

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT
for December 8, 2004 PLANNING COMMISSION MEETING

P.A.S.#: County Change of Zone #04080

PROPOSAL: A Change of Zone from AG Agriculture to I Industrial District on property generally located at the northeast corner of Highway 2 and Highway 43(S. 162nd Street).

LAND AREA: 28.56 acres, more or less

CONCLUSION: Though this is not shown on the 2025 Comprehensive Plan map, it is shown on the Bennet Comprehensive Plan and the Lincoln Lancaster County Plan does acknowledge the town plans. If it were limited in size to 6 - 8 acres, the intended industrial use of the intersection could be preserved and both the Plans would be followed.

| |
|---|
| <u>RECOMMENDATION:</u> Approval of the northern 5 - 6 acres needed for the plant |
|---|

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 16, Irregular tract in the Southeast Quarter of Section 27, T9N, R8E, in the 6th P.M., Lancaster County, Nebraska.

LOCATION: Northeast of the corner of S.162nd Street/ Hwy 43 and Nebraska Hwy 2/Rokeby Road.

EXISTING ZONING: AG Agriculture

EXISTING LAND USE: farm land/pasture

SURROUNDING LAND USE AND ZONING:

| | |
|--|---------------------------|
| North: Agriculture, one house | zoned AG |
| South: Agriculture and convenience store | zoned AG and I Industrial |
| East: Agriculture, | zoned AG |
| West: Agriculture, one house | zoned AG |

ASSOCIATED APPLICATIONS: None

HISTORY: Changed from AA Rural and Public Use to AG Agriculture in the 1979 zoning update. A change of zone from AG to I south of this parcel, was approved in part, in 1986.

COMPREHENSIVE PLAN SPECIFICATIONS: The 2025 Plan shows this as Agriculture, across the street from Industrial. This is not in any Lincoln growth Tier. The 2025

Comprehensive Plan states:

Acknowledge the “Right to Farm” and preserve areas for agricultural productions throughout the county by designating specific areas in advance for rural residential so as to limit areas of potential conflict between farms and acreages (pg F 70)

Residential, commercial, and industrial development take place in the City of Lincoln and within incorporated towns. This ensures that there are convenient jobs and a healthy tax base within the communities to support the public safety, infrastructure and services within the community. While location in the cities and towns of the county is a priority, unique site requirements of a business may necessitate consideration of other suitable and appropriate locations in the county. (F 16)

Commercial and industrial districts in Lancaster County shall be located:

- within the City of Lincoln or incorporated villages
- outside of saline wetlands, signature habitat areas, native prairie and floodplain areas (except for areas of existing commercial and industrial zoning)
- where urban services and infrastructure are available or planned for in the near term
- in sites supported by adequate road capacity – commercial development should be linked to the implementation of the transportation plan
- in areas compatible with existing or planned residential uses
- in areas accessible by various modes of transportation (i.e. automobile, transit and pedestrian)
- so that they enhance entryways or public way corridors, when developing adjacent to these corridors
- in a manner that supports the creation and maintenance of green space as indicated in the environmental resources section of this Plan. (F 38)

The majority of new development takes place within the City of Lincoln. However, it is important to strengthen existing commercial and support new development within the incorporated communities of Lancaster County. Commercial development in towns also provides space for businesses that support farm operators within the county. (F 49)

Development within the incorporated towns and their one mile zoning jurisdiction will be determined by the communities themselves. However, the Lincoln/ Lancaster County Comprehensive Plan supports these communities and their efforts at maintaining and improving their commercial and industrial base. All new commercial and industrial development should be within Lincoln or the incorporated communities. Continue County’s support for road improvements that accommodate commercial and other development within the towns. (F 50)

Town plans should be acknowledged in the Comprehensive Plan. (F 73)

SPECIFIC INFORMATION:

UTILITIES: This is in the Lancaster County Rural Water District #1. On site wells are proposed. Norris Public Power is the electric provider.

TOPOGRAPHY: Rolling, draining to the east, southeast.

TRAFFIC ANALYSIS: This area is served by the interchange at this location for Nebraska Hwy 2 and Hwy 43/162nd Street. S 162nd is a gravel county road adjacent and north of this

site.

PUBLIC SERVICE: This is in the Bennet Rural Fire District and the Bennet Palmyra School District OR-1. This is served by the Lancaster County Sheriffs Department.

REGIONAL ISSUES: Expansion and location of commercial and industrial sites.

ENVIRONMENTAL CONCERNS: There are no identified historic or ecological resources on this site. The soil rating on this land is 5.8 on a scale of 1 to 10 where 1 to 4 are prime. This is not prime ag land. There is no FEMA mapped flood plain. No animal confinement was noted in the immediate area. One residence is in close proximity. Potential impacts of industrial operations include dust, noise, traffic and sight pollution.

AESTHETIC CONSIDERATIONS: n/a

ALTERNATIVE USES: Continued agricultural use or one residential lot.

ANALYSIS:

1. This request is for a Change of Zone from AG Agriculture to "I" Industrial on a 28.56 acre parcel. Water is proposed to be from on site wells.
2. The County "I" zoning district allows many commercial and industrial uses by right. A parcel this size could allow 285,000 square feet of commercial or industrial uses with very few development or environmental standards to protect public health and safety as would normally be found in municipal ordinances. Concrete and asphalt plants are sometimes placed outside urban areas because they are thought to be non desirable neighbors. But full industrial development of his area should await full municipal services and annexation by Bennet. Locating these facilities near the growing edge of cities and towns can also result in less truck travel to construction sites then other sites inside the city limits.
3. The applicant notes only 3 - 4 acres at the north end of the property will be utilized for the plant and the balance will be planted to grass and buffering. The exact location of the plant siting has not been determined. A siting which is 1000 feet or more north of Highway 2 will minimize any negative visual impact for motorists driving west into Lincoln on Highway 2.
4. Reviewing agencies had few concerns. The County Engineer notes ingress and egress must be one way and S. 162nd Street requires paving to the second access drive.

