

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION APPROVING THE CONSERVATION AND PRESERVATION
EASEMENT TO THE NEBRASKA LAND TRUST
Grantors: Ronald F. and Carol J. Patterson

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2012), 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 2012), 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, Ronald F. and Carol J. Patterson, husband and wife, currently own approximately 174.84 acres of property in Sarpy County, Nebraska; and,

WHEREAS, Ronald F. and Carol J. Patterson 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 19, 2013; 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 2nd day of July 2013.

Attest

SEAL




Sarpy County Board Chairman


County Clerk

COUNTER a C.E. a
VERIFY a D.E. a
PROOF V
FEES \$ 148.00
CHECK# 2900304
CHG _____ CASH _____
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FILED SARPY COUNTY NEBRASKA
INSTRUMENT NUMBER NEBRASKA DOCUMENTARY
STAMP TAX

2013-21792

\$ EX 23

07/08/2013 3:02:06 PM

Clay J. Dowling

By: lal

REGISTER OF DEEDS



EASE

After recording return to: The Nebraska Land Trust
9200 Andermatt Drive, Suite 7
Lincoln, NE 68526

RJK
(E)

0254144 NT-com

CONSERVATION AND PRESERVATION EASEMENT

THIS CONSERVATION AND PRESERVATION EASEMENT (hereinafter "Easement") executed this 5th day of July, 2013 by and between Ronald F. Patterson and Carol J. Patterson, husband and wife, as joint tenants with rights of survivorship and not as tenants in common (hereinafter "Grantors") who's address is 22202 Armbrust Lane, Gretna, NE 68028, and The Nebraska Land Trust Incorporated (hereinafter "Grantee"), a Nebraska nonprofit association, with its principal office located at 9200 Andermatt Drive, Suite 7, Lincoln, Nebraska, 68526, and the UNITED STATES OF AMERICA ("United States") acting by and through the United States Department of Agriculture, Natural Resources Conservation Service ("NRCS"), acting on behalf of the Commodity Credit Corporation, as its interest appears herein, for the purpose of forever conserving the agricultural productivity of the Protected Property and its value for resource preservation and as open space. The Grantors and Grantees are referred to collectively as the Parties.

The Grantee shall have the primary responsibility for management and enforcement of the terms of this Conservation Easement, subject to the rights of the United States.

RECITALS:

WHEREAS, the Grantors own in fee simple approximately 174.84 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 is primarily open farmland that is agriculturally productive, and is an important part of the agricultural landscape in Sarpy County, providing productive soils for crop production and grasslands for haying and grazing in a largely urban county; 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 oak/hickory woodlands near Schramm State Park, which has been designated an Important Bird Area by the National Audubon Society, due to these woodlands being important habitat for migratory and nesting songbirds; and

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

WHEREAS, the Protected Property includes portions of a tributary to the Platte River, upriver from a Metropolitan Utilities District well field that provides drinking water to the Omaha area; and

WHEREAS, the Protected Property provides scenic views from public places; 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 Grantee 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 Grantee 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 June 21, 2013, 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 Farmland Protection Policy Act, (16 U.S.C. Sections 3838h and 3838i), whose purpose is "the protection of agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land;"
- 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 Farm and Ranch Lands Protection Program (FRPP), which is a voluntary program to help farmers and ranchers keep land in agricultural production and prevent conversion to non-agricultural uses, administered by the United States Department of Agriculture, Natural Resources Conservation Service (NRCS), on behalf of the Commodity Credit Corporation; and
- 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 Grantee has, among its 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 Grantee 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 Grantee 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 Grantee, and Grantee voluntarily accepts, a perpetual Conservation 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:

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ARTICLE I

Grant of Easement

Grantors, for themselves and their beneficiaries, successors and assigns (collectively, "Grantors"), hereby irrevocably grant, transfer and convey to Grantee, its successors and assigns, this Easement encumbering the Protected Property in perpetuity as authorized by and subject to all pertinent 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. **Agricultural Use:** Grantors shall not convert any portion of the Protected Property being used for agriculture to nonagricultural uses.
- B. **Conservation Plan:** As required by section 1238I of the Food Security Act of 1985, as amended, the Grantors, their heirs, successors, or assigns, shall conduct agricultural operations on the Protected Property in a manner consistent with a conservation plan prepared in consultation with NRCS and the Conservation District. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date of this Easement. However, the Grantors may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Protected Property, with advance notice to the Grantors, in order to monitor compliance with the conservation plan.

In the event of noncompliance with the conservation plan, NRCS shall work with the Grantors to explore methods of compliance and give the Grantors a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantors do not comply with the conservation plan, NRCS will inform Grantee of the Grantors noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with the Grantors to correct such noncompliance, and (c) Grantors have exhausted their appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Easement based on an Act of Congress, NRCS will work

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cooperatively with the Grantors to develop and implement a revised conservation plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantors may be or become subject.

