

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION APPROVING THE CONSERVATION AND PRESERVATION
EASEMENT TO THE NEBRASKA LAND TRUST

Grantors: Connie L. Anderson Swanson and Stanley A. Swanson

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the Conservation and Preservation Easements Act, Neb. Rev. Stat. §§76-2,111 to 76-2,118 (Reissue 2009) provides that the creation of conservation and preservation easements shall be approved by the appropriate governing body; and

WHEREAS, Connie L. Anderson Swanson and Stanley A. Swanson, husband and wife, currently own approximately 36.44 acres of real property in Sarpy County, Nebraska; and,

WHEREAS, Connie L. Anderson Swanson and Stanley A. Swanson have proposed granting a conservation and preservation easement to the Nebraska Land Trust, Inc. on the property further described in the Conservation and Preservation Easement, a copy of said Conservation and Preservation Easement is attached hereto and incorporated by reference; and,

WHEREAS, the Nebraska Land Trust is a charitable, non-profit organization and meets the requirements of Neb. Rev. Stat. §76-2,111(3)(b) (Reissue 2009) to be a holder of said easement; and

WHEREAS, pursuant to Neb. Rev. Stat. §76-2,112 (Reissue 2009), the proposed Conservation and Preservation Easement was submitted to the Sarpy County Planning Commission regarding the conformity of the proposed easement with the Sarpy County Comprehensive Development Plan. The Sarpy County Planning Commission recommended approval of the proposed easement on June 20, 2012; and

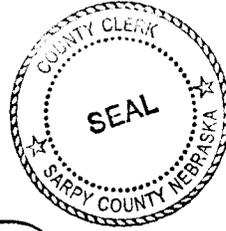
NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS THAT said Conservation and Preservation Easement is in conformity with the Sarpy County Comprehensive Development Plan and the purposes of the Conservation and Preservation Easement are consistent with the Conservation and Preservation Easement Act and said easement is hereby approved.

BE IT FURTHER RESOLEVED THAT the County Board authorizes the Chairman of the Sarpy County Board to sign the Conservation and Preservation Easement document showing approval of the easement.

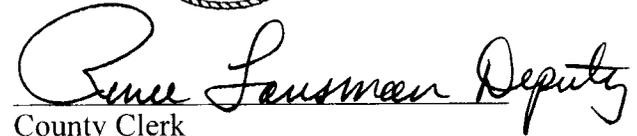
The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 26th day of June 2012.

Attest

SEAL




Sarpy County Board Chairman - VICE


County Clerk

COUNTER LM
VERIFY LM
FEE \$ 110.50
CHG SFILE
SUBMITTED NEBRASKA TITLE COMPANY - LI

FILED SARPY CO. NE.
INSTRUMENT NUMBER
2012-22259
2012 Jul 26 02:22:42 PM
Sheryl J. Dowling
REGISTER OF DEEDS



SPACE ABOVE RESERVED FOR REGISTER OF DEEDS OFFICE RECORDING INFORMATION
File Number: 0249665

Please Return recorded document to:
Nebraska Title Company
14680 West Dodge Road, Suite 1
Omaha, NE 68154

TITLE OF DOCUMENT: Conservation and Preservation Easement

After recording return to: The Nebraska Land Trust
 9200 Andermatt Drive, Suite 7
 Lincoln, NE 68523

CONSERVATION AND PRESERVATION EASEMENT

THIS CONSERVATION AND PRESERVATION EASEMENT (hereinafter "Easement") executed this 26th day of July, 2012 by and between Connie L. Anderson Swanson and Stanley A. Swanson, wife and husband (hereinafter "Grantors") who reside at 20929 South 204th Street, Gretna, Nebraska, 68028, and The Nebraska Land Trust Incorporated (hereinafter "THE LAND TRUST" or "Grantee"), a Nebraska nonprofit association, with its principal office located at 9200 Andermatt Drive, Suite 7, Lincoln, Nebraska, 68526. The Grantors and THE LAND TRUST are referred to collectively as the Parties.

RECITALS:

WHEREAS, the Grantors own in fee simple approximately 36.44 acres of real property in Sarpy County, Nebraska as described in the attached Exhibit "A" (herein referred to as the "Protected Property"), which possesses agricultural, aesthetic, historical, and ecological value in its present condition; and

WHEREAS, the Protected Property includes oak/hickory woodlands near Schramm State Park, which has been designated an Important Bird Area by the National Audubon Society due to these woodlands importance as habitat for migratory and nesting songbirds; and

WHEREAS, the Protected Property includes natural habitat within the Lower Platte River Biologically Unique Landscape designated through the Nebraska Natural Legacy Project, Nebraska's State Wildlife Action Plan, which identifies landscapes with native flora and fauna where conservation should focus, and

WHEREAS, the Protected Property includes open farmland that is agriculturally productive and a part of the agricultural landscape in Sarpy County, providing productive soils for crop production in a largely urban county; and

WHEREAS, the Protected Property contains Native American archeological sites documented by the Nebraska State Historical Society; and

WHEREAS, the Protected Property provides scenic views from public places, including frontage along 204th Street; and

WHEREAS, All of the above constitute the Conservation Values of the Protected Property; and

WHEREAS, the Grantors desire to conserve the Conservation Values and present status of the Protected Property by conveyance to THE LAND TRUST of this Conservation and Preservation Easement (hereinafter "Easement") for the purpose of conserving the present status and Conservation Values of the Protected Property and to prevent the use or development of the Protected Property for any purpose or in any manner which would conflict with the maintenance of the Protected Property in the present condition for both this and all future generations except as explicitly provided for herein; and

WHEREAS, the Parties hereto recognize the agricultural, natural, historic, and scenic character of the Protected Property and the Parties hereto have the common purpose of conserving the aforesaid Conservation Values of the Protected Property (hereinafter "Conservation Purposes"); and

WHEREAS, THE LAND TRUST wishes to accept the Easement as provided in Sec. 76-2,112, R.R.S. Neb., 1943 (as amended); and

WHEREAS, the present status of the aesthetic, agricultural, historical, ecological and natural condition of the Protected Property at the date this Easement becomes effective, is evidenced by reports, photographs, maps and scientific documentation possessed at the present time. Said evidences of the condition of the Protected Property are referred to collectively as the Baseline Documentation Report dated January 23, 2012, which is incorporated herein by reference; and

WHEREAS, the Conservation Purposes of this Easement are recognized by, and this Easement will serve, at least and without limitation, the following clearly delineated governmental conservation statutes, policies, and programs:

- The Nebraska Natural Legacy Project developed by the Nebraska Game and Parks Commission and others, to identify Biologically Unique Landscapes where conservation should focus;
- The policy of the State of Nebraska to conserve fish and wildlife resources for future generations, which the Nebraska Legislature has memorialized through various conservation-related statutes;
- The Sarpy County Comprehensive Plan which recognizes the "Schramm District" as an area with sensitive environmental resources that should be conserved;

- The Western Governors' Association Policy Resolution 05-19 supporting "voluntary incentive-based methods for preserving open space, maintaining land and water for agricultural and timber production, wildlife, and other values."

WHEREAS, THE LAND TRUST has, among its corporate purposes, the preservation of land providing open space, agricultural productivity, wildlife habitat, historical sites, and scenic qualities to ensure its continuing availability for these uses; and

WHEREAS, THE LAND TRUST is a publicly supported tax exempt not-for-profit organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). THE LAND TRUST is therefore qualified under Section 170(h) of the Code and possesses the authority to acquire a Conservation and Preservation Easement under the provisions of Sec. 76-2,111 to Sec. 76-2,118, R.R.S. Neb., 1943 (as amended) called the "Conservation and Preservation Easement Act" (the "Act"); and

WHEREAS, the Grantors are the sole owner of the fee simple interest in the Protected Property; and

NOW, THEREFORE, for and in consideration of One Dollar (\$ 1.00), the mutual intentions expressed in the foregoing recitals, the mutual covenants, terms, conditions and restrictions herein contained and other good and valuable consideration, Grantors voluntarily grant and convey to THE LAND TRUST (hereinafter "Grantee"), and Grantee voluntarily accepts, a perpetual Conservation and Preservation Easement, an immediately vested interest in real property defined by the Act and of the nature and character described in this Easement, exclusively for the purpose of conserving and forever maintaining the Conservation Purposes of the Protected Property. Furthermore, Grantors and Grantee hereto agree as follows:

ARTICLE I

Grant of Easement

Grantors, for themselves and their beneficiaries, successors and assigns (collectively, "Grantors"), hereby irrevocably grant, transfer and convey to THE LAND TRUST, its successors and assigns, this Easement encumbering the Protected Property in perpetuity as authorized by and subject to all provisions of the Code and the Act. This Easement conveyance is a bargain-sale from Grantors to the Grantee.