5. This request is not in conformance with the Lincoln-Lancaster County Comprehensive Plan map which shows this as Agriculture. A point system for increased density has not been developed. However, the “raw score” run for this property is - 21, where staff has suggested a score of 300 or more for consideration for a change of zone.
6. The change of zone to “I” is supported by the Bennet Comprehensive Plan and some language of the Lincoln Lancaster Comprehensive Plan.
7. If approved, the change of zone should be limited to no more than 6 - 8 acres in size, taking access from the existing drives. So. 168th must be paved and the residence to the northeast must be buffered to reduce the impact of noise and dust. This would allow it to meet the Bennet and Lincoln/Lancaster Plans and still provide protection for future uses, as well as meeting the needs of the applicant.
8. Some acreage review issues can be addressed in this report:
 - a) Water/rural water,
This is in a rural water district, private well water is proposed.
 - b) Road access and paving,
Hwy 2 and 43 can handle the traffic of this application. However, paving of S. 162nd Street is required if approved.
 - c) Soil rating,
The soil is not prime ag land of the county.
 - d) Development of the area/land parcelization,
The surrounding land in this area is in substantially larger parcels of 40 and 80 acres in area. A truck stop exists on a smaller parcel on the southeast corner of this interchange.
 - e) Existing acreages,
There are no abutting acreage developments.
 - f) Conflicting farm uses,
There are no conflicting farm uses noted in a field check. A farm house to the northeast could be impacted by traffic, noise and dust.
 - g) Environmental issues,
Concrete batch plants can be a source of dust and noise. Buffering of the residence to the northeast is required.

h) Impact on other governmental entities,
This will increase demand for service on the Sheriff, Rural Fire, School, Roads and others. The level of impact is not known.

i) Plans of other towns,
The 1995 Bennet Comprehensive Plan shows this as Industrial.

9. The applicant's attorney has indicated they will consider conditions of approval if proposed by staff, and will provide a legal defining the smaller area. Due to the size of this change of zone, if changed to 6 - 8 acres, and the supporting Plan language in both the County and Bennet's Plans, no Comprehensive Plan amendment is required for this action. (The applicant did submit a Comprehensive Plan amendment to be used if needed. That is now on hold and will be withdrawn if the smaller size is approved).
10. Normally, concrete and asphalt plants would be approved by communities by "special permit" in location such as this, enabling the approving authority to establish appropriated conditions. The County zoning resolution does not have a provision like this, but the County Attorney has previously ruled that conditions could be established in a change of zone application. If approved by the County Board, the resolution authorizing the change of zone should include conditions of approval, as outlined below:
- A) Pave the adjacent county road to the County Engineers satisfaction.
 - B) The use of this site shall be limited to a concrete plant and related uses. Rock crushing is prohibited.
 - C) In order to provide some respite to neighboring residential uses, operation of the concrete plant should be limited to 7 AM to 7 PM and not include Sundays or National Holidays.
 - D) Noise at the property line shall not exceed the City of Lincoln noise requirements.
 - E) The applicant shall provide visual and noise screening to the standard of the City of Lincoln Screening and Landscaping for adjacent uses of substantially different character, Chapter 3.50, section 7.5. This shall be provided on all sides of the plant proper. Additional landscaping and plant material will be provided in the remaining portion of the premise abutting Highway 2.

F) All structures and storage shall located outside of setbacks, equivalent to the AG zoning.

Prepared by:

Mike DeKalb, 441-6370, mdekalb@ci.lincoln.ne.us
Planner
November 18, 2004

APPLICANT: Capitol Concrete Company
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P. O. Box 82233
Lincoln, NE 68501
(402) 476-6679

CONTACT: Rocky C. Weber
134 South 13th Street, Suite 400
Lincoln, NE 68508
(402) 434-7300

OWNER: Francke Farms, Inc
RR 1m /box 12 A
Walton, NE 68461
(402) 488-8297



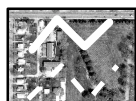
2002 aerial

County Change of Zone #04080 Hwy 2 & Bennet Interchange

Zoning:

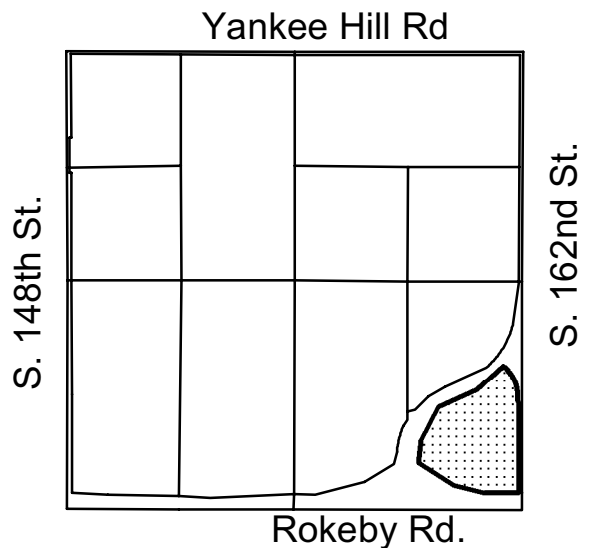
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
Sec. 27 T9N R8E



Zoning Jurisdiction Lines

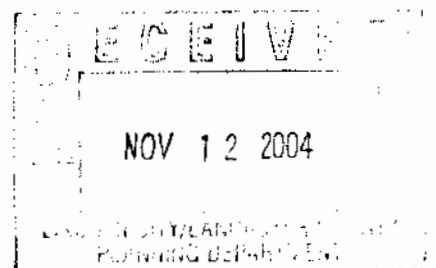
City Limit Jurisdiction



LEGAL DESCRIPTION

Lot Sixteen (16) of the Southeast Quarter (SE1/4) of Section
Twenty-seven (27), Township Nine (9), Range Eight (8) in
Lancaster County, Nebraska.

