

COUNTY BOARD FACTSHEET

TO : County Clerk: Attn: Kelly Lundgren
FROM : David R. Cary, Director of Planning
RE : **Appeal of County Special Permit No. 17043**
(Allow soil mining and excavation – SW 112th and West Van Dorn Street)



DATE : December 20, 2017

1. This special permit appeared on the Consent Agenda of the Planning Commission on December 6, 2017; however, it was removed from the Consent Agenda for a separate public hearing.
2. Attached are the Planning staff report (pp.1-14) and the minutes of the Planning Commission (pp.15-18) on **County Special Permit No. 17043**, requested by Dennis and Donna Borgmann, to allow soil mining and excavation, on property legally described as the north 1,000 feet of Lot 8, I.T., located in the NE 1/4 of Section 5-9-5, Lincoln, Lancaster County, Nebraska, generally located at SW 112th Street and West Van Dorn Street.
3. The staff recommendation of conditional approval is based upon the Analysis as set forth on p.2, concluding that this application, with the conditions listed in this report, meets the requirements for the Excavation Special Permit. The staff presentation is found on p.15.
4. Testimony on behalf of the applicant is found on p.15. There was no testimony in support of this application. Testimony in opposition to this text amendment is found on p.16, which focused primarily on increased noise generated as a result of engine or "jake" breaking and increased dust. Staff discussion with the Planning Commission is found on (pp.16-17), and applicant's rebuttal is found on (p.17).
5. On December 6, 2107, the Planning Commission agreed with the staff recommendation and voted 9-0 to adopt Resolution No. PC-01580, approving County Special Permit No. 17043.
6. On December 13, 2017, a letter of appeal was submitted by Craig R. Johnson, 10365 West Van Dorn Street, Denton, NE 68339 (p.19)
7. The Planning staff is scheduled to brief the County Board on this item at their regular staff meeting on **Thursday, January 4, 2018, at 9:45 a.m.**, in Room 113 of the County-City Building, 555 South 10th Street, Lincoln, Nebraska. The public hearing before the County Board is scheduled for **January 9, 2018, at 9:00 a.m., in Room 112** of the County-City Building, 555 South 10th Street, Lincoln, Nebraska.

If you need any further information, please let me know (402-441-6365).

cc: County Board
David Derbin, County Attorney's Office
Pam Dingman, County Engineer
Craig Johnson
Nate Burnett/REGA Engineering

Ann Taylor, County Commissioners
Tom Cajka, Planning
Kerry Eagan
DaNay Kalkowski

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT
FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
Special Permit #17043

FINAL ACTION?
Yes

DEVELOPER/OWNER
Dennis and Donna Borgman

PLANNING COMMISSION HEARING DATE
December 6, 2017

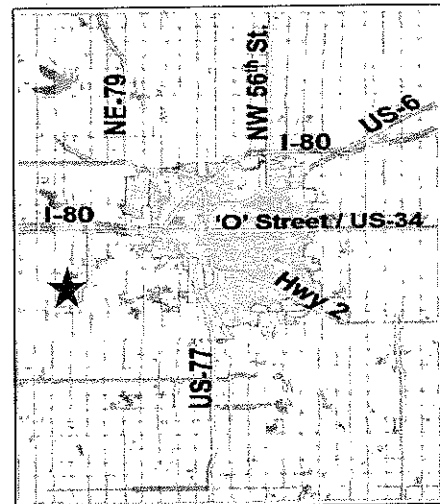
RELATED APPLICATIONS
None

PROPERTY ADDRESS/LOCATION
SW 112th Street and West Van Dorn Street

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request per Article 13.019 for soil excavation. The boundary of the special permit is 20 acres and the area of excavation is 7.47 acres. The proposed excavation volume is 110,260 cubic yards.



JUSTIFICATION FOR RECOMMENDATION

This application, with the conditions listed in this report, meets the requirements for the Excavation Special Permit.

APPLICATION CONTACT

Nate Burnett, REGA Engineering
402-484-7342 nate@regaeng.com

STAFF CONTACT

Tom Cajka, (402) 441-5662or
tcajka@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The special permit for excavation of soil is in conformance with the 2040 Comprehensive Plan. There are few houses nearby. There is no significant impact on adjacent properties with proposed conditions.

WAIVERS

None

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P.12.2 The 2020 Lancaster County Future Land Use Plan identifies this area as agriculture.

ANALYSIS

1. This request is for soil excavation on a 20 acre site under the provisions of Article 13.019 Excavation in the "AG" District.
2. This application proposes to extract 110,260 cubic yards of soil from an area of approximately 7.5 acres. Cuts are expected to range up to eighteen feet.
3. During the soil mining process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but are not limited to, application of water or other dust suppression chemicals.
4. A groundwater report is required when there are wells within 1,000 feet of the proposed mining operation. There are 2 wells within 1,000 feet of this site. The report shows that the soil mining operation will not negatively impact the nearby wells.
5. Lincoln-Lancaster County Health Department has no objections to this special permit.
6. The County Engineer notes that access will be limited to one driveway to West Van Dorn Street. A Road Maintenance Agreement with Lancaster County for West Van Dorn Street is required.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: AG Agricultural Farm ground and one single family house

SURROUNDING LAND USE & ZONING

North: AG Agricultural	Farm ground and houses on acreages.
South: AG Agricultural	Farm ground and houses on acreages
East: AG Agricultural	Farm ground and one house.
West: AG Agricultural	Farm ground and four houses.

APPROXIMATE LAND AREA: 29.6 acres

LEGAL DESCRIPTION: The North 1,000 feet of Lot 8 Irregular Tract located in the NE ¼ of Section 5, Township 9 North, Range 5 East; Lancaster County, NE

Prepared by

Tom Cajka, Planner

Date:

Applicant: Nate Burnett
 REGA Engineering Group
 601 Old Cheney rd. Suite A
 Lincoln, NE 68512
 402-484-7342

Contact: Nate Burnett
 REGA Engineering Group

601 Old Cheney Rd. Suite A
Lincoln, NE 68512
402-484-7342

Owner: Dennis and Donna Borgman
11351 West Van Dorn St.
Denton, NE 68339

F:\DevReview\SP\17000\SP17043 Borgamn Borrow Pit.tjc.docx

CONDITIONS OF APPROVAL - SPECIAL PERMIT #17043

Per Article 13.019 this approval permits Excavation for a period of three (3) years from the date of approval of this special permit.

