



City of Grand Island

Tuesday, June 08, 2004

Council Session

Item E1

**Public Hearing on Request of Emil Schaaf/Werner Construction
for Conditional Use Permit for Sand and Gravel Operation
Located at 5588 South Engleman Road**

Staff Contact: Craig Lewis

Council Agenda Memo

From: Craig A. Lewis, Building Department Director

Meeting: June 8, 2004

Subject: Public Hearing on Request of Emil Schaaf and Werner Construction for a Conditional Use Permit to Continue to Operate a Sand and Gravel Pumping Facility at 5588 South Engleman Road

Item #'s: E-1 & G-13

Presenter(s): Craig Lewis

Background

This request is for council approval to allow for the continued operation of a sand and gravel facility at the above referenced address. A conditional use permit is required as the current zoning classification, AG or agricultural does not allow for this type of use as a permitted principal use. The zoning classification does list as a permitted conditional use, commercial mines, quarries, sand and gravel pits and accessory uses. Conditional uses as listed in the zoning code must be approved by the City Council.

The original request and permit was approved by the Hall County Board on July 11, 2000. The request for additional approval was brought before the City Council on January 13, 2004 as the property became a part of the City of Grand Island's two mile zoning jurisdictional area and modification were requested. The request was tabled to acquire the additional approvals of the County Board and those approvals have now been received.

Discussion

Sand and gravel operations have been a part of Grand Island and the surrounding areas for a long time, as residential development continues to expand and the two uses become closer neighbors more conditions need to be implemented to assure a compatible existence for both uses.

The County Attorney has submitted a consent to modification of resolution #00-0063 that the Hall County Board has approved and signed and is requesting the City Council

review and if approved sign and return. This document set conditions of operation for the requested sand and gravel facility. The document is enclosed within the Council packet.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the request with the proposed conditions
2. Deny the request
3. Approve the request with additional or revised conditions

Recommendation

Approve the request with the identified conditions presented by County Board and the Consent to Modification of Resolution # 00-0063.

Sample Motion

Motion to approve the conditional use with the condition identified by the Consent to Modification of Resolution #00-0063, published in the Council packet and presented at the Council meeting.

2-17-07

Hall County Attorneys Office

Jerom E. Janulewicz, County Attorney
231 South Locust Street
P.O. Box 367
Grand Island, NE 68802
Phone (308) 385-5150
Fax (308) 385-5111
email jeromj@hcgj.org

May 12, 2004

Mr. Craig Lewis
Building Inspector
PO Box 1968
Grand Island, NE 68802

RE: Schaaf/Werner Conditional Use; Resolution # 00-0063

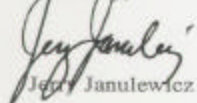
Dear Craig:

On May 4, 2004 the Hall County Board of Supervisors conditionally granted to Werner Construction a conditional use permit regarding additional lands adjoining the location of the present sand and gravel operation. This new resolution is contingent upon the modification of the previous Resolution #00-0063 granted to Mr. Emil Schaaf. The modifications would place further restrictions on Werner Construction's current operations by, among others, restricting the days and hours of operation, require the use of more effective muffler systems on pump motors, and clarify that manufacturing processes (ready mix or asphalt "hot-mix" operations) cannot be conducted on the premises. Inasmuch as the City of Grand Island now has jurisdiction over part of the lands involved in this earlier Resolution, we are requesting that the City of Grand Island approve the proposed modifications.

Enclosed please find the original Consent to Modification of Resolution #00-0063 and a copy of Resolution #00-0063. Please submit this matter to the official or body having authority to approve the Modification on behalf of the City. If approved, please return the executed original to me.

If you have any questions concerning the above, please do not hesitate to contact me.

Sincerely,



Jerom E. Janulewicz

cc: Doug Walker, City Attorney

CONSENT TO MODIFICATION OF RESOLUTION #00-0063 OF THE COUNTY BOARD OF SUPERVISORS IN AND FOR THE COUNTY OF HALL, NEBRASKA

WHEREAS, Emil Schaaf, hereinafter "Schaaf," is the record title owner of the following property, to wit:

The East Half of the Southeast Quarter (E1/2 SE1/4) and that part of Lot Two (2) on Island south of the half section line, Section Ten (10), Township Ten (10) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska; and

WHEREAS, Werner Construction, Inc. of Hastings, Nebraska, a Nebraska Corporation, hereinafter "Werner," has entered into an agreement with Schaaf through which Werner conducts and operates a sand and gravel mining operation on the above-described property; and

WHEREAS, On July 11, 2000 the Hall County Board of Supervisors adopted Resolution #00-0063 authorizing as a conditional use the mining of sand and gravel upon the above-described real property; and

WHEREAS, subsequent to the adoption of Resolution #00-0063, a portion of the above-described real estate has been placed within the extraterritorial zoning jurisdiction of the City of Grand Island; and

WHEREAS, Werner has applied for a permit for the conditional use of the following described real estate, hereafter "additional lands," for mining of sand and gravel, to wit:

Lots One (1) And Two (2) North Of The Half Section Line And Lot Three (3), Section Ten (10), Township Ten (10) North, Range Ten (10), West Of The 6th P.M., Hall County, Nebraska.