**County Change of Zone #04080
Hwy 2 & Bennet Interchange**



Total area
28.56 acres
Paved area
approx 3-4 acres

N
← → S

Ditch

stormwater
collection

shop

cell tower
plant

concrete
paved area

berm

167.0

County Change of Zone #04080
Hwy 2 & Bennet Interchange

Highway
ditch

RECEIVED
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COUNTY LANDS & PLANNING DEPARTMENT

Hwy #2

LAW OFFICES

CROSBY GUENZEL LLP

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134 SOUTH 13TH STREET, SUITE 400
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ROBERT C. GUENZEL (RETIRED)

ROBERT B. CROSBY (1911-2000)
THOMAS R. PANSING (1917-1973)
DONN E. DAVIS (1929-1998)

November 8, 2004

Lincoln-Lancaster County
Planning Department
555 S. 10th Street
Room 213
Lincoln, NE 68508

Re: Capital Concrete Plant Expansion – Bennet, Nebraska

Ladies and Gentlemen:

Our office represents Capital Concrete Company. Capital Concrete Company is seeking a change of zone from agricultural to industrial and any related amendment to the Lincoln-Lancaster County Comprehensive Plan that may be required in order for it to construct and operate a ready-mix cement plant at the northeast corner of Highway 2 and 162nd Street (the Bennet interchange).

We have enclosed herewith the Lancaster County Zoning Application and related materials to commence this process. We have also enclosed herewith our Firm check in the amount of \$990 reflecting the \$740 filing fee for the change of zone from AG to IND and \$250 for the Comprehensive Plan Amendment.

Please advise us as to when this matter will be presented for hearing before the Lincoln-Lancaster County Planning Commission. If there is any further information you need in order to analyze this Application, please do not hesitate to contact us.

Sincerely,

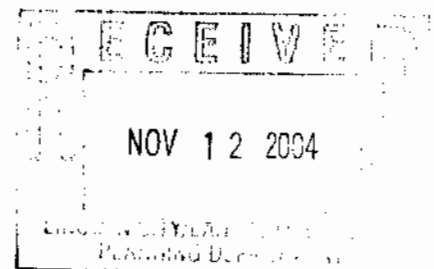
CROSBY GUENZEL LLP

By 
Rocky C. Weber

RCW:tlh

cc: Don Voges

Enclosures



PURPOSE STATEMENT

Capital Concrete Company is seeking a zoning change from Ag to Industrial for the following described real property that is located at the Bennet-Highway 2 Interchange:

Lot Sixteen (16) of the Southeast Quarter (SE1/4) of Section Twenty-seven (27), Township Nine (9), Range Eight (8) in Lancaster County, Nebraska, consisting of approximately 28.65 acres

The purpose for the requested change of zoning is to enable Capital Concrete Company to construct and operate a redi-mix concrete plant on the property. Capital Concrete Company has entered into a purchase agreement with the owner of the property, Francke Farms, Inc.

Company History

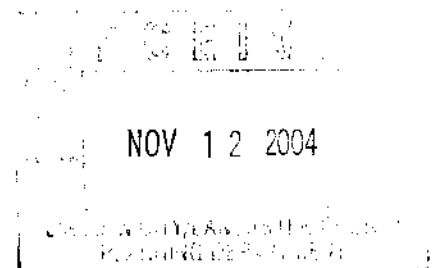
Capital Concrete Company was started by Duane Funk in 1968 at its present location in Lincoln, Nebraska. Duane started with a used plant and a few used redi-mix trucks. Duane was an involved citizen of the community and spent countless hours working with local homebuilders associations, state redi-mix associations, and local business groups helping to make Lincoln and Lancaster County a better place. Along with this he built a strong and family oriented concrete business that has become the backbone of residential concrete in Lincoln and Lancaster County. Unfortunately, Duane passed away in 1988. Duane's legacy lives on at Capital, through his wife Barb and daughters Kris and Connie.

Today Capital employs fifteen concrete drivers, one cement tanker driver, one yard supervisor and six office personnel. Capital currently provides wages and benefits of approximately two million dollars per year that is spent in the Lincoln and Lancaster area.

Capital supplies concrete for approximately eighty percent of the residential basements in Lincoln and Lancaster County along with many commercial developments, apartments, streets and parking lots. Capital has constantly strived to maintain a strong business and yet be aware of environmental issues. Capital is currently the only concrete producer in Nebraska that has installed Enviroguard wash systems on all its concrete trucks. This system allows the driver to clean his truck and chutes without dumping concrete and contaminated wash water on the ground and into our environment. Capital has also installed Chute Shutters on all of its trucks, which prevents any material from escaping the rear of the truck thereby preventing spills on our streets.

Capital has always prided itself in its quality product, state-of-the-art equipment and employees that will go the extra distance for its customers. Because of its strong work ethic, Capital has found itself in the position of needing an additional plant site to conduct its growing business.

**County Change of Zone #04080
Hwy 2 & Bennet Interchange**



The Proposed Plant

Capital desires to expand its business with a new plant at the northeast corner of Highway 2 and 162nd, which is the northeast corner of the Bennet interchange. Capital has entered into a purchase agreement for approximately 28 acres of land. This location provides a safe entrance and exit off the highway and good access to east Lincoln, eastern Lancaster County and several counties to the east, south, and north of this location. The plant will utilize approximately three to four acres of the site, which will be paved with concrete. The remainder of the site will be planted with a low maintenance grass, trees and shrubs.

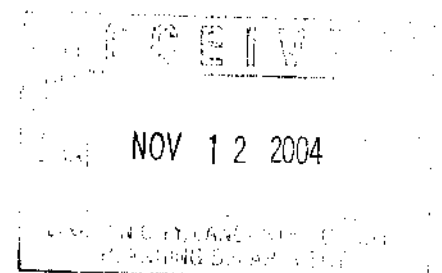
The plant design will include gravel truck unloading directly into large gravel hoppers that will feed the plant directly with an underground conveying system. The plant will also include a concrete reclaiming system that will utilize all returned concrete and truck wash water. It will separate out the rock and sand to be reused in making fresh concrete. The gray water that is left will be used also in the manufacture of fresh concrete. The site will also utilize storm water runoff in its production. The site will be paved so that a collection holding tank will gather this water so it can also be used in production and cleaning. The new plant will utilize all of the latest dust collection devices to insure a clean and safe environment. Attached hereto is a brochure that includes some of the details about the Environ-Port system that Capital plans to install at the proposed site.

