



# City of Grand Island

Tuesday, November 08, 2005

Council Session

## Item G1

### Approving Minutes of October 25, 2005 City Council Regular Meeting

*The Minutes of October 25, 2005 City Council Regular Meeting are submitted for approval. See attached MINUTES.*

Staff Contact: RaNae Edwards

OFFICIAL PROCEEDINGS

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

October 25, 2005

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Grand Island, Nebraska was conducted in the Council Chambers of City Hall, 100 East First Street, on October 25, 2005. Notice of the meeting was given in the *Grand Island Independent* on October 19, 2005.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following members were present: Councilmember's Meyer, Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Walker, and Haase. Councilmember Hornady was absent. The following City Officials were present: City Administrator Gary Greer, City Clerk RaNae Edwards, and Public Works Director Steve Riehle.

INVOCATION was given by Pastor Mike Benischek, First United Methodist Church, 4190 West Capital Avenue followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Vavricek welcomed Boy Scout Troop 119 and their Scout Masters and the Community Youth Council members. Mayor Vavricek mentioned Councilmember's Cornelius, Walker, and Whitesides birthdays which were in October.

PRESENTATIONS AND PROCLAMATIONS:

Presentation by Marlan Ferguson, Economic Development President Relative to Semi-Annual Report by the Citizens' Review Committee on the Economic Development Program Plan. Marlan Ferguson, President of the Economic Development Corporation gave a PowerPoint presentation of the semi-annual report concerning the work being done by the Economic Development Corporation in Grand Island.

ADJOURN TO BOARD OF EQUALIZATION: Motion by Pielstick, second by Cornelius, carried unanimously to adjourn to the Board of Equalization.

#2005-BE-11 – Consideration of Determining Benefits for Water Main District No. 443 – American Independence Subdivision. Gary Mader, Utilities Director reported that the Utilities Department and Public Works Department designed and prepared specifications for a joint project to include installation of both water main and sanitary sewer under a single construction project. The total assessable cost of Water Main District No. 443 was \$70,025.92 to be financed over five years.

#2005-BE-12 – Consideration of Determining Benefits for Water Main District No. 447T; Grand West Subdivision. Gary Mader, Utilities Director reported that the Water Main District No. 447T

was done as a tap district, which is the Department's standard method for water main extensions through undeveloped areas. The total assessable cost was \$19,950.94.

Motion by Pielstick, second by Cornelius to approve Resolutions #2005-BE-11 and #2005-BE-12, carried unanimously. Motion adopted.

RETURN TO REGULAR SESSION: Motion by Cornelius, second by Pauly, carried unanimously to return to Regular Session.

PUBLIC HEARINGS:

Public Hearing Concerning the Semi-Annual Report by the Citizens' Review Committee on the Economic Development Program Plan. Doug Walker, City Attorney introduced Tim White, Chairman of the Citizens' Review Committee. The Citizens' Review Committee was required by State Statute and the Grand Island City Code to make a semi-annual report to the City Council. No public testimony was heard.

Public Hearing on Request from Richard and Patricia Hartman, 5075 South Locust Street for Conditional Use Permit for Sand & Gravel Operation Located at 3812 South Blaine Street. Craig Lewis, Building Department Director reported that Richard and Patricia Hartman were requesting a Conditional Use Permit to allow for a sand and gravel operation located at 3812 South Blaine Street. The request was to begin in the year 2006 after a qualified operator was identified and continue until the year 2026.

The following people spoke in support:

Bill Francis, Attorney for the Hartman's. Mr. Francis submitted the following Exhibits:

- Exhibit 1      Application for Conditional Use Permit by Richard & Patricia Hartman
- Exhibit 2      Council memo from Craig Lewis, Building Department Director
- Exhibit 3      Chapter 36 of the Grand Island City Code relative to zoning

(See attached Exhibits 1, 2, & 3)

Gene Dominic, 221 East 1<sup>st</sup> Street

Tom Atkins, 4323 South North Road

Dick Hartman, 5075 South Locust Street

The following people spoke in opposition:

Dr. Casey Iverson, 3604 S. Blaine Street

Dr. Richard Fruehling, 3604 S. Blaine Street

Scott Leisinger, 2119 Bass Road

Dan Lind, 2111 Bass Road

Kathy Miller, 5015 Scheel Road

No further public testimony was heard.

Public Hearing on Acquisition of a Public Utilities Easement Located at 741 North Webb Road. (Veronica I. Hutton Estate) Steve Riehle, Public Works Director reported that acquisition of a public utility easement located at 741 North Webb Road was required in order to have access to

install, upgrade, maintain, and repair public utilities, including sanitary sewers, storm sewers, water mains, electric utility poles, overhead and underground power lines, manholes, pipelines, surface markers, and other appurtenances. The easement would be used to extend public sanitary sewer to the property. No public testimony was heard.

Public Hearing on Acquisition of a Public Utilities Easement Located at 821 North Webb Road. (Allen & Sheila Garton) Steve Riehle, Public Works Director reported that acquisition of a public utility easement located at 821 North Webb Road was required in order to have access to install, upgrade, maintain, and repair public utilities, including sanitary sewers, storm sewers, water mains, electric utility poles, overhead and underground power lines, manholes, pipelines, surface markers, and other appurtenances. The easement would be used to extend public sanitary sewer to the property. No public testimony was heard.

#### ORDINANCES:

Chad Nabity, Regional Planning Director stated Ordinances #9012 and #9013 provided for the annexation of two pieces of property. This was the second of three readings.

#9012 – Consideration of Annexation of Property Located South Case New Holland and West of US Highway 281 (First Reading)

Motion by Pielstick, second by Haase to approve Ordinance #9012 on second reading only. Upon roll call, all voted aye. Motion adopted.

#9013 – Consideration of Annexation of Property Located South of Sandra Road and East of South Locust Street (First Reading)

Motion by Pielstick, second by Haase to approve Ordinance #9013 on second reading only. Upon roll call, all voted aye. Motion adopted.

Councilmember Pielstick moved “that the statutory rules requiring ordinances to be read by title on three different days be suspended and that ordinance numbered:

#9014 – Consideration of Assessments for Water Main District No. 443 – American Independence Subdivision

be considered for passage on the same day upon reading by number only and that the City Clerk be permitted to call out the number of this ordinance on first reading and then upon final passage and call for a roll call vote on each reading and then upon final passage.” Councilmember Haase seconded the motion. Upon roll call vote, all voted aye. Motion adopted.

Gary Mader, Utilities Director stated Ordinance #9014 related to the action taken earlier during the Board of Equalization.

Motion by Meyer, second by Walker to approve Ordinances #9014.

