

8:30

1259

THE STATE OF NEBRASKA } ss.  
MADISON COUNTY

No	1579 ✓	#Pages	3
Doc Tax \$			
Fee \$	22. <sup>00</sup>	P&M \$	3.50
Fees Pd \$	Gen Fee \$ 18.50		
Ck#			
Refund	Due 22.00		

This instrument filed for record  
 the 28 day of April 20 14  
 at 8:30 A.M. and recorded in  
 Book 2014-04 Page 1259-1261  
 Register of Deeds *Nancy J. Gross*

By *By* the City of Norfolk, 309 N. 5th Street, Norfolk, NE 68701  
 CONDITIONAL PERMIT  
 RESOLUTION NO. 2014PC-1

WHEREAS, Lyman-Richey Corporation has filed an application for a Conditional Use Permit seeking a permit for mining sand and gravel on property which is legally described as follows:

The NW1/4 of the NE1/4 of Section 2, Township 23 North, Range 1 West of the 6<sup>th</sup> P.M.,  
 Madison County, Nebraska

AND

The SW1/4 of the SE1/4 of Section 35, Township 24 North, Range 1 West of the 6<sup>th</sup> P.M.,  
 Madison County, Nebraska

AND

Tract 1:

The South Half of the Southeast Quarter of the Southeast Quarter of Section 35, Township 24  
 North, Range 1 West of the 6th P.M., Madison County, Nebraska;

AND

The East Half of the Northeast Quarter of Section 2, Township 23 North, Range 1 West of the  
 6th P.M., Madison County, Nebraska;

AND

The West Half of the Northwest Quarter of Section 1, Township 23 North, Range 1 West of the  
 6th P.M., Madison County, Nebraska;

EXCEPT

That part of the South Half of the East Half of the Northeast Quarter of Section 2; and the South  
 Half of the West Half of the Northeast Quarter of Section 1, Township 23 North, Range 1 West  
 of the 6th P.M., Madison County, Nebraska, lying South of the center line of the Elkhorn River;

EXCEPT

A tract of land lying wholly in the Northwest Quarter of Section 1, Township 23 North, Range 1  
 West of the 6th P.M., Madison County, Nebraska, more particularly described as follows:

Beginning at the Northeast corner of the Northwest Quarter of the Northwest Quarter of said  
 Section 1; thence proceeding West along the section line of said Section 1 on an assumed bearing  
 of North 90° West, 915.00 feet; thence South 00°28'40" West, 968.51 feet; thence North  
 84°53'20" East, 919.34 feet; thence North 00°28'40" East, 886.66 feet to the point of beginning.

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

WHEREAS, the Norfolk Planning Commission conducted a public hearing on March 18, 2014 receiving input and data from Lyman-Richey Corporation and the general public concerning the Conditional Use Permit; and

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 Lyman-Richey Corporation, is hereby granted a Conditional Use Permit for the purpose of mining sand and gravel on the property described above subject to the following terms and conditions:

- (1) Lyman-Richey Corporation must conform to the floodplain requirements as outlined in the Norfolk City Code;
- (2) A) Lyman-Richey Corporation shall provide the City Engineer with a grading map showing existing conditions. The map shall be in enough detail so that existing conditions can be replicated from the map. The information shall include X, Y, and Z elevations on at least a grid of 100 feet by 100 feet and at any other points required to show special features. The plan shall provide detailed benchmark information tied into the benchmark used by FEMA to develop the floodplain maps. The information shall be depicted on a plan to a scale so that the information is readily legible. The information shall also be depicted in grid format, contour format and cross-section format;  
B) Lyman-Richey Corporation shall also provide proposed final grades on the map depicting the existing contours and final cross-sections outside the water's edge;
- (3) Lyman-Richey Corporation shall identify the location of their Stormwater Pollution Prevention Plan (SWPPP), proposed vehicle and equipment storage areas, on-site fuel storage, type and quantity, proposed structures, proposed erosion and sediment controls, , including retention and sediment basins during extraction to prevent a change in the character runoff onto adjacent land. Lyman-Richey Corporation shall provide the City Engineer and Prevention Bureau with a copy of their letter of authorization to discharge and any other required National Pollution Discharge Elimination System (NPDES) permits;
- (4) Topsoil shall be collected and stored for redistribution on the site at the termination of the operation as shown in 2(A) above. Topsoil stockpiles shall be graded and seeded in a timely manner for the purpose of erosion control.
- (5) Excavation and pile height shall be conducted in such a way as not to constitute a hazard to any person, or to the adjoining property. All cuts and fill shall be constructed with a slope not greater than three to one (3-1);
- (6) Within nine (9) months after the completion of extraction on any portion of the site, the topography and soils shall be restored and stabilized, and the land shall be graded, seeded, or sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public. Prior to seeding or sodding, a grading map showing final contours should be provided to the City Engineer for review for compliance with proposed final grade contours and flood plain regulations. Final grading plans shall include the same detail as Condition 2;
- (7) Noise levels created from the mining operation shall comply with the Final Rule (Part II, Section C) of the Current Standards of the Mine Safety Health Administration as published in the Federal Register, Volume 64, No. 176, as the same may from time to time be amended. The maximum level allowed by this rule is 85 decibels at the property line;

- (8) Lyman-Richey Corporation shall use best management practices to manage wind-blown debris and provide erosion and sediment control;
- (9) Lyman-Richey Corporation shall work to control the track out from trucks, heavy equipment and vehicles exiting the property on to Victory Road. Sand, gravel, mud or sediment track out generated from the mining operation and truck traffic shall be controlled by installation and maintenance of appropriate best management practices (BMPs) compliant with their NPDES permitting requirements, City of Norfolk Engineering, City of Norfolk Zoning and/or Madison County Highway Department;
- (10) Hours of Operation, other than routine maintenance, shall be from 6:00 a.m. to 6:00 p.m. Monday through Friday and 6:00 a.m. to 12:00 p.m. on Saturday with no operations on Sunday; provided, however, in the event an emergency arises, the operation may run twenty four hours a day provided Lyman-Richey contacts the City of Norfolk Fire Division (402) 844-2050 with notice of the emergency;
- (11) The layout and location shall abide by the attached site plan;
- (12) The Conditional Use Permit shall be for a period of twenty (20) years and, pursuant to the Norfolk City Code, shall be a personal privilege granted to Lyman-Richey Corporation and shall not be subject to transfer;
- (13) Failure to observe and maintain the conditions and restrictions of the conditional use permit shall be considered a violation of The Code of the City of Norfolk, Nebraska subject to penalty as provided herein and may be grounds for review of the permit;
- (14) There shall be compliance with applicable City, County, State or Federal regulations that may apply;
- (15) This Conditional Use Permit as modified 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.

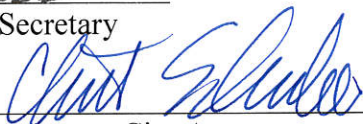
PASSED AND APPROVED this 8<sup>th</sup> day of April, 2014.

ATTEST:

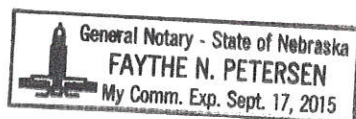
  
 Planning Commission Secretary


  
 Planning Commission Chair

Approved as to form:

  
 City Attorney

The foregoing instrument was acknowledged before me this 8 day of April, 2014  
 by J.J. Snodgrass, Planning Commission Chair of the City of Norfolk.



  
 Faythe Petersen, Notary Public