

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

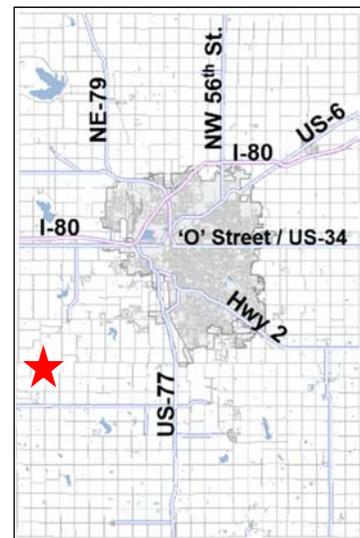
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508
As revised per Planning Staff July 12, 2018

APPLICATION NUMBER Special Permit #18025 Randy Essink Poultry	FINAL ACTION? Yes	DEVELOPER/OWNER Randy Essink
PLANNING COMMISSION HEARING DATE June 20, 2018	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 13350 W. Wittstruck Rd.

RECOMMENDATION: APPROVAL WITH CONDITIONS

BRIEF SUMMARY OF REQUEST

This is a request for a Commercial Feedlot for up to 190,000 chickens in four buildings. The area of the special permit is approximately 20 acres within a 75 acre lot. The special permit area is in the northern 1,300 feet of the lot.



JUSTIFICATION FOR RECOMMENDATION

This application is in conformance with the 2040 Lincoln-Lancaster County Comprehensive Plan. The commercial feedlot is an agricultural use. Traffic generated by this operation will be minimal. There are few houses nearby that would be impacted. Nebraska Department of Environmental Quality does not object to this application. The nearest house should not be negatively impacted by the proposal as it is approximately ¼ mile from the site.

APPLICATION CONTACT

Randy Essink, (402) 310-1874
essinkdrywall@gmail.com

STAFF CONTACT

Tom Cajka, (402) 441-5662 or
tcajka@lincoln.ne.gov

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. A goal of the Comprehensive Plan is for more diversified agribusiness ventures and to preserve land for agricultural purposes.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

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

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

P. 12.4 - Agricultural land is principally in use for agricultural production. Agricultural land may be in transition to more diversified agribusiness ventures.

ANALYSIS

1. This is a request for a special permit under Article 13.035 of the Lancaster County Zoning Regulations for a Commercial Feedlot. The proposal is for 4 barns each housing 47,500 chickens for a total of 190,000 chickens. Each barn will be 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 addressing anti-pollution controls is required. Although there are no specific conditions listed, Article 13.002 offers guidance to the Planning Commission in reviewing special permits; “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. Traffic will be minimal. On average the operation will generate 1.4 semi-trucks per day. The County engineers does not object to this application. The County Engineer does note that due to the sharp roadway bends along West Wittstruck Rd near the entrance, semi-truck traffic entering and exiting this site shall be via West Wittstruck Rd. going west to SW 142nd St.
4. The current parcel is 75 acres. The special permit is for a 20 acre area within the 75 acre lot. The site plan shows the proposed 20 acre parcel.
5. This site is shown as agriculture in the Comprehensive Plan, a feedlot is an agricultural use.
6. There are 7 dwellings within one mile of the proposed site and 4 dwellings within one-half mile of the site. The nearest house is approximately one-quarter mile north of the barns.
7. The Lincoln-Lancaster County Health Department notes that the applicant will need to comply with Lancaster County Air Pollution Control Resolution R-13-0073, Section 11. Section 11 specifically states that is shall be unlawful to cause or permit odorous emissions from animal confinement and feeding operations. They do not object to this application.
8. The Lancaster County Zoning Regulations requires that any commercial feedlot have 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.
9. Nebraska Department of Environmental Quality (DEQ) has inspected the site. DEQ 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.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: AG Agricultural Farm ground

SURROUNDING LAND USE & ZONING

North:	AG Agricultural	Farm ground and two dwellings
South:	AG Agricultural	Farm ground
East:	AG Agricultural	Farm ground

West: AG Agricultural Farm ground and two dwellings

APPROXIMATE LAND AREA: 20 acres, more or less

LEGAL DESCRIPTION: A portion of the West 1/2 of the SE 1/4 located in the SW 1/4 of Section 7-8-5, Lancaster County, Nebraska.