Site Specific Conditions:

1. Before initiating excavation operations the permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including 3 copies with all required revisions and documents as listed below:
 - 1.1 Identify vehicle and equipment storage areas and entrance and exit locations to the operation area.
 - 1.2 Correct the spelling of Van Dorn in Note 10 on Sheet 1.
 - 1.3 Add the following note on Sheet 1, "The special permit is approved for three years from the date the special permit is approved."
 - 1.4 Revise General Note 3 to read:
Proper erosion control and drainage shall be maintained at all times to prevent damage to West Van Dorn Street. The existing ditch shall be maintained for proper drainage through the existing 24-inch corrugated metal pipe (CMP) under the proposed construction entrance. Drainage shall also be maintained in the ditch from the CMP outlet east to the outlet of the concrete box culvert under West Van Dorn Street.
 - 1.5 Add a General note to re-iterate the statement in the letter dated November 8, 2017 to the Lincoln/Lancaster County Planning Department regarding the re-grading of the backslope of West Van Dorn Street:
Work done within Lancaster County right-of-way will be completed in accordance with Lancaster County design standards. The re-grading of the ditch on the south side of West Van Dorn Street will provide proper drainage, a minimum ditch depth of 24 inches, a minimum 8-foot flat bottom, and a maximum slope of 4:1 for the backslope.
 - 1.6 Add an additional General note and/or update the plan regarding the re-grading of the backslope of West Van Dorn Street to address the issue of erosion control along the top of the backslope. The erosion control may be in the form of additional silt fence or a berm built using existing top soil which would later be redistributed at the conclusion of the project.
 - 1.7 Revise SWPPP Note 7 to read:
Inlet protection devices and barriers shall be repaired or replaced if they show signs of undermining, or deterioration. Adequate drainage needs to be maintained in the existing 24-inch CMP under the proposed construction entrance.
 - 1.8 Revise General Note 9 to read:

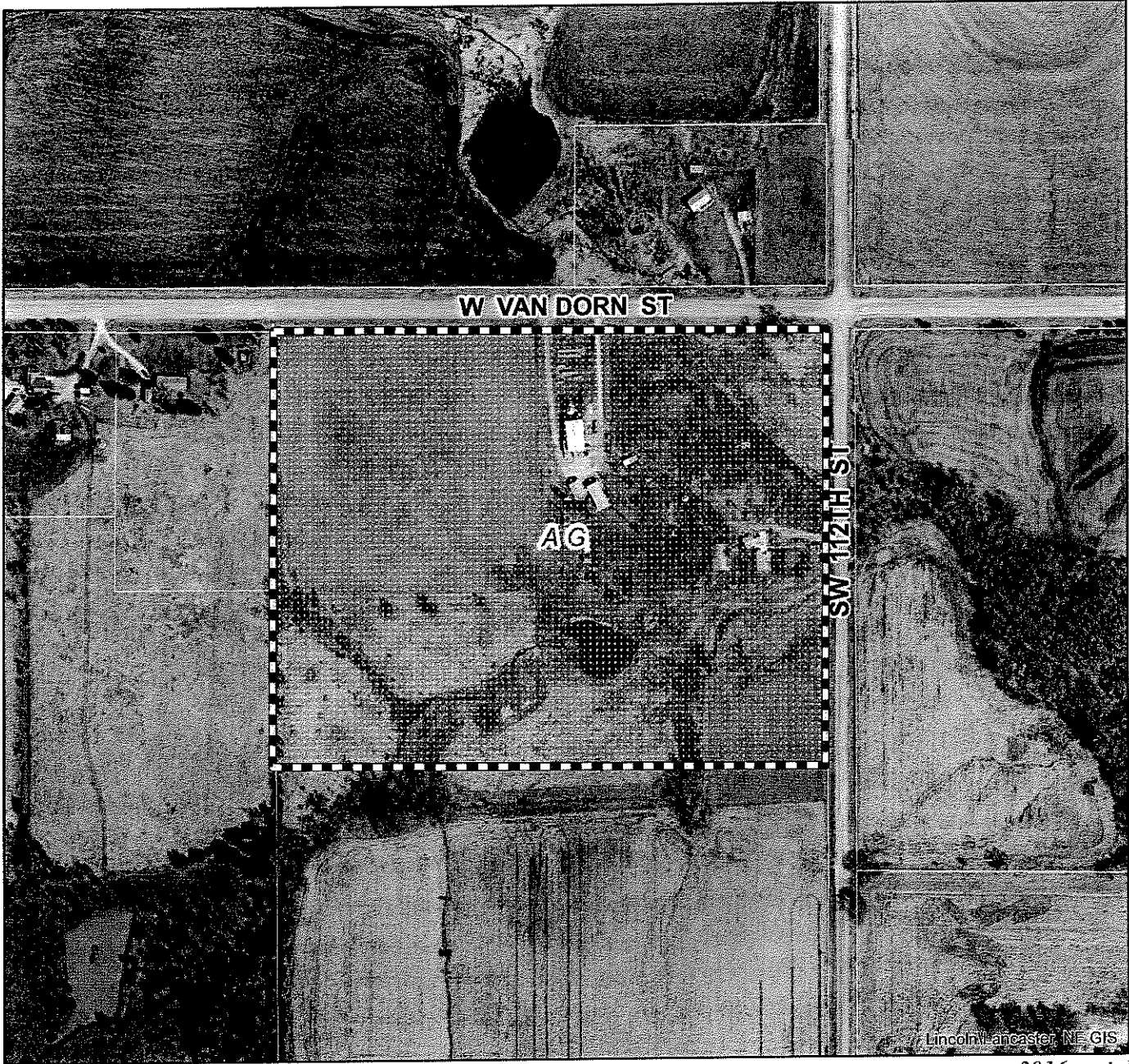
Contractor shall post warning signs during hauling operations along West Van Dorn Street warning traffic of trucks entering.
 - 1.9 On the drawing, list the name, address and phone number of Project Engineer, Contractor and Landowner.
 - 1.10 In the legal description, insert "irregular tracts" after Lot 8.

