

## MINUTES

### **Madison County Joint Planning Commission**

Norfolk, Nebraska

The August 22, 2019 Meeting of the Madison County Joint Planning Commission was called to order by Chairman Grant at 7:00 p.m. in the Nebraska Extension Office, 1305 S 13<sup>th</sup> St Norfolk, Nebraska.

#### **Call To Order/Roll Call- Consideration and/or action on:**

**Present:** Griffith, Milander, Oswald, Abler, Acklie, Grant, Flood, Westerman and Prauner

**Absent:** Schapman

**Also Present:** Jerry Guenther, Ron Schmidt, Scott Schmidt, Courtney Schmidt, Calvin Frisch, Dale Frisch, Shawn Korth, Gary Korth, John Csukker, Donald Frisch, Dennis Frisch, Willow Holoubek, Jessica Kolterman, Trevor Eastrom, Allen Kampschnieder, Dick Johnson, Planning and Zoning Administrator Heather McWhorter and Planning and Zoning Office Assistant Jennie Martinez

**Open Meetings Act:** Grant pointed out the Open Meetings Act that will be followed.

**Proof of Publication:** Grant stated the Proof of Publication Notice was published in the Norfolk Daily News.

**Minutes-July 18, 2019:** The minutes of the July 18, 2019 Madison County Joint Planning Commission meeting were presented.

Motion made by Acklie to approve minutes and seconded by Prauner to approve the minutes.

Vote taken. Members Abler, Acklie, Oswald, Milander, Griffith, Westerman, Grant, Flood and Prauner voted "Aye" none vote "Nay". Motion carried.

Grant reads the first Public Hearing.

**The purpose of this hearing is to receive public comments concerning the application of Scott Schmidt Poultry for a Poultry Feeding Operation on property described as the N½SW ¼ & SW ¼ SW ¼ & NW ¼ SE ¼ of Section 27, Township 22 North, Range 2 West of the 6th P.M., Madison County, Nebraska. This property is located on 829th Rd west of Madison City, Madison County, Nebraska**

Heather states that this will be a four-barn contract broiler facility covering approximately 5 acres. The facility will have a capacity of 190,000 broiler chickens. The facility will be totally housed under roof and will not include constructed waste storage structures. The litter from the facility will be composted in the production houses between production cycles and either spread

out for continued use as litter or removed and land applied as crop nutrients. Applicant has 1,369 acres available for litter application. Property is zoned as Ag Intensive with a matrix score of 380.

Heather reads the Facts and Conditions.

**Statement of Finding of Facts:**

- 1. The application is consistent with the Madison County Comprehensive Plan.**
- 2. The application is consistent with the Madison County Zoning and Subdivision Regulations.**
- 3. The score for this facility on the Madison County Livestock Feeding Operation Siting Matrix was 380 points, and 350 points are needed to pass.**
- 4. The feeding operation setback is 1,980 ft. from the nearest dwelling. There are two homes located within the setback from the proposed facility. They have provided a signed waiver of setback agreement.**
- 5. The property is zoned AG1 Agriculture Intensive.**

**Recommended Conditions:**

- 1. This is a Large Animal Feeding Operation Conditional Use Permit for an operation of up to 190,000 broiler chickens (1520 HE).**
- 2. This conditional use permit shall be for an unlimited amount of time subject to successfully passing an annual review of the Madison County Livestock Feeding Operation Siting Matrix, implementing the additional conditions of this permit, and will become effective with the adoption of this resolution.**
- 3. This permit is subject to the Madison County Zoning and Subdivision Regulations, the laws of Nebraska, the U.S. Government and Nebraska Department of Environmental Quality; the AFO permitted here shall be operated to comply with all of these entities.**
- 4. Any new owner/operator of this operation must give notice to the Madison County Zoning Administrator 30 days prior to the closing date of the sale.**
- 4. A zoning permit must be obtained from the Zoning Office before construction of the barns begins.**
- 5. A copy of the signed permit must be recorded with the County Register of Deeds office by applicant.**

**7:05 p.m.** Grant opens the Public Hearing.

Grant asks if there is anyone in favor.