City Clerk: Ordinance #9014 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #9014 on final passage. All those in favor of the passage of this ordinance on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9014 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Motion by Nickerson, second by Gilbert to approve the Consent Agenda. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of October 11, 2005 City Council Regular Meeting.

Approving Minutes of October 18, 2005 City Council Study Session.

Approving Re-Appointment of Jacinto Corona and Kris Nolan Brown and the Appointment of Darren Sanchez to the Human Rights Commission.

#2005-299 – Approving Final Change Order No. 8 for the Senior Center Expansion with Starostka Group, Inc. of Grand Island, Nebraska for an Increase of \$1,118.65 and a Modified Contract Amount of \$617,698.40.

#2005-300 – Approving Changes to Speed Limits on City Streets.

#2005-301 – Approving Acquisition of a Public Utilities Easement Located at 741 North Webb Road. (Veronica I. Hutton Estate)

#2005-302 – Approving Acquisition of a Public Utilities Easement Located at 821 North Webb Road. (Allen & Sheila Garton)

#2005-303 – Approving Bid Award for Capital Heights Drainway Rip Rap & Grading Project 2005-D-3 and for Capital Avenue Outfall Structure Project 2005-D-4 with The Diamond Engineering Company of Grand Island, Nebraska in an Amount of \$141,551.58.

#2005-304 – Approving Time Extension to the Contract with The Diamond Engineering Company of Grand Island, Nebraska for Construction of Sanitary Sewer District 515; Dale Roush Subdivision (Indian Acres).

#2005-305 – Approving Certificate of Final Completion for Sanitary Sewer District No. 517; Deadwood Subdivision (Arch Avenue and Johnstown Road Area).

#2005-306 – Approving Semi-Annual Report by the Citizens' Review Committee on the Economic Development Program Plan.

#2005-307 – Approving State Bid Award for 3/4 Ton Pickup Truck with Lift Gate for the Fleet Services Division with Anderson Ford of Grand Island, Nebraska in an Amount of \$24,769.00.

#2005-308 – Approving Bid Award for Substation Site Security – Project 05-PCC-02 with CPS Company of South Lancaster, Massachusetts in an Amount of \$57,500.00.

#2005-309 – Approving Connection Fees for Water Main District No. 447T – Grand West Subdivision.

#2005-310 – Approving Bid Award for Replacement Gas Turbine Generator Voltage Control System – Burdick Generating Station with E2 Power Systems, Inc. of Littleton, Colorado in and Amount of \$57,850.00.

#2005-311 – Approving State Bid Award for (2) 2006 Case 621 D Wheel Loaders – Wastewater Division with Mid-Land Equipment of Omaha, Nebraska in an Amount of \$23,250.00 (after trade-in).

#2005-312 – Approving State Bid Award for a 2005 Front End Loader for the Street and Transportation Division with Mid-Land Equipment of Omaha, Nebraska in an Amount of \$71,816.00.

#2005-314 – Approving Amendment to the Agreement with Natural Resources Conservation Service for Flood Damage Repair Work.

#### REQUESTS AND REFERRALS:

Consideration of Request from Richard and Patricia Hartman, 5075 South Locust Street for Conditional Use Permit for Sand & Gravel Operation Located at 3812 South Blaine Street. Motion by Walker, second by Whitesides to approve the request of Richard and Patricia Hartman for a sand and gravel operation located at 3812 South Blaine Street. City Administrator Gary Greer stated that finding of facts needed to be included in the motion. Walker withdrew his motion, Whitesides withdrew his second.

Motion by Whitesides, second by Cornelius to approve the request for economic development reasons.

Richard Hartman stated they would do whatever was required by City Council. He mentioned that he had visited with several people in the area and also had priced a 6' chain-link fence in the amount of \$15,600.00 to put on the east side of the property.

Discussion was held with regards to this application and the previous one submitted by Mr. Hartman. Reviewed were other sand and gravel operations in the area along with setbacks. Quality of life issues were discussed such as noise, blowing sand/dirt, truck traffic, floodlights, and safety to the surrounding areas. An access road off of Schimmer Drive was discussed.

Mr. Hartman explained the difference between a sand and gravel operation and dredging. Dredging did not require a permit and that the sand/gravel could not be sold.

Motion by Whitesides, second by Cornelius to amend the motion that an access road onto Schimmer Drive be 300' west of the neighboring property and that a 6' high chain-link fence be placed on the east side of the gravel pit along Blaine Street. Upon roll call vote, all voted aye. Motion adopted.

Motion by Gilbert, second by Pielstick to postpone this decision to the first meeting in January 2006 to allow Mr. Hartman a chance to visit with the neighboring residents. Discussion was held with regards of Hartman meeting with surrounding neighbors. Mr. Hartman asked that the City Council to either "vote up or down" his request. Gilbert withdrew her motion and Pielstick withdrew her second.

Motion by Whitesides, second by Pauly to amend the motion and allow Mr. Hartman a three year permit at which time it would come back to council for further review. Discussion followed with Mayor Vavricek stating this did not allow the operator time to recoup the costs associated with starting a gravel operation.

Motion by Pielstick, second by Meyer to call the previous question. Upon roll call vote, Councilmember's Meyer, Whitesides, Pielstick, Cornelius, Pauly, Walker, and Haase voted aye. Councilmember's Nickerson and Gilbert voted no. Motion adopted.

Upon roll call of the amendment of a three year permit, Councilmember's Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Walker, and Haase voted aye. Councilmember Meyer voted no. Motion adopted.

Upon roll call vote of the main motion with amendments Councilmember's Whitesides, Cornelius, and Pauly voted aye. Councilmember's Meyer, Pielstick, Gilbert, Nickerson, Walker, and Haase voted no. Motion failed.

Motion by Pielstick, second by Gilbert to recess for 5 minutes was approved by the consensus of the council at 9:05 p.m. The meeting reconvened at 9:15 p.m.

City Attorney Doug Walker recommended the Council needed to make a motion with findings.

Motion by Nickerson, second by Haase to deny the request of Richard and Patricia Hartman for a Conditional Use Permit for sand and gravel operation located at 3812 South Blaine Street for the following reasons:

- No urgent need for another pit at this time.
- Alternate sites will be less disruptive to established neighborhoods and Hall County Park.
- Property can be developed in another fashion
- Does not promote health, safety, welfare of the community.
- Does not protect against blight and depreciation.

- Is not generally harmonious with surrounding neighborhoods.

Upon roll call vote, Councilmember's Meyer, Pielstick, Gilbert, Nickerson, Pauly, Walker, and Haase vote aye. Councilmember's Whitesides and Cornelius voted no. Motion adopted.

RESOLUTIONS:

#2005-313 – Approving Funding of Economic Development Request.