Prepared by

Tom Cajka, Planner
(402) 441-5662 or tcajka@lincoln.ne.gov

Date: June 8, 2018

Applicant: Randy Essink
355 West 1st St.
Cortland, NE 68331
402-310-1874

Contact: Jordan Kingsley
Nutrient Advisors
449 E. Deere St.
West Point, NE 68788
402-372-2236

Owner: ~~Denton Storage LLC~~
~~2825 Porter Ridge Rd.~~
~~Lincoln, NE 68516~~
~~402-314-7682~~
~~bruce-deb-pester@yahoo.com~~

Same as applicant

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CONDITIONS OF APPROVAL - SPECIAL PERMIT #18025

Per Article 13.035 this approval permits a Commercial Feedlot for up to 190,000 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 Add the title "Randy Essink Commercial Feedlot. Special Permit #18025 to the site plan.
 - 1.2 Add a legal description to the site plan.
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.

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.



2016 aerial

Special Permit #: SP18025
SW 142nd St & W Wittstruck Rd

Zoning:

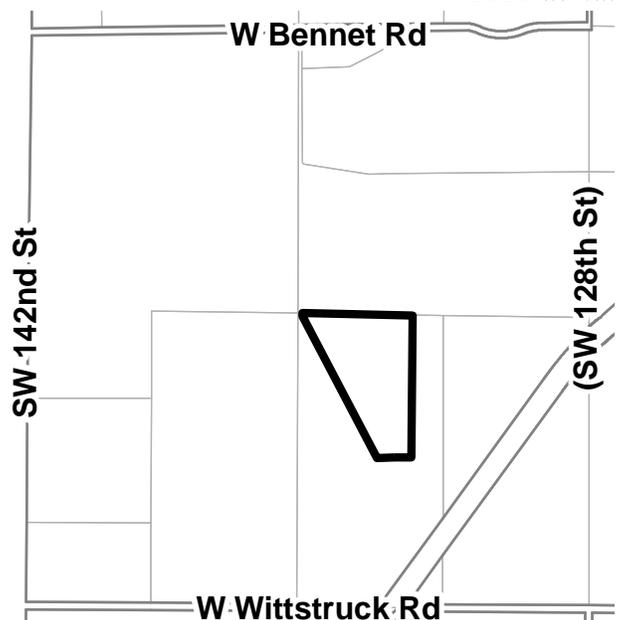
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial 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.07 T08N R05E