- 1.11 The bar scale shown on the drawing does not appear to correspond with site drawing. Please add dimensioning regarding road ROW width, construction driveway location, lot dimensioning, grading limits referenced to location within lot 8 irregular tracts, etc.
 - 1.12 Label adjacent lot west of proposed borrow site and identify the line between parcels.
 - 1.13 Show situation location sketch including labeling of nearest cross roads.
2. Before beginning the excavation operations,
 - 2.1 The Permittee shall have
 - 2.1.1 Received review and permits, in required for the Federal NPDES and 404 Permits.
 - 2.1.2 Post performance bond in the amount of \$10,500.00(\$525.00 per acre) intended to be disturbed to assure compliance with the final reclamation plan, including but not limited to regrading, topsoil conditioning, and re-vegetation. A registered professional engineer must certify at closure of operations that grading and final reclamation has been completed in accordance with the approved plans before the bond may be released.
 - 2.1.3 Upon completion of all terms, conditions and requirements of the special permit that are to be completed before beginning operations, the Permittee shall request the Director of Building and Safety to issue a certificate of operation. Permittee shall not begin operation until it has received said certificate of operation.
 - 2.1.4 Applicant to make access permit application with Lancaster County Engineering Department for the construction entrance to this borrow pit site. Note: Access to borrow pit site is limited to only one driveway to West Van Dorn Street.
 - 2.1.5 Applicant to submit traffic impact information regarding anticipated use of County roads along with proposed hauling routes.
 - 2.1.6 Applicant shall enter into a "Road Maintenance Agreement" with Lancaster County for West Van Dorn Street throughout the operation of the permit.
 - 2.2 After beginning the excavation operations, the Permittee shall have
 - 2.2.1 Erosion controls, including retention and sediment basins shall be provided during excavation in conformance with state and federal standards and City land erosion and sediment control regulations to prevent a change in the character of runoff onto adjacent land.
 - 2.2.2 No more than twenty (20) acres of the site shall be open for operations at any one time. The surface shall be maintained in such a manner that surface waters do not collect and pond, unless specifically approved by the City. Underground drainage may be supplied if it connects to an existing drainage facility and is satisfactory to the City.
 - 2.2.3 Topsoil shall be collected and stored for redistribution on the site at the termination of the operation or termination of each phase.
 - 2.2.4 Excavation shall be conducted in such a way as not to constitute a hazard to any person, not to the adjoining properties. Dust shall be controlled on-site to meet Lincoln-Lancaster County Air Pollution Control program Regulations. In addition, the Health Department may require dust control on unpaved perimeter roads.
 - 2.2.5 Operating hours shall be limited to daylight hours, Monday through Saturday.

- 2.2.6 A sign shall be posted and maintained at the entrance to the site. The sign shall be:
- 2.2.6.1 Clearly visible from the adjacent road;
 - 2.2.6.2 At least 32 square feet in area;
 - 2.2.6.3 Lettering shall be at least two inches in heights, black on a white background;
 - 2.2.6.4 The sign shall list:
 - (a) The approved Special Permit Number;
 - (b) The name, contact phone and email address for the land owner;
 - (c) The name, contact phone and email address for the operator/contractor;
 - (d) The Building and Safety Department contact number.
- 2.2.7 The applicant will take appropriate measures, such as street sweeping or “rumble bars” as specified by the County or City Engineer to minimize mud or dirt tracking onto streets and roads on a continuing (daily) basis during operation.
- 2.2.8 Operations shall commence within one year from the date the special permit is approved or the special permit will automatically terminate and be considered null and void. All existing certificates of operation shall automatically terminate on the same date.
- 2.2.9 Within nine months after the completion of excavation on any portion of the site, all cuts shall be returned to a slope of less than three to one, the topography and soils shall be restored and stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.
- 2.2.10 Permittee shall prepare and submit an annual report to the Director of Building and Safety addressing the status and extent of operations and each condition of the special permit. Failure to submit the annual report shall constitute just cause for the City Council to revoke the special permit.
- 2.2.11 Permittee shall be subject to an annual site inspection by the Director of Building and Safety. The cost of such inspection shall be paid for by the applicant. Cost shall be based upon the Department of Building and Safety’s hourly rate in effect on the date of the application. Building and Safety shall:
- 2.2.11.1 Inspect the site to determine whether terms, special conditions and requirements imposed by the City in the approval of the special permit have been met and complied with; and
 - 2.2.11.2 Review all complaints from public and other departments/agencies and report to the Planning Director.
3. At the conclusion of the operation, the permittee shall provide to the Building & Safety Department a certificate from an engineer stating that the final grading substantially reflects the finish contours shown on the approved site plan and request a release of the performance bond.

Standard Conditions:

4. The following conditions are applicable to all requests:
 - 4.1 Before starting the operation all development and construction shall substantially comply with the approved plans.
 - 4.2 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.
 - 4.3 The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.
 - 4.4 The applicant shall sign and return the letter of acceptance to the County Clerk. This step should be completed within 60 days following the approval of the special permit. The Permittee shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds. Building permits will not be issued unless the letter of acceptance has been filed.



Lincoln Lancaster, NE GIS

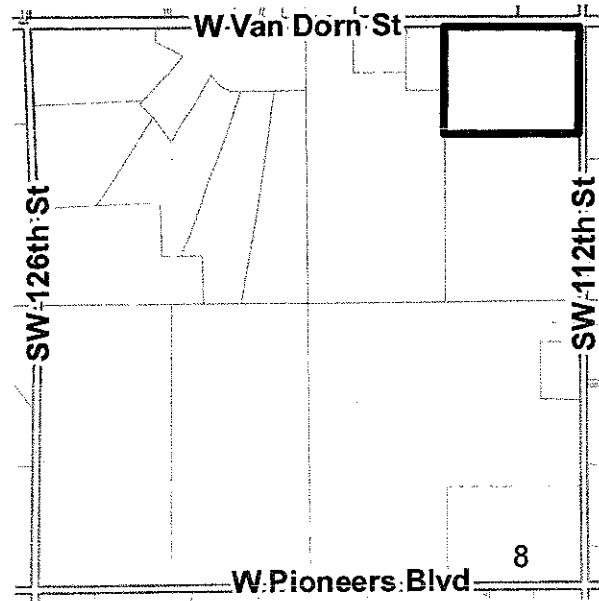
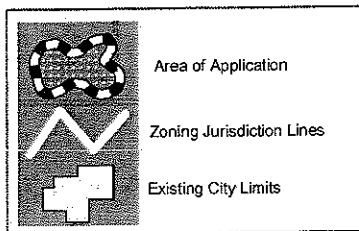
2016 aerial