- C. **Historic Sites:** The Parties acknowledge that the Protected Property is also enrolled in the Farm and Ranch Lands Protection Program based on historical or archaeological resources found thereon. Therefore, Grantors shall comply with the Secretary of Interior's Standards and Guidelines for Historic Preservation in managing the Protected Property.
- D. **New Structures:** Grantors shall not build any new structure on the Protected Property, 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 IV, below.
- E. **Surface Disturbance:** No removal, filling, or changes in topography, surface or subsurface water systems, wetlands, or natural habitat will be allowed unless such activities:
 - Are commonly necessary in the accomplishment of agricultural practices, stream bank erosion control, stream crossings, conservation, habitat management, and/or forest management uses of the Protected Property.
 - Do not harm State or federally recognized rare, threatened, or endangered species, such determination of harm to be based on information from the U.S. Fish and Wildlife Service and the Nebraska Game and Parks Commission.
 - Are not detrimental to the protected soils or scenic and wildlife habitat protection purposes of this Conservation Easement, and prior to commencement of any such act, all necessary Federal, State, and local permits and approvals must be secured.
 - Are specifically provided for in Article IV, below.
- F. **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 the date hereof and 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, subject to obtaining Grantee's prior approval.

G. **Other Conditions and Restrictions:** The following added conditions and restrictions apply to the use and enjoyment of the Protected Property:

1. **Access:** There shall be no public access to the Protected Property without the prior 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 V, Section F. below.
2. **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/or water development for sale or transport off-site, and oil or gas development, except as provided for in Article IV.
3. **Game Farming or Game Farm Animals:** The Grantors shall not construct, conduct, or operate a game farm, or raise or hold game farm animals on the Protected Property. Game farm animals include penned, enclosed or privately-owned caribou, black bear, grizzly bear, mountain lion, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, mountain goat, red deer, and any other cloven-hoofed ungulate which is indigenous to Nebraska and any non-indigenous or exotic cloven-hoofed ungulate which could interbreed with or spread disease to any cloven-hoofed ungulate indigenous to Nebraska. However, "traditional" domestic livestock, including but not limited to domestic cattle and American Bison (*Bison bison*), are not included in the definition of game farm animals.
4. **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 solely to provide power to the Building Envelope so long as such facilities do not impact the Conservation Purposes and with prior approval of the Grantee.
5. **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.

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6. **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. 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.
7. **Construction:** The Grantors shall not construct any structures or facilities except as specifically provided for in Article IV, below.
8. **Roads:** The Grantors shall not construct any new roads except as specifically provided for in Article IV.
9. **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.
10. **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.
11. **Dumping and Deposit of Hazardous Waste:** No trash, debris, ashes, sawdust, and other non-compostable refuse may be dumped or otherwise disposed of on the Protected Property, except 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.
12. **Utilities:** Other than those permitted in Article IV, additional utility structures and systems are prohibited.

13. **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, does not substantially diminish or impair the Conservation Values, and has a limited and localized impact on the Protected Property.
14. **Timber Harvesting:** The Grantors shall not harvest timber on the Protected Property except as specifically allowed in Article IV.
15. **Billboards:** The Grantors shall not construct, maintain, or erect any commercial signs or billboards on the Protected Property. Small signage not to exceed 4 feet by 4 feet 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.
16. **Aircraft Facilities:** The Grantors shall not construct or erect any aircraft facilities or aircraft landing facilities on the Protected Property.
17. **Game Proof Fences:** Grantors shall not construct any big game proof fences, which are defined as any fence that cannot be crossed by elk, deer or other big game wildlife, except in the Building Envelope.
18. **Native Flora and Fauna:** Grantors shall not remove or destroy any native plants, trees, vegetation, or wildlife, except as permitted in Article IV or for the control of weeds 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.
19. **Impervious Surfaces:** Impervious surfaces are defined to include permitted residential buildings, agricultural buildings (with or without flooring), and paved areas on the Protected Property (not including public or county roads or other roads paved by easement holders who have rights that may be superior to the rights conveyed to Grantees by this Conservation Easement) may not exceed 2% of the total land surface of the Conservation Easement Acreage.

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20. **Terraces and Dams:** Terraces, tile lines, risers, and dams shall be maintained in working order according to NRCS requirements and Grantors shall not remove, destroy, or breach terraces, tile lines, risers, or dams installed to retain moisture and reduce erosion, except as specifically provided for in Article IV.
 21. **Recreation and Educational Activity:** Recreational and Educational Activities that require infrastructure (impervious surfaces) are prohibited. Under no circumstances will athletic fields, golf courses or driving ranges, commercial airstrips of helicopter pads, motocross biking, or any other improvement or activity inconsistent with current or future agricultural production be permitted on the Protected Property. Recreational and Educational Activities that do not require infrastructure (impervious surfaces) are permitted so long as such activities are consistent with the purposes of this Conservation Easement and do not adversely impact the soils and/or agricultural operations on the Protected Property.
 22. **Federal Criminal Statutes:** No activities shall knowingly be permitted on the Protected Property in violation of Federal criminal statutes, even if these activities do not violate state criminal statutes or are specifically authorized by the State.

ARTICLE III United States Right of Enforcement

Under this Conservation Easement, the United States is granted the right of enforcement in order to protect the public investment. The Secretary of the United States Department of Agriculture (the Secretary), on behalf of the United States, will exercise these rights under the following circumstances: in the event the Grantee fails to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary, the Secretary and his or her successors or assigns may exercise the United States' right to enforce the terms of this Conservation Easement through any and all authorities available under Federal or State law.

ARTICLE IV 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 NRCS FRPP, State of Nebraska and Pappo-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

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agriculture crops, including but not limited to “traditional” domestic livestock, “traditional” row crops, and organic agriculture.

