMENDATION**

This conservation easement is for the purpose of preserving native tall grass prairie as part of the Prairie Corridor on Haines Branch project. The proposed easement is not an obstacle to any planned action on the site. The County Engineer provided comments regarding a slight revision to the proposed easement boundary. These changes will be incorporated into the final easement language.

**APPLICATION CONTACT**

Dan Schulz, Lower Platte South NRD  
(402) 476-2729, [dschulz@lpsnrd.org](mailto:dschulz@lpsnrd.org)

**STAFF CONTACT**

Andrew Thierolf, (402) 441-6371 or  
[athierolf@lincoln.ne.gov](mailto:athierolf@lincoln.ne.gov)

**COMPATIBILITY WITH THE COMPREHENSIVE PLAN**

The Comprehensive Plan supports implementation of the Prairie Corridor on Haines Branch through land acquisition and conservation easements.

## KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

### p. 1.4 VISION FOR ENVIRONMENTAL STEWARDSHIP AND SUSTAINABILITY

LPlan 2040 commits Lincoln and Lancaster County to sustainable growth through preservation of unique and sensitive habitats and the encouragement of creative integration of natural systems into developments. The importance of building sustainable communities — communities that conserve and efficiently utilize our economic, social, and environmental resources so that the welfare of future generations is not compromised - has long been recognized. This concept has grown in importance with increased understanding of the limits to energy supplies and community resources, the likelihood that energy costs will continue to increase in the future, the climatic impacts of energy consumption, and the impacts on the physical and economic health of the community. LPlan 2040 describes a community that values natural and human resources, supports advances in technology, and encourages development that improves the health and quality of life of all citizens.

The following goal is based on this *Environmental Stewardship and Sustainability* statement:

- Natural and environmentally sensitive areas are preserved and thrive. Wetlands, native prairies, endangered species, and stream (riparian) corridors are preserved to ensure the ecological health of the community.

### p. 1.9 The 2040 Future Land Use Plan shows this area as Agriculture.

### p. 2.8 GUIDING PRINCIPLES FOR COMMUNITY FORM THE URBAN ENVIRONMENT: OVERALL FORM

Natural and environmentally sensitive areas should be preserved within and between neighborhoods. Conservation areas and open lands should be used to define and connect different neighborhoods. The natural topography and features of the land should be preserved by new development to maintain the natural drainageways and minimize land disturbance.

### p. 3.3 ENVIRONMENTAL RESOURCES: GUIDING PRINCIPLES

**Seek early identification of areas to be preserved** - While planning for future growth is integral to LPlan 2040, it is equally important that environmental resource features be accorded similar attention. The community should invest planning resources into the early identification of those areas that are most valued as part of the Greenprint Challenge. This principle supports the notion of “getting ahead of the game” by knowing what resources are most valued, where they are located, and what actions should be made within the broader planning process to secure their future for the community.

**Make “Green Space” an Integral Part of All Environments** - “Green space” can come in a wide variety of forms. The policies of LPlan 2040 should strive to incorporate such uses in the full range of urban and rural landscapes. (p. 3.4)

### p. 3.4 THE GREENPRINT CHALLENGE: OVERVIEW

The purpose of the *Greenprint Challenge* is to assure the long term health and integrity of the ecosystem upon which Lancaster County is superimposed, and to capture the community-wide quality of life and economic benefits that can be derived from the area’s environmental resource features.

### p. 3.6 ENVIRONMENTAL RESOURCE FEATURES AND STRATEGIES

As an LPlan 2040 land use category, “environmental resources” represent an important part of today’s urban and rural landscapes. Such features need to be valued and sustained as part of the overall planning process if they are to remain as vital parts of the natural heritage left for succeeding generations. These features help to define the County’s unique sense of place — geographically, culturally, and temporally. The Plan fully recognizes the harmony and connections that exist within and among these features.

p. 3.12 GREENWAYS AND OPEN SPACES

Open space and greenway linkages form systems of land preserved in an undeveloped state, often due to unique natural attributes such as floodplains and associated riparian areas, saline and freshwater wetlands, and native prairies. The local and regional commuter and recreational trail system is often integrated with greenway linkages.

**Strategies: General**

Continue to use conservation easements to protect greenway areas where it may be desirable to allow compatible land uses such as row crop farming or pasturing. (p. 3.14)

Encourage the retention of linear connections of green spaces wherever possible. Efforts should be made to preserve small stream corridors throughout future developments. (p. 3.14)

Pursue greenways connecting urban and rural areas. Such corridors should follow stream courses and connect valuable natural resource areas. (p. 3.14)

**Strategies: Prairie Corridor on Haines Branch**

Continue the Pioneers park trail network along Haines Branch to connect with Conestoga Lake and then continue south by the Village of Denton and on to Spring Creek Prairie Audubon Center. These connections would form a corridor encompassing over 2,000 acres of native prairie and two premier prairie education centers - Pioneers Park Nature center and Spring Creek Prairie Audubon Center. (p. 3.14)

p. 3.15 This site is shown as part of the Prairie Corridor on Haines Branch (p. 3.15)

p. 9.9 OPEN SPACE AND GREENWAY LINKAGES DESCRIPTION

Open space and greenway linkages are a system or network of areas preserved in an undeveloped state due to unique natural attributes, such as floodplains and associated riparian areas, saline and freshwater wetlands, and native prairies. Some areas may be protected through conservation easements that allow for compatible land use activities such as row crop farming or pasturing. Fee simple title may be acquired for other areas that are best maintained in a natural state due to particularly sensitive features (e.g., rare or sensitive habitat areas), or that have value for resource-based recreation activities (e.g., hiking, interpretive activities, wildlife viewing). The local and regional commuter/recreation trail system should be integrated with the greenway linkages.

**ANALYSIS**

1. This proposed conservation easement is being acquired as part of a cooperative project between the City of Lincoln, Lower Platte South NRD, and Spring Creek Prairie Audubon Center known as the Prairie Corridor on Haines Branch. The purpose of the overall project is to preserve a corridor of native tall grass prairie stretching from Pioneers Park Nature Center to Spring Creek Prairie Audubon Center to include conservation, habitat development, trail corridor, educational, research, and economic development goals.
2. Investigation of aerial photography, as well as discussion with the long-time owners, indicates the parcel has approximately 120 acres of previously untilled tall grass prairie. Tall grass prairie is one of the most endangered ecosystems in the world with estimates as low as one percent of historic prairie remaining.
3. The primary purpose of the proposed conservation easement is to preserve native tall grass prairie. The easement will also preserve the natural topography and drainage of the property.
4. This request if approved would find the potential conservation easement to be in Conformance with the Comprehensive Plan.
5. A total of one parcel and 135.48 acres are within this request, although that number will be slightly lower once the easement boundary is adjusted per the County Engineer's request discussed in analysis item 10.

6. The Nebraska Conservation and Preservation Easement Act (Nebraska Revised Statute §§ 76-2,111 to 76-2,118) requires that the acquisition of conservation easements be referred to the local planning commission having jurisdiction over the properties prior to the acquisition. The Planning Commission must provide comments regarding the conformity of the proposed acquisition to comprehensive planning for the area. (NEB. REV. STAT. §76-2,112). Since the Lower Platte South NRD is the sole recipient of the easement, the agreement does not need to be forwarded to City Council or County Board for approval.
7. The Lower Platte South NRD can accept or acquire the conservation easement after the Planning Commission determines the easement conforms to the Comprehensive Plan. Since the NRD is the sole beneficiary named in the easement, the easement agreement does not require approval from the County Board or City Council.
8. Negotiations regarding cost of the easement are ongoing with the property owners. Funding would come from an anticipated Nebraska Environmental Trust Grant and matching funds.
9. The Easement Agreement includes provisions prohibiting specific uses and practices. Prohibited activities include, but are not limited to:
  - Construction of buildings, roads, mobile homes, signs, billboards, or any other structure.
  - Removal, destruction, or degradation of grassland habitat or plant materials.
  - Changing of topography, including mining.
  - Dumping or storage of materials.

Permitted activities include haying once a year, limited grazing, prescribed burns, and other minimally-impactful activities. A complete list of prohibited and permitted activities can be found starting on page 5 of the attached agreement.
10. The County Engineer provided a slightly revised easement boundary in order to accommodate future right-of-way expansions. The revised boundary description and illustrative graphics are attached. Lower Platte South NRD accepts these changes and the final language of the easement will include the revised boundary.

**EXISTING LAND USE & ZONING:** Pasture/Grassland, AG Agriculture

**SURROUNDING LAND USE & ZONING**

North: Acreage Residential, Pasture/Grassland	AG Agriculture
South: Agriculture, Pasture/Grassland	AG Agriculture
East: Agriculture, Pasture/Grassland	AG Agriculture
West: Farmstead, Agriculture, Pasture/Grassland	AG Agriculture

**APPLICATION HISTORY**

- 2012 Salt Valley Greenway and Prairie Corridor Master Plan completed.
- 2013 Nebraska Environmental Trust Grant (3 years, \$900,000) awarded for the first phase of the Prairie Corridor on Haines Branch project.
- 2016 Nebraska Environmental Trust Grant (3 years, \$760,000) awarded for the second phase of the project.

**APPROXIMATE LAND AREA:** 135.48 acres (will be slightly smaller with revised easement area per County Engineer)

**LEGAL DESCRIPTION:** Lot 29 in the SW ¼ of 26-9-5

Prepared by

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Andrew Thierolf, AICP

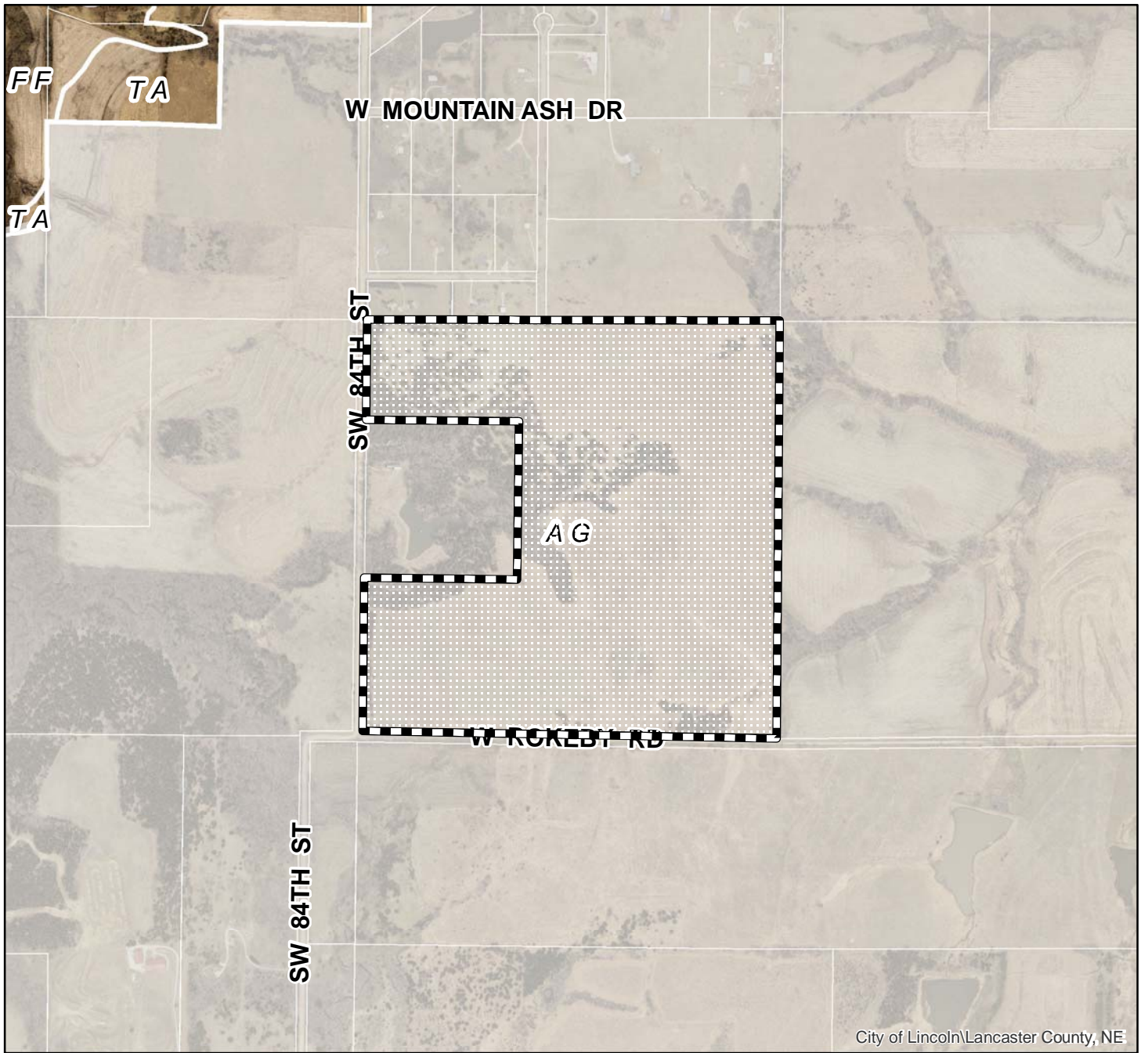
February 21, 2019

Applicant: Paul Zillig, Director  
Lower Platte South NRD  
3125 Portia Street  
Lincoln, NE 68521

Contact: Dan Schulz  
Lower Platte South NRD  
3125 Portia Street  
Lincoln, NE 68521  
[dschulz@lpsnrd.org](mailto:dschulz@lpsnrd.org)

Owner: Cindy A Cochran Revocable Trust  
9600 SW 84<sup>th</sup> Street  
Denton, NE 68339

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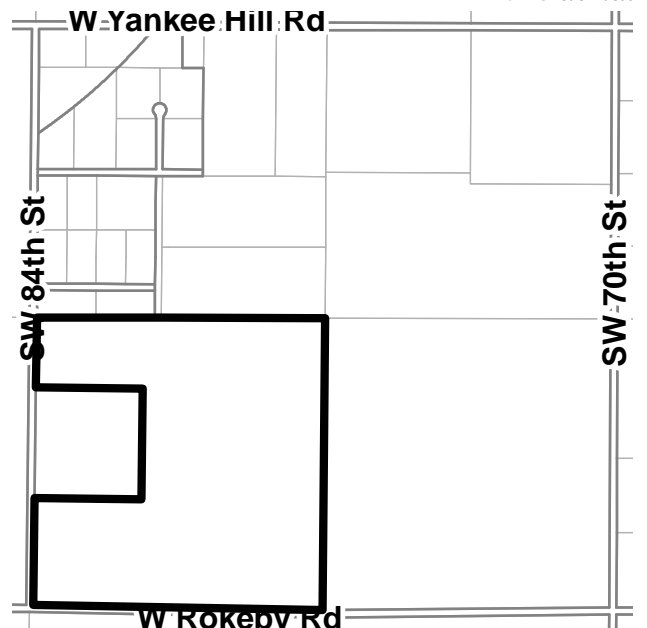
2018 aerial