Special Permit #: SP17043
Borgman Borrow Pit
SW 112th St & W Van Dorn St

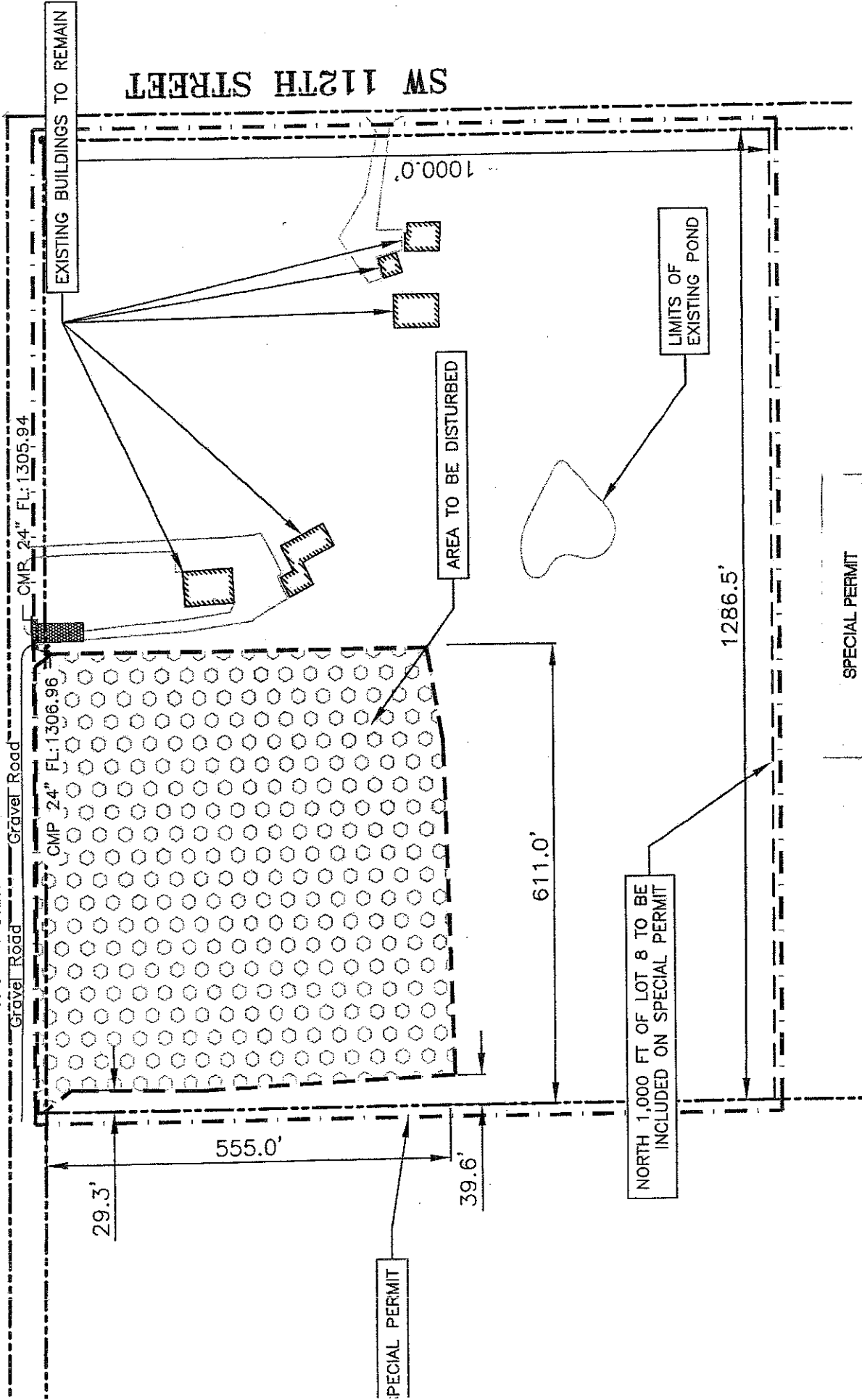
Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile:
Sec.05 T09N R05E



W. Van Dorn St.



SPECIAL PERMIT

NORTH 1,000 FT OF LOT 8 TO BE INCLUDED ON SPECIAL PERMIT

AREA TO BE DISTURBED

LIMITS OF EXISTING POND

EXISTING BUILDINGS TO REMAIN

SPECIAL PERMIT
BORGMAN BORROW PIT
LINCOLN, NE






OWNER
 DENNIS & DONNA BORGMAN
 3005 SW 112TH ST
 RURAL, NE 68339

CONTRACTOR
 KEVIN MACK
 HIGH PLAINS ENTERPRISES INC.
 2200 W MARTELL RD.
 MARTELL, NE 68404
 P: (402) 421-6316
 kevin@highplainsnebraska.com

GENERAL NOTES

1. OPERATING HOURS SHALL BE LIMITED TO DAYLIGHT HOURS MONDAY THROUGH SATURDAY
2. WEST VAN DORN STREET SHALL BE MAINTAINED INCLUDING WATERING AS NEEDED FOR DUST CONTROL ON A REGULAR BASIS DURING OPERATIONS AND BE FREE OF MUD AND/OR CLOUDS OF DIRT.
3. PROPER EROSION CONTROL AND DRAINAGE SHALL BE MAINTAINED AT ALL TIMES.
4. ACCESS TO WEST VAN DORN STREET SHALL BE LIMITED TO ONE LOCATION ONLY
5. THE LAND WILL BE RECLAIMED IN CONFORMANCE WITH USDA "FARM BILL COMPLIANCE"
6. NO MORE THAN TWENTY (20) ACRES OF THE SITE SHALL BE OPEN AT ANY TIME.
7. DUST CONTROL TO MEET LINCOLN-LANCASTER COUNTY AIR POLLUTION CONTROL PROGRAM REGULATIONS.
8. CONTRACTOR SHALL COLLECT AND STORE TOPSOIL FOR REDISTRIBUTION TO BE USED AT TERMINATION OF GRADING
9. CONTRACTOR SHALL POST WARNING SIGNS ALONG WEST VAN DORN STREET WARNING TRAFFIC OF TRUCKS ENTERING.
10. CONTRACTOR SHALL ENTER INTO A ROAD MAINTENANCE AGREEMENT WITH LANCASTER COUNTY FOR WEST VAAN DORN THROUGHOUT THE OPERATION OF THE PERMIT.
11. ACCESS AND USE OF THIS EXCAVATION AND STONE MILLING PERMIT IS ONLY VIA WEST VAN DORN.

