

City of Scottsbluff, Nebraska

Monday, October 2, 2023

Regular Meeting

Item Subdiv.1

Council to discuss and consider action on an application for the creation of an Agriculture Estate Dwelling Site from Bryan Frank (Frank Properties, LLC) for property located at 240336 Highland Road, Scottsbluff, NE and authorize the Mayor to sign the Certificate.

Staff Contact: Zachary Glaubius, Development Services Director

CITY OF SCOTTSBLUFF
AGRICULTURAL ESTATE DWELLING SITE APPLICATION
AGRICULTURAL – ET ZONING DISTRICT

On the 25th day of July, 2023,

Bryan Frank (Frank Properties LLC) (being the record title owner of the real estate described in paragraphs 1 and 3 below), has caused to be made an application to the City of Scottsbluff, Scotts Bluff County for an exception to Agriculture (A-ET) District Zoning, for an Agricultural Estate Dwelling Site subject to all provisions of Part 13 Ag. District, specifically 25-3-19.1-13, of the Zoning Regulations, as follows:

1. **LEGAL DESCRIPTION OF TRACT TO BE SEPARATED:** An accurate survey, properly identifying the tract to be set out, must accompany this application. If more space is needed, please attach the legal description. See Attached (2.07 Acres ±)

2. **SIZE (ACREAGE) IN ABOVE DESCRIBED TRACT TO BE SEPARATED:** _____
Total Area = 2.07 Acres ± / Net Area = 2.04 Acres ±

3. **LEGAL DESCRIPTION OF BALANCE OF LAND WHICH IS TO BE RESERVED:**
ALL THAT PART OF THE SOUTH WEST QUARTER OF SECTION 20, TOWNSHIP 22 NORTH, RANGE 54 WEST OF THE 6TH P.M., LYING SOUTH OF THE WINTER CREEK CANAL EXCEPT THAT AREA AS DESCRIBED ABOVE, AND EXCEPT THE FOLLOWING DESCRIBED PROPERTIES:
A 1.5 ACRE TRACT OF LAND AS DESCRIBED IN INSTRUMENT 2000-7121, A 3.15 ACRE TRACT OF LAND AS DESCRIBED IN DEED BOOK 29, PAGE 504, AND BLOCK 1, BF PROPERTIES.

4. **SIZE (ACREAGE) IN ABOVE DESCRIBED TRACT TO BE RESERVED:**
Total Area = 110.20 Acres ±

5. **INTENT** (Must have one or more of the following; each should be specifically described):
- a). An existing farmstead site (describe previous use) Splitting off the existing farmstead site (2.07Acres)
from the farm ground so the owner can sell off the dwelling site
 - b). A conveyance to a farm-ranch owner's relative (set out the names of the relatives and relationship to the owner): _____

 - c). A conveyance to a farm-ranch owner, to be used for dwelling purposes for that farm-ranch owner:

 - d). Marginal usage land (describe completely as to the reason such land is "marginal use"): _____


6. **ACCESS TO PUBLIC ROAD** (Describe access: Must have a minimum width of 150 feet on an existing dedicated public road; or if an interior section type, there must be an access road of at least 25 feet in width. Also, access roads on the dedicated public road must be _____

 tract is an interior section type, with a permanent 25 foot access easement to public road (Highland Road)
7. **PRELIMINARY PLAN REQUIREMENTS** (Following procedures in Scottsbluff Municipal Code Book of the City of Scottsbluff Subdivision Regulations, as required by the City of Scottsbluff Development Services Department):

8. **REQUIREMENT:** Before any action can be taken, applicant shall submit a receipt from the Scotts Bluff County Treasurer's Office showing that the current property taxes have been paid.

CITY OF SCOTTSBLUFF
AGRICULTURAL ESTATE DWELLING SITE APPLICATION
AGRICULTURAL – ET ZONING DISTRICT

9. **NOTE:** Assuming that the City of Scottsbluff Planning Commission and City Council approve the referenced application for the creation of an Agricultural Estate Dwelling Site, then the applicant therein is required to have recorded for public record, at the direction of the City of Scottsbluff City Council, a "CERTIFICATE", which sets out the action taken by the Commission and Council (at the cost of the applicant). Furthermore, there shall be a clear understanding that as to the referenced legal description (paragraph 3, above), a request for an Agricultural Estate Dwelling Site shall be granted ONE TIME ONLY, so as to carry out the intent as expressed in Section 25-3-19.1 of the Scottsbluff Municipal Code Zoning Regulations. Furthermore, in the event that the Agricultural Estate Dwelling Site is no longer actually used for the purpose in existence upon giving of such approval, then it is understood that the approval granted by the City Council shall be automatically revoked.