ARTICLE II

Covenants relating to the Protected Property

All activities that are inconsistent with the Conservation Purposes of this Easement are prohibited. Additionally, Grantors covenant and bind the Protected Property in perpetuity, such covenants to run with the Protected Property, as follows:

- A. **New Structures:** Grantors shall not build any structure on the Protected Property, in addition to any existing structures and roadways, other than the

construction or renovation of ponds to protect and improve these areas for agriculture, waterfowl and other wildlife and to maintain or replace existing structures and roadways, except as specified in Article III, below.

- B. Surface Alteration:** Grantors shall not disturb the Protected Property in any manner from its present state, including but not limited to: logging, clearing, draining, grading or permanent changes to the topography and removal of sand or gravel, except as specified in Article III, below.
- C. Access:** There shall be no public access to the Protected Property without the prior written consent of Grantors. "Public" shall not include Grantee or guests and invitees of Grantee. Grantors hereby give consent to Grantee and its designated agents (a) to make an annual inspection of the Protected Property and (b) such other inspections as may be reasonably necessary to confirm the status of the Protected Property in the event Grantee has cause to believe there has been a violation of this Easement. In no event shall Grantee or its agents access the Protected Property without prior reasonable notice to Grantors. Grantee shall have no right to limit the access of Grantors or any guest, invitee, licensee or tenant of Grantors or any parties who shall farm the Protected Property as tenants pursuant to the terms of Article IV, Section F. below.
- D. Industrial and Commercial Uses:** There shall be no development of the Protected Property for industrial, commercial or residential purposes, including but not limited to: buildings, billboards, telecommunications towers, motocross tracks, golf courses, commercial wind turbines, power lines, mobile homes, mining, and oil or gas development, except as provided in Article III below.
- E. Wind and Solar Power Generation:** The construction of commercial wind and solar energy generation facilities that are not for use in conjunction with those activities permitted by this Easement are prohibited anywhere on the Protected Property, provided however that such energy generation facilities may be installed within and used to provide power to the Building Envelope so long as such facilities do not impact the Conservation Purposes.
- F. Noxious and Detrimental Species.** The Grantors shall not introduce into the Protected Property any plant species designated as noxious or detrimental to wildlife by local, state, or federal land or wildlife agencies.
- G. Division or Subdivision of the Property:** Notwithstanding that the Protected Property may have been divided or subdivided prior to this Easement, the Protected Property subject to this Easement may only be conveyed as a single tract, except as provided in Section H. below. Subject to Section H. and the terms of this Easement, the Grantors do not have the right to divide, subdivide, or take any action that creates an actual or de facto division or subdivision of the Protected Property.
- H. Conveyance of Protected Property Tract:** The Protected Property subject to this Easement may be subdivided once by Grantors in order to convey Building

Envelope "B" as described on "Exhibit A" (Protected Property Tract). In the event that any interest in the Protected Property Tract is conveyed or sold by Grantors or their successors (Sellers) to any third party, Sellers shall pay a Stewardship Fee equal to 4% of the sale price or the appraised value of the conveyed Protected Property Tract as determined by a Certified General Appraiser, or \$10,000, whichever is less, to the Grantee. This Stewardship Fee shall be used by Grantee for purposes consistent with its mission and to insure compliance by all Protected Property owners with this Easement. The Stewardship Fee shall be waived if the Protected Property Tract is transferred to Grantors' heirs or beneficiaries.

Grantors shall notify Grantee in writing at least thirty (30) days prior to any permitted subdivision and/ or transfer of the Protected Property. The documents of conveyance of the Protected Property Tract shall expressly refer to, be subject to, and incorporate this Easement. Grantee shall have the right to record a document, executed solely by Grantee, in the real property records in the county within which the Protected Property is located.

- I. **Construction:** The Grantors shall not construct any structures or facilities except as specifically provided for in Article III, below.
- J. **Roads:** The Grantors shall not construct any new roads except as specifically provided for in Article III.
- K. **Off-Road Vehicles:** The Grantors shall not use vehicles off of existing roads and travel-ways in a manner that may result in apparent erosion or compaction of the soil, impact on the natural appearance of the Protected Property, damage or destruction to vegetation, or interference with use of the natural habitats by the wildlife species occurring on the Protected Property. The Parties recognize, however, that the use of off-road vehicles may be necessary in property management and retrieval of harvested big game animals and such limited use is therefore expressly permitted, provided that all reasonable efforts are made to minimize any adverse impact of the use, consistent with the terms and intent of this Easement. Any off-road vehicle use must be consistent with the first sentence of this Paragraph.
- L. **Commercial Feed Lot:** The Grantors shall not establish or maintain any commercial feedlot. For the purposes of this Easement, a commercial feed lot shall be defined as a permanently constructed, confined area or facility within which the land is not grazed or cropped annually, for purposes of engaging in the business of the reception and feeding of livestock. Nothing in this Paragraph shall prevent Grantors from seasonally confining their livestock into an area for feeding consistent with historical practices.
- M. **Dumping and Deposit of Waste:** No dumping or further accumulation of trash and refuse on the Protected Property is allowed, including but not limited to hazardous waste, non-compostable household garbage, chemical containers, appliances, scrap metal, construction waste, furniture, ashes, liquid waste, and

other non-compostable refuse, except for sawdust and livestock manure associated with normal agricultural activities and permitted by applicable state and federal laws. If the Grantors become aware of any accidental, illegal, or other placement or spilling of hazardous substances or waste or toxic materials, including oil and petroleum products, on the Protected Property, the Grantors shall notify the Grantee on a timely basis.

- N. **Utilities:** Other than those permitted in Article III, additional utility structures and systems are prohibited.
- O. **Mining:** All surface or open pit exploration for extraction or removal of oil, gas, and other minerals, rock, gravel, or sand found in, on, or under the Protected Property is prohibited. No sub-surface or other exploration or extraction of oil, gas, rock, gravel, sand, or other minerals, including the lease, sale, or other disposition of the rights to such materials is allowed. However, soil, sand, gravel or rock may be extracted without further permission from Grantee so long as such extraction is solely for use on the Protected Property for non-commercial purposes, is in conjunction with activities permitted herein, is accomplished in a manner which is consistent with the purpose of this Easement and does not substantially diminish or impair the Conservation Values, and has a limited and localized impact on the Protected Property.
- P. **Timber Harvesting:** The Grantors shall not commercially harvest timber on the Protected Property except as specifically allowed in Article III.
- Q. **Billboards:** The Grantors shall not construct, maintain, or erect any commercial signs or billboards on the Protected Property. Small signage may, however, be displayed to state the name of the owner and the Protected Property and that the property is protected by this Easement, to prohibit any unauthorized entry or use, or to advertise for the sale of the Protected Property or goods produced on the Protected Property.
- R. **Game Proof Fences:** Grantors shall not construct any big game proof fences, which are defined as any fence that cannot be crossed by deer or other big game wildlife, except in the Building Envelopes, around gardens, and to protect trees.
- S. **Native Flora and Fauna:** Grantors shall not remove or destroy any native plants, trees, vegetation, or wildlife, except as permitted in Article III or for the control of weeds, invasive species, and pests consistent with generally accepted agricultural practices in Sarpy County, Nebraska. Notwithstanding the forgoing, Grantors may maintain and improve the Protected Property for the purpose of enhancing native wildlife, native vegetation, and historical values, subject to obtaining Grantee's prior approval.
- T. **Grazing and Livestock:** No more than three Animal Units (1 AU = one cow of approximately 1,000 pounds and one yearling calf), or the equivalent for other livestock species, shall be kept on the Protected Property at the same time. If

livestock are kept on the Protected Property in accordance with this provision, they must be fenced out of areas with more than a 30% slope.