LEGEND

-  - CONSTRUCTION ENTRANCE
-  - PEORIA/LOVELAND LOESS
-  - GRADING LIMITS
-  - PROPERTY LINE (ASSUMED)
-  - SPECIAL USE PERMIT LIMITS

ISSUED FOR:	DATE:	BY:
SPECIAL USE PERMIT	10/18/17	JB/NB

SPECIAL PERMIT
BORGMAN BORROW PIT
LINCOLN, NE

DATE: 10/18/2017

DESIGNED BY: NB

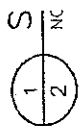
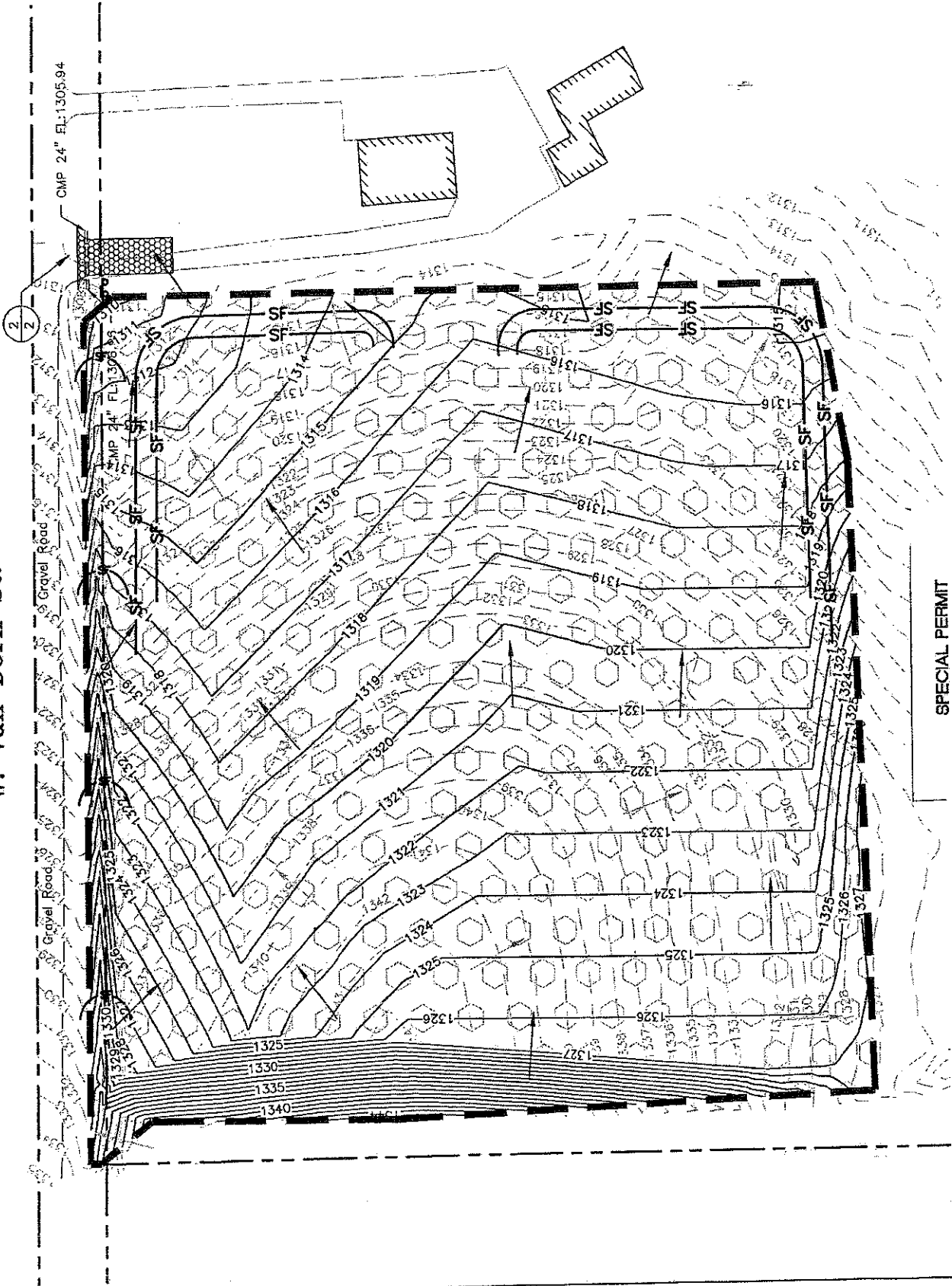
DRAWN BY: NB

CHECKED BY: NB/DR

SHEET NO.

