

**STAFF MEETING MINUTES  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
COUNTY-CITY BUILDING, ROOM 113  
TUESDAY, MARCH 6, 2012  
10:30 A.M. OR IMMEDIATELY FOLLOWING THE CONCLUSION OF THE  
REGULAR COUNTY BOARD MEETING**

Commissioners Present: Deb Schorr, Chair  
Larry Hudkins, Vice Chair  
Bernie Heier  
Jane Raybould  
Brent Smoyer

Others Present: Kerry Eagan, Chief Administrative Officer  
Gwen Thorpe, Deputy Chief Administrative Officer  
Dan Nolte, County Clerk  
Cori Beattie, Deputy County Clerk  
Ann Taylor, 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 March 5, 2012.*

The Chair noted the location of the Open Meetings Act and opened the meeting at 10:33 a.m.

**AGENDA ITEM**

**1 APPROVAL OF THE MINUTES OF THE THURSDAY, MARCH 1, 2012  
STAFF MEETING**

**MOTION:** Heier moved and Hudkins seconded approval of the minutes of the March 1, 2012 Staff Meeting. Hudkins and Heier voted aye. Raybould and Schorr abstained from voting. Smoyer was absent from voting. Motion failed, due to the lack of a majority.

**2 ADDITIONS TO THE AGENDA**

- A. Great Plains Resource Conservation and Development Council (RC&D) Membership
- B. Natural Gas
- C. Planning Commission

**MOTION:** Heier moved and Raybould seconded approval of the additions to the agenda. Raybould, Heier, Hudkins and Schorr voted aye. Smoyer was absent from voting. Motion carried 4-0.

Smoyer arrived at the meeting at 10:36 a.m.

**3 A) UPDATE ON 20-ACRE RULE MODIFICATIONS (AGRICULTURAL PRESERVATION LOTS); AND B) SPECIAL PERMIT NO. 12003 APPEAL (REQUEST FROM LAKEHOUSE FARMS LLC TO OPERATE A MARKET GARDEN) - Marvin Krout, Planning Director; Sara Hartzell, Planner**

**Special Permit No. 12003 Appeal (Request from Lakehouse Farms LLC to Operate a Market Garden)**

Sara Hartzell, Planner, said Sharon Duis, who lives approximately a mile away from the site, has filed an appeal of the resolution passed by the Planning Commission approving Special Permit No. 12003. **NOTE:** The special permit would give Lakehouse Farms, LLC authority to operate a Market Garden with a restaurant as an accessory use on property generally located at 112<sup>th</sup> and Branched Oak Road. She said she is not sure of the reasons for the appeal. It was noted two individuals testified in opposition at the Planning Commission hearing citing concerns about traffic and liquor being served at the restaurant. Hartzell said traffic counts on area roads are fairly low and said the restaurant is projected to add 50 trips per day. **NOTE:** Traffic counts were provided in the Planning Department's Staff Report.

Hudkins asked whether the applicant plans to seek a liquor license. Hartzell said the applicant has indicated an intent to apply for a license that will allow them to serve beer and wine.

Brittany Behrens, Deputy County Attorney, said the Board has 30 days to conduct a public hearing on the appeal of the special permit approval. **NOTE:** The public hearing has been set for March 20<sup>th</sup>. She said the Board has three options: 1) Approve the special permit with the conditions the Planning Commission has set forth; 2) Approve the special permit with additional or different conditions; or 3) Deny the special permit. That decision may be appealed to District Court.

**Update on 20-Acre Rule Modifications (Agricultural Preservation Lots)**

Hartzell discussed proposed revisions to the Community Unit Plan (CUP) bonuses (Exhibit A):

- Remove redundant language
- Remove density restrictions

- Remove bonus for meeting energy conservation standards (standards were not written or adopted)
- Increase the bonus from 20% to 25% (will give an additional lot on 80 acres and 160 acres)

Hartzell also discussed how agricultural (AG) preservation lots would work, noting the following priorities:

- Maintain the overall density of one dwelling per 20 acres
- Control of the number of access points on County roadways
- Preserve AG land
- Flexibility
- Administrative approval of final plat
  - Planning Commission and County Board approval is not required unless appealed
  - Preliminary plat or CUP is not required
- Tracking ability
- Allow for future development

Hartzell explained it will require revisions to the County Zoning Resolution:

- Reformatting of several sections to make it easier to find information
- Set conditions for the AG preservation lots
  - Overall density of one dwelling unit per 20 acres
  - Maximum of four lots created
  - Three to five-acre lots or preservation of 75% in the outlot
  - Single shared driveway with 60' public access easement (the right-of-way for a local road)
  - Developments with less than 550' of frontage on a county section line road can have that frontage reduced

Hudkins asked the basis for the 550' frontage requirement. Hartzell said she has not been able to determine that. Hudkins said it appears to be arbitrary and questioned whether it is necessary. Hartzell said the important thing is to maintain separation and appropriate sight distance.

Hartzell noted there are currently no provisions in the County's Subdivision Resolution to allow a final plat with a preliminary plat or CUP. She proposed that a final plat option be added with the requirements based on the requirements for a County Administrative Subdivision Permit. Hartzell also suggested there is no longer a need for County Administrative Subdivision Permits with the change to administrative approval of final plats.

Ken Schroeder, County Surveyor, appeared and said that would streamline the process.

The Chair exited the meeting at 10:55 a.m. and the Vice Chair assumed direction of the meeting.

