



City of Grand Island

Tuesday, March 27, 2007

Council Session

Item E6

Public Hearing on Request from Lyman-Richey Corp. dba Central Sand and Gravel on Behalf of Garry Williams and Roger Luebbe for a Conditional Use Permit for a Sand and Gravel Mining Operation Located at 1672 South Shady Bend Road and 3116 Stolley Park Road

Staff Contact: Craig Lewis

Council Agenda Memo

From: Craig A. Lewis, Building Department Director

Meeting: March 27, 2007

Subject: Public Hearing on Request of Lyman-Richey Corp. dba Central Sand and Gravel for a Conditional Use Permit to Allow the Operation of a Sand and Gravel Mining Operation at 1672 S. Shady Bend Road. Garry and Jeanne Williams are the Owners of Tract "A" 56 Acres Located within the North One-Half of the Southeast Quarter Section of 23-11-9. Midland Ag. Service, Inc. and Roger Luebke are the Owners of Tract "B" 72 Acres Located within the South One-Half of the Southwest and Southeast Quarter of Section 23-11-9 in Hall County.

Item #'s: E-6 & H-1

Presenter: Craig 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 location. A conditional use permit is required as the current zoning classification, TA or transitional agriculture does not allow for this type of use as a permitted principal use. The zoning classification does list as a 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.

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.

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.

2). CLOSURE: A drawing of the proposed development of the property after the closing of the sand and gravel operation has been provided along with the application. The finished width of developable property at the time the operation of mining is terminated shall be 300' adjacent to public right of way and 200' adjacent to neighboring property lines.

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 300 feet at the time of termination of the operation. A setback of 100 feet from any adjacent property line shall be maintained between the pumping operation.

(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. Two exceptions to this condition shall be in the months of March, April, October, and November activities may operate from 6:00a.m. to 10:00p.m. to allow for winter condition. The second exception shall be that trucking of the product shall be allowed on Sundays from 7:00 a.m. to 12:00 noon to allow for contracted sales.

(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. No product, material or equipment shall be stored within any easement or in such a manner 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.

(I). 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 application conforms with the purpose of the zoning regulations.

Carl Roberts
26106 Shady Lake Road
COLUMBUS, NEBRASKA 68601

MOBILE: 402 649-3554
e-mail: carober@megavision.com



February 27, 2007

Grand Island City Clerk
Grand Island City Hall
PO Box 1968
GRAND ISLAND NE 68801

Regarding: Conditional Use Applications

The attached Conditional Use Application is for a new sand and gravel mining operation to be conducted by Lyman-Richey Corporation on two separate parcels of land.

Lyman-Richey Corporation, dba Central Sand and Gravel, will be doing the mining.

The contact person for Lyman-Richey Corporation is Carol White, 4315 Cuming Street, Omaha, Nebraska 68131. Carol's office phone is 402 557-4889, cell number is 402 672-9000.

I have been retained by Lyman-Richey Corporation to present the applications for the Conditional Use Permits to the City of Grand Island.

If you have any question about the application please contact me at 402 649-3554.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Carl Roberts".

Carl Roberts

Tract A

Non-Refundable Fee: \$155.00

Return by: _____

Council Action on: 3-27-07

Conditional Use Permit Application

pc: Building, Legal, Utilities
Planning, Public Works

1. The specific use/construction requested is: To allow sand and gravel mining on the described property.
2. The owner(s) of the described property is/are: Garry and Jeanne Williams
3. The legal description of the property is: An approximate 56 acre parcel of land located within the North One-Half of the Southeast Quarter of Section 23, Township 11 North, Range 9 ~~East~~ ^{West} of the 6th P.M., Hall County, NE
4. The address of the property is: 1672 Shady Bend Road South
5. The zoning classification of the property is: Transitional Agriculture
6. Existing improvements on the property is: None
7. The duration of the proposed use is: 2007 to 2030
8. Plans for construction of permanent facility is: To mine the property for gravel removal.
9. The character of the immediate neighborhood is: Rural with the described land presently being farmed.
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: SEE ATTACHED

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

2-4-07
Date
308-381-0794
Phone Number
Garry Williams
Address
Jeanne Williams
610 Midaro DR.
GRAND ISLAND NE. 68801
City State Zip

WILLIAMS

Tract A

99- 102163

EXHIBIT "A"

