

Planning Commission  
Monday, September 11, 2023 6:00 PM  
Columbus Community Building/Community Room  
2500 14 Street  
Columbus, NE 68601

The Mayor and City Council reserve the right to go into closed session as per Section 84-1410 of the Nebraska Revised Statutes. A current agenda is on file at City Hall, 2500 14 Street, Columbus, Nebraska. For more information, call 402-562-4224 or visit our website at [www.columbusne.us](http://www.columbusne.us).

{{Name: Agenda Item Name}}

**1. Statement of Compliance with Open Meetings Act and roll call.**

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**NEBRASKA OPEN MEETINGS ACT**

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**84-1407. Act, how cited.**

Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

**Source:** Laws 2004, LB 821, § 34.

**84-1408. Declaration of intent; meetings open to public.**

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

**Source:** Laws 1975, LB 325, § 1; Laws 1996, LB 900, § 1071; Laws 2004, LB 821, § 35.

**Annotations**

- Nebraska's public meetings laws do not apply to school board deliberations pertaining solely to disputed adjudicative facts. *McQuinn v. Douglas Cty. Sch. Dist. No. 66*, 259 Neb. 720, 612 N.W.2d 198 (2000).
- The primary purpose of the public meetings law is to ensure that public policy is formulated at open meetings. *Marks v. Judicial Nominating Comm.*, 236 Neb. 429, 461 N.W.2d 551 (1990).
- The public meetings law is broadly interpreted and liberally construed to obtain the objective of openness in favor of the public, and provisions permitting closed sessions must be narrowly and strictly construed. *Grein v. Board of Education of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- A county board of equalization is a public body whose meetings shall be open to the public. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

**84-1409. Terms, defined.**

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders, and (iii) the Judicial Resources Commission or subcommittees or subgroups of the commission;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

**Source:** Laws 1975, LB 325, § 2; Laws 1983, LB 43, § 1; Laws 1989, LB 429, § 42; Laws 1989, LB 311, § 14; Laws 1992, LB 1019, § 124; Laws 1993, LB 635, § 1; Laws 1996, LB 1044, § 978; Laws 1997, LB 798, § 37; Laws 2004, LB 821, § 36; Laws 2007, LB296, § 810; Laws 2011, LB366, § 2; Laws 2021, LB83, § 11; Laws 2022, LB922, § 12.

**Operative Date: July 21, 2022**

#### **Annotations**

- A township is a political subdivision, and as such, a township board is subject to the provisions of the public meetings laws. *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- A county agricultural society is a public body to which the provisions of the Nebraska public meetings law are applicable. *Nixon v. Madison Co. Ag. Soc'y*, 217 Neb. 37, 348 N.W.2d 119 (1984).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of

having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).

- Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- Although the Open Meetings Act does not define "subcommittee," a subcommittee is generally defined as a group within a committee to which the committee may refer business. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- The Open Meetings Act does not require policymakers to remain ignorant of the issues they must decide until the moment the public is invited to comment on a proposed policy. By excluding nonquorum subgroups from the definition of a public body, the Legislature has balanced the public's need to be heard on matters of public policy with a practical accommodation for a public body's need for information to conduct business. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- As an administrative agency of the county, a county board of equalization is a public body. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- The electors of a township at their annual meeting are a public body under the Open Meetings Act. *State ex rel. Newman v. Columbus Township Bd.*, 15 Neb. App. 656, 735 N.W.2d 399 (2007).
- The meeting at issue in this case was a "meeting" within the parameters of subsection (2) of this section because it involved the discussion of public business, the formation of tentative policy, or the taking of any action of the public power district. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).
- Informational sessions in which the governmental body hears reports are briefings. *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (1993).

**84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.**

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

**Source:** Laws 1975, LB 325, § 3; Laws 1983, LB 43, § 2; Laws 1985, LB 117, § 1; Laws 1992, LB 1019, § 125; Laws 1994, LB 621, § 1; Laws 1996, LB 900, § 1072; Laws 2004, LB 821, § 37; Laws 2004, LB 1179, § 1; Laws 2006, LB 898, § 1; Laws 2011, LB390, § 29; Laws 2012, LB995, § 17.

**Annotations**

- There is no absolute discovery privilege for communications that occur during a closed session. *State ex rel. Upper Republican NRD v. District Judges*, 273 Neb. 148, 728 N.W.2d 275 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- The public interest mentioned in this section is that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities. *Grein v. Board of Education*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Hearing in closed executive session was contrary to this section since there was no showing of necessity or reason under subdivision (1)(a), (b), or (c), but did not result in reversal of board decision. *Simonds v. Board of Examiners*, 213 Neb. 259, 329 N.W.2d 92 (1983).
- Negotiations for the purchase of land need not be conducted at an open meeting but the deliberations of a city council as to whether an offer to purchase real estate

should be made should take place in an open meeting. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).

- Public meeting law was not violated where the Board of Regents of the University of Nebraska voted to hold a closed session to consider the university president's resignation, and also discussed the appointment of an interim president during such session. *Meyer v. Board of Regents*, 1 Neb. App. 893, 510 N.W.2d 450 (1993).

**84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual conferencing authorized; requirements; emergency meeting without notice; appearance before public body.**

(1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or

(B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or

(ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

(xii) A regional metropolitan transit authority; and

(xiii) A natural resources district.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a

recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the

public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413.

(8) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (2)(a) of this section may hold a meeting by virtual conferencing if:

(a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body;

(b) No action is taken by the public body at the virtual meeting; and

(c) The public body complies with subdivisions (2)(b)(i) and (2)(b)(ii) of this section.

**Source:** Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1; Laws 2017, LB318, § 1; Laws 2019, LB212, § 5; Laws 2020, LB148, § 3; Laws 2021, LB83, § 12; Laws 2022, LB742, § 1; Laws 2022, LB908, § 1; Laws 2022, LB922, § 13.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB742, section 1, with LB908, section 1, and LB922, section 13, to reflect all amendments.

**Note:** Changes made by LB742 and LB908 became effective July 21, 2022. Changes made by LB922 became operative July 21, 2022.

### **Cross References**

- **Intergovernmental Risk Management Act**, see section 44-4301.
- **Interlocal Cooperation Act**, see section 13-801.
- **Joint Public Agency Act**, see section 13-2501.

- **Municipal Cooperative Financing Act**, see section 18-2401.

#### **Annotations**

- Under subsection (1) of this section, the Legislature has imposed only two conditions on the public body's notification method of a public meeting: (1) It must give reasonable advance publicized notice of the time and place of each meeting and (2) it must be recorded in the public body's minutes. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- An emergency is "(a)ny event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition." *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- An agenda which gives reasonable notice of the matters to be considered at a meeting of a city council complies with the requirements of this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- When notice is required, a notice of a special meeting of a city council posted in three public places at 10:00 p.m. on the day preceding the meeting is not reasonable advance publicized notice of a meeting as is required by this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Teacher waived right to object to lack of public notice in board of education employment hearing by voluntary participation in the hearing without objection. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- A county board of commissioners and a county board of equalization are not required to give separate notices when the notice states only the time and place that the boards meet and directs a citizen to where the agendas for each board can be found. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- A county board of equalization is a public body which is required to give advanced publicized notice of its meetings. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Notice of recessed and reconvened meetings must be given in the same fashion as the original meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- True notice of a meeting is not given by burying such in the minutes of a prior board proceeding. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- An agenda notice which merely stated "work order reports" was an inadequate notice under this section because it did not give interested persons knowledge that plans for a 345 kv transmission line through the district was going to be discussed and voted upon at the meeting. Inadequate agenda notice under this section meant there was a substantial violation of the public meeting laws; however, later actions by the board of directors cured the defects in notice, and such actions were in substantial compliance with the statute. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

**84-1412. Meetings of public body; rights of public; public body; powers and duties.**

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the instate location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

**Source:** Laws 1975, LB 325, § 5; Laws 1983, LB 43, § 4; Laws 1985, LB 117, § 2; Laws 1987, LB 324, § 5; Laws 1996, LB 900, § 1073; Laws 2001, LB 250, § 2; Laws 2004, LB 821, § 39; Laws 2006, LB 898, § 3; Laws 2008, LB962, § 1; Laws 2021, LB83, § 13.

**Annotations**

- To preserve an objection that a public body failed to make documents available at a public meeting as required by subsection (8) of this section, a person who attends a public meeting must not only object to the violation, but must make that objection to the public body or to a member of the public body. *Stoetzel & Sons v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003).

**84-1413. Meetings; minutes; roll call vote; secret ballot; when; agenda and minutes; required on website; when.**

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written or kept as an electronic record and shall be available for inspection within ten working days or prior to the next convened meeting, whichever occurs

earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing or keeping the minutes is absent due to a serious illness or emergency.

(6) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public website the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the website at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the website at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public website for at least six months.

**Source:** Laws 1975, LB 325, § 6; Laws 1978, LB 609, § 3; Laws 1979, LB 86, § 9; Laws 1987, LB 663, § 26; Laws 2005, LB 501, § 1; Laws 2009, LB361, § 3; Laws 2015, LB365, § 2; Laws 2016, LB876, § 1; Laws 2021, LB83, § 14; Laws 2022, LB742, § 2.

**Effective Date: July 21, 2022**

**Annotations**

- If a person present at a meeting observes and fails to object to an alleged public meetings laws violation in the form of a failure to conduct rollcall votes before taking actions on questions or motions pending, that person waives his or her right to object at a later date. *Hauser v. Nebraska Police Stds. Adv. Council*, 264 Neb. 944, 653 N.W.2d 240 (2002).
- Subsection (2) of this section does not require the record to state that the vote was by roll call, but requires only that the record show if and how each member voted. Neither does the statute set a time limit for recording the results of a vote, after which no corrections of the record can be made. If no intervening rights of third persons have arisen, a board of county commissioners has power to correct the record of the proceedings had at a previous meeting so as to make them speak the truth, particularly where the correction supplies some omitted fact or action and is done not to contradict or change the original record but to have the record show that a certain action was taken or thing done, which the original record fails to show. *State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W.2d 652 (1983).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943,

and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).

- There is no requirement that a public body make a record of where notice was published or posted. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

**84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.**

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

**Source:** Laws 1975, LB 325, § 9; Laws 1977, LB 39, § 318; Laws 1983, LB 43, § 5; Laws 1992, LB 1019, § 126; Laws 1994, LB 621, § 2; Laws 1996, LB 900, § 1074; Laws 2004, LB 821, § 40; Laws 2006, LB 898, § 4.

**Annotations**

- The Legislature has granted standing to a broad scope of its citizens for the very limited purpose of challenging meetings allegedly in violation of the Open Meetings Act, so that they may help police the public policy embodied by the act. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010).

- Any citizen of the state may commence an action to declare a public body's action void. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- The reading of ordinances constitutes a formal action under subsection (1) of this section. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- Under the Public Meetings Act, a county lacks capacity to maintain an action to declare its official conduct "void" for noncompliance with the act. *County of York v. Johnson*, 230 Neb. 403, 432 N.W.2d 215 (1988).
- When a petitioner under this section is successful in the district court, that court may allow attorney fees. *Tracy Corp. II v. Nebraska Pub. Serv. Comm.*, 218 Neb. 900, 360 N.W.2d 485 (1984).
- Informal discussions between the Tax Commissioner and the State Board of Equalization in which instructions were clarified, with such clarification leading to the amendment of hearing notices, did not constitute a public meeting subject to the provisions of this section. *Box Butte County v. State Board of Equalization and Assessment*, 206 Neb. 696, 295 N.W.2d 670 (1980).
- The right to collaterally attack an order made in contravention of the Public Meeting Act must occur within a period of one year as is specifically provided by this section. *Witt v. School District No. 70*, 202 Neb. 63, 273 N.W.2d 669 (1979).
- Statutory change, requiring "publicized notice" for board of education employment hearings, occurring between dates meeting scheduled and conducted, held not to void proceedings. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. Once a meeting has been declared void pursuant to Nebraska's public meetings law, board members are prohibited from considering any information obtained at the illegal meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Actions by the board of directors were merely voidable under this section, and not void. Pursuant to subsection (3) of this section, the plaintiffs were awarded partial attorney fees because they were successful in having the court declare that the board of directors was in substantial violation of the statute, even though the plaintiffs did not get the relief requested of having the board's actions declared void. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

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Source: [http://nebraskalegislature.gov/laws/display\\_html.php?begin\\_section=84-1407&end\\_section=84-1414](http://nebraskalegislature.gov/laws/display_html.php?begin_section=84-1407&end_section=84-1414)

Date: July 2022

**2. Minutes of August 14, 2023, meeting.**

PLANNING COMMISSION  
August 14, 2023

A meeting of the Planning Commission of the City of Columbus, Nebraska, was convened in open and public session on August 14, 2023, at 6 p.m. in the Community Building, Community Room, 2500 14 Street, Columbus, Nebraska.

Notice of this meeting was given in advance thereof by publication in the Columbus Telegram on July 26, 2023, with a copy of the proof of publication being on file in the office of the city clerk. Availability of the agenda was communicated in the advance notice and in the notice to the mayor, members of the city council, and members of the planning commission of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the public.

1. **Statement of Compliance with Open Meetings Act and Roll Call:** Chair Pillen announced that a copy of the Open Meetings Act is available at this meeting. Present were members, Steve Anderson, Robbin Cutsor, Melissa Goc, Josh Mueller, and Tom Pillen. Bob Elsasser and Fernando Lopez Jr. were absent and excused. Colleen Bray and Tom Lange were absent. City staff members included City Attorney Gene Schumacher, City Engineer Rick Bogus, and Assistant City Clerk Kelli Keyes.
2. **Minutes of July 10, 2023, meeting:** The minutes were approved as presented with a motion by Anderson and a second by Mueller. Anderson, Cutsor, Goc, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Elsasser, Lange, and Lopez were absent.
3. **Public Hearing - Application of James Ferguson for preliminary plat of Deerfield Park Townhouse 2nd Subdivision (38 Street east of 26 Avenue). Applicant has requested this public hearing be continued to September meeting. (Continued from the July 10, 2023, meeting.):** The public hearing was continued to September 11, 2023, at 6 p.m. with a motion by Mueller and a second by Goc. Anderson, Cutsor, Goc, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Elsasser, Lange, and Lopez were absent.
4. **Public hearing - Application of James Ferguson for final plat of Deerfield Park Townhouse 2nd Subdivision (38 Street east of 26 Avenue). Applicant has requested this public hearing be continued to September meeting. (Continued from the July 10, 2023, meeting.):** The public hearing was continued to September 11, 2023, at 6 p.m. with a motion by Anderson and a second by Mueller. Anderson, Cutsor, Goc, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Elsasser, Lange, and Lopez were absent.
5. **Building report for July 2023:** The building report was presented.

**6. Adjournment:** The meeting adjourned at 6:04 p.m.

OFFICE OF THE CITY CLERK

: Kelli Keyes

- 3. Public hearing - Application of James Ferguson for preliminary plat of Deerfield Park Townhouse 2nd Subdivision (38th Street east of 26th Avenue). (Continued from the August 14, 2023, meeting.)**

**From:** [Whiting, Renee](#)  
**To:** [Bogus, Richard](#); [Kline, Janelle](#)  
**Subject:** FW: Deerfield Park Townhouse Second Subdivision - Remove from Agenda  
**Date:** Friday, July 7, 2023 4:56:09 PM

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**From:** Clark Grant <Clark@grantattorney.com>  
**Sent:** Friday, July 7, 2023 4:53 PM  
**To:** Clark's assistant <assistant@grantattorney.com>; Whiting, Renee <Renee.Whiting@columbusne.us>  
**Subject:** RE: Deerfield Park Townhouse Second Subdivision

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is SAFE.

Renee,

Tremel Surveying will not be able to complete the additional work before Monday. We would like to remove these applications from the agenda for Monday. We are hoping to have things ready by the August meetings.

**Clark J. Grant**

Attorney at Law  
1464 27th Avenue  
Columbus, NE 68601  
(402) 564-3274  
[clark@grantattorney.com](mailto:clark@grantattorney.com)

\*\*\* Proof of Publication \*\*\*

Newspaper: COLUMBUS TELEGRAM

STATE OF NEBRASKA)  
County of Platte ) SS.

