

## MEETING RECORD

*Advanced public notice of the Planning Commission meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Tuesday, October 10, 2023.*

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, October 18, 2023, 1:00 p.m., Hearing Room 112, on the first floor of the County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska.

**MEMBERS AND OTHERS IN ATTENDANCE:** Dick Campbell, Maribel Cruz, Gloria Eddins, Tracy Edgerton, Bailey Feit, Christy Joy, Rich Rodenburg, and Cindy Ryman Yost; Lorenzo Ball absent; David Cary, Steve Henrichsen, Shelli Reid, Jennifer McDonald, Andrew Thierolf, Emma Martin, Ben Callahan, Stephanie Rouse, and Tom Cajka of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Hearing

Chair Ryman Yost called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

Chair noted that a request has been received to move Item 5.1 Street and Alley Vacation 23005 to be heard prior to Item 4.2 County Special Permit 23035 public hearing item on today's agenda.

Motion to approve this request made by Campbell, seconded Joy. Motion carried 8-0: Campbell, Cruz, Eddins, Edgerton, Feit, Joy, Rodenburg, and Ryman Yost voting "yes". Ball absent.

Chair Ryman Yost requested a motion approving the minutes for the regular meeting held October 4, 2023. Motion for approval of the minutes made by Campbell, seconded Joy. Minutes approved 8-0: Campbell, Cruz, Eddins, Edgerton, Feit, Joy, Rodenburg, and Ryman Yost voting "yes"; Ball absent.

Chair Ryman Yost asked the Clerk to call for the Consent Agenda Items.

Clerk noted Commissioner Joy has declared a conflict of interest on item 1.1a – Comprehensive Plan Conformance 23014 and Item 1.1b Preliminary Plat 23003 on today's Consent Agenda and, therefore, will recuse herself from voting on the Consent Agenda.

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

October 18, 2023

Members present: Campbell, Cruz, Eddins, Edgerton, Feit, Rodenburg, and Ryman Yost voting “yes”; Ball absent; Joy recused.

**The Consent Agenda consisted of the following items: Comprehensive Plan Conformance 23014, Preliminary Plat 23003, Comprehensive Plan Conformance 23015, Special Permit 13048B, and Miscellaneous 23006.**

Clerk stated that Planning Commission members did receive a staff memo dated October 18, 2023, on Preliminary Plat 23003, reflecting revisions to the conditions of approval as agreed upon by staff and the applicant.

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visit.

Campbell moved approval of the Consent Agenda items, seconded by Edgerton.

Motion carried 7-0: Campbell, Cruz, Eddins, Edgerton, Feit, Rodenburg, and Ryman Yost voting “yes”; Ball absent; Joy recused.

**Note: This is Final Action on Preliminary Plat 23003, Special Permit 13048B, Special Permit 06068B and County Special Permit 23035 unless appealed by filing a Notice of Appeal with the City Council or County Board within 14 days.**

Chair Ryman Yost called for **Requests for Deferral**.

Clerk noted that a request has been made by staff requesting that Agenda Item 2.1 – Text Amendment 23012 be placed on pending until further notice.

**TEXT AMENDMENT 23012**  
**TO AMEND ARTICLE 14 (CUP) COMMUNITY UNIT PLAN AND ARTICLE 19 (BZA) BOARD OF ZONING APPEALS OF THE LANCASTER COUNTY ZONING REGULATIONS AND CHAPTERS 2, 4, 5 AND 7 OF THE LANCASTER COUNTY SUBDIVISION REGULATIONS.**  
**BEFORE PLANNING COMMISSION:**

October 18, 2023

Members present: Campbell, Cruz, Eddins, Edgerton, Feit, Joy, Rodenburg, and Ryman Yost voting “yes”; Ball absent.

**Staff Recommendation:** Pending

Campbell moved to grant the request to move Text Amendment 23012 to be put on hold until further notice. seconded Edgerton.

Motion carried 8-0: Campbell, Cruz, Eddins, Edgerton, Feit, Joy, Rodenburg, and Ryman Yost voting “yes”. Ball absent.

**CHANGE OF ZONE NO. 23066  
FROM AG (AGRICULTURAL DISTRICT) TO AGR (AGRICULTURAL RESIDENTIAL  
DISTRICT), ON PROPERTY GENERALLY LOCATED AT SW 40TH STREET AND ONE-  
HALF MILE SOUTH OF W. DENTON ROAD**

**AND**

**SPECIAL PERMIT NO. 06068B**

**TO AMEND THE BRIDGES COMMUNITY UNIT PLAN (CUP) TO ADD AN ADDITIONAL 160  
ACRES AND AN ADDITIONAL 62 DWELLING UNITS WITH ASSOCIATED WAIVERS ON  
PROPERTY GENERALLY LOCATED AT S.W. 27TH STREET AND W. DENTON ROAD.**

**BEFORE PLANNING COMMISSION:**

**October 18, 2023**

Members present: Campbell, Cruz, Eddins, Edgerton, Feit, Joy, Rodenburg, and Ryman Yost voting "yes"; Ball absent.

**Staff Recommendation:**

Change of Zone NO. 23066  
Special Permit NO. 06068B

Approval  
Approval

Clerk noted Planning Commission members did receive a staff memo dated October 18, 2023, reflecting revisions to the conditions of approval as agreed upon by staff and the applicant for Special Permit No. 06068B.

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

**Staff Presentation:**

**Tom Cajka, Planning Department, 555 S. 10<sup>th</sup> Street, Lincoln, NE** came forward and stated that the application site is located at SW 27<sup>th</sup> and West Denton Road. Cajka stated that this is approximately 160 acres. This is to enlarge the area which will increase the density to an additional 62 dwelling units. Cajka stated that each new lot will have its own well and will use the existing lagoon system for their wastewater system. The applicant submitted data for 10 existing wells in the area and the data stated there appears to be adequate water for these additional lots. Cajka stated that new roads in this area will be public streets that are outside the city limits so they will be county roads. However, the county has regulations on how they maintain the roads, including that there be 6 occupied houses and must connect to another street that the county maintains. The applicant has requested that several of the waivers from the previous special permit be continued to this new area. Cajka stated that the Planning Department does not object to any of the waivers.

Edgerton asked if this falls in the cluster subdivision concept, Cajka stated that is correct. Edgerton stated that the additional lots are within the existing Community Unit Plan (CUP) and Cajka stated that is correct; but they are asking for more density because they maxed out the original density requested. Edgerton stated that the current lagoon is being expanded to accommodate the expansion and where would this be located. Cajka showed on a map where they are currently located and stated that they will need to be inspected and approved by the state.

**Applicant:**

**Mike Eckert, Civil Design Group, 8535 Executive Woods Drive, Suite 200, Lincoln, NE** came forward and stated that the developer is working with the existing homeowners and addressed some of their concerns about the size of the lots. Eckert stated that all the existing lots will eventually connect to the city sewer. Eckert clarified that there is a treatment plant (not

a lagoon) that was built to expand. Eckert stated that the streets will be designed to the city standards and not the county standards because they will be paved. Eckert stated that this is consistent with the Comprehensive Plan.

**Mike Rezac, 3111 W Covered Bridge Drive, Lincoln, NE** forward and stated that he is the developer and is available for questions from the Commissioners.

Feit stated that she appreciates the communication that Rezac has had with the neighbors.

**Proponents:**

No one came forward in support.

**Neutral:**

No one came forward in neutral testimony.

**Opposition:**

No one came forward in opposition.

**Staff Questions:**

There were no questions from staff.

Campbell moved to close the public hearing, seconded by Joy. Motion carried 8-0: Campbell, Cruz, Eddins, Edgerton, Feit, Joy, Rodenburg, and Ryman Yost voting “yes”; Ball absent.