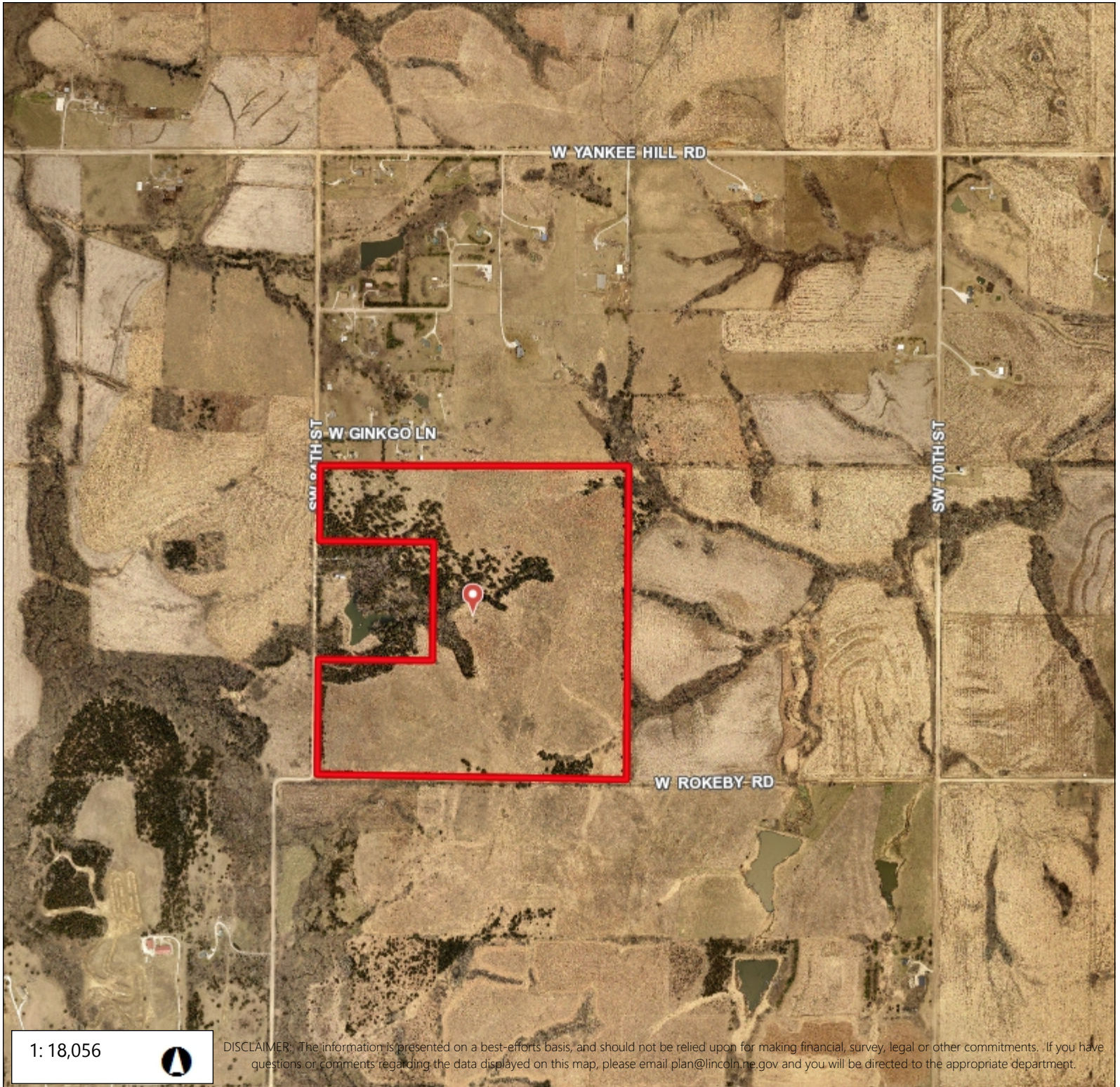
Comp Plan Conformance #: CPC19002

**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.26 T09N R05E







1: 18,056

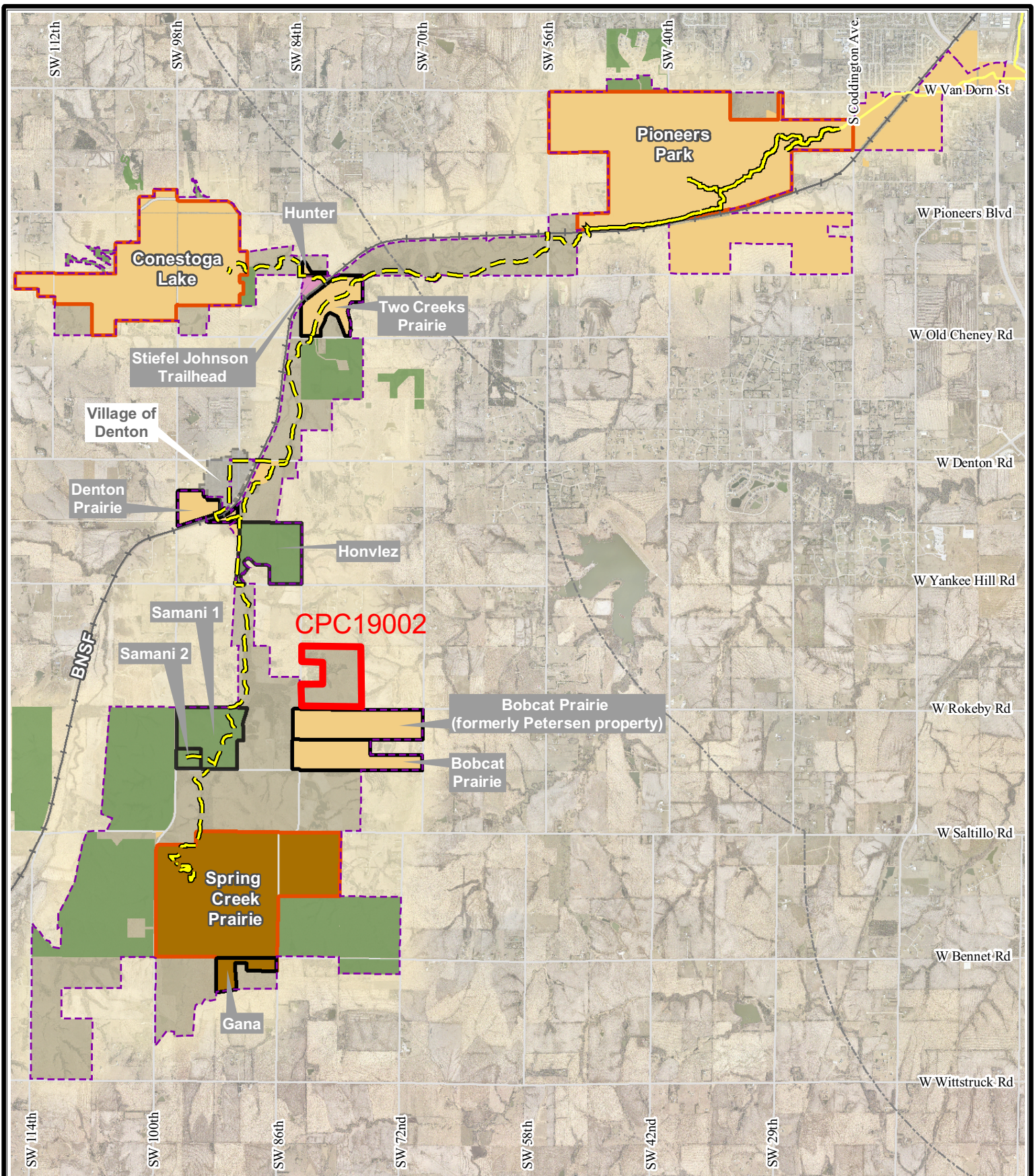


DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email [plan@lincoln.ne.gov](mailto:plan@lincoln.ne.gov) and you will be directed to the appropriate department.

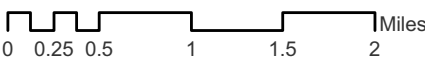
Legend

-  Building Footprints
-  Parcels\_Aerial





### Prairie Corridor on Haines Branch



- Priority Area
- Destination Areas
- Conservation Easement
- Conservation Easement (Addition)
- 3-mile Jurisdiction
- Under Contract
- Public/Conservation Ownership
- BNSF RR
- Public/Conservation Ownership (Addition)
- Existing PC Trail
- Spring Creek Prairie (Addition)
- Future PC Trail



## LOWER PLATTE SOUTH natural resources district

3125 Portia Street | P.O. Box 83581 • Lincoln, Nebraska 68501-3581 | P: 402.476.2729 • F: 402.476.6454 | [www.lpsnrd.org](http://www.lpsnrd.org)

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February 6, 2019

David Cary, Director  
Lincoln/Lancaster County Planning Department  
555 S. 10<sup>th</sup> St  
Lincoln, NE 68510

Dear Mr. Cary,

This letter is to request the review of the acquisition of a permanent conservation easement from the Cindy A. Cochran Revocable Trust for conformance with the Comprehensive Plan. The easement to be acquired is comprised of 135.48 acres generally located at SW 84<sup>th</sup> and W Rokeby Road, as shown in the attached exhibits. It is legally described as Lot 29, I.T. located in the SW Quarter of Section 26-9-5, Lancaster County, NE.

The boundaries and landmarks within the easement area are shown on Exhibit A. Existing Conditions are shown in Exhibit B and C. Initial investigation of historical aerial photography, as well as discussion with the long-time owners, indicates this parcel has approximately 120 acres of previously untilled tall grass prairie. This easement is being acquired as part of a cooperative project between the City of Lincoln, Lower Platte South NRD, and Spring Creek Prairie Audubon Center known as the Prairie Corridor on Haines Branch. The purpose of the project is to preserve a corridor of native tall grass prairie stretching from Pioneers Park Nature Center to Spring Creek Prairie Audubon Center to include conservation, habitat development, trail corridor, educational, research and economic development goals. Tall grass prairie is one of the most endangered ecosystems in the world with estimates as low as 1% of historic prairie remaining.

Major provisions of the easement include:

- Conservation of the grassland/prairie area shown on Exhibit B, with a provision that the District may work cooperatively with the owner on management, restoration and enhancement of this resource.
- Preservation of the natural topography and drainage of the property and prevention of mining or dumping on the property.
- Prevention of uses and practices that are inconsistent with conservation of the natural resources, such as construction of buildings, roads, or other structures, destruction or degradation of habitat, and other inconsistent uses.

- Continued use of property for grazing or haying as provided in the agreement.

It is our understanding that this review for Comprehensive Plan Conformity will be final action at the Planning Commission, and we would like to request the item be scheduled for the March 6 Planning Commission agenda.

If you have any questions, please feel free to contact me or Dan Schulz at 402-476-2729 or [pzillig@lpsnrd.org](mailto:pzillig@lpsnrd.org) or [dschulz@lpsnrd.org](mailto:dschulz@lpsnrd.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Zillig', with a long horizontal flourish extending to the right.

Paul Zillig  
General Manager

## CONSERVATION EASEMENT

THIS GRANT OF A CONSERVATION EASEMENT is made by Cindy A. Cochran Revocable Trust 9500 S. W. 84<sup>th</sup> Street, Denton, Nebraska, 68339, hereinafter referred to as “Grantor,” to the Lower Platte South Natural Resources District, a political subdivision of the State of Nebraska, with its principal office located at 3125 Portia Street, Lincoln, Nebraska 68521, hereinafter referred to as “District.”

1. Introductory Statement. This Conservation Easement is given pursuant to and in accordance with the Conservation and Preservation Easements Act, *Neb. Rev. Stat. §§ 76-2,111 to 76-2,118* (“Act”). Lower Platte South Natural Resources District is a political subdivision of the State of Nebraska and is qualified and has the authority to hold a conservation easement pursuant to the Act.

2. Easement Area Description. Grantor is the owner in fee simple of certain real estate, hereinafter referred to as the “Protected Property,” which is shown on Exhibit A, and in its present state has scenic beauty, wildlife habitat, grasslands, and open space that has not been subject to development. The Protected Property shall be subject to the Conservation Easement hereby granted and is described as Lot 29 located in the southwest quarter, of Section 26, Township 9 North, Range 5 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska.

3. Purchase Price. District shall pay Grantor compensation for the Conservation Easement in the sum of \$\_\_\_\_\_.

4. Granting Clause. Grantor hereby gives, grants, and conveys unto District, a perpetual Conservation Easement over the Protected Property. This Conservation Easement shall extend to District's successors and assigns, provided that this Conservation Easement is assigned or transferred by District to any governmental body or charitable corporation or trust authorized to hold such Conservation Easement pursuant to the Act and which is capable of carrying out the specific purpose for which the Conservation Easement is granted. Grantor hereby grants to District an estate and interest in the Protected Property of the nature and extent hereinafter described and covenants on behalf of him, his heirs, personal representatives, successors and assigns (said covenants, estates and interest to run with the land) with District and its successors and assigns, to do and refrain from doing, severally and collectively, upon the Protected Property, the various acts hereinafter specified; it being agreed that such covenants, estates and interest are and will be for the benefit of District and its successors and assigns, to preserve scenic beauty, open space and natural resources, or otherwise conserve the natural beauty of the Protected Property.

5. District Acceptance. District signifies by the execution hereof the acceptance of the Conservation Easement in the Protected Property, as provided for in the Act. The acceptance by District is conditioned upon the Conservation Easement first receiving comments as to conformity with the Comprehensive Plan from Lancaster County Planning Commission, which is the appropriate governing body with jurisdiction over the Protected Property as provided by the Act. A copy of such comments, if any, will be attached hereto as Exhibit E and incorporated herein by this reference when it is received.

6. Justification for Conservation Easement. Grantor and District recognize the natural, ecologic, scenic open space, aesthetic and special character of the region in

which the Protected Property is located, and have the common purpose of conserving the natural values of the Protected Property by the conveyance to District of this Conservation Easement on, over and across the Protected Property, which shall conserve and protect the scenic beauty, wildlife habitat, grasslands, and open space or otherwise conserve and prevent the use or development of the Protected Property for any purpose or in any manner which would conflict with its scenic and open condition for both this generation and future generations.

7. Condition of the Protected Property at Time of Grant. The condition of the Protected Property at the time of this grant is evidenced by reports, photographs, aerial imagery, maps, and scientific documentation possessed by District.

8. Protection and Maintenance of Protected Property.

- a. District and Grantor may work cooperatively on management, restoration and enhancement of natural resources on the Protected Property recognizing the mutual desire to promote native grassland species diversity and resilience, The Protected Property may be managed by burning, grazing, haying, mowing, tree removal, non-native and invasive species removal, and/or seeding with native seed mixes. Grazing can be used as a management tool with ungulates. Herbicide may be used for spot spraying and stump treatment to control undesirable woody and herbaceous plants.
- b. Grantor shall pay any real estate taxes, estate taxes, or assessments levied by competent authorities on the Protected Property, including but not limited to any tax or assessment affecting the Conservation Easement granted herein. Grantor shall obtain, pay for, and continuously maintain liability insurance covering the use and interest in the Protected Property by Grantor, his heirs, personal representatives, successors and assigns. District shall obtain public liability insurance insuring its use and interest in the Protected Property.

- c. Grantor covenants that he is the owner of marketable title to all of the Protected Property and that such property is free and clear of all liens except easements of record, and further warrants that they will defend such Protected Property against the lawful claim of all persons whatsoever. Grantor shall take no action at any time which might restrict, jeopardize, or impair the value of the easement rights granted herein.
- d. Grantor agrees that the terms, conditions, restrictions and purpose of this Conservation Easement will be inserted by them in all subsequent deeds, or other legal instrument, by which it divests itself of either the fee simple title to or any possessory interest in the Protected Property.
- e. The parties hereto may mutually agree to modify or terminate this Conservation Easement to the extent that modification and termination is consistent with the provisions of Act or any provision of law in effect at the time that such modification or termination is sought. Any modification of this Conservation Easement must be in writing. Grantor and/or District may petition the District Court of Lancaster County where the Protected Property is located, in accordance with the Act, to modify or terminate this Conservation Easement if the petitioning party establishes that it is no longer in the public interest to hold the easement or that the easement no longer achieves the conservation or preservation purpose for which it was created.
- f. Each party shall indemnify and hold the other party harmless, including their respective agents, employees, successors, and assigns, against any and all liabilities, claims, or causes of action, including reasonable attorney's fees arising, either directly or indirectly, as a result of the negligent acts or omissions of each party and their respective agents, employees, successors, and assigns.

9. Inspections, Educational Use and Access by District. District is hereby given the right to enter the Protected Property at all reasonable times without consent, after notice to Grantor, his heirs, personal representatives, successors, or assigns, as the case may

be, for the purpose of inspecting the Protected Property to determine if Grantor, his heirs, personal representatives, successors, or assigns are complying with the covenants and purposes of the Conservation Easement. District is also hereby given the right to provide access to individuals or small groups to the grassland and/or re-established prairie areas, with prior written consent of Grantor, his heirs, personal representatives, successors, or assigns for education, study, research, or viewing purposes. Notice in this Section shall mean either written notice to Grantor, his heirs, personal representatives, successors, or assigns at the address stated herein or any other address subsequently given to District or oral notice to Grantor or anyone in his immediate family or employ, his heirs, personal representatives, successors, or assigns. District shall complete an inspection and file a report on an annual basis, a copy of which shall be furnished to Grantor. District shall maintain a file of such reports that shall be available to the public.

10. Use Restrictions. This Conservation Easement shall specifically prohibit the following uses and practices, although it is acknowledged that this is not an exhaustive recital of the uses and practices that are inconsistent with the purpose of this Conservation Easement:

- (a) Construction or placing of buildings, roads, or mobile homes, signs, billboards or other advertising materials, or any other structure. Notwithstanding the above, the placement of signs by District as required by the Nebraska Environmental Trust or other funding partners shall be allowed.
- (b) The removal, destruction or degradation of grassland habitat or plant materials, except as provided for in Sections 8 of this Conservation Easement.
- (c) Changing the topography anywhere on the Protected Property, or placement of fill material in the drainage ways, except as provided for in Sections 11 of this Conservation Easement.
- (d) Mining or removal of top soil, sand gravel, rock minerals, or other materials.
- (e) Dumping or storage of ashes, trash, garbage, metal, machinery, wood materials rocks, minerals, soil or other unsightly or offensive material.

- (f) Residential, commercial, or industrial development of any nature. except as provided for in 11 i.
- (g) Holding or feeding of livestock, except to support grazing.
- (h) Operation of motorized vehicles that are not used for property maintenance, repair, and management, care of livestock or care of the Protected Property except as provided for in 11i.**
- (i) Trapping except by permission of Grantors to control an invasive or problem species except as provided for in 11j.**
- (j) The cultivation, planting, or drilling of row crops, small grains and forages, vegetables, fruits, sod or any other horticultural or agricultural crops
- (k) Any other act in the reasonable opinion of District would be detrimental to the grassland habitat, natural resources or scenic beauty of the Protected Property.

11. Uses and Practices Allowed. This Conservation Easement shall confine the use of the Protected Property to activities that are consistent with the purposes for which the Conservation Easement was granted. The following uses and practices, although not an exhaustive recital of consistent uses and practices, are consistent with this Conservation Easement and these practices may not be precluded, prevented, or limited except by mutual written consent of the parties. Grantor, his heirs, personal representatives, successors, and assigns are allowed to:

- (a) Hay the Protected Property no more than once per year.
- (b) Graze the Protected Property with ungulates at a stocking rate and duration consistent with recognized guidelines based on the range condition of the Protected Property at the time it is grazed to ensure the Protected Property is not overgrazed.
- (c) Placement of mineral feeders and oilers related to the care of grazing livestock.
- (d) Construct, maintain, replace or repair fences for the management of grazing livestock on the Protected Property.

- (e) Investigate, construct, maintain, replace or repair livestock watering facilities from ground or surface water sources including trenching pipelines or power lines and placement of solar systems. Construction of surface water impoundments to water livestock must have prior written approval by the District.
- (f) Establish, re-establish, maintain and repair drainage way crossings if prior written approval by District is granted
- (g) Hunting including the use of blinds and stands is allowed with Grantors permission.
- (h) Conduct prescribed burns on the property for the enhancement of grassland species, for the control of invasive species such as eastern red cedar smooth brome and other invasive non-native grass, forb or woody species.
- (i) Use of motorized vehicles to access the protected property for non-motorized recreational activities.**
- (j) Trapping of species for research is allowed by permission of Grantors.**
- (k) Should Grantor, his heirs, personal representatives, successors, or assigns sell or donate a public access easement for a multiple-use trail or trails in the future, the construction by District and/or District's partners and use of such trail shall be deemed consistent with the purposes for which this Conservation Easement was granted.
- (l) Notwithstanding the Use Restrictions in Item 10(f) relating to commercial development, sell commodities that are produced on the property, the production of which is consistent with and does not adversely impact the natural resources conserved and protected by this Conservation Easement.

12. Release of Easement. This Conservation Easement may be released by District, upon the written approval of the governing body which approved the Conservation Easement, and a finding by such body that the Conservation Easement no longer substantially achieves the conservation purpose for which it was created, in accordance

with the Act, or as authorized by any other provision of law in effect at the time such release is sought.

13. Enforcement. Grantor agrees that:

(a) District may enforce the provisions of this Conservation Easement by any proceedings at law or in equity, including but not limited to, the right to require restoration of the Protected Property to the condition at the time of this grant except as provided for herein.

(b) District may seek an injunction restraining any person from violating the terms of this Conservation Easement without the posting of any bond whatsoever.

(c) District does not waive or forfeit the right to take any action as it deems necessary to insure compliance with the covenants and purposes of this Conservation Easement by any prior failure to act.

(d) If Grantor, his heirs, personal representatives, successors or assigns undertake any activity requiring the approval of District without or in advance of securing such approval, or undertake any activity in violation of the terms of this Conservation Easement, then District shall have the right to enforce the restoration of that portion of the Protected Property affected by such activity to the condition that existed prior to the undertaking of such unauthorized activity. In such case, the cost of such restoration and District's cost of suit, including reasonable attorney's fees, shall be paid by Grantor, his heirs, personal representatives, successors or assigns, or in the event that District secures redress without a completed judicial proceeding, by Grantor or those who are otherwise determined to be responsible for the unauthorized activity. Nothing herein contained shall be construed to preclude Grantor from exhausting its legal remedies in determining whether the proposed activity to which District has objected is inconsistent with this Conservation Easement.

14. Binding Effect. The covenants agreed to and the terms, conditions, restrictions and purposes imposed with this grant shall be binding upon Grantor, his successors or

assigns and all other successors to them in interest and shall continue as a servitude running in perpetuity with the Protected Property. The covenants shall also bind District and its successors and assigns.

15. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of the Conservation Easement and the application of such provisions to persons or circumstances other than those to which it is found to be invalid shall not be affected thereby.