CITY OF COLUMBUS, NE

PO BOX 1677  
COLUMBUS, NE 68602

ORDER NUMBER 1167460

NOTICE OF HEARING  
TO ALL PARTIES IN  
INTEREST AND  
CITIZENS OF  
COLUMBUS, NEBRASKA  
You are hereby notified that  
a public hearing before the  
Planning Commission of the  
City of Columbus, NE, will  
be held on Monday, July 10,  
2023, at 7 p.m. in the  
Council Chambers, 2500 14  
St, Columbus, NE, on the  
preliminary plat of Deerfield  
Park Townhouse 2nd Sub-  
division, a parcel of land  
located in Lots 1 through 9,  
Deerfield Park Townhouse  
Addition to the City of  
Columbus, Platte County,  
NE (38 St east of 26 Ave)  
and at said time and place  
you may appear and be  
heard.  
CITY OF COLUMBUS, NE  
Janelle Kline,  
City Clerk  
June 29, 2023  
ZNEZ

The undersigned, being duly sworn, deposes and says she/he is a Clerk of the Columbus Telegram, a legal newspaper printed and published daily Tuesday-Saturday in Platte County, State of Nebraska and of general circulation in Platte County; that said newspaper has a bona fide circulation published within said county for more than 52 successive weeks immediately prior to the first date of the published notice, and is produced in an office maintained at the place of publication.

This affidavit is a true and correct copy of notice which appeared in said newspaper. The notice was

Section: Class Legals  
Category: 0099 LEGALS  
PUBLISHED ON: 06/29/2023

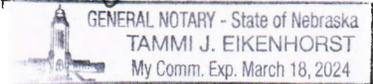
TOTAL AD COST: 13.16  
FILED ON: 6/29/2023

Clerk of the Columbus Telegram,

Printed name Chris Show  
Signature Chris Show Date 6/29/23

Subscribed and sworn to before me this  
June 29, 20 23

Tammi J. Eikenhorst Notary Public



NOTICE OF HEARING  
TO ALL PARTIES IN INTEREST AND CITIZENS OF  
COLUMBUS, NEBRASKA

You are hereby notified that a public hearing before the Planning Commission of the City of Columbus, NE, will be held on Monday, August 14, 2023, at 6 p.m. in the Columbus Community Building, Community Room, 2500 14 St, Columbus, NE, on the preliminary plat of Deerfield Park Townhouse 2nd Subdivision, a parcel of land located in Lots 1-9, Deerfield Park Townhouse Addition to the City of Columbus, Platte County, NE (38 St east of 26 Ave) and at said time and place you may appear and be heard.

CITY OF COLUMBUS, NE  
Janelle Kline, City Clerk

Publish: 08:03:23  
Two Affidavits of Publication

The City of **Columbus**

**MEMORANDUM**

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**DATE:** July 5, 2023  
**FROM :** Richard J. Bogus, City Engineer  
**TO:** Tara Vasicek, City Administrator  
**RE:** Deerfield Park Townhouse 2<sup>nd</sup> Subdivision – Preliminary Plat

**RECOMMENDATION:**

I recommend the approval of the preliminary plat of Deerfield Park Townhouse 2<sup>nd</sup> Subdivision as it is amenable with the adjacent land use, and is in accordance with the Unified Land Development Ordinance.

**DISCUSSION:**

The subdivision divides the 9 lots of Deerfield Park Townhouse Addition into 18 lots for purposes of building additional number of townhomes. The lots west of this subdivision, Deerfield Park 1<sup>st</sup> Subdivision, Lots 10 and 11 were split into 4 lots for this purpose as a minor plat. Each townhome will have separate water and sewer service lines.

**FISCAL IMPACT:**

None.

**ALTERNATIVE:**

Do not approve.

**SIGNATURE:**

By: Richard J. Bogus

Approved By: [Signature]

**MAJOR APPLICATION  
FOR SUBDIVISION OR ADDITION  
PRELIMINARY PLAT / FINAL  
(CIRCLE ONE)**

DATE: \_\_\_\_\_

NAME OF SUBDIVISION: \_\_\_\_\_

NAME OF PROPERTY OWNER: \_\_\_\_\_

**CONTACT INFORMATION:**

NAME OF REPRESENTATIVE OR PROPERTY OWNER: \_\_\_\_\_

ADDRESS OF REPRESENTATIVE OR PROPERTY OWNER: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

REPRESENTATIVE OR PROPERTY OWNER E-MAIL: \_\_\_\_\_

NUMBER OF LOTS IN SUBDIVISION: \_\_\_\_\_

ADDRESS OF SUBDIVISION: \_\_\_\_\_

I hereby apply for a Major Subdivision / Addition and have paid \$300.00 application fee plus additional lot review fees - Preliminary Plats will be \$20 per lot and Final Plats will be \$15 per lot.



\_\_\_\_\_  
Owner or Owner's Representative

\_\_\_\_\_  
Attorney / Legal Counsel for Applicant

Development Agreement submitted on: \_\_\_\_\_

City Attorney

Neal Valorz – [nvalorz@1492law.com](mailto:nvalorz@1492law.com)

Gene G. Schumacher – [gschum@1492law.com](mailto:gschum@1492law.com)

# MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS

## UNIFIED LAND DEVELOPMENT ORDINANCE

### 3-4 Major Subdivisions

#### a. Applicability

The Major Subdivision procedures apply to all subdivisions which are not approved or eligible for approval under the Administrative or Minor Subdivision procedures.

#### b. Stages in the Approval Process

The approval process for Major Subdivisions consists of three stages: the pre-application stage, the preliminary plat approval stage, and the final plat approval stage. The preliminary plat stage and final plat stage may occur concurrently.

#### c. Pre-Application Procedures

1. Before filing an application for preliminary plat approval, the applicant shall meet with the Administrative Official and representatives of the Planning Commission regarding general requirements and issues relating to the proposed subdivision.
  1. Pre-application meetings will be held on the second Wednesday morning following the first Monday of each month. Applicants must make a written request for a pre-application meeting prior to the first Wednesday following the first Monday of each month.
2. Three days prior to the pre-application meeting, the applicant shall submit an approved electronic format concept plan. The concept plan shall include:
  - (a) An aerial location map showing the relationship of the proposed subdivision to existing and proposed streets, public facilities, special flood hazard areas, waters of the US, wetlands, airport runway protection zones (if applicable) and any other features or areas which may affect the development.
  - (b) A schematic plan illustrating the proposed layout of streets, lots, blocks, public utilities, stormwater treatment facilities and other features and their relationship to existing and proposed site topography for the total proposed development area.
3. Within ten working days of the pre-application meeting, the Administrative Official shall inform the applicant of the consistency of the concept plan with the objectives and policies of the city's Comprehensive Development and Long Range Transportation Plan and Unified Land Development Ordinance.

## MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS UNIFIED LAND DEVELOPMENT ORDINANCE

4. The pre-application meeting does not require a formal application or payment of a fee.

### d. Preliminary Plat Application

1. Application Requirements

After the pre-application meeting, the applicant shall prepare and submit an application for preliminary plat approval. The application for preliminary plat approval shall be submitted electronically through the City's website application submittal platform. The application shall consist of a form established by the Engineering Department; the supporting documents required for Major Subdivisions in Table 3-1; a commitment to enter into a subdivision agreement set forth in paragraph 2 hereinafter; a Certificate of Title prepared by a State of Nebraska Licensed Registered Abstractor verifying the ownership of said property, all lienholders and real estate tax payment status; and payment of a fee, the amount of which shall be determined by the City Council. Upon receipt of all items required for said application as set forth herein, the application shall be placed on the next available Planning Commission Agenda.

2. Draft Development Agreement

The preliminary plat application shall include a draft of a development agreement provided by the Administrative Official following a format established by the Engineering Department. The development agreement establishes the mutual responsibilities of City and subdivider, including financing of public improvements; the nature of performance bonds and guarantees that the developer will offer; and the maximum amount of bonded indebtedness to be incurred if public improvements are financed through an Improvement District as provided in State Law.

3. Preliminary Plat Review Procedure

- (a) After submission of a complete application for a preliminary plat, the Administrative Official and staff shall review the application. As part of the review, the developer will circulate the application to local utilities, the school district in which the subdivision is located, public safety agencies, and any other applicable provider of public services. The Developer shall furnish the Administrative Official with proof that a copy of the preliminary plat was delivered to the affected school district and local utilities.
- (b) The applicant will be allowed time to provide additional information after staff review of the Preliminary Plat Application. Such additional information must be provided a minimum of 10 calendar days before the Planning Commission Meeting. Failure to provide the required additional information may result in the application being continued to a future meeting.

## MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS UNIFIED LAND DEVELOPMENT ORDINANCE

(c ) The Administrative Official shall submit a written recommendation for action to the Planning Commission.

#### 4. Planning Commission and City Council Action

(a) The Planning Commission, following at least ten days published notice, shall hold a public hearing on each Major Subdivision and, following such public hearing, shall take action on the application. The Planning Commission may recommend approval, conditional approval, or denial of the preliminary plat to the City Council.

(b) Following action by the Planning Commission, the Commission shall submit minutes summarizing the Commission's action to the City Council.

(c) The City Council, upon receipt of the recommendation of the Planning Commission, shall take action on the application.

(d) Approval of a preliminary plat by the City Council shall not constitute approval of a final plat. The approval shall be considered an expression of conditional approval to guide the preparation of a final plat, to be considered subsequently by approving authorities. The preliminary approval shall confer upon the applicant the following rights:

(1)The general terms and conditions under which the plat was approved will not change.

(2) The applicant may submit for approval a final plat for the whole or a part of the preliminary plat on or before the expiration date of the preliminary approval.

(3) The preliminary plat approval shall stay in force for a period of two years from the date of approval by the City Council. The City Council may, at its discretion, establish a longer effective date for the preliminary plat approval. The City Council also may grant extensions to the effective period of a preliminary plat.

(4) Phased Subdivisions: The final plat may be submitted in phases. The initial phase of the final plat must be submitted according to the effective dates established in Section (3) above. In the event of a phased subdivision if indicated by the Developer at the time of submission and included in the initial phase Development Agreement, the initial preliminary plat approval remains effective for a period not to exceed five years, unless otherwise extended by the City Council.

#### e. Final Plat Application Process

##### 1. Application Requirements

## MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS UNIFIED LAND DEVELOPMENT ORDINANCE

The applicant shall prepare and submit an application for final plat approval within two years of the preliminary plat approval unless an extension has been granted by the City Council. The application for final plat approval shall be submitted through the City's website application submittal platform. Upon receipt of all items required for said application as set forth herein, the application shall be placed on the next available Planning Commission Agenda. In order to attempt for the final application to be considered the next month after the preliminary plat obtained approval, the application submittal shall be at least nineteen (19) calendar days before the Planning Commission meeting. Meeting this submittal deadline does not guarantee placement on the next Planning Commission Agenda as it is subject to receipt of all items. The application shall consist of a form established by the Engineering Department; the supporting documents required for Final Plat Approval of Major Subdivisions Table 3-1; a final subdivision agreement as required by paragraph 2 hereinafter; a final plat of all lots, blocks and parcels that are affected by the application prepared by a State of Nebraska Licensed Surveyor, and payment of a fee, the amount of which shall be determined by the City Council. Upon receipt of all items required for said application as set forth herein, the application shall be placed on the Planning Commission Agenda. The applicant shall notify the Board of Education of each school district in which the subdivision is located of the Planning Commission meeting at which such plat is to be considered and shall further submit a copy of the proposed final plat to the Board of Education at least ten days prior to such meeting. The developer shall furnish the Administrative Official with proof that a copy of the final plat was delivered.

### 2. Final Development Agreement

The Final Plat application shall include the Final Development Agreement to be executed between the City and the applicant. The terms of this agreement shall be acted upon with the action on the Final Plat. The developers attorney shall work with the City's attorney to obtain approval. Developer signature of the Final Development Agreement must be obtained and to the City no later than 6 calendar days prior to the Planning Commission meeting acting on the Final Plat.

### 3. Final Plat Review Procedures

- (a) After submission of a complete application for a final plat, the Administrative Official and staff shall review the application. This includes the mutual approval of the final development agreement between the developers attorney and city attorney, including the developers signature and notary, resolution and deed of dedication.
- (b) The applicant will be allowed time to provide additional information after staff review of the Final Plat Application. Such additional information must be provided 10 calendar days before the Planning Commission Meeting. Failure to provide the required additional information may result in the application being continued to a future meeting.
- (c) The Administrative Official shall submit a written recommendation for action to the Planning Commission.

### 4. Performance Bond

## MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS UNIFIED LAND DEVELOPMENT ORDINANCE

The development agreement shall specify the amount of the performance bond for public improvements to be filed prior to receiving final plat approval or, alternatively, shall contain a statement that required improvements have been satisfactorily completed. The performance bond, if required, must be presented in a form satisfactory to the City Attorney prior to final approval of the subdivision.

### 5. Resolution and Deed of Dedication

The applicant shall be responsible for preparing and furnishing in proper form a Resolution approving said final plat for execution by the City, and if said Addition is being brought into the corporate limits of the City or includes any dedication of public right-of-way or easements, said applicant shall prepare and furnish in proper form a Deed of Dedication for said Addition, along with a Resolution accepting the same, for execution by the City.

### 6. Final Plat Approval

(a) The Planning Commission, following transmittal of the written recommendation of the Administrative Official, shall hold a public hearing to review the final plat for consistency with the approved preliminary plat and for compliance with the Unified Land Development Ordinance and other applicable local, state or federal statutes and regulations. Unless the Planning Commission agrees to recommend approval of said plat subject to contingencies, all deficiencies or contingencies or changes identified through the Preliminary Plat approval process are required to be made prior to the Planning Commission Meeting or need to be addressed in the Subdivision Agreement. If the final plat meets all requirements of the Unified Land Development Ordinance, has satisfied all requirements of the Engineering Department, has met the conditions, if any, upon which preliminary plat approval was based and is substantially consistent with the terms of the preliminary plat approval, the Commission shall have no recourse but to recommend approval of the final plat. If the Planning Commission finds in its review that the submitted final plat is not substantially consistent with the preliminary plat, it shall take action to recommend approval or denial to the City Council.

(b) Following such public hearing, the Commission shall submit minutes on the final plat to the City Council. If said addition is adjoining or contiguous to the corporate limits, then following said public hearing, the Planning Commission shall hold a separate public hearing for which at least ten days published notice must be given, on the inclusion of the addition within the corporate limits. Following such public hearing, the Planning Commission shall take action to recommend approval or denial thereof to the City Council.

(c) The City Council, following at least ten days published notice, shall hold a public hearing on each final plat and on the development agreement. Following such public hearing shall take final action by way of resolution on the application. Any contingencies, deficiencies or changes attached to the preliminary plat approval and/or requirements of the Engineering Department must be completed prior to the final plat

## MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS UNIFIED LAND DEVELOPMENT ORDINANCE

approval. If said addition is adjoining or contiguous to the corporate limits, then following said public hearing on the final plat, if the final plat is approved, the City Council shall hold a separate public hearing for which at least ten days published notice has been given, on the inclusion of the addition within the corporate limits. Following such public hearing, the City Council shall take final action by way of resolution.

(d) The City Council is further empowered to grant waivers of a section of the Subdivision Chapter after a waiver request has received a recommendation from the Planning Commission.

### f. Filing the Final Plat

- a. Following City Council approval of a Final Plat that received a prior recommendation from the Planning Commission, the Chair of the Planning Commission and the Mayor of the City of Columbus shall sign the final plat which shall be a reproducible mylar of the subdivision plat.
  - b. Applicant shall provide an electronic version of the final plat in an approved electronic format within four calendar day of the City Council approval.
  - c. Applicant shall provide the City a complete signed original, reproducible final plat within fourteen (14) calendar days of City Council approval.
4. The subdivider must file the plat with the Platte County Register of Deeds along with all applicable covenants and other documents within 90 calendar days of the execution of the plat by the Chair of the Planning Commission and the Mayor in accordance with state statute.