**CHANGE OF ZONE NO. 23066**  
**ACTION BY PLANNING COMMISSION**

**October 18, 2023**

Campbell moved to approve Change of Zone 23066; seconded by Joy.

Campbell stated that he is very familiar with this project. It is very well thought out and developed. Rezac has taken on great responsibility and thinks that this is a great addition to neighborhood development.

Joy appreciates the concept of a community sewer and falls in line with what is looked at for the Comprehensive Plan.

Edgerton agrees that it makes sense to extend the waivers that are in place and will be supporting this.

Motion carried 8-0: Campbell, Cruz, Eddins, Edgerton, Feit, Joy, Rodenburg, and Ryman Yost voting “yes”; Ball absent.

**SPECIAL PERMIT NO. 06068B**  
**ACTION BY PLANNING COMMISSION**

**October 18, 2023**

Campbell moved to approve Special Permit 06068B as amended; seconded by Joy.

Motion carried 8-0: Campbell, Cruz, Eddins, Edgerton, Feit, Joy, Rodenburg, and Ryman Yost voting “yes”; Ball absent.

**Steve Henrichsen, Planning Department, 555 S. 10<sup>th</sup> Street, Suite 213, Lincoln, NE** came forward and stated that the previous request for Street and Alley Vacation 23005 to be moved forward is being withdrawn and requesting to leave the agenda as published.

**COUNTY SPECIAL PERMIT 23035**  
**FOR SOIL EXCAVATION ON PROPERTY GENERALLY LOCATED AT N. 27<sup>TH</sup> STREET AND**  
**AGNEW ROAD**  
**BEFORE PLANNING COMMISSION:** **October 18, 2023**

Members present: Campbell, Cruz, Eddins, Edgerton, Feit, Joy, Rodenburg, and Ryman Yost voting “yes”. Ball absent.

**Staff Recommendation:** Conditional Approval

There were no ex-parte communications disclosed.  
There were no ex-parte communications disclosed relating to site visits.

**Staff Presentation:**

**Tom Cajka, Planning Department, 555 S. 10<sup>th</sup> Street, Lincoln, NE** came forward and stated that the applicant’s letter stated that the site will be used to excavate clay for the manufacturing of cement on approximately 112 acres. Cajka stated that the applicant anticipates using the site for the next 30-40 years, but the special permit for a zoning code is only approved for three years. At that time a special permit will need to be applied for again and go through the public hearing process again. Cajka stated that a well water report was submitted by the applicant. There were three wells that were tested. Cajka also stated that representatives from the Health Department and Lower Platte South NRD are present for any questions related to any possible contamination or reducing the amount of ground water on other wells. Cajka stated that per zoning code, only 20 acres are available to be excavated at a time. A bond is required to guarantee reclamation of the site based on \$525 per acre based on 20 acres. Cajka stated that a road maintenance agreement is required by the County Engineer’s office. The County Engineer will also require the haul routes to be provided. The Lower South NRD has reviewed this permit and does have some questions regarding the excavation.

Edgerton asked if the NRD has concerns about the depth across the site and how it is being reflected in what is happening on the site.

**Mark Lindemann, Engineer, Lower Platte South NRD, 3125 Portia Street, Lincoln, NE** came forward and stated that that they have concerns and require more detailed information to be provided before a recommendation is given. Edgerton clarified that there is not enough information supplied to make an informed decision. Lindemann confirmed that is correct.

Campbell asked Lindemann if he knew the depth of the aquifer. Lindemann stated that the depth ranges from 1180 to 1220 feet in elevation for example. Campbell stated at the top of the North and South end are at 1225 feet in elevation. Lindemann stated that is what is shown on the plan.

Feit asked if the dust and wetlands are addressed and how that will affect the area. Lindemann stated that this is something that will need to be reviewed as well.

Edgerton asked how often the NRD engages in excavation sites. Lindemann stated that this does not happen very often on this scale.

Rodenburg asked about the well that is not registered with the state, but the health department requires well and septic testing and inspected in Lancaster County. Rodenburg asked if this has now been registered so it can be considered in this application.

**Chris Schroeder, Health Department, 3131 O Street, Lincoln, NE** came forward and stated that before the property is sold or transferred, it needs to be registered. Schroeder stated that the older wells are not registered, it is encouraged to get all wells registered. This is better for the well owner and in processes like this.

Campbell asked what the depth for that unregistered well is. Schroeder stated that the owner was going to look for the paperwork on his well.

Edgerton asked if the Health Department has any concerns. Schroeder stated that the Health Department does not have any concerns except with the depth of the excavation and that does cause concern. Schroeder stated the Health Department will need more information and time to review the conclusions of the report. Edgerton confirmed with Cajka that this excavation permit is different than what has come through in the past. Cajka stated that typically the excavation permit in the past is a hill and they are cutting the hill down and taking it off. Cajka is hoping that today the applicant can answer this. Cajka stated that the final grade will be about even with the contour elevation of Agnew Road and as it goes South, it will go deeper and deeper. Cajka stated that the depth could be up to 90-100 feet in some areas. Edgerton stated to Cajka that the two other bodies that he looks at to help evaluate, have concerns that have not yet been answered. Cajka stated that is correct. Edgerton stated that this seems premature to bring this to the Planning Commission. Cajka stated that a lot of these questions came up during the review process. When an applicant applies, then it will need to be put on hold or moved forward. Edgerton stated that the soil excavation permits that come forward and the amount of clay that is to be removed seems significantly more. Cajka stated that this is the largest depth and length of time that he has seen requested.

Joy asked that from a traffic standpoint, is a traffic report required. Cajka stated that a maintenance agreement is required, but not a traffic report.

**Larry Legg, County Engineer, 444 Cherrycreek Road, Lincoln, NE** came forward and stated that a traffic impact study is being requested. Legg stated that there are conditions required for example to water the dust down, provide haul routes and maintenance. This maintenance may or may not be covered by a maintenance agreement. Legg stated that the application overall did not include a traffic impact. Legg does not know the answer but is assuming operation would be 50 weeks a year. Legg is concerned with how much water is running off and how it is affecting the drainage system. Legg also stated that he would like to see more information on best management practices and would like to know more details as to what this would entail prior to the approval and prior to the start of the project.

Eddins said that a road thickness is 6 inches and Legg stated that he would like it to be 11 inches. Eddins asked what the thickness of this road is. Legg stated that currently there is 12.5 inches of pavement there including the overlay. Over time most of the damage is caused by heavy loads and overloads. Eddins asked if the maintenance agreement is while they are using it and not necessarily the damage to the asphalt. Legg stated he has that question also.

**Steve Henrichsen, Planning Department, 555 S. 10<sup>th</sup> Street, Suite 213, Lincoln, NE** came forward and stated that this is unique, and that the maintenance agreement can include

conditions and details. Henrichsen stated that the County special permit lists several items that need to be included when the permit is reviewed, and how much do you provide in the beginning which can occur costs. The Planning Commissioners can request additional information prior to an action and if the applicant wants to proceed forward, they will have time to prepare that additional information.

Eddins asked if an item is deferred, can this be deferred before public comment then allow public comment? Henrichsen stated that would not be recommended, because the public may have some additional information that could be requested.

Joy asked if the Commissioners could request for a community meeting be held for information gathering. Henrichsen stated a community meeting is encouraged but not a typical Planning Commission condition.

Edgerton asked Legg how far this site is from Raymond Central. Legg stated that he thinks it is three miles.