Capital anticipates there will be eight employees assigned to this plant on a permanent basis, which will provide approximately three quarters of a million dollars in wages and benefits to the local economy. Capital also anticipates that future growth will provide additional jobs and wages at this site.

Capital anticipates construction of the plant would take place in the Spring and early Summer of 2005, and that the plant would be fully operational by June-July of 2005.

Proximity to the City of Bennet

Capital Concrete Company believes that locating its new plant on the above-described real property will be beneficial to the City of Bennet and is involved in ongoing discussions with Planning Commission members for the City of Bennet for purposes of soliciting its input on the location of the proposed plant. The City of Bennet Planning Commission has indicated that the community has previously indicated its desire to have this property zoned for industrial use. Attached hereto as "Exhibit A" is a land use plat obtained from the City of Bennet Planning Commission indicating its preference for zoning in and immediately surrounding its jurisdictional limits, including the subject tract of property. Additionally, after Capital's recent presentation of its proposal for the new plant, the City of Bennet Planning Commission has indicated that it would like to address the matter at its next public hearing. All indications at this time are the City of Bennet Planning Commission sees the proposed plant as an opportunity for growth and development that may benefit the city.



Utilities

Capital Concrete Company has communicated with Norris Public Power District regarding power to the property and has received confirmation that Norris Public Power District will extend its utility lines to supply power to the property that is sufficient to meet the needs of the plant.

Capital Concrete Company has investigated and confirmed the availability of sufficient water for the plant at the proposed site. Numerous test wells have shown the availability of water.

Capital Concrete Company has investigated and confirmed the availability and feasibility of sufficient waste disposal via the installation of a septic system.

Roads-Traffic, Ingress/Egress

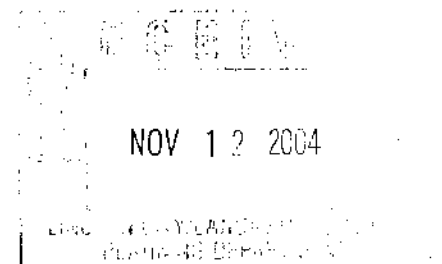
The proposed site is a convenient location and offers direct and safe access to Highway 2 for purposes of concrete delivery to the City of Bennet, the City of Lincoln and the entire surrounding community. Ingress and egress to the proposed site is unobstructed, and the site and the anticipated traffic generated by the plant will not unnecessarily or unsafely interfere with existing traffic at the interchange.

Representatives of Capital have contacted the Nebraska Department of Roads and all indications at this time is that the Department has no objections to the proposed location of the plant.

Environment and Health Issues

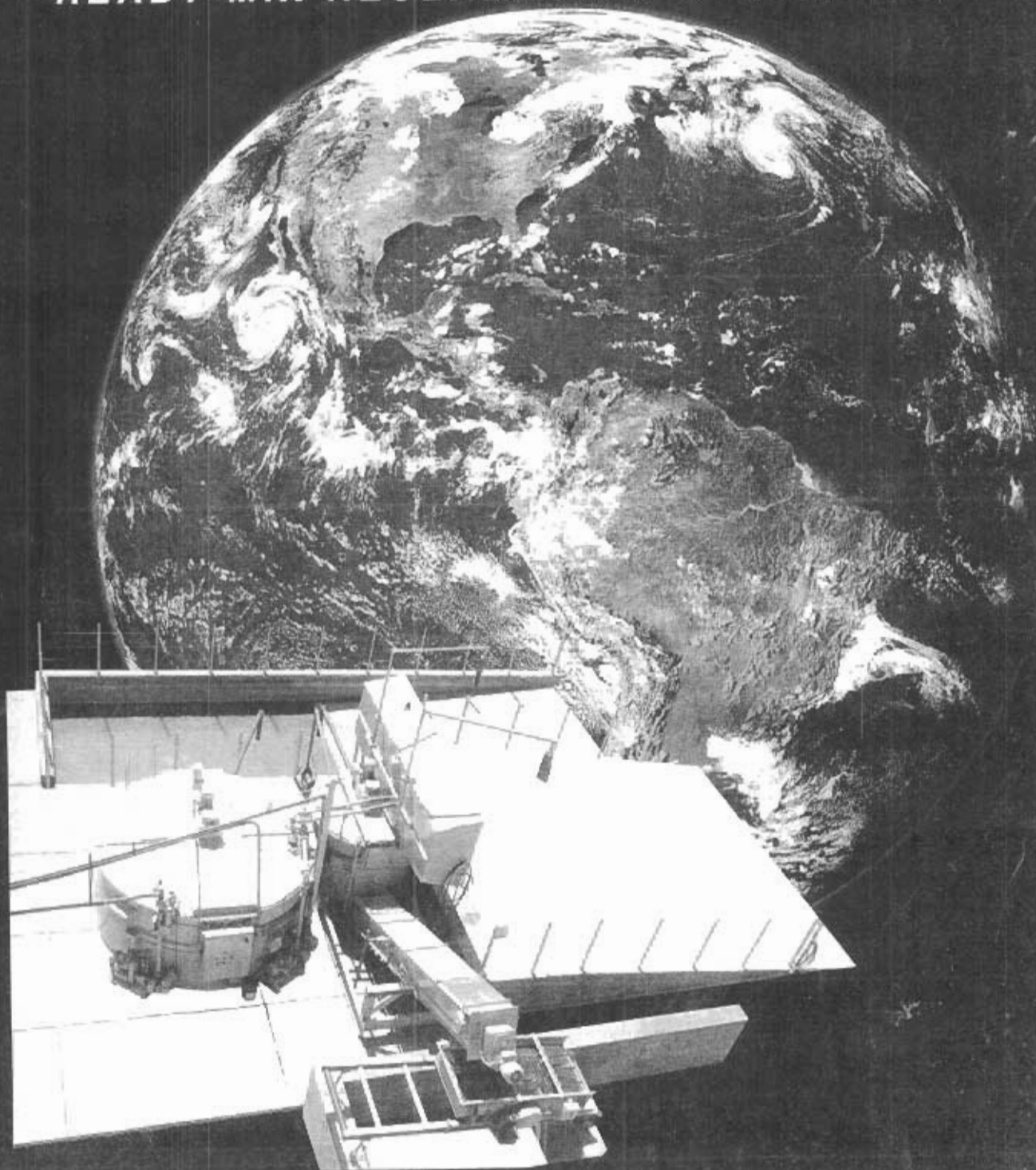
Because of its design, as discussed above, Capital's proposed plant will be the most environmentally friendly redi-mix plant in the area.

