

**STAFF MEETING MINUTES  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
THURSDAY, OCTOBER 17, 2019  
COUNTY-CITY BUILDING  
ROOM 113 - BILL LUXFORD STUDIO  
8:30 A.M.**

Commissioners Present: Roma Amundson, Chair; Sean Flowerday, Vice Chair; Deb Schorr, Rick Vest and Christa Yoakum

Others Present: Kerry Eagan, Chief Administrative Officer; Ann Ames, Deputy Chief Administrative Officer; Dan Nolte, County Clerk; Cori Beattie, Deputy County Clerk; and Leslie Brestel, County Clerk's Office

*Advance public notice of the Board of Commissioners Staff Meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska web site and provided to the media on October 16, 2019.*

The Chair noted the location of the Open Meetings Act and opened the meeting at 8:30 a.m.

**AGENDA ITEM**

**1) APPROVAL OF STAFF MEETING MINUTES FOR OCTOBER 8, 2019**

**MOTION:** Vest moved and Yoakum seconded approval of the October 8, 2019 Staff Meeting minutes. Schorr, Amundson, Vest, Flowerday and Yoakum voted yes. Motion carried 5-0.

**2) (A) CONFINED ANIMAL FEEDING OPERATION (CAFO) TASK FORCE RECOMMENDATIONS; AND (B) SPECIAL PERMIT NO. 19035, SUNSET POULTRY LLC., COMMERCIAL FEEDLOT, NW 27TH ST. & ASHLAND RD. – David Cary, Planning Director; Steve Henrichsen, Planning Development Review Manager; Tom Cajka, County Planner; Pam Dingman, County Engineer; and Jen Holloway, Deputy County Attorney**

Henrichsen reviewed a PowerPoint presentation regarding Special Permit No. 19035 (Exhibit A), noting the access road has been moved from West Ashland Road to Northwest 27<sup>th</sup> Street, and a special permit for odors has been requested by the applicant and Lincoln Premium Poultry even though one is not required by the Nebraska Department of Environment and Energy (NDEE).

When asked which direction the water from the barns would flow, Henrichsen answered the water flows to the northeast away from Raymond Central schools.

Regarding increased truck traffic, Henrichsen stated most of the Lincoln Premium Poultry traffic would be during non-school hours, while other truck deliveries would have various hours.

Schorr asked how many total barns and birds are included at each existing poultry operation in the County. Cajka offered the following breakdown: Bevans = 10 barns with 220,000 birds; Essink = 4 barns with 180,000 birds; and Heetderk = 4 barns with 90,000 birds. Sunset Poultry would have 8

barns with 380,000 birds.

Henrichsen reviewed the Confined Animal Feeding Operation (CAFO) working group process (Exhibit A), the CAFO Final Recommendations (Exhibit B), the Discussion Draft to Potential Amendments to the Lancaster County Zoning Regulations (Exhibit C), the Nebraska Animal Feeding Operation Siting Matrix (Exhibit D), and the Buffer Maps (Exhibit E). Copies of the Planning Department Summary and of the PowerPoint presentation were also distributed (Exhibits F and G).

Flowerday expressed his concern regarding the Planning Department's recommended changes to the original CAFO working group proposal. Cary and Henrichsen stated the CAFO working group operated under both the Planning Department and County Board guidelines and that the Planning Department's recommendations were made based on evidence. Additionally, the working group votes on recommendations were not unanimous.

Holloway added the working group recommendations did not include language that allows the recommendations to be enforced. She suggested the Planning Department and CAFO working group drafts have public comment and then be presented to the County Attorney's Office for adoptable language.

It was the consensus of the Board for the discussion to be continued at a staff meeting after November 7.

**3) SOFTWARE PROPOSAL FROM MODUS ELECTIONS TO REPLACE CURRENT ELECTION COMMISSIONER POLL WORKER MANAGEMENT SYSTEM – Dave Shively, Election Commissioner**

Shively distributed and reviewed information on the Modus Elections Manager System (Exhibit H). He stated the cost is included in the budget. The online worker training and election equipment management portions would not be implemented; therefore, the proposal would decrease by \$5,000. There are approximately 1,100 poll workers with 250-300 reserve poll workers.

Shively will pursue a contract to bring to the Board.

**4) ONE-AND SIX-YEAR ROAD AND BRIDGE PLAN – Pam Dingman, Lancaster County Engineer**

Dingman reviewed the 2020 One and Six Road and Bridge Program (Exhibit I). The public hearing will be October 29 at 6:30 p.m. The plan document will be on the October 31 staff meeting for action.

Vest exited the meeting at 10:29 a.m.

**BREAK**

The meeting was recessed at 10:30 a.m. and reconvened at 10:40 a.m.

Vest returned to the meeting at 10:40 a.m.

**5) HEALTH INSURANCE STOP LOSS** – Doug McDaniel, Human Resources Director; and Dennis Meyer, Budget & Fiscal Officer

McDaniel discussed the Aetna insurance renewal process. The County had a 175% loss ratio. The stop loss limit is \$200,000 and a few claimants have exceeded the limit. Due to the loss ratio, the \$200,000 stop loss renewal rate has increased 25%. Alternative stop loss rates were run at \$225,000 and \$250,000. He recommended to increase the stop loss limit to \$250,000 as it puts the County in a better position for lower renewal rates.

McDaniel also recommended to eliminate TeleDoc, a service offered for phone-in for prescriptions. The County is spending \$9500 for the underutilized service.

It was the consensus of the Board to accept the recommendations.

**6) LABOR NEGOTIATIONS** – Doug McDaniel, Human Resources Director; Kristy Bauer, Deputy County Attorney; Pam Dingman, County Engineer; Nicole Gross, Human Resources Compensation Technician; and Amy Sadler, Human Resources Compensation Technician

**MOTION:** Schorr moved and Yoakum seconded to enter Executive Session at 10:46 a.m. for the purposes of labor negotiations, and to protect the public interest.

The Chair said it has been moved and seconded that the Board enter Executive Session.

**ROLL CALL:** Schorr, Amundson, Vest, Flowerday and Yoakum voted yes. Motion carried 5-0.

The Chair restated the purpose for the Board entering Executive Session.

**MOTION:** Schorr moved and Yoakum seconded to exit Executive Session at 10:55 a.m. Schorr, Amundson, Vest, Flowerday and Yoakum voted yes. Motion carried 5-0.

**7) COMMUNITY CORRECTIONS DEPUTY DIRECTOR POSITION DISCUSSION** – Kim Etherton, Community Corrections Director; Doug McDaniel, Human Resources Director; Nicole Gross, Compensation Manager; and Kristy Bauer, Deputy County Attorney

Etherton reviewed the classification description for a Community Corrections Deputy Director (see agenda packet). Certifications for the position are preferred but not required. The position is an unclassified position and does not need to go before the Personnel Policy Board.

Gross discussed the possible pay range of the proposed position. Etherton said \$87,500-\$92,000 (or approximately 85%-90% of the director's salary) would be a good range.

The class description will be forwarded to a Tuesday County Board meeting for action.

Gross stated an updated class description for Etherton's position will also be brought to a Tuesday meeting.

## **8) CHIEF ADMINISTRATIVE OFFICER REPORT**

### **A. County Board Initiatives Update**

Eagan reported the County Code final report has been distributed to committee members. Additional funds may be needed for a hosting platform and ongoing maintenance.

Regarding the Vehicle Fleet Plan, Amundson stated the plan has not been utilized to its full potential. Additional key boxes and a centralized vehicle check-out location are being discussed.

Schorr stated she will attend the National Association of County Officials (NACo) Stepping Up conference on November 20 and 21 in Tulsa, Oklahoma.

Regarding the website update, Ames said the trainings with Civic Plus are almost complete.

Amundson reported with the use of OpenGov, in the next fiscal year, departments will need to have an outcome-based budget.

In relation to the Transportation Task Force, Vest reported he and Amundson had a meeting with the Farm Bureau Board and Kent Seacrest, Seacrest & Kalkowski, LLO. Amundson added a decision on the project should be determined by December.

### **B. Tuesday Meeting Agenda Changes**

Amundson reviewed the proposed change (see agenda packet). It was the consent of the Board for the order of the Tuesday meeting agendas to be as follows:

1. Minutes
2. Claims
3. Special Presentations
4. Consent Items
5. Public Hearings (depending on subject matter)
6. Unfinished Business
7. New Business
8. Public Comment
9. Announcements
10. Adjournment

It was noted that larger Public Hearings would be scheduled prior to adjournment.

### **C. Authorize Payment of \$28,500.00 to Segal Marco Advisors from Prudential Expense Account**

Eagan reviewed the proposal with Segal Marco Advisors (see agenda packet).

**MOTION:** Flowerday moved and Yoakum seconded to authorize the payment of \$28,500 to Segal Marco Advisors from the Prudential expense account. Schorr, Amundson, Vest, Flowerday and Yoakum voted yes. Motion carried 5-0.

**D. Set Date for Next Common Meeting**

Eagan reviewed the Common Meeting request (see agenda packet). Schorr stated updating the bylaws and the election of officers need to be added to the meeting agenda.

It was the consensus of the Board to propose the Common Meeting be set for 11:00 a.m. on Tuesday, November 19.

**E. Reposting Chief Administrative Officer Position**

McDaniel stated Prothman (consulting firm) felt that, due to the lack of well experienced applicants, the Chief Administrative Officer (CAO) position should be reposted with a higher maximum salary.

It was the consensus of the Board to increase the maximum salary to \$185,000.

**9) DISCUSSION OF BOARD MEMBER MEETINGS ATTENDED**

**A. Lincoln Chamber of Commerce Coffee – Amundson/Vest**

See October 3, 2019 staff meeting minutes.

**B. Public Building Commission – Amundson/Flowerday**

Flowerday reported bill payments were approved.

**C. Board of Health – Flowerday**

Flowerday stated there were discussions on the legislative agenda, food safety, vaping, and the hiring of a new Board of Health director.

**D. Mental Health Crisis Center Advisory Committee – Yoakum**

Yoakum did not attend the meeting. She indicated there are two vacancies on the Mental Health Crisis Center (MHCC) Advisory Committee to be filled.

**E. Information Services Policy Committee (ISPC) – Yoakum**

Yoakum said the meeting was cancelled.

**F. Lincoln Parks and Recreation Advisory Board – Vest**

Vest did not attend the meeting.

**G. LIBA – Flowerday/Schorr**

Flowerday reported there were discussions on the County Board legislative agenda related to support for criminal justice reform.

**H. District Energy Corporation (DEC) – Flowerday/Schorr**

Schorr stated the meeting was held at the new Lincoln Electric System (LES) Operations Center at 94<sup>th</sup> Street and Rokeby Road. New customer rates were approved. She added a large increase will be seen due to LES recouping incorrectly allocated management costs and LES software rental. Also, a non-condensing thermal heat hot water boiler was purchased to replace the current steam machine. Also discussed were the DEC bylaws, annual insurance coverage and new members.

**OTHER BUSINESS**

Regarding Nebraska Association of County Officials (NACO) events, Schorr said the annual NACO conference will be held in December, a certification program for County Treasurer’s is being piloted, the 2020 NACO Legislative Conference will held in Lincoln, and the NACO 2020 legislation was approved.

Yoakum will be attending the Cities for Citizenship Conference on October 20, 2019.

Amundson reported an individual will be making a presentation to LIBA as to why a County-wide wheel tax should not be approved. She and Vest are planning to attend.

**10) SCHEDULE OF BOARD MEMBER MEETINGS**

Informational only.

**11) EMERGENCY ITEMS**

There were no emergency items.

**12) ADJOURNMENT**

**MOTION:** Schorr moved and Flowerday seconded to adjourn at 11:53 a.m. Schorr, Vest, Flowerday, Amundson and Yoakum voted yes. Motion carried 5-0.

  
Dan Nolte  
Lancaster County Clerk



EXHIBIT

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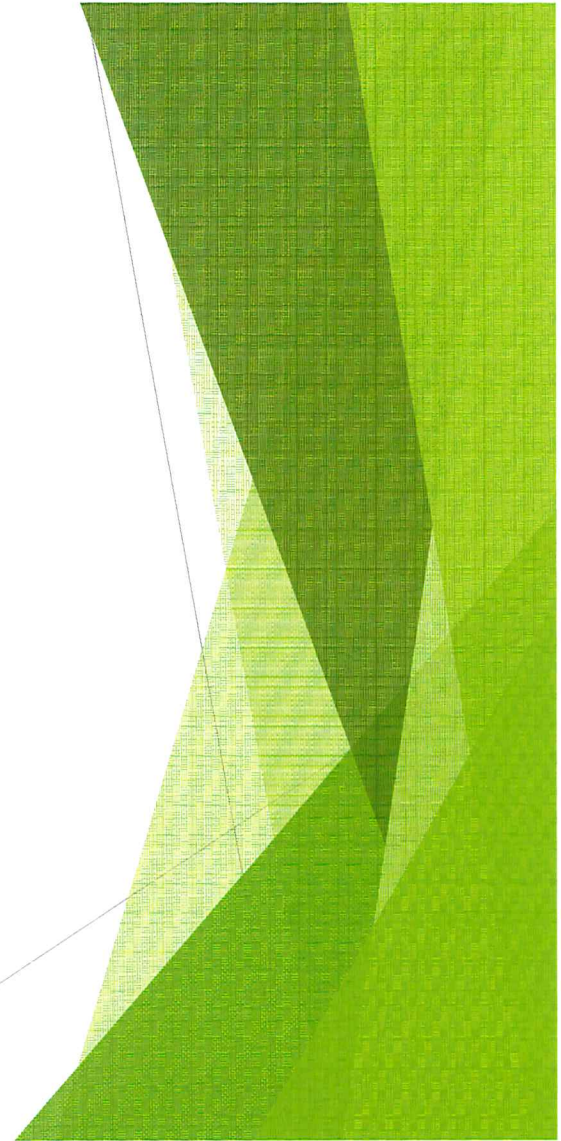
# Sunset Poultry

County Board Briefing

October 17, 2019

# Briefing Agenda

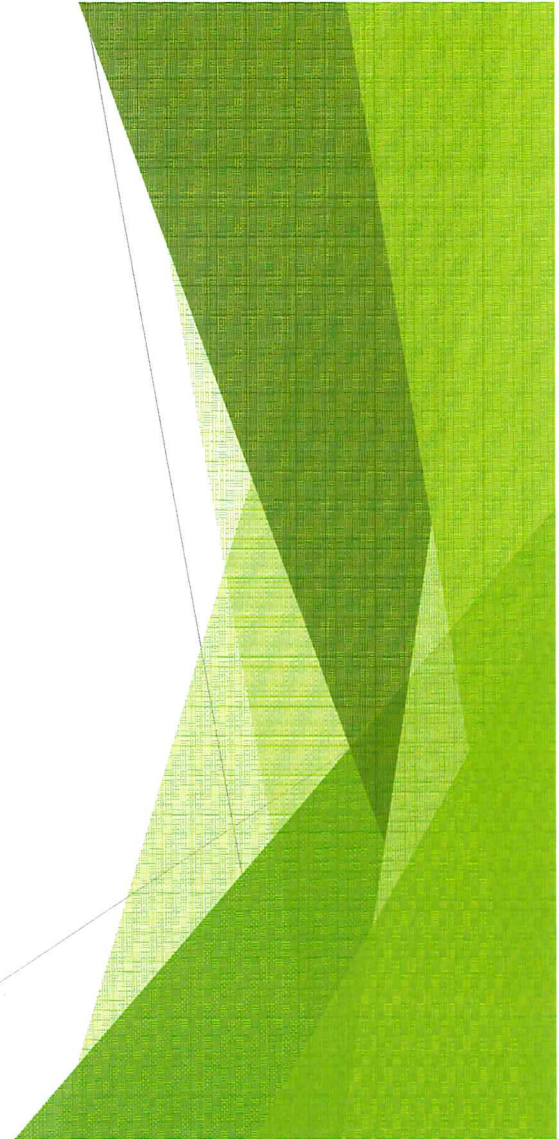
- ▶ Review Sunset Poultry Special Permit #19035
- ▶ Questions on application
- ▶ Review CAFO Working Group Recommendations
- ▶ Review Discussion Draft based on Working Group Recommendations
- ▶ Next Steps



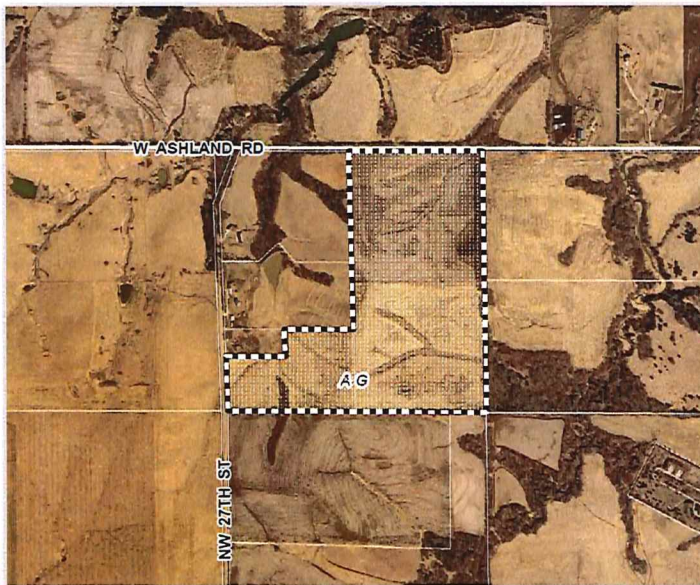


## Sunset Poultry

- ▶ Property is zoned AG Agricultural and is shown in Comprehensive Plan for agricultural use
- ▶ Commercial Feedlot for 8 barns. Each barn will have up to 47,500 chickens for a total of 380,000 chickens
- ▶ Located at NW 27<sup>th</sup> St. and West Ashland Rd.
- ▶ Special permit boundary is over 100 acres, but building envelope is 20 acres - all barns & related buildings must be within the building envelope

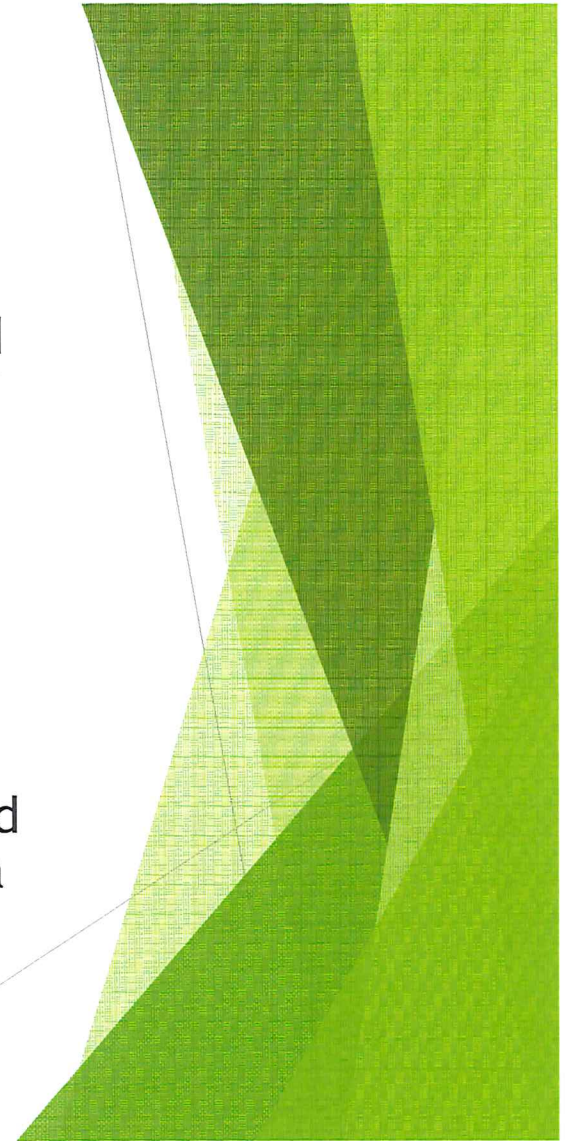


# Sunset Poultry

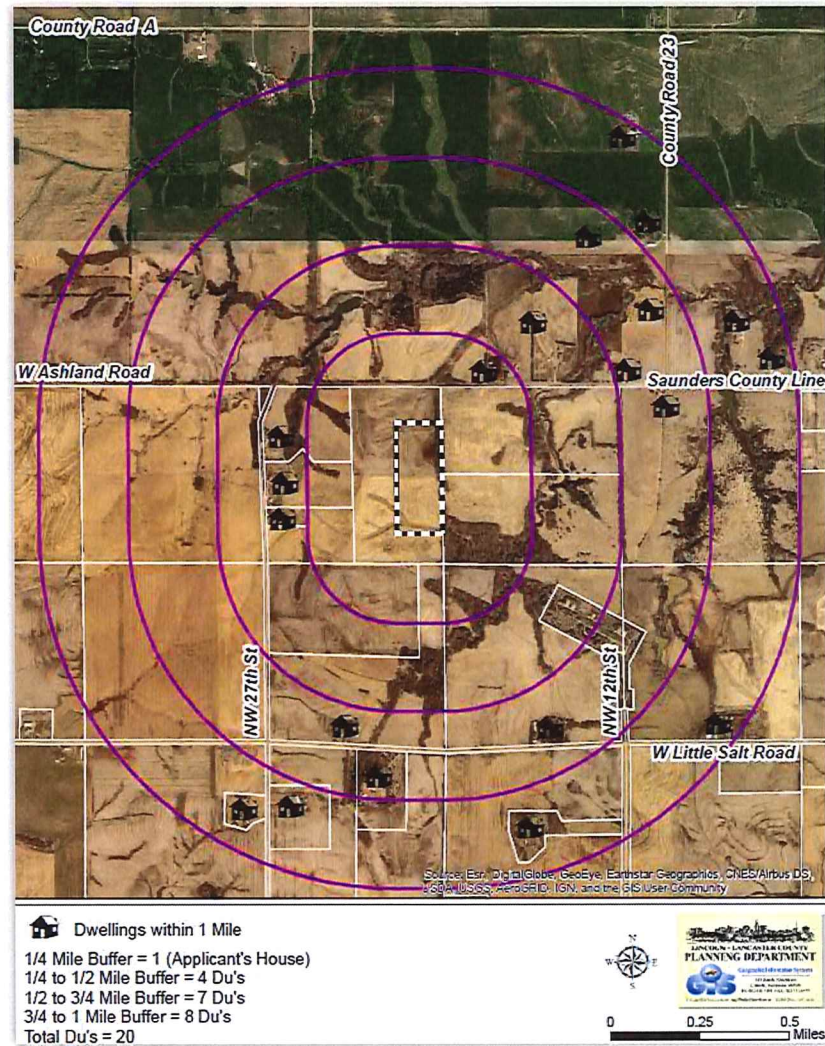


## Sunset Poultry

- ▶ Raymond Central School approx. one mile to the south. School has a well north of the intersection of W. Ashland Rd. and County Road 23, approximately three-fourths of a mile from the barns and 2 additional wells located on school property approximately 1 mile south of the proposed poultry barns
- ▶ The LPSNRD submitted a ground water report - 11 registered wells within one mile of the site, 2 are inactive & 9 are for domestic use
- ▶ Report concluded that the overall vulnerability of ground water to contamination from surface sources in the area is fairly low



# Sunset Poultry



## Sunset Poultry

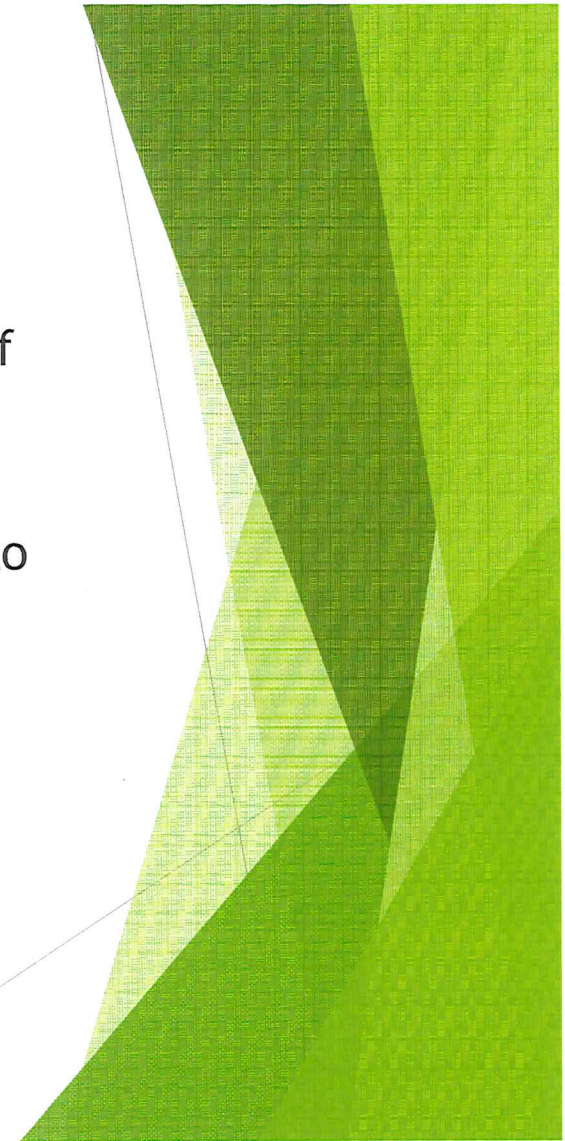
- ▶ **Odors:** Enclosed animal feeding operation has significantly less impact than facility with open sides
- ▶ Significant measures in building result in reduction in odors outside the building - ¼ mile setback to any house required, but odors will dissipate before this distance
- ▶ **Air & Water Quality:** No outdoor waste storage reduces chances of impacting water or air quality
- ▶ In AG zoning, a farm could have as an accessory use an open air pen or barn, with less than 300 cows, 30,000 chickens or 750 hogs by right, without a special permit, on the other side of the fence from any school or home

## Sunset Poultry

- ▶ **Water Quantity:** The Lower Platte South NRD did not object to the application
- ▶ Applicant will need to get a separate well permit in the future
- ▶ Facility is set up to minimize water use
- ▶ Water use is more than many houses, but less water in one year than a farm irrigation well might use in few weeks
- ▶ No guarantee on water availability - if well can't provide enough water - then they don't build

## Sunset Poultry

- ▶ **Traffic Impact:** Applicant states generate at maximum week, 60+ trucks (120+ trips) in one week; an average of 20 to maybe 25 trips a day - mostly during late night/early morning to arrive at plant
- ▶ Route for the trucks would be south on NW 27<sup>th</sup> Street to Agnew Road, then east to Highway 77, which passes by Raymond Central School, which has more than 300 students in grades 7 -12
- ▶ Agnew Road past Raymond Central currently has about 530 trips a day.



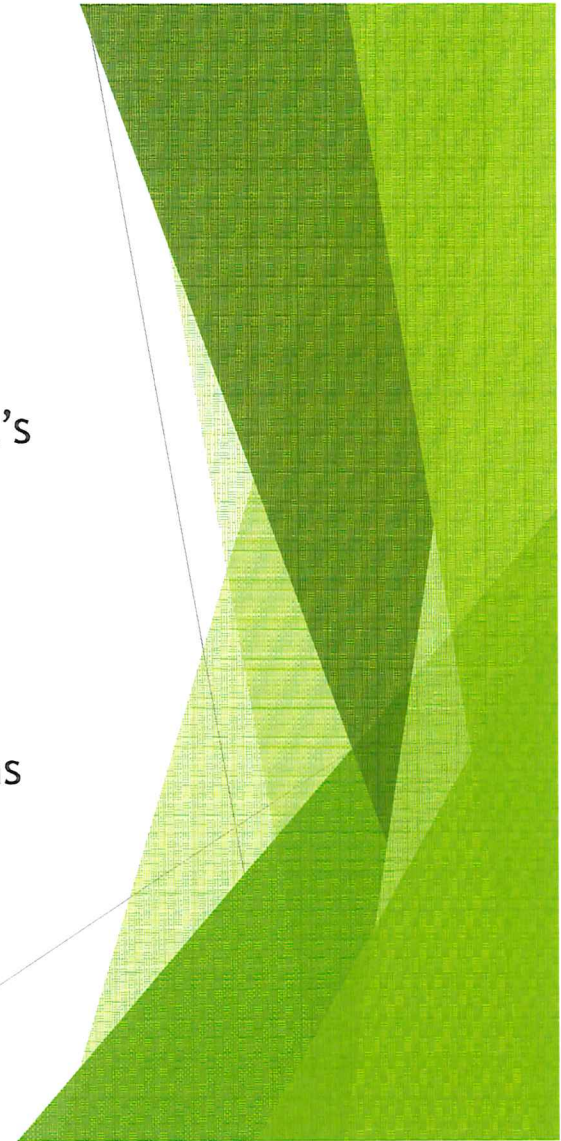
## Sunset Poultry

- ▶ **Traffic Impact:** other 7 weeks in cycle about 12 to 20 trucks or 25 to 40 trips a week meaning 8 to 10 trips a day
- ▶ Two new single family houses could be built on Agnew Road would generate 20 trips a day
- ▶ County Engineer had no objection and notes no reported accidents at Agnew Road & NW 27<sup>th</sup> Street - intersection meets sight distance requirements
- ▶ Primary route north on Highway 77 - has 9,475 trips a day including 1,230 trucks on avg. by Ashland Road- Source: NDOT



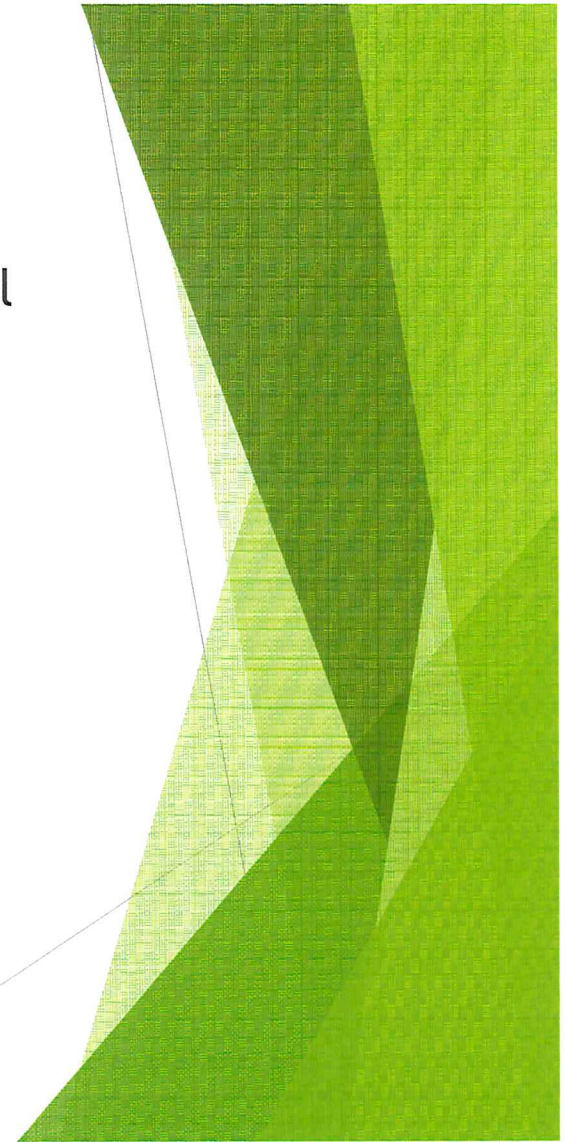
## Sunset Poultry

- ▶ **Recommendation:** Approval with following major conditions
  - ▶ 1,320 foot setback to any existing house, except applicant's
  - ▶ Grading plan & drainage study to County Engineer satisfaction
  - ▶ Construction & Operating Permit including Nutrient Management Plan from NDEE
  - ▶ Limit 8 barns and 380,000 chickens (more barns or chickens would have to go back through process)



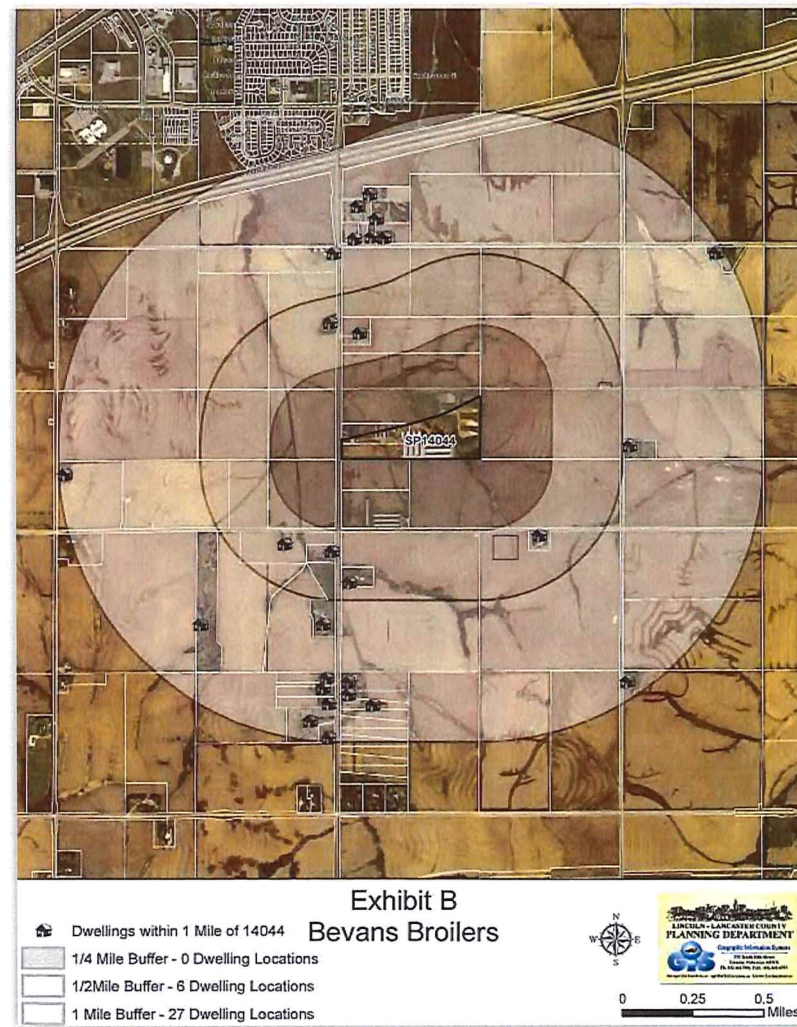
## Sunset Poultry

- ▶ **Recommendation:** Planning Commission 5-1 for approval
- ▶ Health Department, NRD, NDEE, County Engineer - no government agencies have raised objection
- ▶ Same recommendation on Essink, Heetderks and Bevans special permits previously approved
- ▶ Court upheld rationale for approval of Essink



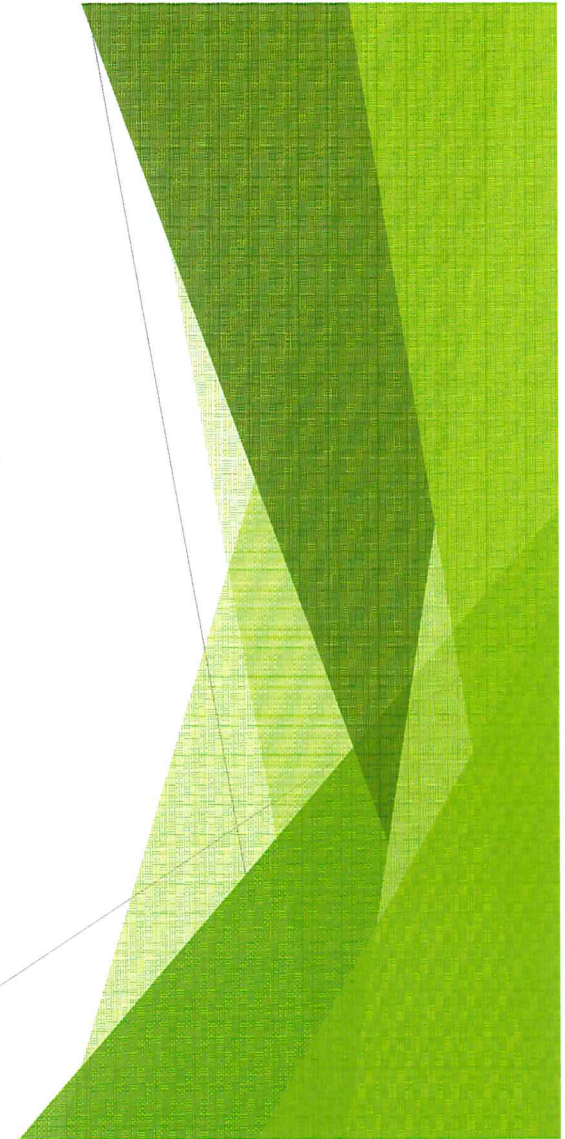
# Sunset Poultry

- ▶ Bevans Farm experience:
- ▶ Decades of operation
- ▶ No odor complaints
- ▶ 1+ mile to
- ▶ Waverly 3,500+ population
- ▶ Waverly high school, middle school & elementary with nearly 1,500 students



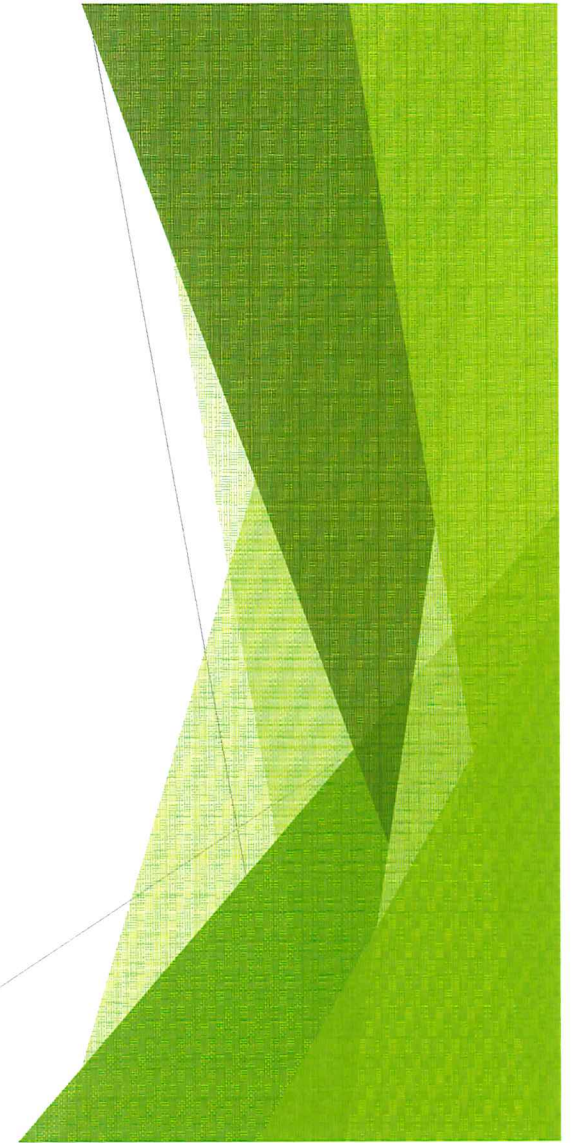
## Sunset Poultry

- ▶ **Public Hearing, Thursday, November 7<sup>th</sup> at 9:30 a.m.**
  - ▶ Staff County Engineer & City-County Health Department
  - ▶ Staff from Nebraska Department of Environment & Energy, & Lower Platte South NRD invited
- ▶ Additional questions?