Ryman Yost asked if the volume of traffic in terms of traffic management, if there is there a two way stop? Legg stated that Agnew Road is a paved through road and North 27<sup>th</sup> Street must stop. The driveway is to the east and should not affect the intersection with the operation.

Joy asked if the drainage appears to be on the northside of Agnew and if the culverts will be a concern. Legg stated that without a site plan final grading to be seen, and that he would like to see that with the existing flow or lower. Legg stated that the runoff would be a concern and would like to have a commitment that the outflow is the existing or lower quantity.

Joy asked with this type of situation, can a turning lane be required. Legg stated that without the traffic impact study, this is not known. Legg stated this depends on how they operate would determine the turn lanes or not.

**Applicant:**

**Eric Beiermann, Olsson, 601 P Street, Suite 200, Lincoln NE** came forward and stated that from the engineering side of things, a sediment basin/pond will be implemented and constructed along with all the permits that will go with that not to increase the runoff or drainage. Beiermann stated that Ash Grove representatives are here to help discuss and answer questions that have been presented. There will only be four pieces of equipment on the site. They are only anticipating dump trucks and not side dumps on the site. Beiermann stated that Ash Grove is a very environmentally conscious company.

**John Dale, Ash Grove CRH, 16215 Highway 50, Louisville, NE** came forward and stated that this proposed quarry will provide one of four essential ingredients that is needed to make cement. Dale stated that he will do what is needed and have a public meeting to make this good for everybody possible.

**James Fowler, Ash Grove CRH, 16215 Highway 50, Louisville, NE** came forward and stated that this is a difficult and complex formation. The proposed depth of the formation is on average 105 feet and that is when it dips into the sand that is the aquafer for neighboring wells. Fowler stated that there is no intention to get into the aquafer or the sand. This is not a suitable environment to operate in. Fowler stated that they are not interested in mining the sand on the property. That would be an overburden on Ash Grove. Fowler stated that the operation proposed entrance will be paved at a minimum and all the required material to mitigate the

tracking of material onto Agnew Road. Fowler stated that the hours of operation will be Monday-Friday, daylight hours for hauling. Fowler stated that a medium sized excavator will be onsite. The trucks will enter the site, get loaded, then will head to the appropriate site for unloading. This is approximately 40 miles each way, then they will head back and repeat. The impact to the traffic to the east with the students traveling to school in the morning hours should be low impacted. Fowler stated that the proposed mine plan would be basically in the wooded area of the property. There will be a berm, fence, and gates with proper signage on the property. There will also be dust control with a water truck. In terms of mining, this is a small operation by mining standards.

Eddins asked if this will be running year around. Fowler stated that they will run year-round. During bad weather, they do not operate because it is hard to operate in the clay and wet mud. Fowler stated that the mining plan is approximately 14 acres (not 20), the first year would be removing overburden, then the second year is extracting the reserves, and the third year is backfilling.

Campbell asked if the water flows from the north to the south? Fowler stated in the final plan it does. Campbell asked as excavation is done what happens to that water that falls naturally, Fowler stated that it would be pumped to the settlement pond and discharged to certain levels. Campbell asked if the Dakota Clay, that is needed, how widespread it is throughout Nebraska. Fowler stated that there has been some identified southeast of Louisville, but it was spotty. Campbell asked how this site was chosen. Fowler that this site was identified though the color of the clay found throughout the ditches. Fowler stated that the biggest issues are finding the land and the type of clay that is needed.

Rodenburg asked if there is deterioration of topsoil immediately upon excavation, over time and during compression. Fowler stated that it would be used for backfilling. During the excavation, the topsoil will be removed and then will be placed for infrastructure and berming. Once the soil is backfilled it will be graded then seeded to help with the erosion. Rodenburg stated that it is stated in the application that it will be seeded and sod. Fowler confirmed it will be seeded and sodded along with the berm.

Campbell stated in the elevation maps and in discussion that some of the site's areas will have the elevation lowered by 100 feet. Campbell asked Fowler what the land would look like to the ground around it. Fowler stated that the final will be 1-2 percent grading or fall of the road elevation. The final reclamation will be a 14-acre lake. Campbell stated once the reclamation is completed, there will be a 1-2 percent slope drop to the new elevation. Fowler confirmed that there would be. Fowler stated that this will supply water to the lake which will supply water to the aquifer below it. Campbell asked how that will relate to the ground on the east and west sites. Fowler stated that there should be at least a 300-foot offset east and west before it is graded into the lake and a berm will be included in that as well. It will be set back from the property line.

Beiermann came forward and stated that the school is 3.5 miles away from the site and it is 1.5 miles from Highway 77. Beiermann stated that Ash Grove will work with the school and in relation to relieving some of the traffic concerns. Beiermann stated that the site view has a great line of site and there is not a lot of concern to the east or to the west of the site. Beiermann stated that Ash Grove will work with the county on making things safer.

**Proponents:**

No one came forward in support of the application.

**Neutral:**

No one came forward in neutral testimony.

**Opposition:**

**Mike Eden, 1555 Davey Road, Davey, NE** came forward and distributed Exhibit #1 to the Commissioners. Eden stated that everyone here is agricultural and neighbors and wants to enjoy some peace and quiet. Eden stated that his family is in the area also. Eden stated that the trucks go both ways on the road. Eden stated that the first public notice was sent out on October 6<sup>th</sup>, a letter was received, then October 12<sup>th</sup> we were notified that the public could look at the plans. Eden stated that Ash Grove was doing due diligence but there was not any awareness from the neighbors. Eden stated that this is not a borrow pit, but a 100-foot hole. Eden stated that this is an industrial commercial site and not an AG Residential site. Eden stated that this is their way of life and that they pay taxes, and this is not conducive to what they signed up for. Eden stated that this is zoned AG and that the farmers are out harvesting, and they could not be here. Eden stated that as a group there was not any time for them to hire engineers at any level. There was not enough time for them to prepare. Eden also stated that the operation hours have been stated three times different times. Eden also stated that the well issue has been addressed. But this is going to destroy the area and the agriculture of the area. Eden asked if anyone knew anything about the company Ash Grove.

**Sally Olsen-Nelson, 1714 Anglers Court, Safety Harbor, FL** came forward and stated that she is representing the family that is still living in the area.

**Susan Olson, 3063 S Buchanan Street, Arlington, VA** stated that she is the trustee for farmland located close to this project. Olson stated that the family sold some of their land to turn it into the Saline Wetlands. Olson stated that the river feeds into wetlands. The Saline Wetlands are there to protect the ecosystem. Olson stated that she is shocked at the Staff Report and that it does not state the Raymond Central School. Olson stated that flat land does not stay flat, there are hills, and concerns with the traffic. Olson feels that Raymond Central School is being ignored. Olson also stated that Ash Grove is a foreign company and knows that the Nebraska Farm Bureau has done some studies and restrictions about corporate foreign corporations buying farmland. Olson asked if the restrictions have been met. Olson cannot say enough about a two-lane road, and that it is not a highway but a road.

**John Ward, Lancaster County Attorney, 605 S 10<sup>th</sup> Street, Lincoln, NE** came forward and stated that as a reminder that there is a time limit of 5 minutes for those testifying.

**Kristi Eden, 1555 Davey Road, Davey, NE** came forward and stated that she has grown up and lived in this area for many years. Eden stated that the intersection is a very dangerous road and there have been many accidents there and is worried about kids driving. Eden stated that she is worried about Agnew Road and the bridges.