Area of Application

Zoning Jurisdiction Lines

Lincoln City Jurisdiction

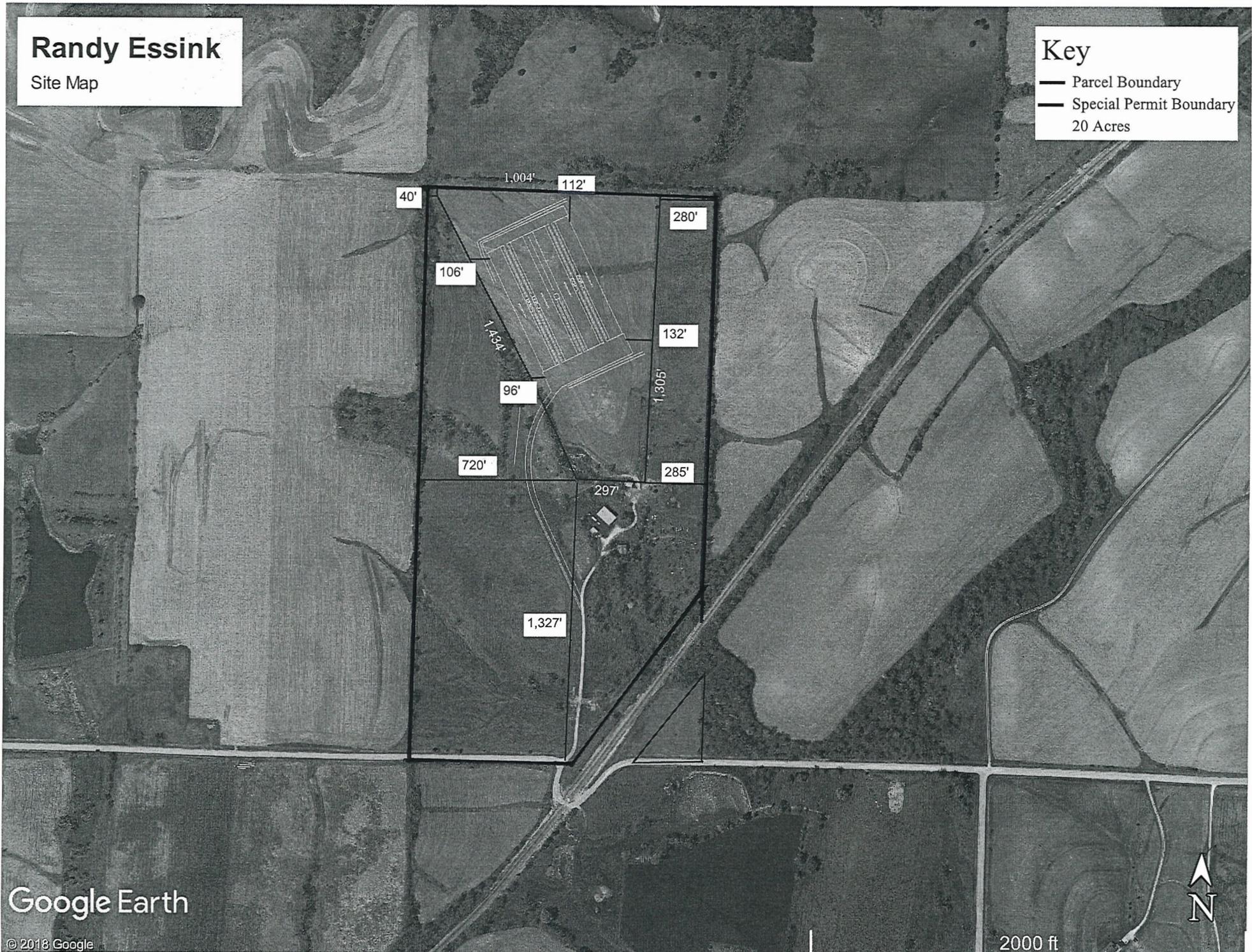


Randy Essink

Site Map

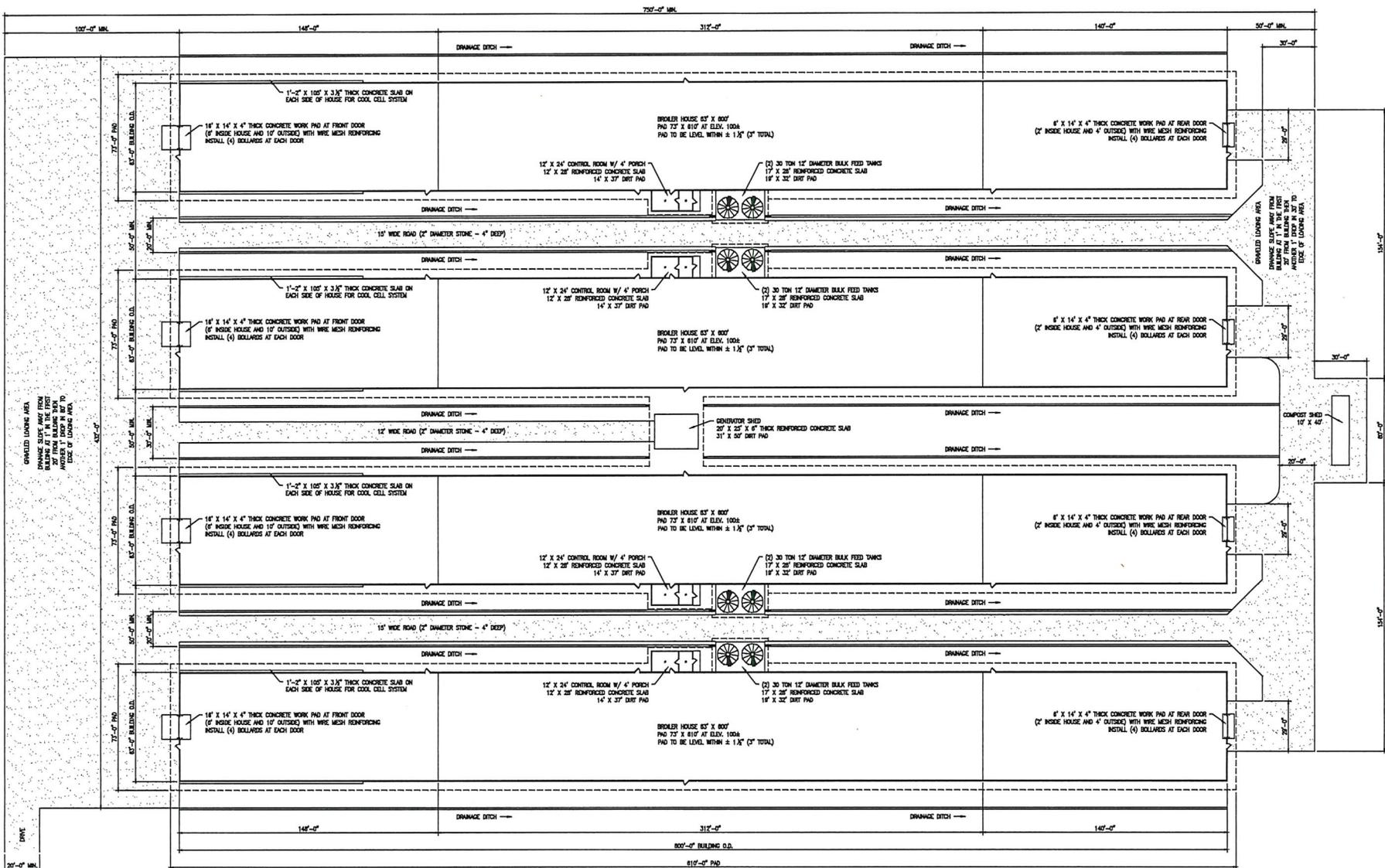
Key

- Parcel Boundary
- Special Permit Boundary
20 Acres



Google Earth

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DATE	APPROVAL
2/22/21	JAL

NO.	DATE	DESCRIPTION	REV.	BY	CHK.
1	11/11/17	11/11/17	X	ACE	

PROJECT: 63' x 600' TUNNEL VENT. BROILER HOUSE
 DESCRIPTION: LPP - (4) HOUSE SITE PLAN
 SHEET: C1

Lincoln-Lancaster County Health Department

Animal confinement feeding operations are addressed under County Resolution R-13-0073 –Lancaster County Air Pollution Control Resolution. Specifically, Section 11(b) – Odor Nuisances Prohibited states that it shall be unlawful to cause or permit odorous emissions from animal confinement and feeding operations. Such emissions shall not be a violation where: (1) The owner or operator has employed all reasonable techniques to minimize odor; (2) The operation is in compliance with all applicable regulations adopted by the state and zoning regulations of the County; (3) The complaint is filed by a person other than a person in lawful possession of the land claimed to be affected by the odor; and (4) The complaint is filed by a person who acquired lawful possession of the affected land after the owner or operator began lawful operation.

The Lincoln-Lancaster County Health Department (LLCHD) met with the Nebraska Department of Environmental Quality (NDEQ) to discuss this proposed animal confinement feeding operation. NDEQ staff advised that the applicant will be obtaining a construction/operating permit in accordance with Nebraska Administrative Code Title 130 – Livestock Waste Control Regulations. This regulation requires the permit holder to submit a nutrient management plan which addresses the proper management and handling of animal waste from such operations. Non-compliance with the nutrient management plan would be grounds for the LLCHD to initiate enforcement action under County Resolution R-13-0073.

NEBRASKA

Good Life. Great Environment.

DEPT. OF ENVIRONMENTAL QUALITY