Representatives of Capital have explored permitting requirements with the Nebraska Department of Environmental Quality and have had contact with the Lancaster County Department of Health. Capital has submitted or is in the process of submitting all necessary applications for environmental permits.



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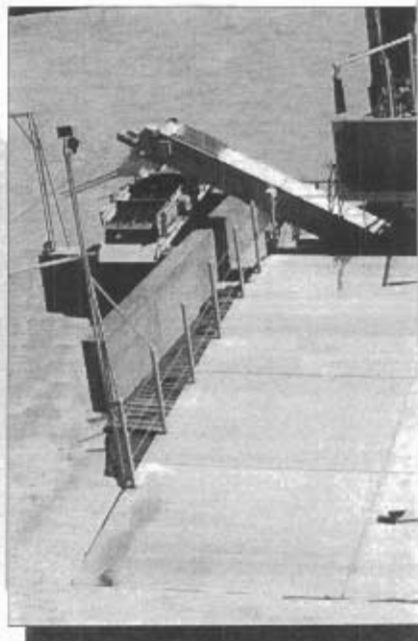
**County Change of Zone #04080 Environmental
Hwy 2 & Bennet Interchange Our World**

ENVIRO-PORT

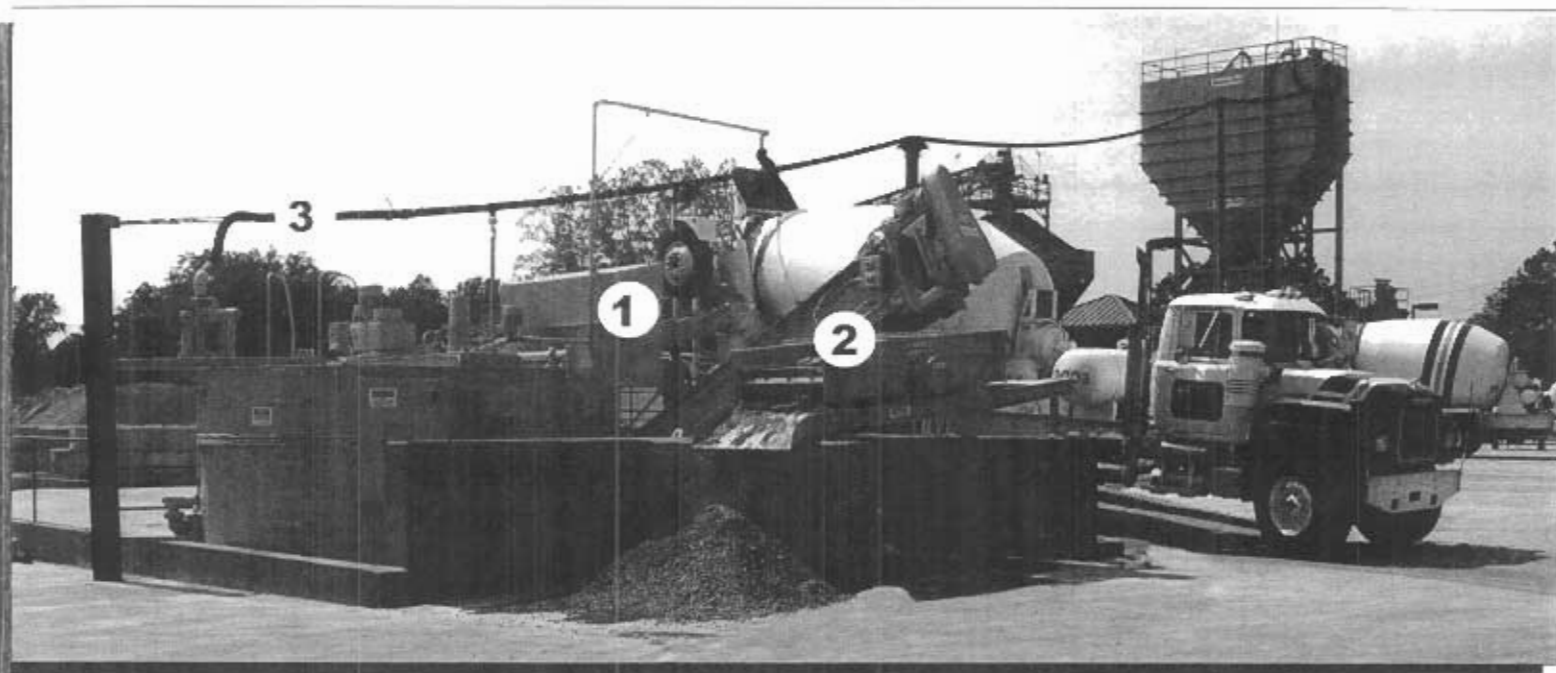
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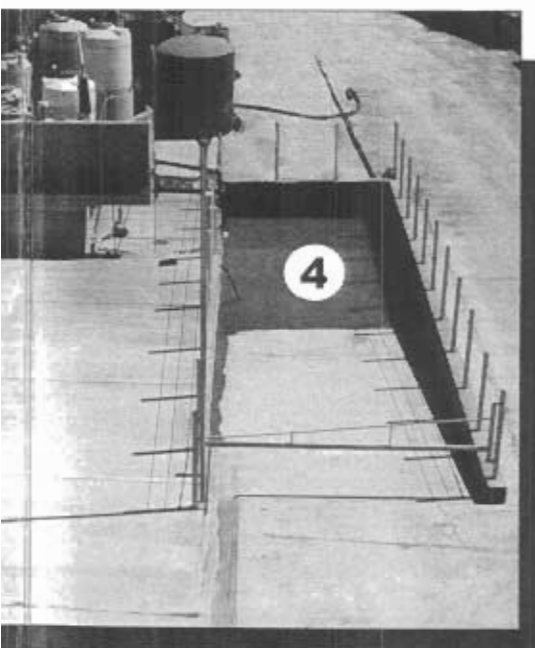
The *ENVIRO-PORT* Recycling System process is performed with the following steps.