85- 104724

A tract of land comprising part of the North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section Twenty Three (23) Township Eleven (11) North, Range Nine (9), West of the 6th P.M., Hall County, Nebraska and More particularly described as follows:
First to ascertain the point of beginning, start at the Northeast corner of said N $\frac{1}{2}$ SE $\frac{1}{4}$; thence running westerly along and upon the north line of said N $\frac{1}{2}$ SE $\frac{1}{4}$; a distance of Four Hundred Forty One and Seventy Six Hundredths (441.76) feet to the actual point of beginning; Thence continuing westerly along the last described course a distance of Eight Hundred Seventy Eight and Twenty Four Hundredths (878.24) feet to the Northwest corner of the Northeast quarter of the Southeast quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$); thence deflecting left 32°58'15" and running southwesterly a distance of Three Hundred Fifty Three and One Tenth (353.10) feet, thence deflecting left 15°43'45" and running southwesterly a distance of Nine Hundred Five and Eighty One Hundredths (905.81) feet; thence deflecting left 41°26'50" and running southerly a distance of Twenty Six and Seven Tenths (26.7) feet; thence deflecting right 32°36'00" and running southwesterly a distance of Five Hundred Eight and Eight Tenths (508.8) feet; thence deflecting left 122°35'00" and running easterly a distance of Two Thousand Four Hundred Ninety Seven and Four Tenths (2,497.4) feet to the Southeast corner of said N $\frac{1}{2}$ SE $\frac{1}{4}$; thence deflecting left 90°20'10" and running northerly along and upon the East line of said N $\frac{1}{2}$ SE $\frac{1}{4}$; a distance of Twenty Three (23.0) feet; thence deflecting left 89°39'50" and running westerly a distance of One Thousand Two Hundred Thirty Five (1,235.0) feet; thence deflecting left 90°00' and running southerly a distance of Three (3.0) feet; thence deflecting right 90°00' and running westerly a distance of Nine (9.0) feet; thence deflecting right 90°00' and running northerly a distance of Three (3.0) feet; thence deflecting left 90°00' and running westerly a distance of Twelve and Three Tenths (12.3) feet; thence deflecting right 106°30'45" and running northeasterly a distance of Four Hundred Seventy Eight and Twenty One Hundredths (478.21) feet; thence deflecting right 7°24'45" and running northeasterly a distance of Three Hundred Fifty Three and Seventy Eight Hundredths (353.78) feet; thence deflecting right 14°06'45" and running northeasterly a distance of Three Hundred Thirty One and Seventy Five Hundredths (331.75) feet; thence deflecting right 13°18'45" and running northeasterly a distance of Four Hundred Thirteen and Seventy Three Hundredths (413.73) feet to the actual point of beginning.

Tract B

Non-Refundable Fee: \$155.00

Return by: _____

Council Action on: 3-27-07

Conditional Use Permit Application

pc: Building, Legal, Utilities
Planning, Public Works

1. The specific use/construction requested is: To allow sand and gravel mining on the described property.
2. The owner(s) of the described property is/are: Midland Ag Service, Inc.
3. The legal description of the property is: An approximate 72 acre parcel of land located within the South One-Half of the Southeast Quarter and part of the East one-Half of the Southeast Quarter of Section 23, Township 11 North, Range 9 ~~East~~ ^{West} of the 6th P.M., Hall County, NE
4. The address of the property is: 3116 Stolley Park Road
5. The zoning classification of the property is: Transitional Agriculture
6. Existing improvements on the property is: None
7. The duration of the proposed use is: 2007 to 2030
8. Plans for construction of permanent facility is: To mine the property for gravel removal.
9. The character of the immediate neighborhood is: Rural with the described land presently being farmed.
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: SEE ATTACHED

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

2-23-07
Date

308-382-8185-

Phone Number Address

1012 50 Shady
Band Rd.

Midland Ag Service, Inc.
Owners(s)

Roger L. Lenthos Pres.

D. J. Me. 68801
City State Zip

MIDLAND AG
TRACT B

94-109386

WARRANTY DEED

RICHARD J. RUSSELL and BARBARA J. RUSSELL, husband and wife, Grantors, in consideration of ----- ONE DOLLAR (\$1.00) AND OTHER VALUABLE CONSIDERATION ----- receipt of which is hereby acknowledged, convey to MIDLAND AG SERVICE, INC., Grantee, the following described real estate (as defined in Neb. Rev. Stat. section 76-201) in Hall County, Nebraska:

The South Half of the Southeast Quarter (SE1/2 SE1/4) except the easterly 435.6 feet thereof and the East Half of the Southeast Quarter of the Southwest Quarter (E1/2 SE1/4 SW1/4) excepting therefrom a certain tract of land more particularly described in Warranty Deed Book 158, Page 114 of the records of the Register of Deeds, Hall County, Nebraska, All in Section Twenty-Three (23), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., Hall County, Nebraska,

Excepting a certain tract more particularly described as follows:

A tract of land comprising a part of the East Half of the Southeast Quarter of the Southwest Quarter (E1/2 SE1/4 SW1/4) of Section Twenty-Three (23), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., Hall County, Nebraska, and more particularly described as follows:

Beginning at a point on the south line of said East Half of the Southeast Quarter of the Southwest Quarter (E1/2 SE1/4 SW1/4); said point being One Hundred Ninety-Five and Forty-Five Hundredths (195.45) feet west of the southeast corner of said Southwest Quarter (SW1/4); thence S 90° 00' 00" W (assumed bearing) along and upon the south line of said East Half of the Southeast Quarter of the Southwest Quarter (E1/2 SE1/4 SW1/4), a distance of Thirty (30.0) feet; thence N 00° 46' 39" W, a distance of Five Hundred (500.0) feet; thence N 89° 56' 17" W, a distance of Four Hundred Thirty-Five and Seventy-One Hundredths (435.71) feet to a point on the westerly line of said East Half of the Southeast Quarter of the Southwest Quarter (E1/2 SE1/4 SW1/4); thence N 00° 48' 57" W, along and upon the west line of said East Half of the Southeast Quarter of the Southwest Quarter (E1/2 SE1/4 SW1/4), a distance of Seven Hundred Ninety-Five and Twenty-Three Hundredths (795.23) feet to the northwest corner of said East Half of the Southeast Quarter of the Southwest Quarter (E1/2 SE1/4 SW1/4), thence N 89° 10' 49" E along and upon the north line of said East Half of the Southeast Quarter of the Southwest Quarter (E1/2 SE1/4 SW1/4), a distance of Five Hundred Twenty-Six and Seventy-Seven Hundredths (526.77) feet; thence S 00° 48' 57" E, a distance of Eight Hundred Three and Thirty-Four Hundredths (803.34) feet; thence N 89° 56' 17" W, a distance of Sixty-One and Twelve Hundredths (61.12) feet; thence S 00° 46' 39" E, a distance of Five Hundred (500.0) feet to the point of beginning,

subject to restrictions and easements of record.

Grantors covenant with the Grantee that Grantors:

(1) are lawfully seized of such real estate and that it is free from encumbrances subject to easements, reservations, covenants and restrictions of record;

(2) have legal power and lawful authority to convey the same;

(3) warrant and will defend the title to the real estate against the lawful claims of all persons.

94-109386

EXECUTED: NOVEMBER 14, 1994.

Richard J. Russell
RICHARD J. RUSSELL
Barbara J. Russell
BARBARA J. RUSSELL

STATE OF NEBRASKA)
COUNTY OF HALL) ss.

The foregoing instrument was acknowledged before me on November 14, 1994, by RICHARD J. RUSSELL and BARBARA J. RUSSELL, husband and wife, Grantors.



Regina R. Biglow
Notary Public

Entered as Document No.
94-109386

STATE OF NEBRASKA) ss
COUNTY OF HALL)

94 NOV 22 PM 4 14

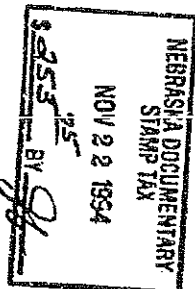
James H. H. H.
REC. OF DEEDS

CASH 364.25
CHECK _____

REFUND: _____

CASH _____

CHECK _____



STATEMENT ATTACHED

G. I. ABSTRACT

CONDITIONAL USE PERMIT APPLICATION

Date: January 31, 2007

To: City of Grand Island Planning Department

Regarding: Conditional Use Application for Mining Aggregates

Requested Action: To grant Lyman-Richey Corporation a Conditional Use Permit to allow the excavation, processing, stockpiling and selling of aggregates from an approximate 72 acre parcel located within the following legal description:

South One-Half of the Southeast Quarter and part of the East One-Half of the Southeast Quarter of Section 23, Township 11 north, Range 9 West of the 6th P.M., Hall County, Nebraska

Ownership: Midland Ag Service, Inc.

1. Estimated Total Time of Mining Operations: Approximately 15 years

We plan on starting mining operations on the property in 2014 and will continue until approximately 2030, which would also include time for the reclamation of the property. The time period of 25 years will allow the mining of adjacent property owned by Garry and Jeanne Williams previous to mining the above described property.

2. Processing Plant Location:

At this time we are considering the processing plant to be located in the middle of the 56 Acre Williams parcel along the south side of the property. The location is shown on the attached exhibits.

The processing plant could be placed on the on the Midland Ag Service, Inc. property at the conclusion of mining on the adjacent Williams property.

The total area of the processing plant shall be approximately 8 acres.

All equipment and vehicles shall be stored on the plant site and a security gate along with security lighting shall be provided to the site.