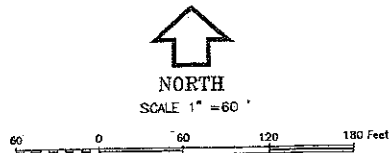
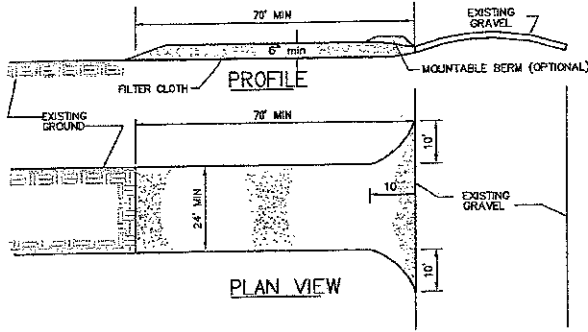
1 of 2

W. Van Dorn St.



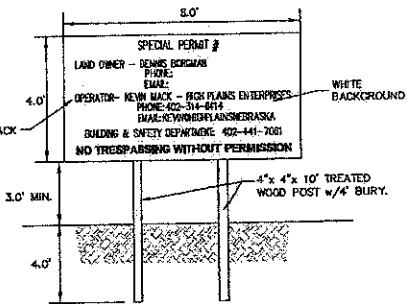
2" MIN. BLACK LETTERING
3C

SPECIAL PERMIT
BORGMAN BORROW PIT
LINCOLN, NE



LEGAL DESCRIPTION
 NORTH 1,000 FEET OF LOT 8 IRREGULAR TRACT LOCATED IN THE NE QUARTER OF SECTION 5, TOWNSHIP 9 NORTH, RANGE 5 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA

1 STABILIZED CONSTRUCTION ENTRANCE
2 NO SCALE



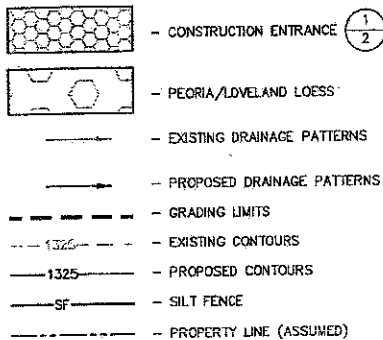
- NOTES:**
- CLEARLY VISIBLE FROM ADJACENT ROAD
 - AT LEAST 32 SQUARE FEET IN AREA
 - LETTERING SHALL BE AT LEAST TWO INCHES IN HEIGHT

2 ENTRANCE SIGN DETAIL
2 NO SCALE

SWPPP NOTES

- THE CONTRACTOR IS RESPONSIBLE FOR KEEPING AN ACCURATE SET OF STORM WATER PREVENTION POLLUTION PLANS (SWPPP) ON SITE DURING THE TIME OF THEIR WORK.
- THE CONTRACTOR SHALL ADHERE TO TERMS AND CONDITIONS AS OUTLINED IN THE GENERAL NPDES PERMIT FOR STORM WATER DISCHARGE ASSOCIATED WITH CONSTRUCTION ACTIVITIES ON THIS SITE.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTENANCE OF EROSION AND SEDIMENT CONTROL MEASURES AND PRACTICES THROUGHOUT THE PROJECT. ANY AND ALL FINES ASSOCIATED WITH EROSION CONTROL VIOLATIONS WILL BE THE CONTRACTOR'S RESPONSIBILITY.
- ALL MEASURES SHOWN ON THE STORM WATER PREVENTION POLLUTION PLAN (SWPPP) SHALL BE MAINTAINED IN FULLY FUNCTIONAL CONDITION UNTIL NO LONGER REQUIRED FOR COMPLETED PHASE OF WORK OR FINAL STABILIZATION OF THE SITE.
- ALL SEDIMENT AND EROSION CONTROL PRACTICES SHALL BE INSPECTED AT LEAST ONCE EVERY FOURTEEN CALENDAR DAYS AND AFTER ANY STORM EVENT OF GREATER THAN 0.5 INCHES OF PRECIPITATION DURING ANY 24 HOUR PERIOD BY THE CONTRACTOR AND MUST BE DOCUMENTED AND KEPT ON SITE FOR ACCESSIBILITY. THE CONTRACTOR SHALL COMPLETE WEEKLY REPORT AND PROVIDE REPORT TO ARCHITECT. ANY CHANGES MADE TO THE SWPPP SHALL BE REDEFINED AND INITIALED ON THE PLANS BY THE CONTRACTOR.
- ANY NECESSARY REPAIRS OR CLEAN UP TO MAINTAIN THE EFFECTIVENESS OF THE BEST MANAGEMENT PRACTICES SHALL BE MADE IMMEDIATELY BY THE CONTRACTOR ON SITE.
- INLET PROTECTION DEVICES AND BARRIERS SHALL BE REPAIRED OR REPLACED IF THEY SHOW SIGNS OF UNDERMINING, OR DETERIORATION.
- SILT FENCE SHALL BE REPAIRED TO THEIR ORIGINAL CONDITION IF DAMAGED. SEDIMENT SHALL BE REMOVED FROM THE SILT FENCE WHEN IT REACHES ONE HALF THE HEIGHT OF THE SILT FENCE.
- THE CONSTRUCTION ENTRANCES SHALL BE MAINTAINED BY THE CONTRACTOR ON SITE, IN A CONDITION WHICH WILL PREVENT TRACKING OR FLOW OF MUD ON THE PUBLIC RIGHT OF WAY. THIS MAY REQUIRE PERIODIC TOP DRESSING OF THE CONSTRUCTION ENTRANCES AS CONDITION DEMANDS.
- CONTRACTOR TO PROVIDE AN APPROXIMATE SCHEDULE OF EXCAVATION SO AS TO HAVE DISTURBED AREA TO A MINIMUM. AREAS GRADED TO FINAL GRADE TO BE RE-SEEDDED WITH PERMANENT VEGETATION. IF NOT IN A PLANTING SEASON, AREAS NEED TO BE TEMPORARILY PROTECTED OR SEEDDED. WHEN IN THE PLANTING SEASON, ALL TEMPORARILY PROTECTED OR SEEDDED AREAS SHALL BE PLANTED WITH PERMANENT VEGETATION.

LEGEND



TEMPORARY SEEDING SPECIFICATIONS:

ALTERNATE NO. 1	MINIMUM PURITY (%)	APPROVED MECH. DRILL APPLICATION RATE IN LB. OF PURE LIVE SEED/ACRE
OATS	90	45
ALTERNATE NO. 2		
NRD COOL SEASON #4 SEED MIX		50
1/3 FAWN FESCUE	85	
1/3 PERENNIAL RYE	80	
1/3 SMOOTH BROME	85	

FERTILIZER--200 LBS/ACRE OR 16-46-0 OR 18-40-0 OR 11-52-0
 MULCH--2 TONS/ACRE OF PRAIRIE HAY OR 2.25 TONS/ACRE OF STRAW. NO BROME HAY.