Owner Name: Bryan Frank (Frank Properties LLC)
Address: P.O. BOX 2395
City/State: Scottsbluff, Nebraska 69361
Telephone: 308-631-8350
Email Address: bryanfrank@bfenterprising.com
Signature: 
Ag-Estate Address: 240336 Highland Road
City/State: Scottsbluff, Nebraska 69361

City of Scottsbluff, Development Services



RECEIVED:

Date: 8-9-2023

Receipt #:

Filing Fee - \$100.00

Public Hearing Notifications per Property Owner \$3.00 each

2.07 ACRE LEGAL DESCRIPTION

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, T22N-R54W OF THE 6TH P.M., SCOTTS BLUFF COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 22 NORTH, RANGE 54 WEST OF THE 6TH P.M., SCOTTS BLUFF COUNTY, NEBRASKA, THENCE WESTERLY ON THE SOUTH LINE OF SAID QUARTER SECTION, ON AN ASSUMED BEARING OF N88°40'19"W, A DISTANCE OF 846.58 FEET, THENCE BEARING N03°36'02"E, A DISTANCE OF 563.35 FEET, TO THE POINT OF BEGINNING, THENCE BEARING N88°39'55"W, A DISTANCE OF 246.21 FEET, THENCE BEARING N01°21'23"E, A DISTANCE OF 358.64 FEET, TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF A TRACT OF LAND AS DESCRIBED IN DEED BOOK 29, PAGE 504, IN THE SCOTTS BLUFF COUNTY REGISTER OF DEEDS OFFICE, THENCE BEARING S89°49'59"E, A DISTANCE OF 252.59 FEET, THENCE BEARING S02°21'05"W, A DISTANCE OF 363.85 FEET, TO THE POINT OF BEGINNING, SAID TRACT OF LAND CONTAINING AN AREA OF 2.07 ACRES, MORE OR LESS,

AND SAID ABOVE-DESCRIBED TRACT OF LAND TO HAVE A PERPETUAL 25.00 FEET WIDE ACCESS EASEMENT, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 22 NORTH, RANGE 54 WEST OF THE 6TH P.M., SCOTTS BLUFF COUNTY, NEBRASKA, THENCE WESTERLY ON THE SOUTH LINE OF SAID QUARTER SECTION, ON AN ASSUMED BEARING OF N88°40'19"W, A DISTANCE OF 821.56 FEET, TO THE POINT OF BEGINNING, THENCE CONTINUING ON SAID SOUTH LINE, BEARING N88°40'19"W, A DISTANCE OF 25.02 FEET, THENCE BEARING N03°36'02"E, A DISTANCE OF 563.35 FEET, TO THE SOUTHEAST CORNER OF THE ABOVE-DESCRIBED TRACT OF LAND, THENCE BEARING N02°21'05"E, ON THE EAST LINE OF THE ABOVE-DESCRIBED TRACT OF LAND, A DISTANCE OF 186.52 FEET, THENCE BEARING S87°38'55"E, A DISTANCE OF 25.00 FEET, THENCE BEARING S02°21'05"W, A DISTANCE OF 186.79 FEET, THENCE BEARING S03°36'02"W, A DISTANCE OF 562.63 FEET, TO THE POINT OF BEGINNING, SAID ACCESS EASEMENT CONTAINING AN AREA OF 0.43 ACRES, MORE OR LESS,

AND SAID ABOVE-DESCRIBED TRACT OF LAND TO HAVE A 10.00 FEET WIDE IRRIGATION EASEMENT (0.03 ACRES±) AS SHOWN ON THE ACCOMPANYING SURVEY.