B. Building Envelope: The Grantors have the right to maintain, repair or replace the existing single-family residence, associated outbuildings, and structures necessary for agricultural production in the Building Envelope described on the attached "Exhibit A", consisting of approximately 5 acres.

Grantors shall notify Grantee in writing prior to the commencement of any new construction within the Building Envelope 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 an access road to the residence, associated outbuildings, and cabins. Any utility corridor and/or roadway must follow the least damaging feasible route with regard to or within the Protected Property.

C. 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 related to the protected property, including the processing or sale of agricultural products predominantly grown or raised on the Protected Property, shall be built within the Building Envelope of 5 acres described in Exhibit A. Loafing sheds, corrals, water lines, water tanks and other minor agricultural structures and improvements without concrete floors or foundations may be constructed anywhere on the Protected Property provided however, that any such structures shall be located where they would cause the least possible disturbance.

D. 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 Envelope without prior approval of the Grantee. No other big game proof fences can be constructed on the Protected Property.

E. Recreational Uses: Unless otherwise restricted herein, any passive recreational and educational activities that do not impact the Conservation Purposes, agricultural operation, and soils are permitted. The following recreational uses are expressly permitted on the Protected Property:

- 1. Hunting:** Hunting, trapping, and fishing, in a manner consistent with state and federal laws and regulations;
- 2. Hiking:** Hiking on designated trails with the Grantors' permission and in a manner consistent with local, state, and federal laws; and

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- F. **Hunting Blinds:** Temporary hunting blinds may be constructed anywhere on the Protected Property.
- G. **Customary Rural Enterprises:** Customary rural enterprises are permitted on the Protected Property in buildings constructed and maintained for agricultural use, including but not limited to Bed and Breakfast style lodging in the existing home. Customary rural enterprises that require their own buildings are prohibited.
- H. **Agri-tourism:** Low impact Agri-tourism activities are permitted, including but not limited to farm tours, work experiences, and field trips.
- I. **Construction of Roads:** Maintenance of existing farm roads, trails, and creek crossings 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 impervious material. Nor shall any new unpaved road be constructed within the Protected Property except as needed for agricultural activities.
- J. **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.
- K. **Range Management and Livestock Production:** 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 domestic cattle, 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. Traditional livestock shall not include any of the game farm animals described in Article II, G.3. of this Easement.

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.
- L. **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 stock ponds on the Protected Property for permitted agricultural activities, domestic needs, fish and wildlife uses, and private recreation.

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M. 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 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.

N. 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 NRCS, 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, hackberry, honey locust, and Siberian elm by all means necessary, to preserve and restore native hardwood forest habitat; and (vi) remove trees encroaching into cropland, fence lines, and/or grasslands.

O. 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 Purposes of the Protected Property. The Grantors will not introduce into the 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.

P. Brush Piles: Grantors may place tree stumps, logs, and brush originating from the Protected Property in piles for burning, decay, or disposal.

Q. 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.

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- R. Bank Stabilization:** Subject to local, state, and federal rules, regulations, and permits, Grantors may take measures to stabilize creek banks and prevent further erosion and head-cutting. A written plan to implement bank stabilization measures must be submitted to and approved by the Grantee prior to any action being taken, and the measures shall be the minimum necessary to accomplish stabilization.
- S. 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.

ARTICLE V General Provisions

- A. Enforcement:** The Grantee may enforce this Conservation 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 Conservation 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 [except to the extent that Article II, B. is applicable], 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 Conservation Easement or to collect such reimbursement. 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. The Grantee shall resolve violations within 60 days of their discovery in accordance with 7 CFR 1491.30. Failure to cure the violation may result in enforcement of the terms of the Conservation Easement by the United States.

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 elects 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,

local government as required by Neb. Rev. Stat. § 76-2112, and the United States. Any such amendment shall be consistent with the Conservation Purposes of the Conservation Easement, shall comply with Nebraska law and applicable federal law, including the Farm and Ranch Lands Protection Program, 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 Conservation Easement may be assigned by the Grantee at its election and with the prior approval of the United States, 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, 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 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 and the United States 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 or the United States to Grantors 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 Conservation Easement through appropriate legal process upon determining the Conservation 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 Conservation Easement impossible to accomplish, this Conservation Easement may only be terminated or extinguished, whether in whole or in part, upon request of the Grantors, Grantee, and the United States, 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. If Grantee is ever required to pay any taxes or assessments on its interest in the Protected Property, Grantors will reimburse Grantee for the same.

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 Conservation Easement, or violations of any Federal, State, or local laws, including all Environmental Laws.

In addition, Grantors shall indemnify and hold harmless the United States, 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 the United States may be subject or incur relating to the Protected Property, which may arise from, but are 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. The NRCS shall monitor the conservation plan adopted and implemented in accordance with Article II, B. above.
- 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 or local government, the NRCS must be notified immediately, and the consent of the United States obtained, before the action may proceed.
- M. **Extinguishment and Condemnation:** This Conservation Easement constitutes a real property interest immediately vested in the Grantee and the United States, and may be extinguished only with the approval of the Grantee and the United States. The Grantee and the United States stipulate to have a fair market value of forty-five percent (45%), the "Proportionate Share" of the fair market value of the Protected Property unencumbered by this Conservation Easement. The Proportionate Share has been determined at the time of conveyance of this Conservation Easement by dividing the fair market value of this Conservation Easement by the fair market value of the Protected Property without this Conservation Easement. The Proportionate Share will remain constant over time.