Motion by Whitesides, second by Cornelius to approve Resolution #2005-313. Upon roll call vote, all voted aye. Motion adopted. Councilmember Gilbert thanked the EDC for all their hard work.

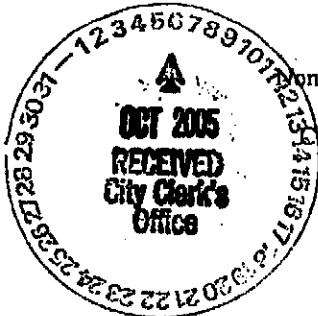
PAYMENT OF CLAIMS:

Motion by Cornelius, second by Haase to approve the Claims for the period of October 12, 2005 through October 25, 2005, for a total amount of \$3,351,835.44. Motion adopted unanimously.

ADJOURNMENT: The meeting was adjourned at 9:20 p.m.

RaNae Edwards  
City Clerk





Non-Refundable Fee: \$155.00  
Return by: \_\_\_\_\_  
Council Action on: 10-25-05

pc: Building, Legal, Utilities  
Planning, Public Works

# Conditional Use Permit Application

- 1. The specific use/construction requested is: Mining of sand, gravel and rock from the described property.
- 2. The owner(s) of the described property is/are: Richard and Patricia Hartman
- 3. The legal description of the property is: See attached.
- 4. The address of the property is: 3812 S. Blaine Street, Grand Island, NE 68801
- 5. The zoning classification of the property is: TA
- 6. Existing improvements on the property is: None.
- 7. The duration of the proposed use is: 25 years.
- 8. Plans for construction of permanent facility is: See attached plans for mining.
- 9. The character of the immediate neighborhood is: Agricultural.
- 10. There is hereby attached a list of the names and addresses of all property owners within 200' of the property upon which the Conditional Use Permit is requested.
- 11. Explanation of request: To allow mining of the described property to obtain sand and gravel for construction uses in Grand Island areas.

I/We do hereby certify that the above statements are true and correct and this application is signed as an acknowledgement of that fact.

9/26/2005  
Date

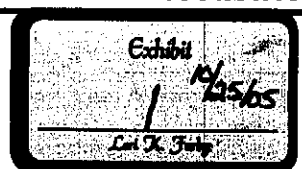
Richard and Patricia Hartman  
Owners(s)

(308) 384-6442  
Phone Number

5075 S. Locust Street, Grand Island, NE 68801  
Address

City State Zip

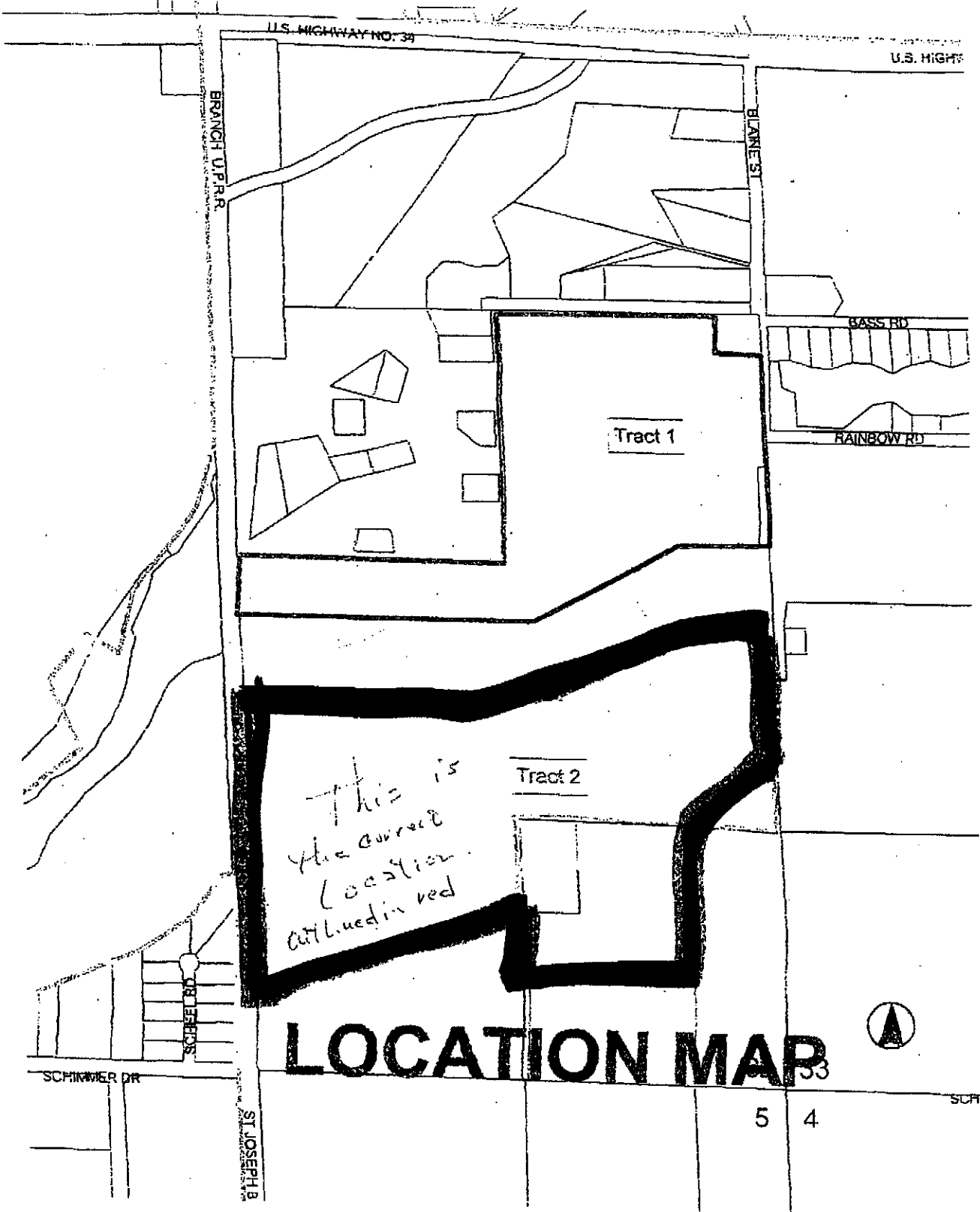
**Please Note: Delays May Occur if Application is Incomplete or Inaccurate.**



### Legal Description of Purchased and Leased Property

A tract of land comprising a part of the Southeast Quarter of Section Thirty Two, Township Eleven North, Range Nine West of the 6<sup>th</sup> P.M., in Hall County, Nebraska, more particularly described as follows:

Beginning at the northeast corner of said Southeast Quarter; thence running southerly along the east line of said Southeast Quarter, on an assumed bearing of S00 00'00"W, a distance of Five Hundred eighty Six and Sixty Nine Hundredths (586.69) feet, to the ACTUAL Point of Beginning; Thence running S 89 degrees 17'35" W, a distance of Forty (40) feet; Thence running N 00 degrees 00'00" E, a distance of Two Hundred Ten and Two Hundredths (210.02) feet; Thence running S 89 degrees 19' 26" W, a distance of Eight (8) feet; Thence running N 00 degrees 00' 09" W, a distance of One hundred Thirty Five and One Hundredths (135.01) feet; Thence running N 11 degrees 09' 24" W, a distance of One Hundred Seven and Forth Five Hundredths (107.45) feet; Thence running S 89 degrees 16' 35" W, a distance of Three Hundred Forty Four and Seventy Nine Hundredths (344.79) feet; Thence running S 61 degrees 59' 54" W, a distance of Seven Hundred Eighty Six and Ninety Three Hundredths (786.93) feet; Thence running S 89 degrees 55' 41" W, a distance of One Thousand Five hundred Thirty Four and Seventy Four Hundredths (1534.74) feet to a point on the easterly right of way line of the Saint Joseph Branch of the Union Pacific Railroad; thence running S 01 degrees 03' 45" E along the easterly right of way line of the Saint Joseph Branch of the Union Pacific Railroad, a distance of One Thousand Five Hundred Thirteen and Fifty Seven hundredths (1513.57) feet; Thence running N 88 degrees 55' 50" E, a distance of Six Hundred Seventy Seven and Thirty Seven Hundredths (677.37) feet; Thence running N 69 degrees 35' 54" E, a distance of Six Hundred Seventy Four and Eighty Hundredths (674.80) feet; Thence N 00 degrees 00' 00" a distance of Five Hundred (500) feet; Thence running S 00 degrees 01' 52"W a distance of Forty One and Thirty Five Hundredths (41.35) feet; Thence running S 89 degrees 35' 36" E, a distance of One Thousand Three Hundred Fourteen and Sixty Four Hundredths (1314.64) feet, to the southeast corner of the Northeast Quarter of said Southeast Quarter; Thence running N 00 degrees 00' 00" W, along the east line of said Southeast Quarter , a distance of Seven Hundred Forth Two and Nine Hundredths (742.09) feet to the ACTUAL Point of Beginning and containing 74.269 acres more or less, of which 0.562 acres more or less is presently occupied by public road right of way. Net 73.707 acres more or less.



## **ATTACHMENT TO CONDITIONAL USE PERMIT APPLICATION**

Richard Hartman and Patricia Hartman, Husband and Wife, request a special use permit to allow excavation, processing, stock piling and selling of aggregates on an agricultural zone parcel at 3812 S. Blaine. The Application is requested by the owners to allow the special use; the owners anticipate entering into a contract with a qualified operator to include the following specifications:

1. **Time of Mining Operations.** The estimated time to operate the mining operation will be approximately 22 years. The owners plan upon contracting with a qualified operator to begin operations on the property in 2006 to continue until approximately 2026 which would also include time for reclamation and restoration of the property.

2. **Location of Processing Plant.** The owners are contemplating locating a processing plant on the south side of the parcel approximately 1,300 feet west of Blaine Street and approximately 1,200 feet north of Schimmer Drive. The total area of the processing plant will be six (6) acres.

3. **Ingress and Egress to Plant Site.** Currently there is a driveway to the property off of Schimmer Drive and that road is contemplated as the location of ingress and egress to the plant.

4. **Environmental Issues.** The operator selected by the owner will be required to maintain its operation in accordance with Nebraska Department of Environmental Quality including permits regulating air and water quality.

The mining operator will be required to follow all federal Department of Environmental Quality rules and regulations including obtaining permits for diesel fuel, oil and gasoline storage. The fuel storage must and will have secondary containment provisions to allow safe use before any fuel or oil will be stored on the property.

The operator will be required to operate in such a fashion as to minimize dust caused by truck traffic. The relative short length of the haul road from Schimmer Road to the plant site will also minimize dust.

The operator will be required to maintain the mining operations pursuant to rules and regulations enforced by the Mining Health and Safety Act as mandated by the federal government. The regulations of this act require maximum noise level within the boundary of the mining operation to be maintained at 85 decibels or less. The owners will require the operator to strictly comply with these federal regulations and will also provide for a requirement of use of special mufflers to be fitted to the engines on the dredge. An electronic processing plant will be used in order to minimize noise.

The operator will be required to place stockpiles of mined material in such a fashion as to absorb and deflect as much of the motor noise as possible. The federal regulations require back up of alarms for the loaders.

5. Mining Operations. The operator will be required to remove top soil from the area to be mined each year. This process will reduce the exposure of the underlying sand to wind erosion. The top soil that is removed will be stockpiled on the perimeter of the property and the operator will be required to cover the waste sand from the mining process at the conclusion of each mining phase.

To start the mining process, a hole will be dug below the water level to allow the dredge to be placed. Once placed, the dredge will float on the created opening to the ground water level. The dredge will be located at approximately 8 feet below the original ground surface. Fluctuations in the ground water level can occur during the mining season that is normally conducted from March 15 to December 15.

Because of its placement below the ground surface, the dredge will not be readily visible from view of adjoining property owners and the placement of the top soil stockpile along the boundaries of the operation will also serve as a screening of the operation from adjoining properties.

It is anticipated that the operator will work approximately 3 to 5 acres of land per year depending upon demand. The number of acres used can fluctuate depending upon the number tons of materials from the excavation. The entire 74 acre parcel less the 6 acre plant site is anticipated to be completely mined in approximately 22 years.

The sand that is mined that is considered to be a waste product will be placed against the stockpiled top soil and placed at a height conducive to the development of the property for other uses contemplated after the mining operation is completed. At the conclusion of the mining operation, there will be approximately 40 acres of open water.

6. Reclamation. The stockpiled top soil will be placed over the waste sand on the perimeter of the lake area and leveled. The top soiled will be planted periodically throughout the mining operation with grass to prevent wind erosion on the soil. The reclamation of the property will be an ongoing process in conjunction with the mining operation in an effort to maintain the resulting land area reclaimed to be level and pleasing in appearance.

At the conclusion of the mining operation, all mining equipment will be timely removed and stockpiles will have been eliminated. It is anticipated that the conclusion of the operation will result in a lake and surrounding land area for planting and residential uses.