TRACT IN SE1/4 OF THE SW1/4 OF SECTION 20, T22N-R54W SCOTTS BLUFF COUNTY, NEBRASKA JOB# RM230172-00

SURVEYOR'S CERTIFICATE

I, DUSTIN L. BEAUDETTE, NEBRASKA REGISTERED LAND SURVEYOR NO. 799, DULY REGISTERED UNDER THE LAND SURVEYOR'S REGULATION ACT, HEREBY CERTIFY I, OR UNDER MY DIRECT SUPERVISION, HAVE SURVEYED A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, T22N-R54W OF THE 6TH P.M., SCOTTS BLUFF COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 22 NORTH, RANGE 54 WEST OF THE 6TH P.M., SCOTTS BLUFF COUNTY, NEBRASKA, THENCE WESTERLY ON THE SOUTH LINE OF SAID QUARTER SECTION, ON AN ASSUMED BEARING OF N88°40'19"W, A DISTANCE OF 846.58 FEET, THENCE BEARING N03°36'02"E, A DISTANCE OF 563.35 FEET, TO THE POINT OF BEGINNING, THENCE BEARING N88°39'55"W, A DISTANCE OF 246.21 FEET, THENCE BEARING N01°21'23"E, A DISTANCE OF 358.64 FEET, TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF A TRACT OF LAND AS DESCRIBED IN DEED BOOK 29, PAGE 504, IN THE SCOTTS BLUFF COUNTY REGISTER OF DEEDS OFFICE, THENCE BEARING S89°49'59"E, A DISTANCE OF 252.59 FEET, THENCE BEARING S02°21'05"W, A DISTANCE OF 363.85 FEET, TO THE POINT OF BEGINNING, SAID TRACT OF LAND CONTAINING AN AREA OF 2.07 ACRES, MORE OR LESS,

AND SAID ABOVE-DESCRIBED TRACT OF LAND TO HAVE A PERPETUAL 25.00 FEET WIDE ACCESS EASEMENT, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

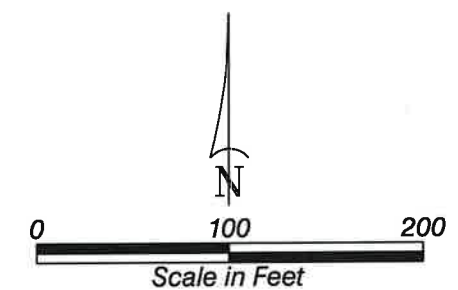
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AND SAID ABOVE-DESCRIBED TRACT OF LAND TO HAVE A 10.00 FEET WIDE IRRIGATION EASEMENT (0.03 ACRES±) AS SHOWN ON THE ACCOMPANYING SURVEY.

THAT THE ACCOMPANYING PLAT IS A TRUE DELINEATION OF SAID SURVEY DRAWN TO A SCALE OF 100 FEET TO THE INCH. THAT ALL MONUMENTS FOUND OR SET ARE MARKED AS SHOWN. THAT ALL DIMENSIONS ARE IN FEET AND DECIMALS OF A FOOT. THAT SAID SURVEY, TO THE BEST OF MY KNOWLEDGE AND BELIEF IS TRUE, CORRECT AND IN ACCORDANCE WITH THE LAND SURVEYORS REGULATION ACT IN EFFECT AT THE TIME OF THIS SURVEY.

WITNESS MY HAND AND SEAL this 7th day of AUGUST, 2023.
FOR THE FIRM OF M. C. SCHAFF AND ASSOCIATES, INC.

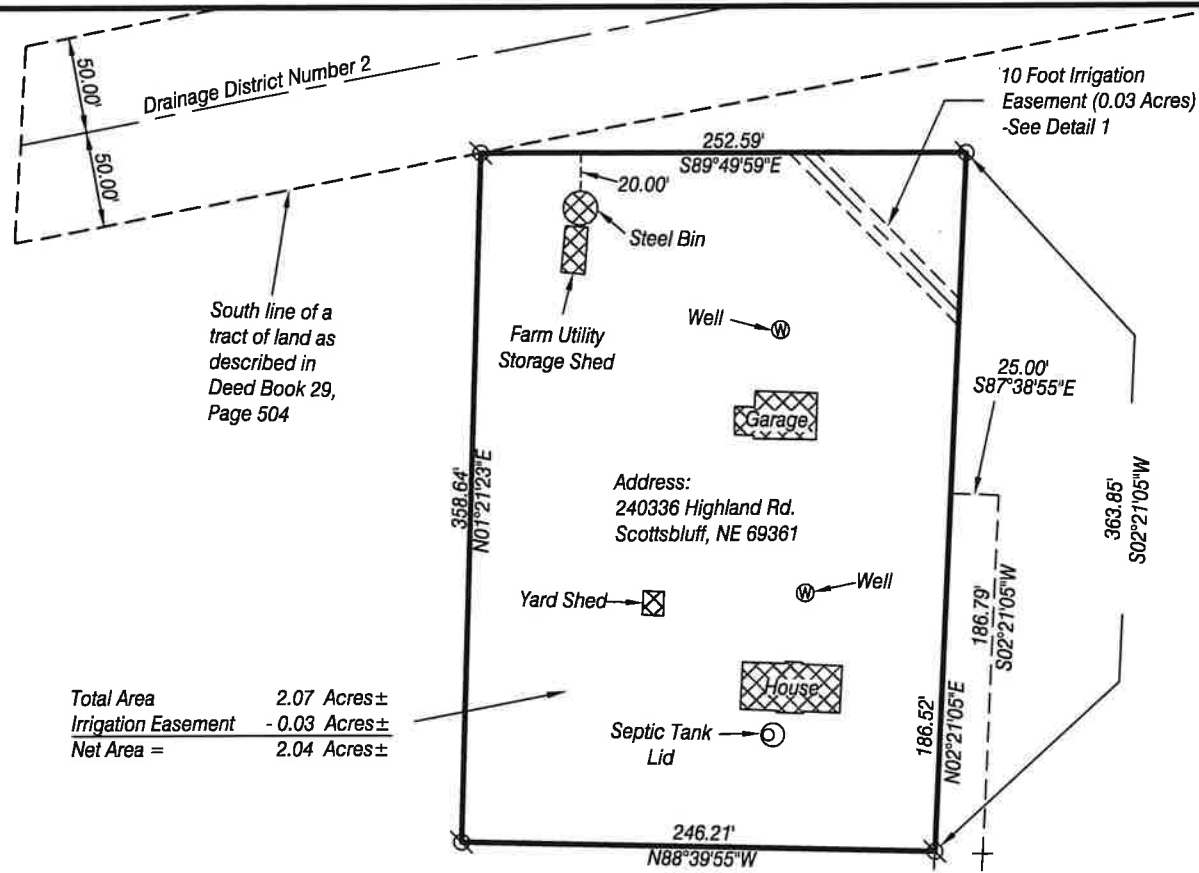
Dustin L. Beaudette
DUSTIN L. BEAUDETTE, NEBRASKA REGISTERED LAND SURVEYOR, L. S. 799