PERMANENT SEEDING SPECIFICATIONS:

NATIVE GRASS SEED MIX	MINIMUM PURITY (%)	APPROVED MECH. DRILL APPLICATION RATE IN LB. OF PURE LIVE SEED/ACRE
PERENNIAL RYEGRASS-LNH	85	5
WESTERN WHEATGRASS-FUNTLICK	85	8
SODGRASS GRAMA-TRAILWAY	75	4
LITTLE BLUESTEM-CAMPER	45	3
SAND LOVEGRASS-NATIVE	90	1.5
BLUE GRAMA-NEKS,CD	35	2
BLUE FLAX	90	3
BLACK-EYED SUSAN	90	1
RED CLOVER-2X INOCULATION	90	2
PARTRIDGE PEA-PLATTE	90	0.25
OATS	80	12

NRD COOL SEASON #4 SEED MIX		50
1/3 FAWN FESCUE	85	
1/3 PERENNIAL RYE	80	
1/3 SMOOTH BROME	85	

FERTILIZER--200 LBS/ACRE OR 16-46-0 OR 18-40-0 OR 11-52-0
 MULCH--2 TONS/ACRE OF PRAIRIE HAY OR 2.25 TONS/ACRE OF STRAW. NO BROME HAY.

MULCH--2 TONS/ACRE OF PRAIRIE HAY OR 2.25 TONS/ACRE OF STRAW. NO BROME HAY.

NOTES: LAND OWNER SHALL HAVE THE OPTION TO USE THE ABOVE NOTED MIXES OR AN ALTERNATE, IF APPROVED PRIOR TO PLACEMENT BY THE LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT.

- MACHINERY**
- EXCAVATOR
 - SID DUMP
 - SCRAPER
 - DUMP TRUCK

APPROXIMATE EXCAVATION VOLUME	
NET HAUL OFF	
110,260 CY	

ISSUED FOR:	DATE:	BY:
SPECIAL USE PERMIT	10/18/17	JB/NB

SPECIAL PERMIT
BORGMAN BORROW PIT
LINCOLN, NE

REGA

ENGINEERING
GROUP, INC.

November 8, 2017

Mr. David Cary
Active Planning Director
Tom Cajka, Planner
Lincoln/Lancaster County Planning Department
555 S. 10th Street,
Lincoln, NE 68508

RE: Borgman Borrow Pit
Borrow Area: South of W. Van Dorn St., ½ mile West of SW 112th St.
Application for Soil Mining/Excavation
REGA Project No: 171265

Dear Mr. Cary:

This letter is presented on behalf of High Plains Enterprises Inc. and describes the nature of proposed work as part of a Special Use Permit for soil mining/excavation. The 7.47 acre site, owned by Dennis and Donna Borgman is located south of West Van Dorn Street and one-half mile west of SW 112th Street, as shown on the attached site plan.

The project involves the excavation/mining of soil to be used for fill in and around Lincoln, NE. Cuts on-site are expected to range up to eighteen feet, with an estimated volume of excavation of 110,260 cubic yards. Prior to excavation of the fill material, topsoil will be collected and stored for redistribution at the conclusion of mining activities. After excavation activities are completed for the year, the property will be temporarily seeded until grading commences again.

Currently, the proposed site is used for agricultural purposes. Existing drainage patterns show the runoff splits along a ridge running west to east. The south area flows to the southeast towards an existing pond, whereas the north area flows toward the county ditch on West Van Dorn Street. The intention is to grade the site to keep runoff rates to the county ditch at or below existing conditions by keeping a small west to east ridge in a similar location.

The requirements for all applicable permits will be followed. Erosion control measures will be installed to include: silt fence along proposed drainage patterns, double layer of silt fence in critical areas, rock construction entrance, temporary seeding as soon as portions of the excavated land have ceased, berms to protect the perimeter of the site from sediment runoff, and any other measures deemed necessary. Dust control will be a priority, with measures including: vegetative ground cover, application of water on haul roads and the excavation of the site as needed. All proposed grades will at a maximum be a 3:1 slope and have a

minimum of 2% fall for drainage. For the re-grading of the back slope of the West Van Dorn Street, county standards will be followed providing a minimum ditch depth of 24 inches with a maximum slope of 4:1 for the back slope.

In addition, there are two registered groundwater wells located within 1,000 feet of the site. Terracon Consultants, Inc. provided a hydrologic study that concludes the proposed grading area will not affect the two wells located within 1,000 feet of the site. There were no municipal wells found within 2,000 feet. The report will be included with the submittal.

If you have any questions regarding this application, please contact me at (402) 484-7342.

Sincerely,

A handwritten signature in black ink that reads "Nate Burnett". The signature is written in a cursive style with a prominent initial "N" and a long, sweeping underline.

Nate Burnett, PE

Cc: Kevin Mack
Mark Smith

COUNTY SPECIAL PERMIT NO. 17043

COUNTY SPECIAL PERMIT NO. 17043 TO ALLOW SOIL MINING AND EXCAVATION ON PROPERTY GENERALLY LOCATED AT SW 112TH AND VAN DORN STREETS.

December 6, 2017

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, Washington, and Scheer.

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff Presentation: Tom Cajka of the Planning Department stated this application is for soil excavation on 7.5 acres in the northwest corner of this 20-acre property. The applicant states the volume to be removed is between 110,000 - 160,000 cubic yards. With these types of permits, it is generally required that the land be reclaimed and returned to its original condition when the excavation is done and a bond is required to guarantee that happens. There would be at least two miles of travel on gravel roads to get to the site. The Health Department has commented that the dust from the site must be controlled. One condition from County Engineer is that any damages to the road will be repaired. Only one entrance is allowed and it is in the center of the property on Van Dorn Street.

Washington asked how damage to the roads is determined. Pam Dingman, County Engineer, said Lancaster County has a very aggressive asphalt maintenance program that includes photo-documenting roads to sort paving needs. Those photos and inspections are the starting point. It is standard to have a maintenance agreement. The County also has the right to limit weight on asphalt roads, if necessary. Washington asked if that process also includes gravel roads. Dingman said they are not looked at as often, but it has come to light recently with various construction projects.