**Leaford Burnett, 19595 N 14<sup>th</sup> Street, Ceresco, NE** came forward and stated that the intersection of Highway 77 and Agnew Road is extremely dangerous. Burnett stated that you cannot see traffic. Burnett also stated that water is an issue and his well pumps less than 5 gallons per minute and if he over pumps it, it runs dry. Burnett also stated that the equipment runs 6 days a week from sunrise to sunset and the oils and chemicals from this will be absorbed in the aquifer. Burnett stated that it was ignored that there is a well with the resident to the west across the street. Burnett also stated that he plans on fighting this, it is wrong, and will be

hiring attorneys if needed. Burnett stated that the rural areas should be preserved for agriculture.

**Mark Hughes, 20677 N 14<sup>th</sup> Street, Ceresco, NE** came forward and stated that his parents live 30 feet from the property line where this mine will occur. Hughes was in the excavating business for 5 years. Based on his experience, there will be dust and the dust will fly 7 days a week and the truck beeping will be heard through his parents' windows. Hughes also stated that mosquitos will be bad from the retention pond. Hughes stated that road is dangerous, even without that many trucks a day. Hughes stated he estimates more trucks than is anticipated, and this will go on for 40 years.

**Donald Hughes, 3203 Agnew Road, Ceresco, NE** came forward and stated that his home is located 35 feet from the property line. Hughes stated that the reports contradict each other and have been falsified. Hughes has worked on his property and created a viable farming operation for 37 years on the 174 acres that he owns. Hughes stated that this is part of his livelihood. Hughes stated that the City of Lincoln stole his farm for the purpose of the landfill years ago. Hughes stated that there are two domestic wells plus an additional 5 wells that total 7 wells within 200 feet of where they want to excavate. Hughes stated that his well is at 85 feet, and they want to excavate to 100 feet. This will drain his well if they go to the 100 feet that they are stating. Hughes stated that Agnew Road is used for Ag Equipment and moves around 20 MPH. Hughes stated that he was drafted right out of school and sustained multiple injuries and through many years has developed his farm with all these injuries.

**Mark Rezac, 20401 N 40<sup>th</sup> Street, Ceresco, NE** representing St Mary's and St Patrick's Catholic Cemetery, came forward and stated that the cemeteries and parishes concern is the senior citizen drivers. They do not react as quickly as the younger. Rezac also stated that the road ditches are a concern. The ditches cannot handle the heavy trucks and will become potholed when the trucks pull off the road. Rezac also stated that there will not be asphalt road ditches, for the trucks to sit in while they are waiting to enter to be loaded. This will be in the way of the traffic. Rezac stated that the cemetery is worried about the dust and the appearance of the cemetery. Rezac stated that noise will also be interrupting the services at the ceremonies. Rezac stated that the beeping noise is real, and the noise pollution will be a problem. Rezac stated that the road crossing is very dangerous, and consideration is needed.

**Rick Foral, 17118 N 14<sup>th</sup> Street, Raymond, NE** came forward and stated that a lot of his concern is water and wanting to know where they are planning to get the water. Foral stated that water has been an issue in that area for many years. Neighbors have had problems with wells drying up. Foral stated that with the traffic is already an issue and adding more traffic will make it more dangerous. Foral also wanted to know what is going to happen to the neighboring property evaluations being located by a mine.

**James Lamken, 20805 N 27<sup>th</sup> Street, Ceresco, NE** located across the street from the proposed mine. Lamken stated that he has a form signed by people against the proposed site (Exhibit #2). Lamken stated that there is a spring that comes up across the road from his place. This is a ground surface water spring. Lamken concerned with the constant beeping noise. Lamken stated that it has not been addressed as to where the well will be located on the proposed property. There is a wildlife corridor located on that property. Lamken also mentioned the hours of operation and truck traffic every 12 minutes on the road will make it dangerous.

**Connie Suiter, 2119 S 195<sup>th</sup> Street, Omaha, NE** came forward and stated that her parents own land located on the corner of Agnew Road. This land will be passed down to her and her children and she is concerned and wants to protect the land. Suiter's concern is that the elderly who live on the corner of Agnew Road and Highway 77 will have to back out of their driveway. What will happen when there is a funeral procession to the cemetery, when it is a family's time of grieving and the noise from the trucks going up and down the road interferes with that grieving process. Suiter also stated that the school traffic and the distracted drivers creates a tragedy. Suiter personally feels bad for what the Hughes are going through on their property and their property value. This is an agricultural community. Please do not pass this for the concerns of the children, community, or the families.

**Lynn Johnson, Raymond Central School, 1800 W Agnew Road, Raymond, NE** came forward and stated that she is the Superintendent of Raymond Central. Johnson has concerns for the safety of the children. Johnson stated that there are young and inexperienced drivers. Johnson stated that there are always visitors and kids coming and going all day long. Johnson stated as for the Board of Education, they would like more education and information about what is being presented today. Johnson had a conversation with James Fowler, and he was able to help her understand the situation, but there is still a lot of unanswered questions.

**Brooke Norris, 3737 Little Salt Road, Ceresco, NE** came forward and is concerned with the safety of the area. Norris stated that she crosses the traffic on Agnew Road every day and the school buses will cross into the traffic every day. Norris also stated that she has water concerns and thinks that there has not been enough information presented. Norris stated that it sounds like the runoff will go through her property and to the wetlands. Norris stated that there are a lot of homes in the area that rely on the aquifer and what will happen if it gets contaminated. Norris is asking that the community, children, and the families be considered when making this decision.

**Adam Hintz, 1919 Prospect Street, Lincoln, NE** came forward and thanked staff for the great job that everyone is doing.

**Jason Eisenmann, 20150 N. 27<sup>th</sup> Street, Davey, NE** came forward and stated that he finds things contradicting with the letters that he had received. Eisenmann stated that the site plan states construction of a berm along the entire east part of the boundary then will continue essentially around all the property. Will this back up the water when it rains? Eisenmann has the same concerns as everyone else. Eisenmann has children and his concerns are with the traffic, the contamination of the water source and the loss of habitat. There are trees all around and will be torn out. Eisenmann asked about dust control on the weekends. Eisenmann also stated that this will harm more people than it will benefit.

Edgerton asked what is between his property and the subject property line, Eisenmann stated that there are trees that he planted on his property.

**Jovan Lausterer, Attorney with Bromm, Lindahl, Freeman-Caddy & Lausterer, 551 N Linden, Wahoo, NE** came forward and is representing many neighbors and people who live in the area. Lausterer presented Exhibit #3 which summarizes the public comments his office has received. Lausterer stated that there has not been enough time to engage engineering, compliance or investigate regulations. The first is the impact on the Raymond Central Public School. This impacts the public school system and families. The Village of Davey's zoning jurisdiction stops prior to the south of the property, but they are in opposition to this because this property is intended to be agricultural and residential in nature. The anticipation is that this

project will impede growth. Lausterer mentioned the Jack Sinn Wildlife Management, the Little Salt Creek Wildlife Management and the Ash Hollow Creek which will be impacted by this. Lausterer stated that this plan is not in adherence to what the Comprehensive Plan intended.

**Andy Vasa, 19752 N 27<sup>th</sup> Street, Davey, NE** came forward and stated that his property will overlook this property from his patio every day. Vasa taught his children how to drive on these roads. Vasa stated his children and himself use this road every day to school. Vasa decided to move to this acreage because it is quiet. Vasa stated that the serenity will be lost due to the noise, dust, and disruption. Vasa also stated that property values will decrease.

**Ryan Sander, 18755 N 27<sup>th</sup> Street, Davey, NE** came forward and purchased his property from his father-in-law. Sander stated that he was surprised to get a notice on this hearing last week. Sander stated that he is proud of the community and all the letters that were sent in. Sanders stated that his concern is that his well is 80 ft deep, his creek is dried up and is concerned about the potential contamination. Sander stated that there must be other sources of this clay than what is in northern Lancaster County. Sander stated that this ground was for sale and that is how they came across it to mine. Sander stated that safety is the biggest concern.