1. Returned ready-mix is poured directly into the intake hopper. Sand and stone is swept into the diagonal screw conveyor while residual water is kept in suspension in the agitation tank.

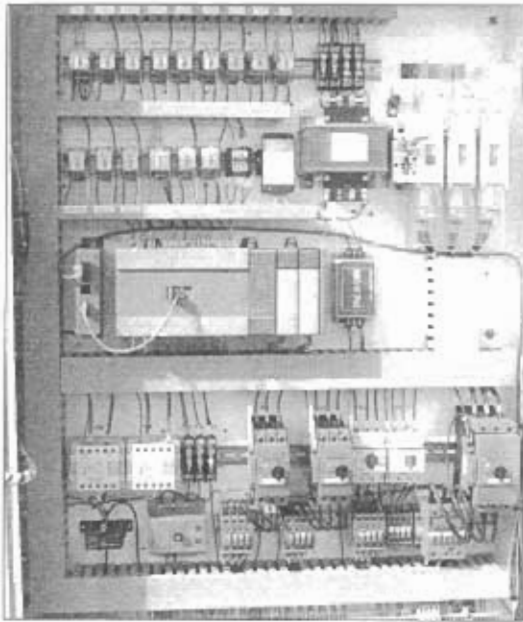
2. Clean sand and stone is transported above residual water level where it is given a final rinse and stock piled for reuse. (Separation can be performed with optional screen deck.)

3. Residual water is pumped back to the batch plant for reuse in controlled amounts.

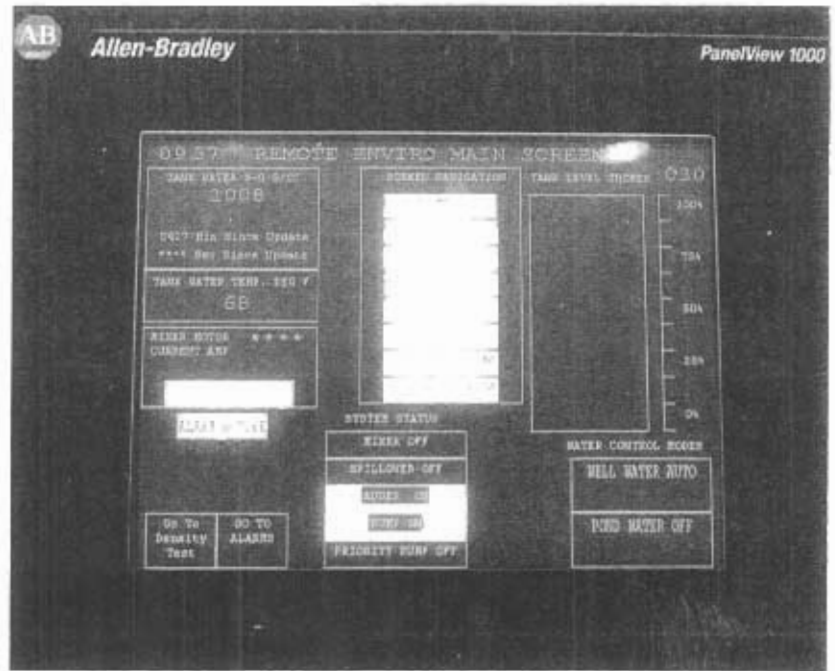
4. A storm water and/or process water capture basin can be added to your plant. This water can be automatically pumped into your *ENVIRO-PORT* system for reuse in batching. The *ENVIRO-PORT* system can "utilize" this water instead of creating more.



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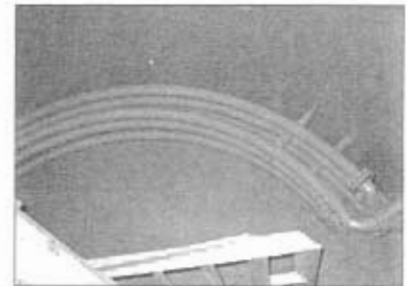
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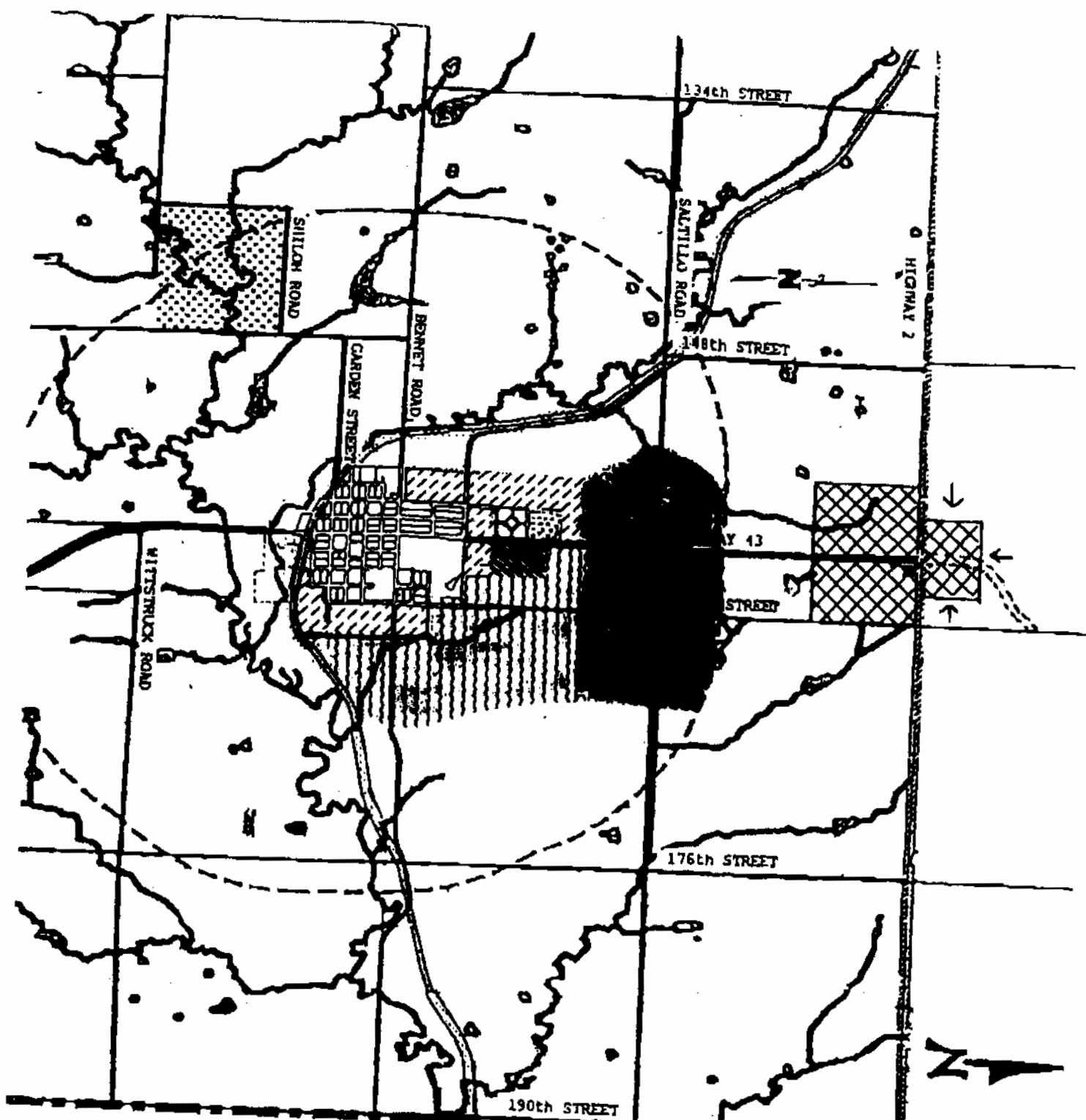
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- Legend**
- Single Family Duplex
 - Medium Density Residential
 - Low Density Residential Large Lot
 - Multi-unit Apartment
 - Retail Commercial
 - Light Industrial
 - Recreation
 - Rail - T&E