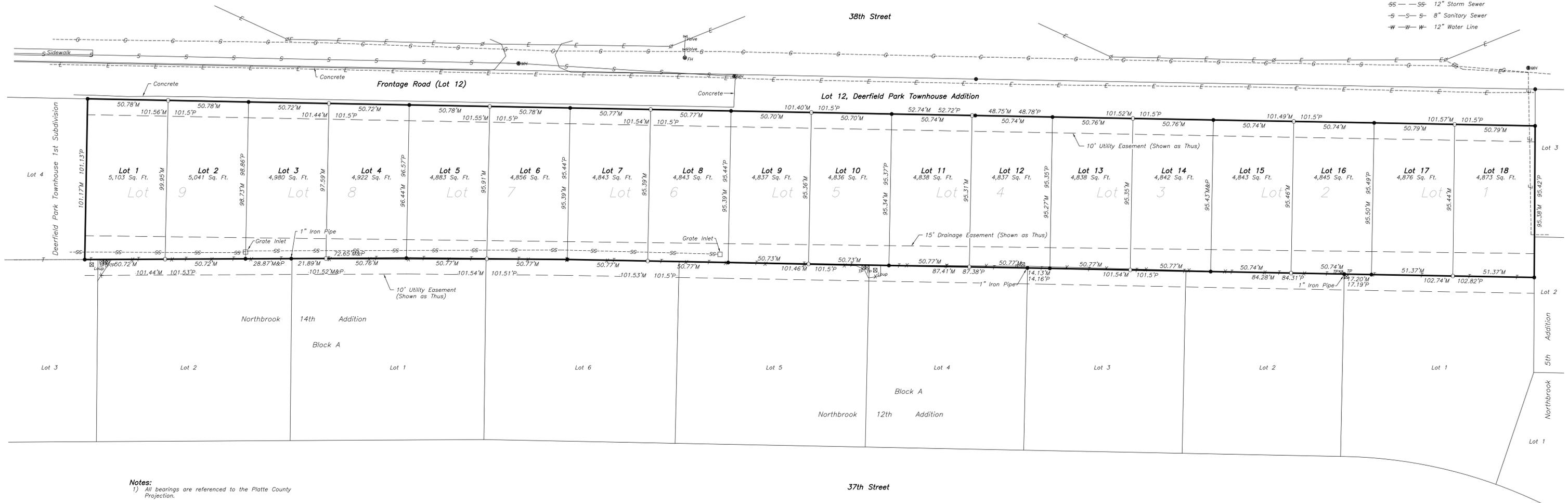
**Owner:**  
Ferguson Properties Inc.  
3154 18th Avenue #9  
Columbus, NE 68601  
(402) 563-0199

**Surveyor:**  
Thomas A. Tremel  
Tremel Surveying Inc.  
#1 Driftwood Drive  
Columbus, NE 68601

**PRELIMINARY PLAT**  
**DEERFIELD PARK TOWNHOUSE 2ND SUBDIVISION**  
**OF LOTS 1-9 OF DEERFIELD PARK TOWNHOUSE ADDITION**  
**TO THE CITY OF COLUMBUS, PLATTE COUNTY, NEBRASKA**



- LEGEND-**
- Found 5/8" Rebar w/ Plastic Survey Cap (Unless Otherwise Noted)
  - Set 5/8" x 24" Rebar w/ Plastic Survey Cap
  - M Measured This Survey
  - P Plat Distance
  - ⊕ Valve
  - ⊕ Power Pole
  - MH Manhole
  - E—E—E— Overhead Electric
  - X—X—X— Fence
  - T—T—T— Underground Telephone
  - E—E—E— Underground Electric
  - G—G—G— Underground Gas
  - SS—SS—SS— 12" Storm Sewer
  - S—S—S— 8" Sanitary Sewer
  - W—W—W— 12" Water Line



**Notes:**  
1) All bearings are referenced to the Platte County Projection.  
2) Present and the proposed zoning is GR.  
3) This property is shown on FIRM Map, No. 3114100330E, Effective Date: April 19, 2010. Located in Flood Plain Zone X.

**Description:**  
Lots 1-9, Deerfield Park Townhouse Addition to the City of Columbus, Platte County, Nebraska.

**Surveyor's Statement:**  
I, Thomas A. Tremel, a Registered Land Surveyor in the State of Nebraska, hereby state that this survey was conducted as per state law under my direct supervision and is correct to the best of my knowledge and belief.

*Thomas A. Tremel*  
Thomas A. Tremel, L.S. #455  
March 3, 2023



**PLANNING COMMISSION:**  
This Preliminary Plat of Deerfield Park Townhouse 2nd Subdivision to the City of Columbus, Platte County, Nebraska, was approved by the Planning Commission on

Day of \_\_\_\_\_  
Chairman

**CITY COUNCIL:**  
This Preliminary Plat of Deerfield Park Townhouse 2nd Subdivision to the City of Columbus, Platte County, Nebraska, was approved by the City Council on

Day of \_\_\_\_\_  
Mayor City Clerk

**Utilities:**  
Call 800.642.8434 for the actual location of the utilities before digging.  
No Privated Utilities were located unless otherwise shown.  
Water/Sewer - City of Columbus (As shown)  
Gas - Black Hills Energy (As shown)  
Cable TV - Spectrum (Clear/No Conflict)  
Telephone - Frontier Communications (Clear/No Conflict)  
Telephone - Allo Communications LLC (As shown)  
Electric - Loup River Public Power District (As Shown)

**PRELIMINARY PLAT**

DEERFIELD PARK TOWNHOUSE 2ND SUBD. LOTS 1-9, DEERFIELD PK TOWNHOUSE ADD COLUMBUS, PLATTE COUNTY, NEBRASKA			
TMT DRAWN	TMT/CJN SURVEYED	02/27/2023 DATE	
No. 1 Driftwood Drive - Columbus, NE 68601 Phone (402) 563-4589 - Fax (402) 563-3922			

**4. Public hearing - Application of James Ferguson for final plat of Deerfield Park  
Townhouse 2nd Subdivision (38th Street east of 26th Avenue). (Continued from the  
August 14, 2023, meeting.)**

**From:** [Whiting, Renee](#)  
**To:** [Bogus, Richard](#); [Kline, Janelle](#)  
**Subject:** FW: Deerfield Park Townhouse Second Subdivision - Remove from Agenda  
**Date:** Friday, July 7, 2023 4:56:09 PM

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**From:** Clark Grant <Clark@grantattorney.com>  
**Sent:** Friday, July 7, 2023 4:53 PM  
**To:** Clark's assistant <assistant@grantattorney.com>; Whiting, Renee <Renee.Whiting@columbusne.us>  
**Subject:** RE: Deerfield Park Townhouse Second Subdivision

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is SAFE.

Renee,

Tremel Surveying will not be able to complete the additional work before Monday. We would like to remove these applications from the agenda for Monday. We are hoping to have things ready by the August meetings.

**Clark J. Grant**

Attorney at Law  
1464 27th Avenue  
Columbus, NE 68601  
(402) 564-3274  
[clark@grantattorney.com](mailto:clark@grantattorney.com)

\*\*\* Proof of Publication \*\*\*

Newspaper: COLUMBUS TELEGRAM

STATE OF NEBRASKA)  
County of Platte ) SS.

CITY OF COLUMBUS, NE

PO BOX 1677  
COLUMBUS, NE 68602

ORDER NUMBER 1167464

NOTICE OF HEARING TO  
ALL PARTIES IN  
INTEREST AND CITIZENS  
OF COLUMBUS,  
NEBRASKA

You are hereby notified that a public hearing before the Planning Commission of the City of Columbus, NE, will be held on Monday, July 10, 2023, at 7 p.m. in the Council Chambers, 2500 14 St, Columbus, NE, on the final plat and development agreement Deerfield Park Townhouse 2nd Subdivision, a parcel of land located in lots 1-9, Deerfield Park Townhouse Addition to the City of Columbus, Platte County, NE, containing 18 Lots, (38 St and east of 26 Ave, Columbus, Platte County, NE) and at said time and place you may appear and be heard.  
CITY OF COLUMBUS, NE  
Janelle Kline,  
City Clerk  
ZNEZ

The undersigned, being duly sworn, deposes and says she/he is a Clerk of the Columbus Telegram, a legal newspaper printed and published daily Tuesday-Saturday in Platte County, State of Nebraska and of general circulation in Platte County; that said newspaper has a bona fide circulation published within said county for more than 52 successive weeks immediately prior to the first date of the published notice, and is produced in an office maintained at the place of publication.

This affidavit is a true and correct copy of notice which appeared in said newspaper. The notice was

Section: Class Legals

Category: 0099 LEGALS

PUBLISHED ON: 06/29/2023

TOTAL AD COST: 13.63

FILED ON: 6/29/2023

Clerk of the Columbus Telegram,

Printed name

*Chun Khaw*

Signature

*Chun Khaw*

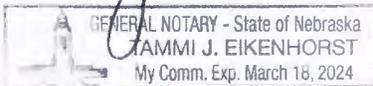
Date

*6/29/23*

Subscribed and sworn to before me this

*June 29*, 20*23*

*Tammi J. Eikenhorst* Notary Public



NOTICE OF HEARING  
TO ALL PARTIES IN INTEREST AND CITIZENS OF  
COLUMBUS, NEBRASKA

You are hereby notified that a public hearing before the Planning Commission of the City of Columbus, NE, will be held on Monday, August 14, 2023, at 6 p.m. in the Columbus Community Building, Community Room, 2500 14 St, Columbus, NE, on the final plat and development agreement Deerfield Park Townhouse 2<sup>nd</sup> Subdivision, a parcel of land located in lots 1-9, Deerfield Park Townhouse Addition to the City of Columbus, Platte County, NE, containing 18 Lots, (38 St east of 26 Ave) and at said time and place you may appear and be heard.

CITY OF COLUMBUS, NE  
Janelle Kline, City Clerk

Publish: 08:03:23  
Two Affidavits of Publication

The City of **Columbus**

**MEMORANDUM**

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**DATE:** July 5, 2023  
**FROM :** Richard J. Bogus, City Engineer  
**TO:** Tara Vasicek, City Administrator  
**RE:** Deerfield Park Townhouse 2<sup>nd</sup> Subdivision - Final Plat

**RECOMMENDATION:**

I recommend the approval of the final plat of Deerfield Park Townhouse 2<sup>nd</sup> Subdivision as it is consistent with the Preliminary Plat.

**DISCUSSION:**

The subdivision divides the 9 lots of Deerfield Park Townhouse Addition into 18 lots for purposes of building additional number of townhomes. The lots west of this subdivision, Deerfield Park 1<sup>st</sup> Subdivision, Lots 10 and 11 were split into 4 lots for this purpose as a minor plat. Each townhome will have separate water and sewer service lines.

**FISCAL IMPACT:**

None.

**ALTERNATIVE:**

Do not approve.

**SIGNATURE:**

By: Richard J. Bogus

Approved By: [Signature]

**MAJOR APPLICATION  
FOR SUBDIVISION OR ADDITION  
PRELIMINARY PLAT / FINAL**  
(CIRCLE ONE)

DATE: \_\_\_\_\_

NAME OF SUBDIVISION: \_\_\_\_\_

NAME OF PROPERTY OWNER: \_\_\_\_\_

**CONTACT INFORMATION:**

NAME OF REPRESENTATIVE OR PROPERTY OWNER: \_\_\_\_\_

ADDRESS OF REPRESENTATIVE OR PROPERTY OWNER: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

REPRESENTATIVE OR PROPERTY OWNER E-MAIL: \_\_\_\_\_

NUMBER OF LOTS IN SUBDIVISION: \_\_\_\_\_

ADDRESS OF SUBDIVISION: \_\_\_\_\_

I hereby apply for a Major Subdivision / Addition and have paid \$300.00 application fee plus additional lot review fees - Preliminary Plats will be \$20 per lot and Final Plats will be \$15 per lot.



\_\_\_\_\_  
Owner or Owner's Representative

\_\_\_\_\_  
Attorney / Legal Counsel for Applicant

Development Agreement submitted on: \_\_\_\_\_

City Attorney

Neal Valorz – [nvalorz@1492law.com](mailto:nvalorz@1492law.com)

Gene G. Schumacher – [gschum@1492law.com](mailto:gschum@1492law.com)

# MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS

## UNIFIED LAND DEVELOPMENT ORDINANCE

### 3-4 Major Subdivisions

#### a. Applicability

The Major Subdivision procedures apply to all subdivisions which are not approved or eligible for approval under the Administrative or Minor Subdivision procedures.

#### b. Stages in the Approval Process

The approval process for Major Subdivisions consists of three stages: the pre-application stage, the preliminary plat approval stage, and the final plat approval stage. The preliminary plat stage and final plat stage may occur concurrently.

#### c. Pre-Application Procedures

1. Before filing an application for preliminary plat approval, the applicant shall meet with the Administrative Official and representatives of the Planning Commission regarding general requirements and issues relating to the proposed subdivision.
  1. Pre-application meetings will be held on the second Wednesday morning following the first Monday of each month. Applicants must make a written request for a pre-application meeting prior to the first Wednesday following the first Monday of each month.
2. Three days prior to the pre-application meeting, the applicant shall submit an approved electronic format concept plan. The concept plan shall include:
  - (a) An aerial location map showing the relationship of the proposed subdivision to existing and proposed streets, public facilities, special flood hazard areas, waters of the US, wetlands, airport runway protection zones (if applicable) and any other features or areas which may affect the development.
  - (b) A schematic plan illustrating the proposed layout of streets, lots, blocks, public utilities, stormwater treatment facilities and other features and their relationship to existing and proposed site topography for the total proposed development area.
3. Within ten working days of the pre-application meeting, the Administrative Official shall inform the applicant of the consistency of the concept plan with the objectives and policies of the city's Comprehensive Development and Long Range Transportation Plan and Unified Land Development Ordinance.

## MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS UNIFIED LAND DEVELOPMENT ORDINANCE

4. The pre-application meeting does not require a formal application or payment of a fee.

### d. Preliminary Plat Application

1. Application Requirements

After the pre-application meeting, the applicant shall prepare and submit an application for preliminary plat approval. The application for preliminary plat approval shall be submitted electronically through the City's website application submittal platform. The application shall consist of a form established by the Engineering Department; the supporting documents required for Major Subdivisions in Table 3-1; a commitment to enter into a subdivision agreement set forth in paragraph 2 hereinafter; a Certificate of Title prepared by a State of Nebraska Licensed Registered Abstractor verifying the ownership of said property, all lienholders and real estate tax payment status; and payment of a fee, the amount of which shall be determined by the City Council. Upon receipt of all items required for said application as set forth herein, the application shall be placed on the next available Planning Commission Agenda.

2. Draft Development Agreement

The preliminary plat application shall include a draft of a development agreement provided by the Administrative Official following a format established by the Engineering Department. The development agreement establishes the mutual responsibilities of City and subdivider, including financing of public improvements; the nature of performance bonds and guarantees that the developer will offer; and the maximum amount of bonded indebtedness to be incurred if public improvements are financed through an Improvement District as provided in State Law.

3. Preliminary Plat Review Procedure

- (a) After submission of a complete application for a preliminary plat, the Administrative Official and staff shall review the application. As part of the review, the developer will circulate the application to local utilities, the school district in which the subdivision is located, public safety agencies, and any other applicable provider of public services. The Developer shall furnish the Administrative Official with proof that a copy of the preliminary plat was delivered to the affected school district and local utilities.
- (b) The applicant will be allowed time to provide additional information after staff review of the Preliminary Plat Application. Such additional information must be provided a minimum of 10 calendar days before the Planning Commission Meeting. Failure to provide the required additional information may result in the application being continued to a future meeting.

## MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS UNIFIED LAND DEVELOPMENT ORDINANCE

(c ) The Administrative Official shall submit a written recommendation for action to the Planning Commission.

#### 4. Planning Commission and City Council Action

(a) The Planning Commission, following at least ten days published notice, shall hold a public hearing on each Major Subdivision and, following such public hearing, shall take action on the application. The Planning Commission may recommend approval, conditional approval, or denial of the preliminary plat to the City Council.

(b) Following action by the Planning Commission, the Commission shall submit minutes summarizing the Commission's action to the City Council.

(c) The City Council, upon receipt of the recommendation of the Planning Commission, shall take action on the application.

(d) Approval of a preliminary plat by the City Council shall not constitute approval of a final plat. The approval shall be considered an expression of conditional approval to guide the preparation of a final plat, to be considered subsequently by approving authorities. The preliminary approval shall confer upon the applicant the following rights:

(1)The general terms and conditions under which the plat was approved will not change.

(2) The applicant may submit for approval a final plat for the whole or a part of the preliminary plat on or before the expiration date of the preliminary approval.

(3) The preliminary plat approval shall stay in force for a period of two years from the date of approval by the City Council. The City Council may, at its discretion, establish a longer effective date for the preliminary plat approval. The City Council also may grant extensions to the effective period of a preliminary plat.

(4) Phased Subdivisions: The final plat may be submitted in phases. The initial phase of the final plat must be submitted according to the effective dates established in Section (3) above. In the event of a phased subdivision if indicated by the Developer at the time of submission and included in the initial phase Development Agreement, the initial preliminary plat approval remains effective for a period not to exceed five years, unless otherwise extended by the City Council.