## Council Agenda Memo

**From :** Craig A. Lewis, Building Department Director

**Meeting:** October 25, 2005

**Subject:** Public Hearing on Request of Richard & Patricia Hartman for a Conditional Use Permit to Operate a Sand and Gravel Pumping Facility at 3812 S. Blaine Street Grand Island, Nebraska

**Item #'s:** E-2 & H-1

**Presenter:** Craig A. Lewis, Building Department Director

### Background

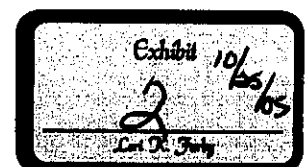
This request is for Council approval to allow for the operation of a sand and gravel facility at the above referenced address. A conditional use permit is required as the current zoning classification, TA (transitional agricultural) does not allow for this type of use as a permitted principal use. The 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 or denied by the City Council in the form of a conditional use after a finding that the proposed use will or will not comply with the purposes as identified in the Code.

Section 36-2 of the Grand Island Zoning code, Purposes: This chapter has been made in accordance with a comprehensive plan and to promote the health, safety, and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and land development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in government expenditures.

This request is to begin in the year 2006 after a qualified operator is identified and continue until the year 2026.

### Discussion:

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



City administration has developed the following restrictions, or conditions which appear appropriate to impose upon sand and gravel operations.

**1). USE:** The proposed uses are limited to those listed in the application, sand and gravel pumping processing, storage, stocking piling, distribution, and sales, both wholesale and retail. Retail sale may also include the sale of black dirt, river rock, and similar landscaping materials. The storage, recycling, or processing of other aggregate materials, such as asphalt or concrete is not allowable unless specifically listed, nor are the operation of concrete or asphalt batch plants. Neither of these operations have been requested in this application.

**2). CLOSURE:** A statement of the proposed use of the property after the closing of the sand and gravel operation has been provided along with the application. Residential use is anticipated.

**3). PRIMARY CONDITIONS: (a).** The permit shall be granted for a period not to exceed 10 years with the possibility of renewal for an additional time at the end of the 10 year period.

**(b).** Pumping of product shall not be allowed within 150 feet of any public road right of way and protected by a 6 foot earthen berm during pumping. The finished width of developable property adjacent to the public right of way shall be a minimum 300 feet at the time of termination of the operation. A setback of 100 feet from any adjacent property line, and a setback of 250 feet from the Central Platte Natural Resources District Wood River Diversion Channel Levee property shall be maintained between the pumping operations.

**(c).** Pumping and other activities (including lighting) at the site shall be limited to daylight hours (15) minutes before sunrise and (15) minutes after sunset Mondays through Saturdays. No pumping or other processing activities shall be permitted on Sundays or from fifteen minutes after sunset to fifteen minutes before sunrise. One exception to this condition shall be in the months of March, April, October, and November activities may operate from 6:00a.m. to 7:00p.m. to allow for winter condition.

**(d).** 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.

**(e).** Materials and equipment shall not be stored on the property within any easements or the regulated floodway as determined by the Federal Emergency Management Agency or its successor and the entity with jurisdiction and authority to enforce floodplain regulations. There is currently along the east edge of the property a 45' electrical easement and an existing transmission line, no product, material or equipment shall be stored within that easement or in such a manor that it would violate any safety provisions of the National Electric Safety Code.

**(f).** All dead trees, rubbish, and debris, if any must be cleared from the real estate as soon as practical and such real estate must, at all times, be kept in a clean and neat condition.

**(g).** No trash, rubbish, debris, dead trees, lumber, bricks, refuse or junk material of any nature whatsoever shall be dumped, placed or located upon such real estate.

**(h).** Applicant shall not use the real estate in any way so as to create or result in an unreasonable hazard or nuisance to adjacent land owners or to the general public.

**(i).** Applicant shall maintain any and all drainage ditches that may be located upon the real property.

(j). 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 complete dry and free from 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.

(k). 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.

(l). Applicant shall begin the mining operation within a period of 18 months from the issuance of this permit or if the applicant fail to begin operations within the 18 months the permit shall be considered null and void and subject to reapplication and rehearing. Additionally if at anytime during the life of the permit issued the operation shall cease for a period of a continuous 18 months the permit shall become void and a renewal shall be obtained before becoming once again operational.

### **ALTERNATIVES:**

It appears the Council has the following alternatives concerning the issue.

1. Approve the request with the proposed conditions, finding that the proposed application is and will continue to be in conformance with the purpose of the zoning regulations.
2. Deny the request, finding that the proposed application does not conform to the purpose of the zoning regulations.
3. Approve the request with additional or revised conditions and findings of fact.
4. Refer the matter to a special committee for a determination of a finding of fact.