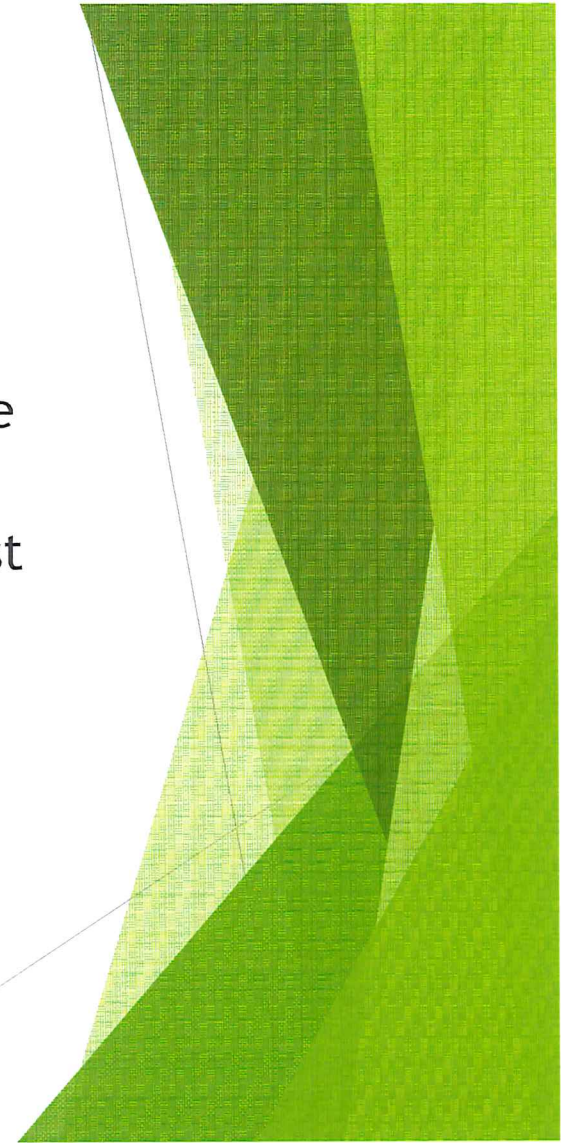
## Briefing Agenda: Working Group

- ▶ Review CAFO Working Group Recommendations
- ▶ Mapping of recommendations
- ▶ Review “Discussion Draft” prepared by Planning Department based on Working Group Recommendations
- ▶ Direction from County Board on Next Steps



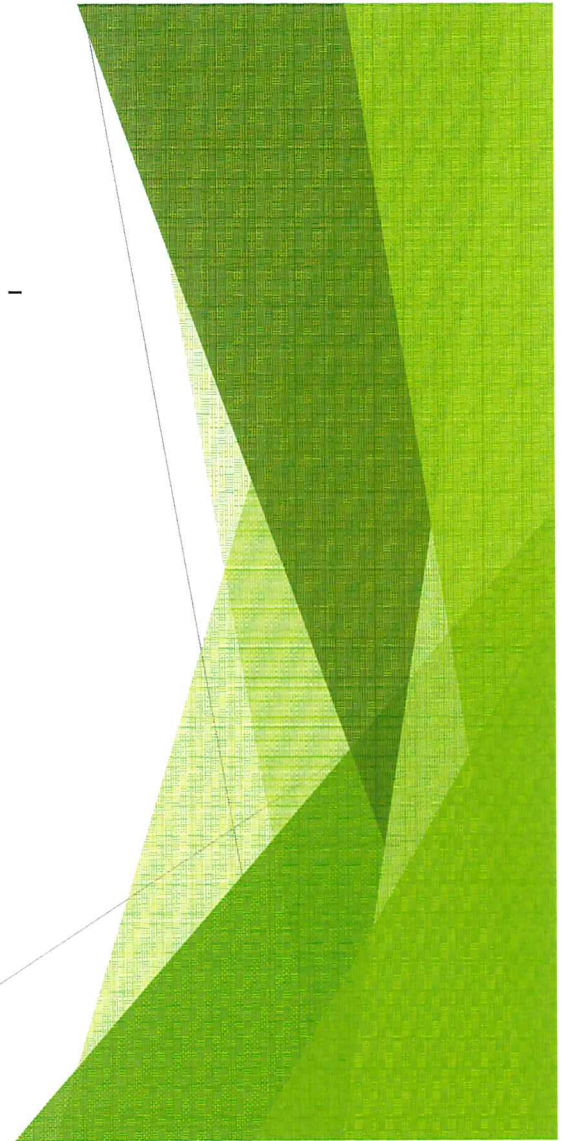
## CAFO Working Group

- ▶ County Board established the working group of 10 members of varied interest to work with staff to review state and other community regulations in order to advise on potential changes to the existing CAFO zoning
- ▶ Met 11 times from March through final meeting on August 28, 2019
- ▶ Presentations from various government agencies
- ▶ Public Comment meeting on June 27<sup>th</sup>



## CAFO Working Group

- ▶ Agreement on most of Working Group Recommendations - except for 3 points that aren't consistent with special permit experience
- ▶ Agree on new definitions that match State definitions
  - ▶ New definitions for Enclosed and Open operations
  - ▶ New definition for Animal Feeding Operation



## CAFO Working Group

- ▶ Agree: “Animal Feeding Operation” shall mean a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period and is defined as a medium or large “Animal Feeding Operation” by Nebraska Department of Environment and Energy Title 130. Animal Feeding Operation does not include aquaculture.
- ▶ AFO = State Large and Medium size operations
- ▶ Small operations allowed by right, incl. open or enclosed
- ▶ Small examples include less than: 300 cows, 750 swine (>55 lbs), 37,500 chickens (broilers w/no liquid manure system) 16,500 turkeys, 3,000 sheep



## CAFO Working Group

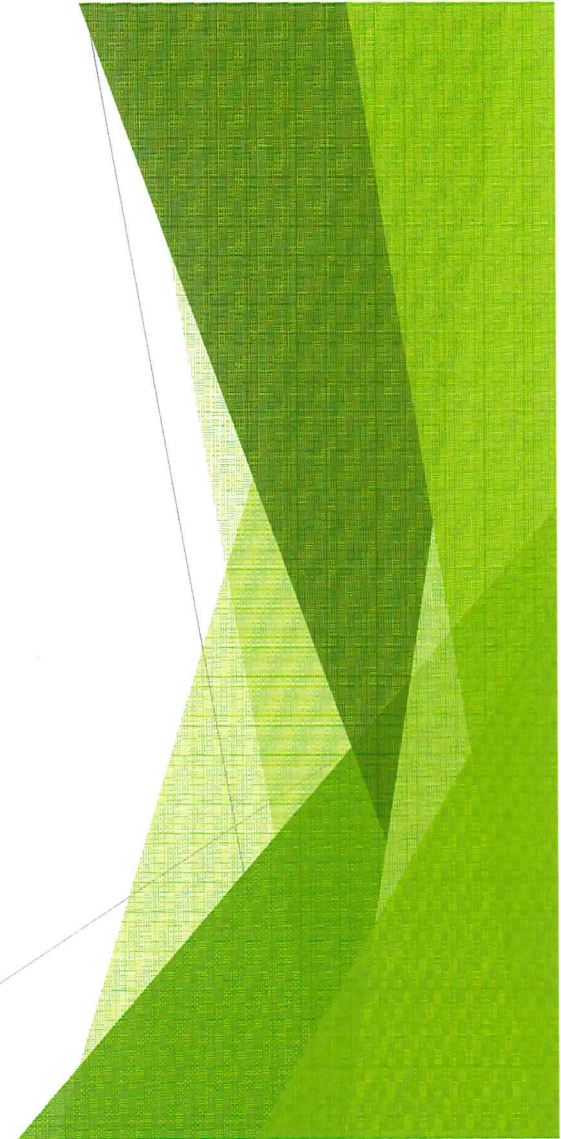
- ▶ Agree with following new special permit conditions,
  - ▶ Site plan with all use areas, floodplain and topography map
  - ▶ If required by Lancaster County Engineer, a road maintenance agreement shall be included as a condition of the special permit
  - ▶ Submit a completed “Nebraska Animal Feeding Operation Siting Assessment Matrix” (without scoring) as maintained by the Nebraska Dept. of Agriculture for information purposes

## CAFO Working Group

- ▶ Agree with following new special permit conditions,
- ▶ Decommissioning plan outlining the procedures and cost of removing or reusing the barns and may include a bond or equivalent to guarantee removal or reuse upon discontinuance
- ▶ A Conservation Buffer consisting of windbreaks, trees, or other vegetation is required for all **large AFO**
- ▶ Notice is required to be mailed to all property owners within one mile of the application area **30 days prior to the public hearing - so minimum 6 weeks till Planning Commission - not typical 4 weeks**
- ▶ For AFO approved prior, the regulations shall not apply - however, any expansion of the AFO shall comply

## CAFO Working Group

- ▶ Agree on the special permit conditions, except
  - ▶ When Construction & Operating Permit required
  - ▶ Setback to residential use for Enclosed AFO
  - ▶ Setback to “public” uses for Open & Enclosed AFO

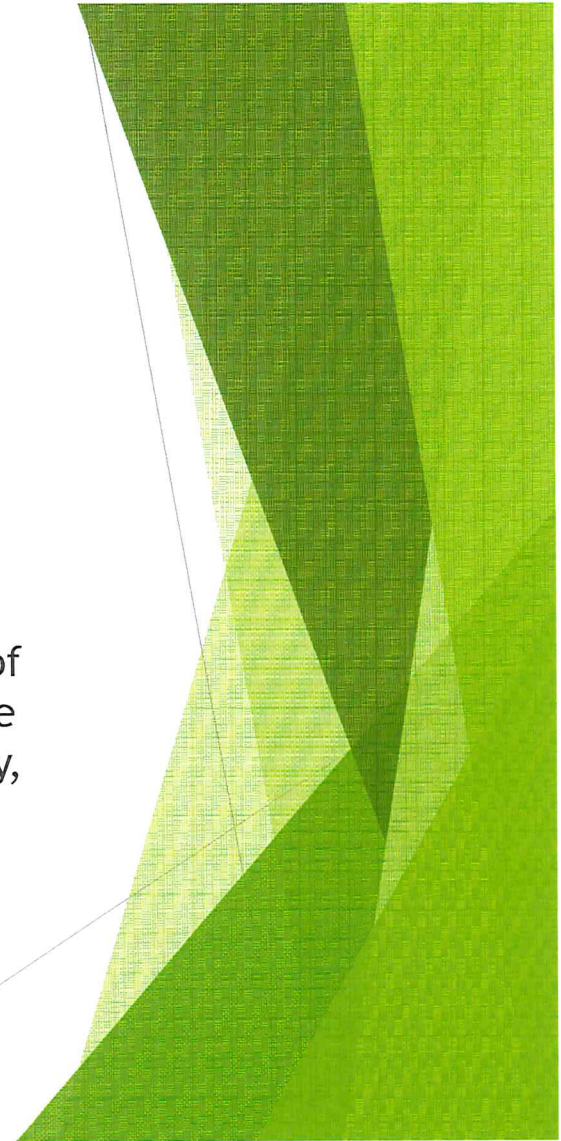


## CAFO Working Group

- ▶ Agree on special permit conditions, except
  - ▶ When Construction & Operating Permit (COP) approved by NDEE
    - ▶ Working Group: submit with application
    - ▶ Discussion Draft: submit prior to operation
  - ▶ COP not required by NDEE, but required by special permit
  - ▶ COP can cost over \$10,000 and run over 150 pages
  - ▶ Requires field locations where composted manure will be spread
  - ▶ Does include brief information on emergency response plan, odor control plan, litter removal method, manure production and nearby well info - but majority of pages on field application

## CAFO Working Group

- ▶ Agree on special permit conditions, except setbacks
- ▶ Working Group Recommendation
- ▶ Setback to residential uses
  - ▶ 2,640 feet (0.5 miles) to Enclosed AFO      Exhibit 1
  - ▶ 5,280 feet (1 mile) for Open AFO      Exhibit 2
- ▶ Setback to “public” uses such as National or local landmark, place of worship, cemetery, school, residential or non-residential health care facility, public park (not including trails), public recreational facility, or a special permitted early childhood care facility
  - ▶ 1.0 mile for Medium AFO      Exhibit 3
  - ▶ 1.5 miles for Large AFO      Exhibit 3



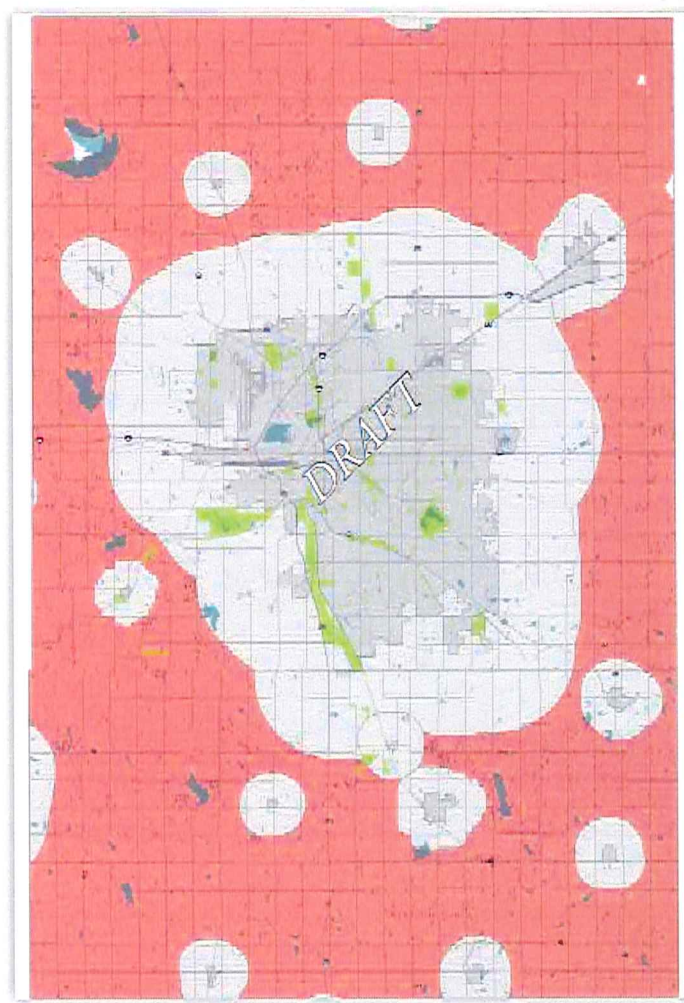
# CAFO Working Group

- ▶ Working Group Recommendation
- ▶ Exhibit 1
- ▶ Setback to residential uses
  - ▶ 2,640 feet (0.5 miles) to Enclosed AFO
  - ▶ 5,280 feet (1 mile) for Open AFO



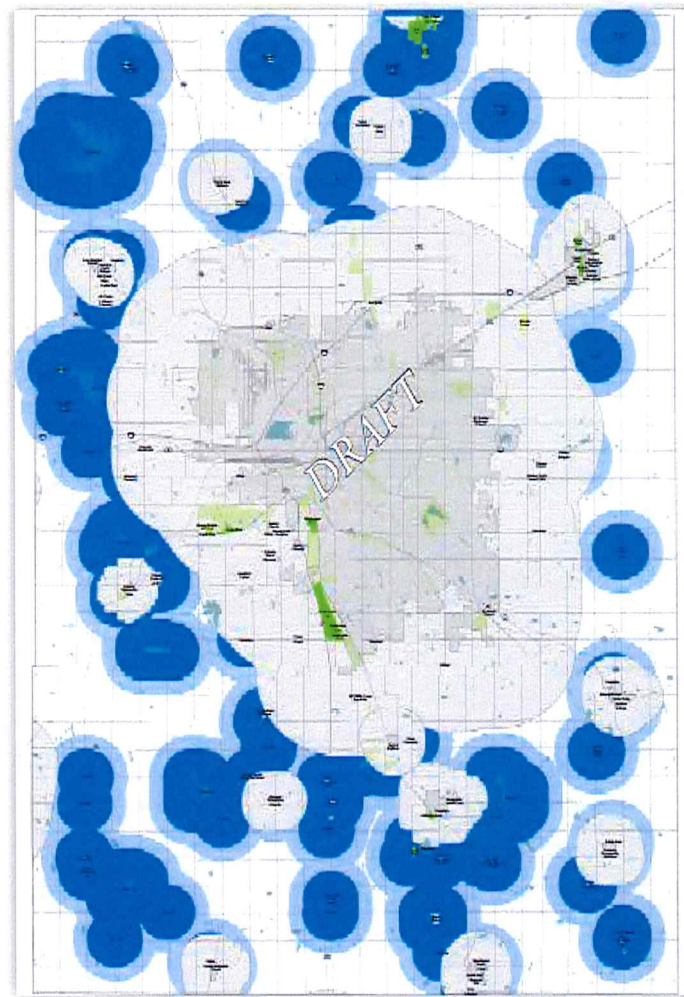
# CAFO Working Group

- ▶ Working Group Recommendation
- ▶ Exhibit 2
- ▶ Setback to residential uses
  - ▶ 2,640 feet (0.5 miles) to Enclosed AFO
  - ▶ 5,280 feet (1 mile) for Open AFO
  - ▶ Setback to **Open AFO** - virtually no land left



# CAFO Working Group

- ▶ Working Group Recommendation
- ▶ Exhibit 3
- ▶ Setback to “public” uses
- ▶ 1.0 mile for Medium AFO
- ▶ 1.5 miles for Large AFO





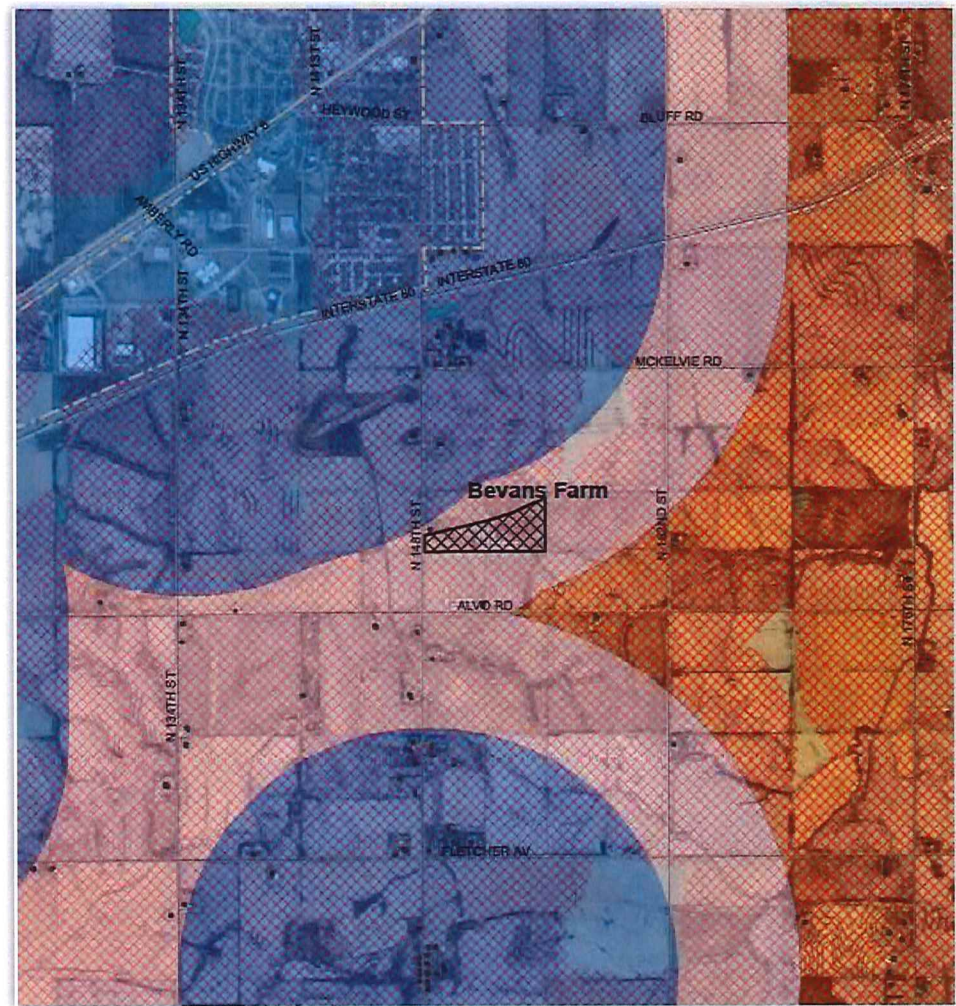
# CAFO Working Group

- ▶ Working Group Recommendation
- ▶ Exhibit 4
- ▶ Setback to **Enclosed AFO** with
- ▶ 0.5 mile setback to residential “**public**” uses AND
- ▶ 1.0 mile for Medium AFO
- ▶ 1.5 miles for Large AFO
  
- ▶ Setback to **Open AFO** - virtually no land left



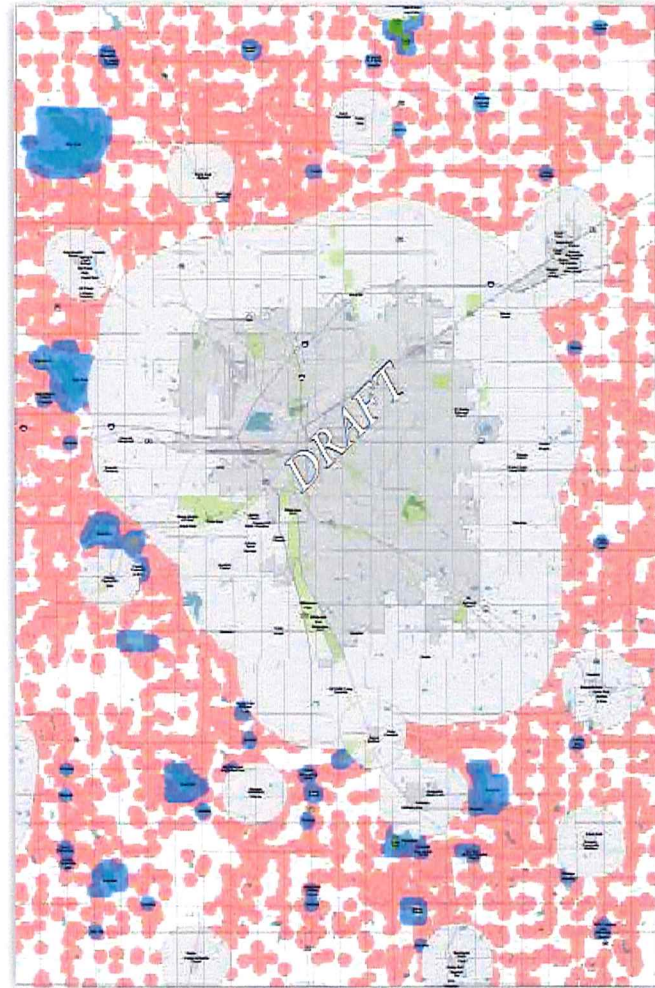
# CAFO Working Group

- ▶ Working Group Recommendation
- ▶ Exhibit 5
- ▶ Bevans Broilers south of Waverly, approved twice - no opposition to last expansion
- ▶ Long history of operation without complaints
- ▶ Couldn't meet 0.5 mile residential setback or 1.5 mile public setback as Large AFO (>125,000 chickens)



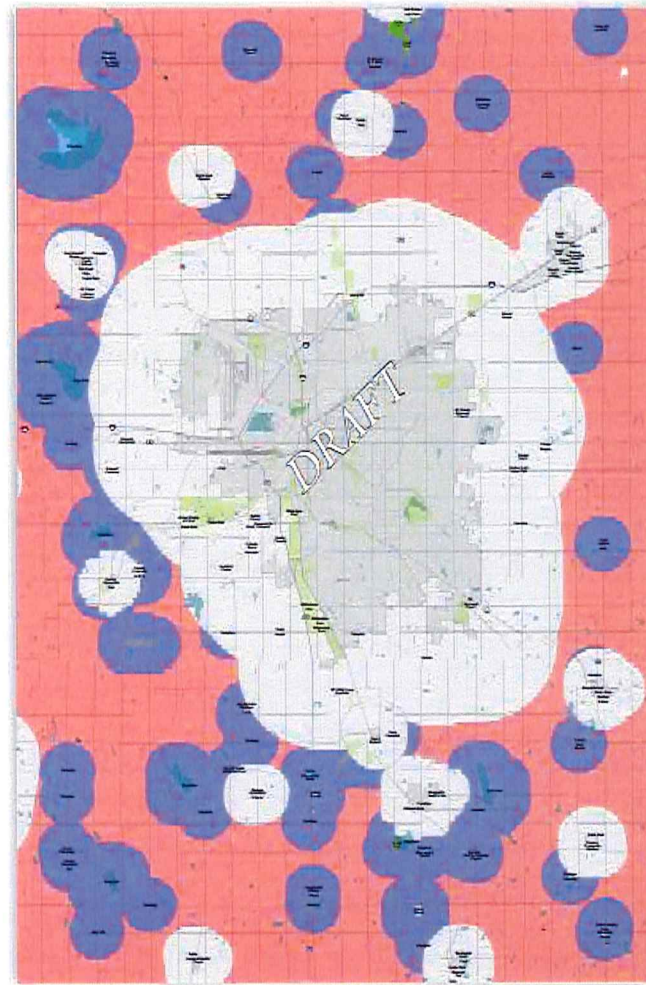
# CAFO Working Group

- ▶ Discussion Draft
- ▶ Exhibit 6 - Enclosed
- ▶ Setback to residential uses
  - ▶ 1,320 feet (0.25 miles) to Enclosed AFO
  - ▶ 5,280 feet (1 mile) for Open AFO
- ▶ Setback to public uses
  - ▶ Same as residential



# CAFO Working Group

- ▶ Discussion Draft
- ▶ Exhibit 7 - Open
- ▶ Setback to residential uses
  - ▶ 1,320 feet (0.25 miles) to Enclosed AFO
  - ▶ **5,280 feet (1 mile) for Open AFO**
- ▶ Setback to public uses
  - ▶ Same as residential
- ▶ Setback to **Open AFO** - virtually no land left

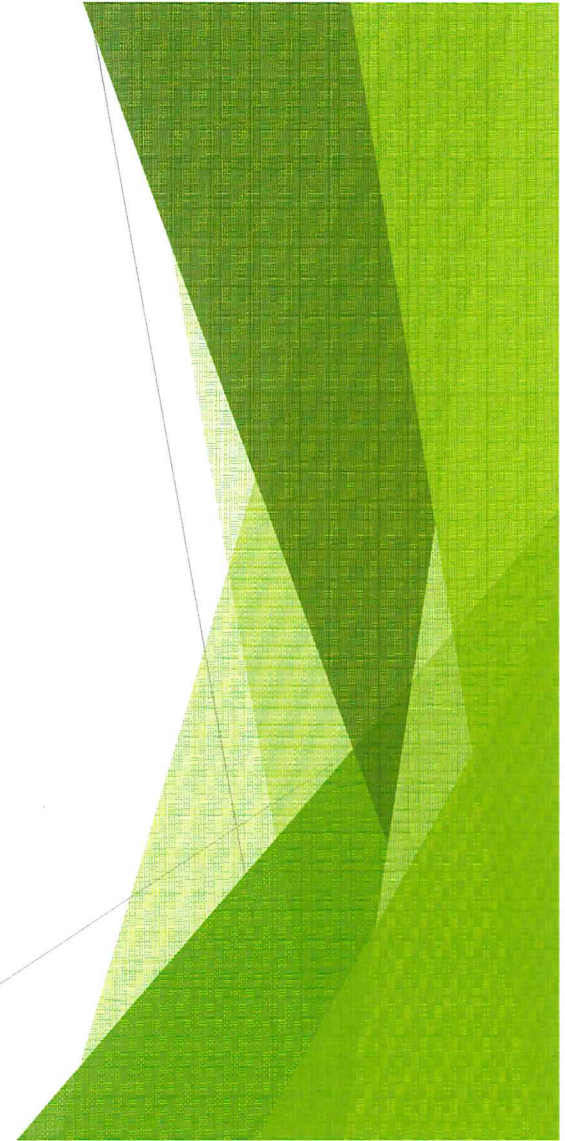


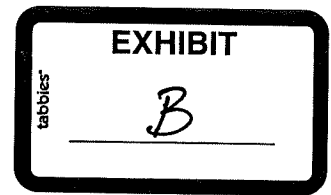
# CAFO Working Group

- ▶ Discussion Draft Recommendation
- ▶ Setback to residential uses
  - ▶ 1,320 feet (0.25 miles) to Enclosed AFO
  - ▶ 5,280 feet (1 mile) for Open AFO
- ▶ Setback to “public” uses such as National or local landmark, place of worship, cemetery, school, residential or non-residential health care facility, public park (not including trails), public recreational facility, or a special permitted early childhood care facility
  - ▶ Same as residential setback
- ▶ Setback for enclosed consistent with experience and history with enclosed chicken special permits
- ▶ No rational Public Uses greater protection than Residential

# Briefing Agenda: Working Group

- ▶ Additional questions?
- ▶ Direction from County Board on Next Steps





Concentrated Animal Feeding Operation Working Group  
Final Recommendation as of August 28<sup>th</sup>, 2019  
POTENTIAL AMENDMENTS TO THE  
LANCASTER COUNTY ZONING REGULATIONS

**Proposed Revisions to Article 2 Definition**

2.002 A

“Agriculture” shall mean the use of land for the purpose of raising and harvesting crops; or for the raising, breeding, or management of livestock, poultry, fish or honeybees; or for dairying, truck gardening, forestry, nurseries or orchards; for the non-commercial on-farm storage or processing of agricultural products produced on the premises; or for any other similar agricultural, horticultural, or silvicultural or aquacultural use. Small Animal Feeding Operations, as defined by Nebraska Department of Environment and Energy Title 130, shall be agriculture.

“Animal Feeding Operation” shall mean a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period and is defined as a medium or large “Animal Feeding Operation” by Nebraska Department of Environment and Energy Title 130. Animal Feeding Operation does not include aquaculture.

2.006. E.

Enclosed Animal Feeding Operation shall mean an Animal Feeding Operation that is within a totally enclosed building which is roofed, has walls that extend from the floor to the ceiling and contains floors which are hard surfaced, earthen, slatted, or other type of floor.