#### e. Final Plat Application Process

##### 1. Application Requirements

## MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS UNIFIED LAND DEVELOPMENT ORDINANCE

The applicant shall prepare and submit an application for final plat approval within two years of the preliminary plat approval unless an extension has been granted by the City Council. The application for final plat approval shall be submitted through the City's website application submittal platform. Upon receipt of all items required for said application as set forth herein, the application shall be placed on the next available Planning Commission Agenda. In order to attempt for the final application to be considered the next month after the preliminary plat obtained approval, the application submittal shall be at least nineteen (19) calendar days before the Planning Commission meeting. Meeting this submittal deadline does not guarantee placement on the next Planning Commission Agenda as it is subject to receipt of all items. The application shall consist of a form established by the Engineering Department; the supporting documents required for Final Plat Approval of Major Subdivisions Table 3-1; a final subdivision agreement as required by paragraph 2 hereinafter; a final plat of all lots, blocks and parcels that are affected by the application prepared by a State of Nebraska Licensed Surveyor, and payment of a fee, the amount of which shall be determined by the City Council. Upon receipt of all items required for said application as set forth herein, the application shall be placed on the Planning Commission Agenda. The applicant shall notify the Board of Education of each school district in which the subdivision is located of the Planning Commission meeting at which such plat is to be considered and shall further submit a copy of the proposed final plat to the Board of Education at least ten days prior to such meeting. The developer shall furnish the Administrative Official with proof that a copy of the final plat was delivered.

### 2. Final Development Agreement

The Final Plat application shall include the Final Development Agreement to be executed between the City and the applicant. The terms of this agreement shall be acted upon with the action on the Final Plat. The developers attorney shall work with the City's attorney to obtain approval. Developer signature of the Final Development Agreement must be obtained and to the City no later than 6 calendar days prior to the Planning Commission meeting acting on the Final Plat.

### 3. Final Plat Review Procedures

- (a) After submission of a complete application for a final plat, the Administrative Official and staff shall review the application. This includes the mutual approval of the final development agreement between the developers attorney and city attorney, including the developers signature and notary, resolution and deed of dedication.
- (b) The applicant will be allowed time to provide additional information after staff review of the Final Plat Application. Such additional information must be provided 10 calendar days before the Planning Commission Meeting. Failure to provide the required additional information may result in the application being continued to a future meeting.
- (c) The Administrative Official shall submit a written recommendation for action to the Planning Commission.

### 4. Performance Bond

## MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS UNIFIED LAND DEVELOPMENT ORDINANCE

The development agreement shall specify the amount of the performance bond for public improvements to be filed prior to receiving final plat approval or, alternatively, shall contain a statement that required improvements have been satisfactorily completed. The performance bond, if required, must be presented in a form satisfactory to the City Attorney prior to final approval of the subdivision.

### 5. Resolution and Deed of Dedication

The applicant shall be responsible for preparing and furnishing in proper form a Resolution approving said final plat for execution by the City, and if said Addition is being brought into the corporate limits of the City or includes any dedication of public right-of-way or easements, said applicant shall prepare and furnish in proper form a Deed of Dedication for said Addition, along with a Resolution accepting the same, for execution by the City.

### 6. Final Plat Approval

(a) The Planning Commission, following transmittal of the written recommendation of the Administrative Official, shall hold a public hearing to review the final plat for consistency with the approved preliminary plat and for compliance with the Unified Land Development Ordinance and other applicable local, state or federal statutes and regulations. Unless the Planning Commission agrees to recommend approval of said plat subject to contingencies, all deficiencies or contingencies or changes identified through the Preliminary Plat approval process are required to be made prior to the Planning Commission Meeting or need to be addressed in the Subdivision Agreement. If the final plat meets all requirements of the Unified Land Development Ordinance, has satisfied all requirements of the Engineering Department, has met the conditions, if any, upon which preliminary plat approval was based and is substantially consistent with the terms of the preliminary plat approval, the Commission shall have no recourse but to recommend approval of the final plat. If the Planning Commission finds in its review that the submitted final plat is not substantially consistent with the preliminary plat, it shall take action to recommend approval or denial to the City Council.

(b) Following such public hearing, the Commission shall submit minutes on the final plat to the City Council. If said addition is adjoining or contiguous to the corporate limits, then following said public hearing, the Planning Commission shall hold a separate public hearing for which at least ten days published notice must be given, on the inclusion of the addition within the corporate limits. Following such public hearing, the Planning Commission shall take action to recommend approval or denial thereof to the City Council.

(c) The City Council, following at least ten days published notice, shall hold a public hearing on each final plat and on the development agreement. Following such public hearing shall take final action by way of resolution on the application. Any contingencies, deficiencies or changes attached to the preliminary plat approval and/or requirements of the Engineering Department must be completed prior to the final plat

## MAJOR SUBDIVISIONS – PRELIMINARY & FINAL PLATS UNIFIED LAND DEVELOPMENT ORDINANCE

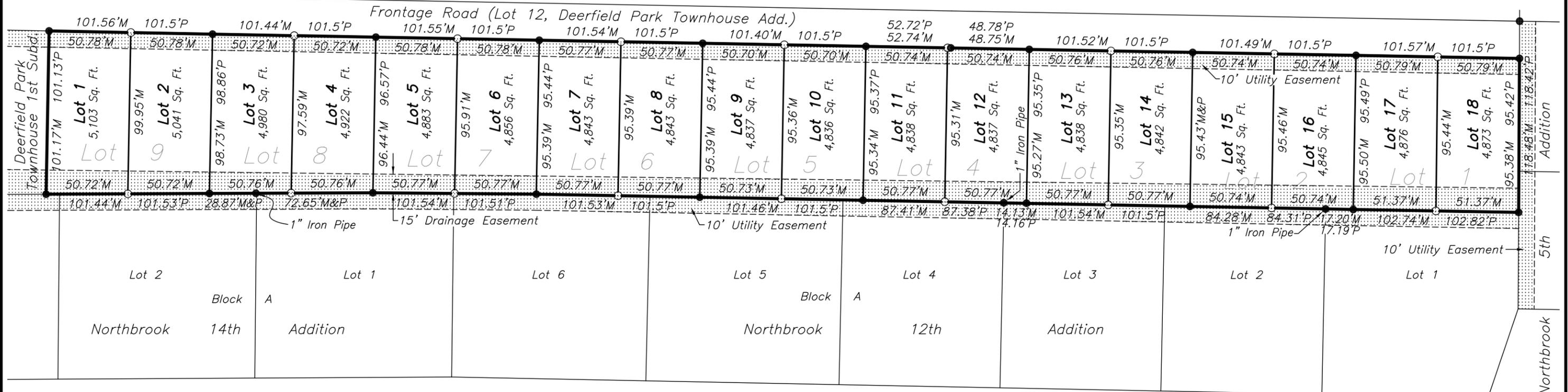
approval. If said addition is adjoining or contiguous to the corporate limits, then following said public hearing on the final plat, if the final plat is approved, the City Council shall hold a separate public hearing for which at least ten days published notice has been given, on the inclusion of the addition within the corporate limits. Following such public hearing, the City Council shall take final action by way of resolution.

(d) The City Council is further empowered to grant waivers of a section of the Subdivision Chapter after a waiver request has received a recommendation from the Planning Commission.

### f. Filing the Final Plat

- a. Following City Council approval of a Final Plat that received a prior recommendation from the Planning Commission, the Chair of the Planning Commission and the Mayor of the City of Columbus shall sign the final plat which shall be a reproducible mylar of the subdivision plat.
  - b. Applicant shall provide an electronic version of the final plat in an approved electronic format within four calendar day of the City Council approval.
  - c. Applicant shall provide the City a complete signed original, reproducible final plat within fourteen (14) calendar days of City Council approval.
4. The subdivider must file the plat with the Platte County Register of Deeds along with all applicable covenants and other documents within 90 calendar days of the execution of the plat by the Chair of the Planning Commission and the Mayor in accordance with state statute.

**FINAL PLAT**  
**DEERFIELD PARK TOWNHOUSE 2ND SUBDIVISION**  
 OF LOTS 1-9, DEERFIELD PARK TOWNHOUSE ADDITION  
 TO THE CITY OF COLUMBUS, PLATTE COUNTY, NEBRASKA  
**38th Street**



**-Legend-**

- Found 5/8" Rebar  
W/ Plastic Survey Cap  
(Unless Otherwise Noted)
- Set 5/8" x 24" Rebar  
w/ Plastic Survey Cap
- × Computed Location
- M Measured this Survey
- P Plat Measurement

**Owner:**  
 Ferguson Properties Inc.  
 3154 18th Avenue #9  
 Columbus, NE 68601  
 (402) 563-0199

**Surveyor:**  
 Thomas A. Tremel  
 Tremel Surveying, Inc.  
 #1 Driftwood Drive  
 Columbus, NE 68601

- Notes:**
- All bearings are reference to the Platte County Projection.
  - Present and the proposed zoning is GR.
  - This property is shown on FIRM Map, No. 31141C0330E; Effective Date: April 19, 2010. Located in Flood Plain Zone X.

**Description:**  
 Lots 1-9, Deerfield Park Townhouse Addition to the City of Columbus, Platte County, Nebraska.

**Surveyor's Statement:**  
 I, Thomas A. Tremel, a Registered Land Surveyor in the State of Nebraska, hereby state that this survey was conducted as per state law under my direct supervision and is correct to the best of my knowledge and belief.

*Thomas A. Tremel*  
 Thomas A. Tremel, L.S. #455  
 March 3, 2023



**School Board:**

This Final Plat of Deerfield Park Townhouse 2nd Subdivision to the City of Columbus, Platte County, Nebraska, was approved by Columbus School District

on \_\_\_\_\_ Day of \_\_\_\_\_, 2023.

Secretary

President

**Planning Commission:**

This Final Plat of Deerfield Park Townhouse 2nd Subdivision to the City of Columbus, Platte County, Nebraska, was approved by the Planning Commission

on \_\_\_\_\_ Day of \_\_\_\_\_, 2023.

Chairman

**City Council:**

This Final Plat of Deerfield Park Townhouse 2nd Subdivision to the City of Columbus, Platte County, Nebraska, was approved by

Resolution \_\_\_\_\_ by the City Council

on \_\_\_\_\_ Day of \_\_\_\_\_, 2023.

Mayor

City Clerk

**FINAL PLAT**

**DEERFIELD PARK TWH 2ND SUBD.**  
**LOTS 1-9 DEERFIELD PARK TWH ADD**  
**COLUMBUS, PLATTE COUNTY, NE**

TMT	TMT/CJN	03/02/2023
DRAWN	SURVEYED	DATE



No. 1 Driftwood Drive - Columbus, NE 68601  
 Phone (402) 563-4589 - Fax (402) 563-3922

**5. Public hearing - Application of Rback Enterprises, LLC for preliminary plat of Reeder Subdivision (4th Street and 9th Avenue).**

NOTICE OF HEARING  
TO ALL PARTIES IN INTEREST AND CITIZENS OF  
COLUMBUS, NEBRASKA

You are hereby notified that a public hearing before the Planning Commission of the City of Columbus, NE, will be held on Monday, September 11, 2023, at 6 p.m. in the Columbus Community Building, Community Room, 2500 14 St, Columbus, NE, on the preliminary plat of Reeder Subdivision, A tract of land located in part of the SW1/4 of the NE1/4 of Section 29, T17N, R1E of the 6th P.M., and Lots 1, 3, and 4 of Kingswood Addition to the City of Columbus, all in Platte County, Nebraska, more particularly described as follows: beginning at the Northeast corner of said SW1/4 NE1/4; thence S 00°07'43" E, 330.04 ft. on the East line of said SW1/4 NE1/4 to the Northeast corner of Augustine 8th Subdivision; thence S 89°58'34" W, 661.72 ft. on the North line of Augustine 8th and 7th Subdivisions and the extension thereof to the East line of said Lot 4; thence S 00°07'57" E, 68.15 ft. on the East line of said Lot 4; thence S 89°58'44" W, 628.01 ft. on the South line of said Lot 4 to the East Right-of-Way of 10th Avenue; thence N 00°08'59" W, 145.61 ft. on the East line of said Avenue; thence N 89°21'35" E, 150.00 ft.; thence N 00°09'02" W, 68.86 ft. on the Southerly extension of Lot 2, Kingswood Addition and on the West line of said Lot 2 to the Northeast Corner thereof; thence N 03°23'19" W, 62.00 ft. to the Easterly extension of the North line of Lot 3, Kingswood 1st Subdivision of the West 142.5 ft. of said Lot 1, Kingswood Addition; thence N 89°48'54" W, 4.00 ft. on said Easterly extension of the North line of Lot 3, Kingswood 1st Subdivision to the Northeast corner thereof; thence N 00°17'33" W, 124.03 ft. on the East line of said Kingswood 1st Subdivision to the Northeast corner thereof; thence S 89°52'04" E, 541.66 ft. on the North line of said Lot 1 to the Northeast corner thereof; thence S 89°47'54" E, 606.04 ft. on the North line of said SW1/4 NE1/4 to the point of beginning, containing 9.97 acres more or less (4 St and 9 Ave) and at said time and place you may appear and be heard.

CITY OF COLUMBUS, NE  
Janelle Kline, City Clerk

Publish: 08:31:23  
Two Affidavits of Publication

The City of **Columbus**

**MEMORANDUM**

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**DATE:** September 7, 2023  
**FROM :** Richard J. Bogus, City Engineer  
**TO:** Tara Vasicek, City Administrator  
**RE:** Reeder Subdivision – Preliminary Plat

**RECOMMENDATION:**

I recommend the approval of the preliminary plat of Reeder Subdivision as it is amenable with the future land use and is in accordance with the Unified Land Development Ordinance.

**DISCUSSION:**

The addition consists of 28 lots of which 27 are residential, connecting the utilities and road from 7<sup>th</sup> Avenue to 9<sup>th</sup> Avenue by 4<sup>th</sup> Street. A private street accesses the residential lot from 10<sup>th</sup> Avenue.

**FISCAL IMPACT:**

Minor costs for associated street and utility main extensions.

**ALTERNATIVE:**

Do not approve.

**CONCURRENCE:**

By: Andrew J. Woelke

**SIGNATURE:**

By: Richard J. Bogus

Approved By: [Signature]

**MAJOR APPLICATION  
FOR SUBDIVISION OR ADDITION  
PRELIMINARY PLAT / FINAL  
(CIRCLE ONE)**

DATE: August 18, 2023

NAME OF SUBDIVISION: Reeder Subdivision

OF PROPERTY OWNER Rback Enterprises, LLC

**CONTACT INFORMATION:**

NAME OF REPRESENTATIVE OR PROPERTY OWNER: Clark J. Grant

ADDRESS OF REPRESENTATIVE OR PROPERTY OWNER: 1464 27th Ave., Columbus, NE 68601

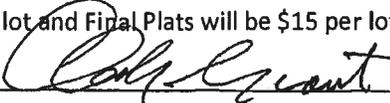
PHONE NUMBER: 402-564-3274

REPRESENTATIVE OR PROPERTY OWNER E-MAIL: clark@grantattorney.com

NUMBER OF LOTS IN SUBDIVISION: 26

ADDRESS OF SUBDIVISION: At Steepland 9th Ave. 75th Ave 101th of 3rd St

I hereby apply for a Major Subdivision / Addition and have paid \$300.00 application fee plus additional lot review fees - Preliminary Plats will be \$20 per lot and Final Plats will be \$15 per lot.

  
\_\_\_\_\_  
Owner or Owner's Representative

Clark J. Grant  
Attorney / Legal Counsel for Applicant

Development Agreement submitted on: August 18, 2023

City Attorney  
Neal Valorz – [nvalorz@1492law.com](mailto:nvalorz@1492law.com)  
Gene G. Schumacher – [gschum@1492law.com](mailto:gschum@1492law.com)





**6. Public hearing - Application of Werner Construction, LLC for Special Use Permit to allow resource extraction in an "RR" (Rural Residential District) zone located at 7014 8th Street.**

NOTICE OF HEARING  
TO ALL PARTIES IN INTEREST AND CITIZENS OF  
COLUMBUS, NEBRASKA

You are hereby notified that a public hearing before the Planning Commission of the City of Columbus, Nebraska will be held on Monday, September 11, 2023, at 6 p.m. in the Columbus Community Building, Community Room, 2500 14 St, Columbus, NE, on the application for a Special Use Permit to allow for resource extraction on the following described real estate in an "AG" (Agricultural District) zone: a tract of land located in the Southeast Quarter (SE 1/4) of Section Twenty-two (22), Township Seventeen (17) North, Range One (1) West of the 6th P.M., Platte County, Nebraska, and Lots Three (3) and Six (6) of Section Twenty-three (23), Township Seventeen (17) North, Range One (1) West, excepting therefrom the right of way of U.P.R.R. Co., excepting that part of Lot Six (6) lying South of said right of way, also excepting therefrom a tract described as follows: Beginning at a point 100' North of and at right angles to the center line of the main track of the U.P.R.R. Co., at a point 1521' East of the West line of said Section Twenty-three (23), when measured along the center line of said main track, thence North parallel with the West line of said Section 2000' more or less to the West bank of the Loup River, thence southerly along said West bank of the Loup River to the North line of the right of way of the U.P.R.R. Co., said point being 100' North of and at right angles to the center line of said main track, thence Westerly along the North line of said right of way 780' more or less to the place of beginning, plus all accretions thereto, and less erosions therefrom; and that portion of the East Half of the Northwest Quarter (E1/2 NW1/4) of Section Twenty-seven (27) lying North and West of the Union Pacific Railroad right-of-way, and the East Half of the Southwest Quarter (E1/2 SW1/4) of Section Twenty-two (22), and the East Half (E1/2) of Lot Three (3) in the Northwest Quarter (NW1/4) of Section Twenty-two (22), all in Township Seventeen (17) North, Range One (1) West of the 6th P.M., Platte County, Nebraska, including all accretions thereto, more or less (7014 8 St) and at said time and place you may appear and be heard.

