

8:45

02333 ✓

NO. 02333 ✓ Pages 7
 Doc Tax _____
 Fee \$ 46.00 P&M \$ 5.50
 Fees Pd \$ _____ Gen Fee \$ 40.50
 Check# _____
 Refund _____ Due 46.00

THE STATE OF NEBRASKA } ss
 MADISON COUNTY

This instrument filed for record
 the 26 day of June 20 23
 at 8:45 A.M. and recorded in
 Book 2023 Page 02333

Diane S. Tykoclym Register of Deeds

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

CONDITIONAL USE PERMIT
 RESOLUTION NO. 2023PC-4

WHEREAS, Matteo Sand & Gravel Company, Inc., a Nebraska Corporation, hereinafter referred to as "APPLICANT", has filed an application for a Conditional Use Permit seeking a permit for mining of sand and gravel on property addressed as 2410 N. Airport Road which is legally described as follows:

The West Half of the Northeast Quarter of Section Four, Township Twenty-three North, Range One West of the Sixth Principal Meridian, Madison County, Nebraska; LESS AND EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACTS AND PARCEL OF LAND LYING IN SAID W ½ OF NE 1/4, LETTERED A THROUGH E, AS FOLLOWS:

- A. Commencing at the Southeast corner of the SW ¼ of the NE ¼ of said Section 4; thence West on the ¼ section line on an assumed bearing of South 89 degrees 22 minutes 30 Seconds West 440.56 feet to the point of beginning; thence North 00 degrees 00 minutes East 902.0 feet; thence South 09 degrees 22 minutes 30 seconds West 483.0 feet; thence South 00 degrees 00 minutes West 902.0 feet to a point on the ¼ section line; thence North 89 degrees 22 minutes 30 seconds East 483.0 feet to the point of beginning. (NORTH AIRPORT SUBDIVISION containing approximately 10.00 acres, more or less);
- B. Commencing at the Southwest corner of the SE ¼ of the NE ¼ of said Section 4; thence West on the ¼ section line on an assumed bearing of South 89 degrees 22 minutes 30 seconds West 923.56 feet to the point of beginning; thence North 00 degrees 00 minutes East 902.0 feet; thence North 89 degrees 22 minutes 30 seconds East 170.16 feet; thence North 00 degrees 00 minutes East 123.7 feet; thence North 45 degrees 00 minutes West 39.6 feet; thence South 89 degrees 22 minutes 30 seconds West 564.7 feet; thence South 00 degrees 00 minutes West 158.0 feet; thence South 10 degrees 12 minutes 15 seconds East 300.0 feet; thence South 02 degrees 34 minutes 20 seconds East 133.3 feet; thence South 02 degrees 36 minutes 30 seconds West 423.7 feet to a point on the ¼ section line; thence North 89 degrees 22 minutes 30 seconds East 385.1

- feet to the point of beginning. (SHALD SUBDIVISION containing approximately 10.01 acres, more or less.)
- C. Beginning 902 feet North of the Southeast corner of the W ½ of the NE ¼ of said Section 4; thence 752 feet West; thence 1738 feet North; thence 752 feet East; thence 1738 feet South to the place of beginning. (Containing approximately 30 acres, more or less)
 - D. Commencing at the Southeast corner of the SW ¼ of the NE ¼ of said Section 4; thence North on the 1/16 line on an assumed bearing of North 00 degrees 00 minutes East 198.0 feet to the point of beginning; thence North 00 degrees 00 minutes East 704.0 feet; thence South 89 degrees 22 minutes 30 seconds West 440.56 feet; thence South 00 degrees 00 minutes West 902.0 feet to a point of the ¼ section line; thence North 89 degrees 22 minutes 30 seconds East 183.06 feet; thence North 00 degrees 00 minutes East 198.0 feet; thence North 89 degrees 22 minutes 30 seconds East 247.5 feet to the point of beginning. (Containing approximately 8 acres, more or less)
 - E. Commencing at the Southeast corner of the SW ¼ of the NE ¼ of said Section 4; thence North 198 feet, thence West 247.5 feet; thence South 198 feet; thence East 247.5 feet to the place of beginning. (Containing approximately 1 acre, more or less)

