

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION: AMENDMENT TO SPECIAL USE PERMIT FOR LYMAN RICHEY CORPORATION AND RICHARD JANSEN

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the County Board of Commissioners has the authority to adopt a Zoning Regulation, which shall have the force and effect of law pursuant to Neb. Rev. Stat. § 23-114 (Reissue 2007); and,

WHEREAS, said Zoning Regulations require the County Board of Commissioners to approve Special Use Permits and all amendments; and

WHEREAS, Rebecca Horner, Planning Director has reviewed the application to amend the Special Use Permit of Lyman Richey Corporation and Richard Jansen for compliance with the Sarpy County Comprehensive Plan and the Sarpy County Zoning Regulations on the property located at approximately 252nd and Fairview Road and legally described as follows:

Tax Lot 1A in Section 17 T13N R10E.

WHEREAS, the Board previously approved the Special Use Permit application for Lyman Richey Corporation and Richard Jansen on September 8, 1998 by Resolution, which Resolution authorized the excavation, processing, stockpiling and sale of sand and gravel on the property legally described above for a period of five years. Further, said approval on September 8, 1998 required that the property landward of the Western Sarpy Levee be restored to or below

1070 feet MSL. The specific conditions, items #2 and #3 are more particularly described in the official minutes of the Board on September 8, 1998; and,

WHEREAS, the property legally described above encompasses the property landward of the Western Sarpy Levee; and,

WHEREAS, the Board approved an amendment of the Special Use Permit on July 8, 2003 by Resolution No. 2003-0233, which amendment allowed the extension of the Special Use Permit for a period of three years; and,

WHEREAS, Lyman Richey Corporation and Richard Jansen seek to further amend the Special Use Permit by requesting to remove the requirements to restore the ground elevation to 1070 MSL, specifically items #2 and #3 in the September 8, 1998 Special Use Permit conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that this Board makes the following findings of fact:

- I. A public hearing regarding the amendment to the Special Use Permit Application was held before the Sarpy County Planning Commission on March 17, 2010 and further, the Planning Commission gave their recommendation.
- II. A public hearing regarding the amendment to the Special Use Permit Application was held by this Board.
- III. Notice of each of the Public Hearings described above was published at least once in the ten (10) day period immediately prior to each respective public hearing as required by Neb. Rev. Stat. §23-164 (Reissue 2007), and the proof of publication has been filed in the Office of the Sarpy County Clerk.

IV. The Planning Director has made a recommendation as noted in the attached Exhibit "A", which Exhibit "A" includes the Planning Director report and an aerial of the property.

V. The proposed amendment to the Special Use Permit Application is in compliance with the Comprehensive Development Plan and the Zoning Regulations.

FURTHER BE IT RESOLVED THAT this Board in light of the above recited findings of fact, after due deliberation and consideration, approves the amendment to the Special Use Permit, which amendment allows for the removal the requirements to restore the ground elevation to 1070 MSL, specifically conditions #2 and #3 on the September 8, 1998 Special Use Permit on the property legally described above.

Dated this 13th day of April, 2010.

Moved by Rusty Hite seconded by Pat Thomas, that the above Resolution be adopted. Carried.

YEAS:
Reverend Bill
Tom Jones
Tom Richey
Patrick Thomas

NAYS:
none

ABSENT:
Rich Jansen

ABSTAIN:
none

Fred J. Chlo. Deputy
County Clerk


Approved as to form:
Mark A. [Signature]
County Attorney

Sarpy County Board of Commissioners Report
 County Board Date: April 13, 2010
 Report prepared 04-06-2010

Subject	Type	By
Amendments to existing Special Use Permit to excavate, stockpile and sell sand and gravel	Resolution and public hearing	Rebecca Horner, AICP Planning Director.

- History
 - In 1998, and extended in July 2003, a special use permit to excavate, process, stockpile and sell sand, gravel and rock was approved by the County Board. The approval included several conditions including to restore the ground elevation to 1070 feet MSL, which was the approximate original ground elevation and that when the operation substantially cease that all stockpiling and fill landward of the Western Sarpy Levee be removed to or below elevation 1070 feet MSL. These conditions were due to a request of the Papio-Missouri River Natural Resources District.
 - The applicant provided a no-rise certification indicating that the current elevations are represented in the FEMA hydraulic model and that the current conditions will result in no-rise during the base flood discharge.
 - The mining operation has ceased and the property is preparing to redevelop.

- Comprehensive Plan
 - The Comprehensive Plan shows the area as Greenway. (Figure 5.1)
 - The Policy Tier indicates the area will not have urban services. Policies should maintain open or agricultural integrity. Flexibility should exist to consider large-scale master planned developments. (Figure 4.5)
 - The development district is Platte River Environmental. Uses include public open space and public facilities, agricultural, resource extraction with remediation, agricultural and very-low density residential. Possibility of comprehensively planned development designed for maximum resource conservation. (Page 56)

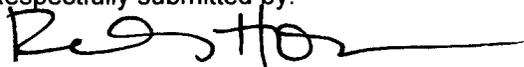
- Zoning Regulations
 - The existing zoning is AG, Agricultural in a floodway.