Heier suggested right-of-way be included in the lots.

Hudkins asked whether it would be better to ask for 66' rather than 60' of right-of-way. Schroeder said he believes 60' is adequate. Hudkins responded that he doesn't want the County to have to go back and ask for more at a later date.

The Board discussed examples that Hartzell had provided of how (AG) preservation lots might work (Exhibit B). Hartzell noted the intent is to provide one shared access point per subdivision. Hudkins said he believes there needs to be flexibility to provide more than one access. He cited the fifth example that was provided and said it would make more sense for Lot 4 to take access off Olive Creek Road than to have a half mile driveway. Lot 3 could share that access or take access off South 162<sup>nd</sup> Street with the other two lots. Hartzell said it would be dependent upon sight lines. She said the County Engineer generally approves the driveway permits and would decide appropriate placement. Raybould said she thought the intent was to minimize the number of driveways. Hudkins said it wouldn't be an increase, noting one driveway is allowed for every 20 acres.

The Chair returned to the meeting at 11:14 a.m. and assumed direction of the meeting.

#### **4 LEGISLATIVE UPDATE** - Gordon Kissel and Joe Kohout, Kissel/E&S Associates

Gordon Kissel, Kissel/E&S Associates, gave a legislative update (Exhibit C). He reported the Revenue Committee plans to hold an Executive Session and advance Legislative Bill (LB) 970 (Terminate the inheritance tax and change income tax rates and calculation). Senator Cornett will have an amendment for the Committee that will delete references to inheritance tax. He said he is optimistic that will be approved. It was noted Senator McCoy has prioritized the bill.

Joe Kohout, Kissel/E&S Associates, said an amendment to LB 787 (Authorize inspection and regulation of staff secure facilities by the Jail Standards Board) was submitted to the Judiciary Committee to strike Section 2. The amendment is a response to concerns that were expressed by the Board of Pharmacy regarding distribution of medications.

Kerry Eagan, Chief Administrative Officer, asked the status of LB 967 (Change an interest rate relating to delinquent taxes and special assessments). Kissel said he believes it is unlikely the bill will go anywhere.

## **5 ACTION ITEMS**

There were no action items.

## **6 CONSENT ITEMS**

There were no consent items.

## **7 ADMINISTRATIVE OFFICER REPORT**

A. Arena Tour (Monday, March 26, 2012 at 4:00 p.m.)

Informational only.

B. Management Team Meeting (March 15, 2012)

Board consensus was to cancel the March meeting.

### **ADDITIONS TO THE AGENDA**

A. Great Plains Resource Conservation and Development Council (RC&D) Membership

It was noted the Board has received correspondence from Gary Bergman, County Extension Agent, and Brent Meyer, Noxious Weed Control Superintendent, regarding this issue (Exhibits D & E).

**MOTION:** Schorr moved and Raybould seconded to reconsider action at the March 1, 2012 Staff Meeting to cancel the County's membership in the Great Plains Resource Conservation and Development Council (RC&D). Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

**MOTION:** Hudkins moved and Raybould seconded to approve County membership in the Great Plains Resource Conservation and Development Council (RC&D). Hudkins, Smoyer, Heier, Raybould and Schorr voted aye. Motion carried 5-0.

B. Natural Gas

Heier suggested the Board explore converting some of the County's vehicles to natural gas as a cost savings measure.

Schorr suggested a briefing by the Nebraska Natural Gas Association and discussion at a Management Team meeting.

### C. Planning Commission

Heier asked whether the Board is interested in pursuing an expanded nomination process for appointments to the Planning Commission.

Eagan explained that the Mayor makes the appointments, subject to approval by the City Council and confirmation by the County Board. He said the practice has been, although not in writing, to allow the County Board to submit a rural name to the Mayor's Office.

Schorr asked Marvin Krout, Planning Director, what percentage of the Planning Commission's business is related to County issues. Krout estimated it as follows: 10% in the County, 20% within the City's three-mile zoning jurisdiction and 70% in the City.

Hudkins said he would like to see eight of the nine Planning Commission appointments split equally between the City and County and the ninth selected by the Planning Commission. Smoyer said he likes that proposal because it encompasses all interests. Hudkins said that way one body does not control the Planning Commission. Raybould noted 91% of the County's population resides in the urban areas and felt that should be the majority of the makeup of the Planning Commission.

The Chair and the Vice Chair agreed to discuss this matter with the Mayor at their next meeting.

### **8 PENDING**

There were no pending items.

### **9 DISCUSSION OF BOARD MEMBER MEETINGS**

- A. Lancaster County Fairgrounds Joint Public Agency (JPA) - Heier, Smoyer

Heier said they approved conservation easements.

### **10 EMERGENCY ITEMS AND OTHER BUSINESS**

There were no emergency items or other business.

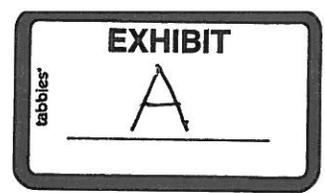
**11 ADJOURNMENT**

**MOTION:** Heier moved and Raybould seconded to adjourn the meeting at 11:40 a.m. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

*Dan Nolte*

Dan Nolte  
Lancaster County Clerk





## AG Zoning District Progress Report

### CUP Bonuses:

- Removing redundant language
- Removing density reductions
- Removing bonus for meeting energy conservation standards (these were never written or adopted)
- Increasing bonus from 20% to 25% - this will give an additional lot on 80 acres and on 160 acres.