The West Half of the Northwest Quarter of Section Four, Township Twenty-three North, Range One West of the Sixth Principal Meridian, Madison County, Nebraska; LESS AND EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACTS AND PARCELS OF LAND LYING IN SAID W ½ OF NW ¼ LETTERED A THROUGH C, AS FOLLOWS:

- A. The Right of Way of the Union Pacific Railway Company
- B. Beginning at the W ¼ corner of said Section 4; thence East on section line, on an assumed bearing of North 90 degrees 00 minutes East a distance of 111.2 feet to a point on the Westerly Right of Way of the Union Pacific Railway; thence North 10 degrees 59 minutes 30 seconds East on said Right of Way, a distance of 1551.5 feet to a point; thence North 81 degrees 26 minutes 40 seconds West 395.2 feet to a point on the West section line, said point being 264.0 feet North of the South line of the NW ¼ NW ¼; thence South 00 degrees 34 minutes West, on section line 1582.1 feet to the point of beginning. (Containing approximately 9.07 acres, more or less)
- C. Commencing at the Northwest corner of the NW ¼ of the NW ¼ of said Section 4; thence South 1056 feet to the old riverbed of the Elkhorn River, now known as Dry Run; thence East along said old riverbed of Dry Run to the Right of Way of the Union Pacific Railway Company; thence Northeast along the West line of said Right of Way to the North line of said track; thence West to the place of beginning. (Part of the NW ¼ NW ¼ lying west of the railroad.)

The East Half of the Northwest Quarter of Section Four, Township Twenty-three North, Range One West of the Sixth Principal Meridian, Madison County, Nebraska; LESS AND EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL OF LAND LYING IN SAID E ½ OF NW ¼, LETTERED A, AS FOLLOWS:

- A. Commencing at the Southwest corner of the SE ¼ of the NE ¼ of said Section 4; thence West on the ¼ section line on an assumed bearing of South 89 degrees 22 minutes 30 seconds West 923.56 feet to the point of beginning; thence North 00 degrees 00 minutes East 902.0 feet; thence North 89 degrees 22 minutes 30 seconds East 170.16 feet; thence North 00 degrees 00 minutes East 123.7 feet; thence North 45 degrees 00 minutes West 39.6; thence South 89 degrees 22 minutes 30 seconds West 564.7 feet; thence South 00 degrees 00 minutes West 158.0 feet; thence South 10 degrees 12 minutes 15 seconds East 300.0 feet; thence South 02 degrees 34 minutes 20 seconds East 133.3 feet; thence South 02 degrees 36 minutes 30 seconds West 423.7 feet to a point on the ¼ section line; thence North 89 degrees 22 minutes 30 seconds East 385.1 feet to the point of beginning. (SHALD SUBDIVISION containing approximately 10.01 acres, more or less)

A tract of land consisting of 55 acres, more or less situated in Section 33, Township 24 North, Range One West of the 6th P.M., and Section Four, Township 23 North, Range One West of the 6th P.M., all in Madison County, Nebraska, and described as follows:

Bounded on the south by the south line of Section 33, Township 24 North, Range One West of the 6th P.M., Madison County, Nebraska, and bounded on the west by the east right-of-way of the Union Pacific Railroad, and bounded on the north by the northerly high bank of the Elkhorn River, and bounded on the east by the east line of the Southwest Quarter of the Southeast Quarter of said Section 33, Township 24 North, Range One, West of the 6th P.M., Madison County, Nebraska,
And,

All of that part of the Northwest Quarter of the Northwest Quarter of Section Four, Township 23 North, Range One West of the 6th P.M., Madison County, Nebraska which lies east of the Right-of-Way of the Union Pacific Railroad.
And,

Lots 1 & 2, Shald Subdivision, Madison County, Nebraska.

AND

A tract of land lying wholly in the SW1/4 NE1/4 of Section 4, Township 23 North, Range 1 West of the 6th P.M., Madison County, Nebraska, more particularly described as follows: Commencing at the SE corner of the SW1/4 NE1/4 of said Section 4; thence N on the 1/16th line on an assumed bearing of N0°00'E 198.0 feet to the point of beginning; N0°00'E 704.0 feet; thence S 89°22'30"W 440.56 feet; thence S0°00'W 902.0 feet to a point on the 1/4 section line; thence N 89°22'30"E 193.06 feet; thence N0°00'E 198.0 feet; thence N89°22'30"E 247.5 feet to the point of beginning.