3. Ingress and Egress to and from the Plant Site:

There presently is a driveway to the property off of Shady Bend Road. An improved entrance area will be constructed to allow a locked security Gate to be located at least 75 feet west of Shady Bend Road to allow the full length of a truck and pup to park off of the roadway while unlocking or locking the security gate.

4. Environmental Issues

At all times the mining operation will be conducted in accordance with the State of Nebraska Department of Environmental Quality permits dealing with air and water quality.

The mining operation will follow all Federal Department of Environmental Quality required permits for diesel fuel, oil and gasoline storage. All fuel storage must and will have secondary containment previous to allowing any fuel or oil on the property.

There is minimal haul road length due to the proximity to Shady Bend Road, therefore there will little or no dust caused by truck traffic. If dust should become a problem there are a number of liquid substances which may be used to control dust from the road surface.

All of Lyman-Richey mining operations operate under the rules and regulations as written and enforced by the Mining Health and Safety Act, MSHA, a set of Federal mandated regulations for all mining operations. The regulations of this Act mandate the maximum noise level of the operation within the bounds of the mining operation at 85 decibels. We strictly abide by these Federal regulations. Special mufflers are fitted to the engines on the dredge. The processing plant is entirely electric and has minimal noise.

There are MSHA required back-up alarms on the loaders working at the plant site. The back-up alarms are required to have a minimum decibel level for safety reasons. We are planning our processing plant to have our stockpiles placed so the stockpiles absorb and deflect as much of the loader alarm noise as possible.

As a result of the mining process ground water shall be exposed in the mine area. The exposure of groundwater has no effect on adjacent groundwater tables or water quality.

5. Mining Process

Topsoil will be removed from the plant site and stockpiled for later use in reclamation.

During the mining process dredging shall not occur within the areas of at least 100 feet of adjoining properties and in the case of the county roads shall not occur within 150 feet of the property boundaries with the exception of the common property line with the Williams property as Williams and Midland Ag Service, Inc. have agreed to extinguish the common property line.

Topsoil will be stockpiled along the perimeter of the property to provide visual screening to the mine property. The berm of dirt shall be placed at a height necessary to lessen visual contact with the mine site from adjoining property.

To start the mining process a hole will be dug below the present ground water level to create sufficient water to allow the dredge to be floated. The dredge will pump in sand to raise the plant site to a desired elevation to be assured the site has a stable base with all clean sand material providing the base.

Topsoil will be removed in phases from the area which is to be mined each year. Approximately six acres will be exposed at any one time as a result of having the topsoil removed. The entire parcel will not have the topsoil removed all at once.

By phasing the mining process we will reduce the exposure of the underlying sand to wind erosion. The topsoil will be stockpiled on the perimeter of the property with a width of approximately 150 feet at the base of the stockpile. The removed and stockpiled topsoil will be used to cover the waste sand from the mining process at the conclusion of each phase of mining.

On average, the phased reclamation process will cause the distance from the adjoining property line and the edge of the actual water to be at least 300 feet. The water side of the land area shall have approximately 50 feet of exposed sand. The remainder of the land area shall be all covered with soil.

The dredge will continue to work approximately three to five acres of land per year. The number of acres used is entirely dependant on the number of tons of material sold from the excavation. The 55 acre parcel, less the eight acre plant site, will take approximately 15 years to complete the mining. The time period is a reasonable estimate based on present assumptions.

The processing plant will remain on the described Williams parcel during the time it will take to mine the Williams property then the processing plant may be moved to the adjoining Midland Ag Service, Inc. property.

Approximately 70% of all material mined is considered to be waste sand, a product for which there is only a limited market. The sand will be placed against the stockpiled topsoil and will be placed at height conducive to the use of the majority of the property for further development after mining is completed.

It is presently estimated there will be approximately 18-20 acres of open water at the conclusion of mining and after reclamation is completed.

6. Closure

The stockpiled topsoil will be placed over the placed waste sand on the perimeter of the lake area and leveled. The topsoil will be planted periodically throughout the mining time with a grass to prevent wind and water erosion on the soil.

All exposed soil areas shall be seeded with grass to prevent erosion within one year of completion of mining and reclamation of any one area.

All resulting slopes shall be placed at less than 3:1.

The resulting lake and surrounding embankment area will be reasonable level and pleasing to the eye.

The elevations of the finished area around the lake are shown on the attached maps and made a part of this descriptive document.

All stockpiles will be removed and all equipment will be removed within 6 months after the conclusion of mining.

7. Drainage

All stormwater will be retained on the property and the created lake will act as a reservoir for the water storage.

Any drainage of foreign water from adjoining land will be allowed to enter the created lake area for storm water storage.

8. Growing crops

Until such time an area of land is going to be actively mined the land will be farmed and contain growing crops as it has been used in years present and past.