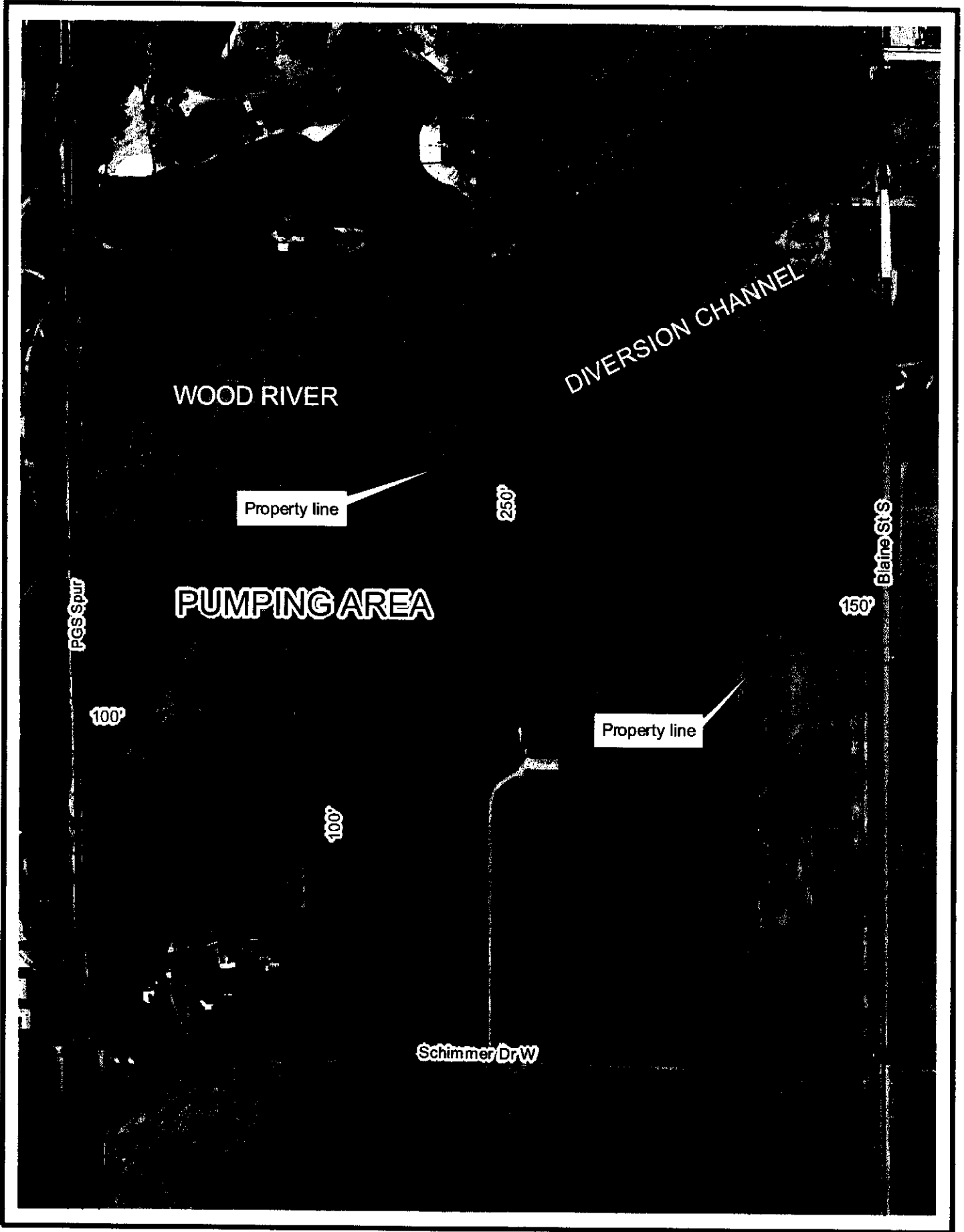
### **RECOMMENDATION:**

Approve the request if all conditions are met as presented by City Administration and if the City Council finds that the proposed use and application promotes the health, safety, and general welfare of the community, protects property against blight and depreciation, and is generally harmonious with the surrounding neighborhood.

### **SAMPLE MOTION:**

Motion to approve the conditional use with the conditions identified by the City Administration, published in the Council packet and presented at the Council meeting and finding that the applications conforms with the purpose of the zoning regulations.





WOOD RIVER

DIVERSION CHANNEL

Property line

250'

PUMPING AREA

Blaine St S

150'

PCS Spur

100'

Property line

100'

Schimmer Dr W

## CHAPTER 36 ZONING

### Article I. Title and Purpose

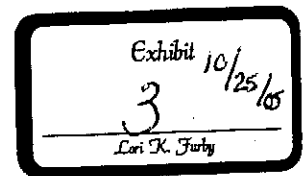
	<u>Page</u>
§36-1. Title .....	36-1
§36-2. Purposes .....	36-1
§36-3. Reserved	
§36-4. Reserved	
§36-5. Reserved	

### Article II. Definitions

§36-6. Rules .....	36-1
§36-7. Abbreviations and Acronyms .....	36-1
§36-8. Definitions .....	36-2
§36-9. Reserved	
§36-10. Reserved	
§36-11. Reserved	
§36-12. Reserved	
§36-13. Reserved	

### Article III. General Provisions

§36-14. Planning Commission Recommendations .....	36-31
§36-15. District Regulations, Restrictions, Boundary Creation .....	36-31
§36-16. Jurisdiction .....	36-31
§36-17. Provisions Declared to be Minimum Requirements .....	36-31
§36-18. Zoning Affects Every Structure and Use .....	36-31
§36-19. Lot .....	36-31
§36-20. Reductions in Lot Area Prohibited .....	36-32
§36-21. Obstructions to Vision at Street Intersections Prohibited .....	36-32
§36-22. Yard Requirements .....	36-32
§36-23. Through Lots .....	36-32
§36-24. Reserved	
§36-25. Permitted Obstructions in Required Yards .....	36-33
§36-26. Projections from Buildings .....	36-33
§36-27. Accessory Building and Uses .....	36-34
§36-28. Permitted Modifications of Height Regulations .....	36-35
§36-29. Occupancy of Basements and Cellars .....	36-35
§36-30. Nonconforming Buildings and Uses; Continuation .....	36-35
§36-31. Nonconforming Buildings and Uses; Repairs or Alterations .....	36-35
§36-32. Nonconforming Buildings and Uses; Change of Use .....	36-35
§36-33. Nonconforming Buildings and Uses; Destruction and Reconstruction .....	36-36
§36-34. Nonconforming Buildings and Uses; Discontinuance or Abandonment .....	36-36
§36-35. Nonconforming Buildings and Uses; Extension of Nonconforming Use .....	36-36
§36-36. Fees .....	36-36
§36-37. Reserved	
§36-38. Reserved	
§36-39. Reserved	
§36-40. Reserved	
§36-41. Reserved	



§36-42. Reserved

Article IV. Districts and Official Map

§36-43.	Districts.....	36-36
§36-44.	Provision for Official Zoning Map.....	36-37
§36-45.	Annexation.....	36-37
§36-46.	Reserved	
§36-47.	Reserved	
§36-48.	Reserved	
§36-49.	Reserved	

Article V. Zoning Districts

§36-50.	Zoning Districts; Use.....	36-38
§36-51.	Zoning Districts; Boundaries.....	36-38
§36-52.	Rules for Interpretation of Zoning District Boundaries.....	36-38
§36-53.	Classification of Zoning Districts and Conformance with the Comprehensive Development Plan.....	36-39
§36-54.	(AG-1) Primary Agricultural Zone.....	36-39
§36-55.	(AG-2) Secondary Agricultural Zone.....	36-46
§36-56.	(AG-SC) Special Agriculture / Conservation Zone.....	36-52
§36-57.	(AG-SE) Special Agriculture / Events Zone.....	36-53
§36-58.	(AG-SI) Special Agriculture / Industrial Zone.....	36-54
§36-59.	(SRC) Special Recreation / Conservation Zone.....	36-55
§36-60.	(TA) Transitional Agriculture Zone.....	36-56
§36-61.	(LLR) Large Lot Residential Zone.....	36-58
§36-62.	(R-1) Suburban Residential Zone.....	36-59
§36-63.	(R-2) Low Density Residential Zone.....	36-60
§36-64.	(R-3) Medium Density Residential Zone.....	36-61
§36-65.	(R-4) High Density Residential Zone.....	36-62
§36-66.	(RO) Residential Office Zone.....	36-64
§36-67.	(B-1) Light Business Zone.....	36-65
§36-68.	(B-2) General Business Zone.....	36-67
§36-69.	(AC) Arterial Commercial Overlay Zone.....	36-69
§36-70.	(B-3) Heavy Business Zone.....	36-70
§36-71.	(ME) Industrial Estates Zone.....	36-72
§36-72.	(M-1) Light Manufacturing Zone.....	36-74
§36-73.	(M-2) Heavy Manufacturing Zone.....	36-75
§36-74.	(M-3) Mixed Use Manufacturing Zone.....	36-76
§36-75.	Reserved	
§36-76.	(CD) Commercial Development Zone.....	36-78
§36-77.	(TD) Travel Development Zone.....	36-81
§36-78.	(RD) Residential Development Zone.....	36-82
§36-79.	(A) Airport Zone.....	36-84
§36-80.	Gateway Corridor District (Overlay District).....	36-85
§36-81.	(-M and -MD) Manufactured Home Overlay Zones.....	36-89
§36-82.	Reserved	
§36-83.	Reserved	
§36-84.	Reserved	
§36-85.	Reserved	
§36-86.	Reserved	
§36-87.	Reserved	

