

## FACTSHEET

**TITLE:** CHANGE OF ZONE NO. 14024  
(AGR to AG)

**BOARD/COMMITTEE:** Planning Commission

**APPLICANT:** Farmer's Co-operative

**RECOMMENDATION:** Approval (7-0: Beecham, Cornelius, Corr, Hove, Scheer, Weber and Lust voting 'yes'; Harris and Sunderman absent).

**STAFF RECOMMENDATION:** Approval

**OTHER DEPARTMENTS AFFECTED:** N/A

**SPONSOR:** Planning Department

**OPPONENTS:** None

### **REASON FOR LEGISLATION:**

To change the zone on approximately 22 acres, more or less, from AGR Agricultural Residential District to AG Agriculture District, on property generally located at N.W. 91<sup>st</sup> Street and W. Haven Road in Emerald, Nebraska.

### **DISCUSSION / FINDINGS OF FACT:**

1. This change of zone request and an associated Special Permit No. 721A to allow above ground storage tanks in the I-1 zoning district were heard at the same time before the Planning Commission.
2. This change of zone request is in response to the recommendation from the City-County Health Department in order to limit the potential for an occupied residential dwelling to be located within 300 feet of the propane tanks.
3. The staff recommendation to approve this change of zone request is based upon the "Analysis" as set forth on p.3, concluding that the Future Land Use Map in the Comprehensive Plan designates this property as low-density residential; however, the change of zone from AGR to AG is appropriate given its proximity to existing I-1 zoning. This request is in conformance with the Comprehensive Plan and should reduce potential negative impacts from surrounding properties. The staff presentation is found on p.5.
4. The applicant's testimony is found on p.6.
5. There was no testimony in opposition.
6. On August 20, 2014, the Planning Commission agreed with the staff recommendation and voted 7-0 to recommend approval.
7. On August 20, 2014, the Planning Commission also adopted Resolution No. PC-01406 approving Special Permit No. 721A, with conditions, to allow above ground storage tanks in the I-1 district.

**FACTSHEET PREPARED BY:** Jean Preister, Administrative Officer

**DATE:** September 2, 2014

**REVIEWED BY:** Marvin Krout, Director of Planning

**DATE:** September 2, 2014

# LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

## for August 20, 2014 PLANNING COMMISSION MEETING

**PROJECT #:** Change of Zone No. 14024

**PROPOSAL:** From AGR, Agricultural Residential District, to AG, Agriculture District.

**LOCATION:** 8801 W. Haven Road, Emerald, Nebraska

**LAND AREA:** 22 acres, more or less

**EXISTING ZONING:** AGR, Agricultural Residential District

**CONCLUSION:** The Future Land Use Map in the Comprehensive Plan designates this property as low-density residential. The change of zone from AGR to AG on this property is appropriate given its proximity to existing I-1 zoning. This request is in conformance with the Comprehensive Plan and should reduce potential negative impacts from surrounding properties.

<b>RECOMMENDATION:</b>	Approval
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** That portion of Lot 141 I.T. that is zoned AGR located in the SE 1/4 of Section 22-10-5, Lancaster County, Nebraska.

**EXISTING LAND USE:** Farmland

### **SURROUNDING LAND USE AND ZONING:**

North: I-1/AG; Farmer's Co-Op/Railroad  
South: AG; Single-Family Dwelling/Farmland  
East: AG; Single-Family Dwelling/Farmland  
West: AG/AGR; Farmland/Drainageway

**ASSOCIATED APPLICATIONS:** The applicant has filed a special permit application to construct above ground propane tanks in the I-1 zoned portion of Lot 141 I.T.

### **COMPREHENSIVE PLAN SPECIFICATIONS:**

P. 1.2 - An important relationship exists between the urban, rural and natural landscapes. Urban and rural development maximize the use of land in order to preserve agriculture and natural resources.

P. 1.8 - The Future Land Use Map shows this property as Agricultural.

P. 2.6 - Agriculture is still a major factor in Lancaster County's economy with about 78% of the land area of the county being used for agricultural production.

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. 5.4 - Farms are an important part of the history and economy of the region.

P. 5.4 - Agriculture is the dominant land use in Lancaster County, accounting for over 78% of all land. Farms of all sizes make purchases of goods and services in the city and county throughout the year, which contribute to the local tax base and sustain growth for other businesses in the agriculture industry.

P. 5.18 - In areas where industrial and residential uses are already close, efforts should focus on changes in the quantity and type of hazardous materials used and on increasing the distance between where hazardous materials are stored and residential districts.

P. 7.4 - Provide adequate spacing from pipelines and areas where hazardous chemicals could be used and stored; notify property owners and residents along the pipeline about hazards and emergency actions.