2.007. F.

~~Feed Lot, Commercial A use where the principal business is the feeding of livestock or poultry for the purpose of sale for slaughter or butcher. Commercial feed lot shall not include dairy herds or the keeping of livestock other than for slaughter or butcher.~~

2.016. O

Open Animal Feeding Operation shall mean pens, or similar concentrated areas, including small shed-type areas or open buildings wherein animals are fully or partially exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

### **Proposed Revisions to Article 4 “AG” Agricultural District**

4.003 Permitted Uses

a. ~~Agriculture, except commercial feedlots~~

4.007 Permitted Special Uses

aa. ~~Commercial feedlot.~~ Animal Feeding Operation

### **Proposed Revisions to Article 13 Special Permit**

13.035. ~~Commercial Feedlot~~ Animal Feeding Operation

~~Commercial feedlot facilities for livestock and poultry may be allowed by special permit in the AG zoning district. The application for a special permit shall be accompanied by a statement from the Department of Environmental Quality (DEQ) that either the facility does not need to provide for anti-pollution controls, or that the applicant has received approval from DEQ for anti-pollution controls.~~

Animal Feeding Operation (AFO) may be allowed by special permit in the AG District under the following conditions:

1. A site plan showing the location and distance from lot lines of all confined areas, compost areas, and accessory buildings used as part of the Animal Feeding Operations. The site plan shall include any floodplain and/or floodway on the site. A topography map shall be included.
2. A Construction and Operating Permit approved by NDEE shall be submitted with the application.
3. If required by Lancaster County Engineer, a road maintenance agreement shall be included as a condition of the special permit.
4. The applicant shall submit a completed “Nebraska Animal Feeding Operation Siting Assessment Matrix” (without scoring) as maintained by the Nebraska



Department of Agriculture from time to time, or equivalent maintained by the Lincoln/ Lancaster County Planning Department if the matrix is discontinued. Any necessary documentation shall be submitted to verify the accuracy of the completed matrix.

5. The AFO use, including confined feeding areas or buildings used to house animals, shall be setback, at a minimum, from the nearest wall of a dwelling that is not associated with the AFO and from any area designated as Residential-Low Density in the Future Land Use Plan of the Lincoln/ Lancaster County Comprehensive Plan as shown below:

Open AFO 5,280 feet

Enclosed AFO 2,640 feet

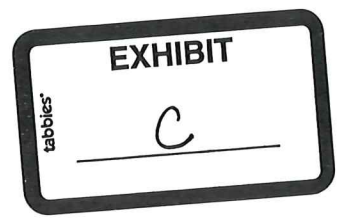
A large AFO use, including confined feeding areas or buildings used to house animals, shall be setback, at a minimum 1.5 miles to a designated National or local landmark, place of worship, cemetery, school, residential or non-residential health care facility, public park (not including trails), public recreational facility, or a special permitted early childhood care facility.

A medium AFO use, including confined feeding areas or buildings used to house animals, shall be setback, at a minimum 1.0 mile to a designated National or local landmark, place of worship, cemetery, school, residential or non-residential health care facility, public park (not including trails), public recreational facility, or a special permitted early childhood care facility.

6. Each application shall have a decommissioning plan outlining the means, procedures and cost of removing or reusing the barns and all related supporting infrastructure and may include a bond or equivalent enforceable resource to guarantee removal or reuse upon discontinuance, decommissioning or abandonment.
7. A Conservation Buffer consisting of windbreaks, trees, or other vegetation is required for all large AFO's.
8. Notice is required to be mailed to all property owners within one mile of the application area 30 days prior to the public hearing.
9. For Animal Feeding Operations approved prior to {effective date}, the regulations of this article shall not apply. However, any expansion of the AFO shall comply with this article. (Consensus to add, text was not available at the meeting.)

(After meeting, replaced term "contour" with term "topography" and added "National and" before local landmark after notification and acceptance by Working Group.)

f:\DevReview\Projects\CAFO 2019\Working Group Recommendation.docx



Discussion DRAFT of October 17<sup>th</sup>, 2019

POTENTIAL AMENDMENTS TO THE  
LANCASTER COUNTY ZONING REGULATIONS

Text if based on Concentrated Animal Feeding Operation Working Group recommendation except as noted in yellow.

**Proposed Revisions to Article 2 Definition**

2.002 A

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~~Commercial feedlot facilities for livestock and poultry may be allowed by special permit in the AG zoning district. The application for a special permit shall be accompanied by a statement from the Department of Environmental Quality (DEQ) that either the facility does not need to provide for anti-pollution controls, or that the applicant has received approval from DEQ for anti-pollution controls.~~

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2. A Construction and Operating Permit approved by NDEE shall be submitted **with the application** prior to commencing operations.
3. If required by Lancaster County Engineer, a road maintenance agreement shall be included as a condition of the special permit.
4. The applicant shall submit a completed “Nebraska Animal Feeding Operation Siting Assessment Matrix” (without scoring) as maintained by the Nebraska Department of Agriculture from time to time, or equivalent maintained by the Lincoln/ Lancaster County Planning Department if the matrix is discontinued. Any

necessary documentation shall be submitted to verify the accuracy of the completed matrix.

5. The AFO use, including confined feeding areas or buildings used to house animals, shall be setback, at a minimum, from the nearest wall of a dwelling that is not associated with the AFO, from any area designated as Residential-Low Density in the Future Land Use Plan of the Lincoln-Lancaster County Comprehensive Plan, from a designated National or local landmark, place of worship, cemetery, school, residential or non-residential health care facility, public park (not including trails), public recreational facility, or a special permitted early childhood care facility.

Open AFO 5,280 feet

Enclosed AFO 2,640 feet 1,320 feet

A large AFO use, including confined feeding areas or buildings used to house animals, shall be setback, at a minimum 1.5 miles to a designated National or local landmark, place of worship, cemetery, school, residential or non-residential health care facility, public park (not including trails), public recreational facility, or a special permitted early childhood care facility.

A medium AFO use, including confined feeding areas or buildings used to house animals, shall be setback, at a minimum 1.0 mile to a designated National or local landmark, place of worship, cemetery, school, residential or non-residential health care facility, public park (not including trails), public recreational facility, or a special permitted early childhood care facility.

6. Each application shall have a decommissioning plan outlining the means, procedures and cost of removing or reusing the barns and all related supporting infrastructure and may include a bond or equivalent enforceable resource to guarantee removal or reuse upon discontinuance, decommissioning or abandonment.
7. A Conservation Buffer consisting of windbreaks, trees, or other vegetation is required for all large AFO's.
8. Notice is required to be mailed to all property owners within one mile of the application area 30 days prior to the public hearing.
9. For Animal Feeding Operations approved prior to {effective date}, the regulations of this article shall not apply. However, any expansion of the AFO shall comply with this article.

# Nebraska Animal Feeding Operation Siting Matrix

DRAFT

## BASIC INFORMATION

A	Livestock Operation Information	Number
	Operation Name:	
	Type of Livestock:	
1	Number of animals (for multiple species or production phases, record separately)	
2	Animal Units (see Animal Units tab for calculator)	

EXHIBIT

D

tabbles

## NDEE STATUS

B	Environmental Protection Plans	Yes	No
1	NDEE has issued letter that no construction and/or operating permit is required		
2	All NDEE construction and operating permit(s) will be in place prior to operation, as required, including the following (if not applicable, write NA):		
3	Nutrient Management Plan		
4	Animal Mortality Management Plan		
5	Request for Inspection of Animal Feeding Operation (Title 130 - Form A)		
6	Permit Application (Title 130 - Form B)		
7	Applicant Disclosure (Title 130 - Form C)		
8	Livestock Feeding Operation Narrative		
9	Livestock Feeding Operation Site Plan, Construction Drawings, and Maps		
10	Construction Quality Assurance Plan		
11	Manure Production and Storage/Treatment Calculations		
12	Operation and Maintenance Plan		
13	Chemical Management Plan		
14	Emergency Response Plan		
15	Sludge Management Plan		
16	Livestock Operation Closure Plan		
17	Best Management Practices for Odor Control		

## SETBACKS/SEPARATION DISTANCES

C	Siting Relative to County Setback.	Distance	
	Enter the county setback distance that applies for this animal feeding operation(feet)		
	Enter actual distance from LFO to nearest dwelling or public place (feet)		
		Yes	No
1	Separation meets or exceeds county setbacks, or an impact easement / distance waiver is in place		
	If YES, move to Section D. If NO, Stop, CUP is not approved unless county adopts the alternate separation method (see alternate separation tab).		

## OTHER CONSIDERATIONS

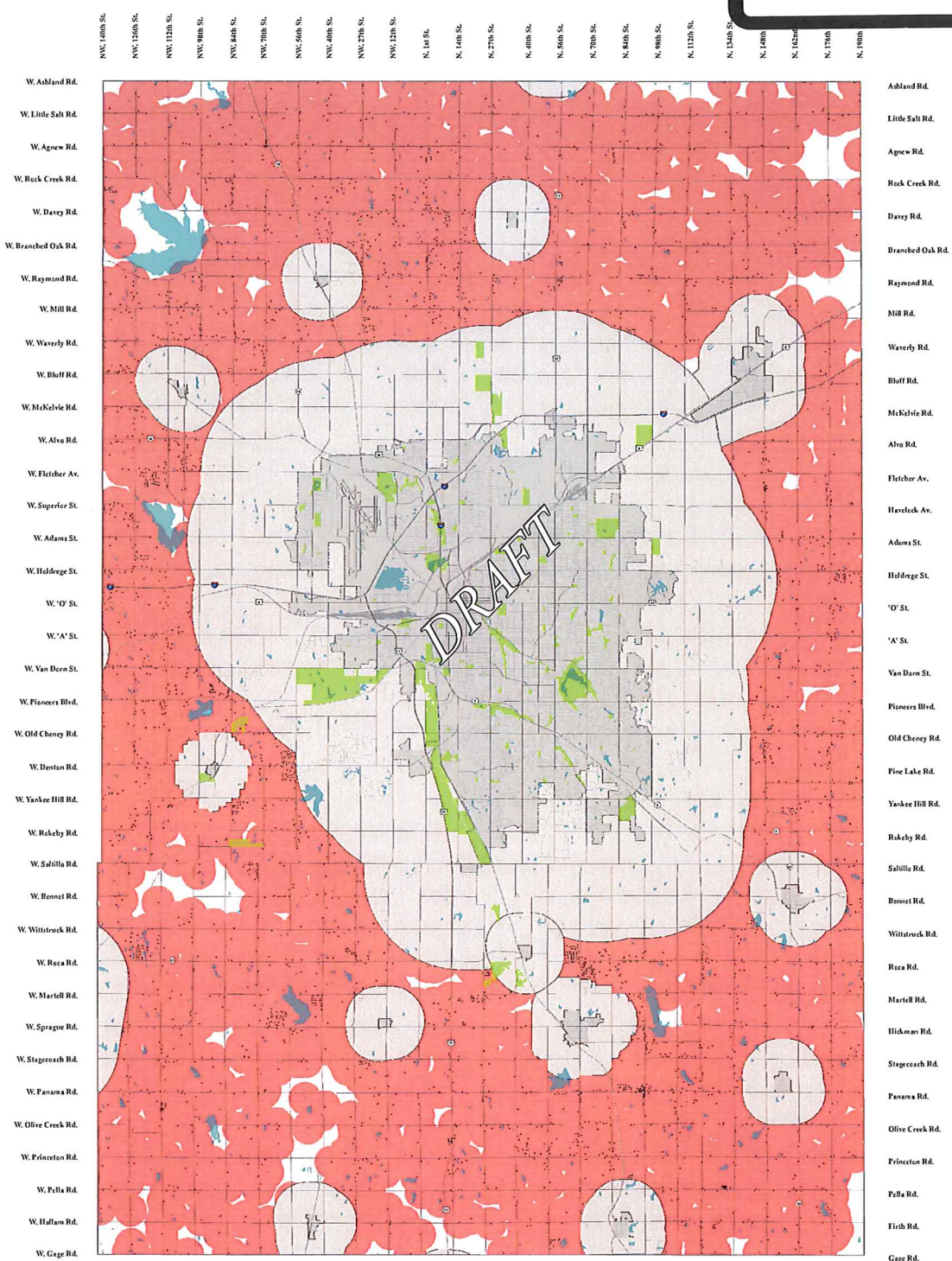
D Environmental and Zoning Compliance Record		Yes	No
1	Owner has operated an animal feeding operation (AFO) for at least 5 years AND has been issued NO judicial enforcement action by a State or Federal Department of Justice within the last 5 years	<input type="checkbox"/>	<input type="checkbox"/>
E Water Quality Protection - Livestock Facilities		Yes	No
1	The majority of animals housed within a confinement building For only the facility that contains the majority of manure or effluent, select any that describe the livestock waste control facility:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	Open lot with stockpile	<input type="checkbox"/>	<input type="checkbox"/>
3	Vegetative treatment system for runoff	<input type="checkbox"/>	<input type="checkbox"/>
4	Runoff containment structures	<input type="checkbox"/>	<input type="checkbox"/>
5	Roofed manure containment	<input type="checkbox"/>	<input type="checkbox"/>
6	Concrete-equivalent containment structure	<input type="checkbox"/>	<input type="checkbox"/>
7	Clay-lined or Geomembrane-lined containment structure	<input type="checkbox"/>	<input type="checkbox"/>
8	Additional storage capacity (25% or more than NDEQ requirements)	<input type="checkbox"/>	<input type="checkbox"/>
9	Select the smallest separation distance between any well used for domestic purposes and a Livestock Waste Control Facility:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	100 to 150 feet	<input type="checkbox"/>	<input type="checkbox"/>
	151 to 300 feet	<input type="checkbox"/>	<input type="checkbox"/>
	301 feet to 1,000 feet	<input type="checkbox"/>	<input type="checkbox"/>
F Odor and Dust Control for Facilities		Yes	No
	Check all that apply for the majority of animal confinement or manure storage:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
1	Biofilter treatment of exhaust air from fans (primarily for odor control)	<input type="checkbox"/>	<input type="checkbox"/>
2	Oil/water sprinkling for dust control in animal areas	<input type="checkbox"/>	<input type="checkbox"/>
3	Electrostatic/Ionization system for dust control in animal areas	<input type="checkbox"/>	<input type="checkbox"/>
4	Windbreaks placed to intercept air emissions	<input type="checkbox"/>	<input type="checkbox"/>
5	Solids routinely separated from liquids and:	<input type="checkbox"/>	<input type="checkbox"/>
	Stockpiled for later application to land	<input type="checkbox"/>	<input type="checkbox"/>
	Composted, dried and used for bedding, or equivalently treated.	<input type="checkbox"/>	<input type="checkbox"/>
6	Cover on manure storage or first (settling) cell of multi-cell system	<input type="checkbox"/>	<input type="checkbox"/>
7	Impermeable cover with flare or gas treatment	<input type="checkbox"/>	<input type="checkbox"/>
8	Aerobic treatment	<input type="checkbox"/>	<input type="checkbox"/>
9	Anaerobic digester	<input type="checkbox"/>	<input type="checkbox"/>
10	Other supplemental odor reduction measures (supported by verifiable scientific data)	<input type="checkbox"/>	<input type="checkbox"/>

G Manure Application Practices		Yes	No
1	Select the primary method of manure application under normal conditions for the majority of manure applied and indicate any control practices followed for application to 50% or more of the land receiving manure:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
1a	Subsurface application (also referred to as "injection", "knifing in manure", etc)	<input type="checkbox"/>	<input type="checkbox"/>
1b	Surface-applied solids	<input type="checkbox"/>	<input type="checkbox"/>
	Incorporated within 2 days of application	<input type="checkbox"/>	<input type="checkbox"/>
	Incorporated within 3 to 7 days of application	<input type="checkbox"/>	<input type="checkbox"/>
1c	Surface-applied slurry or effluent (excl. sprinkler irrigation)	<input type="checkbox"/>	<input type="checkbox"/>
	Incorporated prior to planting but more than 7 days after application	<input type="checkbox"/>	<input type="checkbox"/>
	Application equipment discourages drift and encourages entry into soil	<input type="checkbox"/>	<input type="checkbox"/>
1d	Sprinkler irrigation	<input type="checkbox"/>	<input type="checkbox"/>
	Incorporated within 2 days of application	<input type="checkbox"/>	<input type="checkbox"/>
	Incorporated within 3 to 7 days of application	<input type="checkbox"/>	<input type="checkbox"/>
2	Cover conditions for manure application (Indicate all that apply for the selected method and majority of land receiving manure)	Utilize drop nozzles or distribution hoses	<input type="checkbox"/>
		Utilize a monitoring and alarm system	<input type="checkbox"/>
		Irrigation distribution system has a complete disconnect from the water source or appropriate mechanical devices, as specified by NDEQ, during application	<input type="checkbox"/>
		Irrigation distribution system does NOT have a complete disconnect from the water source during application or appropriate mechanical devices, as specified by NDEQ	<input type="checkbox"/>
H Manure Application Separation	Additional separation provided, above and beyond minimum requirements, from land application areas to closest dwelling or public place. Applies to all application areas.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
		Additional 50 to 100 feet	<input type="checkbox"/>
		Additional 101 to 500 feet	<input type="checkbox"/>
		Additional 501 to 1,320 feet	<input type="checkbox"/>
		Additional 1,321 to 2,640 feet	<input type="checkbox"/>
Additional 2,641 feet and greater	<input type="checkbox"/>		
2	Vegetative buffer (minimum 50 feet width) will be maintained between land application areas and any dwellings or public places	<input type="checkbox"/>	<input type="checkbox"/>
3	Vegetative buffer (minimum 50 feet width) will be maintained between land application areas and any surface waters	<input type="checkbox"/>	<input type="checkbox"/>
4	Vegetative buffers present on 25 to 50% of natural surface drains on all application areas	<input type="checkbox"/>	<input type="checkbox"/>
5	Vegetative buffers present on 51 to 100% of natural surface drains	<input type="checkbox"/>	<input type="checkbox"/>

<b>I Additional Assurance of Environmental Protection</b>		<b>Yes</b>	<b>No</b>
1	Assurance that the following plans will be kept current, displayed and/or readily accessible on site, and included in training procedures during operation:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Operation and Maintenance Plan	<input type="checkbox"/>	<input type="checkbox"/>
	Animal Mortality Composting Plan	<input type="checkbox"/>	<input type="checkbox"/>
	Chemical Management Plan	<input type="checkbox"/>	<input type="checkbox"/>
	Emergency Response Plan	<input type="checkbox"/>	<input type="checkbox"/>
	BMP for Odor Control Plan	<input type="checkbox"/>	<input type="checkbox"/>
	Nutrient Management Plan	<input type="checkbox"/>	<input type="checkbox"/>
2	Assurance that earthen livestock waste control facilities having compacted-soil liners will be constructed to meet and be verified as having a permeability rate $\leq 0.125$ inch/day	<input type="checkbox"/>	<input type="checkbox"/>
3	Assurance that earthen livestock waste control facilities having geomembrane liners will be installed according to the construction quality assurance / quality control plan and documentation will be maintained	<input type="checkbox"/>	<input type="checkbox"/>
<b>J Traffic</b>		<b>Yes</b>	<b>No</b>
1	Main entrance to livestock operation located on minimum maintenance road	<input type="checkbox"/>	<input type="checkbox"/>
2	Livestock operation has a cost-share agreement with the county for road maintenance	<input type="checkbox"/>	<input type="checkbox"/>
3	Vehicle entrance and turnaround is designed so that traffic will not be required to back into the livestock operation from the county road	<input type="checkbox"/>	<input type="checkbox"/>
4	Heavy vehicle route established that avoids bridges or roads with weight restrictions	<input type="checkbox"/>	<input type="checkbox"/>
5	For the primary application method under normal conditions, the livestock operation can avoid county roads to apply:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Up to 25% of manure nutrients generated	<input type="checkbox"/>	<input type="checkbox"/>
	25 to 50% of manure nutrients generated	<input type="checkbox"/>	<input type="checkbox"/>
	More than 50% manure nutrients generated	<input type="checkbox"/>	<input type="checkbox"/>
<b>K Authorized Representative and Manager Residency</b>		<b>Yes</b>	<b>No</b>
1	Authorized representative lives or will live within one year of beginning operation:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	On the site or within the separation distance for odor	<input type="checkbox"/>	<input type="checkbox"/>
3	Between separation distance for odor and 10 miles of the livestock operation	<input type="checkbox"/>	<input type="checkbox"/>
4	Between 10 miles and 50 miles of the livestock operation	<input type="checkbox"/>	<input type="checkbox"/>
5	Manager lives or will live within one year of beginning of operation:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
6	On the site or within the separation distance for odor	<input type="checkbox"/>	<input type="checkbox"/>
7	Between separation distance for odor and 10 miles of the livestock operation	<input type="checkbox"/>	<input type="checkbox"/>
8	Between 10 miles 50 miles of the livestock operation	<input type="checkbox"/>	<input type="checkbox"/>
<b>L Neighbor - Community Communication</b>		<b>Yes</b>	<b>No</b>
1	Communication with 100% of the property owners within a one-mile radius	<input type="checkbox"/>	<input type="checkbox"/>

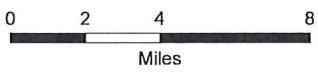


<b>M Economic Impact Factors</b>		<b>Yes</b>	<b>No</b>
1	Will add property value as of county permit issue date by:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
		\$50,000-\$250,000	
		\$250,000-500,000	
		\$500,000-\$1,000,000	
		More than \$1,000,000	
2	Will create the following number of new full-time or equivalent jobs:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
		1 to 3	
		4 to 9	
		10 or more	
<b>N Landscape and Aesthetic Appearance</b>		<b>Yes</b>	<b>No</b>
	Check all that will apply:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
1	Landscaping plan will be implemented		
2	Visual barriers (i.e. fences, gating, trees) will be put in place		
3	Animal mortality will be managed so as to not be viewable from a public road		
	Handling of animal mortalities will be viewable from public road		
4	Site designed to facilitate clean surface water drainage away from livestock operation		
5	Separation distance of at least 1.5 times county required distance from centerline of frontage road to livestock facility		



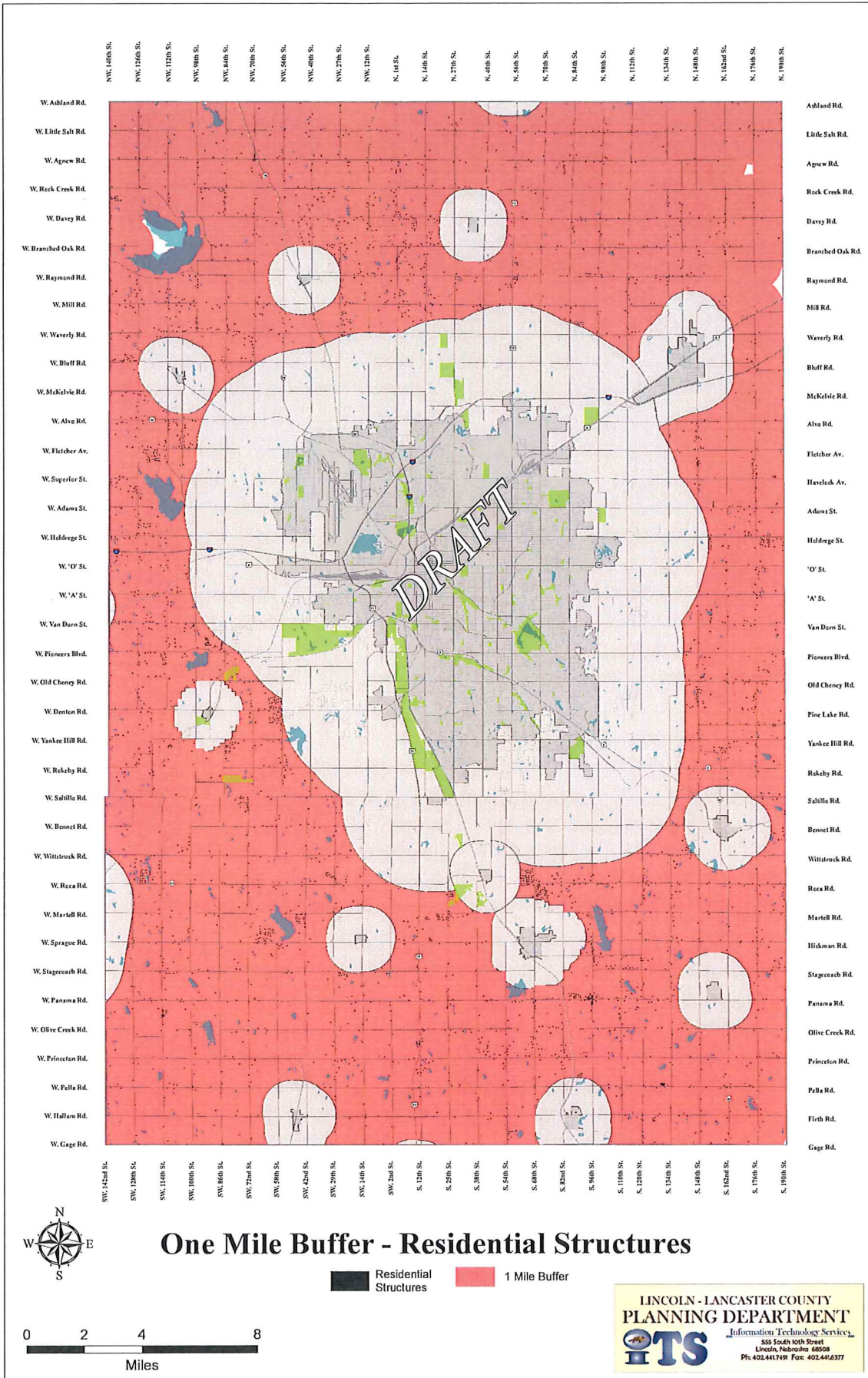
### Half Mile Buffer - Residential Structures

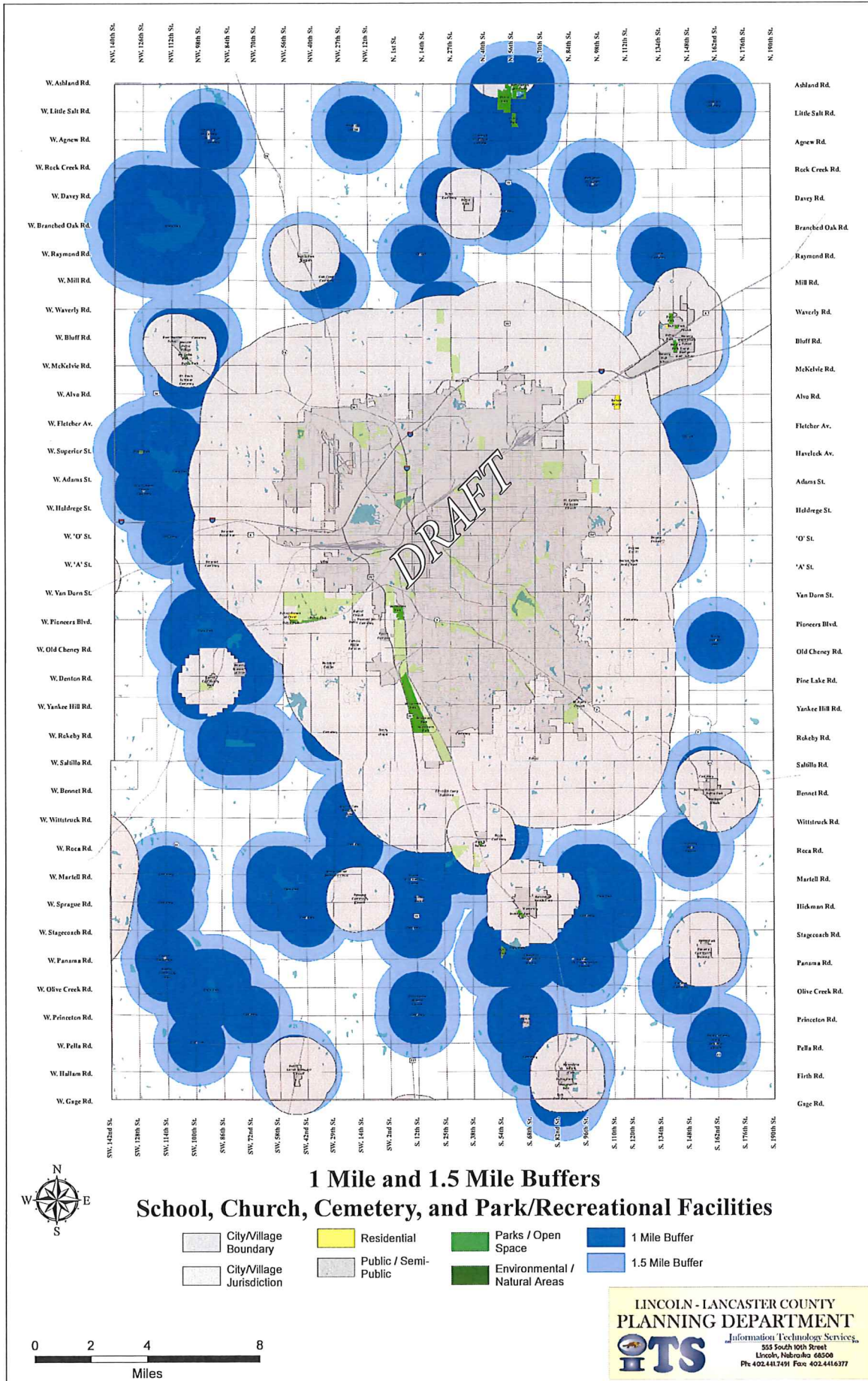
- City/Village Boundary
- City/Village Jurisdiction
- Residential Structures
- 0.5 Mile Residential Buffer - Enclosed AFO

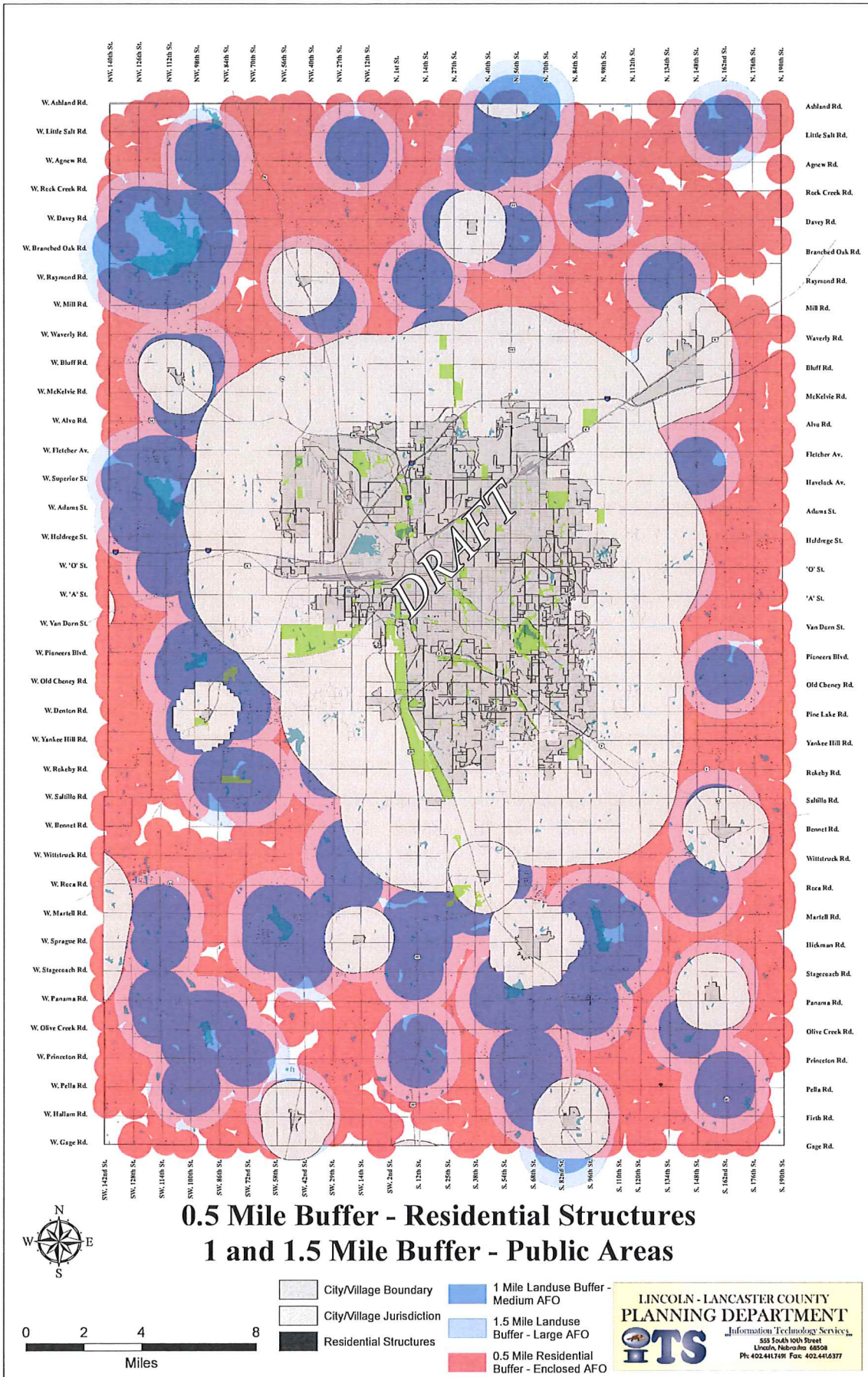


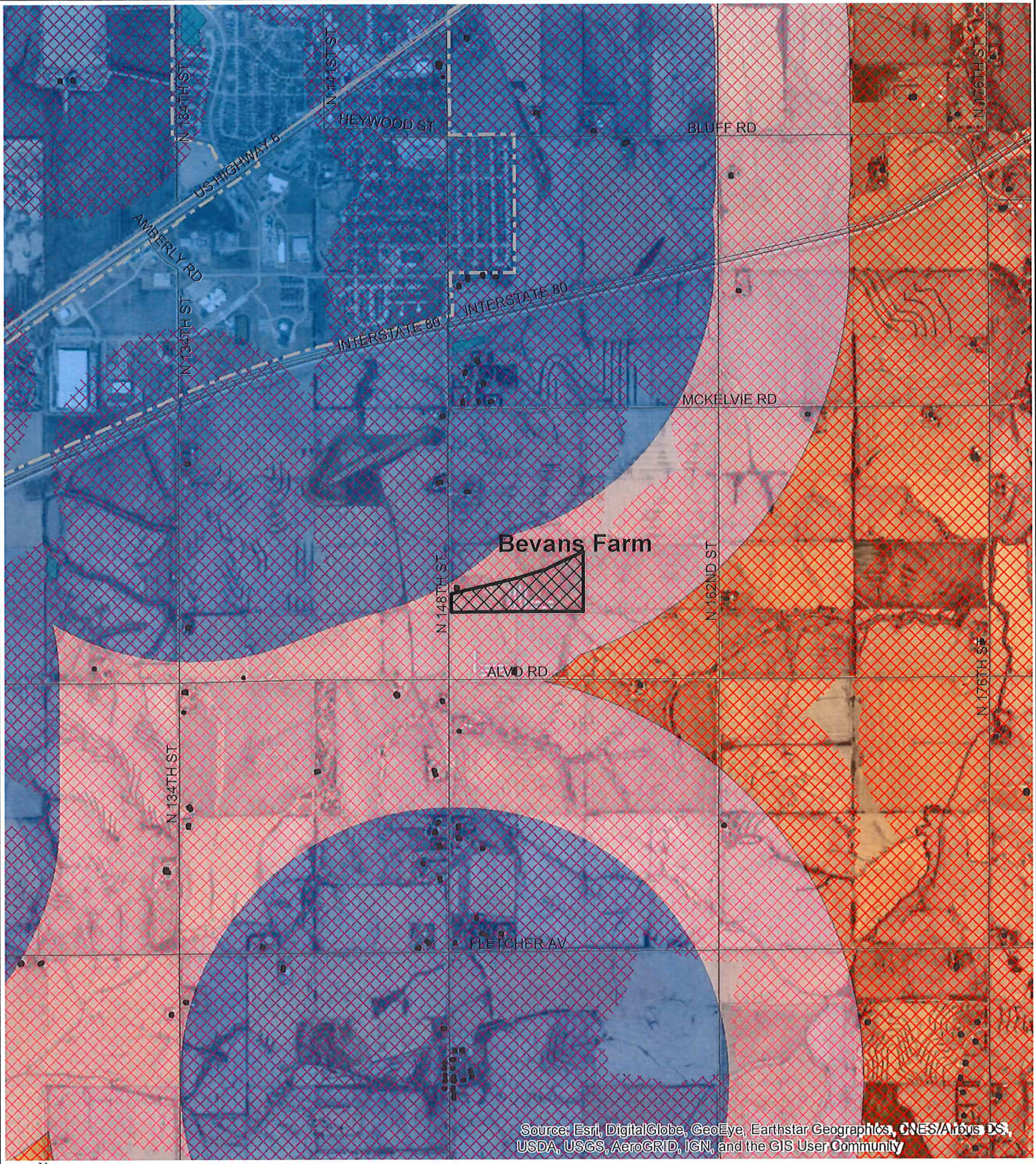
**LINCOLN - LANCASTER COUNTY  
PLANNING DEPARTMENT**

**ITS** Information Technology Services  
335 South 10th Street  
Lincoln, Nebraska 68508  
Ph: 402.441.7491 Fax: 402.441.6377