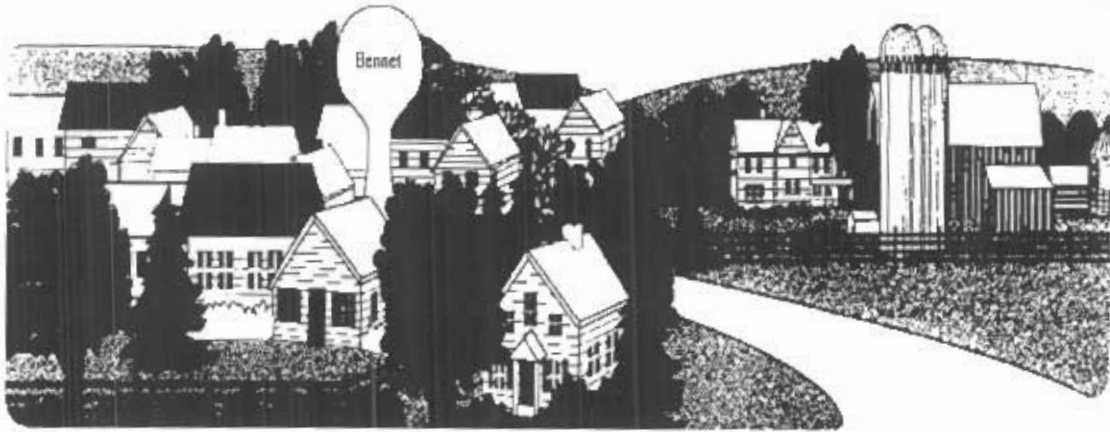


Land Use
NOV 12 2004

**County Change of Zone #04080
Hwy 2 & Bennet Interchange**

SMITH COUNTY PLANNING DEPARTMENT

VILLAGE OF BENNET



COMPREHENSIVE DEVELOPMENT PLAN 1995



however, that Bennet does not have potential in this area. Some companies are eager to locate in smaller towns.

Land currently used for industrial purposes is along the railroad on the south edge of the Village. There is little room for expansion within that area. The Village may want to work with the Nebraska Industrial Site Evaluation Team to help develop a suitable site(s) for limited industrial expansion. Any industrial expansion which occurs should be carefully controlled for smoke, dust and noise nuisances, should have direct access to a major street, and should have adequate off-street parking facilities for its employees.

Improvements currently planned by the Nebraska Department of Roads could have a very positive impact on the desirability of locating near the junction of Highway 2 and Highway 43. Easy access to the major highway will increase the advantages to locating in this area. The Village recognizes the potential for industrial and/or retail uses in that area. The main development area should be on the south side of Highway 2 and only limited development should be allowed to the north. No development should be allowed in either area which would be detrimental to the Village.

Park Development and Open Space Preservation

Stream and drainage courses, tree stands, and other natural features should be developed as parks or preserved as open space. However, many of these areas are likely to remain in private ownership. Plans should be developed to maintain and improve existing facilities.

In July of 1994, the State of Nebraska adopted a comprehensive trails plan for the State. The Burlington Northern Railroad line running from Lincoln through Bennet to Nebraska City was identified as a potential trail. The suggestion is that such lightly used rail corridors be monitored for future rail banking and development as multi-use trails. The Village should keep aware of such plans which would connect it with the State trails system.

Preservation of Agricultural Lands

There is a growing awareness of the importance of agriculture in feeding a growing worldwide population, and its role in the local, regional and even national economy. The Lincoln-Lancaster County region has long supported the policy of retaining agricultural lands and has opposed unneeded and indiscriminate conversion of agricultural land to urban uses.









Rural lands should be retained in agricultural use until needed for community expansion. Because of the physical features of the land, Bennet will have to grow toward the north and east. Therefore, some of that land near the current Village limits may need to be converted from agricultural use in the future. The land west and south of the river within the one mile radius of Bennet should be reserved as agricultural.