### **ANALYSIS:**

1. The applicant is requesting a change of zone from AGR to AG on this property. Lot 141 I.T. is over 26 acres which meets the minimum lot size of 20 acres in the AG zoning district.
2. The applicant has also filed a special permit application to construct above ground propane tanks on the I-1 zoned property located immediately to the north. The Lincoln-Lancaster County Health Department supports that special permit if this property is rezoned from AGR to AG. The intent of the change of zone is to limit the potential for an occupied residential dwelling to be located within 300 feet of the propane tanks. Since the minimum lot size in the AG district is 20 acres, only one dwelling could be built on this lot.
3. The "Business and Economy" chapter in the 2040 Comprehensive Plan encourages the separation of industrial and residential areas. The Future Land Use Map in the 2040 Comprehensive Plan shows this property as low-density residential. In general, City policy suggests that residential uses be at least 300 feet from industrial uses or zoning. The change of zone from AGR to AG is in line with this policy and should keep new residential dwellings at least 300 feet from this property.
4. The AG zoning district is intended for agricultural use throughout the county and to preserve and protect agricultural production by limiting urban sprawl. The owner plans to continue using the property for agricultural purposes and has no plans to develop residential uses at this location. Therefore AG is an appropriate zoning designation for this property.

Prepared by:

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**DATE:** August 8, 2014

**APPLICANT/CONTACT:** Roger Kreifels  
PO Box 263  
Dorchester, NE 68343

**OWNER:** Farmer's Co-operative  
PO Box 263  
Dorchester, NE 68343

# CHANGE OF ZONE NO. 14024 and SPECIAL PERMIT NO. 721A

## PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 20, 2014

Members present: Beecham, Cornelius, Corr, Hove, Scheer, Weber and Lust; Harris and Sunderman absent.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit.

There were no ex parte communications disclosed.

Staff presentation: **Paul Barnes of Planning staff** explained that the special permit request is for property located west of Emerald at the Farmer's Coop site. West Haven Road is to the north; there are buildings, grain elevators and other ag buildings existing on the site; the proposed area for above ground storage tanks for propane is located in the southwesterly part of the existing I-1 zoned property. A special permit is required for this use in the district.

Barnes further explained that in the mid-1970's, a special permit was approved covering only a part of the property, not including the I-1 property to the south. That special permit approved the construction of anhydrous ammonia tanks.

Barnes noted that this request was routed to other departments, including the Health Department, and the Health Department is recommending that a use such as this should be a minimum of 300 feet from occupied residential units. The nearest residential unit to the tanks is 515 feet.

Further, in reviewing the special permit, the Health Department noted that the adjacent zoning to the south and to the west is AGR and could allow for additional residential units if subdivided in the future. The Health Department suggested that a change of zone to AG would help minimize the potential impact for any additional residential units to be located near this site – thus the change of zone request from AGR to AG. The change of zone is in conformance with the Comprehensive Plan and is appropriate for this site. The owner uses the property for ag uses and plans to continue that use.

It was confirmed that there is one owner of all of the AGR property.

Corr inquired whether there is a railroad track to the north and the distance from this site. Barnes acknowledged that there is a railroad track to the north; however, he did not know the distance but it can be seen on the aerial photograph.

Beecham wondered whether there are any complications with ammonia and propane located near each other. Barnes advised that the question was asked and together on the same site was not an issue with the Health Department as long as they are located a minimum of 300' from residential.

## Proponents

1. **Roger Kreifels, 8801 W. Haven Road**, testified as the applicant. He expressed appreciation to Paul Barnes and Sara Hartzell of Planning staff, whom he believes went out of their way to help with this application. The tanks shown on the aerial are 1,000 gallon anhydrous ammonia tanks that could be empty or full waiting for farmers to come pick them up. Kreifels stated that this application has been reviewed and approved by the State Fire Marshall, who is in charge of the anhydrous and propane.

With regard to the zoning change, Kreifels stated that the Coop owns all of the property for this purpose, and they do have the required setback from residential. The property includes some 30 acres. The Coop has been in business for 100 years and has an excellent safety record in the propane industry. He assured that anything that is done will be up to code and very safe.

Beecham inquired of the applicant whether there is anything that has to be done when dealing with a couple of different gases. Kreifels acknowledged that there is a minimum distance and flash points on different fuels. As far as the ammonia, he does not believe there is a setback required but there will be 50 to 100 feet between the two. He also responded that grain dust does not complicate any issues. The Coop has 60 locations in southeast Nebraska with this same type setup and has had no issues.

There was no testimony in opposition.

### Staff questions:

Beecham inquired as to what the process or considerations would be if, at some point in the future, this land was sold off for development. Barnes acknowledged that it would require a zone change through the Planning Commission and City Council.

Beecham then wondered whether the recommendation from the Health Department would be considered as a "recommendation" or is there an actual regulation? Barnes pointed out that the Comprehensive Plan recognizes that there are hazardous materials and having that type of use in proximity to a residential unit is not supported. In following the Comprehensive Plan, the staff would make a recommendation that is appropriate at that time.

### **CHANGE OF ZONE NO. 14024**

#### **ACTION BY PLANNING COMMISSION:**

August 20, 2014

Hove moved approval, seconded by Weber.