### AG Preservation Lots (new name)

#### NOTE: Priorities were:

- *Maintaining density*
- *Access control on County roadways*
- *Preserving AG land – overall preservation of 75%*
- *Flexibility- attempted to think of many different possibilities*
- *Administrative approval –*
  - *no Planning Commission or County Board approval unless appealed*
  - *no Preliminary Plat or CUP required*
- *Ability to track –*
  - *designations on outlots,*
  - *easements in dedications*
- *Allow for future development –*
  - *public access easements are 60' to allow for conversion to local road,*
  - *easements for future utilities,*
  - *setbacks measured from public access easement,*
  - *public access easements connect to outlot or adjoining lots*

### Zoning Resolution

1. Reformat of several sections to make it easier to find information.
2. Set conditions for AG Preservation Lots
  - a. Overall density of 1 du per 20 acres
  - b. Maximum of 4 lots created
  - c. 3 – 5 acre lots –OR- preservation of 75% in outlot
  - d. Single shared driveway w/60' public access easement
  - e. Developments with less than 550' frontage on County Section line road may have frontage reduced

### Subdivision Resolution

1. Two major issues to resolve:

- a. Currently no provision for doing Final Plats without Preliminary Plat or CUP. Propose a procedure to allow final plats that meet specific requirements to be done without preliminary plat. Requirements would be based on the requirements for County Administrative Subdivision Permit.
- b. County Administrative Subdivision Permits – originally included to provide relief for those who were doing relatively small subdivisions so they did not have to go through Preliminary Plat process. With the change to administrative approval of Final Plats over the past several years there is no longer any need for CASPs. Issues these permits have include:
  - i. Misunderstanding that the permit is not the end of the process – deeds must still be filed to create the parcels. Sometimes one parcel is filed and not the other, creating cross ownership issues. Other times the lack of a recorded deed doesn't come up until the sale of property is being recorded and then the owner must go back and try to figure out how to complete the process.
  - ii. Easements cannot be created through the permit process – problems with access and utility easements not being filed
  - iii. Cannot dedicate right of way with permit, must be dedicated separately. Uses up lots of staff time preparing warranty deeds, applicant time in coming to engineering to sign
  - iv. Multiple documents might be required to complete a subdivision, where a final plat is a single document that creates lots, dedicates right of way, and creates easements, as well as restricting access and other issues.

Propose going to all Final Plat and no more of the CASPs.

2. Changes to Design Standards to allow for the AG Preservation Lots
  - a. Establish Public Access and Utility Easement of 60' for all shared driveways with AG Preservation subdivisions.
  - b. Ability of Planning Director to waive lot width to depth ratio.
  - c. Allow frontage to be calculated along a public access easement for AG Preservation Lots
  - d. Allow access to be taken from a public access easement for AG Preservation Lots

S-120411-S1

80 DU = 4 lots

Outlot A  
Agricultural Uses

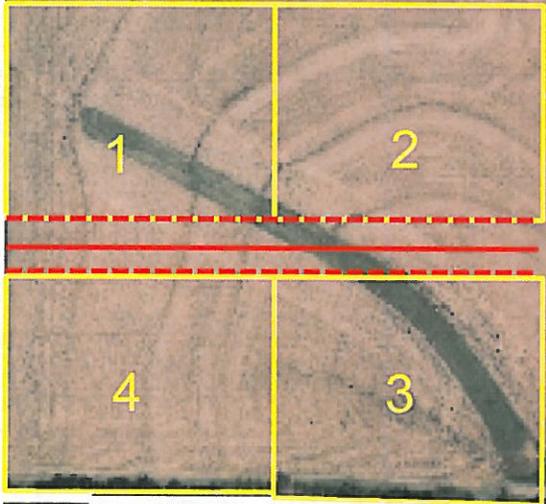
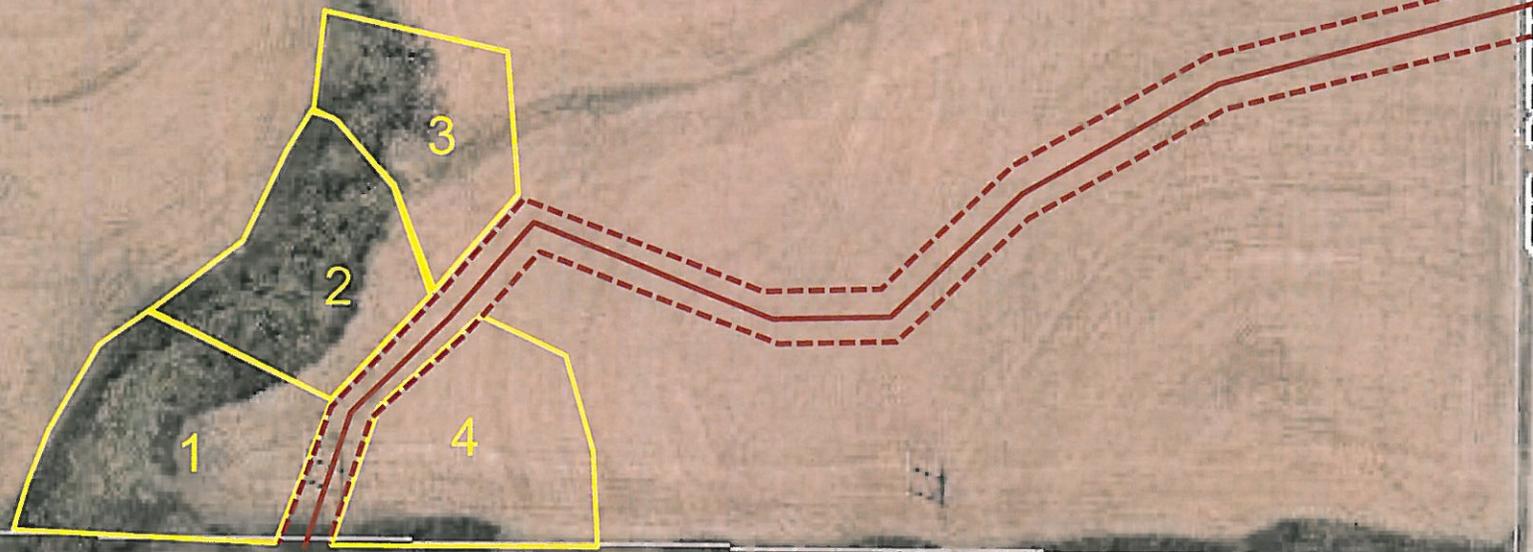