Scott Schmidt states that he is in favor. He states that he grew up in Madison County and current lives on the East Coast. He states that he is in the military. He states that he will be retiring next year and plans to move back.

Scott Schmidt states that he plans to build 4 poultry barns with Lincoln Premium Poultry. He states that the farm has been in the family for over 100 years and would like to continue the legacy with his family. He states that multiple locations were considered; however this site works the best. He states that he has worked hard for this project and it does meet all the county, state and federal requirements.

Scott Schmidt states that they do have one signed waiver of distance form from a residence that falls within the setback. He states that the southern edge of the proposed site borders the 829<sup>th</sup> minimum maintenance road which has recently been closed at Public Hearing by the County Commissioners. He states that he is currently working on drawing up easements to allow neighboring land owners to access their farms.

Scott Schmidt states that the area that he currently lives in is one of the most poultry intensive areas in the United States. He states that he has taken the time to visit many current poultry facilities in the area in order to become as educated as he can. He states that he has been pleasantly surprised.

Grant asks if there are any questions.

Griffith asks Scott Schmidt who will be running the operation while he is not here.

Scott Schmidt states that construction will occur while he is away and birds will not be placed until his family moves back.

Prauner confirms that all rain water will stay on the property.

Scott Schmidt states that it will stay on the property. He states that if water would wash it would go to the north.

Milander confirms that the runoff is not contaminated.

Scott Schmidt states that it is not and that one of the unique things is that compost from a chicken facility is dry. He states that the barn will be dirt floor and wood chips are used to absorb. It is a dust free facility.

Scott Schmidt states that he and his family visited a barn and was surprised at the lack of odor. He states that odor was a top concern for his family and that they would purposely roll down the windows when driving by a barn to see if there is an odor; however there is not.

Grant asks if the buildings on the area Scott Schmidt currently lives in the same as the buildings being built here.

Scott Schmidt states that they are similar. He states that some of the buildings are quite old; however have been updated.

Flood asks how he will handle the dead animals.

Scott Schmidt states that this will be part of the daily chores. He states that the health of the flock is a paramount concern. He states that the deceased will be picked up daily and will be working with Lincoln Premium Poultry for the best practices to handle them.

Grant asks if there is anyone else in favor.

Jessica Kolterman ; Lincoln Premium Poultry states that she is in favor and here to support Scott and Courtney. She states that this project started 3 ½ years ago and has about a 1.2 billion dollar economic impact. She states that including the Schmidt's they have three families now in Madison County with barns.

Kolterman states that they have 3 pillars in the contract which include environmental protection, animal welfare and bio-security. She states that they must maintain this portion of the contract in order to remain partners with Lincoln Premium Poultry.

Oswald asks how many units Lincoln Premium Poultry currently has populated with broilers.

Kolterman states that she believes that there are 5 different sites.

Oswald asks if any have went to processing.

Kolterman states that the first bird will be processed shortly after Labor Day.

Prauner asks how many truck loads of food there will be per day.

Kolterman states that there is an average of 10 trucks per week. She states that predominately there are 2 small trucks to deliver the chicks and leave in 30 trucks at the end of a cycle. She states that the most you would have on any given day in a 24 hour period is 30 trucks.

Milander asks how long it takes for 30 trucks to load chickens.

Kolterman states that they have an automatic chicken catcher; the Apollo 2 Chicken Harvester; video can be seen on YouTube. She states that it will take about 4 hours for each barn.

Prauner asks if the trucks are semis.

Acklie asks if it is employees of Lincoln Premium Poultry that picks the birds up.

Kolterman states that it is contractors that pick them up.

Grant asks if the feed is contracted too.

Kolterman states that the feed hauling is also contracted by someone that hauls a lot of feed in the area.

Acklie asks about a bridge on the gravel road and asks if it will be a problem

Kolterman states that their team has been out and looked at the site and have not let her know of any concerns.

Abler asks what happens in the event there is a disease.

Kolterman states that if there were a major disease it would be up to the state agencies to tell them how to handle it.

