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LANCASTER COUNTY  
CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LANCASTER COUNTY, NEBRASKA

COUNTY SPECIAL PERMIT NO. 09019: )  
REQUESTED BY HARRY MUHLBACH )  
TO ALLOW FOR THE EXCAVATION OF )  
SOIL, SAND, AND GRAVEL ON PROPERTY )  
GENERALLY LOCATED AT NORTH 56<sup>TH</sup> )  
STREET/HIGHWAY 77 AND RAYMOND )  
ROAD (14605 NORTH 56<sup>TH</sup> STREET), )  
LANCASTER COUNTY, NEBRASKA )

RESOLUTION NO. R-09-0067

WHEREAS, Harry Muhlbach, requests authority to allow the excavation of soil, sand and gravel on approximately 58.59 acres, more or less, pursuant to Article 13.001(14) of the Lancaster County Zoning Resolution, on property generally located at North 56<sup>th</sup> Street/Highway 77, and Raymond Road (14605 North 56<sup>th</sup> Street), Lancaster County, Nebraska, legally described as follows:

Lot 31, I.T. in the Northeast Quarter of Section 5, Township 11 North, Range 7 East, of the 6th P.M., Lancaster County, Nebraska; and

WHEREAS, the Lincoln-Lancaster County Planning Department recommends conditional approval of said Special Permit, including approval of the waiver of screening requirement, concluding that the proposal is in conformance with the Comprehensive Plan and the County Zoning Resolution. The requested waiver to the bonding requirement was not supported by the Planning Department; and

WHEREAS, on August 12, 2009, the Lincoln-Lancaster County Planning Commission conducted a public hearing on County Special Permit No. 09019; and

WHEREAS, on August 12, 2009, the Planning Commission agreed with the staff recommendation and voted 7 to 1 recommend conditional approval of County Special Permit No. 09019; and

WHEREAS, on September 8, 2009, the Board of County Commissioners of Lancaster County, Nebraska, conducted a public hearing regarding County Special Permit No. 09019; and

WHEREAS, on September 8, 2009, the Board of County Commissioners of Lancaster County voted to approve said request with the conditions outlined by the Planning Department.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Lancaster County, Nebraska, that County Special Permit No. 09019, for authority to allow the excavation of soil, sand and gravel on approximately 58.59 acres, more or less, pursuant to Article 13.001(14) of the Lancaster County Zoning Resolution, on property generally located at North 56<sup>th</sup> Street/Highway 77, and Raymond Road (14605 North 56<sup>th</sup> Street), Lancaster County, Nebraska, is hereby approved subject to the following conditions:

CONDITIONS:

1. This approval permits excavation for soil, sand and gravel, Monday through Saturday, only during daylight hours, for a period of three (3) years from the date of approval of this special permit.

General:

2. Before beginning excavation operations:
  - 2.1 The permittee shall have:
    - 2.1.1 Received review and permits, if required, for the Federal NPDES and 404 Permits.
    - 2.1.2 Received required driveway permits for access into Highway 77 from the Nebraska Department of Roads.
    - 2.1.3 The construction entrance shall be closed when not in operation.
    - 2.1.4 Provide a revised plan, showing a gate, type of equipment to be used, sign location, a revised Title and all appropriate notes.
    - 2.1.5 Operating hours shall be limited to daylight hours Monday through Saturday.

- 2.1.6 Add a note indicating that topsoil shall be stripped and kept on site for redistribution at the conclusion of the extraction process. Compacted subsoil shall be broken up prior to reapplying topsoil. Reapplied topsoil shall meet or exceed the depth of that removed.
- 2.1.7 Add a note that soils and topography shall conform to the grading plan and seeded in the first growing season after extraction ceases.
- 2.1.8 Post and maintain a sign at the entrance to the site. The sign shall be:
  - (1) Clearly visible from the adjacent road;
  - (2) At least 32 square feet in area;
  - (3) Lettering shall be at least two inches in height, black, on a white background;
  - (4) The sign shall list:
    - (i) The approved Special Permit Number;
    - (ii) The name, contact phone, and email address for the land owner;
    - (iii) The name, contact phone, and email address for the operator/contractor; and
    - (iv) The Building and Safety Department contact number.
- 2.1.9 Post a \$10,238.00 performance bond or escrow agreement in a form acceptable to the County Attorney (19.5 acres x \$525/acre).
- 2.1.10 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 operations until it has received said certificate of operation.
- 2.2 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.
- 2.3 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.
- 2.4 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 County Board to revoke the special permit. 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.