NOW, THEREFORE, Schaaf and Werner, do each hereby consent and request that conditions set forth in Resolution #00-0063 adopted July 11, 2000 by the County Board of Supervisors of Hall County, Nebraska be amended to provide the following conditions, limitations, and restrictions:

1. Pumping of sand and gravel and storage of recyclable road construction materials shall not be allowed within 300 feet of a public road right of way or easement.
2. Pumping and other activities including, but not limited to, lighting, hauling, loading, unloading, sorting, and processing, is permitted from fifteen minutes after sunrise to fifteen minutes after sunset Mondays through Saturdays. No pumping or other activities are permitted on Sundays or from fifteen minutes after sunset to fifteen minutes after sunrise.
3. Commencing July 3, 2004 any internal combustion pump motors utilized shall be equipped with a functioning "hospital grade muffler" designed to reduce exhaust noise by 32 to 40 decibels.
4. Materials and equipment shall not be stored on the property within the regulated floodways as determined by the Federal Emergency Management Agency or its successor

- and the entity having jurisdiction and authority to enforce floodplain regulations.
5. All dead trees, rubbish and debris, if any, must be cleared from the above described real estate as soon as practical and said real estate must, at all times, be kept in a clean and neat condition.
 6. No trash, rubbish, debris, broken concrete, dead trees, lumber, bricks, refuse or junk material of any nature whatsoever shall be dumped, placed or located upon said real estate.
 7. Recyclable road construction materials, milled or crushed off-site to a particle size consistent with native aggregates found at the site, may be stored or kept at its current location or on the aforesaid Lot Three (3), but the total quantity of such materials stored on the following described real estate owned, leased, controlled, occupied, or used by Applicant or Owner shall not exceed the quantity by volume that exists on said real estate on May 4, 2004, to wit:

Lots One (1) and Two (2) North of the half section line and Lot Three (3), Section Ten (10), Township Ten (10) North, Range Ten (10), West Of The 6th P.M., Hall County, Nebraska, and

The East Half of the Southeast Quarter (E1/2 SE1/4) and that part of Lot Two (2) on Island south of the half section line, Section Ten (10), Township Ten (10) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska

8. Crushing or grinding of aggregates other than those mined on site shall not be permitted.
9. Manufacturing uses including, but not limited to, asphalt or Portland cement based concrete production, shall not be permitted.
10. Applicant shall not use said real estate in such a way so as to create or result in an unreasonable hazard or nuisance to adjacent landowners or to the general public.
11. Applicant shall maintain any and all drainage ditches that may be located upon the real property.
12. Applicant shall not permit the hauling of sand and gravel from the premises and over and across any public highway or road unless said sand and gravel is completely dry and free of water or is hauled in trucks which are designed and equipped so as to prevent water from leaking onto the traveled portion of the roadbed.
13. All water accumulated upon the premises by virtue of such mining and pumping operations shall be retained upon the premises and shall not flow upon or encroach upon any adjacent land. Only surface waters that have historically flowed from the premises shall be permitted to leave the same through historical natural drainage ways.
14. This permitted conditional use shall terminate on March 14, 2010, but may be sooner terminated if Applicant fails to comply with any of the conditions, restrictions and obligations set forth herein. In the event of noncompliance, the Hall County Board of Supervisors or the entity having jurisdiction shall notify Applicant in writing of such noncompliance setting forth the specific area of noncompliance. If Applicant fails to correct such noncompliance within 30 days of receiving notice, said permit may be revoked or terminated upon notice to Applicant and hearing before the Hall County Board of Supervisors or the entity having jurisdiction.
15. Nothing in this grant of conditional use shall be construed as a grant of right, authority, or

permit to allow any use of land, materials or methods which violate any state or federal law or rule or regulation of a federal, state or local agency other than as specifically set forth herein. Applicant shall comply with all applicable state and federal laws and regulations.

16. The rights granted by this permit may be assigned or transferred upon notice provided to the County and City Building Departments.
17. Trucks hauling sand and gravel from the premises shall use haul routes leading south from the premises. Said trucks shall not be permitted to ingress or egress the premises by passing by the School District Number 3 school building located near the southeast corner of Section Three (3), Township Ten (10) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska. At all exits from the property Applicant shall erect and maintain signs notifying haulers of this restriction.

Upon approval of this consent by the City and County, Werner and Schaaf each do hereby request that the County of Hall and the City of Grand Island each adopt its ordinance or resolution modifying the conditions of the conditional permitted use provided by Resolution #00-063, adopted July 11, 2000 by the Hall County Board of Supervisors.