16. Right of First Refusal. If Grantor or his heirs decide to sell the Protected Property, he shall notify District in writing of his desire to sell and the appraised value of the Protected Property (the "Notice"). District shall have the right of first refusal to purchase the Protected Property and shall notify Grantor or his heirs in writing within 45 days of the receipt of the Notice whether District desires to purchase the Protected Property. If District does not respond to the Notice within 45 days from receipt, the Right of First Refusal shall automatically terminate, unless Grantor or his heirs extend in writing the time for responding to the Notice.

IN WITNESS WHEREOF, the undersigned has executed this Conservation Easement on this \_\_\_\_ day of \_\_\_\_\_, 2018.

GRANTOR:

LOWER PLATTE SOUTH NATURAL  
RESOURCES DISTRICT:

\_\_\_\_\_  
Cindy A. Cochran Revocable Trust

\_\_\_\_\_  
General Manager



This Conservation Easement was acquired in part with grant funds provided by the Nebraska Environmental Trust and will be managed for the purposes set out in the grant in accordance with applicable state law. This conservation interest may not be sold, leased, transferred, exchanged, mortgaged, or encumbered in any manner, or used for purposes inconsistent with the grant without prior written approval of the Nebraska Environmental Trust, P.O. Box 94913, Lincoln, NE 68509-4913.

## Lancaster County Engineer ProjectDox Review Comments

Upon review, this office would offer the following comments for “**COCHRAN CONSERVATION EASEMENT**” #CPC19002 (v1) submittal dated 2-6-2019 located in the SW ¼ of Section 26, T9N, R5E at SW 84<sup>th</sup> Street and West Rokeby Road.

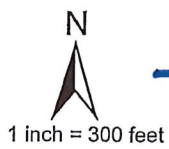
1. Easement area description to be revised to omit from easement restrictions the existing road right-of-way and future road right-of-way needs for expansion and maintenance along SW 84<sup>th</sup> Street and along West Rokeby Road. The locations and dimensions of right-of-way to omit are as follows:
  - **SW 84<sup>th</sup> Street** ---- 33’ of existing statutory road right-of-way easement and an additional 27’ for future road right-of-way, making a total of 60’ from section line (west line of Lot 29 irregular tract) to be excluded from the easement protection area.
  - **West Rokeby Road** ---- Exclude 27’ from the south line of Lot 29 irregular tract (being the existing north 33’ road right-of-way line). The 27’ for future road right-of-way to be omitted from easement protection area making a total of 60’ from section line to be excluded from easement protection.
  - **Additional protection area required at the following culvert locations** ---- Reference attached “Exhibit A” and “Exhibit B” for approximate location of drainage structure numbers “N-207”, “N-190”, “N-200” & “N-233”.
    - “N-207”** (18” corrugated metal pipe) – The West 75’ of the North 100’ of Lot 29 irregular tract.
    - “N-190”** (4x5 Concrete Box Culvert) – The West 100’ of the North portion of Lot 29 irregular tract lying directly south of Lot 21 irregular tract.
    - “N-200”** (24” corrugated metal pipe) – An additional 15’ (N-S) X 300’ (E-W) of protection area along the south 27’ of Lot 29 I.T. at existing drainage structure.
    - “N-233”** (30” corrugated metal pipe) – An additional 15’ (N-S) X 300’ (E-W) of protection area along the south 27’ of Lot 29 I.T. at existing drainage structure.

### **Note:**

Conservation easement document to contain language which will allow Lancaster County to perform without conservation easement restrictions, typical and customary road and drainage maintenance and/or reconstruction work adjacent to proposed conservation area within the west 60’ of Lot 29 I.T., within the south 27’ of Lot 29 I.T. and within the additional protection areas at culvert locations depicted on “Exhibit A” and “Exhibit B” for Lot 29 irregular tract located in the SW ¼ of Section 26, T9N, R5E.

2. EXHIBIT ‘A’ (CPC19002) and EXHIBIT ‘B’ (CPC19002) uploaded in ProjectDox CPC19002 Text Documents Folder to be part of and incorporated with the above item #1 project review comments.

February 20, 2019 (kds)



# Exhibit "A"

## SEC. 26 (9-5)

"N-207"

W GINKGO LN

100'

75'

Section Line

60'

Lot 29 I.T.

SW 84th St

SW 84TH ST

Lot 21 I.T.  
(Not Part of)

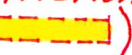
33'

"N-190"

100'

200'

Section Line

Protection from Conservation Easement Restrictions (shown thus )

60'

Lot 29 I.T.

SW Corner Sec. 26

27'

60'

W. Rokeby Rd.

W ROKEBY RD

"N-200"

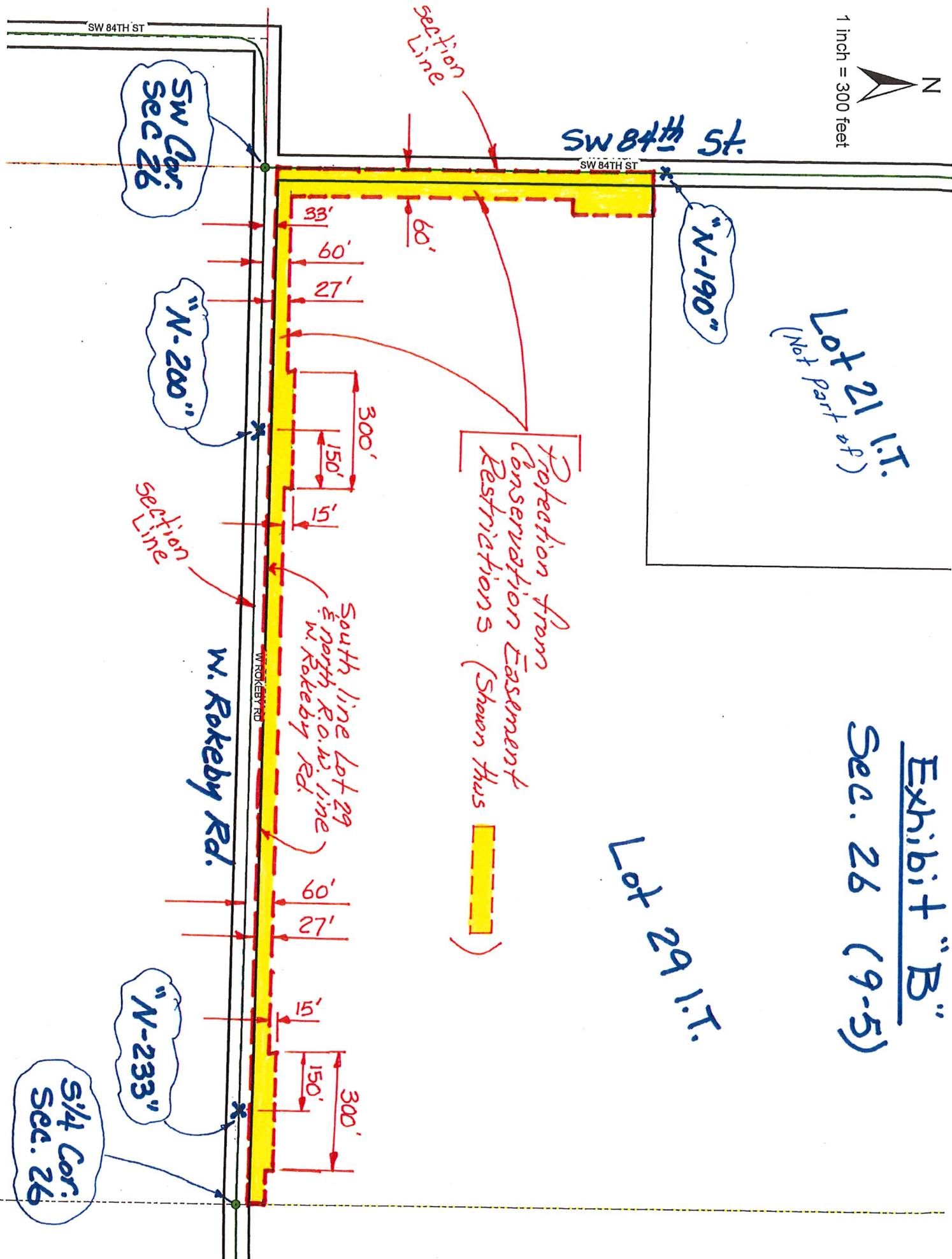
1 inch = 300 feet



Exhibit "B"  
Sec. 26 (9-5)

Lot 21 I.T.  
(Not part of)

Lot 29 I.T.



Protection from  
Conservation Easement  
Restrictions (Shown thus )

**LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT**

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Special Permit #15019A	FINAL ACTION? Yes	DEVELOPER/OWNER Red Strike, Inc.
PLANNING COMMISSION HEARING DATE March 6, 2019	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 321 Victory Lane

**RECOMMENDATION: CONDITIONAL APPROVAL**

**BRIEF SUMMARY OF REQUEST**

This is a request for a special permit to allow for an expansion of both the sale of alcohol for consumption of alcohol on and off the premises. The applicant, Sun Valley Lanes bowling alley, is proposing a 6,250 square foot expansion of the facility to add laser tag, an arcade and a lounge.

The sale of alcohol has existed at this location prior to the adoption of the alcohol regulations in 1994. The use was expanded slightly in 2015 for an approximately 350 square foot storage area which required a special permit to expand the licensed premises.



**JUSTIFICATION FOR RECOMMENDATION**

Provided there is a lease agreement with a neighboring property for all the required parking, this request complies with all applicable criteria for a special permit for the sale of alcohol for consumption on and off the premises.

**APPLICATION CONTACT**

Nate Burnett  
(402)-484-7342  
nate@regaeng.com

**STAFF CONTACT**

Brian Will  
(402) 441-6362  
bwill@lincoln.ne.gov

**COMPATIBILITY WITH THE COMPREHENSIVE PLAN**

This allows a well-established use in an industrially-zoned center to expand in an effort to provide better services to its customers. It is located in an area which is properly zoned for the proposed use. The siting criteria of the special permit seek to locate such uses in areas like this, and away from neighborhoods and residential areas. Siting in this area is consistent with the goals of the Comprehensive Plan.

**KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN**

Pg 1.9 - The Future Land Use Map of the Comprehensive Plan designates commercial land uses for this site.

Pg. 5.14 - Strategies for Commercial Infill

- Discourage auto-oriented strip commercial development and seek opportunities for residential mixed use -- redevelopment and/ or transit oriented development of existing commercial strips.
- Develop infill commercial areas to be compatible with the character of the area.

- Maintain and encourage businesses that conveniently serve nearby residents, while ensuring compatibility with adjacent neighborhoods.
- Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, are properly screened, fulfill a demonstrated need and are beneficial to health and safety.
- Ensure the priority in older areas is on retaining areas for residential development. Prior to approving the removal of housing in order to provide for additional parking to support existing centers, alternatives such as reduced parking requirements, shared parking, additional on-street parking, or the removal of commercial structures should be explored.

**ANALYSIS**

The subject property is located off of Sun Valley Blvd at 321 Victory Lane, approximately three blocks north of West O Street. The subject lots, and all those surrounding it, are zoned I-1 Industrial. Surrounding land uses are all commercial or light industrial in nature.

This request seeks special permits for both on and off-sale alcohol. The criteria for both permits are addressed individually below.

**1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.680:** The sale of alcoholic beverages for consumption on the premises may be allowed in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning districts and on the premises of a restaurant in the O-3 district upon the approval of a special permit subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

**(a) Parking shall be in conformance with Chapter 27.67 Parking.**

Parking must be provided at the rate specified in the Zoning Ordinance. The required parking for on-sale alcohol is higher than that of a bowling alley. Rather than four spaces per bowling lane, parking must be provided at the rate of one space per 100 square feet of floor. Because the facility pre-existed the adoption of the alcohol regulations, the higher parking rate is only applied to the areas of expansion after 1994. So while the parking shown is adequate for a bowling alley, it does not meet the higher rate for on-sale alcohol.

The parking calculations shown on the site plan are mostly correct, but with one exception. The 2015 expansion for a storage area was also calculated at the higher 1:100 rate, and also needs to be added to the parking count and will require an additional 4 spaces to be added to the total.

The application notes that all the required 204 (208 as corrected) parking spaces cannot be provided on site, and that the applicant will need to negotiate a lease for additional parking with a neighboring property owner. Such an arrangement for off-site parking is allowed in the I-1 zoning district, where required parking can be leased from another property owner provided it is within 300' of the subject property.

Evidence of the executed lease is included as a condition of approval, and will be required prior to issuance of building permits.

**(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.**

This is a request to both the sale of alcohol for consumption on and off the premise. The criteria for off-sale alcohol are addressed later in this report.

**(c) The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than (i) 100 feet from the property line of a premises used in whole or in part for a first-floor residential use, day care facility, park, church, or state mental health institution, or (ii) 100 feet from a residential district (except where such use is accessory to a golf course or country club).**

None of these criteria are within 100' of the licensed premises. The nearest of the criteria is R-2 Residential zoning located approximately 950' feet away to the west.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

The building is existing and the site is already developed, however all lighting is reviewed at the time of building permits for compliance with the lighting Design Standards.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

A drive-through window is not a part of this application.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

No such devices are shown as part of this application.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

The main entrance to the facility faces east, and there is no residential zoning district within 150' directly to the east.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

This property is accessed by Victory Lane, which serves multiple commercial and industrial uses and is not considered a residential street.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

(1) Revocation or cancellation of the liquor license for the specially permitted premises; or

(2) Repeated violations related to the operation of the permittee's business.

(3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.

**2. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.685:** Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

**(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.**

The parking requirement for off-sale is as per the zoning district, so in this case it is calculated at four spaces per bowling lane. This is less than the requirement for on-sale, which as discussed previously will require additional parking spaces to be provided. Meeting the requirement for on-sale will exceed the off-sale requirement.

**(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.**

This request is for both on and off-sale alcohol, as noted and addressed previously in this report.

**(c) The licensed premises of any building approved for such activity must be located no closer than (i) 100 feet from the property line of a premises used in whole or in part for a first-floor residential use, day care facility, park, church, or state mental health institution, or (ii) 100 feet from a residential district.**

The proposed licensed premises is located in an industrial park zoned both I-1, developed with a variety of commercial uses which ranges from office to light industrial. The nearest of any of the location criteria to the licensed premises is the residential zoning over Capitol Beach neighborhood, in excess of 950' away to the west.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

No new lighting is shown, but lighting is reviewed at the time of building permits and must comply with Design Standards at that time.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

A drive-through window is not being proposed on the site plan.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

No such devices are proposed as part of this application.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

The main entrance to the facility faces east, and there is no residential zoning district within 150' directly to the east.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

This property is accessed by Victory Lane, which serves multiple commercial and industrial uses and is not considered a residential street.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

**(1) Revocation or cancellation of the liquor license for the specially permitted premises; or**

**(2) Repeated violations related to the operation of the permittee's business.**

**(3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

3. During the review of these applications several advisory comments were noted by the Department of Building and Safety. Those comments do not impact approval of the special permits for the sale of alcohol, but may have to be addressed by the applicant at the time of building permits to meet the applicable requirements. While the comments of Building and Safety are not included in the recommended conditions of approval as they will be addressed at the time of building permits, there are other corrections required on the site plan and those items are included as recommended conditions of approval.

4. Provided a lease for the additional required parking is given to the City, this request for the sale of alcohol for consumption off the premises complies with all applicable requirements of the Zoning Ordinance, and is consistent with the Comprehensive Plan. It is compatible with surrounding uses and is an appropriate use of land at this location.

**CONDITIONS OF APPROVAL:** See attached.

**EXISTING LAND USE & ZONING:** Commercial

I-1

**SURROUNDING LAND USE & ZONING**

North: Industrial I-1  
South: Commercial I-1  
East: Vacant, Commercial I-1  
West: Vacant, Parking I-1

**LEGAL DESCRIPTION:** Lot 1, Block 1, Westgate Park for Business & Industry 2nd Addition, and Lot 1, Westgate Park for Business & Industry 6th Addition, located in the SE 1/4 of Section 22-1-6, Lincoln, Lancaster County, Nebraska, generally located at 321 Victory Lane

Prepared by

\_\_\_\_\_  
Brian Will  
[bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov) or at  
402-441-6362  
February 21, 2019

Applicant/  
Contact: Nate Burnett  
REGA Engineering  
601 Old Cheney Road  
Lincoln, NE 68512  
402-484-7342

Owner: Red Strike, Inc.  
321 Victory Lane  
Lincoln, NE 68521  
402-475-3469

## CONDITIONS OF APPROVAL - SPECIAL PERMIT #15019A

This approval permits the sale of alcohol for consumption on and off the premises per LMC Section 27.63.680 and 27.63.685.

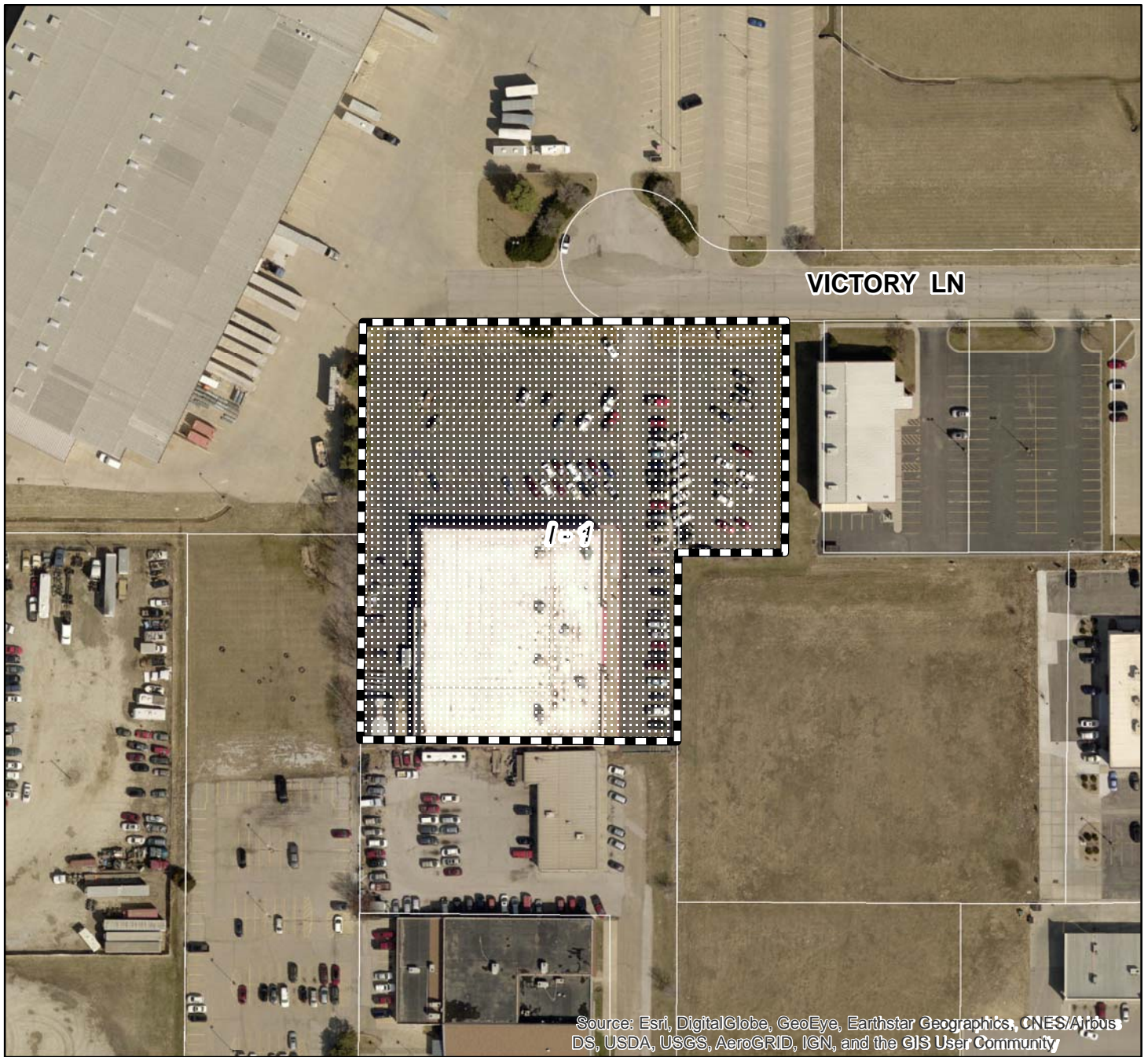
### Conditions:

#### Site Specific

1. The applicant shall cause to be prepared and submitted to the Planning Department a revised final plot plan including 2 copies with all required revisions and documents as listed below.
  - 1.1 Modify Note #8 by deleting the sentence "Except there is no spacing required to residential uses located within the special permit."
  - 1.2 Delete the elevation contours from the site plan.
  - 1.3 Revise the parking calculation table to include the required parking for the 350 square foot expansion of SP#15019 at the rate of one space per 100 square feet of floor area; and show the building storage area calculated at the rate of 1:1,000 (less the 350 square foot area of expansion if applicable).
  - 1.4 Delete Note #9 in its entirety as it is not required as part of this permit.
  - 1.5 Delete Note #7 as it's not applicable.
  - 1.6 Delete Note #6 as parking is addressed in the parking table.
  - 1.7 Delete Note #2 as restricted access to local streets is not a part of this special permit.
2. Prior to building permits and occupying the area of expansion:
  - 2.1 Provide the City with a copy of the executed lease agreement for the required minimum number of parking spaces.