Article VI. Conditional Use Permits

§36-88.	Conditional Uses; Application.....	36-90
§36-89.	Authorized Conditional Uses.....	36-90
§36-90.	Conditional Uses; Procedure.....	36-91
§36-91.	Fees.....	36-92
§36-92.	Reserved	
§36-93.	Reserved	
§36-94.	Reserved	
§36-95.	Reserved	

Article VII. Supplemental Regulations

§36-96.	Off-Street Parking Requirements.....	36-92
§36-97.	Schedule of Minimum Off-Street Parking and Loading Requirements.....	36-94
§36-98.	Off-Street Parking Design Criteria.....	36-95
§36-99.	Home Occupations.....	36-96
§36-100.	Fences and Hedges; Corner Visibility.....	36-97
§36-101.	Performance Standards for Industrial Uses.....	36-97
§36-102.	Landscaping Requirements.....	36-98
§36-103.	Wind Energy Systems.....	36-102
§36-104.	Vehicle Sales and Rental Business in Existence on 12/15/02; Minimum Improvements Requirement.....	36-103
§36-105.	Vehicle Sales and Rental Businesses: New Business and Businesses Relocating or Expanding; Minimum Improvement Requirements.....	36-103
§36-106.	Conditional Uses: Salvage Yards.....	36-104
§36-107.	Reserved	
§36-108.	Reserved	
§36-109.	Reserved	
§36-110.	Reserved	
§36-111.	Reserved	
§36-112.	Reserved	
§36-113.	Reserved	
§36-114.	Reserved	
§36-115.	Reserved	
§36-116.	Reserved	

Article VIII. Flood Plain Regulations

§36-117.	Statutory Authorization; Findings of Fact and Purposes.....	36-105
§36-118.	General Provisions.....	36-106
§36-119.	Development Permit.....	36-107
§36-120.	Establishment of Zoning Districts.....	36-107
§36-121.	Standards for Floodplain Development.....	36-107
§36-122.	Flood Fringe Overlay District – Including AO and AH Zones.....	36-108
§36-123.	Floodway Overlay District.....	36-110
§36-124.	Variance Procedures.....	36-110
§36-125.	Nonconforming Uses.....	36-112
§36-126.	Penalties for Violation.....	36-112
§36-127.	Amendments.....	36-112
§36-128.	Definitions.....	36-112
§36-129.	Reserved	

- §36-130. Reserved
- §36-131. Reserved
- §36-132. Reserved
- §36-133. Reserved

Article IX. Board of Adjustment

§36-134.	Establishment.....	36-115
§36-135.	Membership.....	36-115
§36-136.	Rules.....	36-115
§36-137.	Meetings.....	36-115
§36-138.	Minutes.....	36-115
§36-139.	Appeal.....	36-115
§36-140.	Notice.....	36-115
§36-141.	Fees.....	36-116
§36-142.	Powers and Limitations.....	36-116
§36-143.	Action and Vote Required.....	36-116
§36-144.	Appeals to District Court.....	36-117
§36-145.	Reserved	
§36-146.	Reserved	
§36-147.	Reserved	
§36-148.	Reserved	
§36-149.	Reserved	

Article X. Amendments, Enforcement, Permits, and Penalties

§36-150.	Amendments; Initiation and Application.....	36-117
§36-151.	Amendments; Procedure.....	36-117
§36-152.	Amendments; Protest; Limitation.....	36-118
§36-153.	Hall County Regional Planning Director and Building Department.....	36-118
§36-154.	Reserved	
§36-155.	Certificate of Occupancy; General.....	36-118
§36-156.	Reserved	
§36-157.	Certificate of Occupancy; Land.....	36-118
§36-158.	Reserved	
§36-159.	Certificate of Occupancy; Record.....	36-118
§36-160.	Reserved	
§36-161.	Penalties.....	36-119
§36-162.	Remedies.....	36-119
§36-163.	Reserved	
§36-164.	Reserved	
§36-165.	Reserved	
§36-166.	Reserved	
§36-167.	Reserved	

Article XI. Towers, Telecommunications Facilities and Antennas

§36-168.	Purpose.....	36-119
§36-169.	Definitions.....	36-120
§36-170.	Location of Towers and Construction Standards.....	36-121
§36-171.	Application to Develop a Tower.....	36-121
§36-172.	Tower Development Permit; Procedure.....	36-122
§36-173.	Setbacks and Separation or Buffer Requirements.....	36-122

§36-174.	Structural Standards for Towers Adopted.....	36-122
§36-175.	Illumination and Security Fences.....	36-122
§36-176.	Exterior Finish .....	36-123
§36-177.	Landscaping.....	36-123
§36-178.	Maintenance, Repair or Modification of Existing Towers .....	36-123
§36-179.	Inspections .....	36-123
§36-180.	Maintenance.....	36-123
§36-181.	Abandonment.....	36-123
§36-182.	Satellite Dish Antennas; Regulation .....	36-124
§36-183.	Severability .....	36-124
§36-184.	Reserved	
§36-185.	Reserved	
§36-186.	Reserved	
§36-187.	Reserved	
	Article XII. Comprehensive Plan Relationship	
§36-188.	Comprehensive Plan Relationship.....	36-124

- (2) Minimum zoning lot: Same as underlying zone but in no event less than 6,000 square feet
- (3) Minimum lot width: Same as underlying zone
- (4) Minimum front yard: Same as underlying zone
- (5) Minimum rear yard: Same as underlying zone
- (6) Minimum side yard: Same as underlying zone but in no event less than 10 feet for manufactured homes
- (7) Maximum ground coverage: Same as underlying zone

(E) Procedure:

(1) An application for an amendment for the Manufactured Home Zone to the zoning map shall follow all procedural requirements for amendments as set forth herein, and, in addition, shall include the following information:

(a) Site plan showing precise number, locations, and dimensions of all manufactured home lots, public or private drive or streets, illumination facilities, recreation or green areas, utilities, etc. Such site plan, if approved, shall form the basis for the issuance of a manufactured home park permit or as a preliminary subdivision study, whichever is the intention of the owner.