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, including along Highway 31, pursuant to a threat of condemnation by a government agency, then the Grantor must reimburse the Grantee and the United States an amount equal to the Proportionate Share of the fair market value of the Protected Property unencumbered by this Conservation Easement. The fair market value of the Protected Property will be determined at the time this Conservation Easement is terminated, extinguished, or condemned by a complete summary appraisal that meets the Uniform Acquisition Standards for Federal Land Acquisition (UASFLA), is approved by the Grantee and the United States, and is completed by a Nebraska certified general appraiser. The fair market value of the Protected Property may not include any increase in value after the date of this Conservation Easement attributable to improvements.

The Proportionate Share paid to the Grantee and the United States of America must be allocated as follows: (a) to the Grantee or its designee, fifty percent (50%) of the Proportionate Share; and (b) to the United States fifty percent (50%) of the Proportionate Share, representing the proportion each party contributed to the purchase price of this Conservation Easement. The Proportionate Share of the Grantee also includes five percent (5%) of the appraised value of this Conservation Easement, donated by the Grantor to the Grantee.

Until such time as the Grantee and the United States receive the Proportionate Share from Grantor or the Grantor's successor or assign, the Grantee and the United States each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. The Grantee or its designee must use its allocation of the Proportionate Share in a manner consistent with the conservation purposes of the Conservation Easement. If proceeds from termination, extinguishment, or condemnation are paid directly to Grantee, the Grantee must reimburse the United States for the amount of the Proportionate Share due to the United States.

Extinguishment: Due to the Federal Interest in this Conservation Easement, the United States must be a party to any such proceedings.

Condemnation: Due to the Federal interest in this Conservation Easement, the United States must consent to any condemnation.

- 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

R

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, and shall maintain adequate comprehensive general liability insurance coverage that includes any and all commercial hunting operations, and/or other recreational activities, and/or lodging facilities. 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. Correspondence: All correspondence related to this Conservation Easement must be sent to the parties at the addresses listed below:

Grantor: Ronald F. and Carol J. Patterson
22202 Armbrust Ln.
Gretna, NE 68028

Grantee: The Nebraska Land Trust, Inc.
9200 Andermatt Drive, Suite 7
Lincoln, NE 68526

United States: Natural Resources Conservation Service
Nebraska State Conservationist
Federal Building, Room 152
100 Centennial Mall North
Lincoln, NE 68508-3866

U. **Effective Date:** This Conservation Easement shall be effective when signed by the Parties and recorded in Sarpy County. It is the intent of the Parties that this Easement shall be effective by July 17, 2013.

TO HAVE AND TO HOLD the above described Conservation and Preservation Easement unto The Nebraska land Trust Incorporated, the United States of America, and their 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: Ronald F. Patterson
Ronald F. Patterson

By: Carol J. Patterson
Carol J. Patterson

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me on this 5th day of July, 2013, by Ronald F. Patterson and Carol J. Patterson.



Sarah A. Watts
NOTARY PUBLIC

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ACCEPTANCE

This Conservation and Preservation Easement is hereby accepted by the Natural Resources Conservation Service, United States Department of Agriculture, for the United States of America.

By Kasey Taylor, Acting State Conservationist

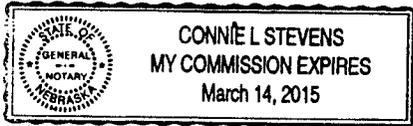
Its Authorized Officer

Date: 6-21-13

STATE OF NEBRASKA)
)ss.
COUNTY OF Lancaster

The foregoing instrument was acknowledged before me on this 21 day of June, 2013, by Kasey Taylor, Acting State Conservationist of the Natural Resources Conservation Service, United States Department of Agriculture.

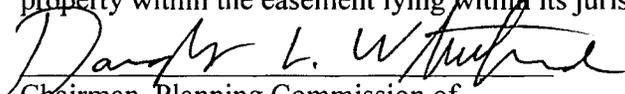
Connie L. Stevens
Notary Public



✓

PLANNING COMMISSION ACTION

On the 19th day of June, 2013, 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.

