

City of Norfolk  
127 N 1st St  
Norfolk  
68701

Chg. \$11.50 No. 1364 ✓  
Page: General ✓ Indexed ✓

MADISON COUNTY

This instrument filed for record 0887-

the 14 day of March 20 05  
at 8:30 o'clock A.M. and record in  
2005-03  
Page 0887-0888  
*Nancy J. Green*  
Register of Deeds  
Deputy Reg. of Deeds

CONDITIONAL USE PERMIT  
RESOLUTION NO. 2005PC-3

WHEREAS, Kenneth Porter has filed an application for a Conditional Use Permit seeking a permit for excavation, extraction and removal (mining) of dirt, sand and gravel on property which is legally described as follows:

The S 1/2 SE 1/4 SE 1/4 of Section 35, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska  
AND  
The E 1/2 NE 1/4 of Section 2, Township 23 North, Range 1 West of the 6th P.M., Madison County, Nebraska  
AND  
The W1/2 NW 1/4 of Section 1, Township 23 North, Range 1 West of the 6th P.M., Madison County, Nebraska  
EXCEPT  
That part of the S1/2 E 1/2 NE 1/4 of Section 2; and the S1/2 W1/2 NW1/4 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 containing 30 acres more or less.  
EXCEPT  
A tract of land lying wholly in the NW1/4 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 NE corner of the NW1/4 NW1/4 of said Section 1; thence proceeding West along the section line of said Section 1 on an assumed bearing of North 90 degrees West, 915.00 feet; thence South 0 degrees 28 minutes 40 seconds West, 968.51 feet; thence North 84 degrees 53 minutes 20 seconds East, 919.34 feet; thence North 0 degrees 28 minutes 40 seconds east, 886.66 feet to the point of beginning, said tract containing 19.48 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 February 8, 2005 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 Kenneth Porter DBA K. Porter Construction is hereby granted a Conditional Use Permit for excavation, extraction and removal (Mining) of dirt, sand and gravel on the property described above, and located on South Victory Road and Coolidge Avenue subject to the following terms and conditions:

- 1) Application must conform to the floodplain requirements as outlined in the Norfolk City Code;
- 2) Prior to commencing operations, the applicant shall provide the City Engineer with a grading map showing existing contours, and the proposed final grade contours, along with a proposed future land use plan;
- 3) The applicant shall identify the location of proposed vehicle and equipment storage areas, proposed structures; erosion controls, including retention and sediment basins during extraction to adjacent land. At no time during or after excavation shall temporary storage of fill extend above the existing grade in the floodway. The applicant shall provide the City Engineer with a copy of the NPDES permit required for construction projects. On the map showing existing contours the applicant shall obtain and show the existing contours when the river was surveyed for development of the floodway and floodplain by FEMA;
- 4) Topsoil shall be collected and stored for redistribution on the site at the termination of the operation, and the location of storage areas defined;
- 5) Excavation shall be conducted in such a way as not to constitute a hazard to any person, or to the adjoining property. All cuts shall be returned to a slope of less than three to one (3-1) as soon as possible;
- 6) 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;

- 7) The Conditional Use Permit shall be for a period of ten (10) years, and pursuant to the Norfolk City Code, shall be a personal privilege granted to the applicant and shall not be subject to transfer;
- 8) There shall be compliance with any other applicable City, County, State and Federal regulations that may apply.
- 9) The Conditional Use Permit granted herein shall be subject to the provisions of the Norfolk City Code relative to review of the permit during the period it is in effect;
- 10) Material shall be piled in such a manner to ensure that sand and dirt pollution will not occur to the surrounding land and improvements and so that such material piles not exceed a height of 12 feet;
- 11) That a suitable noise barrier be erected around the subject premises;
- 12) That except as authorized for rip-rapping by the Army Corps of Engineers, no dumping or storage of asphalt or concrete shall be allowed on that portion of the subject property located in Zoning District A;
- 13) That the dikes as depicted on the plans submitted by the applicant and allowable pursuant to applicable flood plain regulations be constructed, seeded and maintained by the applicant;
- 14) That the applicant shall agree to carry a general liability insurance policy covering property damage, bodily injury and personal injury in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 aggregate naming the City of Norfolk as an additional insured thereon. The applicant shall further agree to hold harmless and indemnify City from any and all liability associated with the excavation, extraction and removal (mining) of dirt, sand and gravel on the property covered by this Resolution. The applicant shall provide city with a certificate of insurance showing proof of the coverages required herein prior to commencement of work at the property;
- 15) That the area subject to the terms of this permit be screened and fenced with woven wire to allow for security of the area, and controlled access to the area.
- 16) That the hours of operation shall be between 7:00 a.m. and 7:00 p.m., said operation to be Monday through Saturday only. Hauling shall not occur on New Year's Day, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving Day or Christmas Day.

PASSED AND APPROVED this February 23, 2005.

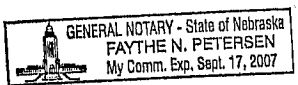
ATTEST:

*Faythe N. Petersen*  
 Planning Commission Secretary

*[Signature]*  
 Planning Commission Co-Chairman  
 Maynard Ohl

Approved as to form: *Clint G. Galt*  
 City Attorney

The foregoing instrument was acknowledged before me this 23 day of February, 2005 by the Planning Commission Co-Chairperson of the City of Norfolk.



*[Signature]*  
 Notary Public