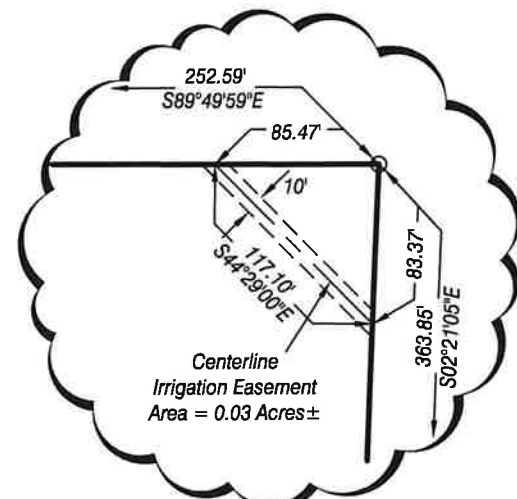
LEGEND

- EXISTING SECTION CORNER, AS NOTED
- EXISTING QUARTER SECTION CORNER, AS NOTED
- SET 5/8" X 24" REBAR W/CAP
- SEPTIC TANK LID
- WELL
- CENTERLINE, AS NOTED
- EASEMENT OR EXISTING PROPERTY LINES
- STRUCTURES

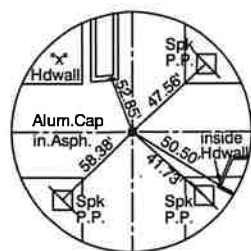
NOTE: Easements of Record, if any, are not shown on this survey plat.



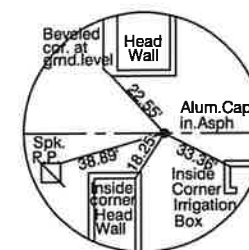
Total Area 2.07 Acres±
Irrigation Easement -0.03 Acres±
Net Area = 2.04 Acres±



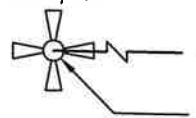
DETAIL 1



SOUTHWEST CORNER Section 20, T22N-R54W Found Aluminum Cap in Asphalt



SOUTHEAST CORNER OF THE SOUTHWEST QUARTER Found Aluminum Cap in Asphalt



HIGHLAND ROAD 33.00' RIGHT OF WAY

2668.05' N88°40'19"W (ASSUMED)

821.56' Regular Meeting - 9/01/2023

Found Aluminum Cap in Asphalt

City of Scottsbluff Planning Commission

Development Services Staff Report – Zachary Glaubius

Prepared on: August 31, 2023 For Hearing of: September 11, 2023



I. GENERAL INFORMATION

- A. Applicant:** Bryan Frank (Frank Properties LLC)
PO BOX 2395
Scottsbluff, NE 69361
- B. Property**
Owner: Same as Applicant
- C. Proposal:** Request for Creation of an Agricultural Estate Dwelling Site at 240336 Highland Road
- D. Legal Description:** A tract of land situated in Southwest Quarter of Section 20, Township 22 North, Range 54 West of the 6th P.M.
- E. Location:** 240336 Highland Road
- F. Existing Zoning & Land Use:** A-Agricultural
- G. Size of Site:** AEDS: Approximately 2.07 Acres
Agricultural/Vacant Land to be Reserved: Approximately 110.2 Acres