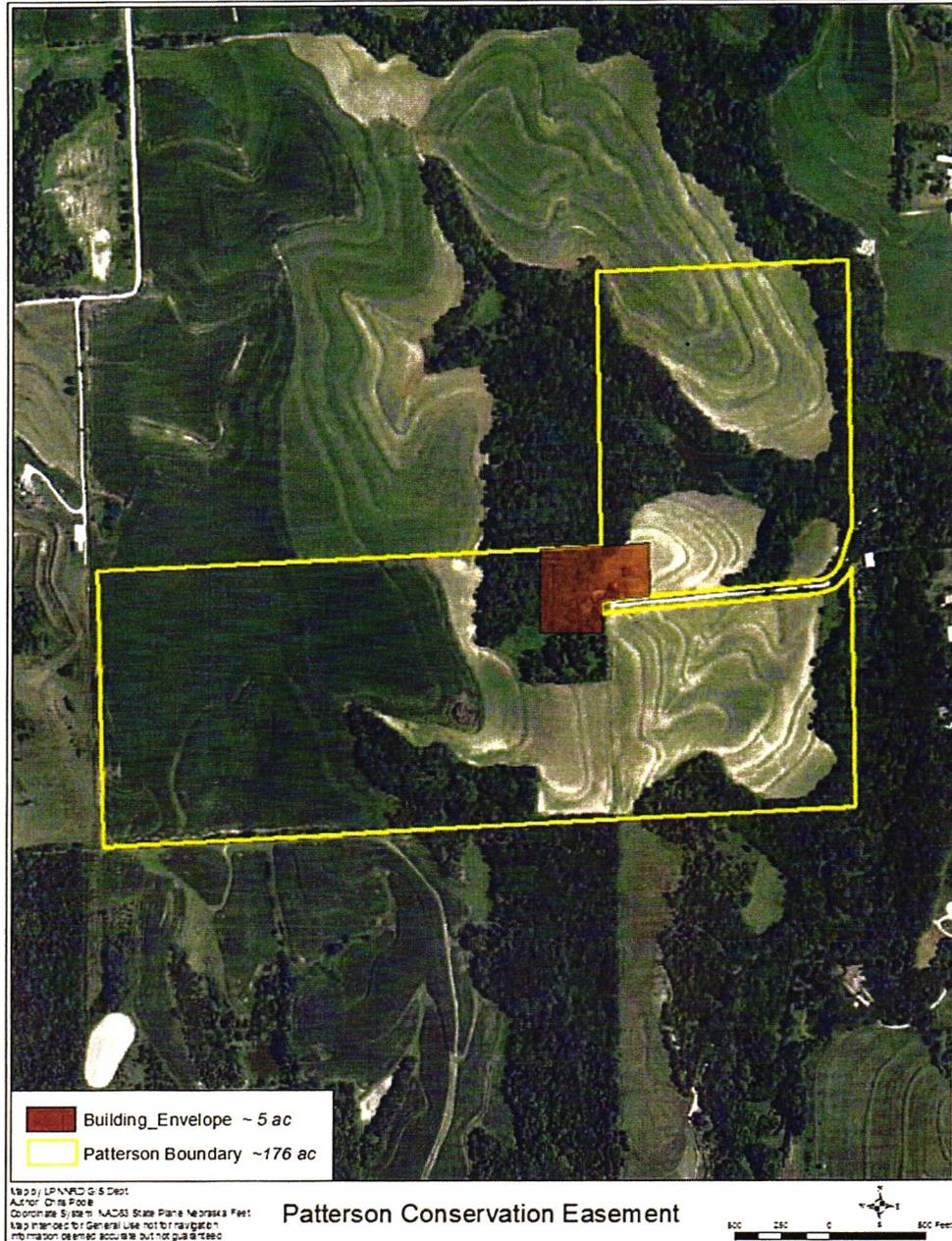

Chairman, Planning Commission of
Sarpy County, Nebraska

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

By Resolution duly adopted on the 2nd day of July, 2013, 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.


Chairman, Board of Commissioners of
Sarpy County, Nebraska

EXHIBIT A
Legal Description of the Property



The West One Half of the Northeast Quarter ($W\frac{1}{2} NE\frac{1}{4}$) of Section Two (2), Township Twelve (12), Range Ten (10), in Sarpy County, Nebraska; AND

The South One Half of the Northwest Quarter ($S\frac{1}{2} NW\frac{1}{4}$) of Section Two (2), Township Twelve (12), Range Ten (10), in Sarpy County, Nebraska, also described as the South 88.34 Acres of the Northwest Quarter ($NW\frac{1}{4}$) of Section Two (2), Township Twelve (12), Range Ten (10), Sarpy County, Nebraska.

Sarpy County Board of Commissioners
 Planning Department Report
 County Board Meeting Date: July 2, 2013

Subject	Type	By
Conservation and Preservation Easement Agreement between Ronald F. & Carol J. Patterson and the Nebraska Land Trust	Public Hearing and Resolution	Bruce Fountain, AICP, EDFP Director, Planning & Building Dept. 

➤ **Summary and Purpose:**

Ronald F. & Carol J. Patterson, 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 and Zoning Regulations.

➤ **Background and Analysis:**

The detailed staff report on this request was presented to the Planning Commission at their June 19, 2013 meeting and is attached for your information and review.

➤ **Staff Recommendation:**

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

➤ **Planning Commission Recommendation:**

On June 19, 2013 the Planning Commission voted 7-0 to recommend **APPROVAL** of the Conservation and Preservation Easement agreement between the Pattersons and the Nebraska Land Trust as it is consistent with the Sarpy County Comprehensive Plan as well as the Zoning Regulations.

Bliss moved, seconded by Ackley to APPROVE the Conservation and Preservation Easement agreement between the Patterson's and the Nebraska Land Trust as it is consistent with the Sarpy County Comprehensive Plan's future land use designation of Conservation Residential as well as the County's Zoning Regulations. **Ballot:** Ayes – Bliss, Lichter, Ackley, Whitfield, Mohr, Malmquist, and Farrell. Nays – none. Abstain – None. Absent – Stuart, Murante, Fenster and Torczon. **Motion carried 7-0-4.**



**SARPY COUNTY PLANNING
& BUILDING DEPARTMENT**

RECOMMENDATION REPORT

**PATTERSON CONSERVATION &
PRESERVATION EASEMENT (MISC 13-0002)**

PLANNING COMMISSION HEARING: JUNE 19, 2013

I. GENERAL INFORMATION

A. APPLICANTS:

The Nebraska Land Trust	Ronald F. & Carol J. Patterson
c/o Dave Sands	22202 Armbrust Lane
9200 Andermatt Dr., Suite 7	Gretna, NE 68028
Lincoln, NE 68526	