Willow Holoubek; Lincoln Premium Poultry states that in the case of broilers the United States has never been a broiler house that has been broken with Avian Influenza. She states that all of their bio-security setbacks are to prevent disease. She states that if there is a problem it is very traceable. She states that broiler birds are composted in the building; therefore have to be completely broken down and the compost tested. USDA does a white finger glove test before the barn can be opened again.

Alan Kampschnieder; Nutrient Advisors states that the Schmidt's plan to build a 4 barn broiler site. He states that they have a 3/8 of a mile set back and 2 neighbors within that setback have signed waivers. He states that they have a odor foot print tool and there is no one living within 96% setback. He states that the Schmidt's scored a score of 380 out of the passing score of 350 on the Madison County Matrix. He states that Schmidt would need 151 acres to utilize all of the nitrogen yearly and 1112 acres to utilize phosphorus yearly. He states that he has 1200 plus acres; therefore has plenty of acres. He states that the site has good compactable soil. He states that run off will primarily travel north. He states that with regard to litter management; after every flock it will be composted, wind rowed, heated up to kill any pathogens and then spread back out. He states that manure is cleaned out of the barns once a year. He states that Schmidt will have to abide by State regulations. He states that DEQ has been out to the site; even though they are not required to have a DEQ permit. He states that Lincoln Premium Poultry does require their growers to obtain a state operating permit.

Prauner asks how many times a year does the facility turn over.

Kampschnieder states that they turn over 6 times a year.

Prauner clarifies how often they clean the barns.

Kampschnieder states that they have to clean the barns once a year.

Kolterman states that they wind row between every flock, but don't remove.

Oswald asks if this site has potential for expansion.

Kolterman states that from Lincoln Premium Poultry's perspective all of their contracts have been filled; therefore he will not be expanding with them.

Kampschnieder states that if they were to expand they would have to come back through the Conditional Use Permit process.

Grant asks if there is anyone else in favor.

Ron Schmidt; Scott's father states that he is in favor.

Grant asks if there is anyone else in favor.

Shawn Korth states that he is in favor.

Grant asks if there is anyone else in favor.

Gary Korth states that he is in favor and feels that this is a great family to welcome back into Madison County.

Grant asks if there is anyone else in favor.

No one speaks.

Grant asks if there is anyone opposed.

Heather states that we did receive one letter in opposition that was included with the packets. (Exhibit A). Everyone acknowledges receipt of the opposition letter.

Flood asks why the road was closed.

Scott Schmidt states that the reason to close the road was so that bio-security, ease of access and setbacks could be met. He states that a legal team is working with neighbors that are affected by the road closure.

Grant asks if there are any other questions.

No one speaks.

**7:35 p.m.** Grant closes the Public Hearing.

Prauner makes a motion to recommend approval. Oswald seconds the motion.

Vote taken. Members Grant, Abler, Oswald, Milander, Griffith, Acklie, Flood, Westerman and Prauner voted "Aye" none vote "Nay". Motion carried.

Gant reads the next Public Hearing.

**The purpose of this hearing is to receive public comments concerning the application of Dale Frisch to operate a swine finishing unit for 1000 head of swine on property described as the SE ¼ SE ¼ of Section 12, Township 21 North, Range 4 West of the 6th P.M., Madison County, Nebraska. This property is located at 53965 826th Rd Newman Grove, Madison County, Nebraska.**



Heather states that the applicant is requesting a permit for a 1,000 head Swine facility in an Ag Intensive zoning district. The required setback is 1320 feet from a residence; no residences exist within the setback. Matrix score was 380.

**Statement of Finding of Facts:**

1. The application is consistent with the Madison County Comprehensive Plan.
2. The application is consistent with the Madison County Zoning and Subdivision Regulations.
3. The score for this facility on the Madison County Livestock Feeding Operation Siting Matrix was 380 points, and 350 points are needed to pass.
4. The feedlot setback is 1,320 ft. from the nearest dwelling; no dwellings are located within the setback.