Date: 5 05 04

Date: 5-3-04

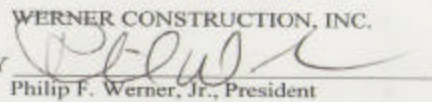
EMIL SCHAAF

WERNER CONSTRUCTION, INC.

BY


Emil Schaaf

BY


Philip F. Werner, Jr., President

APPROVED AND ACCEPTED BY THE
COUNTY OF HALL, NEBRASKA

APPROVED AND ACCEPTED BY THE
CITY OF GRAND ISLAND, NEBRASKA

Date: 5-11-04

Date: _____

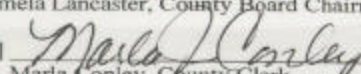
BY


Pamela Lancaster, County Board Chairman

BY

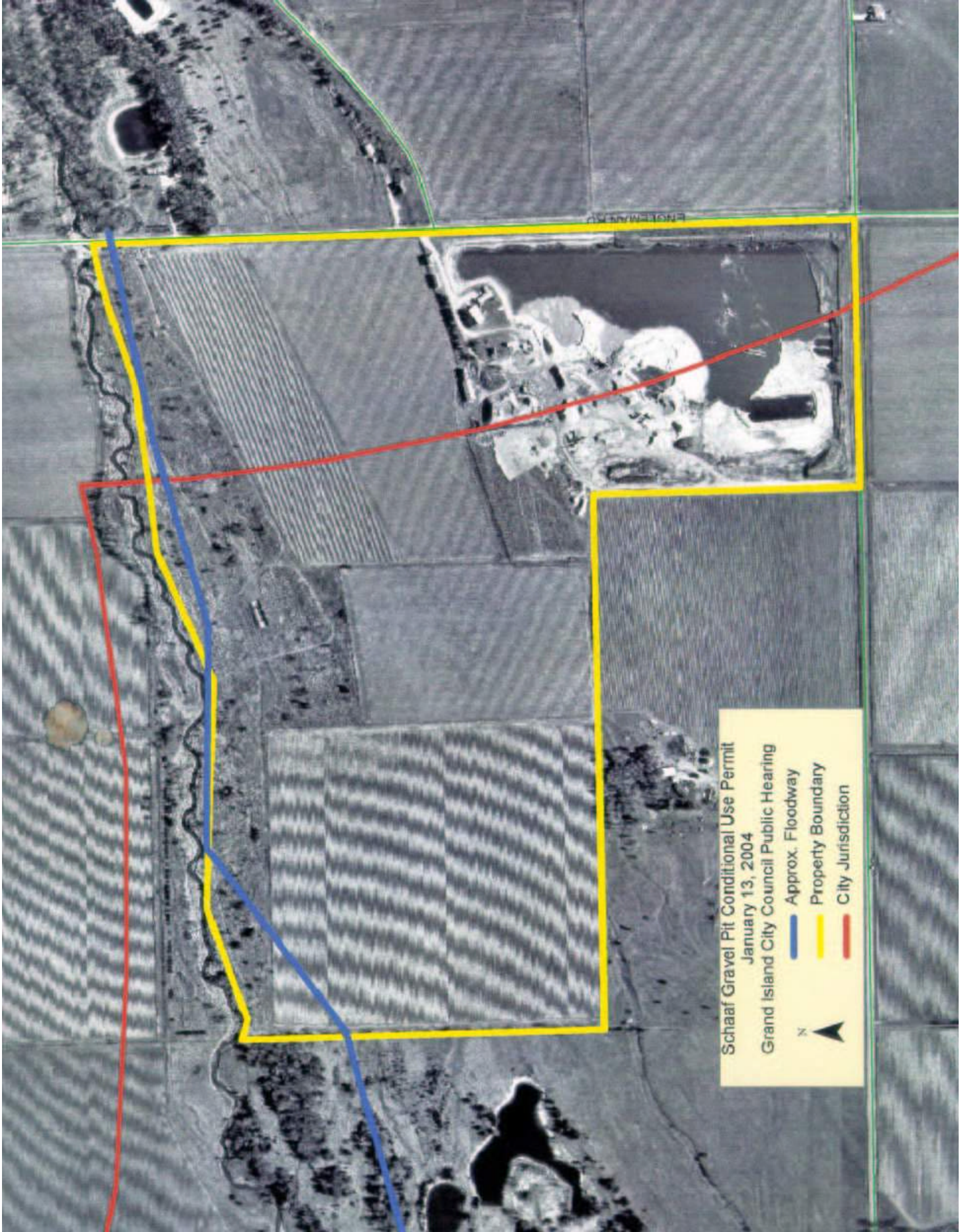
Jay Vavricek, Mayor

[attest]



Marla Conley, County Clerk




[attest]

RaNae Edwards, City Clerk



Schaaf Gravel Pit Conditional Use Permit
January 13, 2004
Grand Island City Council Public Hearing

N 

-  Approx. Floodway
-  Property Boundary
-  City Jurisdiction