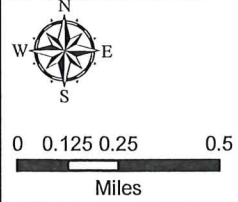






Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

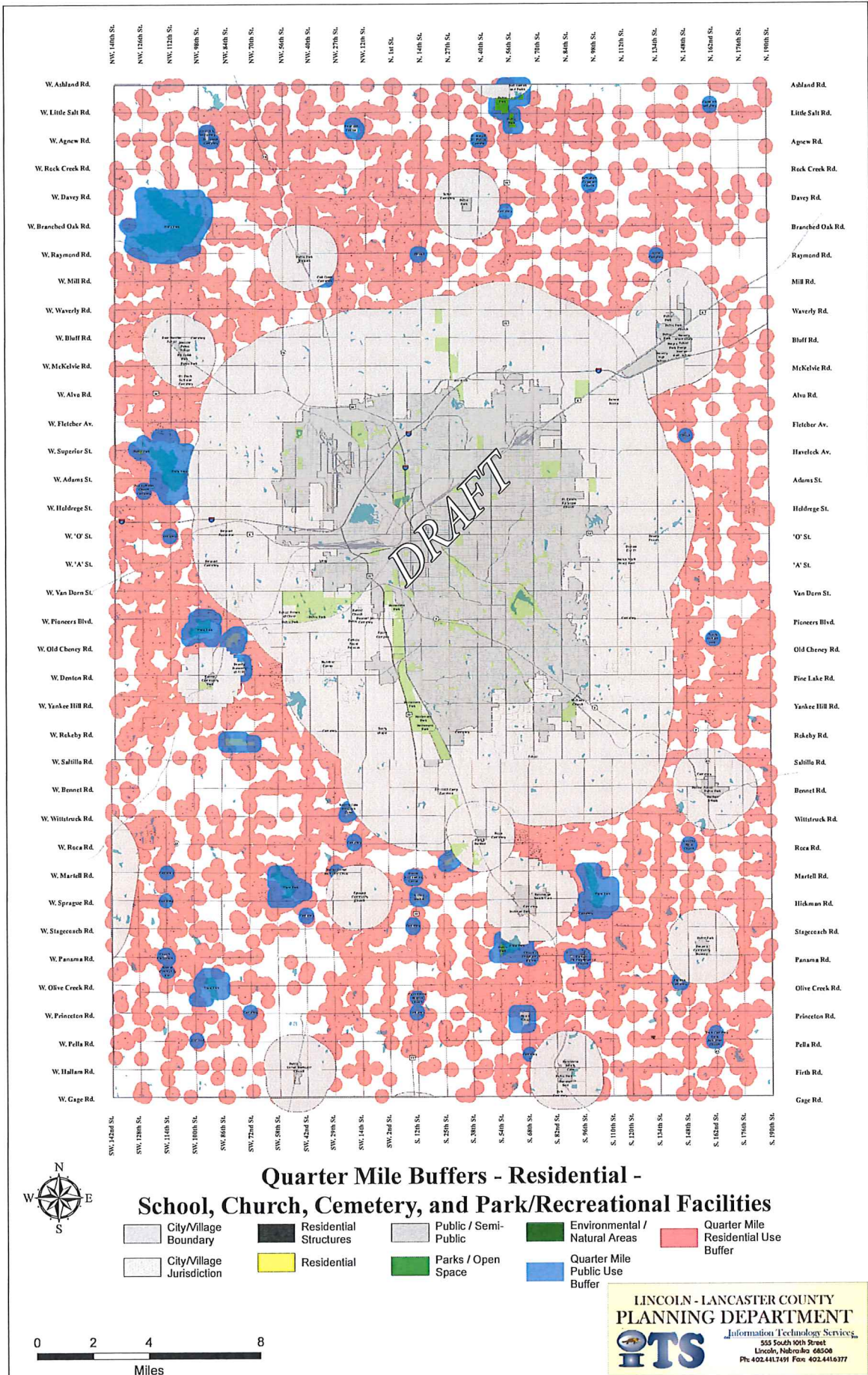
### Bevens - SP14044A

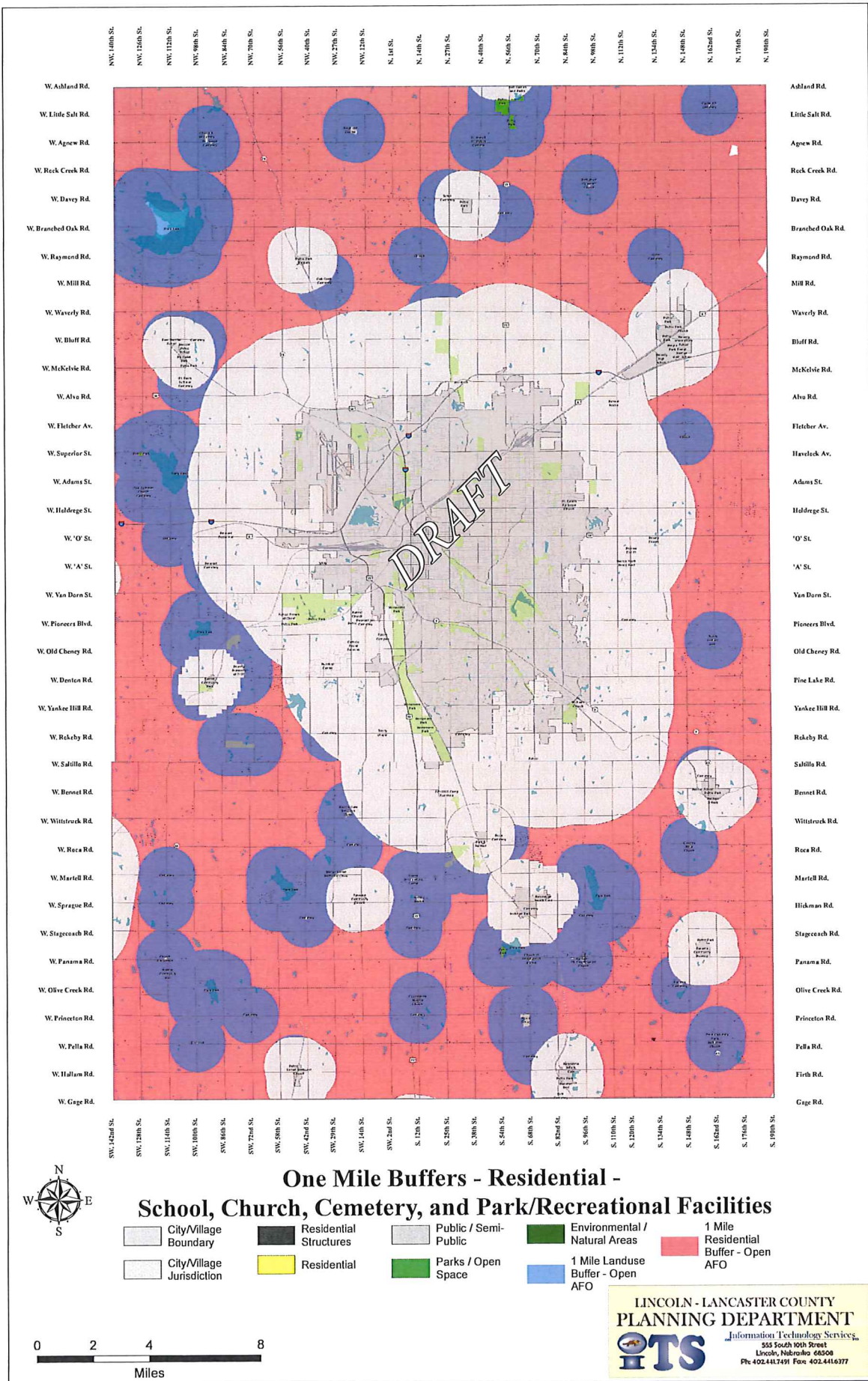


- Bevens
- 0.5 Mile Residential Buffer - Enclosed AFO
- Residential Structures
- 1 Mile Landuse Buffer - Medium AFO
- 1.5 Mile Landuse Buffer - Large AFO

**LINCOLN - LANCASTER COUNTY  
PLANNING DEPARTMENT**

Information Technology Services, Inc.  
555 South 10th Street  
Lincoln, Nebraska 68508  
Ph: 402.441.7491 Fax: 402.441.6377







RECEIVED

OCT 17 2019


LANCASTER COUNTY  
CLERK

EXHIBIT

F

## PLANNING DEPARTMENT SUMMARY SHEET FOR COUNTY BOARD

**TO :** County Clerk: Attn: Monet McCullen

**FROM :** David R. Cary, Director of Planning 

**RE :** **County Special Permit 19035 (Resolution PC-01675)**  
(Sunset Poultry – NW 27<sup>th</sup> Street and Ashland Road)

**DATE :** October 15, 2019

1. Attached is an amended Planning Staff Report and application documents (pp.1-19) relating to County Special Permit 19035, to allow for the construction of a commercial feedlot, generally located at NW 27<sup>th</sup> Street and Ashland Road. This request for a Commercial Feedlot for up to 380,000 chickens in 8 barns was amended as follows: Each barn is roughly 63' wide by 600' long. The area of the special permit is approximately 100 acres with a 20 acre building envelope for the barns and accessory structures just south of W. Ashland Road.

This application was included on the August 7, 2019, September 4, 2019, and October 2, 2019, Planning Commission agendas. Prior to September 4, the applicant opted to amend their initial application and, therefore, requested a 4-week deferral to October 2, 2019. The minutes of these hearings can be found by using the following link:  
<http://lincoln.ne.gov/city/plan/boards/pc/pc.htm> .

2. Based on the amended application, the staff recommendation of conditional approval is based upon the amended staff report "Analysis" as set forth on pp.2-5 of the Summary Report as follows, concluding that this application is in conformance with the goals of the 2040 Lincoln-Lancaster County Comprehensive Plan and should not have a negative impact on the surrounding area. There is one house within a quarter mile and only 5 houses within one-half mile of the boundaries of the building envelope. The barns and accessory structures are only allowed within the building envelope. The nearest house should not be negatively impacted by the proposal as it is approximately ¼ mile from the site and is the owner's house.

The proposed conditions will address any impact of the proposal. The increase in traffic is relatively minor. The special permit application was reviewed by Lower Platte South Natural Resource District and Lincoln-Lancaster County Health Department and they did not object to this application. The Nebraska Department of Environmental Energy (NDEE) reviewed the applicant's permit for the concentrated animal feeding operation and did not object. Even though this is an enclosed "dry litter" operation without any outdoor waste storage, a permit from NDEE is still being required to ensure compliance and prevent impact to ground water and reduce odors.

3. On October 2, 2019, the Planning Commission held a public hearing on this application. The meeting minutes are 100+ pages and can be found at: <https://lincoln.ne.gov/city/plan/boards/pc/minutes/2019/100219.pdf> . The staff presentation is found on pp.20-21.
4. Testimony from the applicant and on behalf of the applicant is found on pp.22-24. Testimony in support is found on p.25. Testimony in opposition is found of pp.25-31. Discussion with the Planning Commission is found on pp.31-33. The applicant's rebuttal is found on pp.33-34.
5. Following a considerable amount of discussion, the Planning Commission voted 5-1 (Joy dissenting; Al-Badry abstaining; Finnegan and Scheer absent), to approve this special permit as set forth in the conditions of the revised staff report dated September 23, 2019.
6. On October 8, 2019, an appeal was filed by Lori Heiss, 23800 NW 27<sup>th</sup> Street, Valparaiso, Nebraska 68065 (See p.36).
7. On October 9, 2019, an appeal was filed by Joan Lindgren, Ceresco Village Clerk on behalf of the Ceresco Board of Trustees, 217 S. 2<sup>nd</sup> Street, PO Box 160, Ceresco, NE 68017 (See p.37).
8. On October 11, 2019, an appeal was filed by Dr. Derrick Joel, Raymond Central High School, 1800 W. Agnew Road, Raymond, NE 68428 (See p.38).
9. On October 13, 2019, an appeal was filed by Jil-Beth Svoboda, 23500 NW 27<sup>th</sup> Street, Valparaiso, NE 68065 (See p.39).
10. On October 15, 2019, an appeal was filed by Cindy Fulton-Serrano, 3500 Oakview Circle, Raymond, NE 68428 (See p.40).
11. To access all public comments and information on this application, click on the following link [www.lincoln.ne.gov](http://www.lincoln.ne.gov) and (Keyword = PATS). Click on the "Selection Screen" under "Featured Links", type in the application number (i.e. SP19035); click on "Search", then "Select". Go to "Related Documents". There were multiple comments and letters submitted by interested parties.

The Planning staff will meet with the County Board on **October 17, 2019, at 8:30 a.m.**, in Studio Room 113 on the First Floor of the County-City Building, to brief the board members on this special permit application. The public hearing on this special permit before the Lancaster County Board is scheduled for Thursday, **November 7, 2019, at 9:30 a.m.**, at the County-City Building, 555 S. 10<sup>th</sup> Street, Room 112, Lincoln, NE.

If you need any further information, please let me know (402-441-6365).

cc: County Board  
Tom Cajka, Planning  
Jenifer Holloway, Co. Attorney's Office  
Andy Scholting/Nutrient Advisors  
Wayne and Charlene Greve

Ann Ames, County Commissioners  
David Derbin, Co. Attorney's Office  
Kerry Eagan, County Commissioners  
Josh and Tanya Bussard

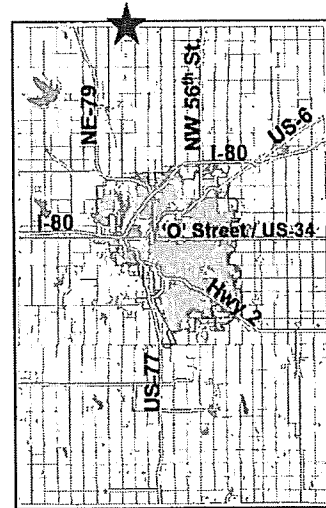
**LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT**  
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Special Permit #19035	FINAL ACTION? Yes	DEVELOPER/OWNER Wayne & Charlene Greve
PLANNING COMMISSION HEARING DATE October 2, 2019	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION Approximately ¼ mile east of NW 27 <sup>th</sup> St. and W. Ashland Rd.

**RECOMMENDATION: CONDITIONAL APPROVAL  
REVISED**

**BRIEF SUMMARY OF REQUEST**

This is a request for a Commercial Feedlot for up to 380,000 chickens in 8 barns. Each barn is roughly 63' wide by 600' long. The area of the special permit is approximately 20-100 acres within an 80-acre lot with a 20 acre building envelope for the barns and accessory structures just south of W. Ashland Road. ~~The area of the special permit is in the east half of the lot.~~



**JUSTIFICATION FOR RECOMMENDATION**

This application is in conformance with the goals of the 2040 Lincoln-Lancaster County Comprehensive Plan and should not have a negative impact on the surrounding area. There is one house within a quarter mile and only 5 houses within one-half mile of the boundaries of the special permit building envelope. ~~The barns and accessory structures are only allowed within the building envelope.~~ The nearest house should not be negatively impacted by the proposal as it is approximately ¼ mile from the site and is the owner's house.

The proposed conditions will address any impact of the proposal. The increase in traffic is relatively minor. ~~and the applicant will be required to improve West Ashland Road.~~ The special permit application was reviewed by Lower Platte South Natural Resource District and Lincoln-Lancaster County Health Department and they did not object to this application. The Nebraska Department of Environmental Quality (NDEQ) reviewed the applicant's permit for the concentrated animal feeding operation and did not object. Even though this is an enclosed "dry litter" operation without any outdoor waste storage, a permit from NDEQ is still being required to ensure compliance and prevent impact to ground water and reduce odors.

**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 the proposed conditions, is appropriate at this location. The goals of the Comprehensive Plan encourage more diversified agribusiness ventures, local food production and to preserve land for agricultural purposes.

**APPLICATION CONTACT**  
Sunset Poultry, LLC, 402-326-3152  
bussardj@gmail.com

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

The Plan also encourages compatibility of businesses with residential uses. The proposed conditions address the potential impact from traffic, odor, and noise on nearby residences and the larger community.

#### KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 2.7- Acknowledge the fundamental “Right to Farm.” Preserve areas throughout the county for agricultural production by designating areas for rural residential development—thus limiting potential conflicts between farms and acreages.

P. 2.7 - Ensure that acreage and rural development preserve and protect environmentally sensitive areas, and maximize the preservation of our nonrenewable resources, such as land and fossil fuels.

P. 3.1- Surface water is susceptible to pollution in the form of sedimentation and contamination from runoff. Fertilizers and sediment are the most common water quality problems in the County’s streams and lakes.

p. 3.2 - High salinity in the northern part of the county makes groundwater more difficult to acquire. Groundwater contamination includes infiltration of agricultural chemicals into supplies.

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. 3.12 - Production of food closer to the urban center, if not within it, reduces the distance food must be transported, increase the freshness of food available, supports the local agricultural economy, and provides nutritious food to those who might not otherwise be able to obtain it.

P. 3.12 - Local food may be produced in the rural area of the county, or counties nearby; or it may also be produced within the urban area itself.

P. 5.4 - Agriculture is the dominant land use in Lancaster County, accounting for roughly ¾ of all land. While this land is largely considered “undeveloped,” it is still an important economic factor in the county’s future. Agriculture’s impact on the local economy goes beyond the sale at the end of production. Farms of all sizes make purchase of goods and services in the city and county throughout the year, which contributes to the local tax base and sustain growth for other business in the agriculture industry.

P. 5.5 - Continue efforts to preserve the viability of the county’s agriculture industry through zoning, easements and other means.

P. 7.2- Encourage acreages to develop in appropriate areas and preserve farmland.

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

P. 7.13 - Many families are not well-informed of all the implications of rural living before they make that lifestyle choice. This includes an understanding of the state’s Right-to Farm law, which protects farmers from nuisance claims when conducting normal agricultural practices, and an understanding of the difference between urban and rural public services.

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

P. 12.4 - Agricultural. Land principally in use for agricultural production. Agricultural land may be in transition to more diversified agribusiness ventures such as growing and marketing of products (eg., horticulture, silvaculture, aquaculture) on site.

#### ANALYSIS

1. This is a request for a special permit under Article 13.035 Commercial Feedlot of the Lancaster County Zoning Regulations. The proposal is for 8 barns each housing up to 47,500 chickens for a total of 380,000 chickens. Each barn will be approximately 63’ x 600’ in size.
2. Article 13.035 does not have specific conditions for commercial feedlots other than a statement from Nebraska Department of ~~Environmental Quality (NDEQ)~~ Environment and Energy (NDEE) addressing anti-pollution controls is required. (see attached statement from NDEE) Although there are no specific conditions listed, Articles 13.001 and 13.002 offers guidance to the Planning Commission in reviewing special permits; “The Planning Commission may

modify or waive or add conditions of approval to the listed conditions in this Article as deemed appropriate to maintain the health, safety and general welfare of the surrounding properties.” “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.”

3. ~~The current parcel is 80 acres. The special permit boundary is on 2 lots covering approximately 100 acres. The special permit is for approximately~~ building permit area is 20 acres within the 80 100 acre special permit boundary. ~~lot on the east half of the property.~~ The site plan shows the proposed area for the special permit. All barns and other related buildings associated with the commercial feedlot **must be within the special permit building envelope boundary.**
4. This site is shown as agriculture in the Comprehensive Plan; a feedlot is an agricultural use. The definition of Agriculture in the zoning regulations is, “Agriculture shall mean the use of land for the purpose of raising and harvesting crops; or for the raising, breeding, or management of livestock, poultry, fish or honeybees; or for dairying, truck gardening, forestry, nurseries or orchards; for the non-commercial on-farm storage or processing of agricultural products produced on the premises; or for any other similar agricultural, horticultural, or silvicultural or aquacultural use.
5. The Lancaster County Zoning Regulations state that the Agricultural District is designated for agricultural use and is intended to encourage a vigorous agricultural industry throughout the county and to preserve and protect agricultural production by limiting urban sprawl as typified by urban or acreage development.
6. Raymond Central School is located approximately one mile to the south of the most southern barn. The Lower Platte South Natural Resource District (NRD) confirmed that the school has a well north of the intersection of W. Ashland Rd. and County Road 23, approximately three-fourths of a mile from the barns. The school also has 2 additional wells located on school property approximately 1 mile south of the proposed poultry barns.
7. Approximately one-half mile to the east is an area shown as Environmental Resources in the 2040 Comprehensive Plan. The area is shown as having native hay and pasture.
8. The NRD submitted ground water information for the proposed site. (See attached) The report identifies 11 registered wells within a one mile radius of the proposed facility. Nine of the wells are domestic, one irrigation and one is classified as other. The irrigation and “other” wells are inactive. The active wells show a pumping rate ranging from 7 to 30 gallons per minute which is fairly typical for domestic and stock wells in southeast Nebraska.  
  
The nearest well the NRD has sampled is located about 1 ½ miles northwest of the proposed site. The report states that in agricultural areas, **the primary concern is the level of nitrate-nitrogen in ground water due to infiltration of fertilizers and animal waste applied to the landscape.** However, the NRD’s ground water sampling in this area has indicated no elevated levels of nitrate; all samples taken for the well indicated showed no detectable levels of nitrate. **The report concludes that the overall vulnerability of ground water to contamination from surface sources in this area is fairly low.**
9. NRD also noted that they anticipate the owners will need to obtain permits from the NRD for installing ground water wells. The ground water supply appears to be somewhat limited. Test holes, pump tests, and water quality sampling will likely be required before issuing a well permit. The NRD recommends the operators of the facility agree to follow the Nebraska Department of Environment & Energy’s permitting requirements and properly manage the facility and wastes generated. During construction of the facility, the owners will also need to install adequate erosion and sediment control practices.
10. Nebraska Department of ~~Environmental Quality (NDEQ)~~ Environment and Energy (NDEE) has inspected the site. NDEE Q has determined that this facility is not required to construct a livestock waste control facility or obtain a Construction and Operating Permit or a National Pollutant Discharge Elimination System permit. While the operation is exempt from the Title 130 permitting requirements, any construction activity that disturbs a land area of one acre or more must obtain coverage under the Construction Storm Water General Permit Number **NER 160000**, which authorizes storm water discharges from construction sites.

The proposed operation would handle waste using a “dry litter” system. Per information from the applicant about typical operations, chicken waste would not be stored outside. Instead, it would be composted after the chickens are removed. The operation is designed to reduce the amount of water within the buildings so to reduce odors. After several times of composting, the remaining product would be removed for field application as a fertilizer.

11. Since the proposal is for a dry litter operation with no outside waste NDEEQ doesn't require a Construction and Operating Permit (COP). The COP includes a requirement for a Nutrient Management Plan to address how the waste product would be handled and field applied. In previous special permits for chicken farms (SP18025 and SP14044A) the approval required the submittal of the Nutrient Management Plan or COP prior to building permit for the chicken barns. This is recommended by the Lincoln/ Lancaster County Health Department in this case as well.

A COP specifies maximums for headcount and confinement structures. It requires that construction be completed as approved in the application. It requires among other items, land application training for large operations, proper management of mortalities, protocols for appropriate testing of manure and protocols to land apply manure.

As there is not any outside waste storage, the regulating state agencies are not concerned about this proposal having a negative impact via water runoff contaminating adjacent properties or the surrounding area. The site plan does not show any outside waste storage, only small compost sheds to handle dead chicken, which will be covered with litter and composted.

12. The nationwide literature about odor concerns from chicken farms have primarily been about facilities with barns that are partially open and may include outside waste storage. This proposal is for an enclosed barn without any outside waste storage. Thus, the concerns about odors are significantly reduced. A quarter mile setback (1,320 feet) is recommended in order to minimize potential odor concerns on adjacent properties.
13. There are 20 houses within one mile of the proposed site barns. Four houses are between ¼ to ½ miles of the barns. Seven houses are between ½ and ¾ miles from the barns. Eight houses are between ¾ and 1 mile from the proposed barns. There is one house within ¼ mile of the barns, but this is the owner's house. (see attached map)
14. Lincoln-Lancaster County Health Department (LLCHD) has reviewed this application and recommends that the applicant obtain a Construction and Operating Permit from NDEEQ. The owner/operator is responsible for controlling dust from the site. All chicken barns must be located a minimum of 100 feet from any well.
15. This application was reviewed by Valparaiso Rural Fire Department. The fire department has concerns with the condition of West Ashland Road and potential health impacts if one of the barns has a fire. The rural fire department would like a sprinkler suppression system and a clean water hookup for fire suppression since it is so far out in the district.
16. The applicant's letter states that there will be 20 trucks per week on average serving this site. Some weeks there will be as few as 4 trucks. The most trucks in one week will be when the chickens are ready to be transported to the processing facility. The site will use 62 trucks in this week.
17. ~~West Ashland Road is a minimum maintenance dirt road for approximately one quarter mile from this site before there is gravel. Improvements to the road to accommodate truck traffic is required. The Saunders County Board of Supervisors determined that the road should be improved to the next minimum standards design because of the new traffic due to the poultry farm if built. The developer should provide the cost for the improvements. Lancaster County and Saunders County have a joint agreement for maintenance of this County line road. Saunders County, specifically Rockcreek Township, is responsible for maintenance of W. Ashland Rd. from the subject property to NW 42<sup>th</sup> St.~~

The chickens from this proposed site will be transported to Fremont for processing. The site plan shows a driveway to NW 27<sup>th</sup> Street and no access to W. Ashland Road. There are two probable routes for truck traffic. The first route could be south on NW 27<sup>th</sup> Street, then east on W. Agnew Road to Highway 77. West Agnew Rd. is a paved county road and NW 27<sup>th</sup> street is a gravel county road. The Lancaster County Engineering Department notes that NW 27<sup>th</sup> St. meets design standards for local gravel roads. The access to Raymond-Central School is off of W. Agnew Road.

Another possibility is south on NW 27<sup>th</sup> Street, then west on W. Agnew Road to Highway 79. Both of these routes would avoid going past the elementary school in Ceresco.

Traffic counts obtained from the Lancaster County Engineering Department shows Average Daily Traffic (ADT) of 534 between NW 27<sup>th</sup> Street and NW 12<sup>th</sup> Street on W. Agnew Road. There is an average ADT of 567 between NW 27<sup>th</sup> Street and NW 14<sup>th</sup> Street on W. Agnew Road. There is an average ADT of 482 on W. Agnew Road from Highway 79 to NW 27<sup>th</sup> Street. All traffic counts are from 2016. An average of 4 trucks per day going to the poultry barns is a very minor increase in traffic on W. Agnew Road.

18. ~~The most probable route would be for trucks to leave the site go east on West Ashland Rd for about one-half mile and then drive one mile north on County Road 23 in Saunders County before heading east on County Road A. County Road A becomes Main Street in Ceresco. Ceresco Elementary and several houses abut Main Street. County Road A/Main Street carries a mix of truck and personal vehicles every day. There are grain elevators are located south of Main Street and the Ceresco Business District is located two blocks south of Main Street.~~

The applicant has not submitted a proposed truck route.

19. The site has significant slope to it with a drop of over 30 feet from west to east. There is also a minor drainage way in the southern portion of the special permit boundary. The Lancaster County Engineering Department has requested that a drainage study and grading plan be provided.

20. This proposal is part of an overall system which will utilize feed grown in Nebraska with processing in Fremont, Nebraska. The final product will be sold locally, as well as to a larger market. The Comprehensive Plan encourages local food production. It states "Local food production is encouraged, building a stronger relationship between city and rural communities and greater security for our food supplies. "The economy provides opportunities for local food production and sales, renewable energy production, and the benefit of natural resources produced in the area and integrates them into the land use pattern." (Page 1.5)

21. The Comprehensive Plan also encourages keeping the public engaged and informed about planning matters. In this case the applicant met with nearby owners, but did not hold any public meetings to inform the larger public about the proposal. This unfortunately led to great concern about the application due to the limited information. While the applicant did not hold public information meetings, that is not a reason for denial of this application. It is unfortunate, but the proposal must be judged on the facts of the application.

22. The Lancaster County Board of Commissioners established the CAFO working group of 10 members of varied interest to work with County staff to review state and other community regulations in order to advise on potential changes to the existing zoning. The working group has met ~~nine~~ eleven (11) times from March through ~~July~~ August 2019. Their final meeting was on August 28, 2019. The group has submitted their final recommendations for consideration. ~~is currently reviewing draft of proposed zoning revisions.~~ The draft and additional information from the Working Group meetings can be found on the Planning Department website. ~~The Working Group is scheduled to meet again on August 8<sup>th</sup>.~~

This application will be reviewed using the current regulation as well as being informed by past practices on previous commercial feedlot special permits. It is not appropriate to use the Working Groups draft document in order to review this application.

23. There is a Special Management Area (SMA) to the north of this site (see attached map). The SMA restricts new irrigated acres. The Lower Platte South Natural Resource District (NRD) will not approve and new irrigated acres in the SMA. However, because NRD's existing data indicates that the eastern portion of the SMA, adjacent this site, is underlain by an unconfined aquifer, they do not see the significant pumping season declines in ground water levels in the eastern part as compared to the other portions of the SMA in which the confined aquifer responds drastically to pumping. Therefore, the NRD eliminated the allocation for the eastern portion of the SMA (the rest of the SMA has an allocation of 21 acre-inches in any three-year period with a maximum of 9 acre-inches in any one year).

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: AG-Agriculture                      Farm ground

SURROUNDING LAND USE & ZONING

North:	A-1 Agriculture Saunders County	Farm ground
South:	AG Agricultural	Farm ground
East:	AG Agricultural	Farm ground
West:	AG Agricultural	Farm ground and 3 houses

APPROXIMATE LAND AREA:    ~~20~~ 100 acres, more or less

**LEGAL DESCRIPTION:** ~~A portion of the E1/2, NW 1/4~~ Lot 2, Benes Country Acres 1<sup>st</sup> Addition and the E 1/2 of the NW 1/4 all in the NW1/4 of Section 4, Township 12 North, Range 6 East; Lancaster County, Nebraska

Prepared by

---

Tom Cajka, Planner

Date: ~~July 30, 2019~~ September 23, 2019

Applicant: Sunset Poultry, LLC  
3045 W. Rock Creek Rd.  
Raymond, NE 68428  
402-326-3152  
bussardj@gmail.com

Contact: Nutrient Advisors  
449 E. Deere Street  
West Point, NE 68788  
402-372-2236  
info@nutrientadvisors.com

Wayne Greve  
2342 Ashland Rd.  
Cresco, NE 68017  
402-326-0830

Owner: Wayne Greve  
2342 Ashland Rd.  
Ceresco, NE 68017

402-326-0830  
Cgreve.66@gmail.com



## CONDITIONS OF APPROVAL - SPECIAL PERMIT #19035

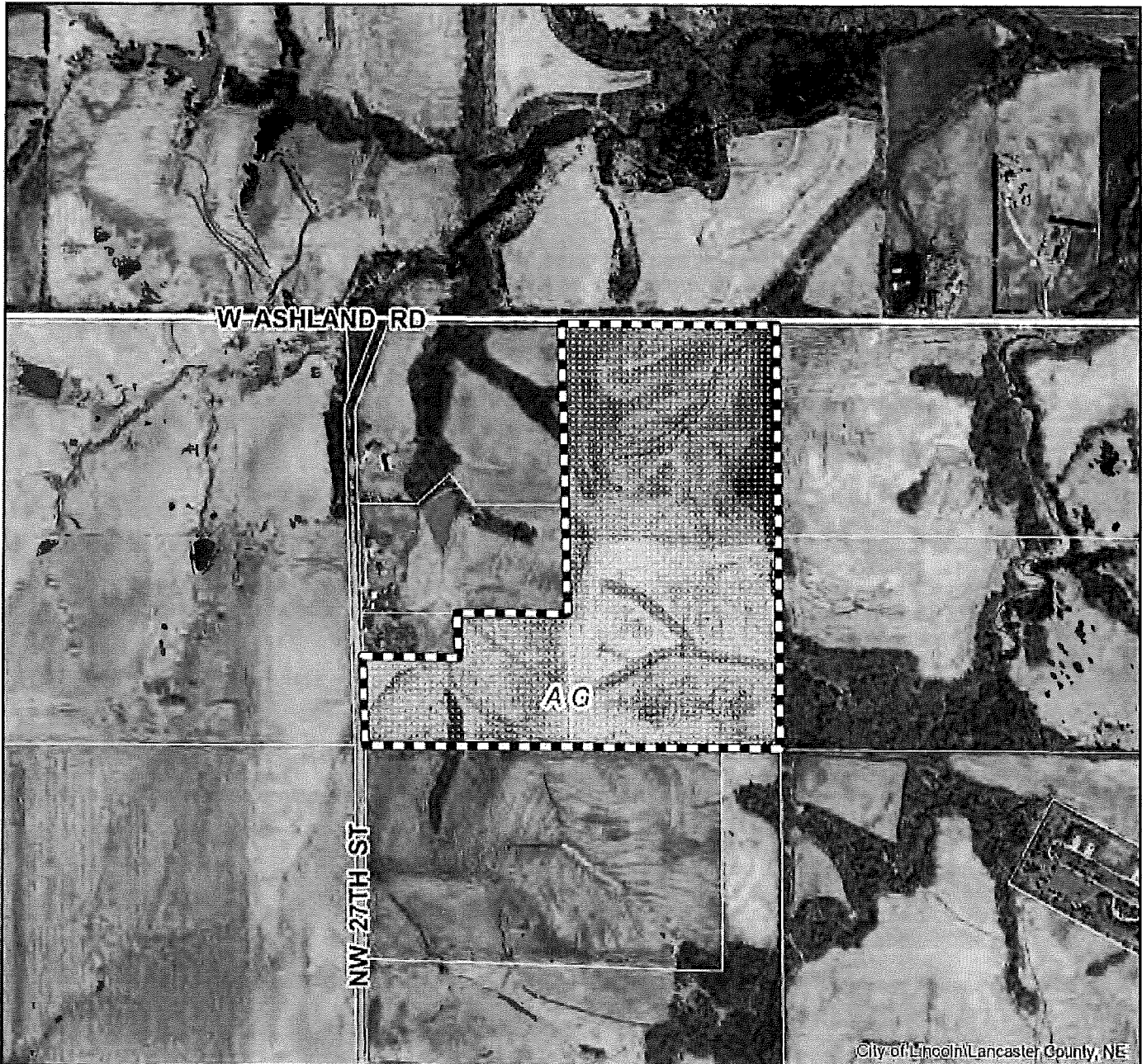
Per Article 13.035 this approval permits a Commercial Feedlot for 8 barns and up to 380,000 chickens.