**Proposed Conditions:**

1. This is a Medium Animal Feeding Operation Conditional Use Permit for an operation of up to 1,000 head of swine over 55 pounds.
2. This conditional use permit shall be for an unlimited amount of time subject to successfully passing an annual review of the Madison County Livestock Feeding Operation Siting Matrix, implementing the additional conditions of this permit, and will become effective with the adoption of this resolution.
3. This permit is subject to the Madison County Zoning and Subdivision Regulations, the laws of Nebraska, the U.S. Government and Nebraska Department of Environmental Quality; the AFO permitted here shall be operated to comply with all of these entities. The Conditional Use Permit will be invalid if a permit is not obtained from NDEQ within one year.
4. Any new owner/operator of this operation must give notice to the Madison County Zoning Administrator 30 days prior to the closing date of the sale.

Acklie clarifies that this will be a finishing shed.

Dale Frisch states that it will be a finishing shed. He states that pigs will be brought in at roughly 10-13 pounds. He states that they will be custom fed for Niewohner's and then taken to Tysons.

**7:37 p.m.** Grant opens the Public Hearing.

Grant asks if there is anyone in favor.

Dale Frisch states that he is in favor. He states that he is currently working on the DEQ permit. He states that hopefully weather permitting he will have hogs in the shed by December 1, 2019. He states that there will be deep 8' pits underground. He states that there should not be any contamination from run-off. He states that he and his cousin plan to build twin barns and help each other. He states that he currently has a 400 head barn on the site and he would like to expand.

Acklie asks if the pit will be right underneath the barn.

Dale Frisch confirms that it will.

Grant asks if the pit will hold one year supply.

Dale Frisch states that it will. He states that the manure will be knifed in.

Grant asks if he will have plenty of ground to put it on.

Dale Frisch states that he has approximately 1500 acres.

Acklie asks if he will use rendering.

Dale Frisch states that rendering will be his first method.

Grant asks if he would consider composting them.

Dale Frisch states that he has considered it and is debating that as a second option.

Milander asks if he currently has hogs in a nursery building.

Dale Frisch states that he does.

Milander asks if he will be getting hogs from a different facility.

Dale Frisch states that they will come from the same sow unit; Niewohners.

Acklie asks if he plans to continue to use the current building.

Dale Frisch states that he will.

Flood asks if this is an environmentally enclosed building.

Dale Frisch states that it is.

Acklie asks which way run-off will go.

Dale Frisch states that 1/2 will run towards the farm place and 1/2 to the east. He states that it would have about 1 mile to go before hitting Union Creek.

Grant asks if the road is good.



Dale Frisch states that it is.

Grant asks if there are any other questions.

Acklie asks if he lives on the site.

Dale Frisch states that he currently lives 1/2 mile north but he plans to build a new house on the site sometime in December or January.

Grant asks if there is anyone else in favor.

Dennis Frisch; Dale's father states that he is in favor.

Grant asks if there is anyone else in favor.

Don Frisch states that he is in favor.

Grant asks if there is anyone else in favor.

Calvin Frisch states that he is in favor.

Grant asks if there is anyone else in favor.

John Csukker; Valley View Environmental, consultant for Dale states that he is in favor. He states that this will be an environmentally enclosed barn. He states that Dale has plenty of land.

Prauner asks if they will have to use special clothing to go inside the barn.

Csukker states that these are shower on and shower off facilities.

Grant asks if there are any additional questions.

No one speaks.

Grant asks if there is anyone opposed.

No one speaks.

**7:46 p.m.** Grant closes the Public Hearing.

Flood makes a motion to recommend approval. Prauner seconds the motion.

Vote taken. Members Grant, Abler, Oswald, Milander, Griffith, Acklie, Flood, Westerman and Prauner voted "Aye" none vote "Nay". Motion carried.

Grant reads the next Public Hearing.

**The purpose of this hearing is to receive public comments concerning the application of Calvin Frisch to operate a swine finishing unit for 1000 head of swine on property described as the NW 1/4 NW 1/4 of Section 19, Township 21**

**North, Range 3 West of the 6th P.M., Madison County, Nebraska. This property is located at 54068 825th Rd Newman Grove, Madison County, Nebraska.**

Applicant is requesting a permit for a 1,000 head Swine facility in an Ag Intensive zoning district. The required setback is 1320 feet from a residence; no residences exist within the setback. Matrix score was 380. The required setback to a residence is 1,320 feet; there is a home approximately 1,200 feet away however, a signed waiver of distance will be recorded.