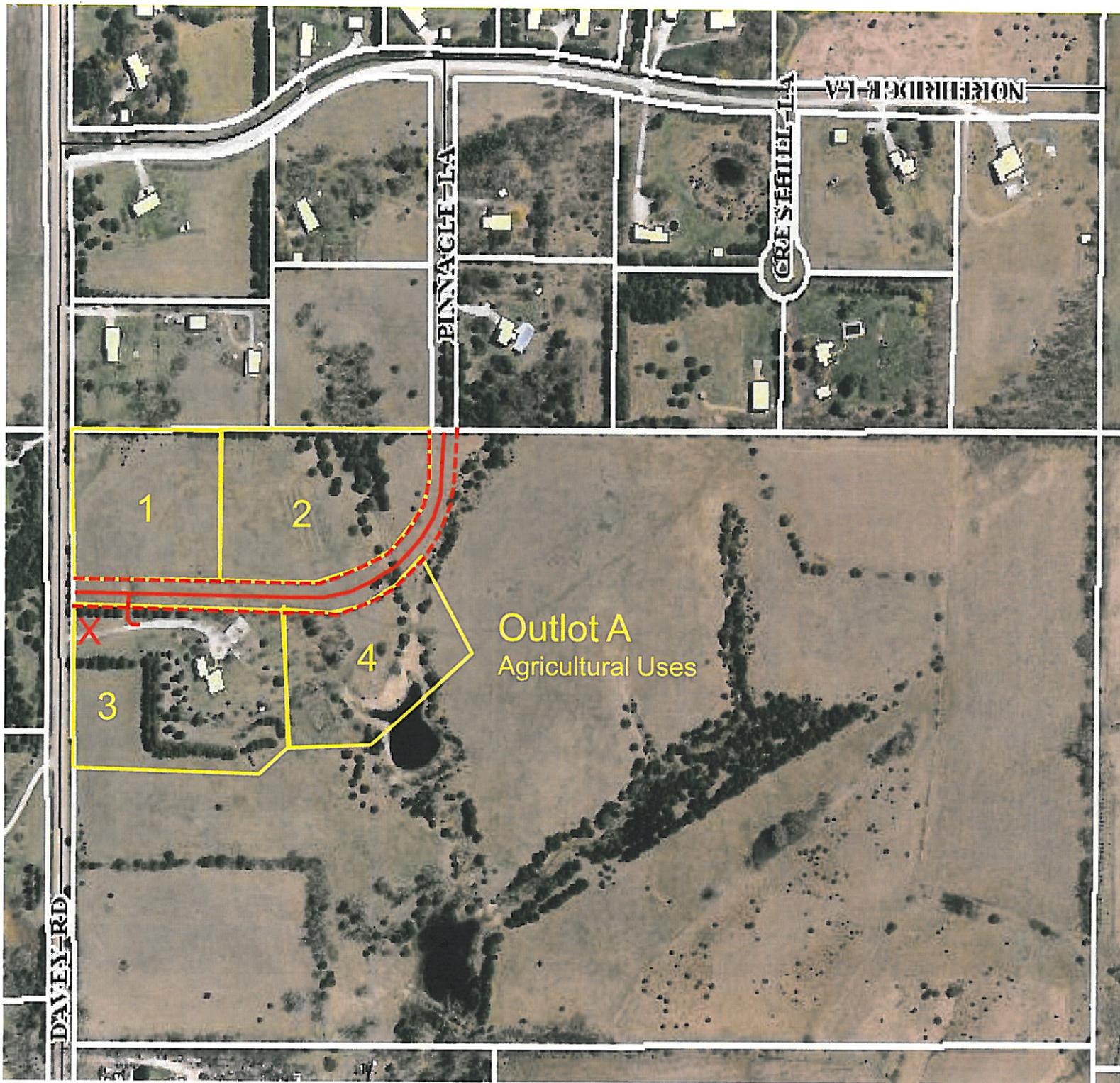
EXHIBIT  
B

80 acres – 4 DU

Outlot A  
Agricultural Uses



W. ROCKE BY RD.



80 ac = 4 du  
Public access  
easement joins  
to existing  
development,  
reroute drive for  
existing house

Farmstead removed by farmstead split prior to  
AG Preservation subdivision, leaving 75 acres  
- 3 DU