- U. **Water Resources:** Grantors shall not develop water resources for the commercial sale and transport of water off site.
- V. **Existing Condition:** Grantors shall take only such action upon the Protected Property as may be necessary to maintain its existing condition or as is otherwise specifically permitted herein. Grantors shall not remove or destroy any native or reestablished grasses, plants, trees or vegetation except as determined desirable by Grantors to maintain the Protected Property in the condition existing at date hereof and according to recommended practices in order to establish, maintain or promote native wildlife and plant life within the Protected Property or for permitted uses. Notwithstanding the forgoing, Grantors may maintain and improve the Protected Property for the purpose of enhancing native wildlife, native vegetation, and historical values.

ARTICLE III

Grantors Reserved Rights

Except as expressly limited by this Easement, Grantors reserve for themselves, their invitees, licensees, tenants and guests all rights of an owner of the Protected Property, including the right to use it for all purposes consistent with this Easement.

- A. **Agriculture:** Consistent with State of Nebraska and Papio-Missouri River Natural Resources District regulations, standards and requirements, and the terms of this Easement, Grantors shall have the right to use the Protected Property for the production, processing, and marketing of agricultural crops, including but not limited to wood products, organic agriculture, and/or "traditional" domestic livestock.
- B. **Wood Products Business:** Subject to Article III, Sections C. & D. below, Grantors reserve the right to build and maintain a saw mill and wood products business within Building Envelope "C" of the Protected Property, including tree removal services and the manufacture of cedar lumber and other wood products.
- C. **Building Envelopes:** The Grantors have the right to repair or replace the existing single-family residence and associated outbuildings in Building Envelope "A" described on the attached "Exhibit A", consisting of approximately 1 acre. Subject to Sarpy County zoning rules and regulations, Grantors reserve the right to construct or place one new single-family residence and up to two cabins for "bed and breakfast" style lodging not to exceed 800 square feet each, in Building Envelope "B" described on the attached "Exhibit A", consisting of approximately one acre. Grantors reserve the right to construct or place non-residential buildings used for agriculture, including wood products processing or production, in Building Envelope "C" described on the attached "Exhibit A", consisting of approximately one acre.

Grantors shall notify Grantee in writing prior to the commencement of any new construction within any of the three Building Envelopes and Grantee, at its discretion, may require a survey of Building Envelope boundaries prior to the commencement of new construction. The Grantors also have the right to construct, reconstruct, maintain and repair, if necessary, utilities and access roads to the residences and associated outbuildings allowed under this provision. Any utility corridor and/or roadway must follow the least damaging feasible route with regard to or within the Protected Property.

- D. Agricultural Structures and Improvements:** All major existing agricultural buildings and agricultural structures located within the Protected Property may be used for agricultural purposes and be repaired, reasonably enlarged and replaced without further permission of the Grantee. New major buildings and improvements such as barns, sheds, and garages which are to be used solely for agricultural purposes, including the processing and/or sale of agricultural products predominantly grown or raised on the Protected Property, including wood products, may be built within the Building Envelope "C" consisting of approximately one acre described in Exhibit A. Loafing sheds, corrals, water lines, water tanks and other minor agricultural structures and improvements without concrete foundations may be constructed anywhere on the Protected Property provided however, that any such structures shall be located with the intent of causing the least possible disturbance.
- E. Septic Systems:** New septic systems or lagoons will be allowed for any existing or permitted structures on the Protected Property, subject to local and state rules and regulations.
- F. Signage:** Small signage may be displayed to state the name of the owner of the Protected Property and that the property is protected by this Easement, to prohibit any unauthorized entry or use, or to advertise for the sale of the Protected Property or goods or services produced on the Protected Property.
- G. Fencing:** The Grantors may construct, maintain, replace and repair fences on the Protected Property without prior approval of the Grantee, including localized fences as needed to control drifting snow. Big game proof fences are permitted within the Building Envelopes and to protect trees and/or gardens without prior approval of the Grantee. No other big game proof fences can be constructed on the Protected Property.
- H. Recreational Uses:** Unless otherwise restricted herein, any passive recreational and educational activities that do not impact the Conservation Purposes, agricultural operation, and soils of the Protected Property are permitted, including without limitation, the following:

 - 1. Hunting:** Hunting, trapping, and fishing, in a manner consistent with state and federal laws and regulations;

2. **Horseback Riding:** Horseback riding on established trails and those established in accordance with Section L hereinafter in a manner consistent with local, state, and federal laws;
 3. **Hiking:** Hiking on established trails and those established in accordance with Section L hereinafter with the Grantors' permission and in a manner consistent with local, state, and federal laws; and
 4. **Tent Camping:** Dispersed, temporary tent camping, including "pop-up" trailers and "cab-over campers" is permitted anywhere on the Protected Property with Grantors permission, except that camping shall not be allowed within 50 feet of a waterway.
- I. **Hunting Blinds:** Temporary hunting blinds may be constructed anywhere on the Protected Property.
 - J. **Customary Rural Enterprises:** Customary rural enterprises are permitted on the Protected Property in buildings constructed and maintained for agricultural use.
 - K. **Eco-tourism:** Low impact Eco-tourism activities are permitted, including but not limited to tours, birding, work experiences, and field trips.
 - L. **Construction of Roads and Trails:** Maintenance of existing farm roads and trails is permitted, but no portion of the Protected Property outside of the Building Envelope shall be paved or otherwise covered with concrete, asphalt, or any other paving material. Grantors reserve the right to construct new trails for hiking, and new unpaved roads for agricultural activities and for access to permitted buildings and Building Envelopes on the Protected Property. To the extent practicable, new roads and trails shall follow the least damaging feasible route with regard to or within the Protected Property.
 - M. **Installation of Utilities:** Grantors may install utilities for serving those uses permitted on the Protected Property by the terms of this Easement. To the extent practicable, such utilities shall follow the least damaging feasible route with regard to or within the Protected Property.
 - N. **Range Management and Livestock Production:** Pursuant to Article II, Section S., the Grantors may use the Protected Property for common or typical livestock production, including hay production, grazing, feeding, breeding, raising, and managing livestock, provided these activities do not materially jeopardize the Conservation Purposes. The term "livestock" includes American Bison (*Bison bison*) and other livestock that are considered "traditional" at the time of the execution of this Easement and within the local area surrounding the Protected Property.

Sound range stewardship and livestock management are integral to the protection of the wildlife habitat and other Conservation Values protected by this Easement.

As such, all activities affecting range health will be conducted in a manner that fosters and/or maintains the ecological function of the land, water processes, wildlife, and plant community succession. Livestock grazing shall not exceed generally accepted standards for Sarpy County.