#### General

3. The following conditions are applicable to all requests:
  - 2.1 Before the sale of alcohol for consumption on the premises, all development and construction is to substantially comply with the approved plans.
  - 2.2 The physical location of setbacks, yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
  - 2.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 2.4 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefore to be paid in advance by the applicant. The sale of alcohol is not authorized unless the letter of acceptance has been filed.

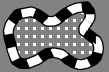




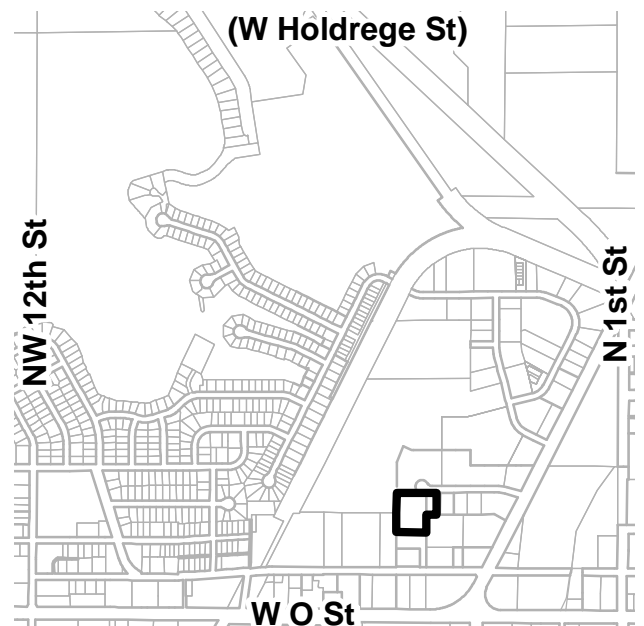
**Special Permit #: SP15019A**  
**Sun Valley Lanes**  
**Sunvalley Blvd & Victory Ln**

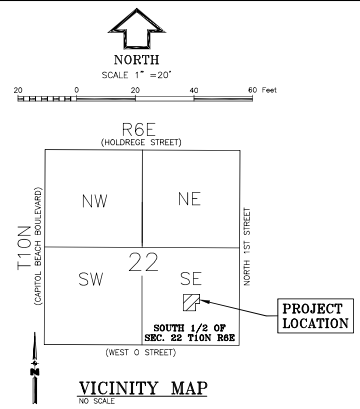
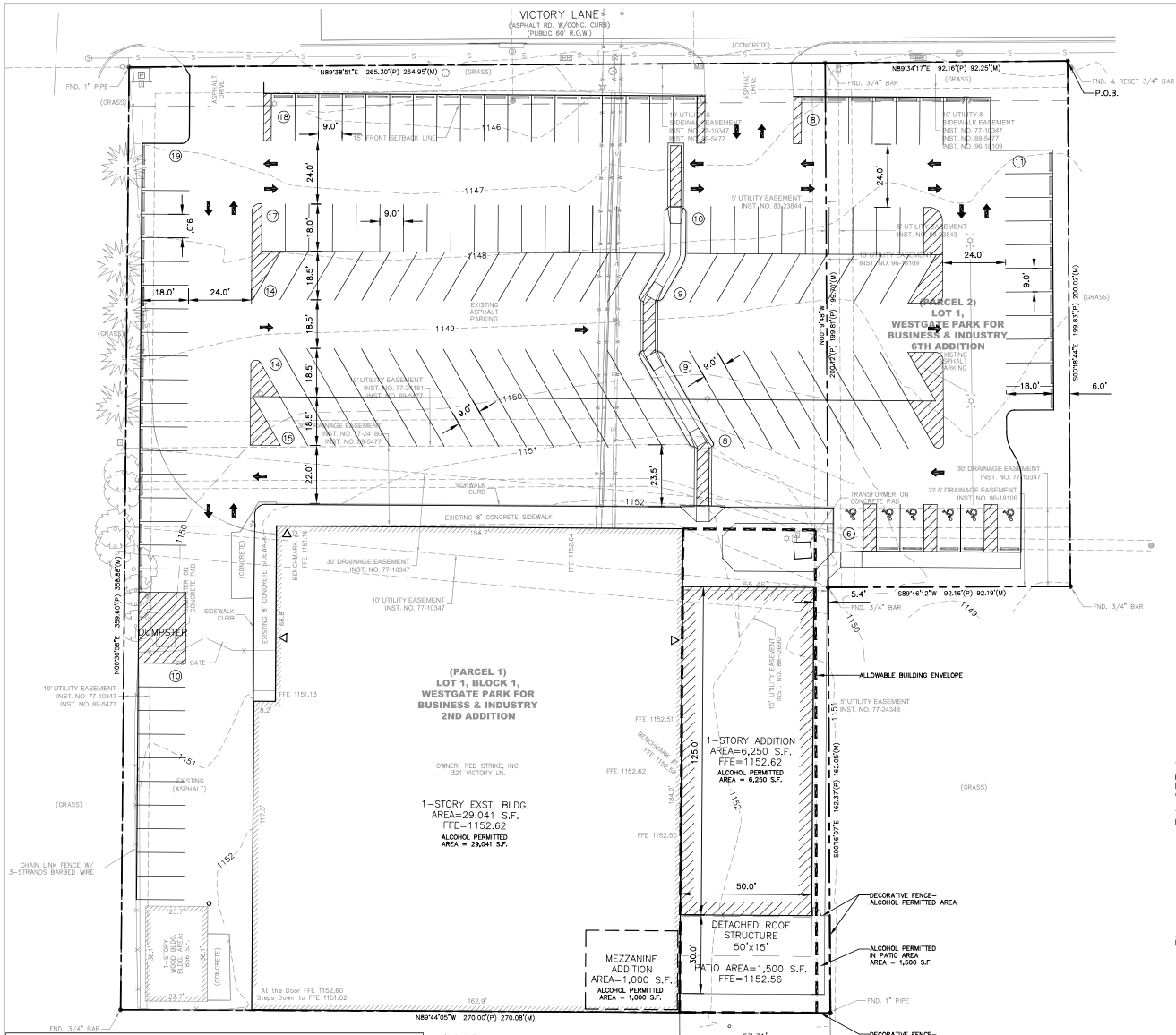
**Zoning:**

- 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.22 T10N R06E

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction





**GENERAL NOTES:**

- EXISTING TOPOGRAPHICAL CONTOURS ARE IN NORTH AMERICA VERTICAL DATUM (NAVD) 1988.
- DIRECT VEHICULAR ACCESS TO VICTORY LANE IS HEREBY RELINQUISHED EXCEPT AT THE TWO PRIVATE DRIVEWAYS AS SHOWN ON THIS SPECIAL PERMIT.
- ALL LANDSCAPING AND SCREENING TO BE PROVIDED AT THE TIME OF BUILDING PERMIT PER LINCOLN MUNICIPAL CODE AND DESIGN STANDARDS.
- SHAPE OF BUILDING ADDITION INSIDE THE BUILDING ENVELOPE IS CONCEPTUAL AND CAN VARY AT THE TIME OF BUILDING PERMIT. FURTHERMORE, THE OWNER/DEVELOPER RESERVES THE RIGHT TO BUILD ANYWHERE WITHIN THE BUILDING ENVELOPE SHOWN ON THIS SPECIAL PERMIT.
- SIGNS NEED NOT BE SHOWN ON THIS SITE PLAN, BUT NEED TO BE IN COMPLIANCE WITH CHAPTER 27.69 OF THE LINCOLN ZONING ORDINANCE, AND MUST BE APPROVED BY BUILDING & SAFETY DEPARTMENT PRIOR TO INSTALLATION.
- PARKING CALCULATIONS ARE PROVIDED FOR REFERENCE ONLY. PARKING TO BE PROVIDED IN COMPLIANCE WITH THE ZONING ORDINANCE AT THE TIME OF BUILDING PERMIT.
- THE APPLICABLE BUILDING CODE VARIES WITH RESPECT TO THE CONNECTION OF THE BUILDINGS ACROSS A LOT LINE. IF THE BUILDINGS EVER FALL UNDER SEPARATE OWNERSHIP, HEIGHTENED BUILDING CODE STANDARDS MAY APPLY TO THE AREA WHERE THE BUILDINGS ARE CONNECTED.
- THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON OR OFF PREMISES IS PERMITTED IN THE I-1 ZONING PROVIDED IT MEETS THE REQUIREMENTS OF 27.63.680 AND 27.63.685, EXCEPT THERE IS NO SPRINKLING REQUIRED TO RESIDENTIAL USES LOCATED WITHIN THE SPECIAL PERMIT.
- THE ZONING OF THIS PROPERTY IS I-1, INDUSTRIAL.
  - FRONT YARD: 0 OR 15 FEET IF ABUTTING A ZONE WHICH REQUIRES A FRONT YARD.
  - SIDE YARD: 0 OR LESSER OF 20 FEET OR 10% OF LOT WIDTH, 5' MINIMUM IF ABUTTING RESIDENTIAL.
  - REAR YARD: 0 OR LESSER OF 20 FEET OR 10% OF LOT WIDTH, 5 FEET MINIMUM IF ABUTTING RESIDENTIAL.
  - HEIGHT: 75 FEET

**SURVEYOR'S CERTIFICATE**

PARCEL 1, LOT 1, BLOCK 1, WESTGATE PARK FOR BUSINESS & INDUSTRY 2ND ADDITION, LOCATED IN SECTION 22, TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH P.M., LINCOLN, LANCASTER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE POINT OF BEGINNING AT THE NORTHEAST CORNER OF (PARCEL 2) LOT 1, WESTGATE PARK FOR BUSINESS & INDUSTRY, 6TH ADDITION;

THENCE S00°18'44"E, A DISTANCE OF 200.02 FEET;  
 THENCE S89°46'12"W, A DISTANCE OF 92.19 FEET;  
 THENCE S00°16'07"W, A DISTANCE OF 142.05 FEET;  
 THENCE N89°44'05"W, A DISTANCE OF 270.08 FEET;  
 THENCE N00°30'56"E, A DISTANCE OF 358.88 FEET;  
 THENCE N89°38'51"E, A DISTANCE OF 284.95 FEET;  
 THENCE N89°34'17"E, A DISTANCE OF 92.25 FEET TO THE POINT OF BEGINNING AND CONTAINING A CALCULATED AREA OF 114,835.38 SQUARE FEET OR 2.64 ACRES, MORE OR LESS.

ALL CURVILINEAR DIMENSIONS ARE CHORD MEASUREMENTS UNLESS SHOWN OTHERWISE, AND ARE IN FEET OR DECIMALS OF A FOOT.

SIGNED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ 19\_\_

LYLE L. LOTH, L.S. 314  
 REGA ENGINEERING GROUP INC.  
 601 OLD CHENEY ROAD, SUITE 'A'  
 LINCOLN, NE 68512  
 402-484-7342

**PARKING SUMMARY:** (PARKING TO BE PROVIDED AS PER TITLE 27 ZONING ORDINANCE.)  
 BUILDING USE: COMMERCIAL

BUILDING (PRE-EXISTING USE BOWLING)	= 29,041 SQ.FT.	
PARKING RATIO	= 4 PER BOULING LANE (32 LANES)	= 128
BUILDING (STORAGE)	= 856 SQ.FT.	
PARKING RATIO	= 1/300 SQ.FT.	= 3
PROPOSED MEZZANINE	= 1,000 SQ.FT.	
PARKING RATIO	= 1/100 SQ.FT.	= 10
PROPOSED ADDITION	= 6,250 SQ.FT.	
PARKING RATIO	= 1/100 SQ.FT.	= 63
TOTAL SPACES REQUIRED		= 204
ACTUAL SPACES PROVIDED		= 169

(36) DEFICIENT REQUIRED SPACES PROPOSED ARE TO BE LOCATED ON ADJACENT PROPERTY WITHIN 300'; OWNER WILL DEMONSTRATE PHYSICAL AGREEMENT WITH NEIGHBORING PROPERTY OWNER PRIOR TO ISSUANCE OF BUILDING PERMIT.

**BUILDING SQ FOOTAGES:** (FOLLOWING AREAS EXCLUDE EXTERIOR BUILDING WALL AND MECHANICAL AREAS)

SHOWN:	
EXISTING BUILDING (BOWLING)	= 29,041 SQ.FT.
EXISTING STORAGE BUILDING	= 856 SQ.FT.
EXISTING BUILDING -	
PROPOSED MEZZANINE	= 1,000 SQ.FT.
PROPOSED ADDITION	= 6,250 SQ.FT.
TOTAL SHOWN	= 37,147 SQ.FT.

**ZONING:**

(PARCEL 1) LOT 1, BLOCK 1, WESTGATE PARK FOR BUSINESS AND INDUSTRY 2ND ADDITION = I-1

(PARCEL 2) LOT 1, BLOCK 1, WESTGATE PARK FOR BUSINESS AND INDUSTRY 6TH ADDITION = I-1

**BENCHMARK**

BENCHMARK #1, F.F.E., EL=1152.58  
 BENCHMARK #2, F.F.E., EL=1151.16

**OWNER/DEVELOPER**

RED STRIKE INC.  
 C/O JOHN LOSITO  
 321 VICTORY LANE  
 LINCOLN, NE 68528  
 (402)-475-3469

**CIVIL ENGINEER**

REGA ENGINEERING, INC.  
 NATHANIEL P. BURNETT  
 601 OLD CHENEY RD, STE. A  
 LINCOLN, NE 68512  
 (402)484-7342

**SURVEYOR**

REGA ENGINEERING, INC.  
 LYLE LOTH  
 601 OLD CHENEY RD, STE. A  
 LINCOLN, NE 68512  
 (402)484-7342

PROJECT  
 181274

**REGA**  
 ENGINEERING GROUP, INC.

601 OLD CHENEY RD., SUITE A  
 LINCOLN, NEBRASKA 68512  
 (402)484.7342

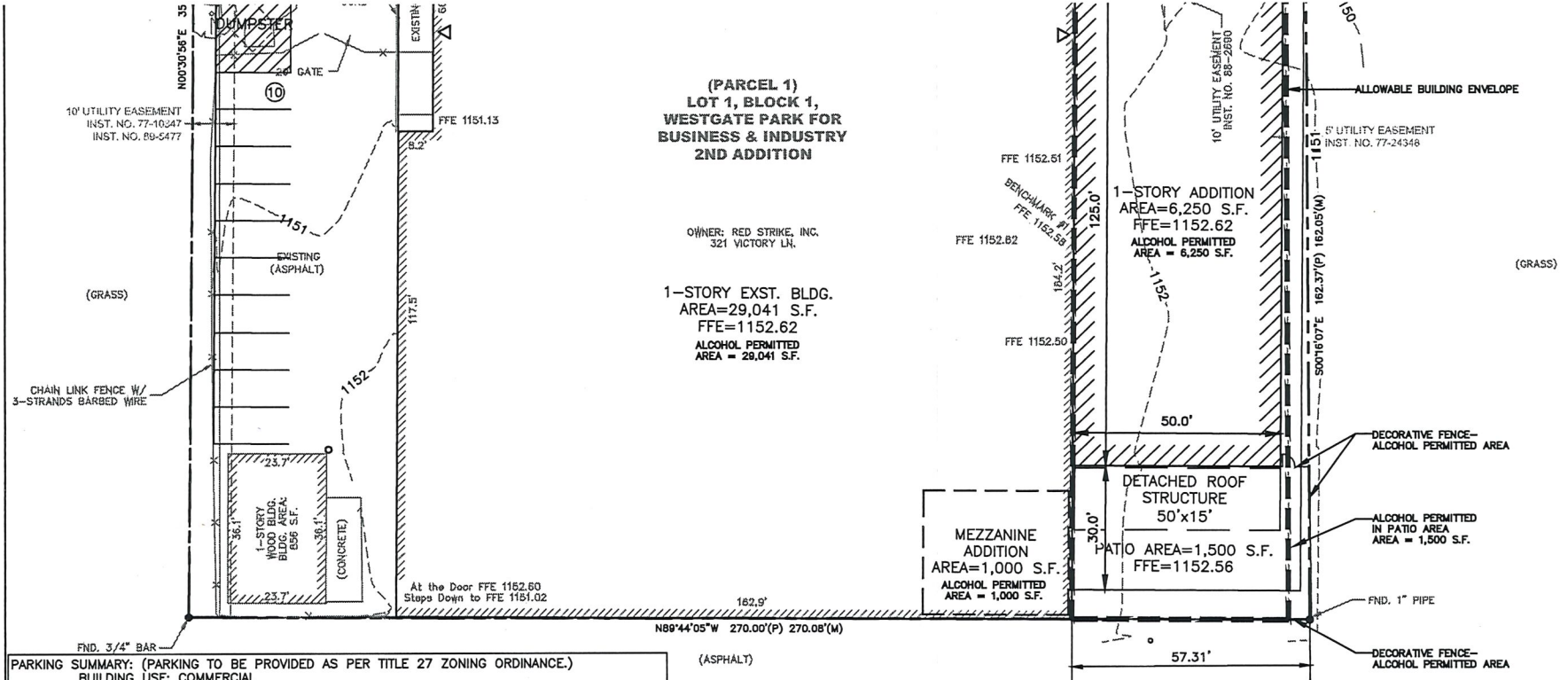
• ENGINEERING  
 • PLANNING  
 • LAND SURVEYING

ISSUED FOR	DATE
FINAL	02/06/19

SUN VALLEY LANES  
 SPECIAL PERMIT # \_\_\_\_\_  
 SITE PLAN  
 321 VICTORY LANE LINCOLN, NEBRASKA

PRELIMINARY PLAN  
 NOT FOR CONSTRUCTION

SHEET NO.  
 1 of 2



**PARKING SUMMARY: (PARKING TO BE PROVIDED AS PER TITLE 27 ZONING ORDINANCE.)**  
BUILDING USE: COMMERCIAL

BUILDING (PRE-EXISTING USE BOWLING)	= 29,041 SQ.FT.	
PARKING RATIO	= 4 PER BOWLING LANE (32 LANES)	= 128
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PARKING RATIO	= 1/100 SQ.FT.	= 10
PROPOSED ADDITION	= 6,250 SQ.FT.	
PARKING RATIO	= 1/100 SQ.FT.	= 63
TOTAL SPACES REQUIRED	= 204	
ACTUAL SPACES PROVIDED	= 168	

(36) DEFICIENT REQUIRED SPACES PROPOSED ARE TO BE LOCATED ON ADJACENT PROPERTY WITHIN 300'; OWNER WILL DEMONSTRATE PHYSICAL AGREEMENT WITH NEIGHBORING PROPERTY OWNER PRIOR TO ISSUANCE OF BUILDING PERMIT.