- 2.5 The construction plans shall generally comply with the approved plans.
- 2.6 The applicant shall meet all conditions of Article 13.001(14) of the Lancaster County Zoning Resolution, unless specifically amended by this permit.

STANDARD CONDITIONS:

- 3. The following conditions are applicable to all requests:
  - 3.1 All privately-owned improvements shall be permanently maintained by the owner.
  - 3.2 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 3.3 The permittee shall file a copy of the resolution approving the permit and the letter of acceptance, a copy of which is attached hereto and incorporated by this reference as Attachment "A", with the Register of Deeds. The permittee shall pay the recording fee in advance.

DATED this 8 day of September, 2009, at the County-City Building, Lincoln, Lancaster County, Nebraska.

BY THE BOARD OF COUNTY  
COMMISSIONERS OF LANCASTER  
COUNTY, NEBRASKA

APPROVED AS TO FORM

this 8 day of  
September, 2009.

[Signature]  
for GARY E. LACEY  
County Attorney

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]

Attachment "A"

LETTER OF ACCEPTANCE

I, Harry Muhlbach, owner of record, hereby agree to all of the conditions of Special Permit No. 09019, for authority to allow the excavation of soil, sand and gravel on approximately 58.59 acres, more or less, pursuant to Article 13.001(14) of the Lancaster County Zoning Resolution, on property generally located at North 56<sup>th</sup> Street/Highway 77, and Raymond Road (14605 North 56<sup>th</sup> Street), Lancaster County, Nebraska, granted by the Board of County Commissioners of Lancaster County, Nebraska, and embodied in County Resolution No. R-09-0067, all costs which I hereby represent have been paid and that this agreement shall be binding upon my heirs, successors, and assigns and shall run with the land.

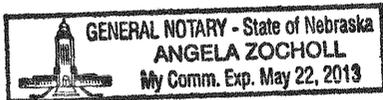
DATED this 30<sup>th</sup> day of December, 2009, in Lancaster County, Nebraska.

Harry Muhlbach  
Harry Muhlbach, Owner of Record

STATE OF NEBRASKA                    )  
  )        ss.  
County of Lancaster                    )

On this 30<sup>th</sup> day of December, 2006, before me, the undersigned, a notary public, duly commissioned, qualified for and residing in said County, personally came Harry Muhlbach, known to be the identical person whose name is affixed to this agreement, and acknowledged execution of the same to be his voluntary act and deed.

SUBSCRIBED AND SWORN to before me this 30<sup>th</sup> day of December, 2009.

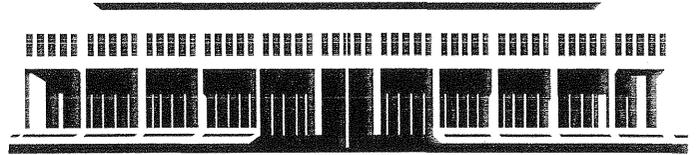


Angela Zocholl  
Notary Public

# Lancaster County Clerk

COUNTY-CITY BUILDING  
555 SOUTH 10TH STREET  
LINCOLN, NE 68508-2803

(402) 441-7481  
FAX (402) 441-8728



DAN NOLTE  
CLERK

September 10, 2009

Mr. Harry Muhlbach  
14605 N. 56<sup>th</sup> Street  
Lincoln, NE 68514

Dear Mr. Muhlbach:

The Lancaster County Board of Commissioners took the following action at their regular meeting on Tuesday, September 8, 2009.

**MOTION:** Stevens moved and Hudkins seconded approval of the resolution to allow the excavation of soil, sand and gravel on property generally located at N. 56<sup>th</sup> Street/Highway 77 and Raymond Road (14605 N. 56<sup>th</sup> Street). Schorr, Stevens, Hudkins, Workman and Heier voted aye. Motion carried 5-0.

The required letter of acceptance must be signed in the County Clerk's office during normal business hours. The letter must then be certified by the Lancaster County Clerk and filed with the Register of Deeds along with a certified copy of the resolution. There is a fee associated with both the certification and the filing.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Nolte", written over a horizontal line.

Dan Nolte  
Lancaster County Clerk

cc: Larry Eckel  
Lincoln-Lancaster County Planning Department