(b) Data as may be requested by the chief building official to determine that the proposed manufactured home development will comply with all legal requirements.

(F) Miscellaneous Provisions:

(1) Supplementary regulations shall be complied with as defined herein.

§36-82. Reserved

§36-83. Reserved

§36-84. Reserved

§36-85. Reserved

§36-86. Reserved

§36-87. Reserved

## Article VI. Conditional Use Permits

### §36-88. Conditional Uses; Application

An application for a conditional use, signed by the property owner or by a purchaser thereof under contract in writing duly executed by both buyer and seller, or by agent of any of the foregoing duly authorized to do so in writing, shall be submitted to the city clerk. The application shall state the location of the proposed conditional use, the specific conditional use requested as permitted by this chapter and shall be accompanied by such other material as necessary to explain the proposal. The city council may request additional information as it deems proper.

### §36-89. Authorized Conditional Uses

The following uses may be granted by the city council as a permitted conditional use in accordance with the procedure as set forth in this article:

(A) To permit uses as listed under the permitted conditional uses within the respective zoning districts as specified in this chapter;

(B) To permit the appropriate use of a lot less in area by not more than ten percent of the area required by this chapter;

(C) To reduce the applicable off-street parking or loading facilities required by not more than two parking spaces or one loading berth or twenty percent of the required number, whichever is greater;

(D) To permit the same off-street parking facilities to qualify as required spaces for two or more uses, provided, the substantial use of such spaces by each user does not take place at approximately the same hours of the same days of the week;

(E) To permit temporary buildings and uses for periods not to exceed two years in undeveloped areas of the City, and for periods not to exceed six (6) months in developed areas;

(F) To permit the placement and operation of wind turbines, solar energy collectors, or other energy saving devices that would not be in conformance with the space limitations as specified in this chapter.

(G) To permit the construction and operation of a private wastewater treatment system for any use within the zoning jurisdiction of the City of Grand Island, excepting those small systems consisting of a septic tank and drainfield having a design capacity of less than 2,000 gallons per day. The design capacity shall be based on the table of estimated waste/sewerage flow rates in Chapter 30 of this code.

(H) To permit the keeping of livestock on residential property with less than a half acre of outdoor enclosure area per animal for periods not to exceed three (3) years in accordance with requirements set out in §5-16 of this code.

(I) To permit operation of a salvage yard where allowed under the permitted conditional uses within the respective districts; provided, that salvage operations conducted entirely within a building as an accessory use to a permitted principal use of land shall not require compliance with this article.

#### **§36-90. Conditional Uses; Procedure**

After receipt of a conditional use application and application fee, the city clerk shall schedule a public hearing before the city council to consider such application. Notice of such application shall be placed in a newspaper of general circulation in the city at least one time ten days prior to such hearing. In addition to the publication, the city clerk shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall not be less than eighteen inches in height and twenty-four inches in width with a white or yellow background and black letters not less than one and one-half inches in height. Such posted notice shall be so placed upon the premises that it is easily visible from the street nearest the same and shall be so posted at least ten days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor. The hearing shall be held at which all interested parties shall be heard.

The city council may grant, grant with any conditions or safeguards upon the property benefitted by a conditional use, or deny the application. Violation of any such conditions or safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a misdemeanor. No conditional use permitting the erection or alteration of a building or other use shall be valid for a period longer than one year unless the building is erected or altered or the use established within that period.

The city administrator or any department director having a personal knowledge of any violation of a permitted conditional use or a condition or safeguard which is made part of the terms under which a conditional use is granted, may deliver a written request to the building department director asking that the director issue a notice of violation and demand for compliance to the person owning the property subject to the permitted conditional use. Upon receipt of said written request, the building department director shall investigate the alleged violation and if it is determined that a violation exists, the building department director shall send a notice of violation and demand for compliance to the last known address of said person, one copy each, by ordinary first class mail and certified mail, return receipt requested, demanding that the premises be brought into compliance with the conditional use by a date certain and advising said person that in the event violations continue after said date, that a request for revocation of the conditional use will be forwarded to the city council for a public hearing and determination. The written notice shall include a description of the violations and the underlying facts supporting such allegations.



If the violations stated in the foregoing notice and demand are not eliminated and the property brought into compliance with the city code and the permitted conditional use by the date certain, the building department director shall send such person a notice of hearing before the city council to consider revocation of the conditional use permit. The public hearing shall be conducted formally. The building department director, city attorney or their respective designees shall present oral or written statements or reasons supporting revocation of the permitted conditional use. The property owner(s) or designee(s) shall present oral or written statements or reasons opposing the revocation of the permitted conditional use. Statements by each side shall be limited to a total time of one hour or less. Any interested person may be heard following presentations on behalf of the city and the property owner. Upon conclusion of the hearing, the city council may affirm, revoke, or modify the permitted existing use.

**§36-91. Fees**

At the time of filing of an application for a conditional use permit with the city clerk, the applicant shall pay to the city treasurer a processing fee, as provided in the City of Grand Island Fee Schedule, which shall not be refundable.

**§36-92. Reserved**

**§36-93. Reserved**

**§36-94. Reserved**

**§36-95. Reserved**

## **Article VII. Supplemental Regulations**

**§36-96. Off-Street Parking Requirements**

**(A) Purposes:**

(1) It is the intent of this section that all buildings and uses shall provide off-street parking and loading facilities in a minimum amount as required herein to meet the needs of such buildings and uses on private property and under the same ownership as such buildings or uses. The accommodations may consist of lots, garages, or other buildings, and accessories; they may be surface facilities or facilities above or under the ground.

(2) It is the further intent of this section that all off-street parking and loading spaces and facilities shall be sited and built according to the requirements contained in this section, and shall require an application for and issuance of a building permit pursuant to §8-22.

**(B) Application.** Each building or use hereafter constructed, and each addition to or altered building or use shall be provided with off-street parking and loading spaces as required herein. Each off-street parking space or loading facility and space hereafter constructed, upon proper application and permit being granted shall be sited and constructed pursuant to the requirements of this section. No application for a building permit for such building, addition, alteration, or use shall be approved unless accompanied by a plot plan showing the location and amount of off-street parking and loading spaces as required herein for the existing or proposed building or use and including all such additions or alterations. No occupancy or use permit shall be issued unless the required parking and loading facilities shall have been provided in accordance with the approved plot plan. Requirements shall be applicable to all zones and districts but not to include the following business districts:

(1) *Central Business District* as identified and described in Chapter 13 of this code as the Downtown Improvement and Parking District No. 1.

(2) *Fourth Street Business District.* Beginning at the intersection of Eddy Street and the alley in the block between Fourth and Fifth Streets; thence easterly on the alley to the intersection of the alley with