AND

A tract of land located in the West Half of the Northeast Quarter (W1/2NE1/4) of Section Four (4), Township Twenty-three (23) North, Range One (1), West of the 6th P.M., Madison County, Nebraska, beginning at a point 902 feet North of the Southeast corner of said West Half of the Northeast Quarter of said Section; thence 752 feet West; thence 1738 feet North; thence 752 feet East; thence 1738 feet South to the place of beginning.

AND

Lot 3 North Airport Subdivision, Madison County, Nebraska

AND

Lot 2, North Airport Subdivision, Madison County, Nebraska

AND

The Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) of Section 4, Township 23 North, Range 1 West of the 6th P.M., Madison County, Nebraska, except the following: Beginning at the Southeast corner of the NE 1/4 NE 1/4 of said Section 4, Township 23 North, Range 1 West of the 6th P.M., thence North 18 Rods; thence West 17 7/9 Rods; thence South 18 Rods, thence East 1 7 7/9 Rods to the place of beginning, and also except that part taken and deeded to the State of Nebraska for road purposes in Deed filed in M73-4 page 179 and M92-7, page 84 7 and also except Lot 1 of Bierman's Subdivision in the NE 1/4 NE 1/4 of Section 4, Township 23 North, Range 1 West of the 6th P.M., and also except the following; beginning at the Northwest corner of Lot 1 of Lakeside Addition, Madison County, Nebraska, thence proceeding west along the South line of said NE1/4 NE1/4 on an assumed bearing of S89°59'50"W, 903.3 feet to the Southwest corner of said NE1/4 NE1/4; thence N0°32'30"E, along the West line of said NE1/4 NE1/4 867.7 feet to a point on the Southerly bank of the Elkhorn River; thence S82°13'20"E, along said Southerly bank of the Elkhorn River, 523.3 feet; thence S25°17'40"E, 881.3 feet to the point of beginning, and also except A tract of land lying wholly in the Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) of Section Four (4), Township Twenty-three (23) North, Range One (1), West of the 6th P.M., Madison County, Nebraska, more particularly described as follows: Commencing at the Northeast corner of said Section Four (4); thence West, on section line, on an assumed bearing of South 89 degrees 35 minutes 35 seconds West 141.7 feet to a point on the West right of way of U.S. Highway No. 81 and the point of beginning; thence continuing South 89 degrees 35 minutes 35 seconds West, on last described course, 1001.2 feet to a pipe set on the high bank of the Elkhorn River; thence continuing South 89 degrees 35 minutes 35 seconds West, on the last described course, 45 feet, more or less, to the thread of the stream of said river; thence in a Southerly and Easterly direction, following the thread of the stream of said river, to the West right of way of U.S. Highway No. 81; thence North 02 degrees 51 minutes 30 seconds East, along said West right of way of U.S. Highway No. 81, a distance of 100 feet to the point of beginning, all being in Madison County, Nebraska.

AND

Tract 1: A tract of land lying wholly in the SE1/4 NE1/4 of Section 4, Township 23 North, Range 1 West of the 6th P.M., Madison County, Nebraska, described as follows: Beginning at the SW Corner of the SE1/4 NE1/4 of said Section 4; thence proceeding East on an assumed bearing of N90°00'E, 393.4 feet; thence N0°05'E, 183.0 feet; thence N89°58'E, 122.0 feet; thence N0°02'40"E, 129.0 feet where a witness pipe was set on the South Lake bank; thence continuing N0°02'40"E, 123.0 feet; thence S89°56'10"E, 128.17 feet where a witness pipe was set on the East Lake bank; thence continuing S89°56'10"E, 263.63 feet; thence N0°40'50"E, 174.0 feet to the SW Corner of Lakeside Addition, Madison County, Nebraska; thence continuing N0°33'50"E, 709.2 feet to the NW Corner of said Lakeside Addition; thence S89°59'50"W, 904.98 feet; thence S0°30'30"W, 1,318.5 feet to the point of beginning LESS a tract of land described as follows:

Beginning at the SW Corner of Lakeside Addition; thence South on an assumed bearing of S0°40'50"W, 174.0 feet; thence S89°56'10"W, 263.63 feet where a witness pipe was set; thence continuing N89°56'10"W, 4.0 feet to the edge of the lake as it existed on March 12, 1984; thence Northeasterly, along a meandering line on the edge of the lake as it existed on March 12, 1984, to a point which is 212.1 feet West of the SW Corner of Lakeside Addition; thence S89°59'50"E, 9.0 feet to a point where a witness pipe was set; thence continuing S89°59'50"E, 203.1 feet to the point of beginning, AND LESS Lot 1, D and C Werner Subdivision in the SE1/4 NE1/4 of Section 4, Township 23 North, Range 1 West of the 6th P.M., Madison County, Nebraska.

