

PAGED DOC TAX
GENERAL FEE \$15.50 Chg
INDEXED NO. 3858

1501

THE STATE OF NEBRASKA } ss.
MADISON COUNTY

This instrument filed for record
the 20 day of July 20 12
at 8:30 A .M. and recorded in
Book 2012-07 Page 1501-1503
Honey J. Dasso
Register of Deeds

By City of Norfolk, 309 N. 5th Street, Norfolk, Nebraska 68701

CONDITIONAL USE PERMIT
RESOLUTION NO. 2012PC-10

WHEREAS, W. Theisen Grading and Equipment filed an application for a Conditional Use Permit seeking a permit for soil extraction on property which is legally described as follows:

A tract of land lying wholly in the S1/2 of the SE 1/4 of Section 12, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska. Said tract of land is more particularly described as follows: Referring to the South 1/4 Corner of said Section 12; thence proceeding East, along the South line of said Section 12, on an assumed bearing of North 89 degrees 52 minutes 14 seconds East, 1083.00 ft. to the point of beginning; thence continuing North 89 degrees 52 minutes 14 seconds East, along the South line of said Section 12, 1234.52 ft. to a point which is 305.00 ft. West of the Southeast Corner of said Section 12; thence North 00 degrees 23 minutes 32 seconds West, along a line which is 305.00 ft. west of, and parallel to, the East line of said Section 12, 1000.00 ft.; thence South 89 degrees 52 minutes 14 seconds West, 1219.37 ft.; thence South 00 degrees 28 minutes 36 seconds West, 1000.06 ft. to the point of beginning. Said tract of land contains 28.17 acres, more or less.

WHEREAS, the property described above is presently included in Zoning District A and I-1; and

WHEREAS, the Norfolk Planning Commission has conducted a public hearing on June 19, 2012 receiving input and data from the applicant and the general public concerning the Conditional Use Permit;

WHEREAS, on May 17, 2011 the Planning Commission of the City of Norfolk granted a Conditional Use Permit to W. Theisen Grading and Equipment Co. evidenced by Resolution No. 2011PC-3. This permit becomes null and void fifteen days after the filing of Resolution No. 2012PC-10 in the office of the Madison County Register of Deeds;

NOW THEREFORE, in consideration of the foregoing recitals, the Planning Commission of the City of Norfolk, Nebraska hereby adopts the following Resolution:

BE IT RESOLVED by the Norfolk Planning Commission of the City of Norfolk, Nebraska that W. Theisen Grading and Equipment Co. is hereby granted a Conditional Use Permit for soil extraction subject to the following terms and conditions:

1. A site plan shall be filed with this Conditional Use Permit;
2. The character of runoff from and onto adjacent land shall not be changed by the soil extraction;
3. The topsoil shall be collected, stockpiled and redistributed over the exposed soil area of the excavation at the completion of the operation. The soils in the excavation area shall then be stabilized, the land graded, seeded or sodded to prevent erosion and siltation. This subsection may be waived by the zoning official for that portion covered by an approved water impoundment.
4. There shall be no excavation closer than one hundred (100) feet to any abutting property not involved in the operation. All cuts shall be no less than four to one (4 to 1).

5. Costs for any damage to public roads or bridges used for access to the site which requires additional maintenance or repair by any political subdivision as a result of the nature of any additional traffic generated, shall be the responsibility of the owner of the property from which the soil is being removed and/or the contractor. The determination of costs and the method of repair and maintenance shall be as prescribed by the city engineer responsible for municipally-controlled roads and/or the county road superintendent responsible for county-controlled roads. The property owner and/or contractor may appeal the city engineer's and/or county road superintendent's decision to the Norfolk City Council within thirty (30) days after receiving the city engineer's and/or county road superintendent's decision.

6. The protection of the public health and safety shall be the responsibility of the owner of the property from which the soil is being removed and/or the contractor. Public health and safety methods shall be as directed by the zoning official who, upon observing a problem or verifying a complaint, may order the operation to cease until the problem is resolved. The decisions of the zoning official may be appealed to the Norfolk City Council.

7. There shall be compliance with any other applicable City, County, State or Federal regulations that may apply;

8. Pursuant to the Norfolk City Code, this Conditional Use Permit shall be perpetual;

9. The Conditional Use Permit granted herein shall be subject to the provisions of the Norfolk City Code that provide for an appeal to be taken within 15 days of the decision of the Planning Commission.

PASSED AND APPROVED this 3 day of July, 2012

ATTEST:

Faythe Petersen
Faythe Petersen
Planning Commission Secretary

Maynard Ohi
Maynard Ohi
Planning Commission Chair Pro Tem

Approved as to form: Clint Schukei
Clint Schukei
City Attorney

The foregoing instrument was acknowledged before me this 3 day of July, 2012 by Maynard Ohi, Planning Commission Chair Pro Tem of the City of Norfolk.

Faythe N. Petersen
Faythe N. Petersen, Notary Public