II. BACKGROUND INFORMATION

A. General Neighborhood/Area Land Uses and Zoning:

Direction From Subject Site	Future Land Use Designation	Current Zoning Designation	Surrounding Development
North	County Jurisdiction	County Jurisdiction	Airport
East	Residential	C-3 Heavy Commercial and R-1B Rural Residential Estate	Henkel’s Ag Repair and detached single-family dwellings
South	Residential	A -Agricultural, C-3 Heavy Commercial, and R-1B Rural Residential Estate	Lacy Park and detached-single family dwellings
West	Rural & Highway 26 Commercial	A -Agricultural	Farm Ground

B. Relevant Case History

- 1. N/A

III. ANALYSIS

A. Comprehensive Plan: The Future Land Use Map of the Comprehensive Plan currently shows the site as Residential.

B. Traffic & Access:

1. Current access to site is via a proposed 25' wide access easement which connects to Highland Road.
2. The proposed AEDS does not have the minimum 150 feet of street frontage. However, per 25-3-19 (B)(14)(b), if an AEDS is an interior-section type, is shall have a dedicated access road, at least 25 feet wide.

C. Utilities:

1. The AEDS is located in the extra-territorial jurisdiction and is not required to be served by city utilities.

IV. STAFF COMMENTS

A. The intent of the property owner is to sell the dwelling site and retain the agricultural land.

V. FINDINGS OF FACT

A. Findings of Fact to Recommend Its Approval May Include:

1. The agricultural use and AEDS designation are consistent with the Comprehensive Plan Future Land Use Map.
2. The AEDS designation will not create any nonconforming yards or structures.
3. The reserved area meets the required 80 acre minimum.
4. The AEDS meets the 2-acre minimum and 20-acre maximum area requirement.

A. Findings of Fact to Not Recommend Approval May Include:

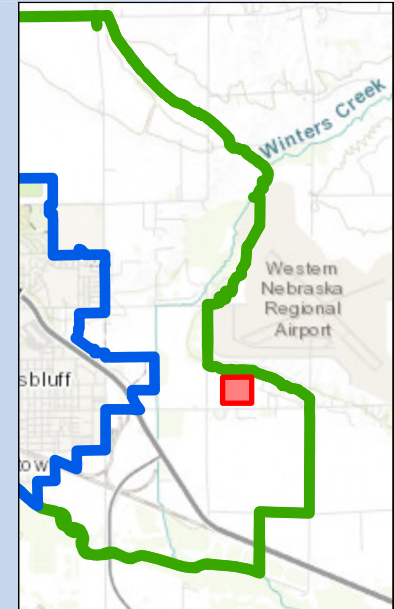
1. None

VI. STAFF RECCOMENDATION

A. Staff recommends the Planning Commission make a positive recommendation to City Council to approve the Agricultural Estate Dwelling designation of a tract of land situated in a tract of land situated in Southwest Quarter of Section 20, Township 22 North, Range 54 West of the 6th P.M, commonly identified as 2403336 Highland Road.

VII. PUBLIC NOTIFICATION

A. No other property owners are within 300 feet of the proposed Agricultural Estate Dwelling Site. One sign was posted on the property more than 10 days before the date of the meeting indicated the date, time, and place of the public hearing.