CITY OF COLUMBUS, NE  
Janelle Kline, City Clerk

Publish: 09:01:23  
Two Affidavits of Publication

# CITY OF COLUMBUS MEMORANDUM

---

**DATE:** September 7, 2023  
**FROM:** Andy Woehrer, Chief Building & Code Official  
**TO:** Tara Vasicek, City Administrator  
**RE:** Special Use Permit to allow Resource Extraction in an RR zone at 7014 8<sup>th</sup> Street for Werner Construction, LLC

**RECOMMENDATION:**

I recommend the Special Use Permit be approved to allow Resource Extraction in the RR zoning district subject to the successful completion and approval of the following conditions.

1. Provide updates to the permit application.
  - a. The report certifications on the Special Use Permit Application (Amended), Floodplain Development Permit Application, Attachment A - Supplement Report (page 5 of the PDF) and said report Findings (page 22 of the PDF) submittal are out of date as they were signed before the last revisions. Provide these updated certifications to the City.
  - b. The Floodplain Development Non-Structural permit (page 2 of the PDF) shall have checked in Section 3 – Development Information “Filling” as the proposal is to place some fill in and around the existing farmstead area. Update the permit to include this item and forward to the City.
  - c. Floodplain Development Non-Structural permit (page 3 of the PDF) sign and date Sections 18 and 19. Update the permit and forward to the City.
2. All existing buildings shall be removed at initial property ownership and at the start of any site preparations or work on the property, but no later than December 22, 2023. Provide pictures of removed structures to City by deadline. The property is in violation of the Floodplain Ordinance, State of Nebraska Department of Natural Resources regulations and FEMA regulations.
3. Provide screening at the entrance and exit at start of work and operations as approved by Chief Building and Code Official.
4. Provide a proposed end of resource extraction project topographic survey, including proposed final contour elevations, typical cross sections, critical spot elevations, bottom floor elevation, and reference to typical groundwater on a separate plan drawing.
5. All proposed project ineffective flood areas shall be shown on a separate plan drawing to match the application text references and to include that these areas will not receive fill, overburden or stockpiling as part of this special use permit. Provide the drawing and the updated application text to the City.
6. Any potential mining areas or related work that may affect the adjacent Union Pacific Railroad property the developer shall obtain Union Pacific Railroad coordination and concurrence correspondence. Correspondence regarding Union Pacific Railroad shall be forwarded to the City.

Failure to complete all of the conditions above and begin resource extraction within two years of the Special Use Permit effective date will result in a void of this Special Use Permit.

**DISCUSSION:**

We have received an application for a Special Use Permit requesting Resource Extraction in an RR zone. The property is located in the Floodway and is a good use for the property. Resource Extraction is permitted in the RR zoning district with Special Use Permit approval and meeting the conditions included and the applicant shall meet all State and Federal regulations.

**FISCAL IMPACT:**

None

**ALTERNATIVE:**

Revise or add conditions, continue, or deny the Special Use Permit

**CONCURRENCE:**

By: Richard J. Bogue

**SIGNATURE:**

By: Andrew J. Wehner

Approved By: 

# SPECIAL USE PERMIT APPLICATION (AMENDED)

An application for a Special Use Permit may be filed with the Community Development Office. Any such application will not be deemed submitted until all of the stated information is included. It is the responsibility of the applicant to provide all of the requested information. Incomplete applications WILL NOT be place on the Planning Commission Agenda until all such missing information is provided. Such completed application shall be submitted to the Community Development Office at least 21 calendar days (including holidays) before the Planning Commission meeting at which time the public hearing on the application will be held.

APPLICANT/PROPERTY OWNER NAME: Werner Construction, LLC/Schultz Farms, Inc

APPLICANT MAILING ADDRESS: 129 E 2nd St., Hastings, NE 68901

APPLICANT PHONE NUMBER: (402) 463-4545

APPLICANT EMAIL ADDRESS: tw@wernercos.com

LEGAL REPRESENTATION FIRM/ATTORNEY: Stephen D. Mossman

ATTORNEY PHONE NUMBER: (402) 475-8433

ATTORNEY E-MAIL ADDRESS: sdm@mattsonricketts.com

ADDRESS OF PROPERTY: 7014 8th St., Columbus, NE 68601

LEGAL DESCRIPTION OF PROPERTY: S22, T17, R1W,  
Parcels 710023828, 710023849, 710024080

PRESENT ZONING CLASSIFICATION: AG Zoning is Rural Residential RR

DESCRIPTION OF THE REASON FOR THE SPECIAL USE PERMIT APPLICATION:

Establish a sand and gravel extraction operation.

NATURE AND OPERATING CHARACTERISTICS OF THE PROPOSED USE: (Include aerial image of proposed development on property and existing surrounding zoning classifications, any graphic information, including site plans, elevations or other drawings, necessary to describe the proposed use)

See Floodplain Development Permit Application (attached)

I hereby apply for a Special Use Permit and have paid the \$500 application fee.

DATED THIS 30<sup>th</sup> DAY OF June, 2023

Tom V. Wilson

Owner or Owner's Representative

for Werner Const. LLC

## AGENT AUTHORIZATION

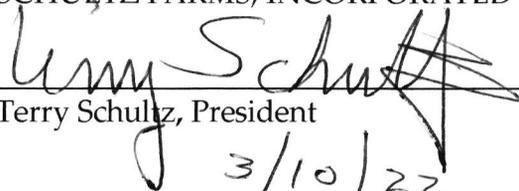
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I, **Terry Schultz**, President of **Schultz Farms, Incorporated**, a Nebraska Corporation, authorize **Werner Construction, L.L.C.**, a Nebraska Limited Liability Company, a third party, to act on our behalf in applying for a Special Use Permit from the City of Columbus, Nebraska for the properties more specifically described as follows:

- i. The Southeast Quarter (SE ¼) of Section Twenty-two (22), Township Seventeen (17) North, Range One (1) West of the 6th P.M., Platte County, Nebraska; and
- ii. Lots Three (3) and Six (6) of Section Twenty-three (23), Township Seventeen (17) North, Range One (1) West, excepting therefrom the right of way of U.P.R.R. Co., excepting that part of Lot Six (6) lying South of said right of way, also excepting therefrom a tract described as follows: Beginning at a point 100' North of and at right angles to the center line of the main track of the U.P.R.R. Co., at a point 1521' East of the West line of said Section Twenty-three (23), when measured along the center line of said main track, thence North parallel with the West line of said Section 2000' more or less to the West bank of the Loup River, thence southerly along said West bank of the Loup River to the North line of the right of way of the U.P.R.R. Co., said point being 100' North of and at right angles to the center line of said main track, thence Westerly along the North line of said right of way 780' more or less to the place of beginning, plus all accretions thereto, and less erosions therefrom

I further understand that, by doing so, I authorize **Werner Construction, L.L.C.**, to: answer any questions, receive information relating to the completion of said Special Use Permit, file this Authorization with the Community Development Director's Office, and pursue all actions reasonably necessary to secure said Special Use Permit.

\_\_\_\_\_  
SCHULTZ FARMS, INCORPORATED

  
\_\_\_\_\_  
Terry Schultz, President

3/10/22

## EXCAVATION - AMPLIFICATION OF PLANNED USE

- 1) **Werner Construction, LLC. (WCI) will use this site primarily as a gravel mining operation.**
  - a) We would use this site when we have contracted for projects in the area.
  - b) Normally, an asphalt project would be within a 50 mile radius of this site; a concrete project would be within 40 miles. When project location makes it economically infeasible, we would mine and stockpile gravel at this site and haul it to another plant site.
  - c) Our asphalt and concrete plants operate under Air Quality and Stormwater Permits issued by the Nebraska Department of Environmental and Energy (NDEE). Our plants have not been cited by NDEE for over 30 years.
  - d) We will install commercial power to operate.
- 2) WCI will remove fugitive vegetation when operations begin. Existing structures will be removed in accordance with building permit (demolition) requirements.
- 3) **The gravel mining will start in the west center portion of the property.**
  - a) We will operate an electric or diesel-powered dredge in this operation.
  - b) The initial strippings will be stockpiled along the southern property line.
  - c) We will maintain the present drainage configuration during the dredging operation.
- 4) **Common operating principals.**
  - a) We will normally operate from 6:00 AM until 9:00 PM daily. However, we request permission for around the clock operations on limited bases for the gravel mining operation.
  - b) Gravel production is limited by weather conditions. We may load gravel from the stockpile throughout the year, weather and customer demand permitting.
  - c) We will not construct permanent structures on this site.
  - d) We will contract for portable toilets and appropriate service during periods of operation.
  - e) We will contract for waste disposal.
  - f) We will control dust on our internal haul roads per the requirements of our NDEQ permits.
  - g) We will control Stormwater run-off per the requirements of our NDEQ permits.
- 5) **Reclamation Plan**
  - a) This will be a long-term operation, with a life span in excess of 20 years. We will leave an enhanced parcel designed for wildlife habitat.
  - b) The final use of the property will depend upon economic conditions at the time.
  - c) We will use the waste sand from this operation to partially backfill the resultant lake.
  - d) The strippings will be used to recover portions of the back filled lake shoreline and seeded for wildlife habitat or pasture.
  - e) The final contours of the land will approximate those currently existing.
  - f) Initial reclamation will begin as dredging is completed in phases on parts of the property to prevent erosion and improve appearance.
  - g) We will contact appropriate Federal, State, and private sector conservation agencies to design and construct appropriate wildlife habitat.
  - h) Our goal is to leave the property in a condition where we can be proud of its esthetics and will hopefully be of benefit to both people and wildlife.
  - i) WCI will acquire a financial surety bond upon approval of this permit application.

# Application for Floodplain Development Permit

## Non-Structural

This application is for a single site permit to erect, construct, excavate, grade, fill, improve upon, and/or repair any non-structural development as defined by City of Columbus Ordinance 18-04, including the storage of materials, within a designated Special Flood Hazard Area (SFHA) or "floodplain".

Prior to completion, refer to the Instruction page contained with this application.

Section 1: Applicant / Owner Information	
1 Name of Developer: Werner Construction, LLC	3 Applicant is Property Owner: <input type="checkbox"/> <small>If checked, continue to Section 2</small>
2a Name of Applicant: Terrence Wilhelms	4a Name of Property Owner: SCHULTZ FARMS, INC.
2b Applicant/Developer Mailing Address: 129 East 2nd Street Hastings, NE 68901	4b Owner Mailing Address: 5209 33 ST COLUMBUS, NE 68601-1523
2c Applicant Phone Number: 402-463-4545	4c Owner Phone Number: 402-563-4754
2d Applicant Email: tw@wernercos.com	4d Owner Email: schultz71983@gmail.com
Section 2: Location of Development	
5a Physical Address: <input type="checkbox"/> N/A 7014 8 ST Columbus, NE 68601	5d Description of single site work area: <input type="checkbox"/> N/A Gravel mining. Removal of materials. Replacement of materials. To occur primarily in SE1/4 of Sec 22, T17N, R1W. Site will be restored to existing conditions.
5b Section, Township, Range, Direction: <input type="checkbox"/> N/A Section 22, 23, and 27, T17N, R1W SE	
5c Parcel ID from County Assessor: <input type="checkbox"/> N/A 710023828; 710023849; 710024080	
Section 3: Development Information	
6a Development Type: <i>(Check all that Apply)</i>	
<input checked="" type="checkbox"/> Earthwork <input type="checkbox"/> Watercourse* <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Storage <input type="checkbox"/> Utility <input type="checkbox"/> Filling* <input type="checkbox"/> Dredging <input type="checkbox"/> Bridge** <input checked="" type="checkbox"/> Temporary <input type="checkbox"/> Septic <input type="checkbox"/> Grading* <input type="checkbox"/> Channel Realignment <input type="checkbox"/> Road / Highway <input type="checkbox"/> Permanent <input checked="" type="checkbox"/> Excavation* <input type="checkbox"/> Culvert** <input checked="" type="checkbox"/> Other: <i>Explain in box 7</i> <input checked="" type="checkbox"/> Mining <input type="checkbox"/> Drilling      * <i>Must complete boxes 15-17</i> ** <i>Must complete boxes 14-17</i>	
6b Work Type: <input checked="" type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Maintenance <input type="checkbox"/> Improvement <input type="checkbox"/> Removal <input type="checkbox"/> Other: <i>Explain in box 7</i>	
7 Description of Work: Temporary gravel mining project to include excavation, removal of materials, screening and separation of materials, temporary stockpiling, temporary storage, dredging, replacing removed materials. Site will be restored to its existing topographical condition relative to grades and elevations. BFE will not be temporarily or permanently affected by proposed project. **SEE ATTACHMENT A – SUPPLEMENTAL REPORT TO THIS APPLICATION**	
8 Is this work being done due to damage: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Section 4: Floodplain Information	
9 Floodplain Designation: <input type="checkbox"/> Zone A <input type="checkbox"/> Zone AE – Fringe <input checked="" type="checkbox"/> Zone AE – Floodway <input type="checkbox"/> Zone AH <input type="checkbox"/> Zone AO <input type="checkbox"/> Zone X	
10a Base Flood Elevation (BFE) range at Site: 1456.9 ft - 1460.5 ft <input type="checkbox"/> MSL/NGVD 29 <input checked="" type="checkbox"/> NAVD 88	10b Base Flood Elevation (BFE) Source: <input type="checkbox"/> NeDNR <input checked="" type="checkbox"/> FIS <input type="checkbox"/> Other:
Section 5: Survey Information	
11a Survey conducted using: <input type="checkbox"/> MSL/NGVD 29 <input checked="" type="checkbox"/> NAVD 88 <input type="checkbox"/> Other:	
11b Benchmark description: SEE ATTACHMENT B – ONE-FOOT CONTOUR TOPOGRAPHIC MAP OF SITE AND SURROUNDING AREA	
11c Benchmark elevation: 1455.03 FEET (SEE ATTACHMENT B) <input type="checkbox"/> MSL/NGVD 29 <input checked="" type="checkbox"/> NAVD 88	

12a Lowest actual ground elevation:		<b>1450</b> feet
12b Highest actual ground elevation:		<b>1458</b> feet
13a Lowest proposed ground elevation:		<b>1450</b> feet
13b Highest proposed ground elevation:		<b>1458</b> feet
**	14a Top of lowest bridge deck /roadway elevation: <b>(See Attachment B)</b>	feet <input type="checkbox"/> Actual <input type="checkbox"/> Proposed <input type="checkbox"/> N/A
	14b Bottom of lowest horizontal girder elevation: <b>(See Attachment B)</b>	feet <input type="checkbox"/> Actual <input type="checkbox"/> Proposed <input type="checkbox"/> N/A
	14c Top of culvert opening elevation: <b>Multiple culverts (SEE ATTACHMENT B)</b>	feet <input type="checkbox"/> Actual <input type="checkbox"/> Proposed <input type="checkbox"/> N/A
* and **	15a Existing Upstream BFE: <b>(See Attachment C for BFE Determination)</b>	<b>1460.5</b> feet <input type="checkbox"/> N/A
	15b Proposed Upstream BFE:	<b>1460.5</b> feet <input type="checkbox"/> N/A
	16a Existing Downstream BFE:	<b>1456.9</b> feet <input type="checkbox"/> N/A
	16b Proposed Downstream BFE:	<b>1456.9</b> feet <input type="checkbox"/> N/A
	17a Change in Upstream BFE: <b>(See Attachment D for No Rise Certification)</b>	<b>0.00</b> feet <input type="checkbox"/> N/A
	17b Change in Downstream BFE:	<b>0.00</b> feet <input type="checkbox"/> N/A

**Section 6: Plans, Certifications, and Other Permits**

Office Use Only	Attached:	Proposed Plans	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		Hydrologic Data	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		Certification of <i>No more than 1 foot rise</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		Certification of <i>No rise</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		Certification of Floodproofing	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		Elevation Certificate	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
	Other Permits		
	Attached:	USACE 404	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		EPA	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		DEQ	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		EHP	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
		Other:	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

**Section 7: Signature**

18 Signature of Applicant:		Date: Click or tap to enter a date.
19 Signature of Property Owner, <i>if different</i> :		Date: Click or tap to enter a date.
Office Use Only	Floodplain Development Permit:    Approved <input type="checkbox"/> Denied <input type="checkbox"/> Permit #:	Date: Click or tap to enter a date.
	Signature of Floodplain Administrator:	Date: Click or tap to enter a date.
	Comments:	

**APPLICANT, PLEASE NOTE:** Upon signing, the applicant attests that the information provided is complete, accurate, and truthful to the fullest extent of their knowledge. Additionally, the applicant agrees that the development detailed within will be done in accordance with the requirements of all applicable floodplain management ordinances, laws, and regulations within the City of Columbus. If any information within this application and attachments is found to be inaccurate or false, whether provided knowingly or not, or the permitted development deviates from submitted plans, this permit will immediately become void upon discovery. Reissuance of a new permit will be at the discretion of the floodplain administrator. This permit does not guarantee approval of certificate of occupancy nor issuance of flood insurance, if applicable. Additionally, this permit will not create liability on the part of City of Columbus or any officer or employee thereof for any flood related damages. Additional information not included on this permit may be requested at the discretion of the floodplain administrator. If approved, this permit is valid for 1 year after such approval date after which time a new permit, or extension will be required.