Outlot A  
Agricultural Uses

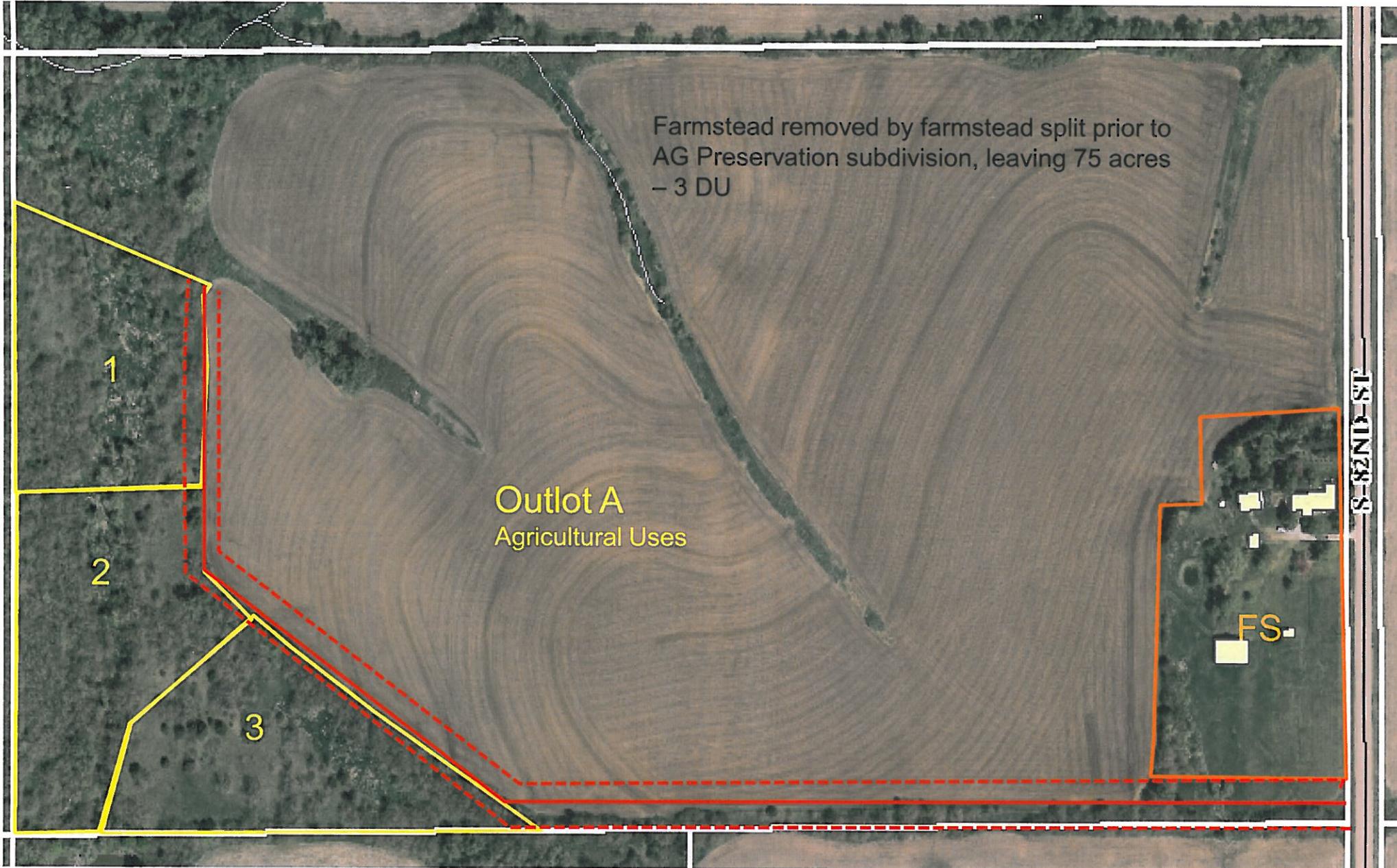
FS

S-82ND-ST

1

2

3



OLIVE CREEK RD

80 ac = 4 DU

Two different owners cooperate. 4 lots are  
platted

Outlot B  
Agriculture Uses

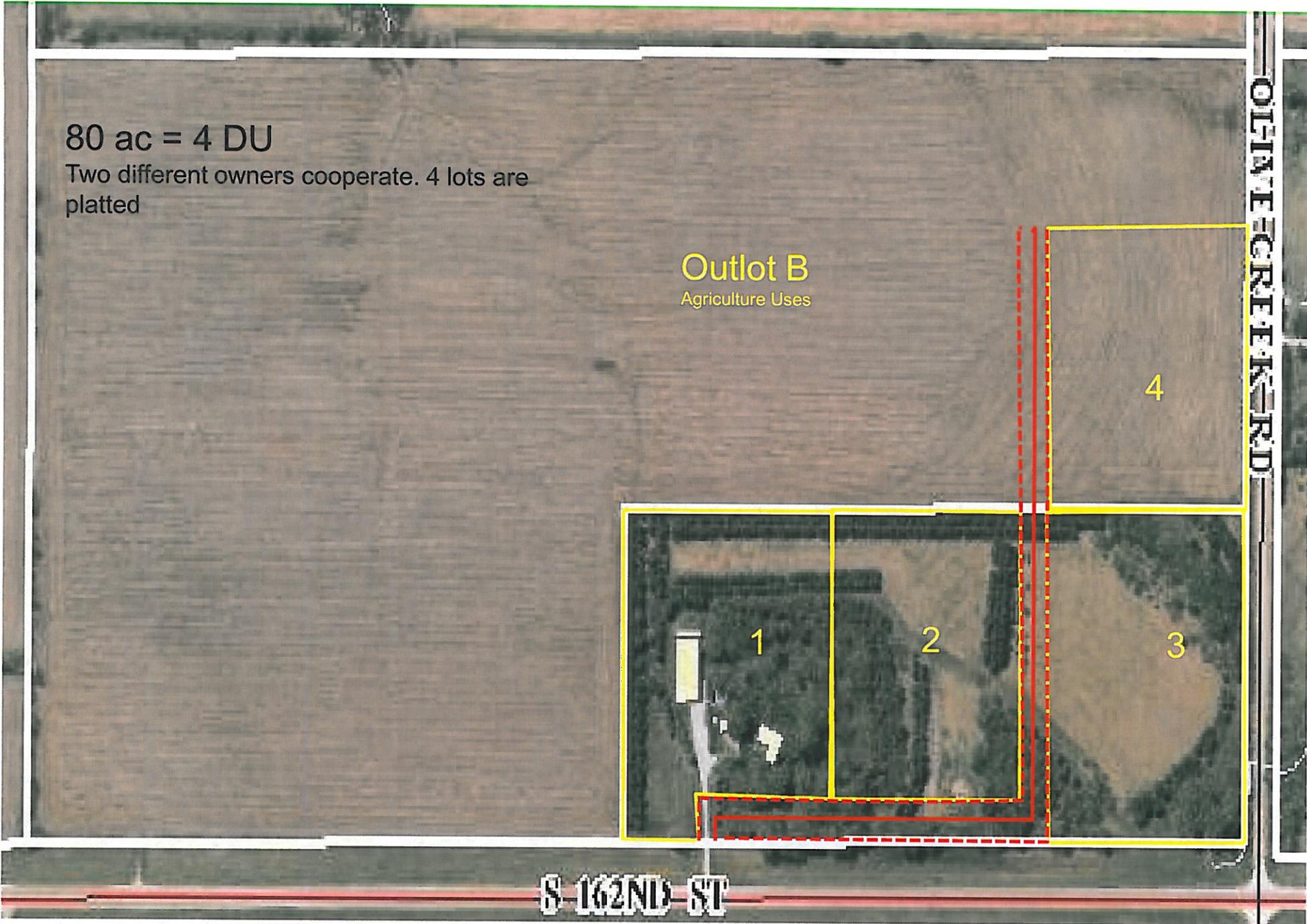
4

1

2

3

S 162ND ST



62 acres = 3 DU  
Existing farmstead does not meet minimum housing code  
Can use new provision rather than Farmstead split, establish access point and show two other future lots.