- O. Water Resources:** In accordance with applicable laws and regulations, the Grantors may maintain, enhance and develop any new or existing water resources which may include but are not limited to wells, windmills, buried water pipelines, irrigation, stock tanks and ponds on the Protected Property for permitted agricultural activities, domestic needs, fish and wildlife uses, and private recreation.
- P. Agrichemicals and Biological Controls:** The Grantors may use agrichemicals and biological controls, but only in accordance with all applicable laws and in those amounts and with that frequency of application constituting the minimum necessary to accomplish reasonable farming objectives and/or to improve wildlife habitat. The use of such agents shall be conducted in such a manner as to minimize any adverse effect upon the Conservation Values of the Protected Property and to avoid any impairment of the natural ecosystems and their processes.
- Q. Agricultural Leasing:** All or any portion of the Protected Property may be leased for any agricultural use or activity permitted by the Easement pursuant to the terms of Article III, above. If Grantors intend to lease Building Envelope "C" and/or any lumber business established thereon to a third party(ies), Grantors must provide Grantee thirty (30) days written notice of the terms of such lease which shall incorporate the terms of this Easement. Grantee may, at its sole discretion, require additional terms or conditions to ensure that such lessee(s) shall not adversely impact the Protected Property or the Conservation Values.
- R. Forest Management and Timber Harvest:** Maintenance of wooded areas and tree cover is integral to and part of the Conservation Purposes, including wildlife habitat and scenic views. As such, all activities affecting wooded areas and tree cover shall be conducted in a manner that maintains healthy woodland conditions over time and sustains and perpetuates the mix of native, naturally occurring species in representative ages and group sizes. Before any trees (except those described in the paragraph below) may be harvested from the Protected Property, the Grantors shall prepare and provide to Grantee a Forest Management Plan for its prior review and approval. The Grantee reserves the right to provide such Plan to the Nebraska Forest Service and/or the Nebraska Game and Parks Commission for review.

The Grantors may: (i) cut trees for posts and poles; (ii) cut and gather dead, dying and down trees for firewood and to abate disease and infestation; (iii) cut or prune trees and brush, which constitute a hazard to persons, property, or road; (iv) cut trees within the Building Envelope; (v) control invasive woody species such as eastern red cedar, honey locust, hackberry, and Siberian elm by all means

necessary, to preserve and restore native hardwood forest habitat, and; (vi) remove trees that are encroaching into cropland, pastures, and fence lines.

- S. **Habitat Improvement:** Subject to other provisions of this Easement, the Grantors reserve the right to undertake habitat improvement projects subject to a plan approved by the Grantee, which will enhance terrestrial and/or aquatic wildlife habitat. All such activities shall be undertaken in order to protect the Conservation Values of the Protected Property. The Grantors will not introduce into the Protected Property any plant species defined or listed as noxious or detrimental to wildlife by local, state, or federal land or wildlife agencies. The Grantors may restore cropland to grassland for livestock grazing and hay production, so long as high quality certified weed-free seed is used that consists of native grass and forb species found in the area.
- T. **Erosion Control:** To control erosion, steep banks and ravines may be stabilized with clean concrete or other non-toxic fill materials, subject to a plan approved by the Grantee whose approval shall not be unreasonably withheld.
- U. **Brush Piles:** Grantors may place tree stumps, logs, sawdust, and brush originating from the Protected Property in piles for burning, decay, or disposal.
- V. **Terraces and Dams:** The Grantors may construct, maintain, replace and repair terraces, tile lines, risers, and dams on the Protected Property according to NRCS standards, to retain moisture and reduce erosion in cropland, provided however, that any such terraces and/or dams shall be located with the intent of causing the least possible disturbance to natural, archeological and historical resources.
- W. **Renewable Power Generation:** The construction of wind, solar, biomass, and/or other renewable power generation facilities for on-site domestic use in conjunction with those activities permitted by this Easement are permitted on the Protected Property, after reasonable notice to Grantee containing a description and location map.
- X. **Composting:** Grantors reserve the right to compost biodegradable household refuse generated on site.
- Y. **Residual Rights:** Except as limited by this Easement, the Grantors may exercise and enjoy all rights as owners of the Protected Property, including the right to use the Protected Property for any purpose consistent with this Easement.
- Z. **Prescribed Fire:** Grantors reserve the right to conduct prescribed burning of rangeland to improve grassland health and control cedars, so long as this activity is conducted in a manner that does not impair the Conservation Values of the Property.

ARTICLE IV General Provisions

A. **Enforcement:** The Grantee may enforce this Easement in law or in equity against Grantors, their successors, assigns, licensees, tenants and permittees. If there is a violation of any of the provisions of this Easement, the Grantee shall have the right to notify the party in violation, who shall promptly cure the violation by:

- (1) Ceasing the violation; or
- (2) Restoring the Protected Property to its condition before the violation; or
- (3) Both, as the case may be.

If the violation continues, the Grantee shall have the right, but not the obligation, to pursue legal actions or proceedings at law or in equity to cause such violation to be cured. Grantors shall reimburse the Grantee for all expenses incurred, including legal fees whether in or out of court and all other related or incidental costs of proceedings, legal or otherwise, brought to cure an alleged violation of this Easement or to collect such reimbursement. If Grantors Stanley A. Swanson and Connie L. Anderson Swanson, own the Protected Property at such time as Grantee pursues such legal actions or proceedings, such reimbursement shall be for any expenses in excess of \$20,000 donated by such Grantors to endow the monitoring and defense of this Easement. Grantee's failure to enforce any restriction or covenant herein contained shall in no way be deemed a waiver of a right to do so thereafter as to the same violation or breach or as one occurring prior or subsequent thereto.

Notwithstanding anything herein to the contrary, Grantors agree and acknowledge that they have no legal right or claim whatsoever arising against Grantee in the event that Grantee in the future does not enforce any restriction in the Easement or elect to become released from the Easement.

B. **Amendments/Assignment:** If the circumstances arise under which an amendment to or modification of this Easement would be appropriate, this Easement may be amended only with the written consent of Grantors, Grantee, and local government as required by Neb. Rev. Stat. § 76-2112. Any such amendment shall be consistent with the Conservation Purposes of the Easement, shall comply with Nebraska law and applicable federal law, and may not affect its perpetual duration. Any amendment must be in writing, signed by both Parties, and recorded in the official records of Sarpy County, Nebraska.

This Easement may be assigned by the Grantee at its election, to a qualified organization as defined in Section 170(h) of the Code with the prior written consent of Grantors, such consent not to be unreasonably withheld.

- C. **Baseline Documentation Report:** The Grantors and Grantee agree that the present status of the agricultural, historic, scientific, ecological and natural condition of the Protected Property at the date this Easement becomes effective, shall be evidenced by reports, photographs, maps and scientific documentation possessed at the present time. Said evidences of the condition of the Protected Property are referred to collectively as the Baseline Documentation Report dated January 23, 2012, which has been signed and acknowledged by the Grantors and representatives of Grantee and is incorporated herein by reference.
- D. **Title Warranty:** Grantors warrant that they have good title to the Protected Property; that the Grantors have the right to convey this Easement, and that the Protected Property is free and clear of any encumbrances.
- E. **Environmental Warranty:** Grantors warrant that they are in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantors warrant that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Protected Property. Grantors also warrant that they have no actual knowledge of a release or threatened release of hazardous substances or hazardous wastes on the Protected Property as such substances and wastes are defined by applicable federal and state law. Grantors further warrant that they have no actual knowledge of a release or threatened release of Hazardous Materials as defined herein and by applicable federal and state law.

Moreover, Grantors hereby promise to hold harmless and indemnify the Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantors or any other prior owner of the Protected Property. Grantors' indemnification obligation shall not be affected by any authorizations provided by Grantee with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.

"Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

“Hazardous Materials” means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.”

- F. Rights of Nebraska Environmental Trust:** This Easement was acquired in part with grant funds provided by the Nebraska Environmental Trust and will be managed for the purposes set out in the grant, in accordance with applicable State law. The Protected Property may not be sold, leased, transferred, exchanged, mortgaged or encumbered in any manner, or used for purposes inconsistent with the grant without prior written notification to the Nebraska Environmental Trust, P.O. Box 94913 – Lincoln, NE 68509-4913.
- G. Release:** Grantee may release this Easement through appropriate legal process upon determining the Easement does not at any time in the future substantially achieve the conservation and preservation purpose, in accordance with Sec. 76-2,113, R.R.S. Neb., 1979, or as authorized by any other provision of law in effect at the time such release is requested.

