

(Appeal of Planning Commission Action )

RESOLUTION NO. A-\_\_\_\_\_

SPECIAL PERMIT NO. 08015

1           WHEREAS, Roger H. Schwisow has submitted an application designated as  
 2 Special Permit No. 08015 for authority to allow mining/extraction of soil on Agricultural zoned  
 3 property located northwest of the intersection of N.W. 56th Street and West O Street, and  
 4 legally described as:

5                     Lot 25 I.T. in the Southwest Quarter of Section 24, Township 10  
 6                     North, Range 5 East of the 6th P.M., Lancaster County, Nebraska;

7           WHEREAS, the Lincoln City-Lancaster County Planning Commission held a  
 8 public hearing on said application and conditionally approved the same; and

9           WHEREAS, Roger H. Schwisow has filed a Notice of Appeal appealing the  
 10 action of the Planning Commission approving Special Permit No. 08015; and

11           WHEREAS, pursuant to Lincoln Municipal Code § 27.63.025 the action appealed  
 12 from is deemed advisory and the City Council is authorized to take final action on the matter;  
 13 and

14           WHEREAS, the community as a whole, the surrounding neighborhood, and the  
 15 real property adjacent to the area included within the site plan for this mining/extraction of soil  
 16 will not be adversely affected by granting such a permit; and

17           WHEREAS, said site plan together with the terms and conditions hereinafter set  
 18 forth are consistent with the comprehensive plan of the City of Lincoln and with the intent and  
 19 purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and  
 20 general welfare.

21           NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
 22 Lincoln, Nebraska:

1                   That the application of Roger H. Schwissow, hereinafter referred to as  
2 "Permittee," to operate a mining/extraction of soil be and the same is hereby granted under the  
3 provisions of Section 27.63.360 of the Lincoln Municipal Code upon condition that the operation  
4 of said mining/extraction of soil be in strict compliance with said application, the site plan, and  
5 the following additional express terms, conditions, and requirements:

6                   1.       This permit approves a soil, sand and gravel excavation operation for a  
7 period of three years from the date of approval of this special permit with administrative review  
8 annually from the date of approval until the expiration of this special permit or completion of the  
9 operation, whichever first occurs.

10                  2.       Before beginning the excavation operations, the Permittee shall:

- 11                   a.       Revise the plans to meet the requests of the Watershed  
12                               Management memo from Edwin Kouma dated February 21, 2008.
- 13                   b.       Receive review and permits, if required, for the Federal NPDES  
14                               and 404 Permits.
- 15                   c.       Receive required permits from the NDOR.
- 16                   d.       Add a note that soils and topography shall conform to the grading  
17                               plan.
- 18                   e.       Post and maintain a 4'x8' sign on the property at the entrance  
19                               clearly visible and legible to the public showing the special permit  
20                               number, the name of the permittee and operator and the  
21                               telephone numbers where the permittee, operator and the Building  
22                               & Safety Department can be contacted.
- 23                   f.       Post a \$5,000 performance bond or escrow agreement in a form  
24                               acceptable to the City Attorney/County Attorney.
- 25                   g.       Grant an avigation and noise easement to the Lincoln Airport  
26                               Authority on all or that part of the land located within the Airport  
27                               Environs Noise District.

28                  3.       The construction plans shall substantially comply with the approved plans.

29                  4.       Operating hours shall be limited to daylight hours Monday through Friday

30  
31 only

1           5.     At the conclusion of the operation, the permittee shall provide to the  
2 Building & Safety Department a certificate from an engineer stating that the final grading  
3 substantially reflects the finish contours shown on the approved site plan and request a release  
4 of the performance bond or escrow agreement.

5           6.     The construction entrance shall be closed when not in operation.

6           7.     All privately-owned improvements shall be permanently maintained by the  
7 Permittee.

8           8.     This resolution's terms, conditions, and requirements bind and obligate the  
9 Permittee, his successors and assigns.

10          9.     The physical location of all setbacks and yards, buildings, parking and  
11 circulation elements, and similar matters must be in substantial compliance with the location of  
12 said items as shown on the approved site plan.

13          10.    The Permittee shall sign and return the letter of acceptance to the City  
14 Clerk within 60 days following the approval of the special permit, provided, however, said 60-day  
15 period may be extended up to six months by administrative amendment. The City Clerk shall file  
16 a copy of the resolution approving the special permit and the letter of acceptance with the  
17 Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this ___ day of _____, 2008:  _____ Mayor
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