**Joanna Uden, Attorney with Bromm, Lindahl, Freeman-Caddy & Lausterer 551 N Linden, Wahoo, NE** came forward and stated that her firm represents municipalities. Uden understands the difficult and unique position that the Commissioners are in. Uden stated that the Village of Davey has not had enough time to react. This will not only affect a few people but many other people within the community and outside of the community.

**Doug Nagel, 6517 Elbert Drive, Lincoln, NE** came forward and is a farmer by day and lives in town by night. Nagel stated that he has a good well on his property. Nagel is concerned about contamination with a 100-foot hole being dug. Nagel stated that farmers take care of their land, because it must be used all the time. Nagel mentioned a few years ago a proposal where the planning commission denied a chicken farm by Raymond Central, and everyone was worried about the number of trucks going back and forth. The chicken farm was denied because of the amount of traffic. This proposed property will have a larger increase of trucks and traffic. Nagel recommends that this project be canned and something nice be put in place. Nagel is worried about the road, contamination, the taxes, and the transfer of wealth. Nagel worried about the haul routes on to Highway 77 is one of the roughest roads in the state of Nebraska. There are kids and buses that will travel on these roads.

**Phyllis Larsen, 17575 N 70<sup>th</sup> Street, Davey, NE** approached and farms about 4 miles from this site. Larsen appreciates the efforts that the Commissioners are making to learn about these matters. Larsen stated that the costs and benefits need to be weighed, and the benefits must outweigh the costs. The cost is destroying wildlife and deterioration of the growth. The cost of roads for improvements and the cost of road projects has outgrown what is in the Lancaster County Road budget. The cost of the environment is that this prime land will never go back to agriculture. There is a cost for safety. There is a big list of costs but what are the benefits to Lancaster County. There is a significant profit to the seller and buyer of the land. Larsen stated that the costs outweigh the benefits.

**Leni Skaar, 4300 Davey Road, Davey, NE** approached and stated that she lives 2 miles south of this property. Skaar is concerned with the kids and their driving. Skaar is concerned with the number of trucks and the material that they are going to be moving daily. This amount of material will not fit into 2-3 trucks a day that they say. The school has activities Monday through Saturday for all ages. Skaar is also concerned about the big pit, and it will never look

like a corn field again. Skaar was told by a representative that this will be left looking like a lake. Skaar does understand the health concern from people with the dust. How many gallons of water will be pumped daily to keep the dust down? There are already issues with the water. Skaar asked what happens to the people living there.

**Marlene Tracy, 17500 N 84<sup>th</sup> Street, Davey, NE** came forward and stated that this is not the first "Soil Mining" project to come forward. Tracy stated one of her concerns is what happens with reclamation. She has been involved with other soil mining projects and there is not any follow-through with Lancaster County, City of Lincoln or Building and Safety. Tracy stated that there has been mining along Highway 77 for years and it is hard to have accountability. Tracy stated that on 112 acres, how big will the lake be and what kind of park will go around it. Tracy stated that there was not adequate time to prepare.

**Karen Kurbis, 17500 N 84<sup>th</sup> Street, Davey, NE** approached and stated that she was part of the Soil Mining Task Force for Lancaster County. Kurbis stated that Northern Lancaster County has not had soil mining operation last for as long as 30-40 years. Kurbis stated that Building and Safety did not want to work on the complaints. There must be a better monitoring system. Kurbis wanted to know the implications of the green belt. There needs to be a better monitoring process from start to finish.

Edgerton asked Kurbis what year she was involved in the Soil Mining Task Force. Kurbis stated it was in 2008.

**Catherine Rech, 3200 Rock Creek Road, Davey, NE** came forward and stated that her property connects to the southeast corner of the subject mining property. Rech wants to know what is the guarantee that something will be done with this property in 30-40 years. Rech wanted to know who is going to oversee this in the final disposition of the land. Rech wanted to know who is and will be responsible for the land and the loss of the school taxes to the properties around this land. Rech stated that if the well is contaminated, who is responsible for fixing that problem. Rech stated that they are a close nit community, and they want to stay an agricultural community and not have a mine in their area.

**Lonnie Rech, 3200 Rock Creek Road, Davey, NE** came forward and stated that with the amount of people here, there should be enough to make a final decision. Rech is agreement with others on opposing the project. Rech was surprised about the Planning Commission's justification for recommendation with the proposed conditions. Rech stated that this has a significant impact on the adjacent properties, and everyone involved. The land will not be restored to its original AG production. There will be a big gaping hole in the ground that will be left when they are done. Rech stated that this is a destruction of a piece of property that will have a long-term effect. Rech stated that his well goes down to 160 feet and has an unregistered well on his property. The aquafer will be affected.

**Jerry Minchow, 8181 Davey Road, Davey, NE** came forward and has a plot in the cemetery located by the proposed mining. Minchow stated that his wife and he have a family plot located in the cemetery by the proposed plan. Minchow is concerned with the traffic that funeral processions create and the road to the west is not a good road like it was presented. The traffic, noise and dirt will be there. Minchow stated that he already has two sons at the family plot in the cemetery. Minchow stated that the noise level of the trucks when he is visiting his sons, will ruin his day. Minchow stated that he will speak for the dead in the cemetery by saying that they will not be happy.

**Steve Lind-Olson, 2711 Hallmark Road, Lincoln, NE** came forward and stated that he has concerns with the application and the depth that it is stated. Lind-Olson stated that there are approximately 10 houses in the area where the project is located. Lind-Olson is concerned with the runoff from the area and the drainage. Lind-Olson's main concern is the traffic to and from Raymond Central. There are people from other towns also coming in that will not be familiar with the roads. Lind-Olson stated that the intersection of 40<sup>th</sup> and Agnew Road does not have any view to the West. Lind-Olson has family that travels this road daily and does not want anyone to suffer a loss.

**Jeff Schellpeper, 3131 Crown Pointe Road, Lincoln, NE** came forward and stated that he has ties to the community even though he does not live there. Schellpeper has concerns with the water, ground water and aquifer. He stated that there is no guarantee that the mining will not affect the aquifer. The runoff will drain and go into the wetlands and will endanger the species.

**Jason Eden, 4770 Agnew Road, Ceresco, NE** came forward and stated that he lives in the proposed area by the dangerous intersection. Eden stated that his kids go to Raymond Central and wanted to thank all the neighbors who had concerns. Eden stated that this is a quiet community. Sound can travel far. There was little notice and a lot of unanswered questions. Eden stated that he does not understand how all this excavation can result in a 14-acre pond. Eden has a concern with truck traffic. There will be challenges with the trucks coming and going. This will destroy the road and road building is not cheap.

**Roger Uttecht, 4949 Little Salt Road, Ceresco, NE** came forward and stated that his property borders the Pheasants Forever Land and the Jack Sinn Wildlife Management. Uttecht stated that a lot of his concerns are with trucks, roads, and the younger drivers. Uttecht stated that there is a creek that travels through the Pheasants Forever Land and over Little Salt Road making the road not passable. There is diverse wildlife with so many animals that will be affected by this. Uttecht stated that property value will tank if this proposal goes through.

**Rob French, 23120 N 27<sup>th</sup> Street, Ceresco, NE** came forward and thanked the Commissioners for their attentiveness that they have held throughout this hearing. French stated that hearing the beeping of the trucks constantly will affect the life, liberty, and pursuit of happiness. French has 30 acres where he pursues his life, liberty, and the pursuit of happiness. French stated that the chance to do the right thing is today.