If circumstances arise in the future such as render the purposes of this Easement impossible to accomplish, this Easement may only be terminated or extinguished, whether in whole or in part, upon request of the Grantors and Grantee, by judicial proceedings in a court of competent jurisdiction, and the amount of the proceeds to which the Grantee shall be entitled, after the satisfaction of costs from any sale, exchange, or involuntary conversion of all or any portion of the Protected Property subsequent to such termination or extinguishment, shall be determined pursuant to Paragraph M. below.

- H. Responsibilities of Grantors and Grantee Not Affected:** Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any existing obligation of Grantors as owners of the Protected Property. Among other things, this shall apply to:
- 1. Taxes:** Grantors shall continue to be solely responsible for payment of all taxes and assessments levied against the Protected Property. Grantor agrees that if any real property taxes or assessments are levied against the Grantee as a result of this easement for which exemption cannot be obtained, Grantor shall donate a sum of money to the Grantee equal to the amount of such taxes and Grantee shall pay such taxes.
 - 2. Upkeep and Maintenance:** Grantors shall continue to be solely responsible for the upkeep and maintenance of the Protected Property, to the extent it may be

required by law. Grantee shall have no obligation for the upkeep or maintenance of the Protected Property.

3. Liability and Indemnification: Grantors shall indemnify and hold harmless Grantee, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee may be subject or incur relating to the Protected Property, which may arise from, but is not limited to, Grantors' negligent acts or omissions or Grantors' breach of any representation, warranty, covenant, agreements contained in this Easement, or violations of any Federal, State, or local laws, including all Environmental Laws.

4. Recording/Fees: Promptly following its execution by the Parties, Grantors shall record the Easement with the Sarpy County Registrar of Deeds and pay any fees associated with such recording. Notwithstanding the foregoing, the Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Easement; for such purpose, the Grantors appoint the Grantee as Grantors' attorney-in-fact to execute, acknowledge and deliver any necessary instrument on Grantors' behalf. Without limiting the foregoing, the Grantors agree to execute any such instruments upon request.

- I. Monitoring:** It is the obligation of both Grantors and Grantee, to monitor the Protected Property so as to keep all agricultural lands, grasslands, springs, creeks, ponds, wooded areas and other natural conditions in the state and condition as they exist at the date hereof, and in accordance with the Baseline Documentation Report, subject to the terms and conditions specifically permitted herein.
- J. Perpetuity of Easement:** The covenants, terms, conditions, restrictions, and purposes imposed with this grant shall bind the Parties, their agents, personal representatives, heirs, assigns, and all other successors to them in interest and shall run with the land and continue in perpetuity as servitude upon the Protected Property.
- K. Partial Invalidity:** Invalidation of any provision of this Easement, by court judgment, order, statute or otherwise, shall not affect any other provision which shall remain in force and effect.
- L. Notice of Condemnation:** In the event all or any part of the Protected Property is ever proposed for condemnation by the State, local, or federal government, the Grantee must be notified immediately.
- M. Termination/Condemnation:** If the Easement is terminated, extinguished or condemned, in whole or in part, or part of the Protected Property is sold for road right-of-way along 204th Street, pursuant to a threat of condemnation by a

government agency, Grantors and Grantee agree to divide the gross sale proceeds or condemnation award in proportion to the fair market value of their respective interests in the Protected Property as determined by the ratio of the appraised value of the Easement to the unrestricted fair market value of the Protected Property as these values are determined on the date of this Easement. The Grantee agrees to use its share in a manner consistent with the conservation purposes of this Easement, or as required by applicable law.

This Easement shall terminate if Grantee, for whatever reason, is no longer eligible as a Grantee under the applicable Nebraska statute empowering entities to hold Conservation Easements and the Easement is not transferred pursuant to Section B herein with one (1) year from the date Grantee is deemed ineligible.

- N. **Property Transfer:** Grantors agree to incorporate the terms of this Easement in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest. Grantors further agree to give written notice to the Grantee of the transfer of any interest at least thirty (30) days prior to the date of such transfer. The failure of Grantors to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.
- O. **Subordination:** Any mortgage, easement, lien or other cloud on the Protected Property's title shall be subordinated to the terms of this Easement.
- P. **Governing Law:** This Easement shall be construed to promote the purposes of the enabling statute set forth in Sec. 76-2,111 to Sec. 76-2,118, R.R.S. Neb., 1943 (as amended) called the "Conservation and Preservation Easement Act", which authorizes the creation of Conservation and Preservation Easements for purposes including those set forth in the Recitals herein, and the Conservation Purposes of this Easement, including such purposes as are defined in Sections 170 (h)(4)(A) of the Internal Revenue Code.
- Q. **Acts of Nature:** Unless otherwise specified, nothing in this Easement shall require Grantors to take any action to restore the condition of the Protected Property after any fire or other Act of Nature. Grantors understand and agree that nothing in this Easement relieves them of any obligation or restriction on the use of the Protected Property imposed by law.
- R. **Entire Agreement:** This document sets forth the entire agreement of the Grantors and the Grantee with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement. If any provision is found to be invalid, the remainder of the provisions of this Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.
- S. **"Grantors" and "Grantee":** The term "Grantors," as used in this Easement, and any pronouns used in place thereof shall mean and include the above-named

Grantors, and their heirs, personal representatives, executors, successors and assigns. The term "Grantee," as used in this Easement, and any pronouns used in place thereof shall mean The Nebraska Land Trust, Incorporated, and its successors and assigns.

T. **Titles:** Section and Paragraph titles and subtitles are for convenience only and shall not be deemed to have legal effect.

U. **Costs, Liabilities, and Insurance:** Grantors assume all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including the maintenance of adequate comprehensive general liability insurance coverage that includes any commercial hunting operation or other recreational or residential business. Grantee's name shall be listed among the insured parties on the policy. Grantors shall keep the Grantee's interest in the Protected Property free of any liens arising out of any work performed for, materials furnished to or obligations incurred by Grantors.

V. **Effective Date:** This Easement shall be effective when signed by the Parties. It is the intent of the Parties that this Easement shall be effective in the year 2012.

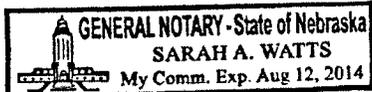
TO HAVE AND TO HOLD the above described Conservation and Preservation Easement unto THE NEBRASKA LAND TRUST INCORPORATED and its successors and assigns forever.

IN WITNESS WHEREOF, the Grantors and the Grantee have executed this Conservation and Preservation Easement on the date and year first herein set forth.

By: Connie L. Anderson Swanson By: Stanley A. Swanson
Connie L. Anderson Swanson Stanley A. Swanson

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me on this 26th day of July, 2012, by Connie L. Anderson Swanson and Stanley A. Swanson.



Sarah A. Watts
NOTARY PUBLIC

ACCEPTANCE

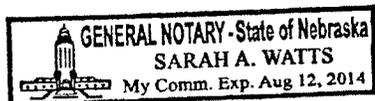
This Conservation and Preservation Easement is hereby accepted by THE NEBRASKA LAND TRUST INCORPORATED, Grantee herein.

By David S. Sands
David S. Sands, Executive Director

Date: July 26, 2012

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

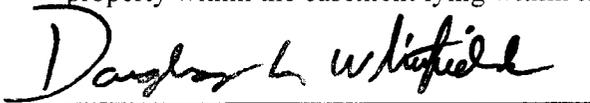
The foregoing instrument was acknowledged before me on this 26th day of July, 2012, by David S. Sands, Executive Director of The Nebraska Land Trust Incorporated.



Sarah A. Watts
Notary Public

PLANNING COMMISSION ACTION

On the 20th day of June, 2012, this Conservation and Preservation Easement was considered by the Planning Commissioners of Sarpy County, Nebraska as to that portion of the property within the easement lying within its jurisdiction. The Planning Commissioners of Sarpy County, Nebraska recommended that the Commissioners of Sarpy County, Nebraska approve the Conservation and Preservation Easement as to that portion of the property within the easement lying within its jurisdiction.