Pete Ricketts, Governor

Randy Essink
Randy Essink Livestock
PO Box 76
Cortland, NE 68331-0076

MAY 29 2018

RE: Randy Essink Livestock Concentrated Animal Feeding Operation
NDEQID: 111275
Program ID: LWC 2-1087
Subject: **Construction & Operating or NPDES Permit Not Required**
NW 1/4, SE 1/4, Section 07, Township 08N, Range 05E, Lancaster County

Dear Mr. Essink:

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 May 23, 2018 inspection conducted by Kevin Franzluebbers from the Nebraska Department of Environmental Quality (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)	190,000	Proposed

Type of Structure	Number of Each Type	Existing or Proposed?
Dry Litter Barns	4	Proposed

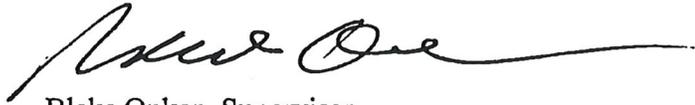
If you desire to receive a Construction and Operating Permit for your operation, please refer to the minimum application requirements outlined in Title 130, Chapter 4, 001. These include, but are not limited to, the submission of a Nutrient Management Plan and a \$200 application fee. It may take the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



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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 Franzluebbers at (402) 471-6687 or myself at (402) 471-4239.

Sincerely,

A handwritten signature in black ink, appearing to read "Blake Onken", with a long horizontal flourish extending to the right.

Blake Onken, Supervisor
Agriculture Section
Water Permits Division
blake.onken@nebraska.gov

Enclosure
cc: Nutrient Advisors



May 14, 2018

Lincoln/Lancaster County Planning Commission
555 S 10th 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 Randy Essink. The purpose of this permit is to take a portion of land out of crop production and construct four 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. There will be approximately 1.4 trucks per day that serve the site. All trucks will be covered to help eliminate dust, odor, and for the health and safety of the birds. There will also be maintenance building 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,

Jordan T. Kingsley

Nutrient Advisors

Enclosures