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION  
WERNER GRAVEL MINE AT LOUP RIVER

**ATTACHMENT A – SUPPLEMENTAL REPORT**

**FLOODPLAIN DEVELOPMENT PERMIT APPLICATION  
SUPPLEMENTAL REPORT**

**FOR**

**THE LOUP RIVER GRAVEL MINING PROJECT  
WERNER CONSTRUCTION, LLC  
COLUMBUS, NEBRASKA**

Prepared for: Terrence Wilhelms  
Werner Construction, LLC  
129 East 2<sup>nd</sup> Street  
Hastings, Nebraska 68901

Prepared by: Eliot J. Wong, PE  
900 Forest Street  
Denver, Colorado 80220  
  
H<sub>2</sub>Options Engineering, LLC  
2041 Wilderness Ridge Drive  
Lincoln, Nebraska 68512

**Temporary Permit to Practice Engineering**

Name: Eliot J Wong  
Permit No.: T-643; Expiration Date: 5/19/2024  
State of Licensure: Colorado; No.: 48402  
Project: Werner Gravel Pit  
7014 8 Street  
Columbus, NE 68601



ORIGINAL 9 MARCH 2022  
REVISED 27 JUNE 2023

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<b>PROPOSED CONSTRUCTION.....</b>	<b>5</b>
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# APPENDICES

**APPENDIX A – NO-RISE CERTIFICATION**

**APPENDIX B – FEMA FLOODPLAIN MANAGEMENT BULLETIN - VARIANCES**

**APPENDIX C – STOCKPILE PLACEMENT SCHEMATIC**

**APPENDIX D – FIS 100-YEAR FLOOD PROFILES FOR LOUP RIVER & BFE**

**APPENDIX E – PICTURES OF STRUCTURES TO BE REMOVED FROM PROJECT SITE**

**APPENDIX F – VEGETATION MAINTENANCE COMMITMENT**

**APPENDIX G - FEMA EFFECTIVE FLOOD INSURANCE RATE MAP**

## EXECUTIVE SUMMARY.

We have been contracted by Werner Construction, LLC (Werner) to evaluate the potential effect(s) a proposed gravel mining operation (Project) will have on the 100-year water surface elevation, or base flood elevation (BFE), of Loup River in the City of Columbus (City), in Platte County, Nebraska. The proposed Project would operate fully within the floodway of Loup River. Permit approval to conduct the mining operation is contingent on construction activities or products of construction, namely temporary stockpiles, causing no more than a 0.00-ft rise in the effective BFE published by FEMA.

Based on information provided by Werner, we have used several methods to evaluate what effect(s), if any, the Project would predictably have on water surface elevations during the base flood. All the methods described herein are based on commonly known principles of floodplain hydraulics and each method is supported by FEMA and/or the National Flood Insurance Program (NFIP) through various published documents, all of which are referenced in the report and/or included in the report Appendix.

Our findings are:

- The proposed Project, specifically the stockpiles produced while mining, will not cause more than a 0.00-foot rise in Loup River water surface elevations if the base flood were to occur during the Project.
- Any potential effects to the 100-year floodplain associated with the proposed Project will be temporary and discontinuous, de facto, due to the nature of this mining operation. Temporary product stockpiles will regularly be removed and the site will be generally restored to pre-project elevations once mining activities are final. No obstruction in the floodway or flood fringe will result because of the Project. Subsequently, the 100-year water surface elevation will not increase during the project or after the project is complete.
- The area within and surrounding the project site is generally undeveloped. It will not be adversely impacted by the proposed Project and is likely to remain undeveloped for the duration of the project. Major existing and flow controlling structures such as the Columbus dike and the Union Pacific Railroad roadbed are well beyond the scope of this Project and will not be negatively impacted.
- The removal of obstructions associated with an existing farmstead located within the 100-year floodplain at the project site, and strategic sizing and positioning of stockpiles during construction, are project components that will help reduce the potential risk of hazards that are associated with flooding.
- Placement of overburden materials will not cause a rise in the BFE: These materials will be placed in areas of ineffective flow or in place of existing structures that will be removed at the onset of the project. Additionally, overburden materials will be placed no more than three feet high.
- Stockpiles that may remain on site for an extended period of time will be placed in the same areas and in the same fashion as overburden materials (see above).
- The Project includes a comprehensive vegetation management program that will preemptively mitigate elevated flood levels which otherwise are a certainty due a new and fast-growing density of plants and trees, a product of the flood events of 2019.

A No-Rise Certification is provided at the end of this report in Appendix A.

## **PROJECT INFORMATION**

### **BACKGROUND & INFORMATION SOURCES.**

The gravel mine is proposed on a 275-acre (approx.) parcel, of which approximately 135 acres are available for potential mining activities. The initial phases of the Project will entail clearing the site of Project constraints such as obtrusive vegetation and dilapidated structures, constructing a standard ingress/egress area, and designating areas for temporary stockpiles. Gravel mining would then ensue with the excavation of an initial gravel pit with an area of approximately 5-acres. The mining area will expand incrementally as usable materials are screened and removed from materials that eventually will be redeposited back into the subsurface. As materials are screened, stockpiles will be created at designated areas within the Project site. All stockpiles will be temporary as materials are hauled offsite or redeposited into the gravel pit. This is a reoccurring process, typical for gravel pit mining. All stockpiles will be placed within the areas described in this report and will be placed so as not to exceed any measurement designated as a maximum in this report. The strategic placement of stockpiles, as described in this report, is based on engineering principles relative to floodplain hydraulics to ensure there will be no rise in 100-year water surface elevations during the course of the Project.

Flood Insurance Rate Map (FIRM) No. 31141C0320E and Flood Insurance Study (FIS) No. 31141CV000A, both effective April 19, 2010, are the current effective floodplain mapping and supporting data, respectively, published by FEMA. FIS floodway data were used in our analysis where relevant. Floodplain management guidance documents published by FEMA and the NFIP were also utilized and are referenced throughout this report.

The City of Columbus, Nebraska (City) has adopted minimum NFIP requirements to serve as their floodplain ordinance for participation in the NFIP. Requisite for permit approval within a regulatory floodway is showing proposed construction will not cause any rise in the BFE. FEMA defines "not causing any rise" as "no rise greater than 0.00 feet." The methods used to assess the potential effects of the Project on the BFE are compliant with the NFIP requirements adopted by the City and consistent with floodplain guidance published by FEMA.

### **PROJECTSITE.**

The Project site is located within the regulated area of the City of Columbus, in Platte County, Nebraska. The Union Pacific Railroad (UPRR) right-of-way (ROW) serves as the southern border of the site. The Loup River serves as the northern boundary and a UPRR-owned parcel between the proposed Project site and the Loup River forms the eastern boundary of the site. The west boundary comprises of privately owned tracts of farmland. The entirety of the proposed Project is in the Loup River regulatory floodway. All proposed Project activities will occur in the floodway until final stabilization of the site is achieved. Final stabilization will include the restoration of the site to generally pre-project topography. Thus, no meaningful elevation changes to the existing grades within the site will result from the Project.

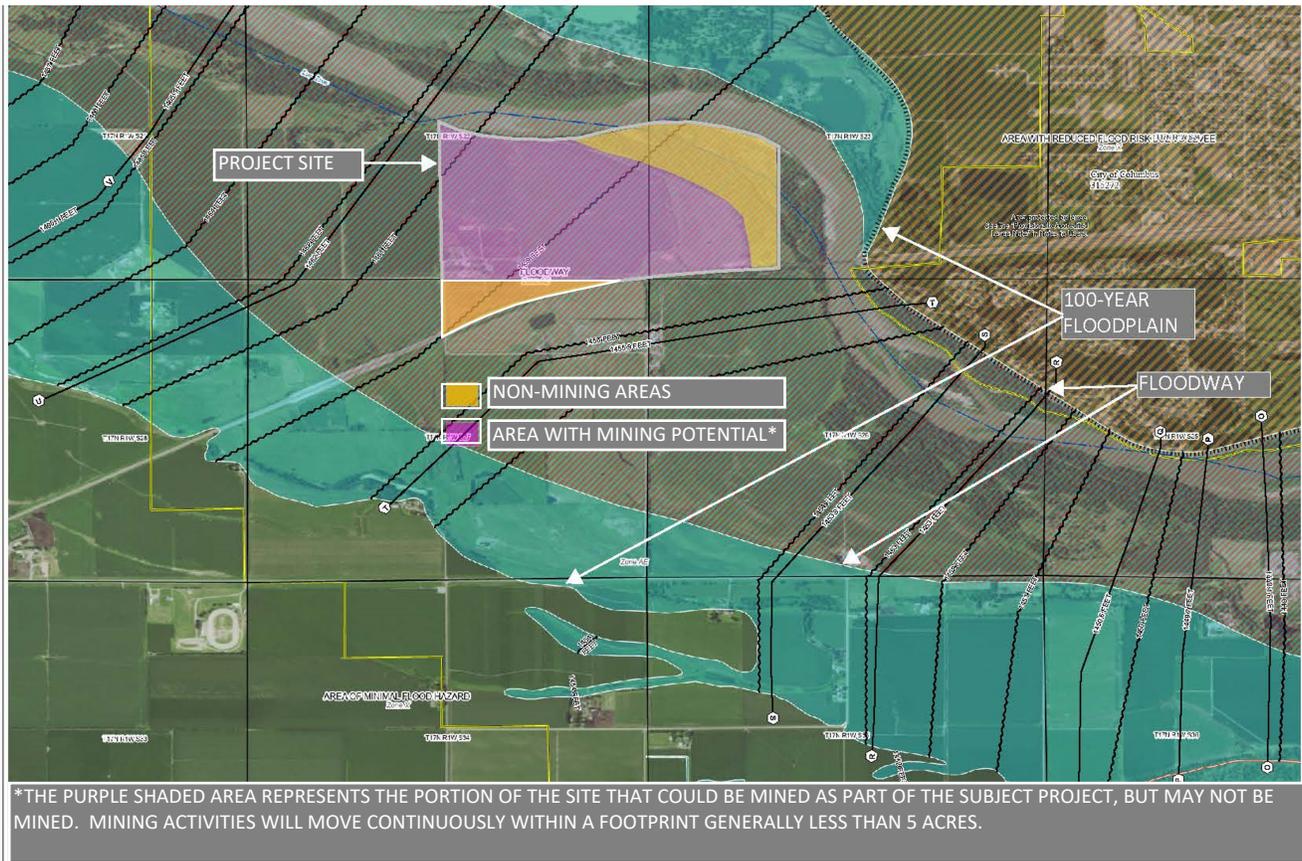


Figure 1: Project Site Overlaid on Portion of FEMA Flood Insurance Rate Map

The legal description of the Project site is: The Southeast Quarter (SE ¼) of Section Twenty-two (22), Township Seventeen (17) North, Range One (1) West of the 6th P.M., Platte County, Nebraska, and Lots Three (3) and Six (6) of Section Twenty-three (23), Township Seventeen (17) North, Range One (1) West, excepting therefrom the right of way of Union Pacific Railroad (UPRR) Co., excepting that part of Lot Six (6) lying South of said right of way, also excepting therefrom a tract described as follows: Beginning at a point 100' North of and at right angles to the centerline of the main track of the UPRR Co., at a point 1521' East of the West line of said Section Twenty-three (23), when measured along the centerline of said main track, thence North parallel with the West line of said Section 2000' more or less to the West bank of the Loup River, thence southerly along said West bank of the Loup River to the North line of the right of way of the UPRR Co., said point being 100' North of and at right angles to the center line of said main track, thence Westerly along the North line of said right of way 780' more or less to the place of beginning, plus all accretions thereto, and less erosions therefrom; and all that part of the North Half of the Northeast Quarter (N1/2 NE1/4) of Section Twenty-Seven (27), Township Seventeen (17) North, Range One (1) West of the 6th P.M., Platte County, Nebraska, lying North and West of the Union Pacific Railroad right-of-way.

## PROPOSED CONSTRUCTION.

Proposed construction will commence with the demolition and permitted disposal of approximately nine structures and several trees that are part of a farmstead no longer in operation. The farmstead and its structures existed when the current FIS and FIRM became effective in 2010. Thus, it is assumed that the effective 100-year floodplain and floodway delineation accounts for the effects of the structures and density of trees on the farmstead. A designation of roughly ten acres will be used for ingress and egress and possibly overburden deposition (i.e., a non-mined area). The entire developed mining area will be cleared with vegetation removed and controlled during mining operations. Overburdened excavation will then commence marking the start of actual gravel mining. The area cleared of the existing farmstead will be used initially for storing screened material and for the deposition of overburden material.

Additionally, as overburden materials are excavated, they will form a broad and generally less than 3-foot high deposit which could later be reintroduced back into the subsurface areas as mining activities progress.

This overburden relocation could potentially reach a volume of 1,000,000 cubic feet, or about 23 acre-feet, which will be spread over an area of about 9 acres on site without adversely affecting the BFE or neighboring properties. Mining will initially occur in an approximate 5-acre area with the potential of expansion up to approximately twenty acres of mostly pond area over a 35-year mine development period. Appendix C shows the initial and post-project site condition and the approximate locations for potential overburden deposition and for temporary stockpiles with potential to be on site for an extended period of time. Refer to "Methods of Evaluation and Findings" (Page 8), which explains how locations for excavated material and overburden deposition have been determined and the engineering that supports these determinations.

## FEMA & THE NATIONAL FLOOD INSURANCE PROGRAM

### 100-YEAR PEAK FLOW.

The effective 100-year peak discharge for Loup River at the Project site is 138,000 cfs, as published in the effective FIS (Figure 2) for the reach of Loup River relevant to this Project. All computations performed as part of the evaluation described herein used 138,000 cfs as the 100-year peak discharge.

**Table 1 - Summary of Discharges**

Flooding Source and Location	Drainage Area (square miles)	Peak Discharges (cubic feet per second)			
		10-Percent- Annual-Chance	2-Percent- Annual-Chance	1-Percent- Annual-Chance	0.2-Percent- Annual-Chance
<b>ELM CREEK</b>					
Approximately 2,420 feet upstream of Shell Creek	30.00	6,600	13,200	16,800	*
<b>LOUP RIVER</b>					
At confluence with Platte River	6,530.00	48,500	105,600	138,000	*
At confluence with Platte River, coincident with discharge from Platte River	*	51,368	114,000	149,000	*
<b>PLATTE RIVER</b>					
At North Bend	82,900.00	62,000	106,000	132,000	220,000
<b>SHELL CREEK</b>					
Approximately 116,550 feet downstream of U.S. Highway 61	*	*	*	10,900	*
At confluence with Elm Creek	222.00	*	*	19,500	*
Approximately 900 feet upstream of Elm Street	*	*	*	30,900	*
Approximately 29,900 feet upstream of U.S. Highway 91	120.00	*	*	29,300	*
*Data not available					

### BASE FLOOD DEPTHS AND ELEVATIONS.

The BFE at the farthest upstream end of the Project site is 1460.5 ft. The BFE at the downstream end of the site (just upstream of the UPRR line) is 1456.9 ft. During a 100-year flood event, Loup River floodwater bypasses the ninety-degree meander from east to south located just upstream of the proposed project site, the direction flows which are restricted to the channel are conveyed. Because 100-year flood flows bypass the normal direction of flow, the BFE increases in the easterly direction along the railroad. So, while the BFE at the railroad and main river channel intersection is 1456.9 ft, indicating potential for a few inches of floodwaters overtopping the tracks, the overtopping of the railroad at the southwestern corner of the Project site is greater with the BFE at an elevation of 1458.5 ft. It is important to understand the potential depths of overtopping at various locations along the railroad because these areas indicate active flow during the base flood. By contrast, the areas below the top of the railroad embankment are ineffective flow zones which do not contribute to active flow during the base flood. This distinction enables the Project to strategically place temporary stockpiles so that they do not obstruct flow and thereby do not increase flood elevations. Appendix D shows the FIS 100-year flood profiles and the BFE determination at the upstream and downstream ends of the Project site.