**Staff Questions:**

Rodenburg stated that the commission recently denied a tour bus operation, how is this proposal different? Cajka stated that the tour bus company was zoned AG and per zoning, this is not allowed use under the zoning code. Cajka stated that under the agricultural districts, there are other uses that are allowed by a special permit. This happens to be one of the uses that is allowed.

**Applicant Rebuttal:**

Dale came forward and stated he appreciates the time and comments. There were a lot of things brought up and would appreciate the time to have a community meeting with stakeholders and would respectfully request to defer decision until the first stakeholder meeting in January. This will give them time to adequately answer and address the concerns of the ground water.

Eddins asked Dale how many average trucks are expected on Agnew Road per day, Dale stated 20-30 initially then the number will double.

Campbell moved to close the public hearing, seconded by Edgerton.

Henrichsen approached and stated that the applicant is asking to continue the public hearing until January 3<sup>rd</sup>, at that time they may have additional information that they would like to present. Henrichsen stated that if a delay is considered then recommending that the action to delay is made with the public hearing kept open.

Campbell moved to close the public hearing, seconded by Edgerton.

Motion carried 7-0: Campbell, Cruz, Eddins, Edgerton, Feit, Rodenburg, and Ryman Yost voting "yes"; Ball and Joy absent.

**COUNTY SPECIAL PERMIT 23035**  
**ACTION BY PLANNING COMMISSION**

**October 18, 2023**

Campbell moved to deny County Special Permit 23035, seconded by Edgerton.

Campbell stated that there is a lot of testimony, and this has been brought to the attention in the past in the same area. Campbell stated that this area is sensitive to some of the changes that have been proposed. Campbell does not think that this is the appropriate thing to be held on this piece of ground. Campbell will be voting to deny.

Cruz stated that she concurs with Campbell. There are many concerns raised by a diverse array of constituencies. Cruz stated that the cost benefit ratio does not justify, and Cruz will be voting to deny.

Edgerton stated that this is different than a typical excavation permit. Edgerton appreciates the broader goals to operating more efficiently. Edgerton stated that with the unknowns, the risks, the traffic, the water, the aquafer, and the location of the schools there are too many unknowns and safety concerns and will vote to deny this permit.

Feit agrees with the Commissioners. Feit stated that there are a lot of people, it is to be agricultural, with the growth for families and to bring economic growth and this does not fit. Feit will deny.

Ryman Yost wanted to thank everyone for their time and appreciates the passion brought forward. Ryman Yost wanted to let everyone know that all the letters received are read.

Rodenburg wanted to thank everyone for the many letters.

Ryman Yost noted that the Commissioners are voting on a motion to deny the Special Permit 23035.

Motion carried to deny Special Permit 23035, 7-0: Campbell, Cruz, Eddins, Edgerton, Feit, Rodenburg, and Ryman Yost voting "yes"; Ball and Joy absent.

**STREET & ALLEY VACATION 23005**  
**TO VACATE A PORTION OF THE SOUTH 1ST STREET (RIGHT-OF-WAY) BETWEEN**  
**PIONEERS BLVD. AND OLD CHENEY ROAD, ADJACENT TO PROPERTY GENERALLY**  
**LOCATED AT SOUTH 1ST STREET AND PIONEERS BOULEVARD.**  
**BEFORE PLANNING COMMISSION:**

October 18, 2023

Members present: Campbell, Cruz, Eddins, Edgerton, Feit, Rodenburg, and Ryman Yost voting “yes”; Ball and Joy absent.

**Staff Recommendation:** Conforms to the Comprehensive Plan

There were no ex-parte communications disclosed.

There were no ex-parte communications disclosed relating to site visits.

**Staff Presentation:**

**Abby Littrell, City of Lincoln Law Department, 555 S. 10<sup>th</sup> Street, Suite 300, Lincoln, NE** came forward and stated that the eastern part of the Street and Alley Vacation will sell a small portion to the City of Lincoln. Edgerton asked if the entire Street and Alley Vacation will be part of the park. Littrel stated just the eastern part of the Vacation. Littrel stated that the reason for the Vacation was the original Community Unit Plan was intended to move 1<sup>st</sup> Street to the West. Littrel stated that the Danker property will be impacted by this Street and Alley Vacation because it takes access to 1<sup>st</sup> Street.

**Applicant:**

**DaNay Kalkowski, Seacrest & Kalkowski, 1128 Lincoln Mall #105, Lincoln, NE** came forward on behalf of the applicant, Wilderness Crossing, LLC. Kalkowski stated that there has been discussion about the impact that this will have on Wilderness Park, the Danker property and the Sweat Lodge that operates on the Danker property. Kalkowski stated that the relocation of South 1<sup>st</sup> Street will move the street to the west to reduce the impact of traffic and lighting. Kalkowski stated the Annexation Agreement had very specific language about the agreement that Wilderness Crossing and the City of Lincoln have. Kalkowski stated that Wilderness Crossing agreed in addition to this agreement, was to provide screening, separation, grading, and screening. They are also committed to seeding the right-a-way and putting in native vegetation. Kalkowski stated since this was made, Kalkowski, Eckert and the City met and made proposals to Ms. Danker on the driveway access and provided a couple of options to Ms. Danker.

**Mike Eckert, Civil Design Group, 8535 Executive Woods Drive, Suite 200, Lincoln, NE** came forward and stated that the right-a-way is not equal. There is a portion that goes to the park and the other portion goes to the Wilderness Crossing. Eckert stated as progression and discussions were made, there were two options that were discussed. Eckert stated that there is an agreement with making the property private with fencing, screening, and out lots.

Kalkowski stated that they are working with Ms. Danker on the details of the driveway connection and the latest offer is to add the right-a-way to her property and gain a 60-foot strip. Ms. Danker will control who enters and exits her property.

Eckert stated that they want to move forward with the Vacation. Eckert wants to make clear that they will leave it up to Ms. Danker if she wants to vacate the right-a-way or leave it the same.

Rodenburg asked who will pay for the cost of the replating and survey. Kalkowski stated that this is all at the developer's cost. Eckert stated that the driveway will be completed in concrete with a turn-a-round and will not be cheap.

**Proponents:**

No one came forward in support.

**Neutral:**

**Ken Winston, 1327 H Street, Suite 300, Lincoln, NE** came forward to appear on behalf of Ms. Danker. Winston stated that he would like this on record and would prefer this development not to happen at all. Winston stated Ms. Danker agrees with the proposal and recognizes that there are additional responsibilities with this ownership. Ms. Danker is not willing to sign off on this proposal currently because she has not had time to review the documents. Winston stated that there are native people that also have interest in the outcome of this action. Winston stated that he would like to see this wrapped up all in one bundle. Winston stated that Ms. Danker's property has hosted ceremony sites on her property for decades. Winston stated that the Vacation of the street is unresolved with the buffer. Winston is asking for this matter to be tabled ~~this matter~~ to allow Ms. Danker and other parties to resolve this matter.

**Kathleen Danker, 711 7<sup>th</sup> Avenue, Brookings, SD** came forward and stated that she appreciates the efforts that the developer has come up with on the two options. Danker wanted to talk about the importance of the sweat lodge on her property. Danker stated the sweat lodge ceremonies are beneficial to the native communities. Danker stated that in terms of the two alternative positions, she appreciates the alternative options. Danker stated that when the land is given to her, she is responsible for the maintenance of the roadway that comes to her house and the other plan remains property of the city and that the homeowners will provide the responsibility. Danker is concerned that the city should have the responsibility of the maintenance to the road to her house. Danker does want to do that in conjunction with other interested parties. Danker is concerned with the buffer, the runoff and would like the proposal to be in conjunction with the other options.