**Outlot A**  
Agriculture and Future Development

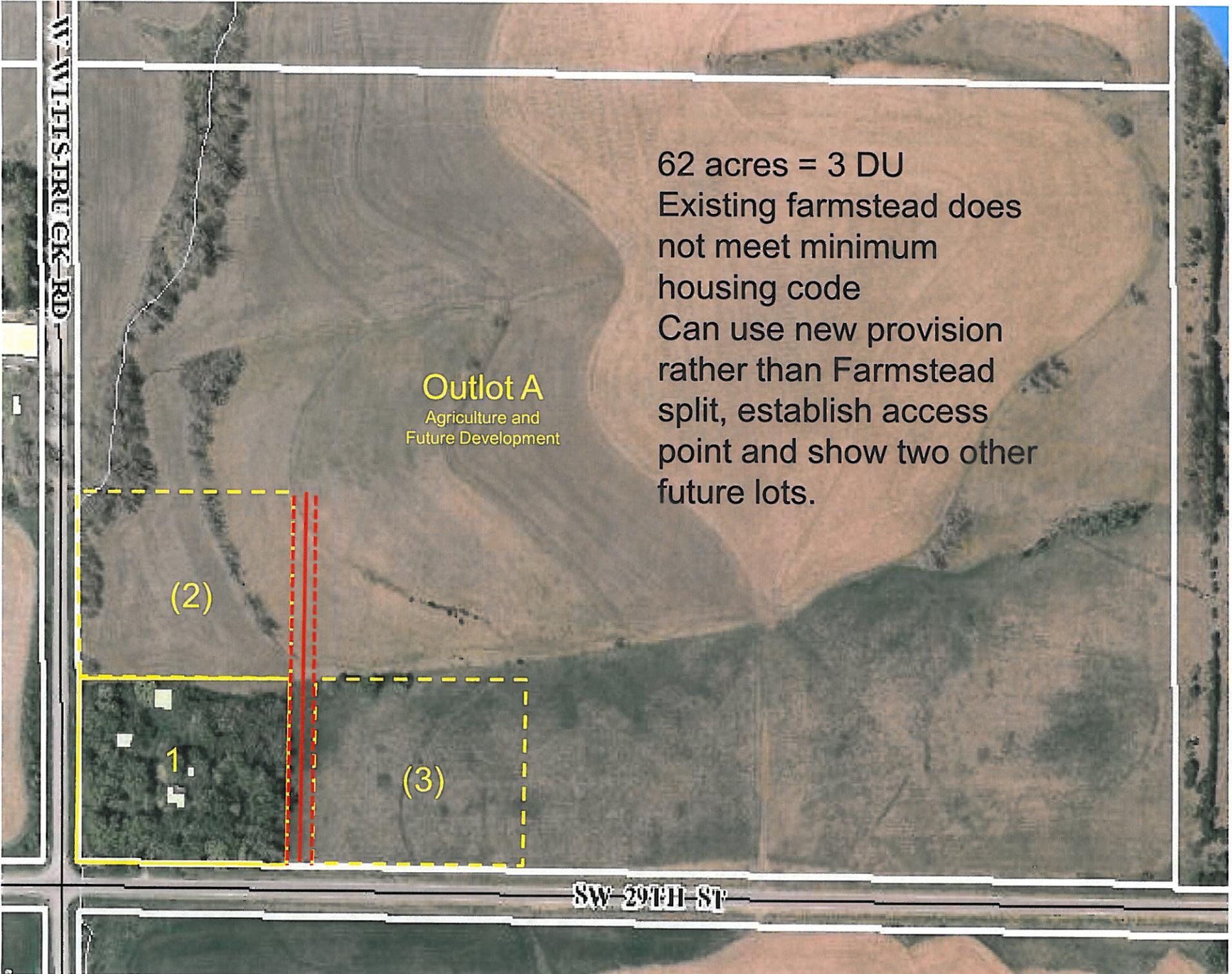
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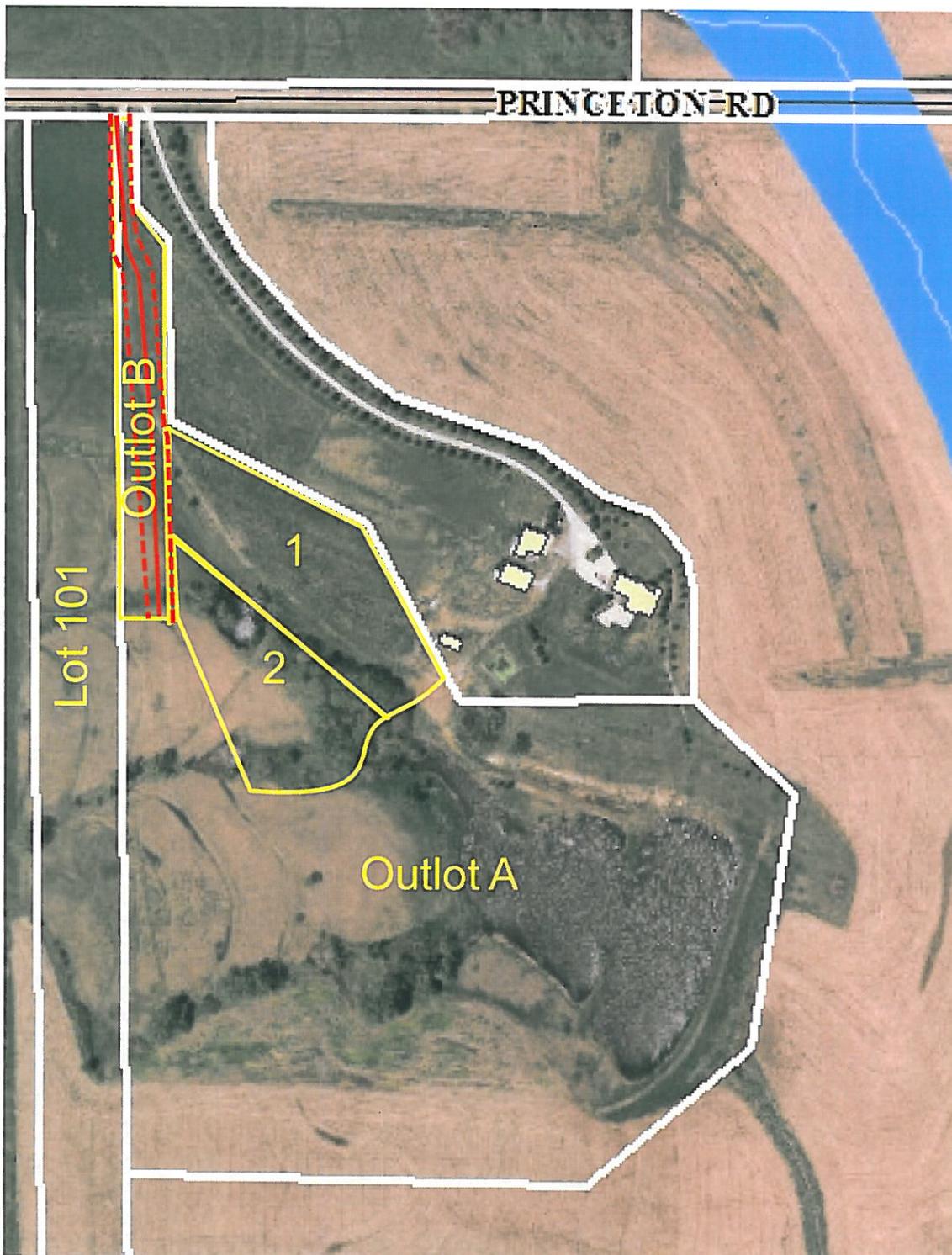
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(3)

W. WILSON CR RD

SW 29TH ST

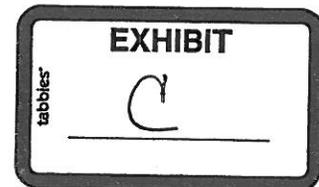




40 ac, 2 du, outlots A & B

Driveway placed in outlot B  
Only 40 feet of frontage for public access easement. Could cooperate with owner of Lot 101, to provide 60 feet, but does that affect the buildable status of Lot 101?