The measured depth from the top of the railroad embankment to existing grade at the toe of the railroad embankment varies due to elevation differences in existing grade and the slope of the railroad across the southern border of the Project site.

Thus, varying depths of overtopping are observed during the base flood. Additionally, due to a failure in a portion of the railroad embankment during the 2019 flood event, conveyance via corrugated metal pipes (CMPs) has been provided underneath the rail to help provide relief during future major events. The addition of these culverts also affects flood depths and potential placement of mined materials. This was a key component considered in the evaluation we performed, which is detailed later in this report.

#### COMMUNITY GUIDANCE.

Floodplain development permitting guidance is published by the National Flood Insurance Program (NFIP) specifically for communities who participate in the NFIP. The most important finding of AWARE's literature review relative to NFIP floodplain permitting guidance is that the NFIP clearly supports issuance of a floodplain development permit for projects similar to the proposed subject Project, which ideally meets the criteria for permit approval, as recommended by the NFIP. The two criteria every Community must consider when reviewing a floodplain permit application are: one, whether the Project is temporary or permanent; and two, if the project or construction activities associated with the project, will cause an unacceptable rise in the BFE. For a project proposed in a regulatory floodway, an unacceptable rise is any rise greater than 0.00 feet.

In the FEMA-published document entitled, "FLOODPLAIN MANAGEMENT BULLETIN: Variances and the National Flood Insurance Program," (Appendix B), FEMA lists two considerations that should be considered before granting a temporary floodplain development permit. The two considerations are the potential increase in height of the BFE and the number of insurable structures that could be affected by such an increase during the base flood. The Project subject to this report will not cause a rise greater than 0.00-feet in the 100-year water surface elevation. Since the Project causes a zero-foot rise in the BFE, insurable structures in the vicinity of the Project, de facto, will not be affected by the Project. The area to be mined within the Project site is undeveloped and historically used for agricultural purposes. There are existing structures located in the floodplain and/or floodway upstream and downstream of the Project; however, they are all a distance of more than 1000 feet from the Project. These structures, while likely to experience flooding impact during the 100-year event, will see no impact from the proposed Project.

The FEMA bulletin referenced above states: *If the affected area has a low population density and one or more of the following factors are present, the community may want to consider allowing construction of a temporary project...*

As illustrated above and evident in Figure 1, the relevant area does have a low population density and at least two of the listed factors<sup>1</sup> in the bulletin are likely to be present relative to the Project:

- Factor 1: *The increased flood hazard would be limited to undeveloped community areas that the local government judges to have no other development potential during the time the temporary measure would be in place.*
  - The proposed Project area is undeveloped and would not have development potential during the mining project. Additionally, our evaluation shows that the proposed Project will not increase the flood hazard.

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<sup>1</sup>The factors in italics are unaltered excerpts taken directly from the bulletin referenced.

- Factor 2: *The increased flood hazard would not affect insurable structures (i.e., cause an increase in flood levels for structures that are already floodprone or cause non-floodprone structures to become floodprone).*
  - As previously stated, the proposed Project will not increase flood levels, thus insurable structures will not be adversely affected because of the Project.

The bulletin concludes with: *“If one or more of the above factors are met, any increase in the BFE for the duration of the temporary permit should not adversely affect insurable structures in the community. In this case, the community may decide to grant a variance allowing a temporary project.”*

It is important to differentiate the excerpt above, which refers to allowing a variance, from the standard floodplain development permit application that is the subject of this report. The important correlation simply is if the NFIP supports the granting of a variance based on the factor above being met, then it would stand to follow that the NFIP would support approval of a typical floodplain permit on the same basis.

The proposed Werner gravel mining project will meet more than one of the published factors.

## **METHODS OF EVALUATION AND FINDINGS.**

### **COMPENSATORY STORAGE AREA.**

Overburden deposits and materials and stockpiles that may be on site for an extended period of time will not cause additional blockage to flow during the 100-year event. Nine structures currently exist in the SW portion of the site, including a deteriorating silage pit with an approximate width of 375 feet and an approximate height of ten feet. All nine structures will be removed and appropriately disposed of at the onset of the Project. Through observation and common sense, the NFIP indicates that new “fill” or other obstructions to flow that replace those in place at the time the floodplain/floodway were defined, would not cause a rise in the BFE since no new obstruction would be introduced to the conveyance area. Furthermore, any newly introduced structure or other item that is proposed to be located in the conveyance shadow of an existing structure will also not cause a rise in the BFE.

The subject Project proposes to use this area (where nine structures will be removed) for depositing overburden materials and for stockpiling materials that may be stored for an extended time period. An overburden deposit resulting from initial stripping and mining activities and from any screened materials will be placed in a manner consistent with the No-Rise situations described in the previous paragraph. Stockpiles and overburden material in this area will be placed so that the top of any pile is lower than the existing building that is removed. The existing structures are all taller than the 100-year flood elevation, thus any piles will not be introducing any additional obstruction to flood flows. By observation, a smaller area of flow will be obstructed by a stockpile of a given width placed below the BFE if it replaces an obstruction that is higher than the BFE and of the same width. Stockpile dimensions parallel to the proposed direction of flood flows will remain within the conveyance zone of the current existing structures that are slated for removal. Because proposed stockpiling and materials storage will pose no additional obstructions to flood flows, they will not cause a rise in the BFE. Please refer to Figure 3 below for an illustrative representation of the proposed use of compensatory storage and the strategic placement of excavated materials in the conveyance shadows of existing structures so that the BFE will not be adversely affected. Pictures of some of the structures to be demolished and hauled off site are in Appendix E.



Figure 3: No-Rise area wherein excavated materials replace existing structures

In addition to stockpiles that may be on site for an extended period of time, a temporary overburden stockpile will also be produced. Management of the overburden stockpile is addressed in subsequent sections.

#### INEFFECTIVE FLOW AREAS.

The UPRR ROW forms the southern and farthest downstream boundary of the Project site. The crest of the railroad at the southeast corner of the Project site is at 1462.0 feet and declines to an elevation of 1457.8 feet at the southwest corner of the Project site. On average, this is approximately six feet in height above existing grade immediately upstream of the railroad. Active flow during the 100-year event primarily occurs in the main channel of Loup River. However, during recent major events, the active flow channel bypassed the 'east-south' meandering section of the Loup River, creating a second flow path toward the southwest corner of the Project site. As a result, UPRR has installed culverts under the railroad embankment to provide future relief during major events. Both the main channel and culvert conveyance path contribute to the ineffective flow areas upstream of the railroad.

As flows approach the bridge crossing, they contract; upon exiting the crossing, flows expand. The contraction/expansion of flow through the bridge crossing in the main channel is caused by the UPRR roadbed embankment and City dike, which are obstructions to flow. When flows are obstructed by the railroad embankment and dike, a tailwater effect occurs causing flood flows to back up and build up against the embankment. The movement of the active conveyance for flow, i.e., the contracted portion of flow moving to and through the bridge crossing coupled with the restriction of

the embankment creates vertex flow in the areas upstream of the railroad embankment. Floodwaters that enter these areas, known as ineffective flow zones, get “trapped,” or are stored, either until floodwaters recede to a point that allows ineffective areas to drain or until water surface elevations rise to an elevation higher than the railroad. In the latter case, the volumetric portion of floodwater above the railroad will be introduced back into the conveyance as active flow as it overtops the railroad.

The effective FIS Loup River 100-year flood profiles indicate that water levels during the base flood will rise to an elevation that is a couple inches above the top of rail in some locations and just over one foot above the top of rail in other locations. Thus, the area outside of the active flow conveyance and below the top of the railroad is the defined ineffective area with no contribution to the 100-year flood flow. With no contribution to active flow, ineffective areas can be used for the placement of fill or temporary stockpiles, de facto, without affecting the BFE.

The proposed Project may utilize ineffective flow areas for overburden stockpiling with the crest of the railroad governing the height of placed overburden material. FEMA guidance indicates that ineffective flow areas upstream of a bridge crossing can be determined by drawing a 1:1 flow contraction envelope as water flows toward the bridge opening. The areas outside of this 1:1 envelope are ineffective. These areas may be used for overburden stockpiling with the maximum height of stockpiles below the top of rail. The figure below shows the approximate area available for the temporary storage of overburden materials that will not affect the BFE.

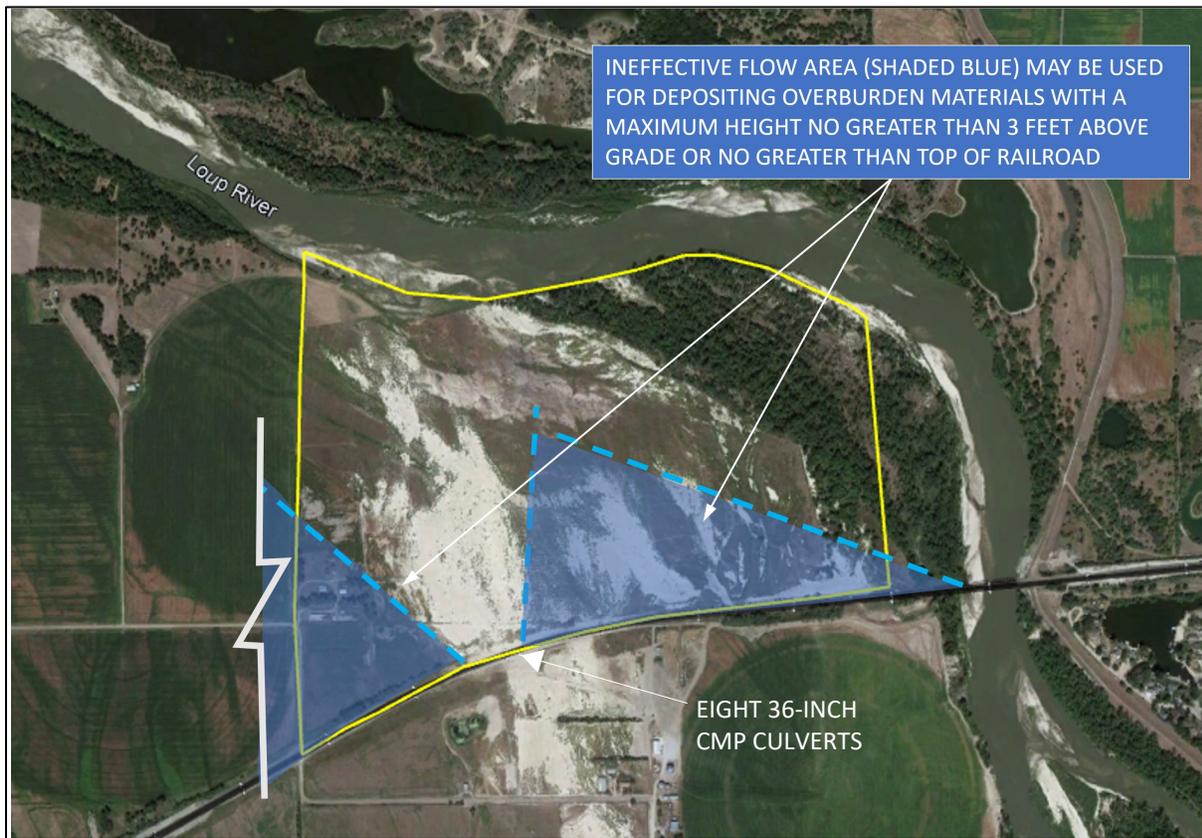


FIGURE 4: Ineffective Flow Areas

Ineffective flow areas do not contribute to active flow and thus have no effect on the base flood elevation (BFE). The planned locations for overburden materials are the areas of ineffective flow and the no rise area where materials will replace existing structures. FEMA provides guidance for NFIP communities relative to determining whether a proposed project will not cause any rise on the base flood elevation. One of the primary statements published by FEMA in support of allowing construction in the floodplain or floodway without requiring a detailed modeling analysis is to only allow new construction to occur within an ineffective flow area. As stated above, this area does not contribute to active flow during the base flood, thus development in this area does not affect the BFE. Please refer to the “Limit development to backwater areas” excerpt from “Floodway Analysis and Mapping Guidance Document 79,” dated November 2019 (below).

**12.1 Ways to Meet the 60.3(c)(10) Requirement**

Section 60.3(c)(10) of NFIP regulations requires a hydraulic analysis to ensure that each development in the floodplain does not increase base flood levels by more than one foot at any

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Floodway Analysis and Mapping  
Guidance Document 79

November 2019  
Page 32

point in the community. One of the concerns that have been expressed about implementing the requirement has been the cost of performing a hydraulic analyses for a small development such as a single home. The costs of this analysis must be considered as part of the cost of developing in the floodplain. The potential adverse impacts of development in the floodplain on upstream and adjacent property owners can be significant and must be evaluated before the development is allowed to occur. However, there are several ways a community can avoid or minimize these costs:

- **Stay out of the floodplain entirely.** Usually limited detail studies without floodways are provided in rural areas or less densely populated areas where parcels are large and there is a choice of building sites. In these cases, it is often in everyone’s best interest to design the development so that the building sites are located outside of the floodplain. The floodplain is preserved, and the permit applicant avoids the added costs of performing the hydraulic analysis and of developing in the floodplain.
- **Limit development to backwater areas.** It may also be possible to limit the development to backwater areas that are not effective flow areas. Most floodplains have irregular boundaries and include backwater areas that provide storage of floodwaters but play little or no role in the conveyance of floodwaters. The velocity of floodwaters in these areas may be zero or close to zero. There may also be floodplain areas that are separated from the river or stream by a railroad or road embankment or a substantial levee that is at or near the base flood elevation that parallels the river or stream. Areas behind these obstructions also may not convey flood flows. These areas are not taken into account as flow areas when the hydraulic model is developed of the floodplain. Development of these areas will not increase flood stages. A qualified engineer can apply basic hydraulic principles to identify these areas. The remainder of the floodplain is sometimes referred to as a natural floodway.

FIGURE 5: No-Rise Methodology Excerpt from FEMA Document 79

**EMPERICALANALYSIS.**

Project site characteristics such as the replacement of existing structures for use as compensatory storage areas, ineffective flow areas, and conveyance shadows, demonstrate the proposed project will not cause any rise in water surface elevations during the base flood. To further strengthen this finding, Manning’s formula was used to determine the extent to which fill could be placed in the floodway before causing a rise in the BFE under the assumption that none of the aforementioned site characteristics existed.

Assuming no ineffective flow areas and no existing obstructions to flow, such as the railroad and farmstead structures, we applied Manning’s equation to a cross section just downstream of FIRM Cross Section U to assess the maximum reduction in cross sectional flow area just prior to that which would cause a rise greater than 0.00 feet in water surface elevations during the base flood. Using these assumptions, we computed a total obstruction width of sixty-one feet perpendicular to the flow and up to the 100-year water surface would not cause any rise in the 100-year WSE. Thus, if the proposed Project were to limit stockpiling to a width of sixty-nine feet or less perpendicular to flow, with no maximum length parallel to flow and no limit on height, the Project would not cause any rise in water surface elevations during the base flood. Please see computation sheet (below).