Street Centerlines

CLASS

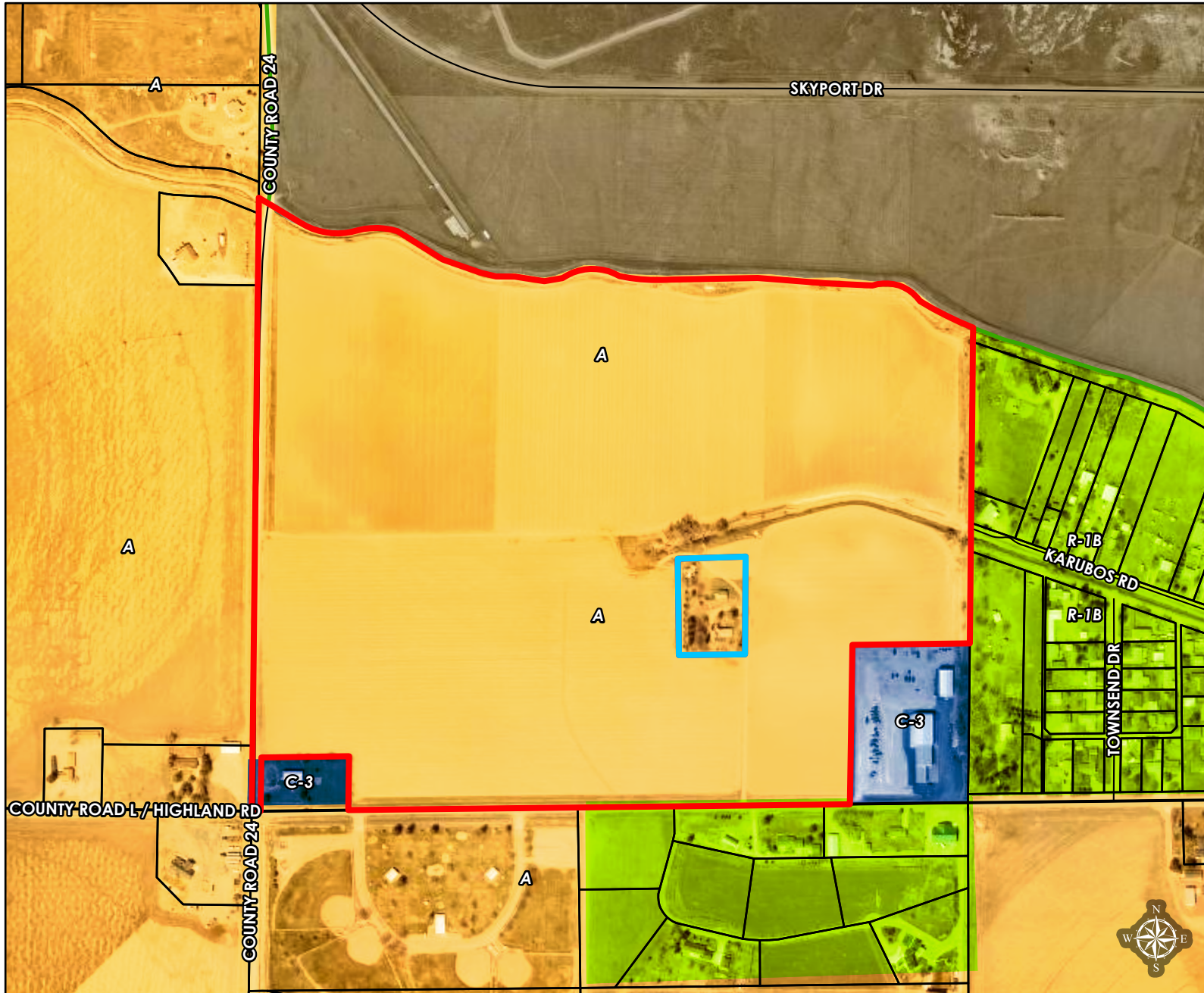
- Highway
- Main Road
- Residential/Rural
- Parcels

AEDS and Land

- AEDS
- Land

Taylor Stephens
 City of Scottsbluff GIS
 Created on 8/23/2023
 Coordinate System: NAD 1983 (2011)
 StatePlane Nebraska FIPS 2600 Feet
 Lambert Conformal Conic