Chairman, Planning Commission of
Sarpy County, Nebraska

**APPROVAL OF BOARD OF COMMISSIONERS OF
SARPY COUNTY, NEBRASKA**

By Resolution duly adopted on the 20th day of June, 2012, the Board of Commissioners of Sarpy County, Nebraska, approved this Conservation and Preservation Easement as required by Neb. Rev. Stat. § 76-2112 as to that portion of the property within the easement lying within its jurisdiction.



Vice-Chairman, Board of Commissioners of
Sarpy County, Nebraska

EXHIBIT A
Description of the Property

Map of Protected Property

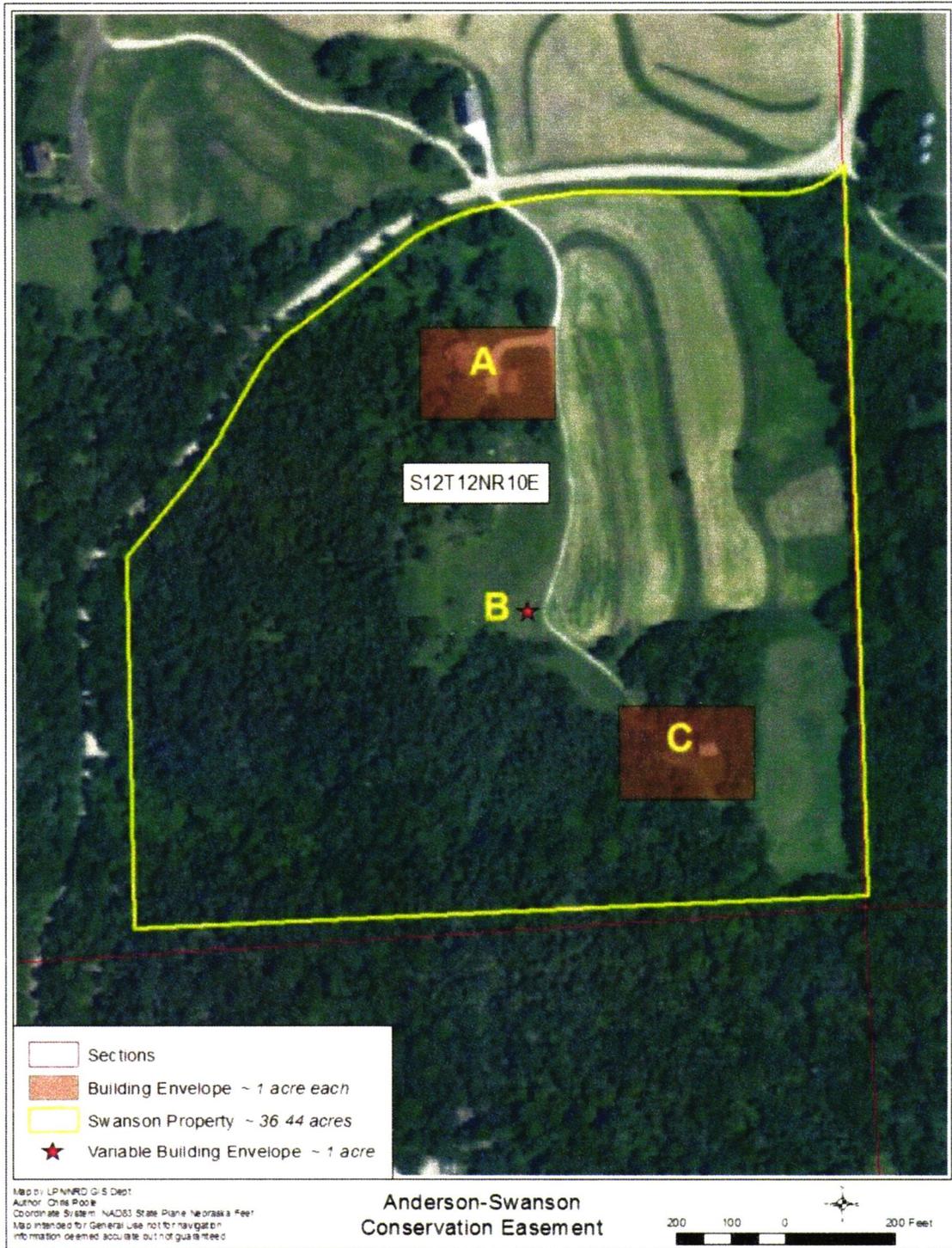


Exhibit A (page 2)
Description of the Protected Property

Legal Description

Part of the East Half of the Southeast Quarter (E1/2 SE1/4) of Section 12, Township 12 North, Range 10 East of the 6th P.M., Sarpy County, Nebraska, described as follows: Beginning at the Southeast corner of said Section 12, thence North 89 degrees 58 minutes 28 seconds West (assumed bearing) 1,353.95 feet to the Southwest corner of the East Half of the Southeast Quarter (E1/2 SE1/4) of Section 12, thence North 02 degrees 08 minutes 49 seconds East 684.19 feet along the West line of said East Half (E1/2) to a point on the South right-of-way line of a county road; thence along said South right of way on the following ten courses: (1) North 43 degrees 06 minutes 57 seconds East 181.79 feet; (2) along a curve to the left having a radius of 601.15 feet, an arc length of 105.54 feet, and a long chord bearing North 38 degrees 05 minutes 11 seconds East for 105.40 feet; (3) North 33 degrees 03 minutes 25 seconds East 127.01 feet; (4) along a curve to the right having a radius of 263.85 feet, an arc length of 105.24 feet, and a long chord bearing North 44 degrees 29 minutes 01 seconds East for 104.55 feet; (5) North 55 degrees 54 minutes 38 seconds East 249.54 feet; (6) along a curve to the right having a radius of 374.57 feet, an arc length of 180.25 feet, and a long chord bearing North 69 degrees 41 minutes 45 seconds East for 178.51 feet; (7) North 83 degrees 28 minutes 53 seconds East 91.94 feet; (8) along a curve to the right having a radius of 828.12 feet, an arc length of 153.43 feet, and a long chord bearing North 88 degrees 47 minutes 21 seconds East 153.21 feet; (9) South 85 degrees 54 minutes 11 seconds East 292.78 feet; (10) along a curve to the left having a radius of 158.00 feet, an arc length of 132.98 feet, and a long chord bearing North 69 degrees 59 minutes 05 seconds East for 129.09 feet to the East line of Section 12; thence South 01 degrees 31 minutes 10 seconds West 1,343.86 feet to the point of beginning.

Sarpy County Board of Commissioners Report
Staff Report Prepared: June 21, 2012
County Board Date: June 26, 2012

Subject	Type	By
Conservation and Preservation Easement Agreement between Connie L. Anderson Swanson & Stanley A. Swanson and the Nebraska Land Trust	Resolution	Bruce Fountain, AICP, EDFP Planning Director

➤ **Summary and Purpose:**

Connie L. Anderson Swanson & Stanley A. Swanson, the property owners, are seeking to dedicate a conservation easement over their property to the Nebraska Land Trust for perpetual preservation. They are asking the County to approve the proposed Conservation and Preservation Easement agreement and find that it is in conformance with the Sarpy County Comprehensive Plan.

➤ **Background and Analysis:**

The detailed staff report on this request was presented to the Planning Commission at their June 20, 2012 meeting and is attached for your information and review.

➤ **Staff Recommendation:**

Staff recommends **APPROVAL** of the Conservation and Preservation Easement agreement between the Swansons and the Nebraska Land Trust as it is consistent with the Sarpy County Comprehensive Plan's future land use designation of Conservation Residential. The County Attorney's staff also has reviewed the document and does not request any revisions.

➤ **Planning Commission Recommendation:**

On June 20, 2012 the Planning Commission voted 6-1 to recommend **APPROVAL** of the Conservation and Preservation Easement agreement between the Swansons and the Nebraska Land Trust as it is consistent with the Sarpy County Comprehensive Plan.