**Clint Densberger, 2735 Garfield Street, Lincoln, NE** came forward and stated he is currently in a neutral position and speaking on his own behalf. Densberger stated that it would be adequate for Danker to have room for parking. Densberger stated that the lots along the east side of 1<sup>st</sup> street be vacated to allow an additional buffer. Densberger stated that taking care of the properties and making sure that they increase the green ways.

**Delan Lonowski, 4700 S. 1<sup>st</sup> Street, Lincoln, NE** came forward and stated that he is speaking in a neutral position because it is complicated. Lonowski suggests that the voice of the indigenous people and community be heard. This includes ceremony and environmental stewardship. Lonowski stated that he has seen Salt Creek polluted running in from Wilderness Crossing LLC. This is neglect to the storm water protocols with water pooling into the park and lack of flood control measures put in place. Lonowski stated that this is the opportunity to help the native people.

**Emily Lavene, 724 S 18<sup>th</sup> Street, Lincoln, NE** came forward and stated that the problem with vacating 1<sup>st</sup> Street is that it will bring the development twice as close as it has been. Lavene stated that she finds the word "buffer" offensive. Lavene does not have faith in the planting being done correctly or where the water is going to come from. Lavene stated that rules need to be put in place about the spraying. Lavene asked if the Comp Plans are directive or

aspirational? There is nowhere for a park to be to make it a complete neighborhood. Lavene stated that the developer needs to give up the east row of houses and put it in a real park.

**Opposition:**

**Scout Richters, Policy Director ACLU, 134 S 13<sup>th</sup> Street, Suite 1010, Lincoln, NE** came forward and stated that the ACLU is asking that SAV23005 be halted. This will have an impact of the indigenous people of Lincoln. Richters stated that this is the first known and longest use of a sweat lodge in the State of Nebraska. Richters stated that the Planning Commission can protect and halt further development. Richters stated that the Street and Alley Vacation does not comply with many areas of the 2050 Comprehensive Plan. Richters stated that she is asking the Commissioners to reject and consult with the native community.

**Foster Collins, 2100 Calvert Street, Lincoln, NE** came forward and stated that this project has been flawed from the beginning. Collins stated that the Comprehensive Plan and the Climate Action Plan ask to consider more than just the rules and codes. Collins stated that the Comprehensive Plan has many areas to consider, and it was presented that all the areas were addressed. Collins stated he is requesting a condition of the removal of the lots on the east side to be part of the buffer for Wilderness Park.

**Erin Poor, 1628 E Street, Lincoln, NE** came forward and stated that it is good to be in discussion with everyone. Poor is in opposition to everything related to Wilderness Crossing. Poor stated that she is not giving up hope for a more positive resolution in that area. Poor stated that they were excluded from conversation and are requesting to be included in the negotiations with the city and developer. Poor stated that it takes more than a backyard to create a ceremonial space and location. Poor believes the land to be sacred and it plays an important factor in the ceremonies. If the development is allowed to continue, they want the buffer to be expanded. The 10 feet out lot is insufficient. There has been disregard and desecration of the land. Poor stated that they were told that sediment would not flow into Salt Creek, but it does. Poor is asking to take into consideration that how Wilderness Crossing represents itself is not how Wilderness Crossing acts.

**Christina Brantner, 5224 S 61<sup>st</sup> Street, Lincoln, NE** came forward and does feel that they were not heard and were silenced. Brantner stated that the treatment that her indigenous brothers and sisters received is something that she cannot live with. Brantner stated that she cannot fathom how this has happened and cannot imagine how her indigenous brothers and sisters are affected. Brantner is asking that the row of houses between the new and old 1<sup>st</sup> Street be removed.

**Anastasia Finner, 2315 D Street, Lincoln, NE** came forward and opposes this entire development. Finner stated that the City of Lincoln has received thousands of dollars from many companies. Finner stated that the City Council was allowed to take money from the Bold Alliance. Finner stated the amount of trauma that has been caused and is asking for the pleas to be heard. Finner stated that what has happened cannot be undone. The city created Wilderness Park over 50 years ago.

**Staff Questions:**

Campbell stated that this is dealing with Street and Alley vacation and that the negotiation can continue as it is a private agreement. Littrell stated that the new location has been previously approved and passed. Littrell stated that their role is as advisory that will go to the City Council. Littrell stated that this will be several months into the future.

Rodenburg asked if the row of homes between the new 1<sup>st</sup> Street and Wilderness Park not be developed and if this is an option. Littrell stated that this is not what is in front of the Planning Commission today. Rodenburg asked if this will come forward in the future with the PUD and Final Plat, Littrell stated that the PUD was approved a year ago.

**Applicant Rebuttal:**

Kalkowski came forward and stated that the PUD and the relocation of 1<sup>st</sup> street had already been decided. This is just a procedural step to move forward with the Vacation. Kalkowski stated that Wilderness Crossing is not part of the lawsuit or the settlement negotiation. Kalkowski stated that they are just asking the city to follow through with what was agreed upon by the city. Kalkowski stated that the native seeding would be within the 10 foot out lot and the maintenance would be with Wilderness Park due to the portion being part of the park.

Campbell moved to close the public hearing, seconded by Edgerton.

Motion to close public hearing carried 7-0: Campbell, Cruz, Eddins, Edgerton, Feit, Rodenburg, and Ryman Yost voting "yes"; Ball and Joy absent.

**STREET & ALLEY VACATION 23005**  
**ACTION BY PLANNING COMMISSION**

**October 18, 2023**

Campbell moved to approve Street and Alley Vacation 23005, seconded by Edgerton.

Campbell stated that their job today is to confirm the Vacation of the old 1<sup>st</sup> Street to the new 1<sup>st</sup> Street. Campbell will be supporting this.

Edgerton agrees with Campbell and states the Street and Alley Vacation does not reflect the plan that is already approved. Edgerton appreciates that Ms. Danker wants to involve other people in her decision.

Rodenburg stated that he did vote in opposition in the beginning and is upset that this process is devastating to the indigenous people and the sacred ground but will be in support of the Street and Alley Vacation brought forward today.

Motion carried 7-0: Campbell, Cruz, Eddins, Edgerton, Feit, Rodenburg, and Ryman Yost voting "yes". Ball and Joy absent.

Chair Ryman Yost asked if there was anyone wishing to speak on an item not on the agenda, may do so at this time.

Hintz came forward and stated that the decisions will have effects that they did not think would happen. This includes the sediment that went into Salt Creek from the development and was believed that the park would not be polluted.

Poor came forward to ask that the Commissioners address the inequalities of how this government runs. When decisions are put forth, it is the Commissioners responsibility and play a role in the indigenous voices. Poor asked how this experience can be avoided in the future. Edgerton stated that the Planning Commission basis is organized is by the property ownership and is an injustice itself. That is the way the government is currently set up. This body works in the confines of that. Edgerton stated that she was appointed to work within the system. Edgerton stated that the use of the property must go through Danker. Development is owned

by someone else. Poor stated that she appreciates what Edgerton is saying. Eddins stated that voices like Poor need to be heard early and often.

Campbell moved to adjourn the Planning Commission meeting of October 18, 2023, seconded by Feit.

Motion carried 7-0: Campbell, Cruz, Eddins, Edgerton, Feit, Rodenburg, and Ryman Yost voting "yes". Ball and Joy absent.

There being no further business, the meeting was adjourned at 6:20 p.m.

Limited time for opposition to plan and organize

Well rigs on the property gave area perception of water testing

First Public Notice –

Oct. 6 letter to area residents and road sign

Oct. 12 zoning department recommendation

Oct. 18 public meeting

12 days available to opposition

Ash Grove has been researching for several months and the people it affects the most are given 12 days to organize, research and employ professionals to refute items this permit, no. SP23035

When did Ash Grove begin due diligence period?