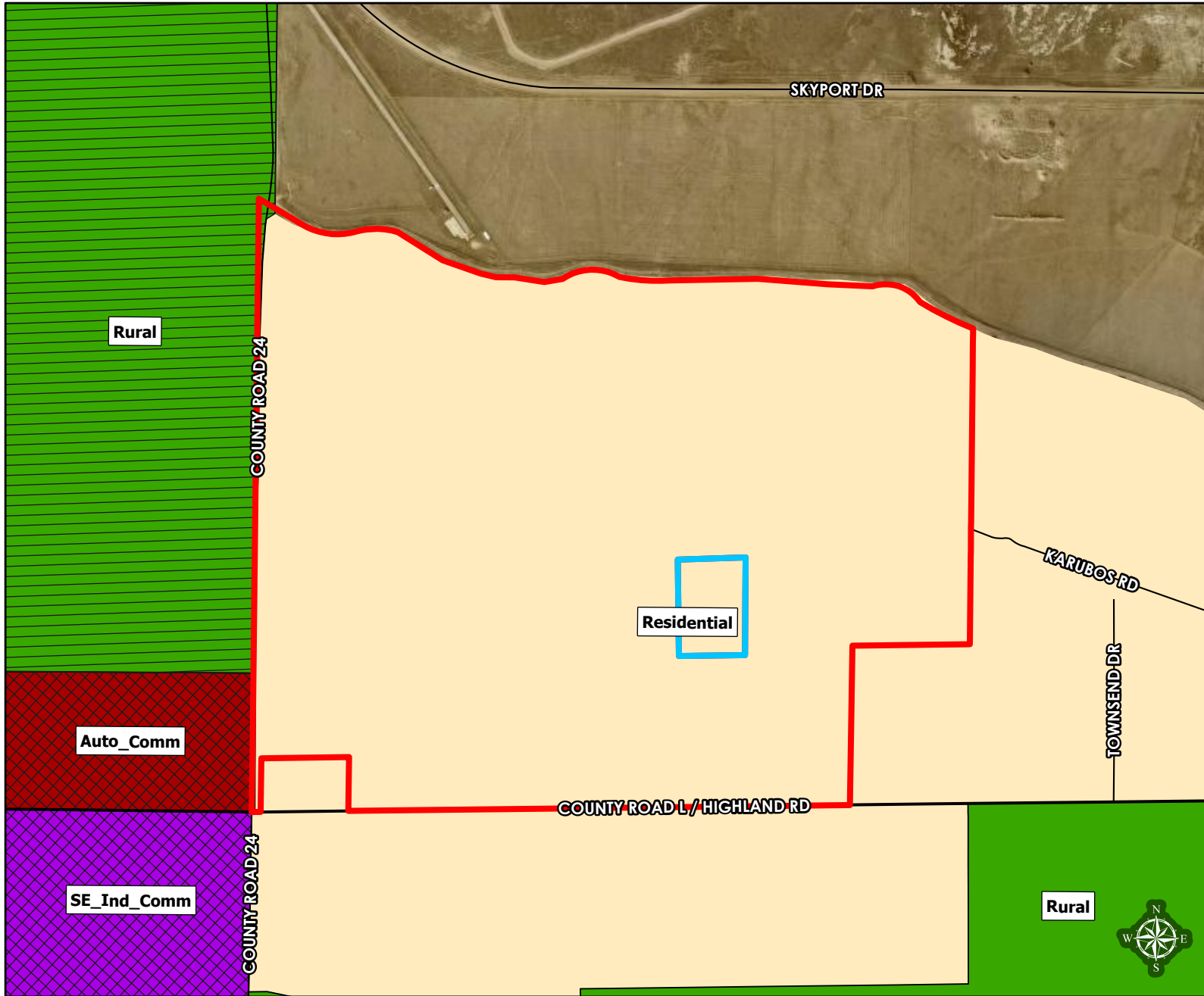
The City makes no representation or warranty as to the accuracy, timeliness, or completeness, and in particular, its accuracy in labeling or displaying dimensions, contours, property boundaries, or placement or location of any map features thereon.



- Corporate Limits
- Extended Jurisdiction
- City Zoning**
- (A)Agriculture
- (AR)Ag Residential
- (C-1)Central Business District
- (C-2)Neighborhood Com
- (C-3)Heavy Com
- (M-1)Light Man & Ind
- (M-2)Heavy Man & Ind
- (O-P)Office and Professional
- (PBC) Planned Bussiness
- (R-1)Single Family
- (R-1A)Single Family Med Dens
- (R-1B)Rural Residential
- (R-4)Heavy Dens Multiple
- (R-6)Mobile Home
- Street Centerlines**
- Highway
- Main Road
- Residential/Rural
- Parcels
- AEDS and Land**
- AEDS
- Land

Taylor Stephens
 City of Scottsbluff GIS
 Created on 8/23/2023
 Coordinate System: NAD 1983 (2011)
 StatePlane Nebraska FIPS 2600 Feet
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2016 Comp. Plan Land Use

- Automobile Commercial
- Avenue B and Hospital Campus
- Central Business District
- East Overland
- Highway 26 Commercial
- Northwest Commercial
- Residential
- Rural
- Rural Residential
- SE Industrial and Commercial
- South Broadway
- WNCC and Surrounding Area

Street Centerlines

- Highway
- Main Road
- Residential/Rural

2016 Comp. Plan Development

- LTD (10 - 20 yrs)
- NTD (Less than 5 yrs)
- STD (5 - 10 yrs)

AEDS and Land

- AEDS
- Land

Taylor Stephens
 City of Scottsbluff GIS
 Created on 8/23/2023
 Coordinate System: NAD 1983 (2011)
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For Recording Only
RET: Development Services, City of Scottsbluff

CERTIFICATE

This certificate should be indexed and recorded against the real estate described in Paragraph 2 and 3 below.