- Natural Resources District
 - The Papio-Missouri River NRD provided comments which do not object to the removal of the condition to restore the property to an elevation of 1070 MSL.

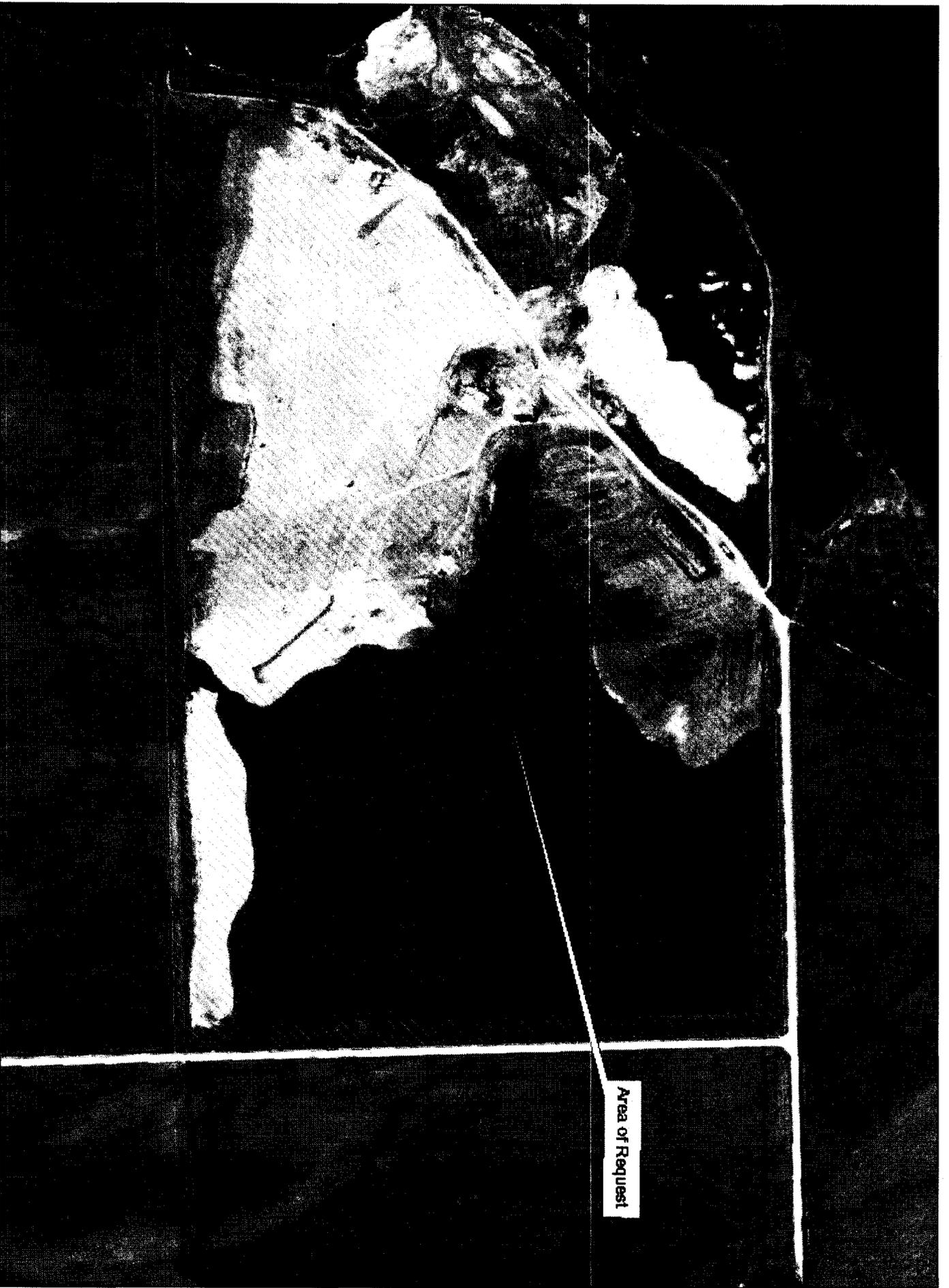
- Planning Commission Action
 - The Planning Commission voted (9-1) to recommend the requirement to restore the ground elevation to 1070 MSL is removed from the existing Special Use Permit.
 - *Bliss moved, seconded by Torczon to recommend the requirement to restore the ground elevation to 1070 MSL within the Special Use Permit be removed due to no objection by the Papio-Missouri River Natural Resources District as it conforms to the Comprehensive Plan and Zoning Regulations of Sarpy County. Ballot: **Ayes:** Bliss, Dunbar, Fenster, Lichter, Stuart, Thompson, Torczon, Wear and Labart. **Nays:** Whitfield. **Abstain:** None. **Absent:** Vanek. **Motion carried.** (9-1)*

- Recommendation
 - For the above stated reasons and no objection from the Natural Resources District, I recommend approval of the request to remove the requirements to restore the ground elevation to 1070 feet MSL within the existing Special Use Permit.

Respectfully submitted by:



Rebecca Horner, AICP Planning Director



Area of Request

Amendment to Special Use Permit