B. PROPERTY OWNER:

Ronald F. & Carol J. Patterson
22202 Armbrust Lane
Gretna, NE 68028

C. LEGAL DESCRIPTION: The West One Half of the Northeast Quarter (W1/2 NE1/4) of Section Two (2), Township Twelve (12), Range Ten (10), in Sarpy County, Nebraska; AND The South One Half of the Northwest Quarter (S1/2 NW1/4) of Section Two (2), Township Twelve (12), Range Ten (10), in Sarpy County, Nebraska, also described as the South 88.34 Acres of the Northwest Quarter (NW1/4) of Section Two (2), Township Twelve (12), Range Ten (10), Sarpy County, Nebraska.

D. SUBJECT PROPERTY LOCATION: generally south of Buffalo Road (extended) and approximately 1/2 mile west of Highway 31 (see attached maps).

E. SUBJECT PROPERTY SIZE: Approximately 175 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 and Zoning Regulations.

H. PURPOSE OF REQUEST: To dedicate a conservation easement over the landowner's property to the Nebraska Land Trust for perpetual conservation and preservation.

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE: The subject property consists of the family farmstead home 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/AGR (Agricultural District/Agricultural Residential District) – undeveloped woodlands and creek; large lot residential structures
- South: AG (Agricultural District) – undeveloped farm land and woodlands
- West: AG (Agricultural District) – undeveloped farm land and woodlands

C. APPLICABLE REGULATIONS:

- Section 9, Sarpy County Zoning Regulations, 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. No responses were received, therefore indicating that 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 Patterson’s and the Nebraska Land Trust as it is consistent with the Sarpy County Comprehensive Plan’s future land use designation of Conservation Residential as well as the County’s Zoning Regulations. The County Attorney’s staff also has reviewed the document and does not request any revisions.

V. PLANNING COMMISSION RECOMMENDATION:

MOTION: Bliss moved, seconded by Ackley to APPROVE the Conservation and Preservation Easement agreement between the Patterson's and the Nebraska Land Trust as it is consistent with the Sarpy County Comprehensive Plan's future land use designation of Conservation Residential as well as the County's Zoning Regulations. **Ballot:** *Ayes – Bliss, Lichter, Ackley, Whitfield, Mohr, Malmquist, and Farrell. Nays – none. Abstain – None. Absent – Stuart, Murante, Fenster and Torczon.* **Motion carried 7-0-4.**

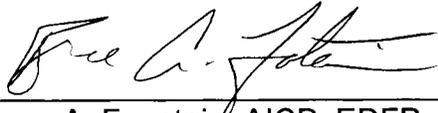
VI. ATTACHMENTS TO REPORT:

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

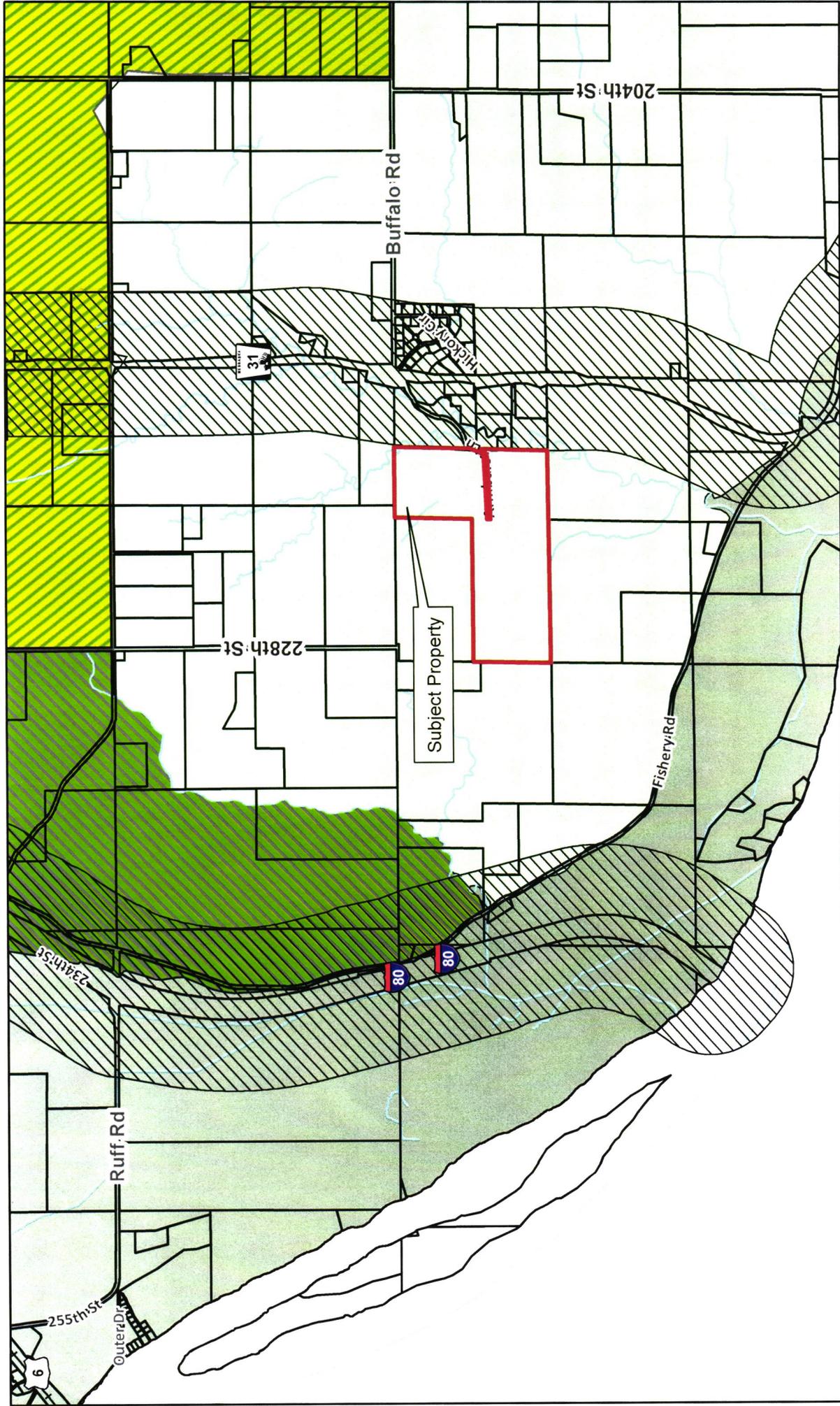
VII. COPIES OF REPORT SENT TO:

- A. Ronald F. & Carol J. Patterson, property owners
- B. Dave Sands, Nebraska Land Trust
- C. Public Upon Request

Respectfully submitted by:



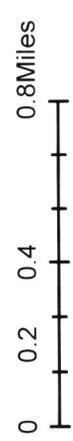
Bruce A. Fountain, AICP, EDFP
Director, Planning & Building Dept.



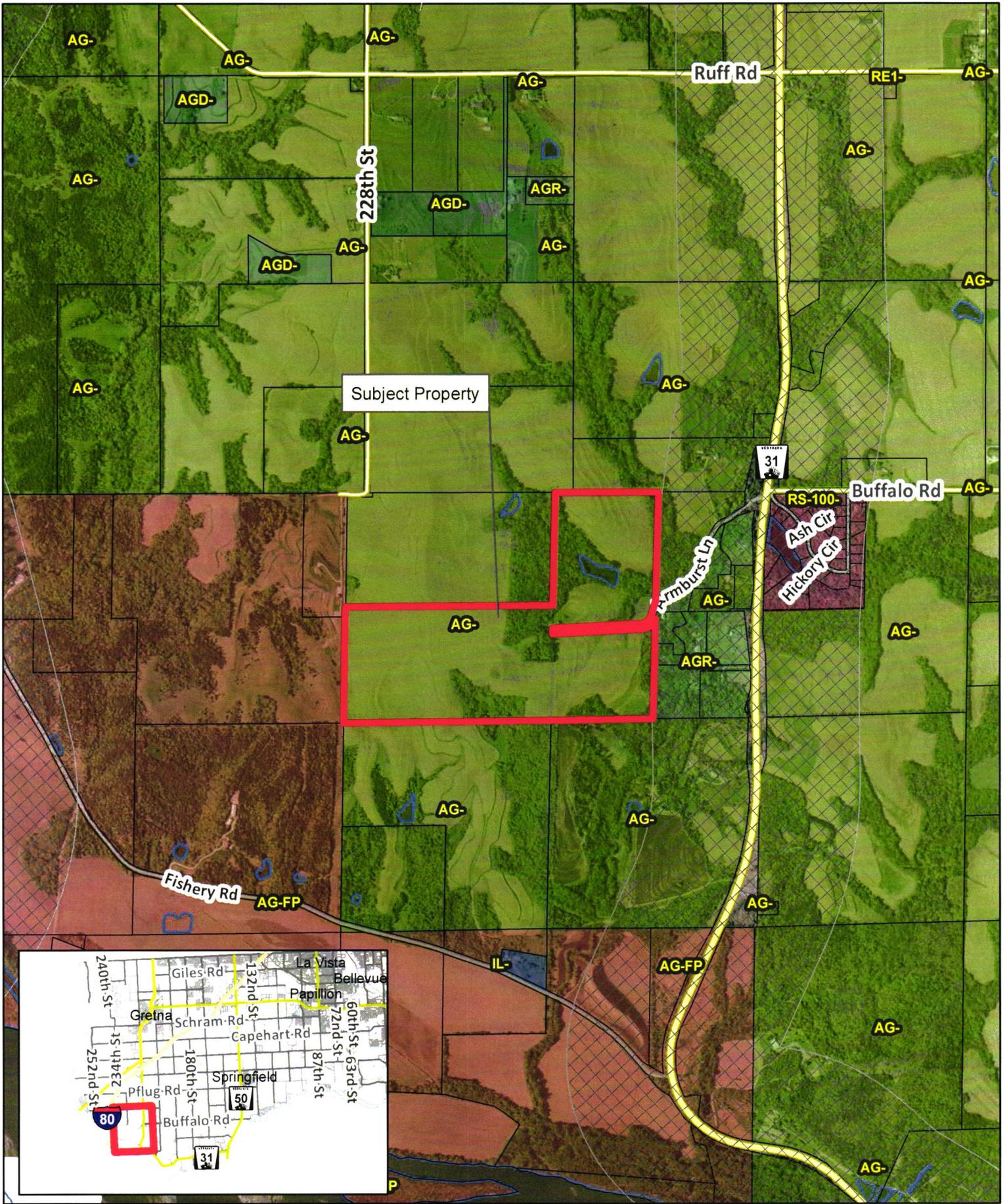
Comprehensive Development Plan
Figure 5.1: Development Structure Plan
 Sarpy County, Nebraska