Timing of the hearing is during harvest time – peak farmer workload

Olson letter states operation hours 7-5 M-F

App 3.2.6 states M-S daylight hours

Surrounding land use – states 4 acreages to South

Fact: 1 east, 1 south, 1 west and additional south

Three houses not two adjoining property

Clarify 1000 foot ARC's from wells

County Planning Justification states:

It helps support road and development projects that support the growth of the community. Please explain

Placing border within 65 feet of 37 year residence

Many generation residents are being adversely affected.

Ash Grove has many options to move on – local residents have very limited options.

Who is Ash Grove?

CRH plc, the international building materials group, announces that it has reached an agreement to acquire Ash Grove Cement Company (“Ash Grove”), a leading US cement manufacturer headquartered in Overland Park, Kansas, for a total consideration of US \$3.5 billion. Sep 21, 2017

CRH plc, parent company located in Dublin, Ireland has 73,000 employees and 32 billion in revenue. EUR

CRH plc is the second largest cement manufacturer in the world, 2<sup>nd</sup> to China.

As you can see an adverse action is not a significant event with a company of this size.

For area residents this is a life changing event.

You have the power to protect Lancaster County area students, residents and infrastructure. Please deny this permit.

Thank you for listening

Mike Eden

CITIZENS AGAINST THE REZONING OF AG. LAND  
FOR A BARROW PIT MINE SP23035

NAME ADDRESS

10-7-2023	JAMES EMKEN	20805 N 27 <sup>th</sup> ST CERESCO NE, 68017
	Jaci Augustin	2200 Rock Creek Rd CERESCO NE 68017
	Marissa Hauer	" " " " "
	Jack & Nancy Sunkup	2858 Rock Creek RR Davey 68336
	Scott & Terra Rech	3400 Rock Creek Rd Davey 68336
	S. Catherine Rech	3200 Rock Creek Rd Davey 68336
	Annie E Rech	3200 Rock Creek Rd Davey 68336
	William C. Dudley	22750 N. 27 <sup>th</sup> ST, CERESCO 68017
	Robt Studabaker	18707 N 14 <sup>th</sup> Raymond NE 68428
	Donil W. Montoy	1680 Rock Creek Rd 68017
	Mark & Betty Ruge	20401 N. 40 <sup>th</sup> Ceresco 68017
	Carrie M. Jull	20601 No. 40 <sup>th</sup> St Ceresco, Ne 68017
	Mike Hermans	4452 Agnew Rd Ceresco NE 68017
	Brooke Norris	3737 Little Salt Rd Ceresco NE 68017
	Jessica Johnson	2701 Little Salt Ceresco NE 68017
	Jerrold B. Schmidt	22500 N. 27 <sup>th</sup> St. Ceresco, NE 68017
	Donald R. Hughes	3203 A NEW RD CERESCO NE 68017
	Regan Kitchin	21897 N 40 Ceresco NE 68017
	Angie Kitchin	21897 N 40 Ceresco NE 68017
	Jason Eisenmann	20150 N 27 <sup>th</sup> Davey NE 68336
	Andy Vasa	19752 N 27 <sup>th</sup> Davey NE 68336
	Cynthia Hagenrath	20428 N. 14 <sup>th</sup> Ceresco NE 68017
	Mare Hughes	20677 N. 14 <sup>th</sup> Ceresco, NE 68017
	Barbara Hughes	3203 Agnew Rd Ceresco NE 68017
	James Emken	20805 No. 27 CERESCO, NE 68017
	Leahford Burnett	19545 N. 14 Ceresco NE 68017

CITIZENS AGAINST THE REZONING OF AG LAND  
FOR A BORROW PIT MINE SP23035

NAME

ADDRESS

LENI SKAAR

4305 DAVEY ROAD

31

Ryan Sander

18755 N 27th Ave, NE 68336



The Law Offices of

# Bromm Lindahl Freeman-Caddy & Lausterer

An Organization of Professional Corporations

Curtis A. Bromm, P.C.  
Loren L. Lindahl, P.C.  
John Paul Svec

Maureen Freeman-Caddy, P.C., L.L.O.  
Jovan W. Lausterer, P.C., L.L.O.  
Joanna Uden

October 18, 2023

**VIA HAND DELIVERY**

LANCASTER COUNTY PLANNING COMMISSION

RE: Opposition to Special Permit SP 23035

Dear Planning Commission,

Following is a summary of my offices public comments in opposition to this application:

Given the timing of this notice my office didn't have time to reach out to all the affected regulatory agencies nor did we have the ability to engage engineers to review the particulars of the plan.

Instead I want to impress upon you what this group IS and what it IS NOT.

- THIS IS NOT A HIT JOB ON A PARTICULAR BUSINESS
- THIS IS NOT A GROUP OF INDIVIDUALS THAT ARE POLITICALLY AGAINST EXCAVATION AND MINING
- THIS IS NOT DUELING NEIGHBORS THAT HAVE A GRUDGE AGAINST ONE ANOTHER

What this is, is a group of concerned individuals trying to impress upon the commission that THIS particular location is unique in the way that this project AT THIS SPECIFIC LOCATION will create a significant harm to a large number of people.

On that I would like you to consider 7 things:

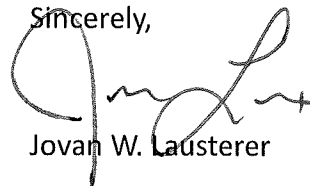
1. Raymond Central Public School District – the Raymond Central School District is located off Agnew Road and sits just a few miles to the west of this site. They have expressed to you their concerns in writing based largely on vehicular safety as Agnew Road is one of the primary roads that 15 to 18 year old children will be driving on with a road that doesn't have shoulders and already has a sad history of accidents and fatalities at the Agnew / HWY 77 intersection.
2. Village of Davey – who submitted a written objection stating a myriad of concerns including that the property is just half a mile outside the northern boundary of their ETJ which they envision to be comprised of agricultural properties that slowly develop into rural acreages. I would presume the planning commission would give great deference to

another community and how they view an abutting project might negatively impact their growth.

3. Cemetery- there is a cemetery less than a half mile East of this property that has raised a number of very valid concerns.
4. Environment- this project is almost smack dab in the middle between the Jack Sinn Memorial Wildlife Management Area and the Little Salt Creek Wildlife Management Area. The tract is also directly south of a tributary of Ash Hollow Creek. That makes this location particularly concerning from a wildlife and environmental impact perspective.
5. 3 Abutting Residences- this site has three abutting residential properties on the West/South/East ends, one of whom is Donald Hughes who is a disabled Vietnam veteran living less than a 100 feet from this project site and who has raised serious concerns about the project.
6. Your "Plan Forward" Comprehensive Plan- which under P4, P16 and G11 appears to place priority towards rural housing, the agricultural economy, and the rural environment in this area...all of which would be negatively impacted by this project.
7. The Will of the People- at last glance there are more than 75 families that have submitted written objections to this application and many more who are opposed to this plan but did not have time to respond as of yet like David Montague who owns the property to the North of the application site and who I spoke with yesterday over the phone wherein he expressed the same concerns I believe you will hear from many of these fine people.

I always have to finish every presentation with an ask, for you my ask is that you read through the 75+ objections, that you take a more expansive view of the area so you can see how it is more akin to a residential area than a remote agricultural one given the presence of a school, a nearby town, a cemetery, and a whole host of residential acreages. If you do that this group has faith that you will do the right thing and deny the application in order to protect their health, their safety, and their way of life. Thank you for your time.

Sincerely,



Jovan W. Lausterer