Bliss moved, seconded by Lichter, to recommend approval of the Conservation and Preservation Easement agreement "as it is consistent with the Sarpy County Comprehensive Plan. Ballot: Ayes – Bliss, Mohr, Lichter, Vanek, Torczon, Farrell. Nays – Whitfield. Abstain – none. Absent – Fenster, Stuart, Murante, Thompson. Motion carried. (6-1)

Respectfully submitted by:



Bruce Fountain, AICP, EDFP
Planning Director



**SARPY COUNTY PLANNING
& BUILDING DEPARTMENT**

RECOMMENDATION REPORT

**SWANSON CONSERVATION &
PRESERVATION EASEMENT (MISC 12-0004)**

PLANNING COMMISSION HEARING: JUNE 20, 2012

I. GENERAL INFORMATION

A. APPLICANTS:

The Nebraska Land Trust
c/o Dave Sands
9200 Andermatt Dr., Suite 7
Lincoln, NE 68526

Connie L. Anderson Swanson & Stanley A. Swanson
20920 South 204th Street
Gretna, NE 68028

B. PROPERTY OWNER:

Connie L. Anderson Swanson & Stanley A. Swanson
20920 South 204th Street
Gretna, NE 68028

C. LEGAL DESCRIPTION: Part of the East Half of the Southeast Quarter (E1/2 SE1/4) of Section 12, Township 12 North, Range 10 East of the 6th P.M., Sarpy County, Nebraska, described as follows: Beginning at the Southeast corner of said Section 12, thence North 89 degrees 58 minutes 28 seconds West (assumed bearing) 1,353.95 feet to the Southwest corner of the East Half of the Southeast Quarter (E1/2 SE1/4) of Section 12, thence North 02 degrees 08 minutes 49 seconds East 684.19 feet along the West line of said East Half (E1/2) to a point on the South right-of-way line of a county road; thence along said South right of way on the following ten courses: (1) North 43 degrees 06 minutes 57 seconds East 181.79 feet; (2) along a curve to the left having a radius of 601.15 feet, an arc length of 105.54 feet, and a long chord bearing North 38 degrees 05 minutes 11 seconds East for 105.40 feet; (3) North 33 degrees 03 minutes 25 seconds East 127.01 feet; (4) along a curve to the right having a radius of 263.85 feet, an arc length of 105.24 feet, and a long chord bearing North 44 degrees 29 minutes 01 seconds East for 104.55 feet; (5) North 55 degrees 54 minutes 38 seconds East 249.54 feet; (6) along a curve to the right having a radius of 374.57 feet, an arc length of 180.25 feet, and a long chord bearing North 69 degrees 41 minutes 45 seconds East for 178.51 feet; (7) North 83 degrees 28 minutes 53 seconds East 91.94 feet; (8) along a curve to the right having a radius of 828.12 feet, an arc length of 153.43 feet, and a long chord bearing North 88 degrees 47 minutes 21 seconds East 153.21 feet; (9) South 85 degrees 54 minutes 11 seconds East 292.78 feet; (10) along a curve to the left having a radius of 158.00 feet, an arc length of 132.98 feet, and a long chord bearing North 69 degrees 59 minutes 05 seconds East for 129.09 feet to the East line of Section 12; thence South 01 degrees 31 minutes 10 seconds West 1,343.86 feet to the point of beginning.

- D. SUBJECT PROPERTY LOCATION:** 20920 South 204th Street – generally located north of the intersection of 204th Street and Highway 31 in southern Sarpy County (just north of the Platte River).
- E. SUBJECT PROPERTY SIZE:** Approximately 34.44 acres.
- F. EXISTING ZONING AND FUTURE LAND USE DESIGNATIONS:**
- Zoning: AG (Agricultural Farming District)
 - Future Land Use Designation: Conservation Residential
- G. REQUESTED ACTION(S):** To find the proposed Conservation and Preservation Easement in conformance with the Sarpy County Comprehensive Plan.
- H. PURPOSE OF REQUEST:** To dedicate a conservation easement over the landowner's property to the Nebraska Land Trust for perpetual preservation.

II. BACKGROUND INFORMATION

- A. EXISTING CONDITION OF SITE:** The subject property consists of the family farmstead and agricultural ground as well as a large area of woodlands containing important wildlife habitat and native flora and fauna.
- B. SURROUNDING AREA ZONING AND LAND USES:**
- North: AG (Agricultural District) – undeveloped farm land
 - East: AG (Agricultural District) – undeveloped farm land and woodlands
 - South: AG (Agricultural District) – undeveloped woodlands
 - West: AG (Agricultural District) – undeveloped farm land and woodlands
- C. APPLICABLE REGULATIONS:**
- Section 9, Zoning Ordinance, regarding the AG (Agricultural Farming) District
 - Sarpy County Comprehensive Plan

III. ANALYSIS / STAFF COMMENTS

- A. GENERAL:**
- The request to dedicate this conservation and preservation easement is by the property owners who have negotiated terms with the Nebraska Land Trust as specified in the attached Conservation and Preservation Easement document.
 - The subject property of the request is in an area of the County that has several unique environmental and cultural features including woodlands, important bird and wildlife habitat, native vegetation, and historical sites. The perpetual conservation of this area is an ecological benefit in preserving some of Sarpy County's natural beauty.
 - The Conservation and Preservation Easement restricts the construction of new structures outside of designated areas and does not allow logging or clearing outside of these designated building envelopes; prohibits commercial or industrial uses as well as commercial feed lots; and restricts commercial wind energy and solar power generation along with other uses that could deteriorate the quality of the preserved land. Further detail is provided in the easement document.
- B. COMPREHENSIVE PLAN:** The request to conserve the property through a conservation and preservation easement is in conformance with the future land use designation of Conservation Residential.

C. OTHER AGENCY REVIEW/COMMENTS: The application was sent to each of the five cities in Sarpy County as well as other area jurisdictional agencies or departments that may have an interest. Responses received indicated they had no comments or objections to the application.

IV. PLANNING DEPARTMENT RECOMMENDATION:

Staff recommends **APPROVAL** of the Conservation and Preservation Easement agreement between the Swansons and the Nebraska Land Trust as it is consistent with the Sarpy County Comprehensive Plan's future land use designation of Conservation Residential. The County Attorney's staff also has reviewed the document and does not request any revisions.

V. PLANNING COMMISSION RECOMMENDATION:

Bliss moved, seconded by Lichter, to recommend **approval** of the Conservation and Preservation Easement agreement as it is consistent with the Sarpy County Comprehensive Plan. Ballot: Ayes – Bliss, Mohr, Lichter, Vanek, Torczon, Farrell. Nays – Whitfield. Abstain – none. Absent – Fenster, Stuart, Murante, Thompson. Motion carried. (6-1)

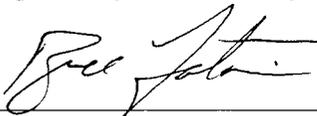
VI. ATTACHMENTS TO REPORT:

- A. Conservation and Preservation Easement Document
- B. Sarpy County Current Zoning Map
- C. Sarpy County Future Land Use Map

VII. COPIES OF REPORT SENT TO:

- A. Connie L. Anderson Swanson & Stanley A. Swanson, property owners
- B. Dave Sands, Nebraska Land Trust
- C. Public Upon Request

Respectfully submitted by:



Bruce A. Fountain, AICP, EDFP
Director, Planning & Building Dept.

6/11/12
Date

The Omaha World-Herald Ad Order Confirmation

Ad Content

**SARPY COUNTY
DEPARTMENT OF PLANNING**

Sarpy County Courthouse
1210 Golden Gate Drive
Papillion, Nebraska 68046
Phone (402) 593-1555
Fax (402) 593-1558
Bruce Fountain, AICP, Director

**NOTICE OF PUBLIC HEARING
SARPY COUNTY PLANNING
COMMISSION**

Notice is hereby given that a regular meeting of the Sarpy County Planning Commission will be held on Wednesday, June 20, 2012, at 7:00 P.M. in the Sarpy County Board Room, Sarpy County Administration, Papillion, Nebraska.