- Legend**
- Highway Corridor Overlay
 - Bellevue Future Growth
 - Business Park
 - City/C
 - Conservation Residential
 - Estate Residential
 - Greenway
 - Industrial
 - Light Industrial/Storage
 - Long Term Residential Growth
 - Mixed Use
 - Mixed Use Center
 - New Richfield Village
 - Park/School Site
 - Piling Interchange Development
 - Residential - Community Systems
 - Urban Residential
 - Urban Residential II
 - Cross County Arterial
 - City Limit
 - City ETJ

Current FLU - Sarpy Co



Patterson - Conservation and Preservation Easement



Vicinity Map - Zoning

Patterson

Conservation & Preservation Easement



Sarpy Highway Corridor Overlay





SARPY COUNTY PLANNING DEPARTMENT

• 1210 Golden Gate Drive, Papillion, Nebraska 68046

• Phone (402) 593-1555 • Fax (402) 593-1558 • E-Mail: PLANNING@SARPY.COM

MISCELLANEOUS PERMIT APPLICATION

<p>In order for your application to be considered COMPLETE, please answer all applicable questions and provide the following:</p>	<p>PLANNING STAFF USE ONLY: 04-30-13A11:23 RCD</p>
<ol style="list-style-type: none"> 1. Submit complete Miscellaneous Permit Application 2. Submit Non-Refundable fee of \$ <u>100.00</u> made payable to Sarpy County Treasurer. 3. 1 Electronic copy of the drawing (PDF) 4. _____ full sized drawings depending on what the permit is for. 	<p>Application No.: <u>MISC 13 - 0002</u> Date Received: <u>4-30-2013</u> CP Designation: <u>Conservation Residential</u> Zoning Designation: <u>AG</u> FEE: \$ <u>100</u> Receipt NO. <u>1992</u> Received By: <u>[Signature]</u> NOTES: <u>Conservation & Preservation Easement</u></p>

APPLICANT INFORMATION:

NAME: Ronald F Patterson

EMAIL: _____

ADDRESS: 22202 Ambrose Lane

CITY/STATE/ZIP: Bretina Ne 68028

MAILING (IF DIFFERENT)

ADDRESS: _____

CITY/STATE/ZIP: _____

PHONE: 402 - 332 - 4554

FAX: 402 332-4554

PROPERTY OWNER INFORMATION: (If multiple owners, attach a separate sheet)

Please check box if attaching separate sheet with owner information

NAME: Ronald F & Carol J Patterson WRAS

EMAIL: _____

ADDRESS: 22202 Ambrose Lane

CITY/STATE/ZIP: Bretina Ne 68028

MAILING (IF DIFFERENT)

ADDRESS: _____

CITY/STATE/ZIP: _____

PHONE: 402 332-4554

FAX: 402 332-4554

ENGINEER INFORMATION:

NAME: _____

EMAIL: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

MAILING (IF DIFFERENT)

ADDRESS: _____

CITY/STATE/ZIP: _____

PHONE: _____

FAX: _____

PROJECT DESCRIPTION: (Describe the project in detail, including physical features of the site, proposed improvements, proposed uses or business, operating hours, number of employees, anticipated customers, etc. - Attach additional sheets if necessary.) **PLEASE NOTE:** A detailed project description is essential to the reviewing process of this request.

Conservation & Preservation Easement

PROJECT SITE INFORMATION: Complete each section in its entirety. If a question is not applicable to your project, please indicate this to show that each question has been carefully considered.

ASSESSOR'S PARCEL NUMBER: 010420754

ADDITIONAL PARCEL NUMBERS: _____

LEGAL DESCRIPTION: (Describe property to wit:)

W 1/2 NE 1/4 - Sec 2 - 12 - 10 Sarpy Co NE
(S 1/2 NW 1/4 - Sec 2 - 12 - 10 - Sarpy Co NE

Special
same as
Exhibit A
per R.P.

also described as the 50.28.34 ac of NW 1/4 - 2-12-10 Sarpy Co NE

GENERAL PROPERTY LOCATION: 3 1/2 mi So of Flynn Jct road stop - on Hwy 31 - 1/2 mi west on Amb road

ADDITIONAL INFORMATION: Please use this space to provide any other information you feel is appropriate for the County to consider during review of your application. Attach extra sheets if necessary.

PLEASE NOTE THE FOLLOWING PROCEDURES:

1. The planning Commission will hold a public hearing and make a recommendation to the County Board.
2. County Board will hold a public hearing and make a final decision on the Miscellaneous Permit.
3. All necessary agreements will be recorded with the Sarpy County Register of Deeds, the cost of which will be borne by the Miscellaneous Permit applicant or the property owner.

I, the undersigned, understand a sign will be posted on my property and will remain until the public hearing process at the Planning Commission and County Board is complete. I further understand the Miscellaneous Permit process as stated above and I authorize County Staff to enter the property for inspection related to the specific request during this process.

Ronald Patterson

Owner Signature (or authorized agent)

Apr 30 - 2013

Date

Owner Signature (or authorized agent)

Date