Heather reads the Facts and Recommended Conditions.

**Statement of Finding of Facts:**

1. The application is consistent with the Madison County Zoning and Subdivision Regulations and Comprehensive Plan.
2. The score for this facility on the Madison County Livestock Feeding Operation Siting Matrix was 380 points, and 350 points are needed to pass.
3. The feedlot setback is 1,320 ft. from the nearest dwelling, there is one home within the setback however, a waiver will be filed.

**Proposed Conditions:**

1. This is a Medium Animal Feeding Operation Conditional Use Permit for an operation of up to 1,000 head of swine over 55 pounds.
2. This conditional use permit shall be for an unlimited amount of time subject to successfully passing an annual review of the Madison County Livestock Feeding Operation Siting Matrix, implementing the additional conditions of this permit, and will become effective with the adoption of this resolution.
3. This permit is subject to the Madison County Zoning and Subdivision Regulations, the laws of Nebraska, the U.S. Government and Nebraska Department of Environmental Quality; the AFO permitted here shall be operated to comply with all of these entities. The Conditional Use Permit will be invalid if a permit is not obtained from NDEQ within one year.
4. Any new owner/operator of this operation must give notice to the Madison County Zoning Administrator 30 days prior to the closing date of the sale.

Heather states that the location of the barn has changed. She shows the new location on the map. (Exhibit B)

Heather states that this application will be identical to the application of Dale Frisch.

**7:50 p.m.** Grant opens the Public Hearing.

Grant asks if there is anyone in favor.

Calvin Frisch speaks in favor. He states that he is building twin barns with his cousin; Dale Frisch. He states that this is a wean to finish barn. He states that they will be there more time; therefore less truck traffic.

Grant asks how heavy the hogs will be when they leave.

Calvin Frisch states that they will be about 250 pounds when finished.

Prauner asks where the nutrition comes from.

Calvin Frisch states that the feed comes from CVA through a contract with Niewohner's.

Grant asks if there is a vet that comes around and checks.

Calvin Frisch states that Niewohner's have their own vet.

Grant asks if this barn will have an 8' pit also.

Calvin Frisch states that it will.

Flood confirms that the building will be identical to Dale Frisch's building.

Calvin Frisch states that it will.

Grant asks how far apart the buildings will be.

Calvin Frisch states that they will be a little over a mile apart.

Grant asks if there are any other questions.

No one speaks.

Grant asks if there is anyone else in favor.

Don Frisch states that he is in favor.

Grant asks if there is anyone else in favor.

Dennis Frisch states that he is in favor.

Grant asks if there is anyone else in favor.

Dale Frisch states that he is in favor.

Grant asks if there is anyone else in favor.

John Csukker states that he is in favor.

Grant asks if there is anyone else in favor.

No one speaks.

Grant asks if there is anyone opposed.

No one speaks.

Grant asks if there is anyone opposed.

No one speaks.

**7:54 p.m.** Grant closes the Public Hearing

Acklie makes a motion to recommend approval based on the above recommended conditions. Abler seconds the motion.

Vote taken. Members Grant, Abler, Oswald, Milander, Griffith, Acklie, Flood, Westerman and Prauner voted "Aye" none vote "Nay". Motion carried.

Grant reads the next Public Hearing.

**The purpose of this hearing is to receive public comments concerning the application of Thomas Rutjens for a Final Plat for Rutjens City Addition on property described as the Lot 7 Block 3 & Lot 8 Block 3 City of Tilden. This property is located at 207 Antelope St., Tilden, Antelope County, Nebraska.**

Heather states that the applicant is taking what is two lots currently and dividing into three lots. The two lots on the west will be used to build a duplex; the lot to the east will be used as parking for the library, which is situated further to the east.

Heather states that all three lots meet the required buildable size for the R3, Multi Family District.

Dick Johnson states that the east lot is 45' east and the city will end up owning it to use for parking. He states that Tom Rutjens will have the two westerly lots and build duplexes on them.

Prauner asks what it is currently zoned.

Heather states that it is zoned R3; Multi-Family. She states that the duplex is currently a permitted use.