### 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 On the site plan below the name Sunset Poultry add Special Permit #19035
  - 1.2 Add a note to the site plan that any chicken barn and compost shed shall be located a minimum of a quarter mile (1,320 feet) from any existing house, except for the house at 2342 Ashland Road (currently owned by the applicant).
  - 1.3 Add a note that all buildings shall be setback a minimum of 100 feet from any lot line.
  - 1.4 Submit a grading plan to the satisfaction of the Lancaster County Engineering Department.
  - 1.5 Submit a drainage study of the site to the satisfaction of Lancaster County Engineering Department that will confirm that the change in land use shall not adversely affect runoff to adjacent properties and the county right-of-way.
  - 1.6 Identify the distance from the ~~special permit boundary~~ building envelope at the northeast corner to the east lot line and from the southeast corner to the east lot line.
2. Before receiving building permits provide the following documents to the Planning Department:
  - 2.1 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 Before beginning the operation, the permittee shall:
    - 2.2.1 Obtain a Construction and Operating Permit and Nutrient Management Plan from Nebraska Department of Environmental Quality.
    - 2.2.2 ~~Improve West Ashland Road to the satisfaction of the Saunders County Highway Superintendent.~~

### 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.



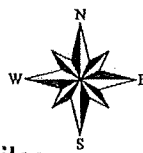
City of Lincoln Lancaster County, NE

2018 aerial

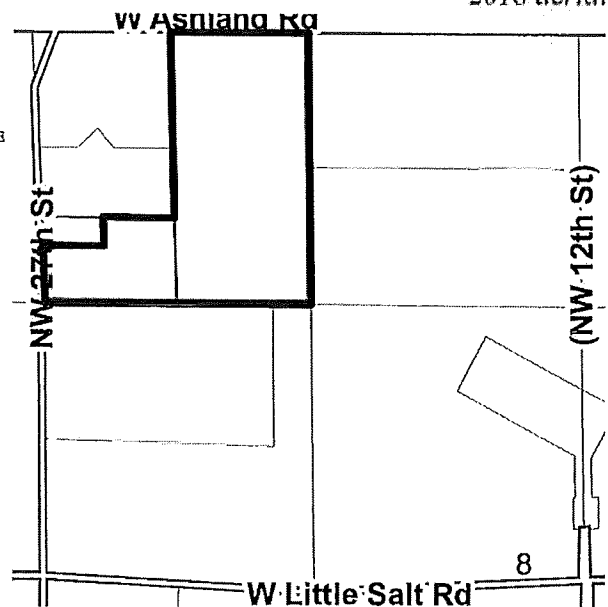
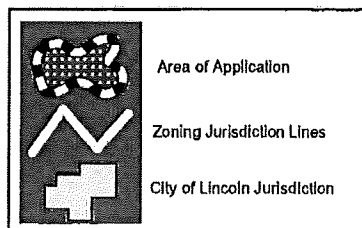
**Special Permit #: SP19035**  
**Sunset Poultry**  
**NW 27th St & W Ashland Rd**

**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.04 T12N R06E

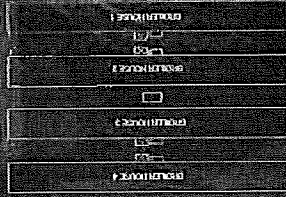


# Sunset Poultry, LLC

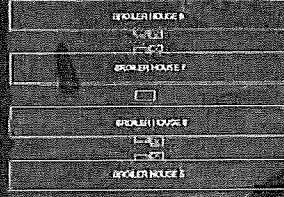
## Site Map

PL S1/2 SW1/4 NW1/4 (Benes County Acres  
1st Addition, Lot 2) & E1/2 NW1/4, S4-T12N-R6E

Compost  
Sheds

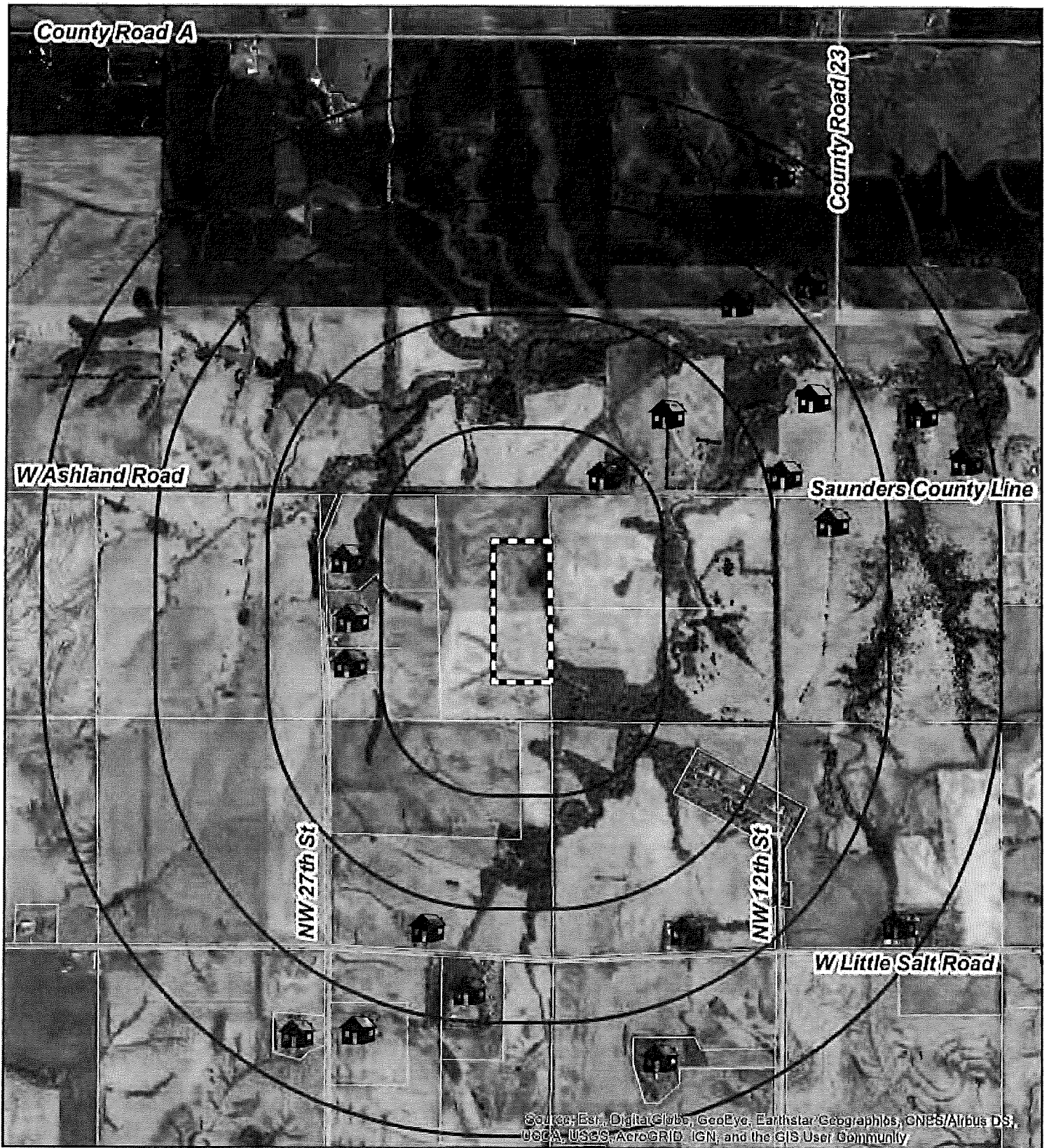


Generator Sheds



Driveway





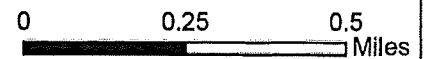
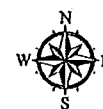
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



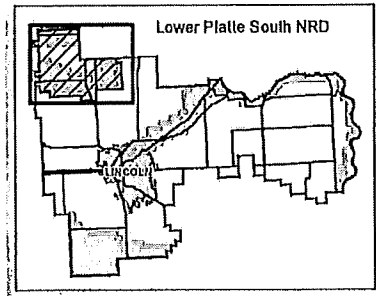
**Dwellings within 1 Mile**

- 1/4 Mile Buffer = 1 (Applicant's House)
- 1/4 to 1/2 Mile Buffer = 4 Du's
- 1/2 to 3/4 Mile Buffer = 7 Du's
- 3/4 to 1 Mile Buffer = 8 Du's
- Total Du's = 20

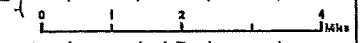
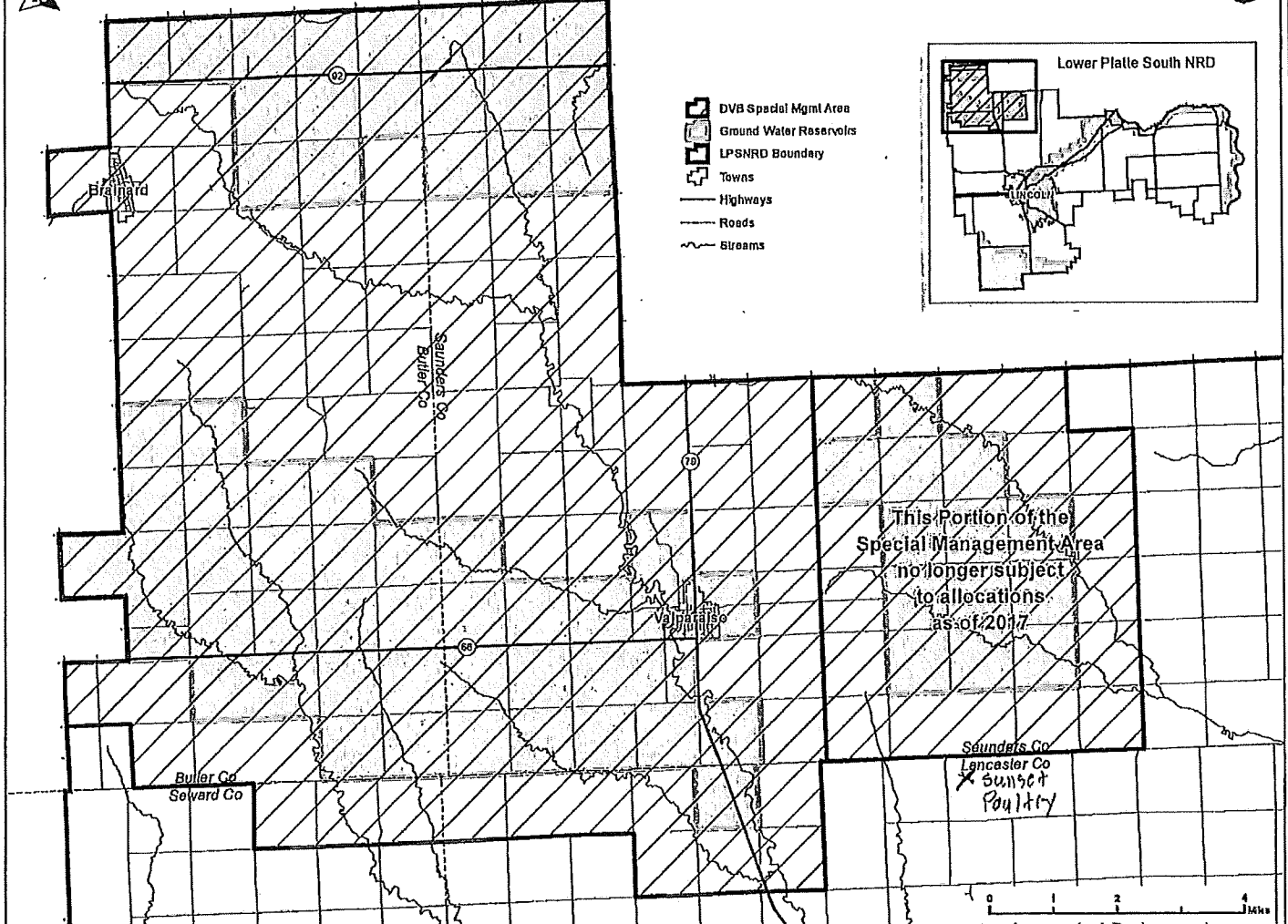
Date: 7/19/2019



# Dwight-Valparasio-Brainard Special Management Area



- DVB Special Mgmt Area
- Ground Water Reservoirs
- LPSNRD Boundary
- Towns
- Highways
- Roads
- Streams



Sources: Lower Platte South NRD; NE Dept of Natural Resources; NE Dept of Environmental Quality; NE Dept of Roads

Map Updated: September 2017 - Lower Platte South NRD, sdr

**Geological and Ground Water Background Information  
Proposed Sunset Poultry LLC Facility Near NW 27<sup>th</sup> St. and W. Ashland Rd.  
E ½ of NW ¼, Sec. 4, T12N, R6E, Lancaster County**

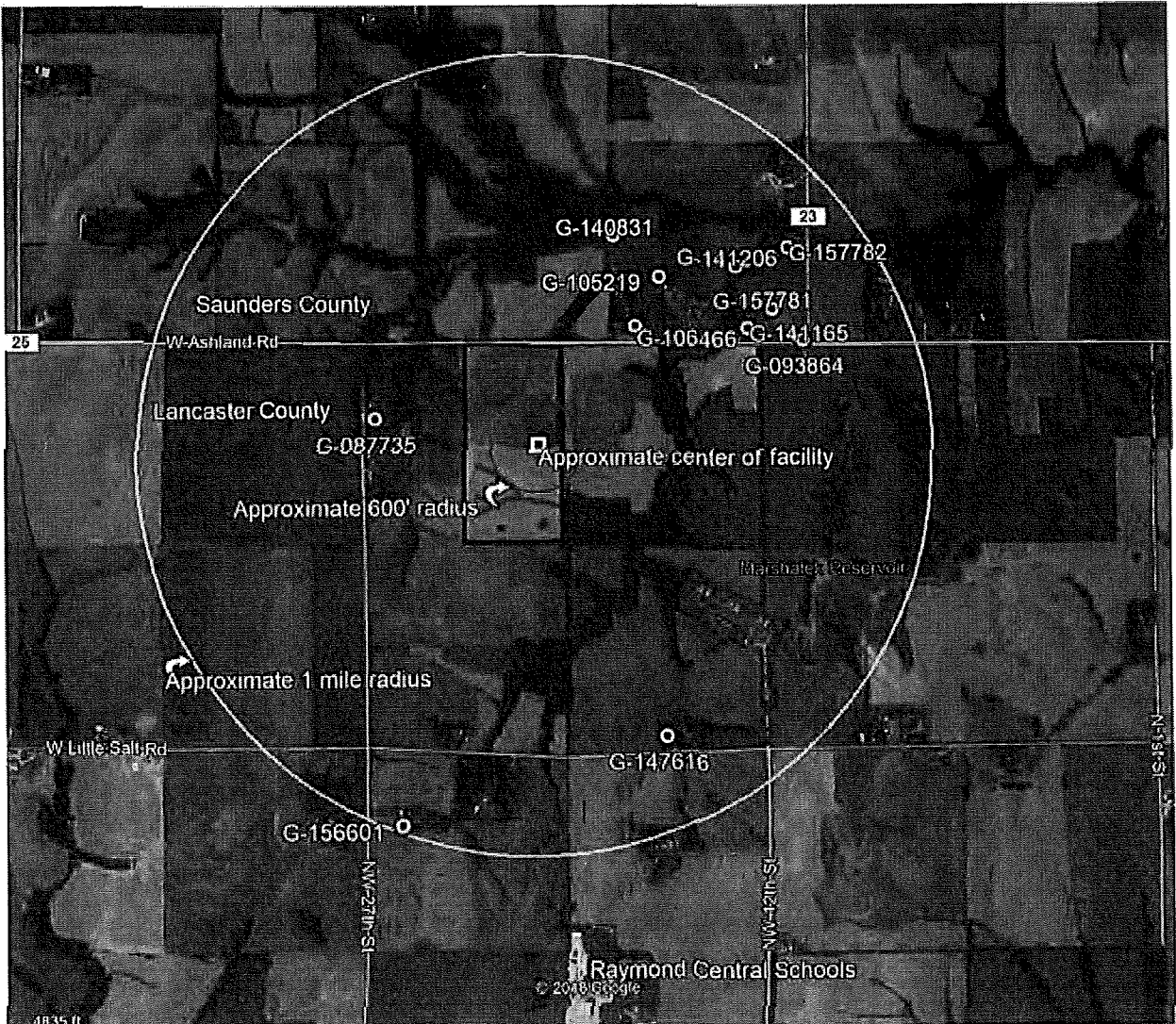
**Dick Ehrman, Water Resources Specialist  
Lower Platte South Natural Resources District**

**General Geological and Ground Water Background**

The site is located in far northern Lancaster County (the northern property boundary is the Lancaster-Saunders County line) in the Rolling Hills topographic region. In general, the area is underlain by windblown silt (loess) and glacial till (a poorly-sorted mixture of clay, silt, sand and gravel but often characterized by thick sequences of clay) and ancient sand and gravel deposits which can yield variable amounts of ground water. Additionally, the Dakota Group bedrock sandstones can produce ground water but if wells are drilled too deep into the Dakota, poor water quality from high salt levels can be a concern.

Within a one-mile radius of the proposed facility, the Nebraska Department of Natural Resources' well registration database lists a total of 11 registered wells, nine of these being domestic wells, one being an irrigation well, and one falling into the "other" category. Note that four of these wells are currently listed as inactive (two of the domestics, and each of the irrigation and "other" wells). The table below summarizes the basic characteristics of those wells; the map on the following page shows their locations in relation to the proposed facility:

Well Registration Number	Use	Completion Date	Land Surface Elevation	Static Water Level	Water Table Elevation	Well Depth	Screen Interval	Pump Rate (gpm)
G-087735	Domestic	1995	1357	63	1294	155	145-155	10
G-093864	Domestic	1997	1295	61	1234	200	190-200	30
G-105219	Domestic (Inactive)	1999	1309	Unk.	Unk.	190	180-190	N/A
G-106466	Domestic	2000	1325	66	1259	210	200-210	25
G-140831	Irrigation (Inactive)	2005	1307	30	1277	167	147-167	N/A
G-141165	Domestic	2005	1303	59	1244	190	180-190	10
G-141206	Other (Inactive)	2005	1269	13	1256	65	60-65	N/A
G-147616	Domestic	2007	1339	28	1311	90	50-90	7
G-156601	Domestic	2010	1378	67	1311	190	175-190	15
G-157781	Domestic	2010	1284	20	1264	163	153-163	20
G-157782	Domestic (Inactive)	2010	1258	60	1198	140	130-140	N/A



In general, the geologic logs for the above wells show a few tens of feet of brown silt and clay, then several tens of feet of alternating sand, silt, and clay, then a few tens of feet of blue silty clay, and finally sandstone and shale at around 200 feet below the land surface. Note that this is only a summary; each of the above wells' logs is slightly different. It appears that two of the above wells are screened in the shallower sand units around 60-90 feet below the surface, while the remainder of the wells are screened considerably deeper, between 140 and 210 feet below the surface. All of the wells are registered as pumping between 7 and 30 gallons per minute (gpm), which is fairly typical for domestic and stock wells in southeast Nebraska.

### **Ground Water Quality**

The Lower Platte South NRD has not sampled any wells in the area indicated on this map. The nearest wells that the NRD has sampled is an irrigation well approximately 1 ½ miles northwest of the proposed facility. In agricultural areas, the primary concern is the level of nitrate-nitrogen in ground water due to infiltration of fertilizers and animal waste applied to the landscape. However, the NRD's ground water sampling in this area has indicated no elevated levels of nitrate; all samples taken for the well indicated above showed no detectable levels of nitrate. For reference, the US Environmental Protection Agency's maximum contaminant level (MCL) for nitrate-nitrogen in drinking water is 10 ppm. Therefore, the Lower Platte South NRD has no indication of widespread nitrate contamination in the area surrounding the proposed facility. As already mentioned, some results from some sampling events have shown slightly elevated levels of dissolved salts (particularly sodium), but these are attributed to natural sources associated with the bedrock units in the area, and are generally considered a nuisance. All other parameters in the NRD's database for samples from this area have been well within associated guidelines for drinking water.

### **Water Quality Considerations**

As noted above, the subsurface materials in this area consist of a variety of silt and clay materials, under which occur different kinds of aquifer materials. As a general rule, the greater the distance from the surface to the ground water, and the more fine-grained the materials that make up this zone (generally known as the unsaturated or vadose zone), the less likely the leaching of materials applied to the surface. That being the case, most of the wells listed that are screened in the deeper aquifer units, especially where there are significant thicknesses of glacial till or clay, appear to be at comparatively low risk from surface contamination. The wells that are constructed and screened at a shallower depth would have a higher vulnerability to contamination from the surface, but even so the fine-grained materials near the surface offer some protection from widespread ground water pollution. Therefore, the overall vulnerability of ground water to contamination from surface sources in this area is fairly low, especially compared to areas with coarse, sandy soils and shallow depths to ground water. However, as with any applied fertilizer materials, careful application and management is necessary to minimize any risks to water quality. Given that this area is characterized by sloping land surfaces, this is especially important to protect surface water from runoff which might contain high amounts of nutrients which can negatively impact water quality in streams and lakes.

### **Helpful References:**

Korus, J.T., L.M. Howard, A.R. Young, D.P. Divine, M.E. Burbach, J.M. Jess, and D.R. Hallum. 2013. *The Groundwater Atlas of Nebraska*. Conservation and Survey Division, University of Nebraska-Lincoln. Resources Atlas # 4b/2013. 64 p.

Divine, D.P. 2014. *The Groundwater Atlas of Lancaster County, Nebraska*. Conservation and Survey Division, University of Nebraska-Lincoln. Resources Atlas #7. 39 p.



# NEBRASKA

Good Life. Great Resources.

JUL 12 2019



Pete Ricketts, Governor

## DEPT. OF ENVIRONMENT AND ENERGY

Joshua L. Bussard  
Sunset Poultry, LLC  
3045 West Rock Creek Road  
Raymond, NE 68428-4454

RE: Sunset Poultry, LLC Concentrated Animal Feeding Operation  
NDEQID: 112920  
Program ID: LWC 2-1089  
Subject: **Construction & Operating or NPDES Permit Not Required**  
E 1/2, NW 1/4, Section 04, Township 12N, Range 06E, Lancaster County

Dear Mr. Bussard:

Your 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 July 11, 2019 inspection conducted by Kevin Franzluebbbers from the Nebraska Department of Environment and Energy (Department), according to the Livestock Waste Management Act and Title 130, *Livestock Waste Control Regulations*.

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 proposed the following:

Livestock Species	Maximum No. of Head Capacity	Existing or Proposed?
Chickens (Broilers)	380,000	Proposed

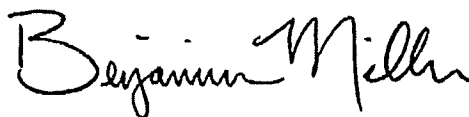
  

Type of Structure	Number of Each Type	Existing or Proposed?
Dry Litter Barns	8	Proposed

If you desire to receive a Construction and Operating Permit for your operation, please refer to the minimum application requirements outlined in Title 130, Chapter 4, 001. These include, but are not limited to, the submission of a Nutrient Management Plan and a \$200 application fee. It may take the Department up to 110 days from the receipt of a complete application to approve or deny the application.

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. Enclosed is a copy of Title 130 for your information. If you have any questions, please contact Kevin Franzluebbbers at (402) 471-6687 or myself at (402) 471-4239.

Sincerely,



for

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

Enclosure  
cc: Nutrient Advisors

## LANCASTER COUNTY ENGINEERING DEPARTMENT

Upon review, this office would offer the following comments for "SUNSET POULTRY" Special Permit "SP19035" submittal dated 7-9-2019 (V1) in the NW ¼ of Section 4, T12N, R6E, located along Ashland Road approximately ½ mile east of NW 27th Street.

1. Please provide a grading plan for the site area and access driveway for our review.
2. Provide a drainage study of the site that will confirm that the change in land use shall not adversely affect runoff to adjacent properties and county right-of-way. The study should include at a minimum a topographical map showing existing drainage areas and resulting runoff from all land lying outside the limits of the proposed construction which discharge storm water runoff into or through the area; a topographical map showing proposed contour lines, all sub drainage areas, and resulting runoff; and a copy of the drainage computations. Post-development flows should be less than or equal to pre-development flows.
3. Install necessary erosion and sediment control (ESC) measures to stabilize any disturbed lands.
4. It should be noted that West Ashland Road adjacent to proposed Special Permit is currently an unimproved dirt roadway and is within the maintenance jurisdiction of adjoining Saunders County. This unimproved dirt road would need to be reviewed by adjacent Saunders County Highway Department for comments/concerns/procedures/costs, etc., to upgrade roadway grading, surfacing and drainage to accommodate the anticipated traffic use proposed by this Special Permit.
5. Applicant to make access permit application with Lancaster County Engineering Department at 444 Cherrycreek Road Building 'C', Lincoln, NE for entrance to proposed site from West Ashland Road. Access permit application information can be found on the Lancaster County Engineer's website at <http://lancaster.ne.gov/engineer/driveway.htm> NOTE: Access permit guidelines along Lancaster County's boundary in this area is as follows: • Adjoining County's road maintenance with property access coming from Lancaster County --- Applicant to take out drive permit from Lancaster County Engineering Department so we can check sight distance and locate for addressing and address sign installation if applicable. Also, LCED will forward a copy of access permit to adjoining County for their review and approval. Landowner and applicant to receive processed access permit from adjoining County.

## LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT

The application indicates the use of a back-up generator. Prior to installation, the applicant should contact the Lincoln-Lancaster County Health Department's (LLCHD) Air Quality Program at (402) 441-8040. The owner/operator will be responsible for controlling off-site dust emissions in accordance with Article 2, Section 32 of the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards. 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. The proposed chicken barns must be located a minimum of 100 feet from any water well.

## LOWER PLATTE SOUTH NATURAL RESOURCE DISTRICT

NRD staff has reviewed the application, and anticipate the owners will need to obtain permits from this NRD for installing ground water wells. The ground water supply appears to be somewhat limited. Test holes, pump tests, and water quality sampling will likely be required before issuing a well permit. We

recommend the operators of the facility agree to follow the Nebraska Department of Environment & Energy's permitting requirements and properly manage the facility and wastes generated. During construction of the facility, the owners will also need to install adequate erosion and sediment control practices.

#### VALPARAISO RURAL FIRE

As a rural Fire department we feel there are too many hazards and risk with this project location.



July 22, 2019

Lincoln/Lancaster County Planning Commission  
555 S 10<sup>th</sup> St, Ste 213  
Lincoln, NE 68508

Subject: Special Use Permit Request

To whom it may concern,

Please accept this application and request for a special use permit on behalf of Josh & Tonya Bussard and Wayne & Charlene Greve. The purpose of this permit is to take a portion of land out of crop production and construct eight barns for broiler chickens. Each building will house approximately 47,500 chickens. The buildings will roughly be 63' wide by 600' long with 50' pathways between buildings. In front of the building there will be 50' rock for semi-trucks to be able to maneuver and turn around to load and unload chickens. Throughout the year, there will be six flocks of birds that will be brought to the site. There will be an average of twenty trucks per week that serve the site and is broken down as follows: Two weeks before the birds are placed, twenty loads of bedding will be brought and spread out in the barns. One week before bird placement, two loads of propane will be brought to the site (This is dependent on the time of year. If the propane is not needed, it will not be brought to the site) along with four loads of feed. The week that birds are scheduled to be placed in the barns there will be four trucks bringing in the chicks. The week after bird placement, four loads of feed will be delivered. In the second and third weeks after bird placement, eight loads of feed will be brought each of week, along with two loads of propane in the second week (if necessary). The fourth week after bird placement, twelve loads of feed will be delivered. In the fifth and sixth weeks after bird placement, fourteen loads of feed will be delivered each week. In the final week of the flock, week seven, sixty-two trucks will be used to pick up the birds and deliver them to the processing center in Fremont, NE. This process will be performed six times throughout the year. All trucks will be covered to help eliminate dust, odor, and for the health and safety of the birds. There will also be two maintenance buildings for housing tools, equipment, and a backup generator. The manure produced from the chickens will be applied to fields listed in the Nutrient Management Plan in place of commercial fertilizer. The manure will be removed once a year and applied to the fields in a timely manner. No waivers are requested.

Sincerely,

Trevor Enstrom



# SPECIAL PERMIT 19035

## SPECIAL PERMIT 19035

### TO ALLOW FOR THE CONSTRUCTION OF A COMMERCIAL FEEDLOT, ON PROPERTY GENERALLY LOCATED AT NW 27<sup>TH</sup> STREET AND ASHLAND ROAD

#### CONTINUED PUBLIC HEARING:

October 2, 2019

Members present: Beckius, Campbell, Corr, Edgerton, Joy and Ryman Yost; Al-Badry, Scheer and Finnegan absent.

#### Staff Recommendation: Conditional Approval

There were no ex parte communications disclosed.

**Staff Presentation:** Tom Cajka, Planning Department, came forward and stated this is a request for a Commercial Feedlot for up to 380,000 chickens in 8 barns, and the site is located on NW 27<sup>th</sup> Street and West Ashland Road. He shared that Ashland Road is the dividing road between Lancaster and Saunders County. He explained that each barn is roughly 63 feet wide by 600 feet long. The area of this special permit is approximately 100 acres with a 20-acre building envelope for the barns and accessory structures just south of W. Ashland Road. This application is for conditional approval and is in conformance with the goals of the 2040 Lincoln - Lancaster County Comprehensive Plan and should not have a negative impact on the surrounding area. The increase in traffic is relatively minor to the area. There is one house within a quarter mile and only five houses within one-half mile of the boundaries of the building envelope. The barns and accessory structures are only allowed within the building envelope. The special permit application was reviewed by Lower Platte South Natural Resource District and Lincoln-Lancaster County Health Department and they did not object to this application. The Nebraska Department of Environmental Quality (NDEQ) reviewed the applicant's permit for the concentrated animal feeding operation and did not object. He further stated that the applicant needs to obtain a Construction and Operating Permit and Nutrient Management Plan from Nebraska Department of Environmental Quality, which is a condition of approval listed in the staff report. Steve Henrichsen, Planning Department, came forward to discuss the reasoning behind the recommendation for approval of this application and the CAFO (Confined Animal Feeding Operation) working group's role in this process. He stated that it has been noted a special permit for a CAFO only has one condition, which requires the applicant to get a NDEE (Nebraska Department of Environment and Energy) permit. He explained the fact that this does not have a lot of conditions gives the opportunity to put on conditions that are appropriate to the use, and that is what has been done at the other three locations. He stated there has been a lot of opposition on this proposed special permit because the applicant did not hold a neighborhood meeting in advance to try to provide information. Although, a neighborhood meeting is not a requirement for this application, it would have answered a lot of the concerns that have been raised. He stated this application has been reviewed by the appropriate agencies and none have stated any objections to this application. He explained that most of the complaints are ones that you would see for open air barns and this is an enclosed structure. With being an enclosed structure, it takes care of a lot of the concerns with air quality and water contaminations. There is a quarter mile setback from any dwelling unit with this operation as a condition of this special permit, but the odor will be greatly

dissipated by the time you get much more than several hundred feet away from the barns. He stated with the concerns of water quantity there will be a separate permit required by NRD (Natural Resources District) because of the amount of water that they will be using. He further stated with the traffic impact concerns most of the trucks will be travelling late at night not during peak hours with about 15 to 20 trucks a day with a maximum of 40 trips a day. The route will be down NW 27<sup>th</sup> Street to Agnew Road going east to Highway 77 and going north to Fremont. He stated the Working Group has recommended a set of conditions for various types of feeding operations and the Planning Department is currently reviewing those recommendations. Until the revised conditions are adopted by the County Board, they don't have any standing and it is not appropriate to delay this application.

**Cay Ewoldt, Nebraska Department Environment and Energy**, came forward and handed the clerk a folder containing specific application documents (see Exhibit "1"). He stated they did receive a request for inspection for this operation. The NDEE (formerly NDEQ) then goes out to inspect the operation and the applicant will receive a letter stating controls required or controls not required. With this operation, their letter stated controls not required, because they did not have a livestock waste facility; although, the letter does explain the steps that they need to go through if they are wanting a permit. Currently, all of the Costco operations have been going through the process to get permits for their operations. This application includes engineering and design for the buildings, a Nutrient Management Plan, closure plans and mortality management. With this permit the Nutrients need to be tracked, which requires the operator to go to training. Inspections will be done and there will be a soil analysis to see what is going on to a field.

#### **Staff Questions:**

Beckius stated in the packet Valparaiso Rural Fire stated that they feel that there are too many hazards and risks with this projects location, and inquired if they provided any other reasoning. Cajka stated that their main concern is they are a Rural Fire Department and that there are no hydrants on site. He further stated there has been some concern on the length of time it will take to get to a fire and if there would even be enough water to put out any type of fire. He shared this concern would be with any structure in the county rural areas.

Edgerton stated that the Construction and Operating Permit and the Nutrient Management Plan would not have been required by NDEE for this site. She further stated that because they are moving forward with the Construction and Operating Permit, they will be required to do a Nutrient Management Plan. She inquired if that was in place now or if it would happen at the next stage. Ewoldt stated that would happen at the next stage. Cajka stated that it is one of the conditions for approval of the special permit and needs to be done prior to starting operations.

Corr stated in the notes from the Lancaster County Engineering Department on Nos. 4 and 5, and with the changes in the application these two items would no longer be a concern, and asked if that was correct. Cajka said correct, but they would still need an access permit onto NW 27<sup>th</sup> Street. Corr stated while looking at the site conditions with this permit the well site is at and the minimum of 100 feet away, and asked if that needs to be in the specific site conditions. Cajka stated the specific conditions apply to the site plan, and if those conditions are added to or if they change something on the site plan that is when new conditions are added. He stated that this is a condition and is one

of the Health Department requirements. Corr inquired about the erosion and sediment control and asked if it was in the same area. Cajka stated that the erosion and sediment control is not on the site plan, and that the erosion and sediment would be on the grading plan.