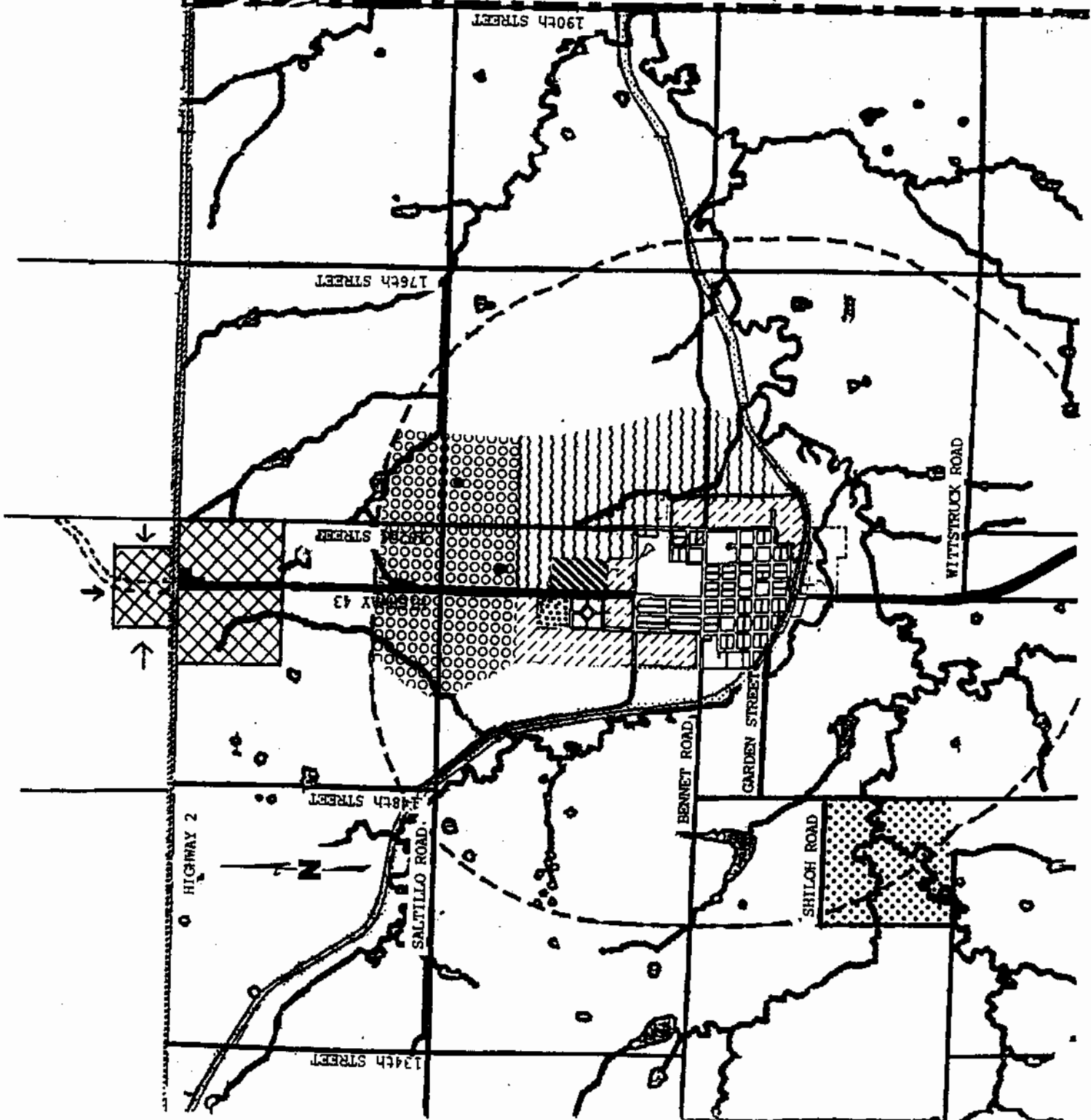
Future Land Use Policies

As the future of Bennet unfolds, the following land use policies should be used to help guide the development in and around the Village in a positive direction. These policies

Land Use

Legend

-  Single Family Duplex
-  Medium Density Residential
-  Low Density Residential Large Lot
-  Multi-unit Apartment
-  Retail Commercial
-  Light Industrial
-  Recreation - NRD Land
-  Rail - Watch Trail



Map 2 - Future Land Use, One Mile Radius

Lancaster

DON R. THOMAS - COUNTY ENGINEER


County

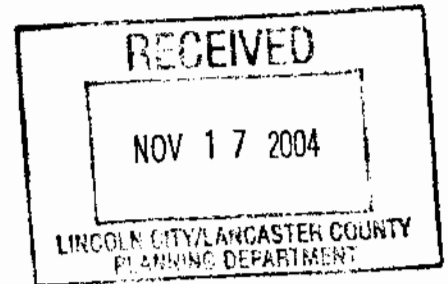
Engineering

Department

DEPUTY - LARRY V. WORRELL
COUNTY SURVEYOR



DATE: November 16, 2004
TO: Mike DeKalb
Planning Department
FROM: Larry V. Worrell 
County Surveyor
SUBJECT: CHANGE OF ZONE 04080
COMPREHENSIVE PLAN AMENDMENT 04022



Upon review, this office would not object to this submittal, subject to applicant grading and paving South 162nd Street from the interchange to past the second drive.

Ingress and egress need to be noted as one-way in and one-way out due to the change of grade and curves of South 162nd Street. Access locations shall be located with adequate sight distance.

LVW/cm

ZONE/#04080 - S 162nd Street.Mem

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Mike DeKalb

DATE: November 19, 2004

DEPARTMENT: Planning

FROM: Chris Schroeder

ATTENTION:

DEPARTMENT: Health

CARBONS TO: EH File
EH Administration

SUBJECT: Capital Concrete
HWY 2 & 162nd ST
CZ #04080 CPA #04022

The Lincoln-Lancaster County Health Department has reviewed the land-use applications for the proposed concrete plant with the following noted:

- During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary. In addition, the applicant will be required to comply with this regulation during normal daily operations.