**BUILDING SQ FOOTAGES: (FOLLOWING AREAS EXCLUDE EXTERIOR BUILDING WALL AND MECHANICAL AREAS)**

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<b>TOTAL SHOWN</b>	<b>= 37,147 SQ.FT.</b>

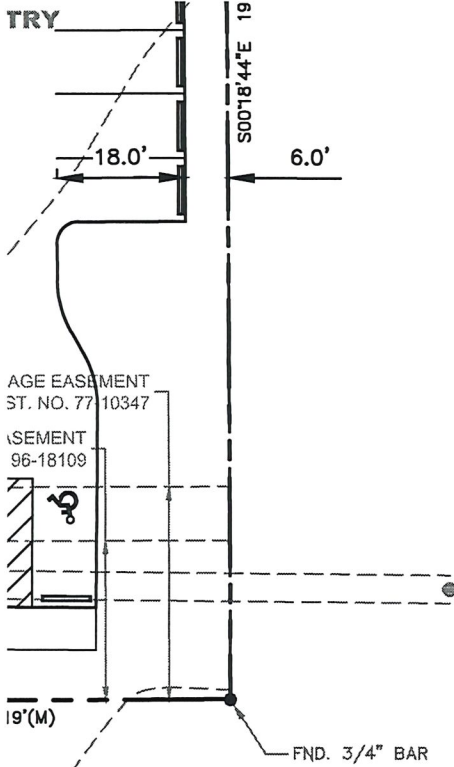
**ZONING:**

(PARCEL 1) LOT 1, BLOCK 1, WESTGATE PARK FOR BUSINESS AND INDUSTRY 2ND ADDITION = I-1

(PARCEL 2) LOT 1, BLOCK 1, WESTGATE PARK FOR BUSINESS AND INDUSTRY 6TH ADDITION = I-1

**BENCHMARK**

BENCHMARK #1, F.F.E., EL=  
BENCHMARK #2, F.F.E., EL=



**VICINITY MAP**  
NO SCALE

**GENERAL NOTES:**

1. EXISTING TOPOGRAPHICAL CONTOURS ARE IN NORTH AMERICA VERTICAL DATUM (NAVD) 1988.
2. DIRECT VEHICULAR ACCESS TO VICTORY LANE IS HEREBY RELINQUISHED EXCEPT AT THE TWO PRIVATE DRIVEWAYS AS SHOWN ON THIS SPECIAL PERMIT.
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  - (3) REAR YARD: 0 OR LESSER OF 20 FEET OR 10% OF LOT WIDTH, 5 FEET MINIMUM IF ABUTTING RESIDENTIAL.
  - (4) HEIGHT: 75 FEET

**SURVEYOR'S CERTIFICATE**


VICTORY LANES  
 PERMIT # \_\_\_\_\_  
 PLAN  
 LINCOLN, NEBRASKA

February 6, 2019

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

RE: SUN VALLEY LANES  
SPECIAL PERMIT APPLICATION

Dear David,

On behalf of Sun Valley Lanes of Lincoln, we are submitting a Special Permit for the property at 321 Victory Lane. The Special Permit consists of remodel/addition within the existing building envelope (mezzanine level of 1,000 sf) as well as showing a proposed building addition (6,250 sf) and proposed patio area (1,500 sf).

General Note #8 on the Site Plan (sheet 1 of 2) has been included to show that the sale of alcohol is permitted on or off premises provided it meets the requirements of 27.63.680 and 27.63.685.

The existing uses for the existing structure are bowling, arcade and lounge, all currently licensed for the sale of alcohol. The proposed outdoor patio area is intended to offer the sale of alcohol. The proposed addition will have multiple uses, currently planned for laser tag, arcade, and lounge. Not all proposed uses will allow for alcohol consumption (laser tag area).

Parking Calculations are shown on the Site Plan (sheet 1 of 2). Per conversations with Mr. Brian Will, it is foreseen that the existing site will not accommodate the required parking per 27.67.030 and 27.67.040. Previous conversations/agreements between the property owner and adjacent property owner (Speedway Properties / B & J Partnership LTD) has resulted in a verbal agreement to utilize parking for overflow as needed as the two uses are typically non-concurrent. Per 27.67.020, our proposal for insufficient parking is to generate an agreement (prior to the issuance of a building permit) with the adjacent property owner to utilize (existing) parking as over-flow when needed. The proposed over-flow parking area is within 300' of the subject property.

The existing property is within the floodplain. The Grading Plan (sheet 2 of 2) shows the proposed grades with the building addition, patio area and other adjacent grades. The current building is above the Base Flood Elevation of 1152.10; however, it is note 1' above the Base Flood Elevation and will have floodgates installed on all openings to be 1' above Base Flood Elevation.

# REGA

ENGINEERING  
GROUP, INC.

Please contact me if you have any questions or comments.

Sincerely,



Nathaniel Burnett

Cc: Red Strike Inc.

Enclosures: Application Form  
Legal Description  
Application Fee of \$988.00



-Develop infill commercial areas to be compatible with the character of the area.

-Maintain and encourage businesses that conveniently serve nearby residents, while ensuring compatibility with adjacent neighborhoods.

-Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, are properly screened, fulfill a demonstrated need and are beneficial to health and safety.

-Ensure the priority in older areas is on retaining areas for residential development. Prior to approving the removal of housing in order to provide for additional parking to support existing centers, alternatives such as reduced parking requirements, shared parking, additional on-street parking, or the removal of commercial structures should be explored.

## ANALYSIS

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.685: Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

**(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.**

The parking requirement for off-sale is as per the zoning district, so in this case it is calculated at one space per 1,000 square feet of floor area. The building and parking are existing and nothing changes as a result of this request. The existing parking lot is more than large enough to provide the minimum required number of parking spaces for the associated building per the district requirement.

**(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.**

This request is only for off-sale alcohol, as the need for on-sale is not anticipated at this time and is not a part of this request.

**(c) The licensed premises of any building approved for such activity must be located no closer than (i) 100 feet from the property line of a premises used in whole or in part for a first-floor residential use, day care facility, park, church, or state mental health institution, or (ii) 100 feet from a residential district.**

The proposed licensed premises is located in an industrial park zoned both I-1, developed with a variety of commercial uses which ranges from office to light industrial. The nearest of any of the location criteria to the licensed premises is the residential zoning over Capitol Beach, in excess of 1,800' away to the west.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

No new lighting is shown, but lighting is reviewed at the time of building permits and must comply with Design Standards at that time.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

A drive-through window is not being proposed on the site plan.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

No such devices are proposed as part of this application.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

The entrance to the building faces south towards property also zoned I-1 zoning and also occupied by a commercial building. There is no residential zoning district within 150'.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

Access to the site is from Oak Creek Drive, which is not a residential street in this area.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

**(1) Revocation or cancellation of the liquor license for the specially permitted premises; or**

**(2) Repeated violations related to the operation of the permittee's business.**

**(3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

2. This request for the sale of alcohol for consumption off the premises complies with all applicable requirements of the Zoning Ordinance, and is consistent with the Comprehensive Plan. It is compatible with surrounding uses and is an appropriate use of land at this location.

**CONDITIONS OF APPROVAL:** See attached.

**EXISTING LAND USE & ZONING:** Commercial

I-1

**SURROUNDING LAND USE & ZONING**

North: Commercial	I-1
South: Commercial	I-1
East: Sun Valley Blvd, Salt Creek	P
West: Commercial	I-1

**LEGAL DESCRIPTION:** Lot 2, Westgate Park for Business and Industry 3rd Addition, located in the SE 1/4 of Section 22-10-6, Lancaster County, Nebraska, generally located at 301 Oak Creek Drive.

Prepared by

\_\_\_\_\_  
Brian Will  
[bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov) or at  
402-441-6362  
February 20, 2019

Applicant/  
Contact: Tim O'Neill  
O'Neill, Heinrich, Damkroger, Bergmeyer, Shultz, LLC  
121 South 13<sup>th</sup> Street  
Lincoln, NE 68501  
402-434-3000

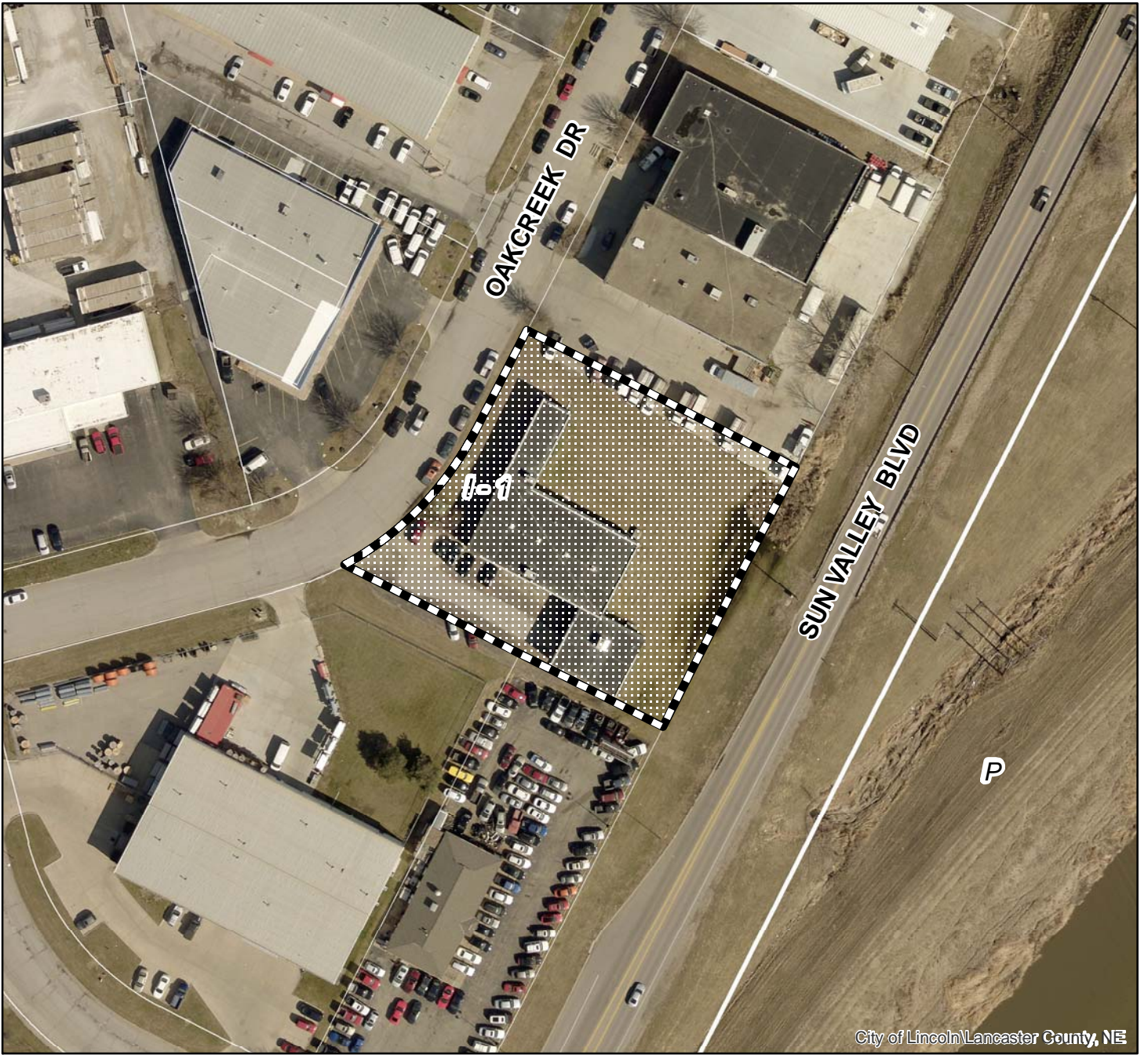
Owner: B&J Partnership  
340 Victory Lane  
Lincoln, NE 68528  
402-323-3100

## CONDITIONS OF APPROVAL - SPECIAL PERMIT #19010

This approval permits the sale of alcohol for consumption of the premises per LMC Section 27.63.685.

### Conditions:

1. The following conditions are applicable to all requests:
  - 1.1 Before the sale of alcohol for consumption on the premises, all development and construction is to substantially comply with the approved plans.
  - 1.2 The physical location of setbacks, yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
  - 1.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 1.4 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefore to be paid in advance by the applicant. The sale of alcohol is not authorized unless the letter of acceptance has been filed.



City of Lincoln \Lancaster County, NE

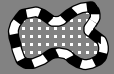


2018 aerial

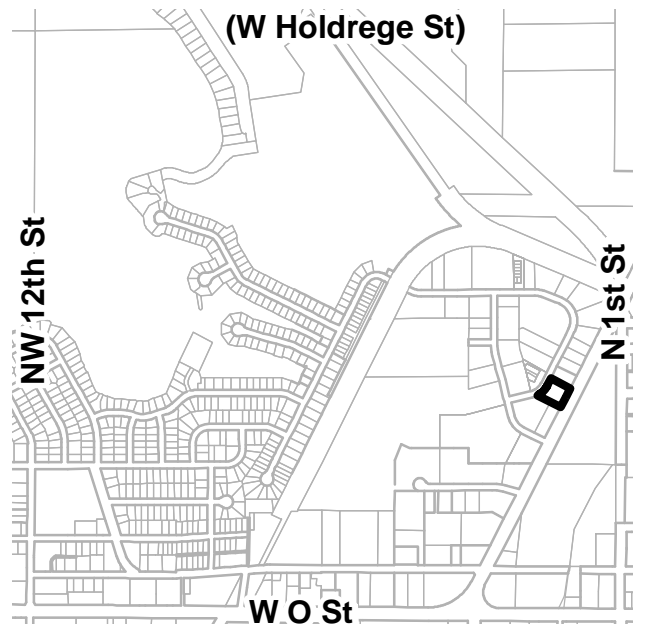
**Special Permit #: SP19010**  
**Oak Creek Dr & Sun Valley Blvd**

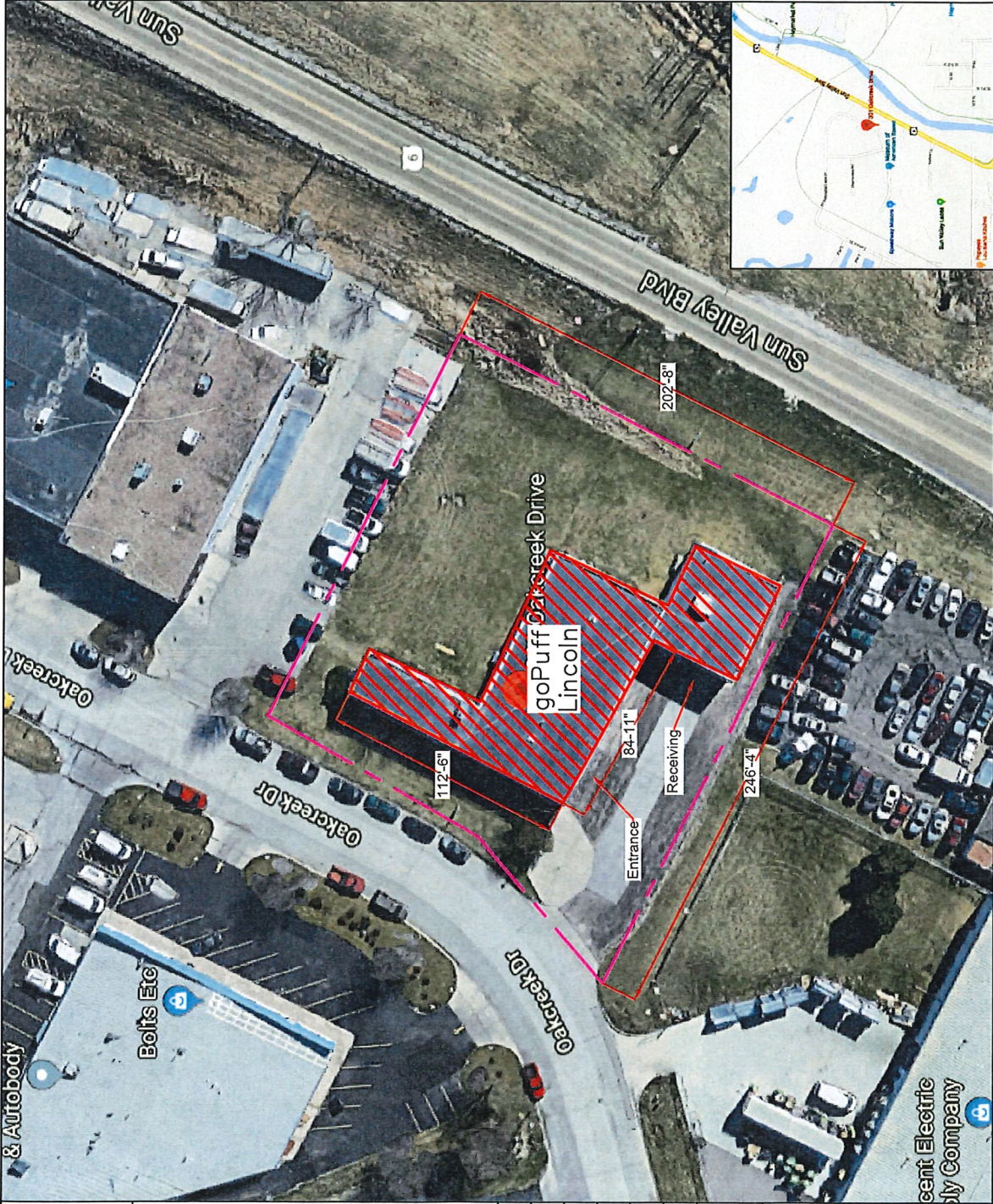
**Zoning:**

- 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
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- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile:  
 Sec.22 T10N R06E

	Area of Application
	Zoning Jurisdiction Lines
	Lancaster County Jurisdiction





 LICENSED PREMISES

	<p><b>goPuff</b> Territory Growth 454 N 12 St, Philadelphia, PA</p>	<p>Prep: N. Shedlock Prep Date: 1/24/19</p>	<p>Check: E. Gira Check Date:</p>	<p>Scale: 1/64" = 1'-0" Page: 1 of 1</p>	<p>Site Plan</p>	<p>goPuff Lincoln 301 Oakcreek Dr, Lincoln, NE</p>	
------------------------------------------------------------------------------------	-----------------------------------------------------------------------------	-------------------------------------------------	---------------------------------------	----------------------------------------------	------------------	----------------------------------------------------------------	---------------------------------------------------------------------------------------

**O'NEILL  
HEINRICH  
DAMKROGER  
BERGMEYER  
SHULTZ** PC, LLO

800 LINCOLN SQUARE  
121 S. 13<sup>TH</sup> ST.  
P.O. BOX 82028  
LINCOLN, NE 68501-2028

402.434.3000 OFFICE  
402.434.3030 FAX

**OHDBSLAW.COM**

January 31, 2019

59901-1

City of Lincoln Planning Dept.  
555 S. 10<sup>th</sup> St., Ste. 213  
Lincoln, NE 68508

Re: **Application for Special Permit**

Dear Sir or Madam:

Our firm represents GoBrands, Inc. d/b/a goPuff with regard to a liquor licensing application for the property located at 301 Oakcreek Drive. As part of the liquor licensing requirements, we are required to obtain a Special Permit for the property. This letter will provide information regarding the purpose of the application.