Edgerton asked if there would still be permits required by NRD for the ground water wells. Cajka said correct, that if the well is over 50 gallons per minute, it needs to be approved by NRD.

Corr stated that when putting dry litter on the ground there are more restrictions for the dry litter than there are for chemicals fertilizer, and asked if this was correct. Ewoldt said that was correct. Corr shared that they could put as much chemical fertilizers on as they wanted and pollute the ground and the public would not be the wiser. Ewoldt said yes that is correct.

Ryman Yost inquired if a mortality plan for the chickens would be part of the application process for NDEE. Ewoldt said yes, they would be required to state how they would manage their mortalities.

**Applicant:**

**1. Josh and Tanya Bussard, Sunset Poultry, LLC, 3045 West Rock Creek Road, Raymond,** came forward. Tanya stated that she is one of the owner operators for this application and she is Wayne Greve's youngest daughter. She stated that her oldest daughter goes to Raymond Central School, and they have lived in the farming community most of their lives. She shared that it has been their goal to move to the country farm, to grow, produce and harvest. And now have the opportunity to expand and diversify their farm by becoming poultry growers for Lincoln Premium Poultry (LPP). She stated that they are applying to put 8 poultry barns on the 100 acres that her parents own on the Lancaster and Saunders County line. She stated that she and her husband, Josh, will be the barn managers and they both have experience. The barns will only take up 20 acres and will be set in an area with hills and trees. She shared that some of the neighbors have shown interest in their Nutrient Management Plan and the organic fertilizer that it will produce. LPP is going beyond the local and federal regulations for this poultry site.

Campbell inquired if a test well had been drilled yet. Josh Bussard said no, that a test well has not been drilled yet. He stated that they are waiting on approval before they spend the money to drill test wells. Campbell asked how much water they would like to achieve. Josh Bussard stated that Jessica Kolterman would have the exact number for that.

Corr asked about a sprinkler suppression system and if the applicants planned on putting one in. Josh Bussard stated that they do not plan on putting a sprinkler suppression system in, but would entertain the idea of putting a fire hydrant in to help facilitate any water that they may need and to even have the ability to pump out of the well if there was a need in the adjoining area. Corr inquired if a clean water hook-up meant to have a fire hydrant. Josh Bussard said yes. Corr inquired if they have presold any of the litter or if they plan on using the litter on their own land. Josh Bussard said no they have not sold any litter, but they have had conversations with farmers who are interested in purchasing the litter and they do have plans on applying recommended amounts on their own land. Corr stated they would not be using all of the litter themselves. Josh Bussard said there in no way possible they could handle that much themselves.



Campbell inquired after the barns are emptied if the composting will be done within the barns. Josh Bussard said correct, the composting will be done inside the barns.

**2. Jessica Kolterman, Lincoln Premium Poultry, 543 W. Jennifer Drive,** came forward and stated this project was recruited by the State of Nebraska in a joint effort with Nebraska Department of Economic Development, Department of Ag, Governor Ricketts and other groups across the State. Kolterman provided a folder of materials for the record (see Exhibit "2"). She stated that this site is part of a larger project that will have an impact of \$1.2 billion annually to Nebraska. Costco is wanting to set a higher standard for their product and that is why they require that the operator of these facilities to have a state operating permit, which is not required by law. She explained that they have two pillars of their contract that are non-negotiable: Animal Welfare and Bio Security. She stated that they monitor all of their contracts and, if they see negligence, they can cancel that contract. With the concerns of water use, there needs to be more than one well with one being used as the main well and the second as a back-up well. The average water consumption with these birds is about 9 gallons per minute, per barn and additional water would be used for the cooling cells when it is hot to cool the barns. With the traffic concerns, there should be on average 3 trucks per day and about 20 trucks per week, with the majority of the trucks to take the birds away, which will be done early in the morning or late at night. She stated that they do not use antibiotics unless one of the birds is ill. She explained with the fire concerns and the way that the cooling system works in the barns, if one of these barns were to catch on fire, unfortunately, due to the nature of the barns if there were a fire it would be gone in a matter of minutes. When the fire department comes out they rely on them not to save the barns on fire, but to protect the rest of the barns on the property.

Edgerton asked about the comparison on the barns to this proposed site to some of the others facilities that you have in the area and how the 380,000 chickens compares to other sites. Kolterman said that this site is average.

**3. Andy Scholting, Nutrient Advisors, 449 E. Deere Street, West Pointe,** came forward and stated that he has been contracted by Lincoln Premium Poultry to work with their grower to help them understand and navigate the permit process and to help them understand the requirements. The site has been evaluated from several different aspects, as well as starting their Nutrient Management Plan. NDEE has been out to the site and a letter was sent that no permit is required. As you know, LPP is requiring their growers to apply for the permit. Once the permit has been issued NDEE is obligated to hold the growers accountable and enforce all areas the permit covers. A key part of the application will be the Nutrient Management Plan, with this site producing enough nitrogen annually for about 400 acres of corn. Currently, Lancaster County has 330,000 acres of tillable land. LPP does require that they also match the phosphorous needs as well, and the Bussards have had discussions with their neighbors and have over 2800 acres that will be included in the Nutrient Management Plan. He further stated to follow up on one of the earlier questions on the sell and transfer, it is true in Nebraska in Title 130, that livestock producers can market their manure to other growers outside of their Nutrient Management Plan; however, this 2800 acres if it is included in the Nutrient Management Plan even if it is a sale, those transactions will be required to comply with the Nutrient Management Plan. This means that prior to application, there needs to be a sample of soil on every field on a 40-acre composite going 24 inches deep to determine the nitrogen level and the phosphorous level to determine what plan the crop needs and to determine

what the maximum application rate would be to meet that crop's need. Scholting distributed two exhibits: Nebraska Stated Siting Matrix (Exhibit "3") and Odor Footprint Tool (Exhibit "4"). The Siting Matrix is designed to help find and score the quality of sites for livestock production. This site has a score of 109 points. The Department of Agriculture suggests 75 is a passing score. He stated that the birds are kept for six weeks when they will be shipped, and then there are 2-weeks of down time. During the down time, the litter is composted into wind rows inside the barns. This is done primarily to kill any pathogens to dry the product and, prior to the next flock, it is spread back out and used for litter. PTL (Poultry Litter Treatment) is applied to the litter to lower the pH and creates a beneficial environment in the poultry house by controlling ammonia released from the litter. He stated that composting is the number one way to dispose of mortalities in poultry production --with the key being coverage. When mortalities are placed in the compost area, they need to be covered completely with other compost materials to prevent odors in the air.

Joy asked what the percentage of mortality rates would be. Kolterman stated about 3 percent.

Edgerton asked about the 96 percent and wanted more explanation. Scholting stated that the results in general suggests if you live outside the shaded area shown on the map, 96 percent of the time you would expect to not have any type of an annoying odor.

Ryman Yost inquired about the number of trucks and if all the chickens would be on the same cycle or if they would vary. Kolterman said no, that there is an all-in and all-out system. Ryman Yost inquired about the composting and the mortalities and what is done with the compost after. Kolterman stated that most of the mortalities would be at the beginning of the cycle where they would be taken to the mortality shed and then layered with a composting material.

Campbell stated that chicken manure is very hot and asked if heat was added for better breakdown. Kolterman said no, that the manure heats up on its own to 150 to 175 degrees. Campbell asked during the delivery of feed and other materials to the site and if those trucks would take the same route that is proposed. Kolterman said that it depends on where the materials will be coming from and will work with the county if it is reasonable. Campbell inquired about the bird removal and if most of the removal would be done between 11:00 p.m. and 5:00 a.m. Kolterman said that generally those would be the hours, but it may also depend on the schedule at the plant.

Edgerton asked if they assist the growers with the permits that would be required for ground water wells. Kolterman said yes, generally they do help with the NRD permit process.

Campbell stated with no test well having been drilled as of yet, how do they know that this farm will be able to produce enough water needed. Kolterman stated they don't, and she explained that if the operator was told by NRD that there was not enough water in the area and they were not given a permit for a well, this family would not be able to move forward. She stated the family does know this, which is clearly stated in their contract. Campbell asked with most of the water being used for the cooling if it is recharged back into the ground. Kolterman said no that it evaporates.

**Proponents:**

**1. Rylee Stoltz, 2010 Greenspire Drive,** came forward and stated she is with the Alliance for Future of Agriculture in Nebraska, who are in support of this project. She stated this is an Ag operation located in an Ag-zoned area of the County with does fit the character of the surrounding areas. She explained their organization submitted documents to the Commission explaining their points. She further stated that they looked at several studies on property values, manure management and odor. They have found that homes near a poultry site in Firth were on the market for an average of 28 days and in Lincoln the average time for a house on the market is 55 days. The organic fertilizer is better for the land. Finally, the odor footprint tool is the best science that they have, which shows that the neighbors will have very little chance of smelling this operation.

**2. Elizabeth Dittbrenner, 1931 SW 33<sup>rd</sup> Street,** came forward and stated that she is Wayne Greves daughter. She stated that the roads are public roads that the trucks will be driving on. Most of the traffic will be in the evening. She shared that the neighbors with complaints need to check for themselves of what is going on. She stated that this meets and exceeds all of the requirements and there is no reason to vote no and would be trampling on the owners' rights.

At 2:35 Al-Badry entered the chambers.

Chair Corr welcomed Commissioner Al-Badry to today's hearing. And explained in terms of process, because Al-Badry was not present for the earlier testimony on this agenda item, Al-Badry will not take part in the voting discussion and will not vote on this matter, if action is taken today. However, Al-Badry will be participating in the hearing and asking any questions of the remaining testifiers as usual. In the event this matter is delayed to a subsequent Planning Commission hearing, Al-Badry will review the missed testimony and will, therefore, participate in any votes taken at that time.

**3. David Nielsen, 7100 Raymond Road,** came forward and stated that he is a farmer and is for modern agriculture. He stated that this is what agriculture is now and, if you are going to feed this nation and the world, you need this. The only way to bring young people back is through livestock. He stated that this is a guaranteed income and is why the bank is behind this project. He shared that he is interested in the manure that there will be available from this farm. Emotions need to be taken out of this today and use the facts. Everyone needs to work together.

**4. Russell Miller, 341 S. 52<sup>nd</sup> Street,** came forward and provided a copy of his testimony (Exhibit "5") and stated that he is in support of the 8 chicken barn being proposed in the area. He stated that the main complaint is the location of Raymond schools to this project. He stated that the schools in Waverly are within a mile and there have been no complaints from the Waverly Schools about the 6 turkey barns built in 2015. There will be a positive increase in the tax base from this project and urged the members to support this project.

**Opponents:**

**1. Neil McGrath, Jr., 20900 NW 22<sup>nd</sup> Street and Agnew Road, Valparaiso,** came forward and provided a copy of his testimony and some ground water and well-related materials (Exhibit "6"). He stated he lives less than 2 miles to the south of the proposed site. He stated he grew up on a

farm and wanted his kids to enjoy the same as he did as a child. He stated that ground water is one of the States most precious resources and water in this area varies from place to place. He stated that he has concerns about the ground water in the area and the small amount that is available. He stated that he was not aware that the aquifer was not under this area in Nebraska. He talked about the amount of water that would be used for this project and does not feel that they should be allowed to use all of the water would be detrimental to the area with wells going dry.

**2. Cody Siebrandt, 2300 W Agnew Road, Valparaiso,** came forward and stated that he lives 1.5 miles to the south of this proposed area. He stated that his farm is over 115 years old, and he is not against confinement. The difference is that other confined animal feeding lots are all in a better location with water supplies and paved State Highway Roads. He stated that having a larger farm in the county, where do all of the smaller farmers go. He explained he has concerns with the delays on the truck routes, stating that the intersection of Agnew Road and 27<sup>th</sup> Street is a blind intersection and has voiced concerns to the County Engineers. He stated that Ashland Road is a minimum maintenance road and with all the traffic that destroys the roads, residents will become trapped when it is wet.

**3. Jory Heiss, 23800 NW 27<sup>th</sup>, Valparaiso,** came forward and provided a copy of his testimony (Exhibit "7"). He stated that they have concerns about this project with no regulations in place. He stated that there are unknown hazards that have yet to be tested and does not think that this project needs to be hurried. With all of the questions on this project that have not been answered, everyone needs to stand up for health and safety and not approve this project. He stated that there are more areas more suitable for this type of project. We should not have to sit by and become another study and there should be zero risk when next to schools. He questioned who would be constructing the half-mile new road and if it would be done correctly, hearing that the applicant will be doing the road.

**4. Carol Sherman, 6305 Agnew Road,** came forward and provided a copy of her testimony information relative to water consumption (Exhibit "8"). She is in opposition for several reasons. She stated that they live on a farm and they care about the land and their neighbors and care enough not to harm the neighbors. This proposal does not fit at this location. There is a limited supply of water in this area. In the past, she had a neighbor that got greedy and used too much water and she had to spend the money to dig themselves a new well. Who will pay for the new wells the farmers living in the area will need because of the amount of water that this farm will use. She stated she also has concerns with the air quality in the area and how dangerous it is on Agnew Road now and it will only become much worse. Things are done for the health of the chickens but nothing is being done for the residents and children that live in the area.

[Break at 3:20 P.M.

Resumed at 3:30 P.M.]

**5. Lori Heiss, 23800 NW 27<sup>th</sup> Street,** came forward and provided a copy of her testimony and related documents (Exhibit "9"). She stated that her home is just 2 miles from the setback on this proposed site. She stated that the Planning Commission should wait until regulations can be put in place from what was discussed by the task force and their recommendations can be put in place. This project should not be placed near a school who has the right to protect their students. Northwest 27<sup>th</sup> is a very hilly road and is not ready for this type of traffic and makes travel

dangerous. She stated that the applicant has not talked with the neighbors, even though they stated that they have. She shared that they have driven by other barns and there was an odor in the area. This will impact their community and will hamper their ability to grow.

Joy inquired about the odor and where that area was. Heiss stated that the barns were to the west of Valparaiso by about 4 miles.

Corr inquired when there is school but they can't make around on the roads, what is done to get the children to school or do they just stay home. Heiss stated that they have a 4-wheel drive and at times the neighbors help also.

**6. Dr. Derrick Joel, Superintendent of Raymond Central Public Schools, 1800 W. Agnew Road, Raymond,** came forward and stated that they are a rural district just to the north of Lincoln, which is based heavily on agriculture. He stated that they are not against agriculture and its growth in the area, but they are proposed to the location of this site. On August 6, 2019, the Raymond Central Public Schools Board of Education held a public forum in regards to a proposed chicken farm that would be located 1 mile northwest of Raymond Central Junior-Senior High School. The Board of Education discussed the many facets of this issue and voted unanimously to oppose this proposed chicken site in relation to the health, safety and well-being of the students and employees at Raymond Central Public School, with numerous concerns on access to water, water quality and transportation and traffic in the area. He stated that Article 13.001 and 13.002 that offer the guidance to the Planning Commission, that the conditions can be modified or added to this proposed site plan. The recommendations from the task force suggests a 1.5 mile setback away from a National Landmark, place of worship, cemetery and school. The current wells that the school has meets their demand, but with the continued growth of the district more water will be needed in the future. He stated that the Agnew Road intersection is a deadly intersection. The school is in opposition due to the negative impact on the health, well fair and safety of all students, staff and visitors.

Joy asked for an update on the accidents that have happened on Agnew Road that he is aware of. Joel stated that within the last year the County had to add a blinking red light due to an accident last year that was fatal.

Beckius stated that he had mentioned concerns with repertory issues and water quality issues, and the school is surrounded by row crops, and he asked if there were the same concerns with these crops or if it was just with the chicken farms. Joel stated that they have a good relationship with the farmers in the area and they work together at times with the farmers when there are outdoor events because of the children with allergies, and sometimes the children need to stay inside. Beckius asked if the school district owns any of the land around the school. Joel said yes, that the just purchased 65 acres of land that sits in front of the school. Beckius inquired if the land that they own is being farmed. Joel said yes, they currently have a contract with a farmer that has alfalfa in the field.

**7. Crystal Pierce, 15100 NW 48<sup>th</sup> Street, Raymond,** stated that her children go to Raymond Central school. She has chickens and they produce dust that goes in the air. There is no research out there about the emissions and air quality for this type of farm. You need to ventilate the area that the

chickens are in and this will expose all of the people in the area. They are just learning that there are consequences for this type of farm and they just know what they all are yet. More testing still needs to be done on this type of farming.

**8. Ravae Masek, 484 Branched Oak Road, Davey,** came forward and stated their farm is 8 miles east of Lincoln, and they are farmers and understand the importance of farms. She stated that her two daughters go to Raymond Central. She further stated family farming and Costco farming are two different types of farming. She asked for people in opposition to raise their hand if they were in opposition to this farm, several hands were raised. She stated this project will be detrimental to the students and families in the area and asked the Commission members to vote no.

**9. Greg Prosocki, 21040 NW 70<sup>th</sup> Street, Agnew,** came forward and stated he is concerned about the dead chickens, and was not aware that they will just be covered by compost. He stated concerns with all of the truck traffic on the road. He further stated with the conditions of all of the county roads now what will become of this road. Agnew Road is a very dangerous, and his daughter has had close calls on this road with its blind intersection. He stated that this site does not fit well with the area.

**10. Steve Shanahan, 18801 N 1<sup>st</sup> Street, Davey,** came forward in opposition stated that the roads are dangerous in the area. He further stated that he has concerns about the supply and water quality if this is approved. The water in this area has always been a problem. He further stated that even though this is to be enclosed there will be odor. He stated concerns with the decommissioning and clean-up with this type of farm. He asked the Commission members to make sure they put something in place for clean up.

**11. Steven Svoboda, 23500 NW 27<sup>th</sup> Street, Valparaiso,** came forward and stated that his house is quarter mile to the west of the proposed site, and is concerns with traffic in the area with all kids that will be driving to school when the trucks will be on the road. Traffic cannot be handled safely by signs, because there is a hill and a blind intersection. The safety of his kids and the neighbor kids going to school needs to be considered with all of the trucks traveling on these rural roads. He further stated if it was corn or soybeans on the farmland there would be less truck traffic on the roads. He is not against farming in the area, but it is about safety of his kids or other kids that will be on the roads. This is not the area for this type of farm.

**12. Anita Benes, 2400 W Little Salt Road, Valparaiso,** came forward and stated that this will affect the water quality and air quality in the area. She stated that she has concerns of increased taxes for the area and lower property values. Traffic on the roads is another concern. She further stated there would be a domino effect with bad things happening with no end in sight.

**13. Kevin Wolfe, 21255 NW 27<sup>th</sup> Street, Valparaiso,** came forward and stated that he has two daughters and that some of the roads are not safe. He further stated with the water quantity there should be a test like he was asked to do in the past, although he stated that he was unable to afford to do the required test himself. They should do well tests as required by the Lower Plat South, before they are permitted for this project. He stated that more testing needs to be done on the blind intersections in the area.

Edgerton asked about his test well and when it was. Wolfe stated it was 2 or 3 years ago. Edgerton asked if the reason he did not do the test was because of the cost. Wolfe said correct.

**14. Jeff Schmalken, 22101 NW 27<sup>th</sup> Street, Valparaiso,** came forward and stated that he lives one mile from this farm and has concerns on what they will do if they have a loss of power. He stated that on his property he has lost his power several times and this needs to be checked into. He further stated that his road does not get plowed in the mornings when it snows and wondered how the trucks are going to get down the road. He shared that he had concerns with the air quality and the air that will be coming out from the fans, and that he will be unable to move his father in with him because of his health issues.

**15. Greg Ahlstrand, 444 NW 140<sup>th</sup> Street, Pleasant Dale,** came forward and stated that he is a graduate of Raymond Central. He shared that he has driven on a lot of these roads when growing up, and the kids in the area will be on the roads past 9:00 p.m. He stated that some of the roads are mismanaged by the County and they do not have what they need to fix these roads. He stated that the proposed farm area is in the wrong location. It should be convenient for all in the area and not just for the applicant of this farm. He stated that there needs to be a plan in place to fix the current problems before you start another one. The fire department will be too far away to put out the fire if there was one and then the fields may start to burn. If there is no fire suppression system and they are going to just let it burn down, they would need to pass and follow NFPA Code 61 with the Fire Marshal.

**16. Robert Hartog, 16140 NW 27<sup>th</sup> Street, Raymond,** came forward and stated that the surrounding watershed will be affected by this project. He stated that he has contacted the US Fish & Wildlife Services and Nebraska Game & Parks on this proposed site and the proximity of this site to the two watershed areas and asked both parties if they had any concerns with this proposed project site. He stated that both of these entities expressed significant concern with this proposed site and provided the contact information with the Commission Members.

**17. Jennifer Schultz, 14900 NW 37<sup>th</sup> Street, Raymond,** came forward and stated that she will not be directly affected by this, although she does live in the affected community. She stated that she has many of the same concerns with air, water and especially fire and traffic. She shared that her son will start driving next year and has concerns with trucks on the roads. She further stated that what the task force has suggested should apply for this proposed permit and the research is there to support their concerns. She stated that she is not against large operations, but for this one the risks by far out weight the benefits.

**18. Don Goebel, RT #4, Fairbury,** came forward and stated he is in opposition of this project. He stated that the contract that the farmers would be signing is not a good contract for the farmer. He explained that Costco will be making all of the money and the farmer will not, and this will put the farmer out of business. This deal is growing Costco and not growing Nebraska. He stated that if Costco is allowed to do this, then there will be other companies that come to start this same type of business.

**19. Melissa Baker, 7125 Yosemite Drive,** came forward and stated that she attended the CAFO task force meetings and has concerns on if there is a decommissioning plan attached to this project site.

She inquired if the Nutrient Management Plan would be done prior to approval of this application. She referenced the Johns Hopkins University and Nebraska Communities United documents and provided a copy for the record (Exhibit 10"). She further stated that there are barns going up all over and counties are trying to update their zoning regulations. Having this 1-mile from a school is the wrong place for it to be.

**20. Catherine Burkland, Raymond Central School,** came forward as a Raymond Central School Board Member and provided copies of the Stand for Schools and Nebraska Rural Community Schools Associations letters (Exhibits "11") in opposition to this operation. She read both letters into the record. Both letters express concerns with clean air and water for the kids, and that pathogens from this site will make their way to the school. She stated that they are also concerned with the truck traffic in the area and the safety of everyone. She further stated that proposed site is too close to the school.

**21. Chris Hoffmann, 326 County Road #25, Valparaiso,** came forward and stated with the delays of this project it shows that it is in a bad spot. He stated that the Raymond School Board has voted and are in opposition to this application. He stated that it has been mentioned that the NRD has said there is a limited amount of water in the area. It needs to be a requirement that the applicant needs to do the well tests prior to the permit being approved. He asked that the Commissioners to say no, and further commented that this application is for one families gain.

**22. Shane Jensen, 2747 Wassung Drive, Raymond,** came forward and stated this is not the right project in the right area or at the right time. He stated concentrated agriculture does not fit in this area. The Nutrient Management Plan states that there will be a 6-week cycle and two weeks to clean, and that is not long enough. With these cycles, there will be 2.2 million chickens every year, and he further stated that the mortality rate of only 3 percent is being optimistic. He stated that there is flexibility in the 2040 Plan and the Commission could decide what Lancaster County looks like. This type of business could go to other counties that want it.

**23. Dave Burkland, Ceresco,** came forward and stated that he is not against this type of operation, but this is going to affect a lot more than just a few people. He stated that there is a problem with water in this area, and he further stated that he has looked for wells in the area and couldn't find one. The 15 minutes to respond to a fire on this operation is optimistic. He shared that cleaning the barns out once a year was not being kind to the animals. He stated that you cannot smell the one in Waverly because of the normal direction of the wind, and asked members to go to the site.

**24. Robert Allen Rieck, Jr., 105 N 8<sup>th</sup> Street,** came forward and stated that he lives in Lincoln and is a vegan. He stated that this type of operation would not exist if it was not for demand. The growth factor is so fast for the chickens and they are not able to walk. He stated that this is not just about the odor, but it is about the air quality. Listen to the people that live in this area and not the big company.

**25. Ben Gotschall, 6505 W Davey Road,** came forward and provided a copy of his notes (Exhibit "12"). He stated that he is the owner of Davey Ranch & Produce. He stated that he agrees with the water quality and quantity, and road quality. He feels that what the task force had come up with regulations and they need to be considered. He stated that a bond needs to be put in place to repair



and replace the roads that will be damaged by this operation. He further stated that the people that live in the area and the School Board needs to be listened too, and this is why the task force was put in place.

**26. Everett Lunquist, 17201 NW 40<sup>th</sup> Street, Raymond,** came forward and stated that he is the co-owner of Common Good Farm, which is certified organic, and they are 3.5 miles from the proposed site. He stated that they had to drill 4 test wells before they found water for their farm. He explained that a neighbor of his had a geothermal heating and cooling unit and used their well for cooling, and found out that it was not sustainable. He stated that this should not be so close to a school.

**27. Elizabeth Shanahan, 18801 N 1<sup>st</sup> Street, Davey,** came forward and stated that she has lived in this area since 1988, and her land is 4 miles from the proposed site. She shared that she has went to several meeting on this operation and that is why she is in opposition. She stated that so many people oppose this because they care, and the Commission members need to have the courage to stand up to this project. She questioned if this is humane for the chickens. She stated that she cares about her neighbors, friends and children and this needs to be voted against.

Corr asked if the meetings that she had attended were about the poultry farm. Shanahan said yes, she has attended 9 meetings. Corr asked if any of the meetings were organized by the applicant. Shanahan said no.

**28. Peter Dowben, 12251 Bobwhite Trail, Crete,** came forward and stated that he has not heard any discussion about the flies that this will attract. He stated that there will be odor with this operation and more than they are letting on, and this operation will make a lot of dust in the air. He stated he lives near the last approved cafo site and it has destroyed his and his wife's life and now they have to move.

[Break at 5:30 P.M.

Resumed at 5:45 P.M.]

#### Staff Questions:

Joy stated that she wanted to discuss the intersection at Agnew Road, and asked about accidents at that intersection. **Pam Dingman, Lancaster County Engineer,** came forward and stated that Agnew Road and 27<sup>th</sup> Street has no accident history, and saying if the accident has not been reported then they would not know. Joy asked about the driving conditions on Agnew Road. Dingman stated that they have done site distance calculations and it does meet the standards. She stated that the County has the 3-R standards and they are in the State Statutes, Title 424. The 3-R would be Renovation, Restoration and Repair, and the statue does say that anything that is under these categories the county can leave it the way that it is. If a road needs to be completely reconstructed, they would then have a different set of standards to implement. The calculated site distance for this intersection is 495 feet from the height of 3 ½ feet. Joy asked about the 2-way driving and what is done in winter

conditions. Dingman stated that they start with a rock base and gravel on top of that and this meets the minimum standard. She stated with the winter conditions, if the roads are icy, which will make the gravel slick to drive on, the graders will go out and try to peel some of the moisture off the gravel. Otherwise, there needs to be 4 inches on the road for the plow trucks to go out. She further explained that if there is drifting on the roads from the snow blowing, the plows will also go out. Joy asked if they do any calculations based on the drivers that will be driving on the roads. Dingman said that these calculations are based on Average Daily Traffic (ADT), which is done every 10 years.

Beckius stated no maintenance agreements from your office or Saunders County at this time, and asked if that was correct. Dingman said she has had discussions with the Saunders County Superintendent in regards to this and, currently, there isn't anything on the table. If something happens that is dramatic, they would go back and look at that.

Joy asked if that would also address the haul route agreement. Dingman said yes.

Beckius asked about signs at intersections. Dingman stated Lancaster County follows the Manual of Uniform Traffic Control Devices, which sets how they install and the maintenance of signs.

Corr asked about the tax revenue generated from this site and if it would be enough to cover the increase of traffic. Dingman stated given the traffic volumes that have been reported so far, they don't anticipate increased damage. The revenue that goes to the county roads is set by County Commissioners.

Edgerton discussed test wells requirements if there is not enough water available, and asked how that would work on this site when there are questions on the amount of water. Edwoldt said that would be an NRD question, and he would not be able to give an answer on their rules.

Al-Badry asked about the decommissioning process and if they have talked to the applicant about this. Cajka said no, the decommissioning has not been added as a condition.

Campbell asked if decommissioning had been a condition of any other applicant. Cajka said no.

Corr inquired about the applicant constructing a new road. Cajka said originally the applicant was going to take access to West Ashland Road and with this road there were jurisdictional questions, so they decided to take access to NW 27<sup>th</sup> Street, and this is their driveway is the road being discussed. Corr so it is private property and county engineers are not needed. Cajka said correct.

Edgerton asked about testing for water quantity on the site. Cajka said that he only has what the NRD has stated in the staff report that they have looked at the wells in the area. Test wells would most likely need to be done. Edgerton stated that the permitting comes after this process.

Henrichsen stated if approved, they will need to do water testing for NRD and there would need to be the water quantity for the area for this to move forward.

Joy stated that will be required to do the well testing, just not at this time. Henrichsen said correct, that this is typical of a lot of applications. He stated that there are a lot of steps that they don't want to do first because they are costly.

Ryman Yost asked if the NRD just checks if the application is in compliance. **Chris Schroeder, Health Department**, came forward and stated that he is not familiar with the NRD's Construction Permit Process, except that it is required in Lincoln and the 3-miles around Lincoln during the permitting process. He stated that the Health Department will rely on NRD's opinion for water quantity.

Beckius asked about the impact on air quality in the area. Schroeder stated that the Health Department has reviewed this site and approve. He further stated that there is no ambient air quality standard to say that it is a public health risk. Corr asked if no standard was just for the state or if it was for the United States. Schroeder said for the United States.

Beckius inquired about the number of trucks for manure removal and asked if that number was added to the number of truck for the site. Cajka said that it did not indicate number of trucks for manure removal.

Corr inquired the mailing radius for this project. Cajka stated 1-mile. Corr asked about mailing to other counties. Rorabaugh stated the information was also mailed to the adjacent County Clerk's office.

#### **Applicant Rebuttal:**

Joy inquired about loss of power to the site. Kolterman stated that they have generators for the operation and back-up generators also.

Edgerton asked about well testing and if the amount of water required takes into consideration the neighbors' needs. Kolterman stated that they will look at the area and not just that site.

Kolterman came forward and said that they wanted to address some of the comments from the meeting. This site has a quarter-mile setback for this operation. There will also be generators for this operation and for every generator that they will have they are required to have one back-up generator, so if the site has two generators then the site will require two back-up generators. The reason for the delays on this project is that they were wanting to get everything right before bringing this project forward and are willing to make changes if needed and reasonable. The State Department of Ag oversees Emergency Management plans for large operations, and an Emergency Management Plan is in place for this site.

Ryman Yost stated that according to the article that was read a large operation like this one does have an impact on the surrounding area and that large animal agriculture operations does potentially have an impact. Kolterman said that the article stated farming and did not necessarily say livestock, which would be anything that brings up dust.

Scholting came forward and stated part of application process with NDEE is that they do require a closure plan. Beckius stated that it is not required of this applicant, although you are requiring it. Scholting said correct.

Beckius asked about the manure removal. Kolterman stated she looked at her numbers and the manure trucks were included. Ryman Yost stated that the numbers are not in the letter. Kolterman stated the numbers for the manure trucks are listed under bedding/manure and that would be 20 trucks. Beckius asked if that was pre flock. Kolterman said yes.

Scholting said that he has done research on how much litter is produced, and it is about 30 tons of litter. He stated most caged productions with litter layers do smell, but this composting cycle is inside the houses and will only have about 20 percent moisture, so it will smell less. He stated that this is not the same as layer litter. With the road even though it is a private road it will be designed by an engineer. He further stated that this litter will be regulated more than any commercial fertilizer application. He stated that he holds LPP growers to the LPP standards.

Corr inquire how long a contract is. Kolterman stated 15 years. Corr inquired how long it would take to build this site. Kolterman stated it should take 4 to 6 months. Corr inquired how long they think the permitting process will take. Kolterman stated a few weeks.

Joy asked about dust control on the site. Kolterman stated that the farther away that you are, the better you will be. The dust does dissipates as it mixes with air. Joy asked if there were fire code issues with the dust control. Kolterman said no, and that these are Ag buildings and they have different requirements.

Josh Bussard came forward and stated this is an opportunity to diversify the operation and have a steady income that is guaranteed. He stated he had done farming most of his life and would not do anything that would be detrimental to the area or school. They do have children who will go to the area schools. His father in-law and mother in-law are wanting to bring the family back to help with this operation.

Corr inquired who would oversee this operation. Tanya Bussard stated that she is wanting to quit her job and stay home to run the operation. Corr asked if they had family nearby. Tanya Bussard said yes, a brother. Corr asked if they visited with neighbors on this project. Josh Bussard stated that his father in-law did talk with the closest neighbors. Tanya Bussard stated 2 neighbors on NW 27<sup>th</sup> Street and 3 neighbors on Ashland Road.

**SPECIAL PERMIT 19035**  
**ACTION BY PLANNING COMMISSION:**

**October 2, 2019**

Beckius moved approval, seconded by Campbell.

Beckius stated that he believes that they can co-exist and that is what we should be striving for. The NRD will do the water quality and quantity tests. Additional work will be done by LPS and NRD will require the well permit and they will investigate the issues that need to be and may make this site unusable--we don't know. With the traffic concerns, he feels that they are low, and he further stated that the County Engineer would tell them if there were traffic issues and they are not concerned. He stated that he is in support of this project.

Campbell stated that he is in support, because this has many steps to go through before it is approved.

Al-Badry thanked everyone for coming and stated she wished there had been more discussions.

Edgerton stated that she is torn and that the reality is that they rely on our experts, and with the ongoing steps that they need to take in place to ensure that the water will be available for this site and the adjoining neighbor's with the Construction Permit and the Nutrient Management Plan, she stated that she supports this application.

Joy stated that she, too, is torn, and that the people's concerns are real. She further stated that they need to look at the health, welfare and safety of everyone involved. She does trust the staff's decisions, but it was the huge concern that the school district had. She stated that an elected board voted in opposition to this project and with their visions for the future, and she stated she will be voting against this special permit.

Motion carried 5-1: Campbell, Ryman Yost, Edgerton, Beckius and Corr voting 'yes'; Joy voting 'no'; Al-Badry abstain; Scheer and Finnegan absent.

Note: This is FINAL ACTION on Special Permit 19035, unless appealed by filing a letter in the Office of the City Clerk within 14 days.

**APPEAL**  
of Planning Commission action  
to Lancaster County Board of Commissioners

Today's Date 10/8/2019 (this form must be received by the County Clerk within 14 days of the action by the Planning Commission)

To: County Clerk  
Dan Nolte  
555 S. 10th St., Ste. 108  
Lincoln NE 68508  
402-441-7484  
coclerk@lanaster.ne.gov

Dear Clerk:

I am submitting this letter of appeal to Resolution No. BC-01675, adopted by the Lincoln-Lancaster County Planning Commission on (Date) 10/2/2019, approving Special Permit No. SP19035 on property generally located at NW 2<sup>nd</sup> & West Ashland Road

Please advise me of the hearing date before the Lancaster County Board of Commissioners.