Lancaster County Board of Commissioners

Legislative Update

March 6, 2012

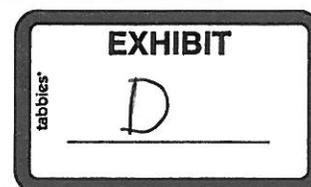
Today is the thirty-ninth day of the 60 day session.

The Revenue Committee is planning on holding an executive session either today or tomorrow to kick out LB 970. Senator Abbie Cornett will have an amendment for the committee that will delete references to the Inheritance tax among other things. The inheritance tax generates about \$40 to \$48 million to counties and our arguments seem to have won the day. The most compelling was that if we lose that capability it would result in a property tax increase. We will be watching this one closely.

LB 970 has been designated a senator Priority Bill by Senator Beau McCoy.

## E-mail Message

**From:** Kerry P. Eagan [EX:/O=EMAIL/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=KEAGAN]  
**To:** Gary C Bergman [SMTP:gbergman@unlnotes.unl.edu]  
**Cc:** Commish [SMTP:Commish@lanaster.ne.gov]  
**Sent:** 3/2/2012 at 10:55 AM  
**Received:** 3/2/2012 at 10:55 AM  
**Subject:** RE: Great Plains RC & D



**Attachments:** image001.gif

Thanks, Gary. I will forward your email to the County Board.

-kpe

From: Gary C Bergman [mailto:gbergman@unlnotes.unl.edu]  
 Sent: Friday, March 02, 2012 10:48 AM  
 To: Kerry P. Eagan  
 Subject: Re: Great Plains RC & D

Kerry,

I'm understanding and respectful of the County Board decision.

Still, I believe the membership would be beneficial and one prime example comes to mind. For a long time, the NE Great Plains RC&D has been facilitating a Lower Platte Weed Management Area. This partnership received leadership from Russ Shultz to combat invasive plants like Phragmites and Saltcedar. I don't have current dollar amounts for this project but have a 2008 figure that shows a \$156,033 partnership cost. We are also a current custodian of a Ducks Unlimited grant that is mapping invasive plants in Lancaster County with recent council expenditure of about \$17,000.

As you probably know, the extension office was asked to be the county RC&D representative when the RC&D was organized some 10-12 years. During this period I served two years as Council President and currently, I'm serving as President of the Nebraska RC&D Association representing twelve RC&D Councils covering all 93 Nebraska Counties. So, this membership decision places me in an awkward and somewhat embarrassing situation as well.

Gary C. Bergman  
 402-441-7180  
 402-441-7148 fax

Inactive hide details for "Kerry P. Eagan" ---03/01/2012 05:25:12 PM---Hi Gary,  
 Today at the Staff Meeting the "Kerry P. Eagan" ---03/01/2012 05:25:12 PM---Hi Gary,  
 Today at the Staff Meeting the County Board decided to not renew Lancaster

From: "Kerry P. Eagan"  
 To: "'Gary C Bergman'"  
 Cc: "Gwen K. Thorpe" , "Minette M. Genuchi"  
 Date: 03/01/2012 05:25 PM

Subject: Great Plains RC & D

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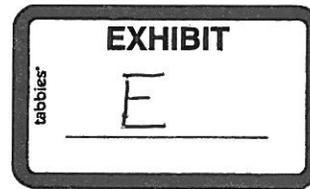
Hi Gary,

Today at the Staff Meeting the County Board decided to not renew Lancaster County's membership in the Nebraska Great Plains RC & D. The decision was based on continuing budget concerns and the need to save money whenever possible. However, several of the commissioners did leave open the possibility of reconsidering if it can be shown it is more beneficial for the County to be a member than to withdraw. Please let me know if you have any questions.

Kerry P. Eagan  
Chief Administrative Officer  
Lancaster County Board of Commissioners  
County-City Bldg.  
555 S. 10th Street, Rm 110  
Lincoln, NE 68508  
Telephone: (402) 441-7447 Direct (402) 441-6865  
email: HYPERLINK "mailto:keagan@lancaster.ne.gov"keagan@lancaster.ne.gov

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March 2<sup>nd</sup>, 2012

Board of Commissioners,

In talking with Gary Bergman at Extension this morning he mentioned that the Board was not planning on funding the Great Plains RC&D in the coming year. I would ask that you reconsider this \$200 funding for a couple reasons.

The Great Plains RC&D has been the facilitator for the Lower Platte Weed Management Area (LPWMA) since its beginning in 2002 and is a very important partner in our success. The LPWMA needs the support of the RC&D to continue our projects we are currently working on and have planned in the future. In 2011 Lancaster County benefited from a Ducks Unlimited grant managed by the Great Plains RC&D for **helicopter surveys** of Salt Creek (\$1,900) and most recently **remote sensing** for phragmites within the county (\$2,000). The amount of money that these two projects will save the taxpayers of Lancaster County will never be able to be measured, but both projects are a tremendous benefit to us in successfully combating invasive weeds in the county.

I understand the challenges faced with our current budget, but just wanted to let you know the benefits that the Weed Control Department continues to receive from our partnership with the LPWMA and the Great Plains RC&D.

Sincerely,

Brent Meyer

Weed Control Superintendent