GoPuff is based in Philadelphia, Pennsylvania and operates in over 60 cities across the United States. The company utilized a central warehouse in each city. GoPuff is an on-demand delivery service for over 2,000 food, consumer and household items such as packaged foods, beverages, toiletries, over-the-counter medications and pet products. GoPuff's customers utilize an app to order items, which are then delivered to consumers. At present, deliveries in Lincoln are being limited to an area bounded by Superior Street, 70<sup>th</sup> Street, Pioneers Blvd. and Interstate 80/U.S. 77. Deliveries will be available between noon and 4:30 a.m., with the exception of alcohol which will follow state law and Lincoln Municipal Code. GoPuff will sell alcohol to be delivered, and not for consumption on, or sale at, the premises.

No waivers are requested.

If you have questions or need anything further, please feel free to contact me.

Very truly yours,

O'NEILL, HEINRICH, DAMKROGER,  
BERGMEYER & SHULTZ, P.C., L.L.O.



Tim O'Neill  
[toneill@ohdbslaw.com](mailto:toneill@ohdbslaw.com)

TLO/tkb

I:\599\01\001\LTR. TO LINCOLN CITY PLANNING.DOCX



GOBRANDS INC.  
454 N. 12th Street  
Philadelphia, PA 19123  
(855) 400-7833  
www.gopuff.com

February 18, 2019

Mr. Brian J. Will, MCRP, AICP  
City of Lincoln Planning Dept.  
555 S. 10<sup>th</sup> St., Ste. 213  
Lincoln, NE 68508

Re: **Application for Special Permit – GoBrands Inc. d/b/a goPuff**

Dear Mr. Will:

This letter supplements the pending Application for Special Permit for the property located at 301 Oakcreek Drive, Lincoln, Nebraska. In support of this application, the applicant submits the following:

- a. Parking shall be in conformance with the Lincoln Municipal Code;
- b. Alcoholic beverages for consumption on the premises will not be sold on the property;
- c. The building on the property is not located closer than (i) 100 feet from the property line of a premises used in whole or in part for a first-floor residential use, day care facility, park, place of religious assembly, or state mental health institution, or (ii) 100 feet from a residential district.
- d. Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.
- e. Vehicle stacking for any drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.
- f. The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district.
- g. No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district, excluding any emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.
- h. Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention will be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

We appreciate your assistance in this matter. If you have questions or need anything further, please feel free to contact our local counsel, Tim O'Neill, or me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Yakir Gola', is written over a horizontal line.

Yakir Gola

**LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT**

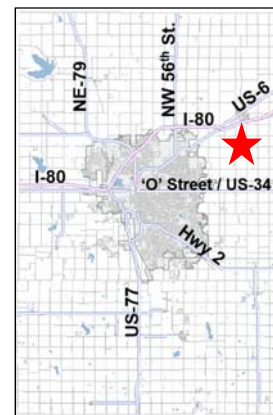
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Special Permit #14044A	FINAL ACTION? Yes	DEVELOPER/OWNER Bill Bevans
PLANNING COMMISSION HEARING DATE March 6, 2019	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 7850 N. 148 <sup>th</sup> Street

**RECOMMENDATION: CONDITIONAL APPROVAL**

**BRIEF SUMMARY OF REQUEST**

This is a request to expand an existing special permit for a Commercial Feedlot by adding 82,000 chickens in 4 barns. With the additional chickens there will be a total of 220,000 chickens within the area of the special permit of approximately 40 acres.



**JUSTIFICATION FOR RECOMMENDATION**

This application is in conformance with the 2040 Lincoln-Lancaster County Comprehensive Plan. The commercial feedlot is an agricultural use. There are no houses within a quarter mile and only 6 within a half mile. The Nebraska Department of Environmental Quality does not object to this application. The City of Waverly also does not object to this application.

**APPLICATION CONTACT**

Jill Schuerman, Civil Design Group  
402-434-8494 or [jschuerman@civildg.com](mailto:jschuerman@civildg.com)

**STAFF CONTACT**

Tom Cajka, (402) 441-5662or  
tcajka@lincoln.ne.gov

**COMPATIBILITY WITH THE COMPREHENSIVE PLAN**

The Comprehensive Plan identifies the area of application as agricultural. A commercial feedlot is a type of agricultural land use, which given certain conditions, is appropriate at this location. A goal of the Comprehensive Plan is for more diversified agribusiness ventures and to preserve land for agricultural purposes.

**KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN**

P. 3.11- Agricultural lands refers to land-about 90.3% of the county- utilized for growing crops, raising livestock, or producing other agricultural products.

P. 7.12- LPlan 2040 supports the preservation of land in the bulk of the County for agricultural and natural resource purposes.

P. 12.3 - this site is shown as future agriculture on the 2040 Lincoln Area Future Land Use Plan.

P. 12.4 - Agricultural land is principally in use for agricultural production. Agricultural land may be in transition to more diversified agribusiness ventures.

## Analysis

1. This is a request to expand an existing commercial feedlot per Article 13.035 of the Lancaster County Zoning Regulations. The proposal is to add 4 barns each housing 20,500 chickens for a total of 82,000 chickens. Each barn is 510' x 43' totaling 21,930 square feet.
2. Special Permit 14044 was approved in November 2014 for 150,000 square feet of chicken barns. These six barns hold up to 138,000 chickens. With the expansion there would be a total of 220,000 chickens and 45,000 turkeys. Mr. Bevans informed Nebraska Department of Environmental Quality that he would no longer have turkeys on site. The barns that house turkeys would be used for storage.
3. Bevans Farms has been in operation since 1963 according to Mr. Bevans. It was originally a turkey farm. The farm straddles jurisdiction between the City of Waverly and Lancaster County. The proposed expansion is completely within Lancaster County's jurisdiction.
4. The City of Waverly was notified of this request for any potential concerns the city might have. The City has no concerns with the proposed expansion. (see attached e-mail)
5. Bevans Farms is located on N. 148<sup>th</sup> Street a quarter mile north of Alvo Rd. N. 148<sup>th</sup> Street is a paved county section line road. The County Engineer does not object to this expansion.
6. Article 13.035 does not have specific conditions for commercial feedlots other than a statement from Nebraska Department of Environmental Quality addressing anti-pollution controls is required. Although there are no specific conditions listed, Article 13.002 offers guidance to the Planning Commission in reviewing special permits; "The Planning Commission shall hold a public hearing and shall consider the effect of such proposed building or uses upon the character of the neighborhood, traffic conditions, public utility facilities, the Comprehensive Plan and other matters relating to the public health, safety and general welfare."
7. There are no houses within ¼ mile of the special permit boundary and only 6 houses within ½ mile. There is a total of 27 houses within one mile of the special permit boundary. (See Exhibit B)
8. The Lancaster County Zoning Regulations requires that any commercial feedlot have a statement from the Nebraska Department of Environmental Quality (NDEQ) that either the facility does not need to provide for anti-pollution controls, or that the applicant has received approval from NDEQ for anti-pollution controls.
9. Nebraska Department of Environmental Quality (DEQ) has inspected the site. DEQ's inspection found that the operation is in compliance with Title 130, Livestock Waste Control Regulations. A Construction and Operating Permit or a livestock waste control facility is not required.
10. The Lower Platte South Natural Resource District (LPSNRD) was notified of this application. The LPSNRD does not object to this expansion.
11. Lincoln-Lancaster County Health Department (LLCHD) notes that barns for chickens must be located a minimum of 100 feet from any well. The site plan shows a well north of the new barns.
12. LLCHD recommends that the applicant obtain a construction/operating permit from NDEQ in accordance with Nebraska Administrative Code Title 130-Livestock Waste Control Regulations. This would require the submittal of a Nutrient Management Plan approved by NDEQ.
13. A Nutrient Management Plan was prepared by Nutrient Advisors for this application. The Nutrient Management Plan states that all litter will be removed from the site and applied to cropland. It is estimated the facility will produce 1,584 tons of solid litter. These are estimates and will vary depending on annual stocking rates and facility rations.
14. The litter will be stockpiled outside on site north of the new barns. The barns are cleaned out twice a year. Per the Nutrient Management Plan, stockpiles of litter will be managed as necessary by strategic placement berms and/or other means to prevent discharges until the stockpile is utilized for application.
15. Condition 1.8 of requiring any new chicken barn and litter stockpile to be a quarter mile from any dwelling is the same condition for another commercial feedlot, SP18025 Randy Essink.

**CONDITIONS OF APPROVAL:** See attached.

**EXISTING LAND USE & ZONING:** AG-Agriculture Commercial feedlot and single family house.

**SURROUNDING LAND USE & ZONING**

North: AG-Agriculture Farm ground and 2 dwellings.  
South: AG-Agriculture Farm ground, small acreages and 3 dwellings  
East: AG-Agriculture Farm ground and 1 dwellings  
West: AG-Agriculture Farm ground

**APPLICATION HISTORY**

November 12, 2014 SP#14044 for a commercial feedlot was approved by the Lincoln-Lancaster County Planning Commission.

**APPROXIMATE LAND AREA:** 40 acres, more or less

**LEGAL DESCRIPTION:** All that portion of "Lots 1 and 2, Bevans South Subdivision" as platted and located in the SW ¼ of Section 27-11-8, Lancaster County, Nebraska, which lies southerly from Waverly's 1-mile zoning jurisdiction as determined on March 6, 2019, generally located at North 148<sup>th</sup> Street and Alvo Road.

Prepared by

---

Tom Cajka, Planner

Date: February 25, 2019

Applicant: Bill Bevans  
Bevans Barns, LLC  
7900 N. 148<sup>th</sup> Street  
Waverly, NE 68462  
bbevans@windstream.net

Contact: Jill Schuerman  
Civil Design Group  
8535 Executive Woods Drive, Suite 200  
Lincoln, NE 68512  
402-434-8494

Owner: Bevans Barns, LLC  
7900 N. 148<sup>th</sup> Street  
Waverly, NE 68462  
bbevans@windstream.net

F:\DevReview\SP\14000\SP14044A Bevans Farms.tjc.docx

## CONDITIONS OF APPROVAL - SPECIAL PERMIT #14044A

Per Article 13.035 this approval permits a Commercial Feedlot for up to 220,000 chickens.

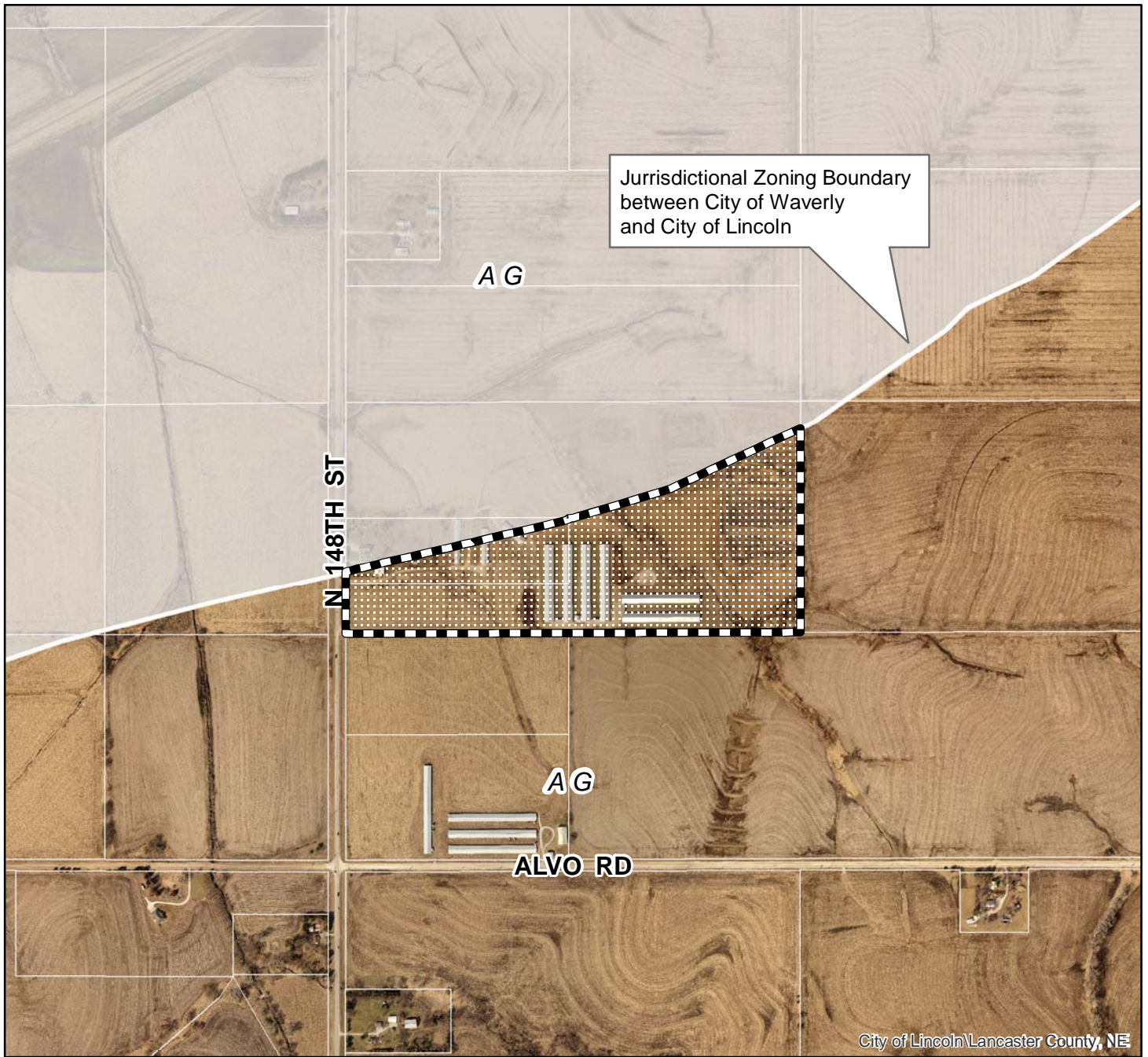
### Site Specific Conditions:

1. Before receiving building permits the permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 3 copies with all required revisions and documents as listed below:
  - 1.1 Change the legal to read, "Lots 1 and 2, Bevans South Subdivision located in the SW ¼ of Section 27-11-8, Lancaster County, Nebraska, which lies southerly from Waverly's one-mile zoning jurisdiction."
  - 1.2 Delete "turkey" from the buildings.
  - 1.3 Identify the jurisdictional line between Waverly and Lancaster County as the special permit boundary.
  - 1.4 Identify the dashed lines around the new barns as "building envelope."
  - 1.5 The new barns must be located a minimum of 100 feet from any wells.
  - 1.6 Identify where the stockpile of litter is located.
  - 1.7 Delete Note 3. There are no lighting standards in the County.
  - 1.8 Add a note that any new chicken barn and litter pile shall be located a minimum of a quarter mile from any existing house.
- 2.1 Before receiving building permits provide the following documents to the Planning Department:
  - 2.1.1 Verification from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.
- 2.2 As part of occupying the new chicken barns, the permittee shall:
  - 2.2.1 Obtain a Construction Operating Permit and Nutrient Management Plan from Nebraska Department of Environmental Quality.

### Standard Conditions:

3. The following conditions are applicable to all requests:
  - 3.1 Before starting the operation all development and construction shall substantially comply with the approved plans.
  - 3.2 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.
  - 3.3 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.
  - 3.4 The applicant shall sign and return the letter of acceptance to the County Clerk. This step should be completed within 60 days following the approval of the special permit. The Permittee shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds. Building permits will not be issued unless the letter of acceptance has been filed.

- 3.5 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all prior resolutions approving this permit remain in full force and effect as specifically amended by this resolution.



City of Lincoln/Lancaster County, NE

2018 aerial

**Special Permit #: SP14044A**  
**Bevans Farm**  
**N 148th St & 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.27 T11N R08E



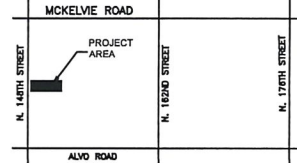
# EXHIBIT A

**SPECIAL PERMIT - LEGAL DESCRIPTION:**

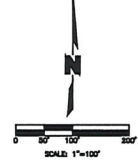
LOTS 1 & 2, BEVANS SOUTH SUBDIVISION ALL LOCATED IN THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 11 NORTH, RANGE 8 EAST OF THE 6TH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA.

**NOTES - SPECIAL PERMIT - COMMERCIAL FEEDLOT**

1. THE OWNER/OPERATORS RESERVE THE RIGHT TO BUILD STRUCTURES ANYWHERE WITHIN THE SETBACKS SHOWN.
2. THIS SPECIAL PERMIT ALLOWS A COMMERCIAL FEEDLOT.
3. ALL EXTERIOR LIGHTING SHALL COMPLY WITH THE DESIGN STANDARDS AS ADOPTED BY LANCASTER COUNTY.