Signature of person requesting appeal: Lori Heiss

Printed Name Lori Heiss

Address 23800 NW 2<sup>nd</sup> Valparaiso, NE 68005  
Street City State ZIP

Phone Number 402-499-4517

Email heiss.lori@gmail.com

cc: Planning Department  
Gerl Rorabaugh  
555 S. 10th St., Ste. 213  
Lincoln NE 68508  
402-441-6365  
grorabaugh@lincoln.ne.gov

**APPEAL**  
of Planning Commission action  
to Lancaster County Board of Commissioners

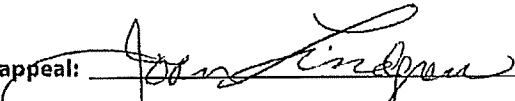
Today's Date Oct 9, 2019 (this form must be received by the County Clerk within 14 days of the action by the Planning Commission)

To: County Clerk  
Dan Nolte  
555 S. 10th St., Ste. 108  
Lincoln NE 68508  
402-441-7484  
coclerk@lanaster.ne.gov

Dear Clerk:

I am submitting this letter of appeal to Resolution No. PC-01675, adopted by the Lincoln-Lancaster County Planning Commission on (Date) Oct 2, 2019, approving Special Permit No. 19035 on property generally located at NW 27th Street and Ashland Road.

Please advise me of the hearing date before the Lancaster County Board of Commissioners.

Signature of person requesting appeal: 

Printed Name Joan Lindgren, Ceresco Village Clerk

Address 217 S 2nd St, PO Box 160 Ceresco NE 68017  
*Street City State ZIP*

Phone Number (402) 665-2391

Email jlindgren@cerescosne.com

cc: Planning Department  
Gerl Rorabaugh  
555 S. 10th St., Ste. 213  
Lincoln NE 68508  
402-441-6365  
grorabaugh@lincoln.ne.gov

**APPEAL**  
of Planning Commission action  
to Lancaster County Board of Commissioners

Today's Date 10.11.19

(this form must be received by the County Clerk within 14 days of the action by the Planning Commission)

To: County Clerk  
Dan Nolte  
555 S. 10th St., Ste. 108  
Lincoln NE 68508  
402-441-7484  
coclerk@lanaster.ne.gov

Dear Clerk:

I am submitting this letter of appeal to Resolution No. PC-01675, adopted by the Lincoln-Lancaster County Planning Commission on (Date) 10/2/19, approving Special Permit No. 19035 on property generally located at NW 27th Street and W. Ashland Road

Please advise me of the hearing date before the Lancaster County Board of Commissioners.

Signature of person requesting appeal: \_\_\_\_\_



Printed Name Dr. Derrick Joel

Address 1800 W Agnew Road Raymond NE 68428  
*Street City State ZIP*

Phone Number 4027852615

Email djoel@rcentral.org

cc: Planning Department  
Gerl Rorabaugh  
555 S. 10th St., Ste. 213  
Lincoln NE 68508  
402-441-6365  
grorabaugh@lincoln.ne.gov



**APPEAL**  
of Planning Commission action  
to Lancaster County Board of Commissioners

Today's Date 10-13-19 (this form must be received by the County Clerk within 14 days of the action by the Planning Commis:

To: County Clerk  
Dan Nolte  
555 S. 10th St., Ste. 108  
Lincoln NE 68508  
402-441-7484  
coclerk@lancaster.ne.gov

Dear Clerk:

I am submitting this letter of appeal to Resolution No. PC-01675, adopted by the Lincoln-Lancaster County  
Planning Commission on (Date) 10-2-19, approving Special Permit No. 19035 on property  
generally located at NW 27th and Ashland rd

Please advise me of the hearing date before the Lancaster County Board of Commissioners.

Signature of person requesting appeal: 

Printed Name Jilsie Svoboda

Address 23500 NW 27th Valparaiso NE 68065  
Street City State ZIP

Phone Number 402 785 1004

Email jilsie1965@gmail.com

cc: Planning Department  
Geri Rorabaugh  
555 S. 10th St., Ste. 213  
Lincoln NE 68508  
402-441-6365  
grorabaugh@lincoln.ne.gov

**APPEAL**  
of Planning Commission action  
to Lancaster County Board of Commissioners

Today's Date 10-15-19

(this form must be received by the County Clerk within 14 days of the action by the Planning Commission)

To: County Clerk  
Dan Nolte  
555 S. 10th St., Ste. 108  
Lincoln NE 68508  
402-441-7484  
coclerk@lanaster.ne.gov

Dear Clerk:

I am submitting this letter of appeal to Resolution No. PC-01675, adopted by the Lincoln-Lancaster County Planning Commission on (Date) 10-2-19, approving Special Permit No. 19035 on property generally located at NW 27th Street and Ashland Road.

Please advise me of the hearing date before the Lancaster County Board of Commissioners.

Signature of person requesting appeal: 

Printed Name Cindy Fulton-Serrano

Address 3500 Oakview Circle Raymond NE 68428  
*Street City State ZIP*

Phone Number 4024994131

Email cindy.serrano4131@yahoo.com

cc: Planning Department  
Geri Rorabaugh  
555 S. 10th St., Ste. 213  
Lincoln NE 68508  
402-441-6365  
gorabaugh@lincoln.ne.gov

### CAFO Working Group


- ▶ Discussion Draft Recommendation
- ▶ Setback to residential uses
  - ▶ 1,320 feet (0.25 miles) to Enclosed AFO
  - ▶ 5,280 feet (1 mile) for Open AFO
- ▶ Setback to "public" uses such as National or local landmark, place of worship, cemetery, school, residential or non-residential health care facility, public park (not including trails), public recreational facility, or a special permitted early childhood care facility
  - ▶ Same as residential setback
- ▶ Setback for enclosed consistent with experience and history with enclosed chicken special permits
- ▶ No rational Public Uses greater protection than Residential

### Briefing Agenda: Working Group

- ▶ Additional questions?
- ▶ Direction from County Board on Next Steps

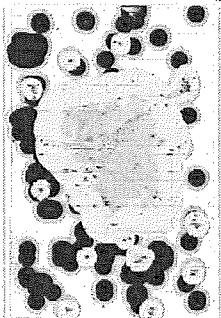
**CAFO Working Group**

- ▶ Working Group Recommendation
- ▶ Exhibit 2
- ▶ Setback to residential uses
  - ▶ 2,640 feet (0.5 miles) to Enclosed AFO
  - ▶ 5,280 feet (1 mile) for Open AFO
  - ▶ Setback to Open AFO - virtually no land left



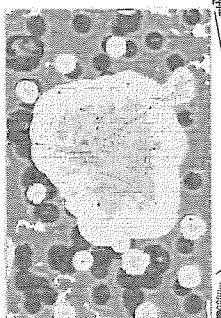
**CAFO Working Group**

- ▶ Working Group Recommendation
- ▶ Exhibit 3
- ▶ Setback to "public" uses
  - ▶ 1.0 mile for Medium AFO
  - ▶ 1.5 miles for Large AFO



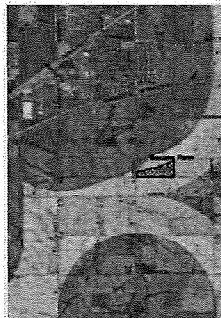
**CAFO Working Group**

- ▶ Working Group Recommendation
- ▶ Exhibit 4
- ▶ Setback to Enclosed AFO with
  - ▶ 0.5 mile setback to residential "public" uses AND
  - ▶ 1.0 mile for Medium AFO
  - ▶ 1.5 miles for Large AFO
- ▶ Setback to Open AFO - virtually no land left



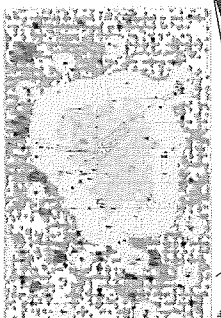
**CAFO Working Group**

- ▶ Working Group Recommendation
- ▶ Exhibit 5
- ▶ Bevans Broilers south of Waverly, approved twice - no opposition to last expansion
- ▶ Long history of operation without complaints
- ▶ Couldn't meet 0.5 mile residential setback or 1.5 mile public setback as Large AFO (>125,000 chickens)



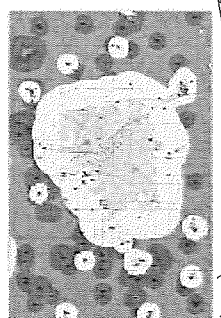
**CAFO Working Group**

- ▶ Discussion Draft
- ▶ Exhibit 6 - Enclosed
- ▶ Setback to residential uses
  - ▶ 1,320 feet (0.25 miles) to Enclosed AFO
  - ▶ 5,280 feet (1 mile) for Open AFO
- ▶ Setback to public uses
  - ▶ Same as residential



**CAFO Working Group**

- ▶ Discussion Draft
- ▶ Exhibit 7 - Open
- ▶ Setback to residential uses
  - ▶ 1,320 feet (0.25 miles) to Enclosed AFO
  - ▶ 5,280 feet (1 mile) for Open AFO
- ▶ Setback to public uses
  - ▶ Same as residential
- ▶ Setback to Open AFO - virtually no land left



### CAFO Working Group

- ▶ Agree with following new special permit conditions,
  - ▶ Site plan with all use areas, floodplain and topography map
  - ▶ If required by Lancaster County Engineer, a road maintenance agreement shall be included as a condition of the special permit
  - ▶ Submit a completed "Nebraska Animal Feeding Operation Siting Assessment Matrix" (without scoring) as maintained by the Nebraska Dept. of Agriculture for information purposes

### CAFO Working Group

- ▶ Agree with following new special permit conditions,
  - ▶ Decommissioning plan outlining the procedures and cost of removing or reusing the barns and may include a bond or equivalent to guarantee removal or reuse upon discontinuance
  - ▶ A Conservation Buffer consisting of windbreaks, trees, or other vegetation is required for all large AFO
  - ▶ Notice is required to be mailed to all property owners within one mile of the application area 30 days prior to the public hearing - so minimum 6 weeks till Planning Commission - not typical 4 weeks
  - ▶ For AFO approved prior, the regulations shall not apply - however, any expansion of the AFO shall comply

### CAFO Working Group

- ▶ Agree on the special permit conditions, except
  - ▶ When Construction & Operating Permit required
  - ▶ Setback to residential use for Enclosed AFO
  - ▶ Setback to "public" uses for Open & Enclosed AFO

### CAFO Working Group

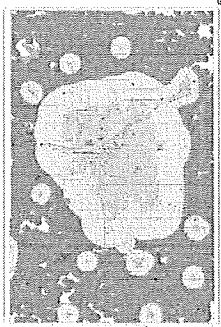
- ▶ Agree on special permit conditions, except
  - ▶ When Construction & Operating Permit (COP) approved by NDEE
    - ▶ Working Group: submit with application
    - ▶ Discussion Draft: submit prior to operation
  - ▶ COP not required by NDEE, but required by special permit
  - ▶ COP can cost over \$10,000 and run over 150 pages
  - ▶ Requires field locations where composted manure will be spread
  - ▶ Does include brief information on emergency response plan, odor control plan, litter removal method, manure production and nearby well info - but majority of pages on field application

### CAFO Working Group

- ▶ Agree on special permit conditions, except setbacks
- ▶ Working Group Recommendation
- ▶ Setback to residential uses
  - ▶ 2,640 feet (0.5 miles) to Enclosed AFO Exhibit 1
  - ▶ 5,280 feet (1 mile) for Open AFO Exhibit 2
- ▶ Setback to "public" uses such as National or local landmark, place of worship, cemetery, school, residential or non-residential health care facility, public park (not including trails), public recreational facility, or a special permitted early childhood care facility
  - ▶ 1.0 mile for Medium AFO Exhibit 3
  - ▶ 1.5 miles for Large AFO Exhibit 3

### CAFO Working Group

- ▶ Working Group Recommendation
- ▶ Exhibit 1
- ▶ Setback to residential uses
  - ▶ 2,640 feet (0.5 miles) to Enclosed AFO
  - ▶ 5,280 feet (1 mile) for Open AFO





### Sunset Poultry

- ▶ Odors: Enclosed animal feeding operation has significantly less impact than facility with open sides
- ▶ Significant measures in building result in reduction in odors outside the building - ¼ mile setback to any house required, but odors will dissipate before this distance
- ▶ Air & Water Quality: No outdoor waste storage reduces chances of impacting water or air quality
- ▶ In AG zoning, a farm could have as an accessory use an open air pen or barn, with less than 300 cows, 30,000 chickens or 750 hogs by right, without a special permit, on the other side of the fence from any school or home

### Sunset Poultry

- ▶ Water Quantity: The Lower Platte South NRD did not object to the application
- ▶ Applicant will need to get a separate well permit in the future
- ▶ Facility is set up to minimize water use
- ▶ Water use is more than many houses, but less water in one year than a farm irrigation well might use in few weeks
- ▶ No guarantee on water availability - if well can't provide enough water - then they don't build

### Sunset Poultry

- ▶ Traffic Impact: Applicant states generate at maximum week, 60+ trucks (120+ trips) in one week; an average of 20 to maybe 25 trips a day - mostly during late night/early morning to arrive at plant
- ▶ Route for the trucks would be south on NW 27<sup>th</sup> Street to Agnew Road, then east to Highway 77, which passes by Raymond Central School, which has more than 300 students in grades 7 -12
- ▶ Agnew Road past Raymond Central currently has about 530 trips a day.

### Sunset Poultry

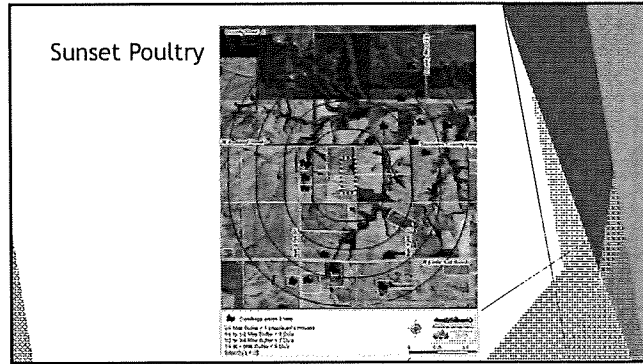
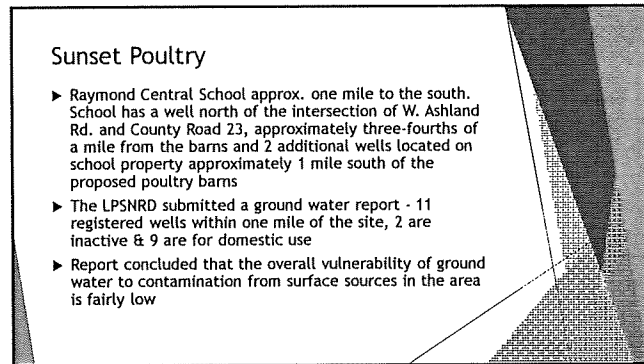
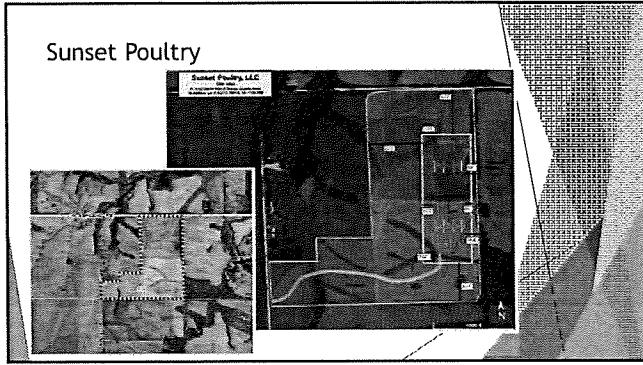
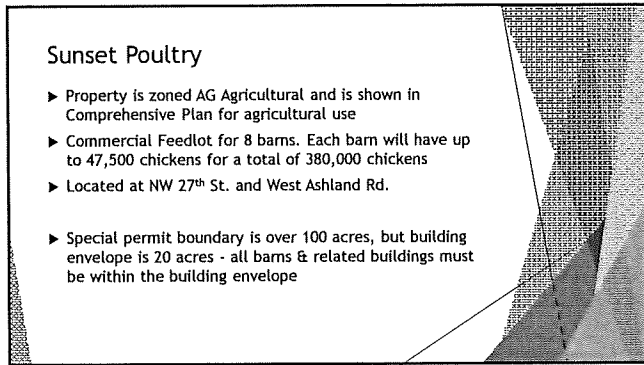
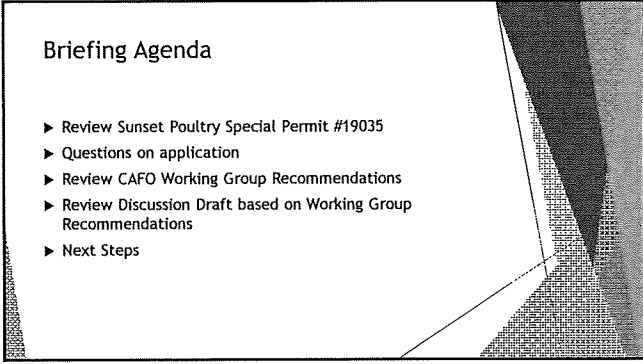
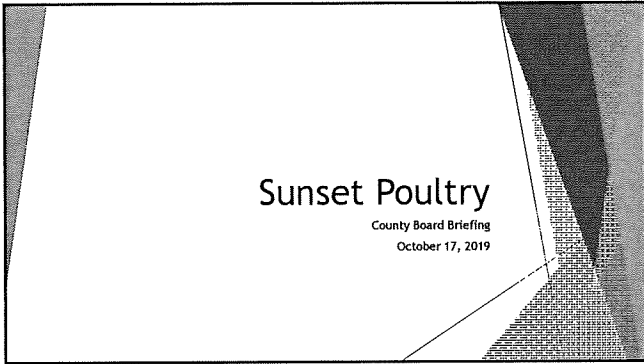
- ▶ Traffic Impact: other 7 weeks in cycle about 12 to 20 trucks or 25 to 40 trips a week meaning 8 to 10 trips a day
- ▶ Two new single family houses could be built on Agnew Road would generate 20 trips a day
- ▶ County Engineer had no objection and notes no reported accidents at Agnew Road & NW 27<sup>th</sup> Street - intersection meets sight distance requirements
- ▶ Primary route north on Highway 77 - has 9,475 trips a day including 1,230 trucks on avg. by Ashland Road- Source: NDOT

### Sunset Poultry

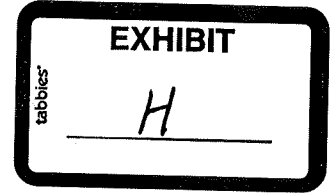
- ▶ Recommendation: Approval with following major conditions
  - ▶ 1,320 foot setback to any existing house, except applicant's
  - ▶ Grading plan & drainage study to County Engineer satisfaction
  - ▶ Construction & Operating Permit including Nutrient Management Plan from NDEE
  - ▶ Limit 8 barns and 380,000 chickens (more barns or chickens would have to go back through process)

### Sunset Poultry

- ▶ Recommendation: Planning Commission 5-1 for approval
- ▶ Health Department, NRD, NDEE, County Engineer - no government agencies have raised objection
- ▶ Same recommendation on Essink, Heetderks and Bevans special permits previously approved
- ▶ Court upheld rationale for approval of Essink







## **BENEFITS OF MODUS ELECTIONS MANAGER SYSTEM for Lancaster County Election Commissioner**

- Our current system is extremely outdated and limited in its capabilities. It is an Access program created in-house many years ago which has been patched together over the years as needed. Our current system was written/developed/upgraded by a staff member who is no longer with Information Services. Currently we have only one Information Services contact who is very helpful but he has to work our changes/issues into his work schedule. Any upgrades or improvements would be time consuming. Besides lacking ease of use and the inability to create communications, the main downfall of the current system is its inability to record historical data, requiring many manual processes.
  
- Modus was created specifically for the purpose of effectively managing poll workers and polling locations. It has been tested and used by several other counties and is continuously being updated to be intuitive to election needs. It provides comprehensive online help and is customizable.
  
- Modus will:
  - Be easy to navigate
  - Manage and maintain information regarding workers and polling places effectively and all in one spot
  - Automatically assign workers to polling places (currently a manual process) and manage party balance
  - Create automated communications including correspondence to workers and polling places (currently correspondence must be created separately using Microsoft Word)
  - Have the ability to communicate via Email, saving time and money and adding the ability to send last minute reminders
  - Have an online election worker portal in which workers will be able to respond to requests, update information, sign up for training sessions, and communicate.
  - Have an automatic payroll system that easily exports data to County software (payroll is currently mostly a manual process). Will provide detailed payroll information for workers and polling places and create summary reporting data
  - Have the ability to provide online video training (future).
  - Manage and improve communication with polling locations.

# BENEFITS

- Easy to Use
- Fully Hosted, Online Solution
- Time Savings
- Cost Savings
- Eliminate Redundant Data Entry
- Quarterly Improvements
- Succession Planning
- Legal Defensibility Audit Trail
- **Proven Results**

A community of partners with ongoing dialog focused on continual improvement.

**Join the Modus Community!**

[www.moduselections.com](http://www.moduselections.com)

*Running an election just got easier.™*



*Running an election just got easier.™*

- Polling Place Administration
- Election Worker Assignments, Training, and Payroll
- Customizable Communications
- Comprehensive Reporting
- Polling Place Agreements
- Equipment Assignment and Delivery
- Equipment Chain of Custody, Testing, and Maintenance Tracking
- Export Reports to Excel®, Word®, CSV, or PDF

For more information, contact:

(855) MODUSEL

(855) 663-8735

[info@moduselections.com](mailto:info@moduselections.com)

[www.moduselections.com](http://www.moduselections.com)

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*Running an election just got easier.™*

[www.moduselections.com](http://www.moduselections.com)



# Designed by Election Officials for Election Officials

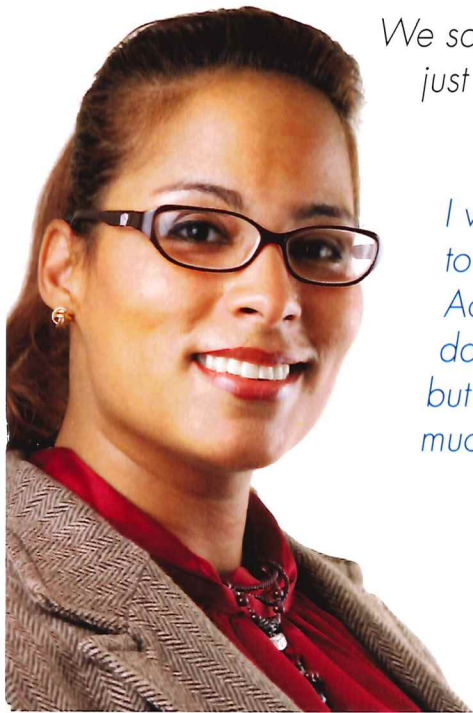
Coordinates Polling Places • Performs Online Poll Worker Training Easily  
 Pinpoints Poll Workers for Assignment • Streamlines Payroll  
 Assigns Equipment and Tracks Chain of Custody • **and much more!**

*I lost my assistant. I don't know how I would have pulled off our election without this system. – MN*

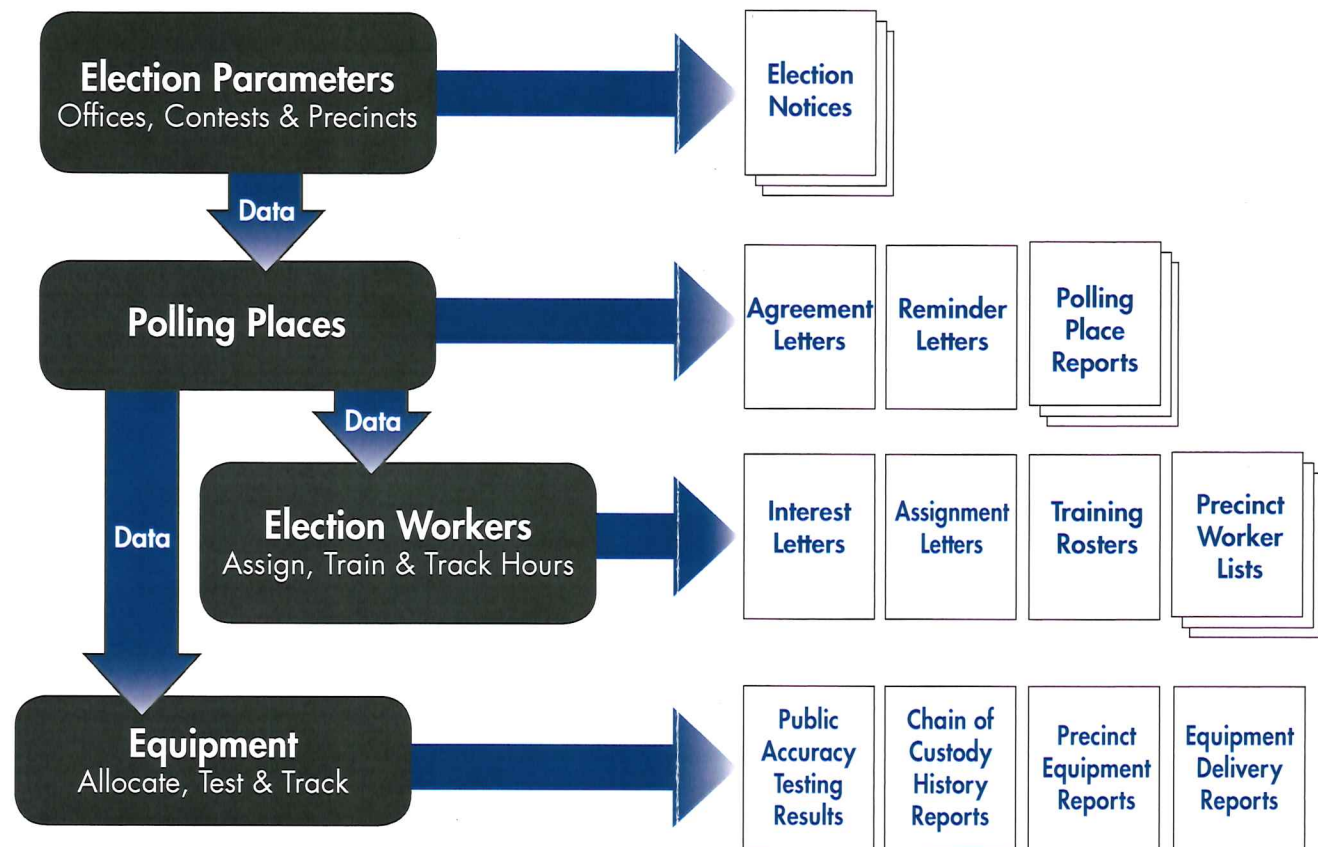
*We were designing our own system... Modus does everything and more – for a fraction of the cost! – KS*

*We saved weeks just on payroll. – MO*

*I was hesitant to give up my Access® database... but Modus is so much better! – MN*



## Single Unified Database



Legal Defensibility

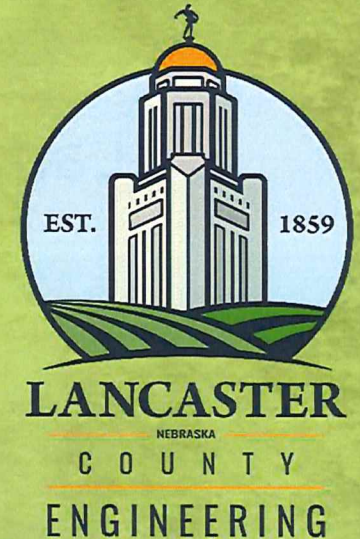
*Running an election just got easier.™*

EXHIBIT

tabbles®

I

# 2020 Lancaster County 1 & 6 Road and Bridge Program



Lincoln Lancaster County Planning Commission

# Lancaster County Engineer



Pam Dingman, PE

Lancaster County Engineer

402-441-8332

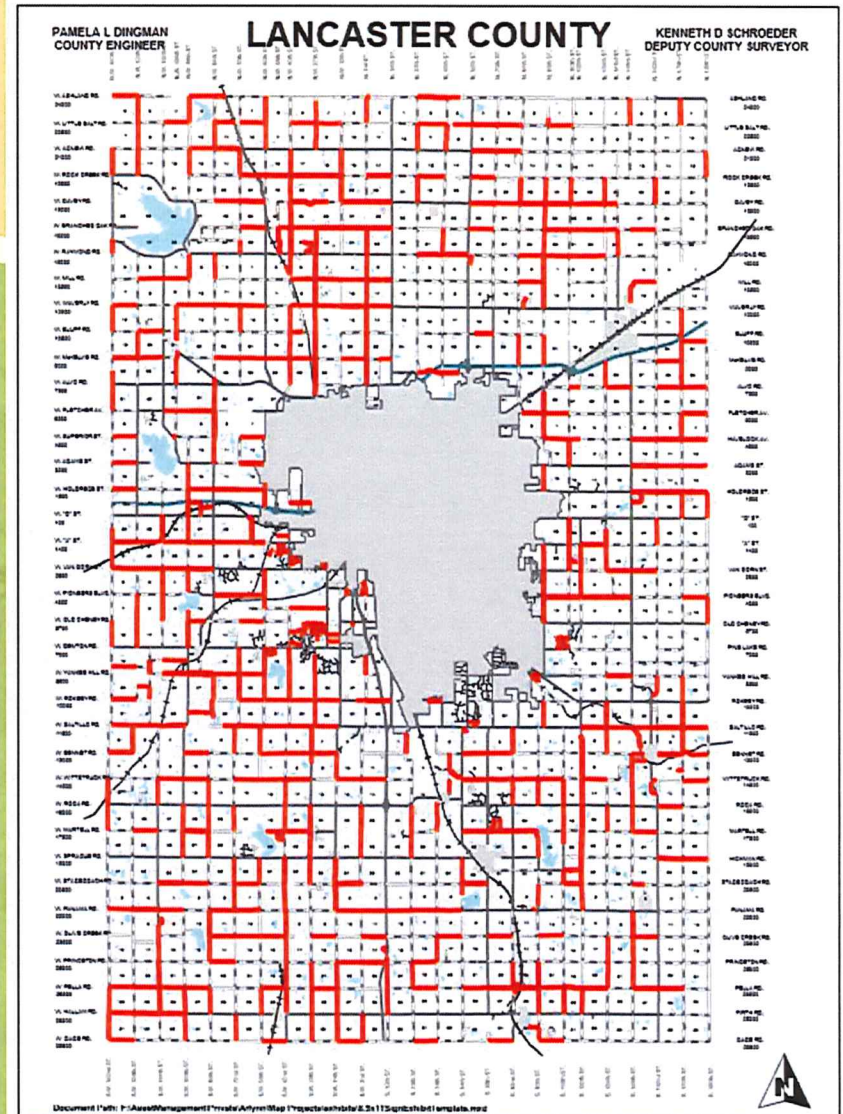
[pdingman@Lancaster.ne.gov](mailto:pdingman@Lancaster.ne.gov)

# Flooding of March of 2019

## The Perfect Storm



- Roads Shown in Red have been re-rocked and graveled.
- The process is on going due to rock and gravel shortages
- Frost Boils caused Motor Graders to sink
- 78% of the County's Dump Trucks broke down



# Flooding of March of 2019 – The Perfect Storm



Bridge B-133 located on  
Agnew East of North 56

# Flooding of March of 2019



Agnew Road east of  
Hwy 77.



# Road Damage From Flooding

## Embankment Failures



# Damage to Federal Aid Routs

D-88 Agnew Road East of Hwy 77

K-121 Adams between 84<sup>th</sup> and 98th



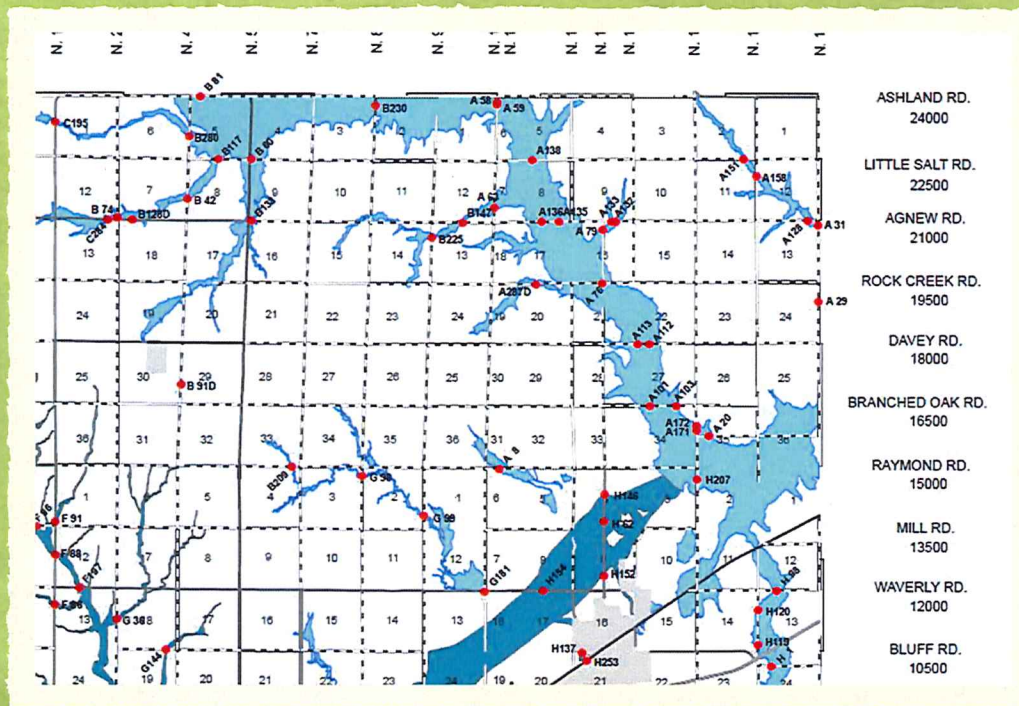
# 2019 FEMA Process



Currently in Appeal for  
\$160,000 from 2015

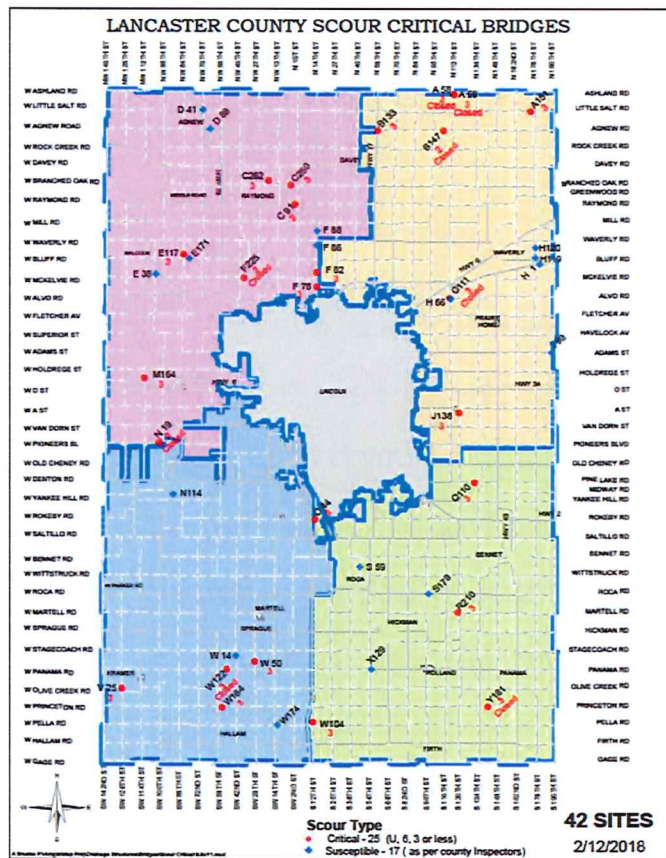
Current Claim for 2019  
\$1,700,000

# Flooding of March of 2019 – The Perfect Storm



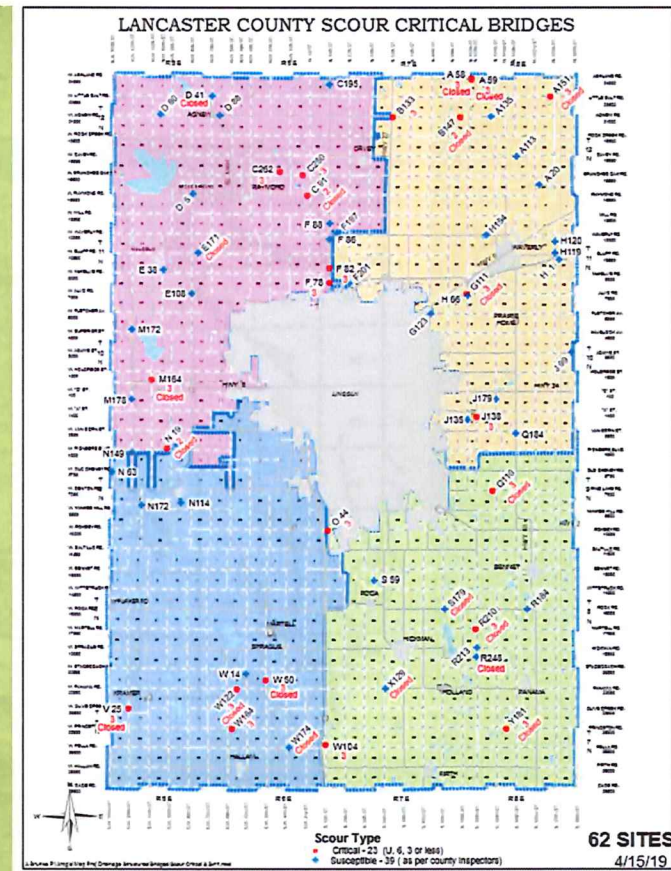
Rock Creek North of Waverly  
 Flood Stage – 23 Feet  
 Record High - March of 2019 – 25.02  
 2<sup>nd</sup> Record May of 2014 – 24.15  
 3<sup>rd</sup> Record May of 2015 – 21.30  
 5<sup>th</sup> Record May of 2017 – 19.23

# Flooding of March of 2019 – The Perfect Storm



Progress on repairing and reopening closed bridges is lost.