Corr noted that the Commission normally sees changes of zone from AG to AGR and it is kind of refreshing to see the reverse.

Motion for approval carried 7-0: Beecham, Cornelius, Corr, Hove, Scheer, Weber and Lust voting 'yes'; Harris and Sunderman absent. This is a recommendation to the City Council.

**SPECIAL PERMIT NO. 721A**

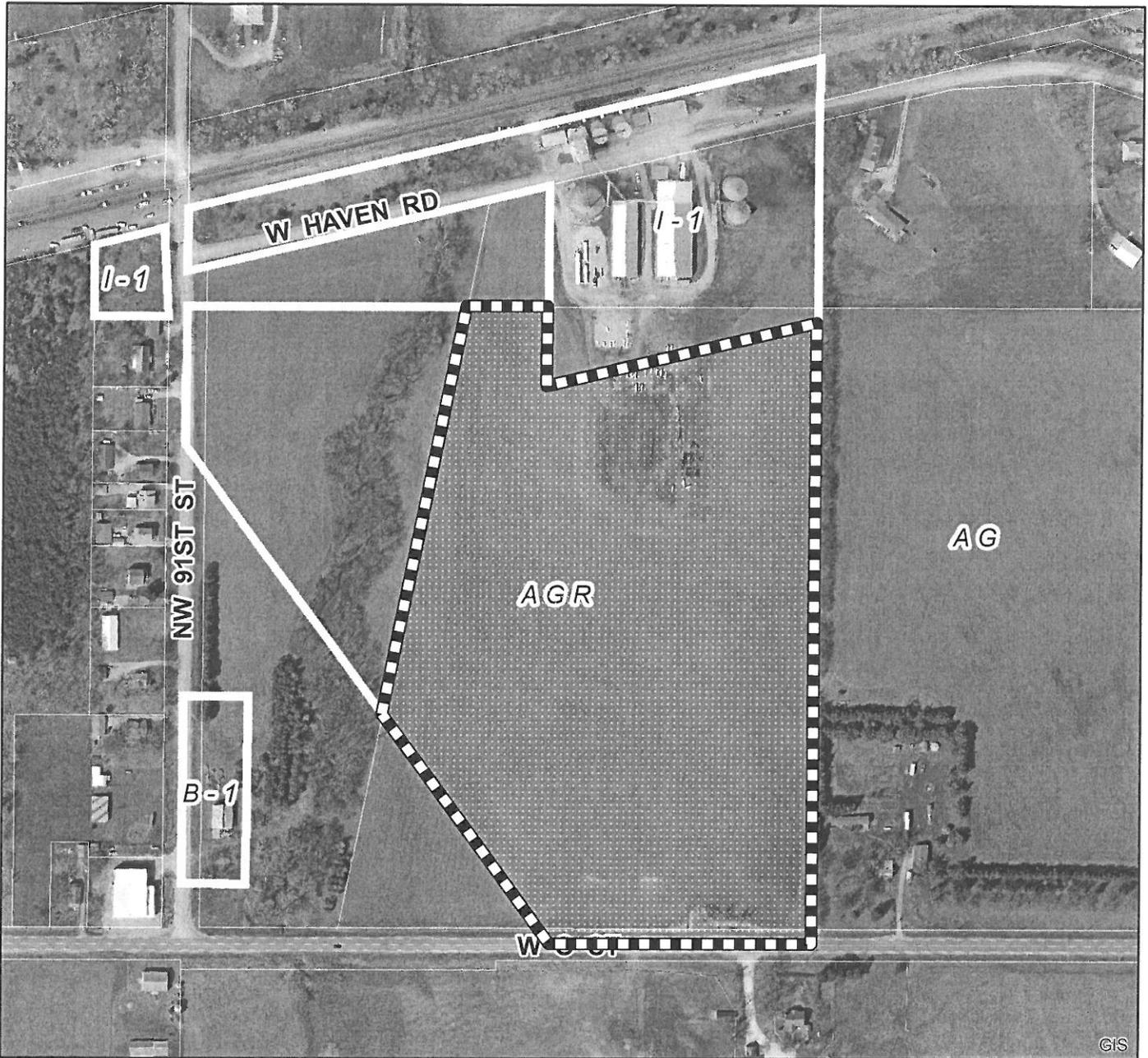
**ACTION BY PLANNING COMMISSION:**

August 20, 2014

Corr moved to approve the staff recommendation of conditional approval, seconded by Beecham.

Lust commented that this appears to be a good development for the property and a nice addition to the Coop's business plan.

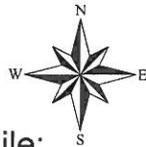
Motion for conditional approval carried 7-0: Beecham, Cornelius, Corr, Hove, Scheer, Weber and Lust voting 'yes'; Harris and Sunderman absent. This is final action, unless appealed to the City Council within 14 days.



GIS

**Change of Zone #: CZ14024**  
**NW 91st St & W Haven Rd**  
**AGR to AG**

2013 aerial



**One Square Mile:**  
**Sec.22 T10N R05E**

**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