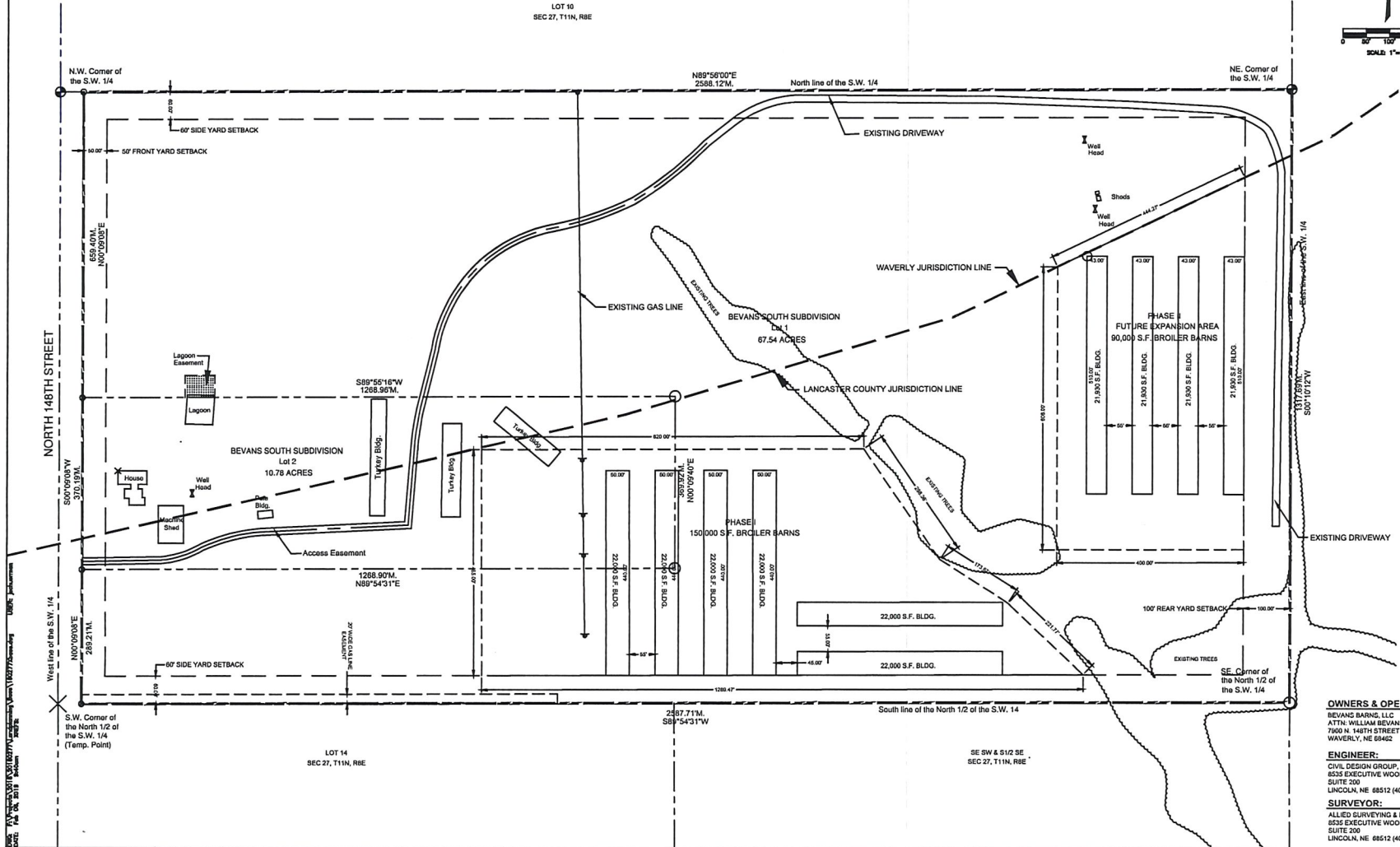
VICINITY MAP  
SCALE: NONE



Civil Design Group, Inc.  
1600 N. 148TH STREET, SUITE 200  
LANCASTER, NEBRASKA 68403  
Ph: 402-434-8484 Fax: 402-434-8487  
www.civilgroup.com



CONSULTING ENGINEERS AND LAND USE PLANNERS  
CIVIL DESIGN & SITE DEVELOPMENT PLANNING AND ZONING



NO.	DATE	REVISIONS

BEVANS FARM  
AMENDED SPECIAL PERMIT # 14044A

SITE PLAN

2019

LANCASTER COUNTY, NEBRASKA

**OWNERS & OPERATORS:**

BEVANS FARMS, LLC  
ATTN: WILLIAM BEVANS  
7800 N. 148TH STREET  
WAVERLY, NE 68462

**ENGINEER:**

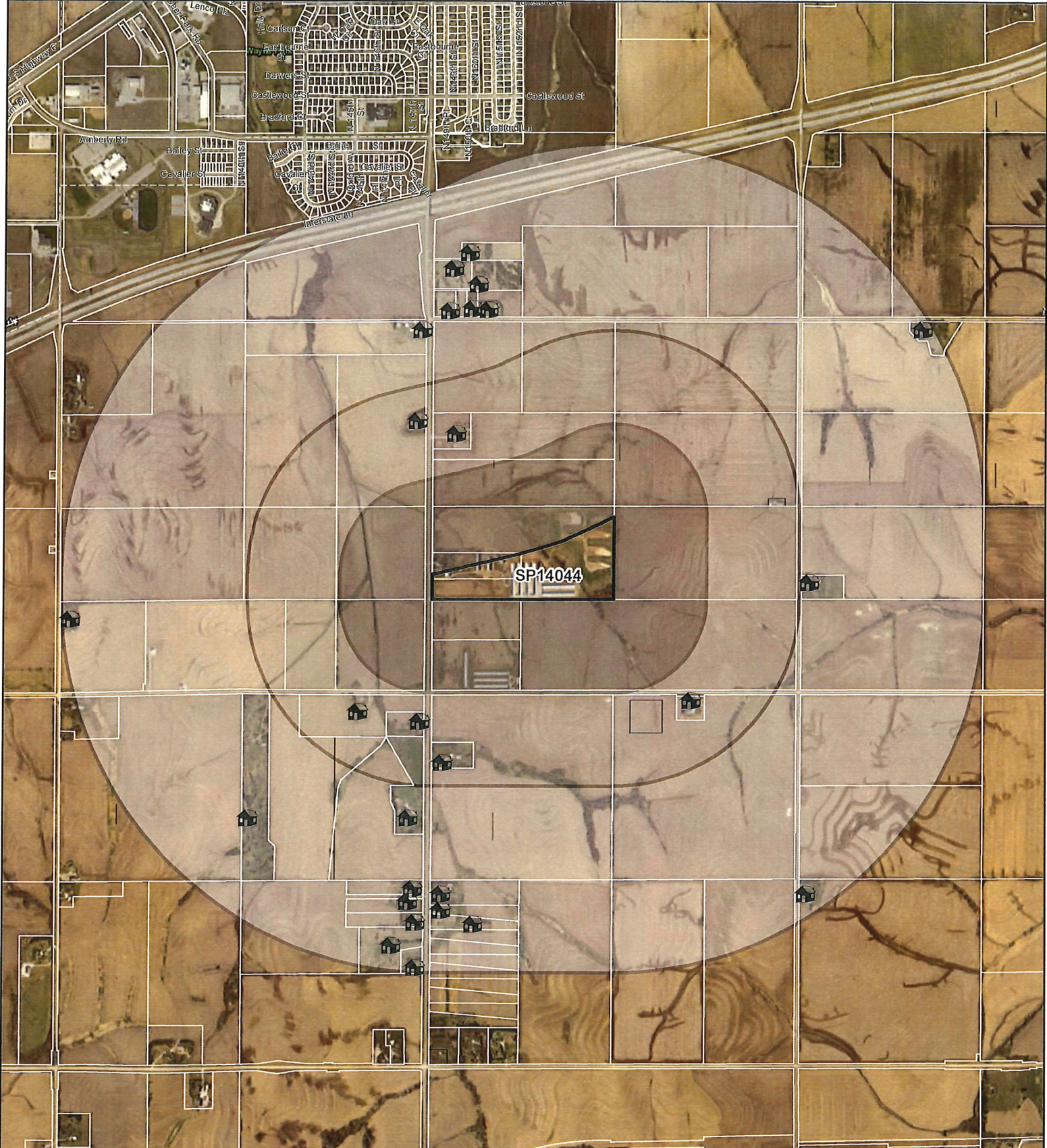
CIVIL DESIGN GROUP, INC.  
8520 EXECUTIVE WOODS DRIVE  
SUITE 200  
LINCOLN, NE 68512 (402)434-8494

**SURVEYOR:**

ALLIED SURVEYING & MAPPING  
8520 EXECUTIVE WOODS DRIVE  
SUITE 200  
LINCOLN, NE 68512 (402)434-2686

Drawn by: jsh  
checked by: .  
approved by: .  
project no.: 2018-0277  
drawing no.:  
date: 02/06/2019

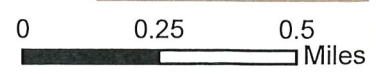
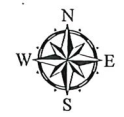
**SHEET  
1 OF 1**



## Exhibit B Bevans Broilers

- Dwellings within 1 Mile of 14044
- 1/4 Mile Buffer - 0 Dwelling Locations
- 1/2 Mile Buffer - 6 Dwelling Locations
- 1 Mile Buffer - 27 Dwelling Locations

Date: 9/6/2018



# NEBRASKA

Good Life. Great Environment.

DEPT. OF ENVIRONMENTAL QUALITY



Pete Ricketts, Governor

William B. Bevans  
Bevans Barns, LLC - South  
7900 North 148th Street  
Waverly, NE 68462-9531

FEB 25 2019

RE: Bevans Barns, LLC - South Concentrated Animal Feeding Operation  
NDEQID: 69261  
Program ID: LWC 2-098  
Subject: **Construction & Operating or NPDES Permit Not Required**  
N 1/2, SW 1/4, Section 27, Township 11N, Range 08E, Lancaster County

Dear Mr. Bevans:

At this time, your existing and proposed concentrated animal feeding operation (CAFO) is not required to construct a livestock waste control facility (LWCF) or obtain a Construction and Operating Permit or a National Pollutant Discharge Elimination System (NPDES) Permit for CAFOs. This determination is based on the January 30, 2019 inspection conducted by Kevin Franzluebbbers from the Nebraska Department of Environmental Quality (Department), according to the Livestock Waste Management Act and Title 130, *Livestock Waste Control Regulations*. This letter supersedes the "Construction & Operating or NPDES Permit Not Required" letter sent by the Department on May 27, 2014.

While your operation is exempt from the Title 130 permitting requirements described above, please be aware that any construction activity that disturbs a land area of one (1) acre or more must still obtain coverage under the Construction Storm Water General Permit Number NER160000, which authorizes storm water discharges from construction sites (Title 119). This permit may be obtained by the operation's authorized representative, the contractor or other party responsible for the construction project. Application for permit coverage can be made by accessing the following website: <https://ecmp.nebraska.gov/DEQ-CSW>.

At the time of the inspection, the Department considered your operation a large CAFO that included and proposed the following:

Livestock Species	Maximum No. of Head Capacity	Existing or Proposed?
Chickens (Broilers)	138,000	Existing
Turkeys	45,000	Existing
Chickens (Broilers)	82,000	Proposed

Type of Structure	Number of Each Type	Existing or Proposed?
Dry Litter Barns - Chickens	6	Existing
Dry Litter Barns - Turkeys	2	Existing
Dry Litter Barns - Chickens	4	Proposed

Page 1 of 2

deq.ne.gov


Jim Macy, Director

Department of Environmental Quality  
P.O. Box 98922  
1200 N Street, Suite 400  
Lincoln, Nebraska 68509-8922

OFFICE 402-471-2186 FAX 402-471-2909  
ndeq.moreinfo@nebraska.gov

Please remember, you are responsible for complying with any Natural Resources District, county or local zoning requirements and for preventing any discharge of livestock waste to waters of the State. If you plan to expand or modify the operating style of your operation in the future, you must request an inspection by the Department prior to starting construction or modifications. Failure to request an inspection could result in late fees or other penalties. If you have any questions, please contact Kevin Franzluebbbers at (402) 471-6687 or myself at (402) 471-4239.

Sincerely,



Cay Ewoldt, Supervisor  
Agriculture Section  
Water Permits Division  
cay.ewoldt@nebraska.gov

Enclosure  
cc: Nutrient Advisors

## Tom J. Cajka

---

**From:** Chad Lyon <chadl@citywaverly.com>  
**Sent:** Monday, February 11, 2019 9:49 AM  
**To:** Tom J. Cajka  
**Cc:** City of Waverly Administrator; 'wsswerner@windstream.net'  
**Subject:** RE: Bevans FARms

Tom,  
Thanks for passing this information on to the City of Waverly. The City greatly appreciates Lincoln notifying us and giving the City a chance to comment. Bevans Farms has always included the City of Waverly whenever they alter/enlarge their business and the same goes for this proposed project. Based on the location, building setbacks and nutrient management plan of the proposed project, the City of Waverly has no comments or concerns at this time. If you need any additional information from the City of Waverly, please let me know.

Thanks,  
Chad Lyon  
City of Waverly

---

**From:** Tom J. Cajka [mailto:tcajka@lincoln.ne.gov]  
**Sent:** Thursday, February 07, 2019 8:57 AM  
**To:** Chad Lyon  
**Subject:** Bevans FARms

I have an application to expand an existing feedlot to add 86,000 broiler chickens for Bevans Farms located at 7900 N. 148<sup>th</sup>. Please review and send me any comments. I have attached the information.

Chad, although the area of expansion is outside Waverly's one-mile jurisdiction I would like to know any concerns Waverly might have.

Tom Cajka, Planner II  
County Planner  
Lincoln-Lancaster County Planning  
402-441-5662

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# Civil Design Group, Inc.

Consulting Engineers & Land Use Planners  
Civil Design • Site Development • Planning & Zoning

February 6, 2019

CDG Project No. 2018-0277

Mr. David Cary, Director of Planning  
City of Lincoln /Lancaster County  
555 South 10<sup>th</sup> Street, Room 213  
Lincoln, NE 68508

Re: Bevans Barns, LLC – Amendment to Special Permit #14044A  
Generally located at 7900 N. 148<sup>th</sup> Street

Dear Mr. Cary:

On behalf of Bevans Barns, LLC operated by Bill Bevans, we submit the above mentioned application for your review and approval. With this Amendment to the Existing Special Permit we are requesting to expand the existing commercial feedlot operation by adding 4 barns that will house 86,000 broiler chickens. The Bevans has successfully owned and operated commercial feedlot on this site since the 1960's and Mr. Bevans continues to live on-site. Per your recommendation, Nutrient Advisors has prepared the attached Nutrient Management Plan for your review.

In conjunction with this submittal we submit the following information:

- Application for Special Permit Amendment
- Use Permit Amendment Fee of \$988.00
- Site Plat & Improvements Exhibit – Uploaded via Project Dox

I hope that this letter, the site plan and the nutrient management plan provides you with enough information to review this application. If you have questions during the review process please call or email as needed.

Sincerely,

Mike Eckert

Encl

cc: Bevans Barns, LLC

/Volumes/Public/F/Projects/2018/20180277/Landplanning/Doc/Use Permit submittal 02-06-19.docx

# BEVANS BARNS, LLC

## NUTRIENT MANAGEMENT PLAN



449 E. Deere Street ▪ West Point, NE 68788 ▪ Phone: 402.372.2236 ▪ Fax: 402.372.1942  
[www.nutrientadvisors.com](http://www.nutrientadvisors.com)

# Bevans Barns, LLC

## Nutrient Management Plan

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### Overview

#### 001.01 Facility Description & Operation

Bevans Barns, LLC is contract broiler facility covering approximately 10 acres in Lancaster County, Nebraska. The facility has a maximum one-time capacity of 220,000 broiler chickens. All of the litter will be transferred to other recipients in any given year; the litter will primarily be transferred to Tyler and Amy Bruch of York, NE and applied to cropland with solid litter spreaders. Litter generated at facility may be stockpiled on application sites throughout the growing season and applied after crop removal. The Bruchs manage approximately 3,600 acres in York, Seward, and Colfax counties available for litter application.

#### 001.02 Litter Estimates

It is estimated that the operation will produce approximately 1,584 tons of solid litter. These are estimates and will vary depending on annual stocking rates and facility rations

#### 001.03 Best Management Practices

Bevans Barns, LLC will be operated and maintained to prevent water pollution and to protect the environment. Best management practices will be implemented to prevent or reduce the discharge of pollutants to waters of the state and control odor where appropriate.

#### 001.03A Litter Removal and Land Application

All livestock litters removed from the LWCF will be land applied in a manner which will not contribute to water pollution. Stockpiles of litter will be managed as necessary by strategic placement, berms and/or other means to prevent discharges until the stockpile is utilized for application.

The protocols for land application of litter are based on: 1) preventing discharges to the waters of the state; 2) not exceeding the capacity of the soil; and 3) not exceeding the expected crop nutrient uptake between applications. Site specific nutrient management practices will be followed to ensure appropriate agricultural utilization of the nutrients in the litter.

## **002 Nutrient Management Plan**

### **002.01 Nutrient Form, Source and Removal**

The source of litter is confined broiler chicken houses. The forms of litter are solids scraped from houses. Other sources of nutrients to be used to produce crops may include commercial fertilizers, previous legume crop residues, nutrients in the soil, nitrogen in irrigation water, and other sources of manure fertilizer.

All of these sources will be accounted for on each application site being utilized. The expected requirement for nitrogen in the harvested crop is shown on Page 39 of the Ward Guide.

### **002.02 Land Application of Nutrients**

Litter from the facility will be applied to land at agronomic rates for nitrogen utilization necessary for crop production. Litter may be applied at agronomic rates for Phosphorus or Potassium but in no circumstance will application rates exceed the 1<sup>st</sup> crops requirement for Nitrogen. Application rates may be uniform or applied at variable rates across field according to grid soil samples and field prescriptions. Litter will primarily be applied after crops have been harvested and prior to planting the following crop. If weather does not allow land application, stockpiles of litter will be managed as necessary by strategic placement, berms and/or other means to prevent discharges until the stockpile is utilized for application.

### **002.03 Minimization of Nitrogen and Phosphorus Mobilization**

All litter will be applied at agronomic rates to minimize movement of nitrogen into ground water. This will also minimize the movement of nitrogen and phosphorus to surface waters.

### **002.04 Each field used for land application will maintain:**

#### **002.04A Setbacks**

One-hundred-foot setbacks are maintained from concentrated surface water drainage, streams, wells, and tile inlets unless a 35 ft vegetative buffer exists, then 35 ft of buffer is sufficient.

#### **002.04B Litter Sampling Procedures**

Litter will be sampled at least once annually and submitted to a professional laboratory for analysis of total nitrogen, organic nitrogen, ammonium nitrogen, phosphorus, moisture content, and additional nutrients.