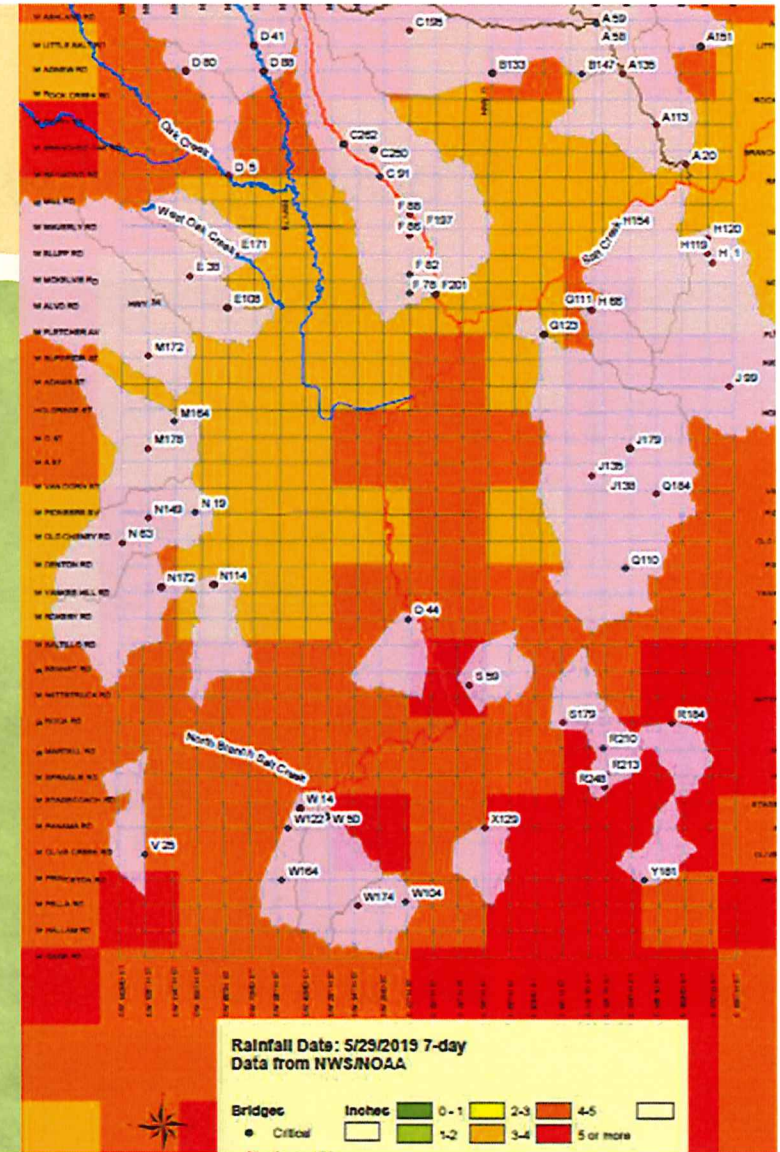
County Engineering Staff adds 20 Bridges to the critical watch list



# Flooding in May of 2019

Additional flooding in May of 2019, many local creeks again reach 100 year water surface elevations.

Pipe Culverts fail at several locations as the ground liquifies



## Flooding in May of 2019



May of 2019 flooding results in Lancaster County Commissioners declaring a second emergency event.

# Closed Bridges

Bridges Currently Closed

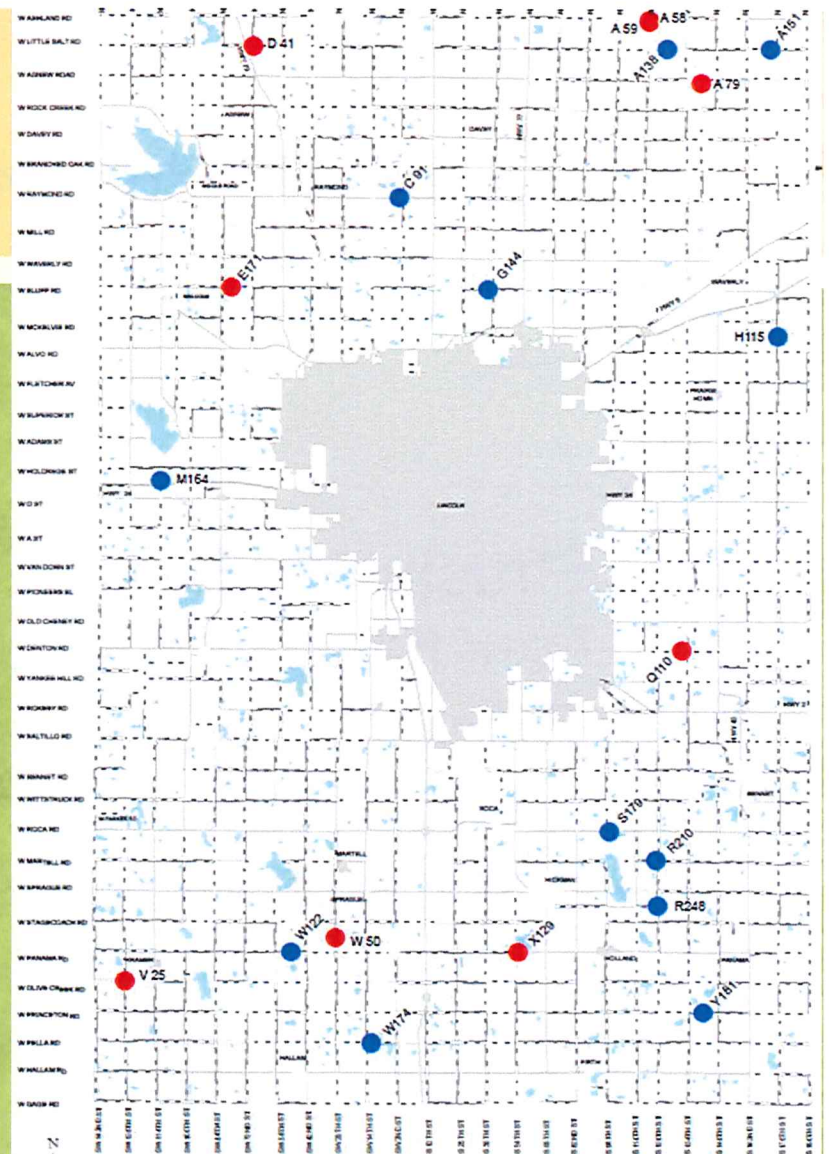
20

Bridges in Design or Construction

11

Bridges with no funding

9





## Current Bridge Needs

Critical Needs before flooding of 2019  
\$200,000,000

- 26 - Structurally Deficient
- 4 - Functionally Obsolete
- 39 – Scour Susceptible
- 23 - Scour Critical
- 20 - Sufficiency Rating less than 50
- 65/93 Counties in Nebraska



## Currently Maintained Subdivisions



Current Gravel Subdivisions

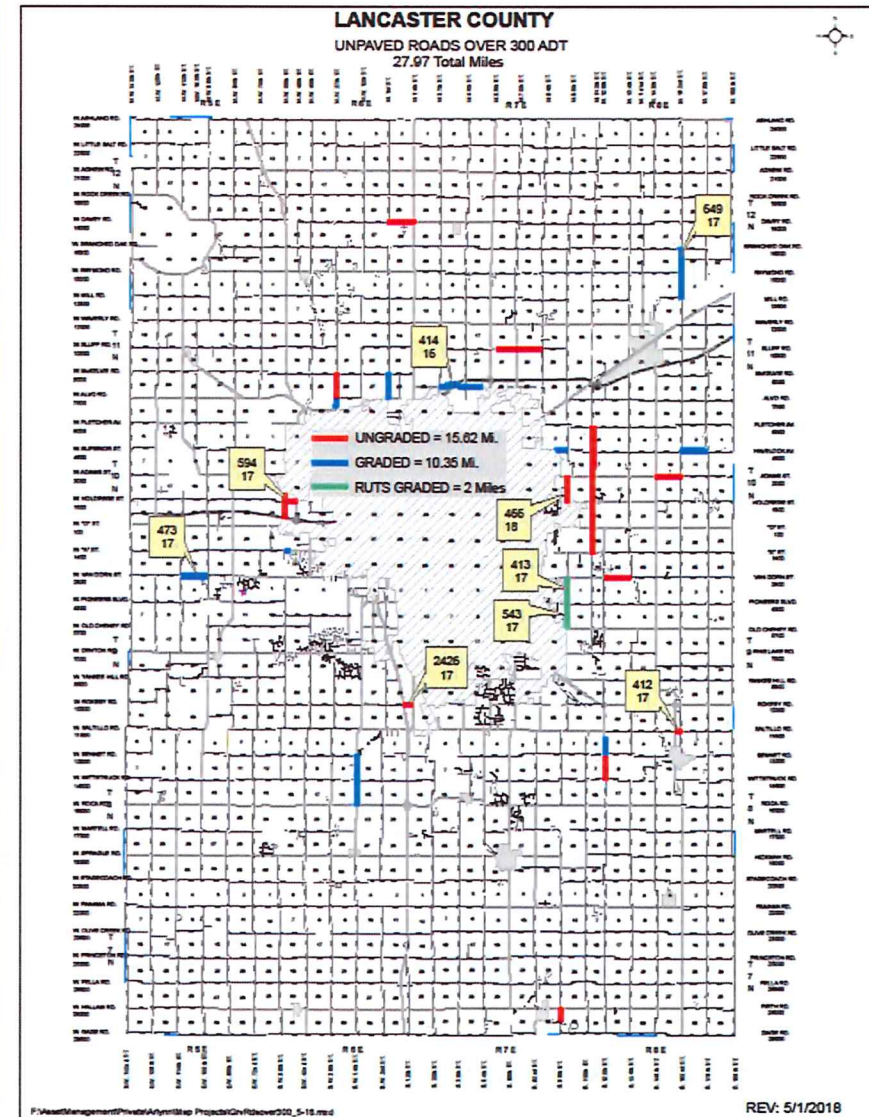
**40 miles**

Current Paved Subdivisions

**34 miles**

# Current Paving Needs

- Gravel Roads
  - ADT Over 400 – 6 Miles
  - ADT Over 300 – 28 Miles
  - ADT Over 250 – 56 Miles



# Projects Completed or in Progress FY 2019

Bridges Constructed

7

Bridges Repaired

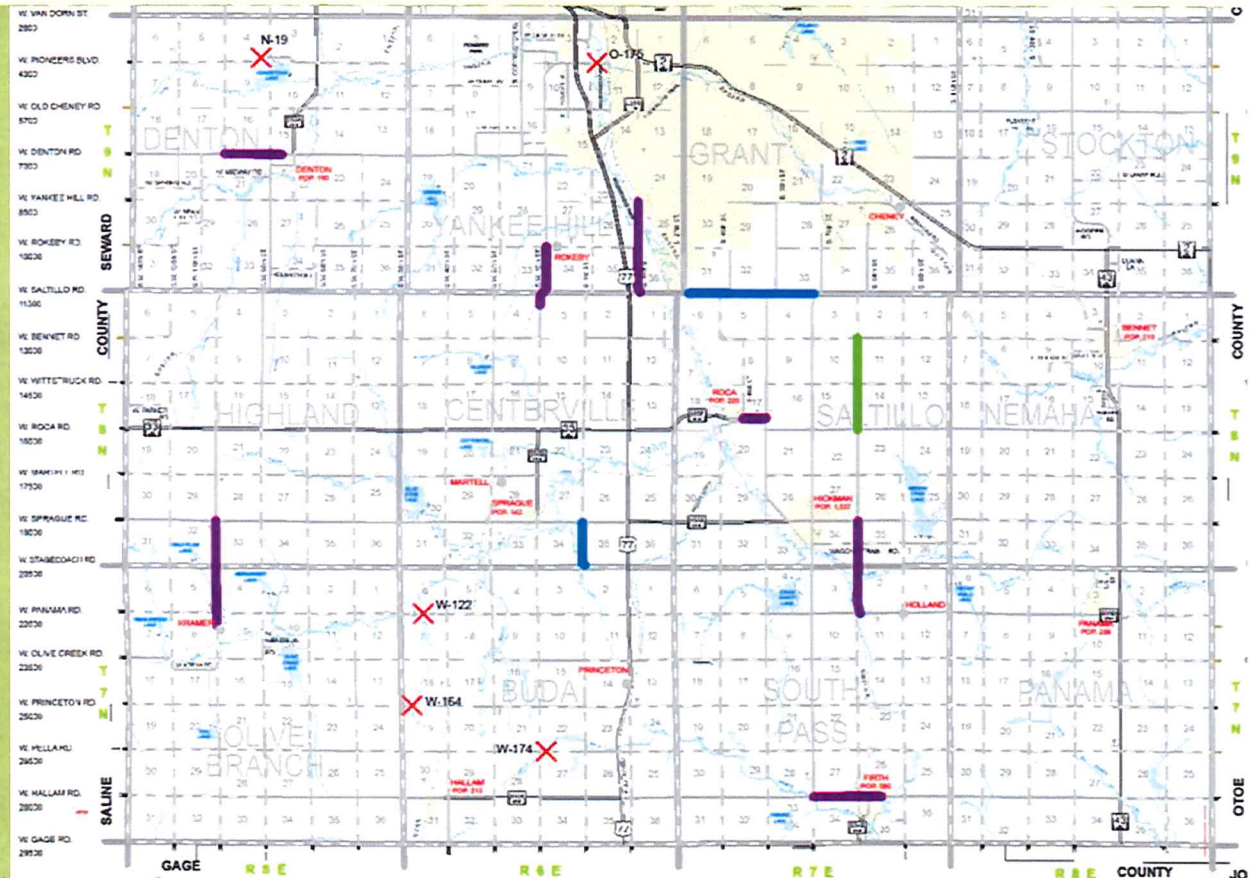
2

Bridges Designed

8

Bridges Awaiting Permitting

1



# Projects Completed or In Progress FY19

Asphalt Overlay

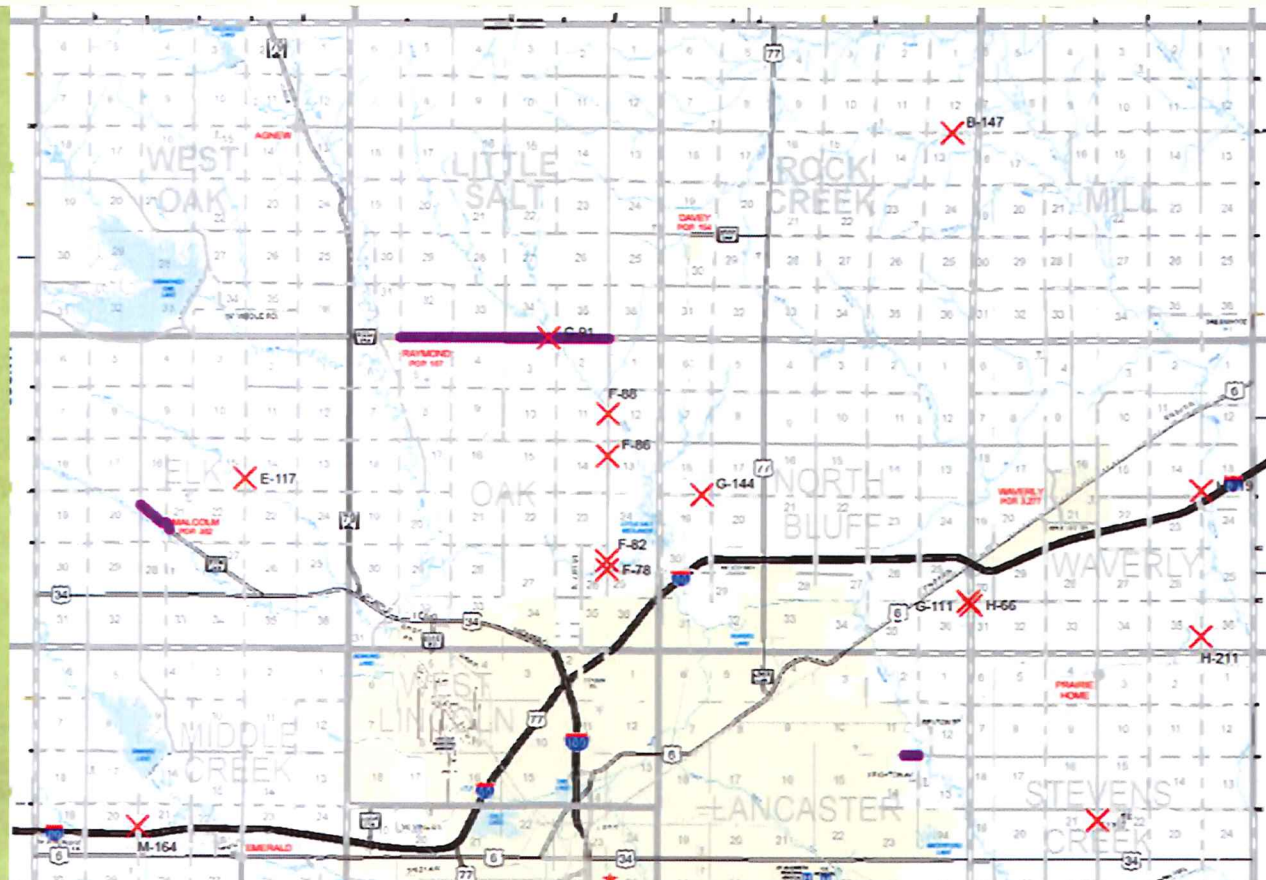
15.2 Miles

Grading

2 Miles

Engineering

3 Miles



# Projects Proposed FY 20

Bridges to be Construct

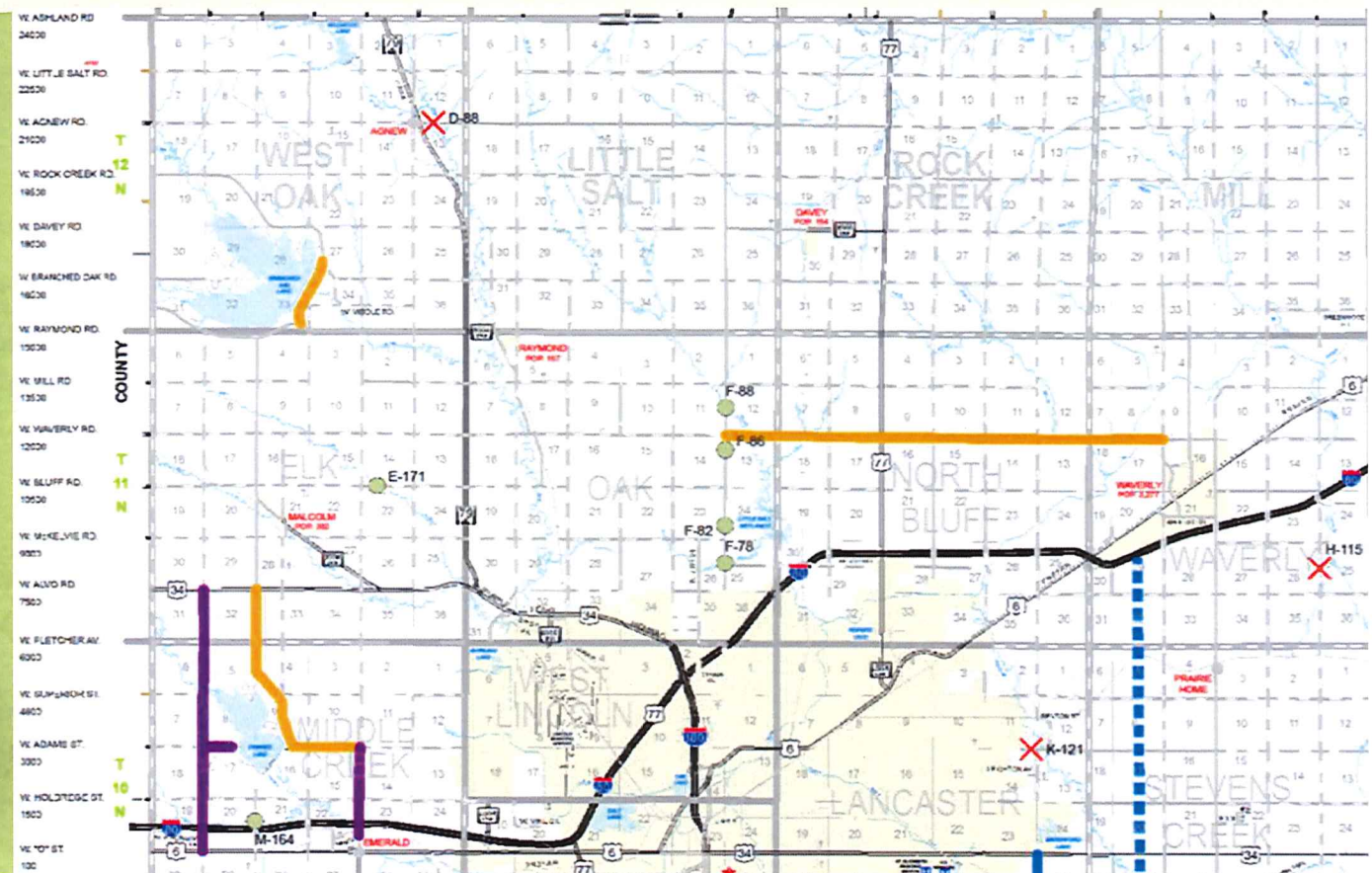
9

Bridges to be Repaired

2

Bridges to be Designed

3



# Projects Proposed for FY 20

Asphalt Overlay

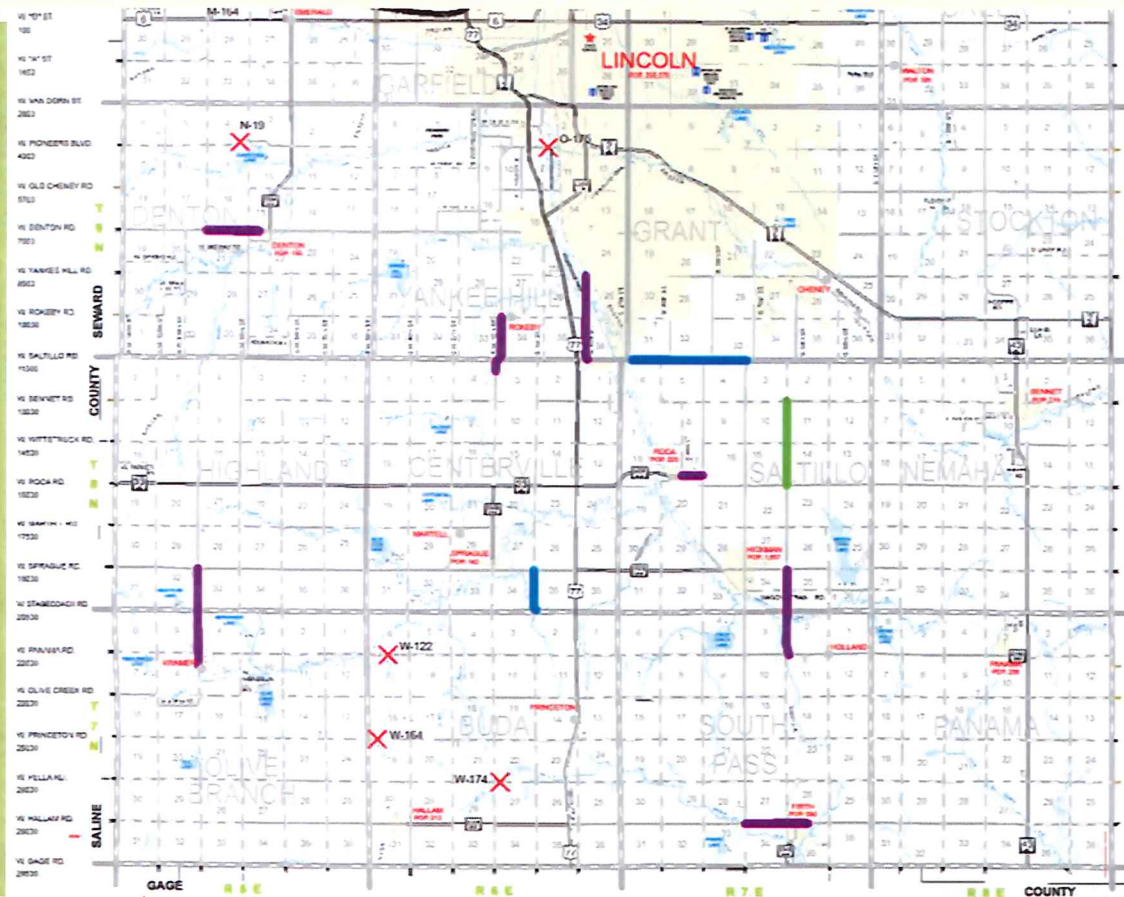
21.2 Miles

Maintenance

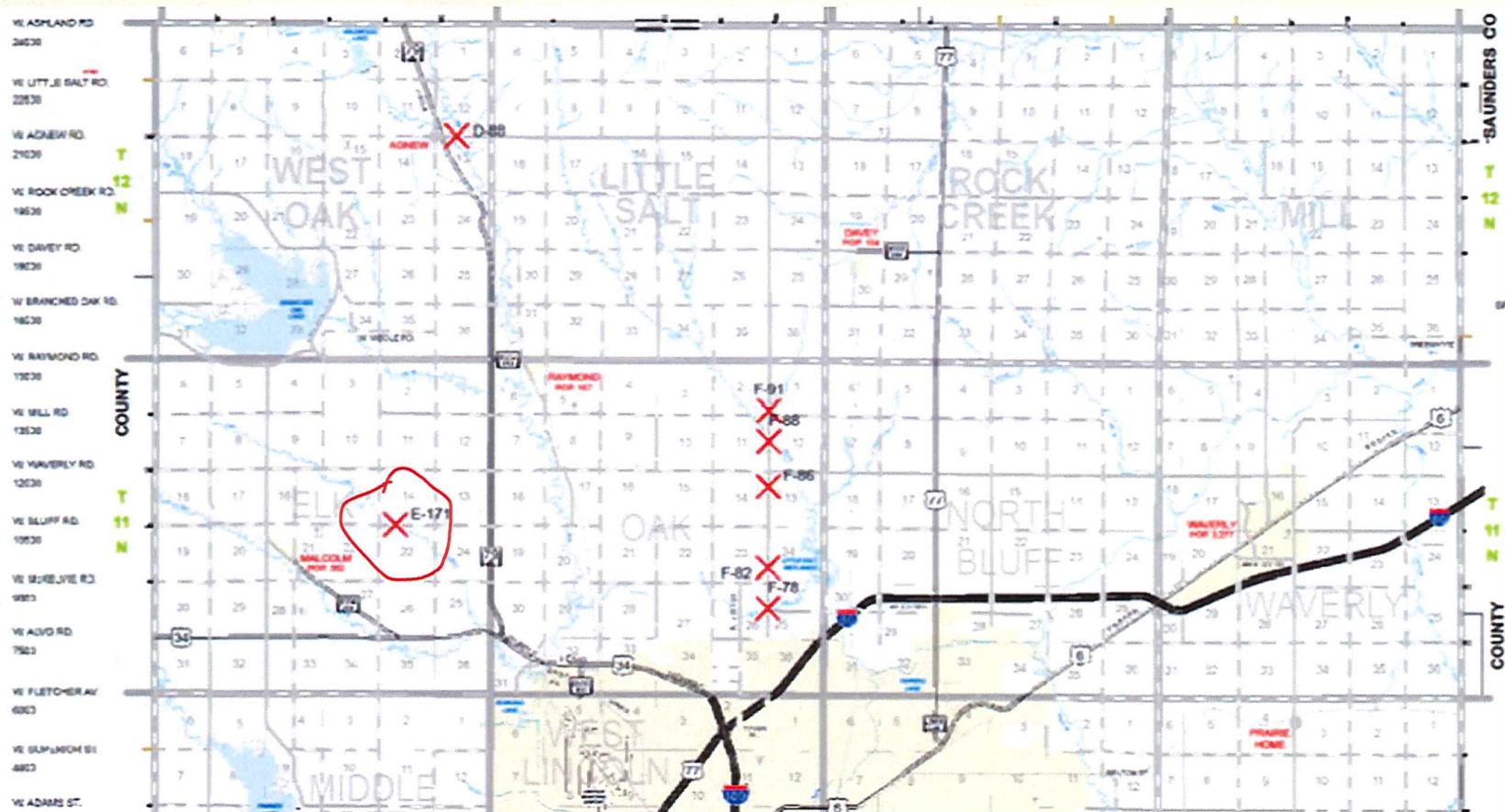
18.5 Miles

Engineering

4 Miles



# Proposed Projects for FY 21-FY25



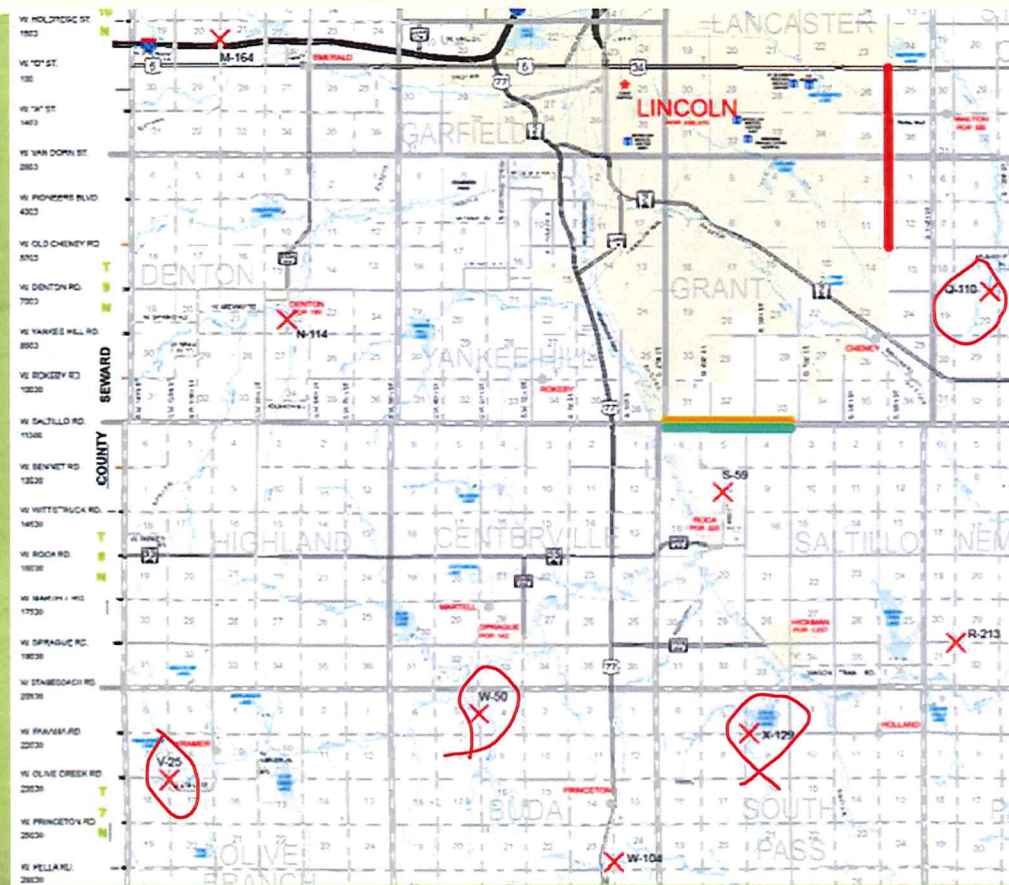


# Future Focus on North 14<sup>th</sup> Street

- F-88 Bridge to Bridge
- F-78 Bridge to Box Culvert
- F-82 Bridge to Box Culvert
- F-86 Bridge to Box Culvert



# Proposed Projects for FY21-FY25



## Questions



Let's hope there is less snow this year!