The following action was taken by the Scottsbluff City Planning Commission, and the Scottsbluff City Council.

TO-WIT:

1. Bryan Frank (Frank Properties, LLC) has caused to be made an application to the City of Scottsbluff, Scotts Bluff County for an exception to Agriculture (A-ET) District Zoning, for an Agricultural Estate Dwelling Site subject to all provisions of Part 13. Ag. District, specifically 25-3-19.1-13, of the Zoning Regulations. The Planning Commission approved the same at their regular meeting on September 11, 2023 and the City Council accepted such recommendations by approving the same, as provided by law, at the meeting of the Scottsbluff City Council on October 2, 2023.

2. Legal description of the tract-site (AEDS), separated as an Agricultural Estate Dwelling Site is: A tract of land situated in the Southeast Quarter of the Southwest Quarter of Section 20, T22N-R54W of the 6th P.M., Scotts Bluff County Nebraska, more particularly described as follows:

Commencing at the Southeast Corner of the Southwest Quarter of Section 20, Township 22 North, Range 54 West of the 6th P.M., Scotts Bluff County, Nebraska, thence Westerly on the South Line of said Quarter Section, on an assumed bearing of N88°40'19"W, a distance of 846.58 feet, thence bearing N03°36'02"E, a distance of 563.35 feet, to the point of beginning, thence bearing N88°39'55"W, a distance of 246.21 feet, thence bearing N01°21'23"E, a distance of 358.64 feet, to the point of intersection with the South Line of a tract of land as described in Deed Book 29, Page 504, in the Scotts Bluff County Register of Deeds office, thence bearing S89°49'59"E, a distance of 252.59 feet, thence bearing S02°21'05"W, a distance of 363.85 feet, to the point of beginning, said tract of land containing an area of 2.07 acres, more or less,

AND said above-described tract of land to have a perpetual 25.00 feet wide access easement, more particularly described as follows:

Commencing at the Southeast Corner of the Southwest Quarter of Section 20, Township 22 North, Range 54 West of the 6th P.M., Scotts Bluff County, Nebraska, thence Westerly on the South Line of said Quarter Section, on an assumed bearing of N88°40'19"W, a distance of 821.56 feet, to the point of beginning, thence continuing on said South Line, bearing N88°40'19"W, a distance of 25.02 feet, thence bearing N03°36'02"E, a distance of 563.35 feet, to the Southeast Corner of the

above-described tract of land, thence bearing N02°21'05"E, on the East Line of the above-described tract of land, a distance of 186.52 feet, thence bearing S87°38'55"E, a distance of 25.00 feet, thence bearing S02°21'05"W, a distance of 186.79 feet, thence bearing S03°36'02"W, a distance of 562.63 feet, to the point of beginning, said access easement containing an area of 0.43 acres, more or less,

AND said above-described tract of land to have a 10.00 feet wide irrigation easement (0.03 acres±) as shown on the accompanying survey.

- 3. The legal description of the reserved real estate pursuant to Part 25-3-19: All that part of the Southwest Quarter of Section 20, Township 22 North, Range 54 West of the 6th P.M., Lying South of the Winter Creek Canal EXCEPT that area as described above, AND EXCEPT the following described properties:
A 1.5 Acre Tract of Land as described in Instrument 2000-7121, a 3.15 Acre Tract of land as described in Deed Book 29, Page 504, and Block 1, BF Properties.

STATE OF NEBRASKA)
CITY OF SCOTTSBLUFF)
COUNTY OF SCOTTS BLUFF)

I, Jeanne McKerrigan the duly appointed, qualified, and acting Mayor for the City of Scottsbluff, County of Scotts Bluff, State of Nebraska, do hereby certify that the foregoing is a true and complete recitation of the action taken by the City Planning Commission, and City Council, as it relates to the subject therein described, as shown by the records and minutes of the referenced public bodies. IT WITNESS WHEREOF, I DO HERBY SET MY OFFICIAL HAND, THIS

_____ DAY OF _____, _____.

Mayor, City of Scottsbluff
Jeanne McKerrigan

STATE OF NEBRASKA)
CITY OF SCOTTSBLUFF)
COUNTY OF SCOTTS BLUFF)

On the date immediately above set out, before me, a Notary Public duly commissioned and qualified to act in Scottsbluff, Scotts Bluff County, personally came the referenced Mayor , to me known to be the identical person whose name is affixed to the foregoing certificate, and acknowledged the same to be his voluntary act and deed as such official.

Notary Public
(NOTARY SEAL & COMMISSION EXPIRES)