Griffith states that the building that sat on this lot is the old Tilden Hospital.

Heather states that it is directly behind the library.

**7:59 p.m.** Grant opens the Public Hearing.

Grant asks if there is anyone in favor.

Dick Johnson speaks in favor.

Acklie confirms the location of the parking lot.

Johnson states that there will be the library, then an alley and then 45' of parking lot.

Milander asks if it will be close to the alley.

Johnson states that it will not.

Acklie asks if the parking lot will primarily be for the use of the library.

Griffith confirms that the parking lot will be on lot 3 and duplexes on the other two lots.

Johnson states that is correct.

Griffith confirms that the city will own the parking lot.

Johnson states that is correct.

Grant asks Johnson to show the Planning Commission the proposed location for the parking lot and the duplexes on the map.

Johnson shows the Planning Commission the location.

Flood points out that Highway 45 was labeled incorrectly on the plat.

Johnson agrees to make the correction.

Grant asks if there is anyone else in favor.

No one speaks.

Grant asks if there is anyone opposed.

No one speaks.

**8:03 p.m.** Grant closes the Public Hearing

Griffith makes a motion to recommend approval with corrections of the plat and based on the above recommended conditions. Westerman seconds the motion.

Vote taken. Members Grant, Abler, Oswald, Milander, Griffith, Acklie, Flood, Westerman and Prauner voted "Aye" none vote "Nay". Motion carried.

**Other Business:**

Building Permits are discussed.

Abler makes a motion to adjourn.

Prauner seconds the motion.

Vote taken. Members Grant, Abler, Oswald, Milander, Griffith, Acklie, Flood, Westerman and Prauner voted "Aye" none vote "Nay". Motion carried.

**8:07 p.m.** Meeting adjourned.



Exhibit A

July 9, 2019

Heather McWhorter, Zoning Administrator  
1112 Bonita Drive, Norfolk, NE 68701

Heather:

I am very opposed to having a poultry operation being located so close to my land. We have had a number of problems in our immediate area over the years. There have been hog operations located both to the south and southwest from my land. The operation to the south has never had waste containment ponds to my knowledge. The operation to the southwest was forced to build containment ponds. The flow from these ponds ran directly through my land.

#### Odor and Flies

The stink from the hog operations have been unliveable. Wind in Nebraska always blows from the south except during the winter. My mom could never go outside at any time without smelling the nasty odors coming from the south. She finally had to move to residential living at the Meadows for the rest of her life. After mom passed away, I sold an acreage off of the farm because I did not want to deal with the odor and flies anymore.

Will a big chicken operation be as stinky as hogs? I don't want to find out when it is too late. One particular strange odor occurred when hogs died (for whatever reason I do not know). They burned them which really provided a foul odor. Will they burn dead chickens too? Madison County is agricultural. There are always lots of flies. But the problem with a big poultry operation is likely to be similar to what we have had with hog operations. The number of flies more than doubled after hog operations started up. I remember having a picnic table and enjoyed eating outside on the farm when I was a kid. I left Madison County after high school to go to college, earning my Bachelors degree, then started work on a Master's degree. The Norfolk draft board tapped me for military duty in 1968. I was away in Vietnam during 1969. Whenever I was able to come home during college or after the War, eating outside was never even considered. The flies and the odor made it impossible to enjoy being outside, certainly not if considering picnicking.

I grew up in Madison County on property that is located about 1 mile north of the proposed poultry operation. I still own that land today and have it leased out. My tenant must put with the odor and flies of already existing operations whenever he is working the land. When I sell the land someday, I don't want that land devalued because of odor and flies.

Thank you for the time and consideration. I vote absolutely NO to the poultry operation.