#### **002.04C Soil Sampling Procedures for Nitrogen**

Management will have a soil sample taken on all land prior to application that is to receive litter as fertilizer. Samples will be submitted to a professional laboratory for analysis. The samples will be a representative sample, with a sample representing no more than 40 acres (unless the field is less than 50 acres). A 0 to 6-10 in. sample will be taken for surface nitrogen.

Deep nitrate samples will be taken annually whenever litter will be applied unless the following exceptions apply. The depth will be determined by management but will be no less than 24 in. The following exceptions and guidelines will apply:

- Non-legume crops following annual and biennial legumes (corn following soybeans/edible beans/sweet clover); deep nitrate tests are not necessary unless there is a reason to believe nitrate levels are elevated due to previous applications of litter or nitrogen fertilizer, drought, crop failure, or any other reason there might be residual nitrogen in the soil profile;
- Non-legume crops following alfalfa or other perennial legume (corn following alfalfa); deep nitrate tests are not necessary unless there is a reason to believe they are elevated;
- Pastures/CRP—deep nitrate tests are not necessary unless there is a reason to believe they are elevated due to previous applications of litter or nitrogen fertilizer.
- Deep nitrate tests will not be taken when the only source of N is a starter fertilizer and less than 25 lb of N will be applied; and
- When deep nitrate tests are not taken, an assumed value of at least 3 ppm for residual nitrate values will be used in the nutrient budget in addition to appropriate N-credits when following legumes.

EXPECTED LITTER NUTRIENT PRODUCTION FROM:

**BEVANS BARNs, LLC**

Facility Capacity: 220,000 Broilers

Projected Annual Litter Production: 1,584 Tons



**Average Litter Analysis in pounds of nutrient per ton**

Product	Ammonia N		Organic N		P	K	Sulfur	Zinc	Moisture	pH
	Total	Avail.	Total	Avail.						
10130468	10		25.0	7.5	35.8	41.6	8.4	0.56	31.80%	8.7

Ammonia N Utilization factor 0%

1st Yr.Organic N Utilization factor 30%

**Projected Annual Nutrient Production:**

Product	1,584 tons produced annually				
	Available Nitrogen	P	K	S	Zn
10130468	11,880	56,707	65,894	13,306	887
	5,940	2nd Year Nitrogen			



# Bevans Barns, LLC

## Nutrients Required for Crop Growth

Crop	Irrigated Corn	Dryland Corn	Irrigated Soybeans	Dryland Soybeans	Wheat		Totals
Crop Yield bu/ac	223	178	71	54	52		
Crop Acres	1260	540	756	324	720		3,600
Total N Required <sup>1</sup> lbs.	337,175	115,103	198,543	65,239	89,718		805,779
Total P Required <sup>1</sup> lbs.	92,723	31,653	41,318	13,577	19,439		198,711
Total N Required for Crop	<u>805,779</u>	Lbs.	Total P <sub>2</sub> O <sub>5</sub> Required for Crop	<u>198,711</u>	Lbs.		
Total N Available all Sources <sup>2</sup>	<u>20,592</u>	Lbs.	Total P <sub>2</sub> O <sub>5</sub> Available all Sources <sup>2</sup>	<u>56,707</u>	Lbs.		
Un-utilized Manure N	<u>0</u>	Lbs.	Un-utilized Manure P <sub>2</sub> O <sub>5</sub>	<u>0</u>	Lbs.		
Number of acres to utilize all Nitrogen produced:	<u>92</u>		Number of acres to utilize all Phosphorus produced:	<u>1027</u>			

<sup>1</sup>Nutrient Required based on **Wardguide**

<sup>2</sup>See Nutrient Production Worksheet

# FIELD PLAN - 5 YEAR NUTRIENT PROJECTION



## Application Site Summary

Field Management Description:	A. Irrigated Corn-Wheat-Soybeans Rotation
	Dry Manure Application

### Field Plan For Nitrogen

Year	Previous Crop	Planned Crop	Expected Yield bu/ac	Total Crop N Need lb/ac	Soil N lb/ac	Previous Crop Legume N lb/ac	Nitrogen Credits			Nitrogen Need before Manure Application lb/ac	Planned Manure N Application 1st yr Avail lb/ac	Planned Commercial N Application lb/ac	Nitrogen Balance lb/ac
							Prior Manure Organic N		Irr. N lb/ac				
							2nd year lb/ac	3rd year lb/ac					
1	Soybeans	Corn	223	268	30	45	0.0	0.0	11.3	181	23	159	0
2	Corn	Wheat	52	125	30	0	11.3	0.0	11.3	72	0	72	0
3	Wheat	Soybeans	71	263	30	0	0.0	5.3	11.3	216	0	0	0
4	Soybeans	Corn	223	268	30	45	0.0	0.0	11.3	181	23	159	0
5	Corn	Wheat	52	125	30	0	11.3	0.0	11.3	72	0	72	0

### Field Plan For Phosphorus

Year	Previous Crop	Planned Crop	Expected Yield	Total Crop P Removal	Phosphorus Need before Manure Application lb/ac	Planned Manure P Application lb/ac	Planned Commercial P Application lb/ac	Phosphorus Balance lb/ac
1	Soybeans	Corn	223	74	74	107	0	34
2	Corn	Wheat	52	27	27	0	0	7
3	Wheat	Soybeans	71	55	55	0	0	-48
4	Soybeans	Corn	223	74	74	107	0	-14
5	Corn	Wheat	52	27	27	0	0	-41

\* These manure applications are projections only - any of these sites may or may not receive manure in any given year and may receive more or less manure N than is projected in any given year.

\* County Averages are used for crop yield goals in this crop rotation projection - Actual yield goals may be based on site specific yield data at time of manure application.

\* Projections are for acres that are controlled by the operation - Other manure nutrients may be transferred to acres that are not controlled by the operation.

# FIELD PLAN - 5 YEAR NUTRIENT PROJECTION



## Application Site Summary

Field Management Description:	B. Irrigated Corn Soybean Rotation
	Dry Manure Application

### Field Plan For Nitrogen

Year	Previous Crop	Planned Crop	Expected Yield bu/ac	Total Crop N Need lb/ac	Soil N lb/ac	Previous Crop Legume N lb/ac	Nitrogen Credits			Irr. N lb/ac	Nitrogen Need before Manure Application lb/ac	Planned Manure N Application 1st yr Avail lb/ac	Planned Commercial N Application lb/ac	Nitrogen Balance lb/ac
							Prior Manure Organic N							
							2nd year lb/ac	3rd year lb/ac						
1	Soybeans	Corn	223	268	30	45	0.0	0.0	11.3	181	19	163	0	
2	Corn	Soybeans	71	263	30	0	9.4	0.0	11.3	212	0	0	0	
3	Soybeans	Corn	223	268	30	45	0.0	4.4	11.3	177	19	158	0	
4	Corn	Soybeans	71	263	30	0	9.4	0.0	11.3	212	0	0	0	
5	Soybeans	Corn	223	268	30	45	0.0	4.4	11.3	177	19	158	0	

### Field Plan For Phosphorus

Year	Previous Crop	Planned Crop	Expected Yield	Total Crop P Removal	Phosphorus Need before Manure Application lb/ac	Planned Manure P Application lb/ac	Planned Commercial P Application lb/ac	Phosphorus Balance lb/ac
1	Soybeans	Corn	223	74	74	90	0	16
2	Corn	Soybeans	71	55	55	0	0	-39
3	Soybeans	Corn	223	74	74	90	0	-23
4	Corn	Soybeans	71	55	55	0	0	-77
5	Soybeans	Corn	223	74	74	90	0	-62

- \* These manure applications are projections only - any of these sites may or may not receive manure in any given year and may receive more or less manure N than is projected in any given year.
- \* County Averages are used for crop yield goals in this crop rotation projection - Actual yield goals may be based on site specific yield data at time of manure application.
- \* Projections are for acres that are controlled by the operation - Other manure nutrients may be transferred to acres that are not controlled by the operation.

# FIELD PLAN - 5 YEAR NUTRIENT PROJECTION



## Application Site Summary

Field Management Description:	C. Dryland Corn Soybean Rotation
	Dry Manure Application

### Field Plan For Nitrogen

Year	Previous Crop	Planned Crop	Expected Yield bu/ac	Total Crop N Need lb/ac	Soil N lb/ac	Previous Crop Legume N lb/ac	Nitrogen Credits			Nitrogen Need before Manure Application lb/ac	Planned Manure N Application 1st yr Avail lb/ac	Planned Commercial N Application lb/ac	Nitrogen Balance lb/ac
							Prior Manure Organic N		Irr. N lb/ac				
							2nd year lb/ac	3rd year lb/ac					
1	Soybeans	Corn	178	213	30	45	0.0	0.0	0.0	138	19	119	0
2	Corn	Soybeans	54	201	30	0	9.4	0.0	0.0	162	0	0	0
3	Soybeans	Corn	178	213	30	45	0.0	4.4	0.0	134	19	115	0
4	Corn	Soybeans	54	201	30	0	9.4	0.0	0.0	162	0	0	0
5	Soybeans	Corn	178	213	30	45	0.0	4.4	0.0	134	19	115	0

### Field Plan For Phosphorus

Year	Previous Crop	Planned Crop	Expected Yield	Total Crop P Removal	Phosphorus Need before Manure Application lb/ac	Planned Manure P Application lb/ac	Planned Commercial P Application lb/ac	Phosphorus Balance lb/ac
1	Soybeans	Corn	178	59	59	90	0	31
2	Corn	Soybeans	54	42	42	0	0	-11
3	Soybeans	Corn	178	59	59	90	0	20
4	Corn	Soybeans	54	42	42	0	0	-22
5	Soybeans	Corn	178	59	59	90	0	9

\* These manure applications are projections only - any of these sites may or may not receive manure in any given year and may receive more or less manure N than is projected in any given year.

\* County Averages are used for crop yield goals in this crop rotation projection - Actual yield goals may be based on site specific yield data at time of manure application.

\* Projections are for acres that are controlled by the operation - Other manure nutrients may be transferred to acres that are not controlled by the operation.

# FIELD PLAN - 5 YEAR NUTRIENT PROJECTION



## Application Site Summary

Field Management Description:	D. Dryland Corn-Wheat-Soybeans Rotation
	Dry Manure Application

### Field Plan For Nitrogen

Year	Previous Crop	Planned Crop	Expected Yield bu/ac	Total Crop N Need lb/ac	Soil N lb/ac	Previous Crop Legume N lb/ac	Nitrogen Credits			Nitrogen Need before Manure Application lb/ac	Planned Manure N Application 1st yr Avail lb/ac	Planned Commercial N Application lb/ac	Nitrogen Balance lb/ac
							Prior Manure Organic N		Irr. N lb/ac				
							2nd year lb/ac	3rd year lb/ac					
1	Soybeans	Corn	178	213	30	45	0.0	0.0	0.0	138	19	119	0
2	Corn	Wheat	52	125	30	0	9.4	0.0	0.0	85	0	85	0
3	Wheat	Soybeans	54	201	30	0	0.0	4.4	0.0	167	0	0	0
4	Soybeans	Corn	178	213	30	45	0.0	0.0	0.0	138	19	119	0
5	Corn	Wheat	52	125	30	0	9.4	0.0	0.0	85	0	85	0

### Field Plan For Phosphorus

Year	Previous Crop	Planned Crop	Expected Yield	Total Crop P Removal	Phosphorus Need before Manure Application lb/ac	Planned Manure P Application lb/ac	Planned Commercial P Application lb/ac	Phosphorus Balance lb/ac
1	Soybeans	Corn	178	59	59	90	0	31
2	Corn	Wheat	52	27	27	0	0	4
3	Wheat	Soybeans	54	42	42	0	0	-38
4	Soybeans	Corn	178	59	59	90	0	-7
5	Corn	Wheat	52	27	27	0	0	-34

\* These manure applications are projections only - any of these sites may or may not receive manure in any given year and may receive more or less manure N than is projected in any given year.

\* County Averages are used for crop yield goals in this crop rotation projection - Actual yield goals may be based on site specific yield data at time of manure application.

\* Projections are for acres that are controlled by the operation - Other manure nutrients may be transferred to acres that are not controlled by the operation.

**Page 8 from the University of Tennessee Publication 1644  
"Guidelines for Developing and Implementing a Poultry Nutrient  
Management Plan"**

## Poultry Litter Production

The amount of poultry litter removed from a poultry house will vary depending upon litter moisture content, type and size of the chickens and length of time the chickens are kept in the poultry house. The approximate amount of litter produced by various kinds of chickens is shown in Table 5. This information can be used to complete the litter production calculations in Form 2. For instance, a 4-pound broiler will produce approximately 2.1 pounds of litter in a 42-day grow-out period, as compared to a 6.5-pound broiler that will produce approximately 2.4 pounds of litter in a 53-day grow-out period. To calculate the total amount of litter that will accumulate in the poultry house, consideration must be given to the number of grow-outs in the house each year. As indicated in Table 5, broiler breeders and table egg-type-hens will produce approximately the same amount of litter per bird per year. Although the broiler breeder is a much larger bird, it must be remembered that a broiler breeder is only in the poultry house for 10 months as compared to 12 months or more for table egg-type-hens.

<b>Table 5. Typical Values of Poultry Litter Production*</b>		
<b>Type of Poultry</b>	<b>Market or Mature Weight (pounds)</b>	<b>Litter Produced per Bird for each Grow-out or Egg Production Period (lbs.)</b>
Broilers	3.8 - 4.9	2.1
	5 - 5.9	2.2
	6 - 7+	2.4
Broiler breeder replacements	5 - 6	5.5
Broiler breeders	8 - 12	35
Table egg replacements	2.5 - 3.5	4.5
Table egg hens	4 - 5	35
<i>*Values are approximate and can be adjusted based on farm records.</i>		

**Raymond C. Ward, Ph.D.**  
Certified Professional Soil Scientist

<b>Crop</b>	<b>Nitrogen Requirement</b>	<b>Subsoil Factor</b>
Corn	1.2 lbs / bu	0.3
Milo	1.15 lbs / bu	0.3
Popcorn	0.031 lbs / lb	0.3
Seed Corn	2 lbs / bu	0.3
Corn Silage	10.5 lbs / ton	0.3
Sorghum Silage	9.5 lbs / ton	0.3
Feed-Hay	27 lbs / ton	0.3
Sudan Hay	27 lbs / ton	0.3
Soybeans	See Footnote	
Pinto Beans	3 lbs / cwt	0.3
Gr. No. Beans	3 lbs / cwt	0.3
Peanuts	See Footnote	
W. Wheat	2.4 lbs / bu	0.3
Sp. Wheat	2.5 lbs / bu	0.3
Oats	1.3 lbs / bu	0.3
Rye	1.9 lbs / bu	0.3
Feed Barley	1.5 lbs / bu	0.3
Malting Barley	1.3 lbs / bu	0.3
Sm. Gr. Silage	13 lbs / ton	0.3
Sm. Gr. Hay	40 lbs / ton	0.3
Alfalfa	0	0
New Alfalfa	See Footnote	
Grass-Alfalfa	20 lbs / ton	0.3
Clover	0	0
Bromegrass	40 lbs / ton	0.3
Bermudagrass	40 lbs / ton	0.3
Fescue	40 lbs / ton	0.3
Native Grass	27 lbs / ton	0.3
Lovegrass	32 lbs / ton	0.3
Cool Grass	40 lbs / ton	0.3
Sugar Beets	8 lbs / ton	0.3
Sunflowers	0.05 lbs / lb	0.3
Potatoes	0.5 lbs / cwt	0.3
Cotton	0.1 lbs / lb	0.3
Millet	1.7 lbs / bu	0.3
Onions	0.25 lbs / cwt	0.3
Melons	14 lbs / ton	0.3
Garden	135 lbs / unit	0.3

Footnote: The nitrogen rate for these legume crops is calculated on the basis of the P2O5 requirement. The N requirement is based on a 1:3 ratio (N:P2O5)

**CYCLONE FARMS INC  
AMY DEE BRUCH  
1719 DUKE CIRCLE  
YORK NE 68467**

**Nutrient Land Application**

For: (36511) CYCLONE FARMS INC  
MANURE ANALYSIS

Sample ID: **SOUTH BARN** Lab Number: **10130468**

Parameter	Pounds of Nutrient AR Est. First Year			Method	Reviewer-Date
	Analysis As Received	per ton	Availability lbs per ton		
Ammonium nitrogen (total)	0.49 %	9.8	5	AOAC 2001.11	mjs5 2017-11-29 13:47:01
Organic nitrogen	1.25 %	25.0	9	Calculation	Auto 2017-11-29 13:47:02
Total Kjeldahl nitrogen (TKN)	1.74 %	34.8	14	AOAC 2001.11	mjs5 2017-11-29 13:47:01
Phosphorus (as P2O5)	1.79 %	35.8	25	AOAC 985.01 (mod)	Auto 2017-11-29 13:47:02
Potassium (as K2O)	2.08 %	41.6	37	AOAC 985.01 (mod)	Auto 2017-11-29 13:47:02
Sulfur (total)	0.42 %	8.4	3	AOAC 985.01 (mod)	mjs5 2017-11-29 13:47:01
Calcium (total)	2.26 %	45.2	32	AOAC 985.01 (mod)	mjs5 2017-11-29 13:47:02
Magnesium (total)	0.46 %	9.2	6	AOAC 985.01 (mod)	mjs5 2017-11-29 13:47:02
Sodium (total)	0.26 %	5.2	4	AOAC 985.01 (mod)	mjs5 2017-11-29 13:47:02
Copper (total)	227 ppm	0.45	0.32	AOAC 985.01 (mod)	mjs5 2017-11-29 13:47:02
Iron (total)	6400 ppm	12.8	8.96	AOAC 985.01 (mod)	mjs5 2017-11-29 13:47:02
Manganese (total)	452 ppm	0.90	0.63	AOAC 985.01 (mod)	mjs5 2017-11-29 13:47:02
Zinc (total)	282 ppm	0.56	0.39	AOAC 985.01 (mod)	mjs5 2017-11-29 13:47:02
Moisture	31.8 %			SM 2540 G-(1997)	mjs5 2017-11-29 13:47:02
Total solids	68.20 %	1360		Calculation	Auto 2017-11-29 13:47:02
Total salts	5.55 %	111		Calculation	Auto 2017-11-29 13:47:02
pH	8.7 S.U.			EPA 9045C *	mjs5 2017-11-29 13:47:02

First year availability of nitrogen is calculated based on pre-plant application with incorporation. Nitrogen available from previous year's application not considered. Total manure salts should not exceed 500 lbs/acre. Less than 500 lbs/acre if annual rainfall is less than 25 inches and/or the soil CEC is less than 12 meq/100g. Salt contributions from commercial fertilizer applications must also be considered. Soil test yearly to monitor phosphorus levels, organic matter, pH, and micronutrients. Spring soil test for residual nitrate - make accurate sidedress recommendations! Nitrogen availability will vary with methods of application and field conditions. The nitrogen availability values used on a manure management plan must comply with state regulations. These regulations vary from state to state.

The result(s) issued on this report only reflect the analysis of the sample(s) submitted.

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