Proponents:

1. Nate Burnett, REGA Engineering, stated High Plains Enterprises is currently putting together the maintenance agreement, haul routes, and frequency of trucks entering and exiting. The permit covers a larger area that will be excavated. There are 2 wells within 1,000 feet of the area so as required, a hydrology study was conducted to confirm there will be no effect on the wells. It is estimated there could be 40 to 50 trucks per day at peak hours. The applicant is required to only operate during daylight hours, with no trucks allowed on Sundays. West Van Dorn is wide and is in good condition. There will be a water truck onsite to control dust. If approved, the fill from this area will be used on nearby projects to minimize the cost of hauling dirt from farther away.

Finnegan asked about the residential neighbors. Burnett said they received notice of this application and he has spoken with the resident farther to the east about the project.

Opponents:

1. **DaNay Kalkowski, Seacrest & Kalkowski**, stated she is appearing from John Benes who lives down the road, adjacent to the west on Van Dorn. His position is really neutral, but he wanted to express for the record that there are concerns that the conditions regarding dust control are met and, if they are not, that there is some actionable consequence. His family has had first-hand experience with the problems related to this kind of operation and hopes that they will now be addressed with the agreement in place.

Harris asked if there was any problem about the hours of operation. Kalkowski said the concerns are with the dust control.

2. **Craig Johnson, 10365 W. Van Dorn Street**, stated that his testimony is also neutral and has nothing against the borrow pit. He does have concerns about the topography of Van Dorn Street. Due to the width and good condition of the road, people tend to speed in that area. He is also concerned about the noise generated by trucks engine or "jake" breaking. Due to traffic being diverted to the area from other road and bridge closures in the area, some of the gravel roads are rutted and deteriorated. Dust control is key since visibility on the hilly road will be further reduced by dust. A traffic study should be done on Van Dorn and the posted speed limit should be 40 mph or less.

Washington asked if the primary concerns were engine breaking, posting a lower speed limit, and conducting a traffic study. Johnson said that is correct. We don't know what the traffic will really be or how long they will be moving the dirt.

Staff Questions:

Corr asked how often a traffic study is done. Dingman said traffic counts are rotated on a 3- to 5-year basis. They do respond to requests, but the counters are down during this part of the year.

Corr asked how someone would go about getting a sign posted and how far apart they need to be. Dingman said they cannot put up every sign that is requested due to financial constraints. She is not allowed to simply reduce speed limits upon request. There are a few situation where that happens under detour situations.

Beckius asked about avenues to control dust. Dingman said they can file a complaint with the Health Department or call County Engineer. There is a condition that a sign warning of trucks entering and exiting be posted.

Harris asked if engine breaking is allowed and how sign posting comes about. Dingman said she does not believe engine breaking is allowed. In this area, posting a sign for speed control would be done after a speed and traffic study. Signs do not necessarily control bad driver behavior. One method used is to work with County Sheriffs and State Patrol to enforce the speed limit.

Harris asked if decreasing the speed limit would decrease engine breaking. Dingman said the breaking is done is association with speeding, so in that respect, reducing the speed is a "two-for-one" solution.

Harris asked what can be done if the applicant does not comply with conditions such as dust control. Cajka said the permit can be revoked. He has worked on several permits for this use and dust control is standard language. Dingman added that they have said they will have a water truck on site.

Cajka added that the prohibition of engine breaking should not be a condition of this permit because it affects everyone, not just this special permit. Dingman said that in regard to traffic signs, she has to come forward with an engineering recommendation and the situation will be monitored as are all signs that may have changing needs.

Washington asked if there is any opposition to conducting a traffic count in spring. Dingman said she is not opposed when it is counting season.

Cajka addressed the question about how long mining will occur. The special permit is for three years. Anything beyond that, the applicant would have to come back to request additional time.

Corr asked who neighbors can contact if they notice the engine breaking or other problems. Dingman said those are typical calls in her office and any concerns would be routed to the right people to help. She added that working in cooperation with law enforcement to discourage speeding is an option.

Applicant Rebuttal:

Burnett said the operating manager has submitted a list of items to the County Surveyor. He notes that no engine breaking will be allowed near the pit and the water truck will be onsite. Hopefully, that will put some minds at ease.

Kevin Mack, High Plains Enterprises, said that he has worked on other projects and dust control is a concern. He cannot control trucks of other contractors, but he does control his own and engine breaking will not be allowed. He estimates the average speed, given the hilly terrain and weight load of the trucks, will be around 45 miles per hour. His crew is experienced and travel lots of gravel roads. Safety is their priority.

COUNTY SPECIAL PERMIT NO. 17043
ACTION BY PLANNING COMMISSION:

December 6, 2017

Corr moved for approval, seconded by Beckius.

Washington expressed her appreciation for the additional information as there were many questions.

Beckius said the controls are in place for the appropriate use of the site. He encourages neighbors to monitor and report any conditions that cause concern.

Scheer thanked the applicant and said public officials are ready to assist in making this a good experience.

Motion carried, 9-0: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, Washington, and Scheer voting 'yes'.

Note: This is FINAL ACTION by the Planning Commission unless appealed by submitting a letter of appeal to the Office of the County Clerk within 14 days.

APPEAL
of Planning Commission action
to Lancaster County Board of Commissioners

Today's Date 12-13-17 (this form must be received by the County Clerk within 14 days of the action by the Planning Commission)

To: County Clerk
Dan Nolte
555 S. 10th St., Ste. 108
Lincoln NE 68508
402-441-7484
coclerk@lincoln.ne.gov

Dear Clerk:

I am submitting this letter of appeal to Resolution No. PC-01580, adopted by the Lincoln-Lancaster County Planning Commission on (Date) 12-6-17, approving Special Permit No. SP-17043 on property generally located at SW 112th St. & W Vandorn St.

Please advise me of the hearing date before the Lancaster County Board of Commissioners.

Signature of person requesting appeal: Craig R. Johnson

Printed Name Craig R. Johnson

Address 10265 W. Van Doem, Denton, NE 68339
Street City State ZIP

Phone Number 402-505-2696

Email TDafficAgent@gmail.com

cc: Planning Department
Geri Rorabaugh
555 S. 10th St., Ste. 213
Lincoln NE 68508
402-441-6365
grorabaugh@lincoln.ne.gov