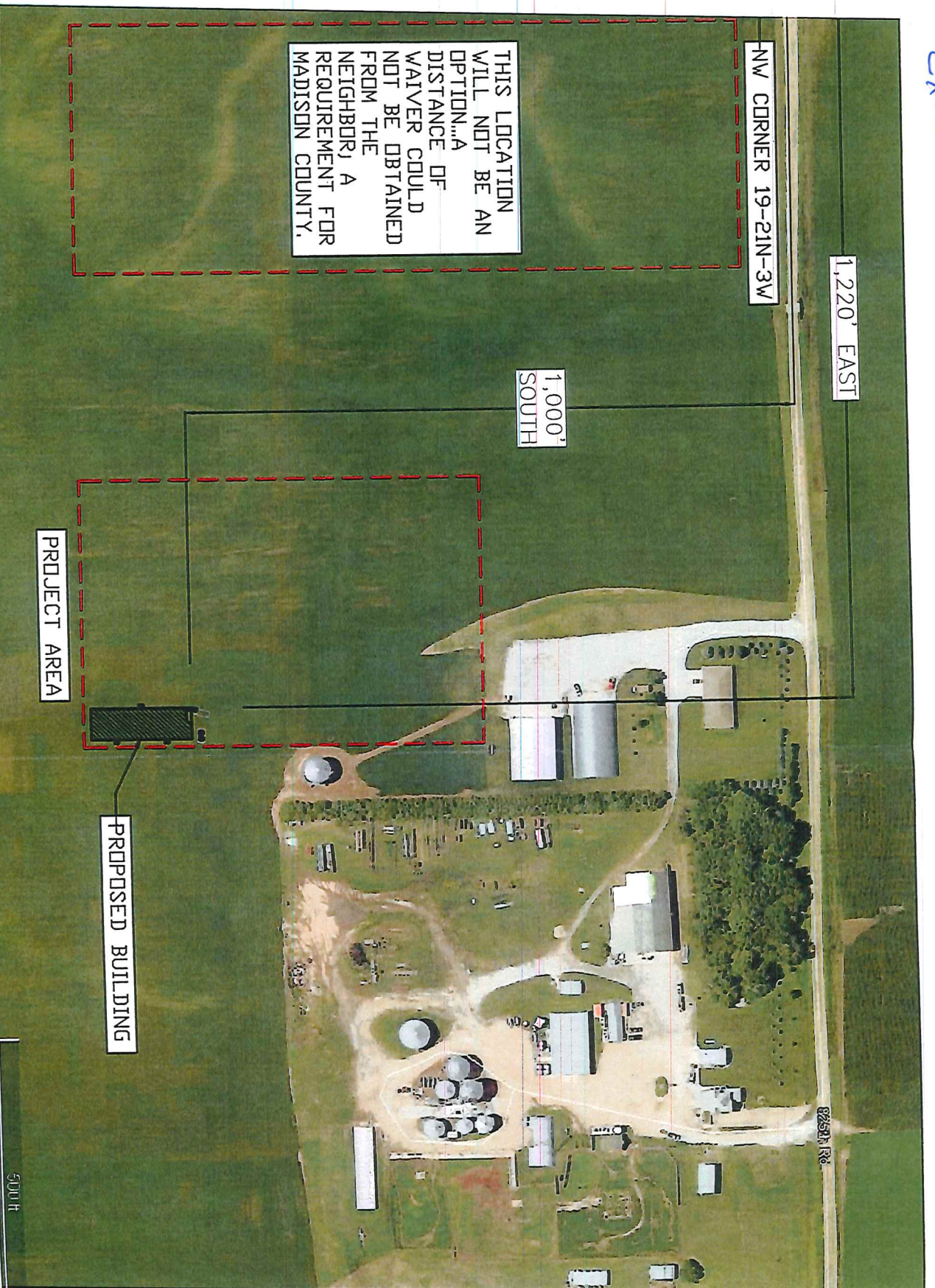
Sincerely,



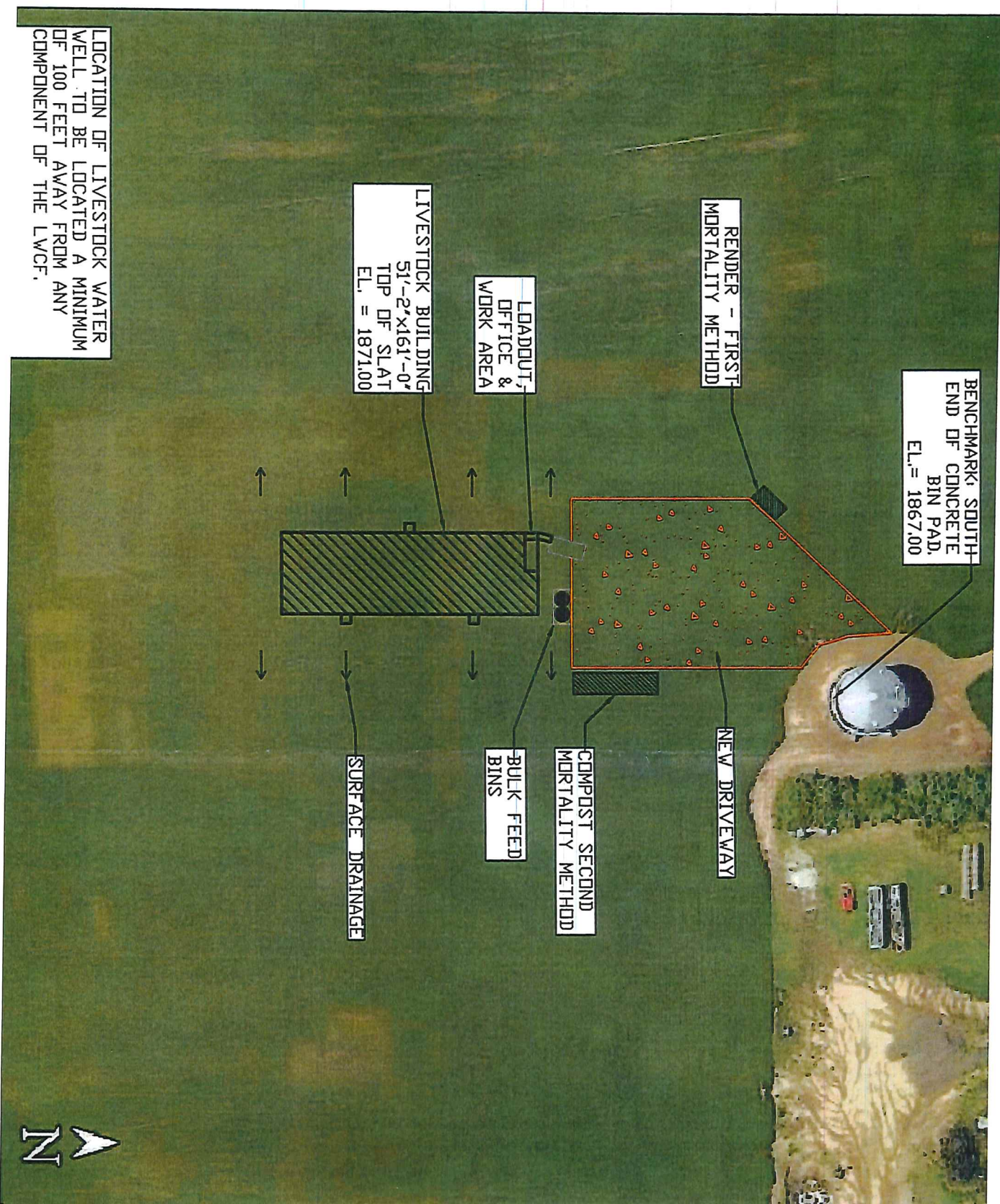
Melvin Schmidt  
1921 Rosedown Drive  
Lake Charles, LA 70606-9700  
(337) 478-0669



Exhibit B







BENCHMARK, SOUTH  
END OF CONCRETE  
BIN PAD,  
EL. = 1867.00

RENDER - FIRST  
MORTALITY METHOD

NEW DRIVEWAY

COMPOST SECOND  
MORTALITY METHOD

LOADOUT,  
OFFICE &  
WORK AREA

BULK FEED  
BINS

LIVESTOCK BUILDING  
51'-2"x161'-0"  
TDP OF SLAT  
EL. = 1871.00

SURFACE DRAINAGE

LOCATION OF LIVESTOCK WATER  
WELL TO BE LOCATED A MINIMUM  
OF 100 FEET AWAY FROM ANY  
COMPONENT OF THE LWCF.