Tract 2: A tract of land lying wholly in the Northeast Quarter of the Northeast Quarter of Section 4, Township 23 North, Range 1 West of the 6th P.M., Madison County, Nebraska, more particularly described as follows: Beginning at the Northwest corner of Lot 1 of Lakeside Addition, Madison County, Nebraska, thence proceeding West along the South line of said NE1/4 NE1/4 on an assumed bearing of S89°59'50"W, 903.3 ft. to the Southwest corner of said NE1/4NE1/4; thence N0°32'30"E, along the West line of said NE1/4NE1/4 867.7 feet to a point on the Southerly bank of the Elkhorn River; thence S82°13'20"E, along said Southerly bank of the Elkhorn River, 523.3 ft., thence S25°17'40"E, 881.3 ft. to the point of beginning.

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

WHEREAS, the Planning Commission of the City of Norfolk, Nebraska has conducted a public hearing on May 16, 2023 receiving input and data from the APPLICANT and the general public concerning the Conditional Use Permit;

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 Planning Commission of the City of Norfolk, Nebraska that Matteo Sand & Gravel Company, Inc. is hereby granted a Conditional Use Permit for mining of sand and gravel subject to the following terms and conditions:

1. The APPLICANT must conform to the floodplain requirements as outlined in Chapter 27, Article VIII, Division 3 of the Norfolk City Code prior to any additional development;
2. A) Prior to any additional development, the permit holder 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. Any

regulated wetlands shall also be shown on the map of existing conditions commencing operations;

B) APPLICANT shall also provide proposed final grades on the map depicting the existing contours and cross-sections to include pile height of sand;

3. The granting of this permit shall not create or alter any permissive right of access or easement;
4. APPLICANT 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. APPLICANT 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. In the floodway, at no time during or after excavation shall temporary storage of fill extend above the existing grade as detailed in Condition 3 of this permit. Any fill in the floodway must comply with Condition 1 of this permit including the required "no rise" certificate. The applicant shall provide the City Engineer with a copy of the NPDES permit required for construction projects;
5. Topsoil shall be collected and stored for redistribution on the site at the termination of the operation, and the location of storage areas defined on the map required in Condition 5. Topsoil stockpiles shall be graded and seeded in a timely manner for the purpose of erosion control;
6. Excavation 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);
7. Within nine (9) months after the completion of extraction of 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 3;
8. 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;
9. Operation of the mining and excavation operation shall abide by a 50-foot setback from any abutting property owners;

- 10. An informational sign shall be erected on North Airport Road containing contact phone numbers and safety information;
- 11. Pursuant to the Norfolk City Code, the Conditional Use Permit shall be for a period of twenty (20) years and shall be a personal privilege granted to the applicant and shall not be subject to transfer;
- 12. 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 including alteration or termination of the permit;
- 13. All procedures and standards outlined in Section 27-56 of the Norfolk City Code pertaining to Conditional Use Permits shall be observed and 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, and;
- 14. There shall be compliance with any other applicable City, County, State, or Federal regulations that may apply.

PASSED AND APPROVED this 6th day of June, 2023.

ATTEST:

Dirk Waite

Dirk Waite
Planning Commission Vice-Chair

Elizabeth Lienemann

Elizabeth Lienemann
Planning Commission Secretary

Approved as to form:

D. Myers-Noelle

Danielle Myers-Noelle
City Attorney

The foregoing instrument was acknowledged before me this 6th day of June, 2023 by Dirk Waite, Planning Commission Vice-Chair and Elizabeth Lienemann, Planning Commission Secretary of the City of Norfolk.

Valerie K. Grimes

Notary Public Signature

Valerie K. Grimes

Notary Public Printed