Tonya Vashon, 9106 S 173 Street, Omaha, requests a Special Use Permit to operate an in-home child care facility on property legally known as Lot 220, Palisades, a subdivision located in Sec 21, Twp 14N, Rng 11E of the 6th P.M., Sarpy County, Nebraska. (168th & Cornhusker Road)

Westmont Condominium Association, c/o Terry Jones, 13219 Glenn Street, Omaha, requests approval of a Change of Zone from BG-PD to RG-15 to bring the condominium units into compliance with the current Sarpy County Zoning Regulations on the property legally described as Lots 1 & 2, Block 7, Westmont Condominium Property Regime, Lots 1, 2, 5 & 6, Block 8, Westmont Condominium Property Regime and Lot 1, Block 9, Westmont Replat 1 all located in Sec 36, Twp 14 N, Rng 11 E of the 6th P.M., Sarpy County, Nebraska. (132nd & Hwy 370)

Connie Anderson Swanson & Stanley Swanson, 20929 S, 204th Street, Gretna, request approval of a Conservation and Preservation Easement on the property legally described as Part of the E1/2 of the SW1/4 of Sec 12, Twp 12 N, Rng 10 E of the 6th P.M., Sarpy County, Nebraska (204th Street & S. Hwy 31)

Sarpy County Planning Department requests approval of a text amendment to the Sarpy County Zoning Regulations specifically regarding Section 44 (Definitions) to clarify the "livestock density".

Sarpy County Planning Department requests approval of a text amendment and addition to the Sarpy County Zoning Regulations specifically regarding notifications to neighboring property owners regarding applications for a change of zone, special use permits, or variances.

An agenda for the meeting, kept continually current, is available for inspection at the Sarpy County Planning Department office.

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PAPILLION NE 68046 USA

Customer Phone

(402)593-2156

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Payment Method

<u>Payment Amount</u>	<u>Amount Due</u>
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SNI Classified::	Bellevue Legals	6/6/2012	1	\$18.36
	SNI Legals Sarpy BL-Sarpy L			
SNI Classified::	Gretna Legals	6/6/2012	1	\$0.00
	SNI Legals Sarpy GB-Sarpy I			
SNI Classified::	Papillion Legals	6/6/2012	1	\$9.89
	SNI Legals Sarpy PT-Sarpy L			
SNI Classified::	Springfield Legals - Springfield	6/6/2012	1	\$0.00
	SNI Legals Sarpy SM-Sarpy I			

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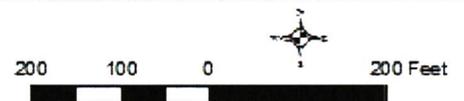
-  MsF, Monona and Ida silt loams, 17 to 30 percent slopes
-  MoE, Monona silt loam, 11 to 17 percent slopes
-  MsE2, Pohocco and Ida silt loams, 11 to 17 percent slopes
-  MoD2, Pohocco silt loam, 7 to 11 percent slopes, Farmland of statewide importance
-  Rk, Rock land
-  Rn, Rough broken land, loess

Geographic Features

-  Swanson Property ~36.44 acres
-  Sections

Map by LP NNRD GIS Dept.
Author: Chris Poole
Coordinate System: NAD83 State Plane Nebraska Feet
Map Intended for General Use not for navigation
Information deemed accurate but not guaranteed

Anderson-Swanson Conservation Easement Soils



Published Jun 26, 2012
Published Tuesday June 26, 2012

Developer eyes Papillion for urban farm

By [Cindy Gonzalez](#)
WORLD-HERALD STAFF WRITER



JEFF BEIERMANN/THE WORLD-HERALD

Local developer Jack Round on land in Papillion that would become part of a “cohousing” community he’s proposing near 72nd Street and Crest Drive in Papillion. “If you’re going to do something, you should choose a niche,” he said. “We’re trying to build a niche.”

Bridget Blomfield wants to go back to the days when neighbors all knew one another, broke bread together and even shared some common facilities or tools.

She’s intrigued by the thought of an on-site farm where kids learn about natural food, where old and young residents grow produce together and families later see it on the shelves of the neighborhood grocery store.

It’s all part of a multigenerational “cohousing” concept being explored in Papillion. And Blomfield is among a few lining up to reserve a spot in what local developer Jack Round says would be the first such subdivision of its kind built in the Omaha metro area.

“For 15 years I’ve wanted to be a part of cohousing,” said Blomfield, a university professor and co-owner of the Papillion Montessori school. “There’s a common intention; people choose to have a certain lifestyle.”

A national cohousing group describes the communities as old-fashioned neighborhoods created with a little ingenuity. They combine the value and individual space of private homes with the benefits of energy-saving living.

The Papillion Cohousing and Urban Farm, as Round and partner Kate Godrey are calling the proposed village, is still in preliminary stages. But as a small homebuilder who has seen that industry decline, Round said he has high hopes for what he thinks is a fresh concept locally.

“It doesn’t make sense, in these economic times, to do the same old thing,” he said. “If you’re going to do something, you should choose a niche. We’re trying to build a niche.”

If hurdles are cleared, the development would be created on about 15 acres near 72nd Street and Crest Drive on the site of the bankrupt, partially built Villas at Creekside.

About a third of the 60 or so homes would be devoted to people over age 50. And the project would have characteristics common to the roughly 200 other cohousing efforts nationwide.

Each tenant, for instance, would own his own conventional house but have a proportional investment in facilities such as a shared house where residents could meet and socialize for dinner on various nights. Typical also are common guest rooms and courtyard, playground or workshop areas.

In the Papillion project’s case, residents are being recruited ahead of time so they can help physically design their neighborhood to meet their mission of promoting a green lifestyle.

Houses, playgrounds and any commercial areas would be laid out to encourage social interaction. Decisions would be made by consensus

But it's the five-acre farm adjacent to the Papillion cohousing property and the multigenerational theme that especially excite Blomfield.

She'd like to build another preschool, the "Montessori Farm School," on the development to specialize in hands-on gardening and farm life.

Farmer Tom Lundahl has agreed to provide his land for a "food forest" that would provide a low-maintenance, food production system including fruit and nut trees, shrubs, herbs, vines and perennial vegetables.

A farmer at that spot for nearly 30 years, Lundahl's activities have run the gamut from raising horses to now raising the popular aronia berry.

"Life is a journey," he said. The city has moved in ... and this project at this time makes a lot of sense."

As envisioned, a town commercial center with five to 10 small businesses including a restaurant would be within walking distance. Among the businesses would be a grocer where produce grown on the farm could be sold.

Round said the sale of the proposed project site depends largely on the Villas at Creekside managers and creditors. He said he has gotten generally positive response from the managers, and "mixed" reactions from the half-dozen homeowners at the site. He continues to talk to all parties involved, as well as Papillion officials.

Mark Stursma, planning director of Papillion, said he and the city engineer expect more discussions with Round as he "refines his concept" and prepares to present it to the City Council.

Because of the proposal's commercial center and agricultural theme, it likely will require a change in zoning to mixed use, Stursma said.

"It's an interesting concept, one that would be unique to this area," he said. "That is why we have the public hearing process so we can hear the idea and the public can comment on it."

Stursma said the Creekside project had problems because federal officials remapped the flood plain and affected how that residential area could be developed.

Round said his design works around flood plain limitations.

He said he had looked at other Omaha area sites in the few years since he began floating the cohousing idea, but those did not work. Since he zeroed in the current proposed site a year ago, he said, he has met with numerous potential homeowners.

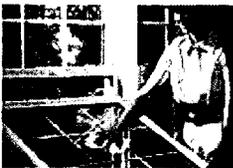
Blomfield was among them. As an empty-nester, she's intrigued by notion of building a downsized house that fits her personal needs yet still has nearby guest rooms for visitors to stay.

"It's just this idea you can live the way you want, in an old-fashioned neighborhood where you know your neighbors."

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