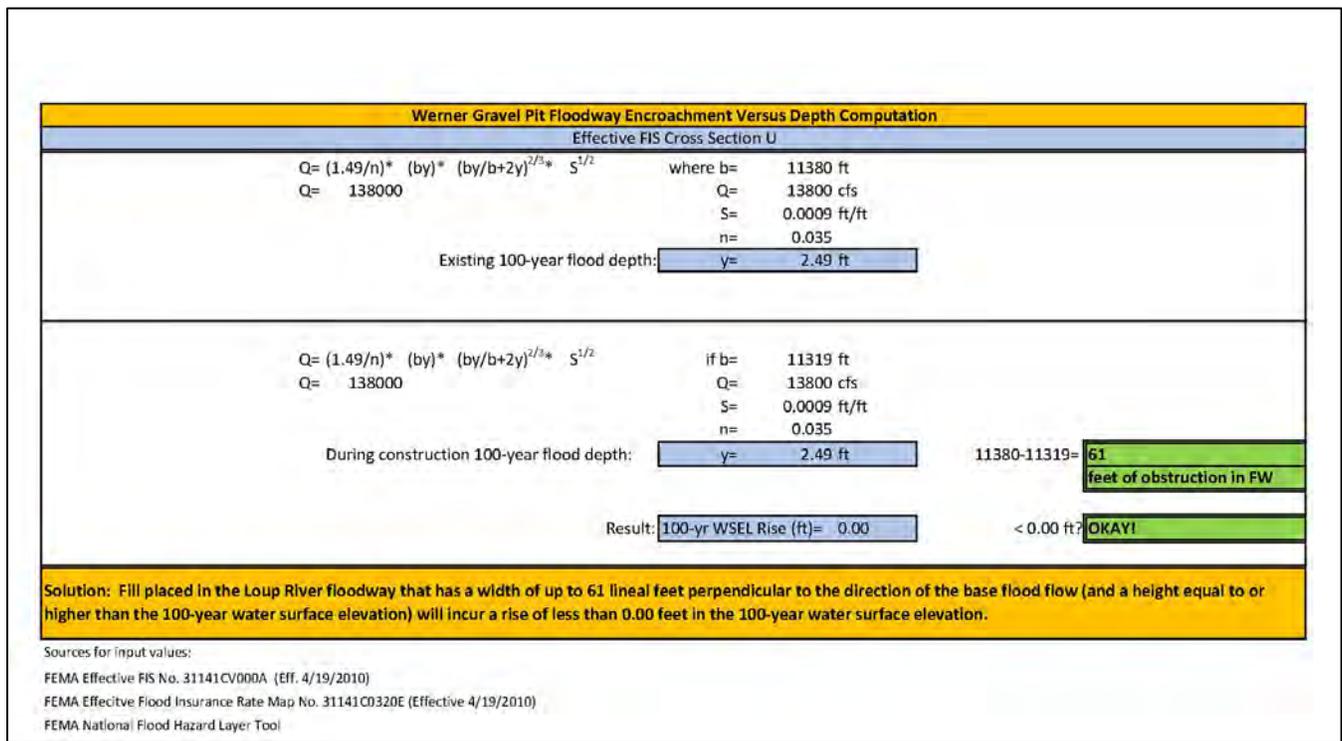
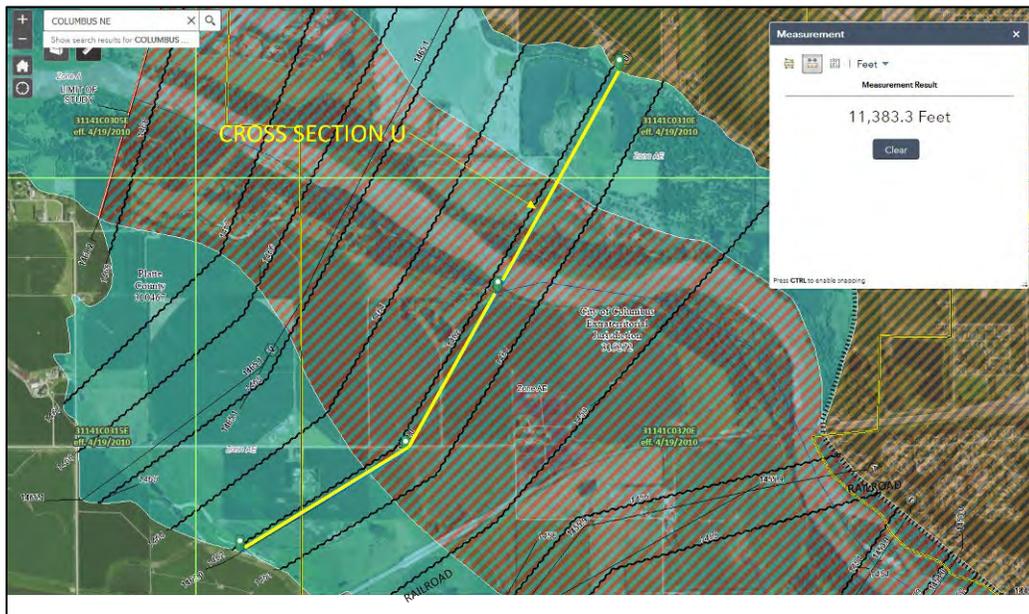


FIGURE 6: Result of Empirical No-Rise Computation

**EFFECTIVE FIS HYDRAULICS.**

The effective FIRM Cross Section “U” at the upstream end of the Project site shows a total floodplain width across the project site of approximately 11,400 feet (Figure 7).



**FIGURE 7: National Flood Hazard Layer Tool Floodplain Width Measurement**

Of this 11,400-foot floodplain width, approximately 6,400 feet is the designated floodway. This floodway width accounts for about 56% of the total floodplain width, which translates to infill potentially obstructing approximately 44% of the floodplain width. The effective FIS reports that if 44% of the floodplain area of flow is developed, or filled, it would incur a 0.3-foot rise in the BFE (Figure 8).

FLOODING SOURCE		FLOODWAY			1-PERCENT-ANNUAL-CHANCE-FLOOD WATER SURFACE ELEVATION			
CROSS SECTION	DISTANCE <sup>1</sup>	WIDTH <sup>2</sup> (FEET)	SECTION AREA (SQUARE FEET)	MEAN VELOCITY (FEET PER SECOND)	REGULATORY (FEET NAVD)	WITHOUT FLOODWAY (FEET NAVD)	WITH FLOODWAY (FEET NAVD)	INCREASE (FEET)
<b>LOUP RIVER</b>								
A	6,870	5,480/4,239 <sup>3</sup>	38,619	3.9	1,431.6	1,431.6	1,432.4	0.8
B	7,960	3,800	19,041	5.1	1,432.0	1,432.0	1,433.0	1.0
C	8,900	4,520	20,192	4.8	1,434.1	1,434.1	1,434.7	0.6
D	10,250	4,760	20,828	4.7	1,436.5	1,436.5	1,437.0	0.5
E	11,340	5,345	33,955	2.9	1,438.0	1,438.0	1,438.6	0.6
F	12,185	5,600	35,241	2.8	1,438.5	1,438.5	1,439.2	0.7
G	13,245	5,840	37,718	3.0	1,438.3	1,438.3	1,439.9	0.6
H	14,115	5,800	32,608	3.4	1,438.9	1,438.9	1,440.5	0.6
I	15,435	6,200	37,487	3.0	1,440.9	1,440.9	1,441.7	0.8
J	16,865	1,686	13,972	8.0	1,441.8	1,441.8	1,442.6	0.8
K	18,095	1,812	14,655	5.7	1,443.6	1,443.6	1,444.4	0.8
L	19,055	1,738	16,380	5.1	1,445.0	1,445.0	1,445.9	0.9
M	19,785	1,804	16,750	5.0	1,445.7	1,445.7	1,446.6	0.9
N	22,195	983	30,988	4.5	1,448.2	1,448.2	1,448.9	0.7
O	23,560	3,386	32,654	4.2	1,449.1	1,449.1	1,450.1	1.0
P	24,360	2,638	27,472	5.0	1,449.7	1,449.7	1,450.7	1.0
Q	24,935	2,437	24,033	5.7	1,450.6	1,450.6	1,451.3	0.7
R	26,935	3,791	32,401	4.3	1,453.0	1,453.0	1,454.0	1.0
S	28,035	4,291	34,875	4.0	1,453.9	1,453.9	1,454.9	1.0
T	29,935	6,790	46,154	3.0	1,455.9	1,455.9	1,456.6	0.7
U	37,500	6,284	39,558	3.5	1,462.0	1,462.0	1,462.3	0.3

<sup>1</sup>Feet above confluence with Platte River  
<sup>2</sup>The mapped floodway width differs from the modeled value because it has been adjusted to fit new base map data  
<sup>3</sup>Width within county

<b>TABLE 3</b>	FEDERAL EMERGENCY MANAGEMENT AGENCY	<b>FLOODWAY DATA</b>
	<b>PLATTE COUNTY, NE AND INCORPORATED AREAS</b>	<b>LOUP RIVER</b>

**FIGURE 8: Effective FIS Floodway Data Table**

Given the topographic uniformity of Cross Section U (a characteristic which would be true of a section cut anywhere across the Project site), a linear relationship of infill width to floodplain width and the corresponding rise in the BFE can be applied to gain a very general sense of the maximum length of an obstruction to flow, if any, that would result in no increase to the BFE.

Consider the following relationship:

$$44 (\% \text{ fill of total FP})/0.3 (\text{rise in BFE in feet}) = N (\% \text{ fill of total FP})/0.0049 (\text{rise in BFE less than 0.00 feet})$$

$$44/0.3=N/0.0049, N=0.72 (\% \text{ FP width associated with causing a rise less than 0.00 feet})$$

$$\text{Potential length of obstruction causing less than 0.00-foot rise} = 11,400 \text{ feet} \times 0.72\% = \underline{82 \text{ feet}}$$

Applying hydraulic parameters published in the effective FIS, placement of fill in the floodway could potentially obstruct up to 82 horizontal feet perpendicular to flow up to the surface and not cause a rise greater than 0.00 feet.

Floodplain hydraulics is oftentimes counterintuitive and to assume a linear relationship such as this for floodplain hydraulic purposes is typically not advisable because it is often not applicable; however, it is applicable at this location along the Loup River due to several factors. What the relationship indicates is a high degree of certainty that a measurable volume of fill could be placed in the floodway at the proposed Project site, absent of the previously described site characteristics, without causing a rise in the BFE. This fact is more easily accepted when realizing that the Loup River floodplain at the Project site is over two miles wide. Common sense makes apparent that the width component of an obstructed cross-sectional area of flow that is 4 to 5 feet deep (exclusive of the main channel) would need to be proportionally substantial enough to incur even a small rise across the entire 2-mile plus water body.

#### **ADDITIONAL BENEFITS.**

The large flooding events that occurred in 2019 and 2020 resulted in the deposition of nutrient-rich soils coupled with widespread pollination in the vicinity of the proposed project. New trees and dense bushes have started to grow and have continued to grow at exceptionally fast rates, up to several feet per year. The pictures (Figures 11-13) following this section should be examined until the reader recognizes the detrimental potential this post-flood vegetative growth possesses. The new growth is more readily apparent when the photographs are zoomed in. The new vegetation in the pictures below may appear volumetrically modest, but it would not be difficult to also successfully argue that overbank roughness coefficients for much of the site are now double the pre-flood condition. The comparison of Figure 9 to Figure 10 (below) illustrates this increase in roughness (especially if using software such as Google Earth). An increase in roughness that effectively doubles Manning's "n" mathematically translates to a 50% increase in water depth. So, a flood depth measuring six feet will increase to nine feet when the roughness coefficient doubles. Greater flood depths increase the hazards associated with flooding, with larger flood inundation areas and higher tractive forces being two of the more obvious examples.

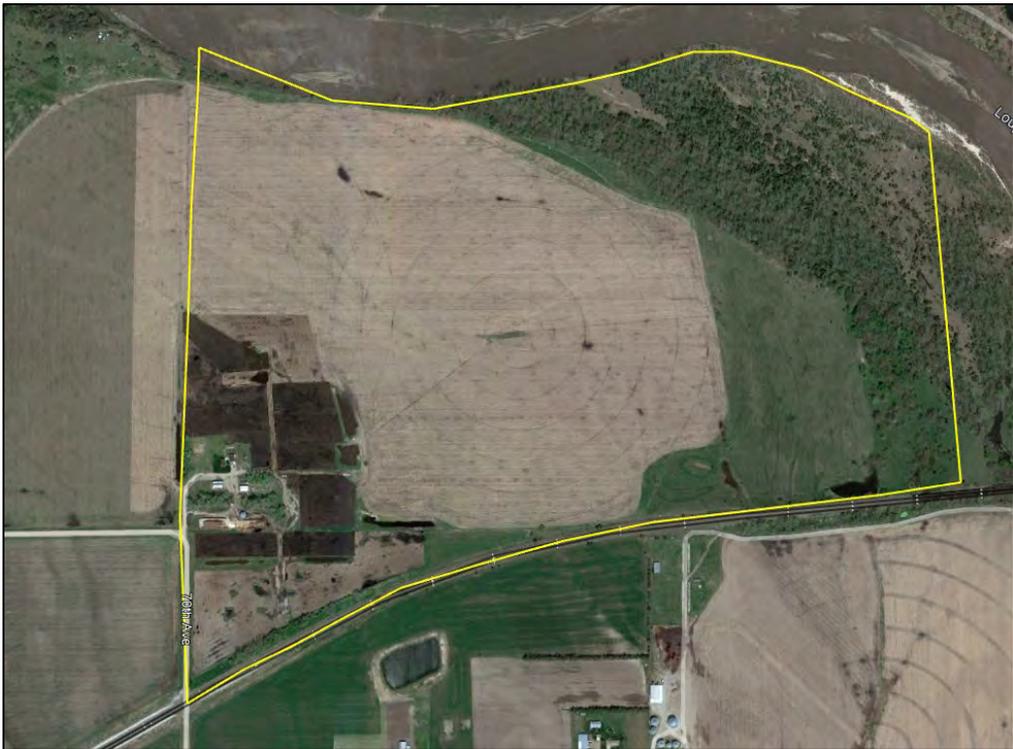


Figure 9: Project site (approx.) April 2014

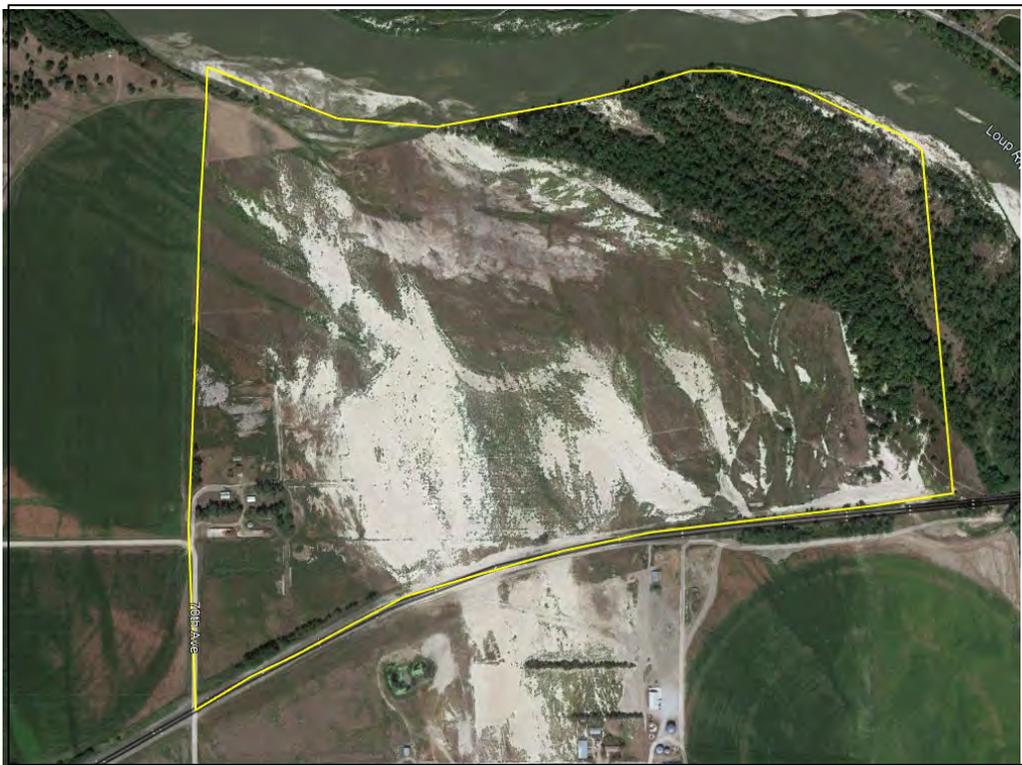


Figure 10: Project site (approx.) Sept 2020



Figure 11: New tree and plant growth on Project site

The adverse effects of new vegetative growth to floodwaters during a major storm are potentially substantial for any waterway. Maintenance of vegetation upstream of the UPRR rail should be a high priority. Approving a Floodplain Development Permit for the Werner gravel mine will help to mitigate potential increases in flood elevations due Werner's commitment to managing new tree and plant growth. Implementing no tree and plant maintenance plan should not be an option.

When the next major flood event occurs, and branches and/or trees enter the active flow channel, it can be expected that these materials will obstruct downstream flows at inlets to bridges and culverts and other outfall locations. Preventative maintenance will help to reduce the extent of future flooding.

Appendix F is Werner Construction's letter of commitment to tree and plant maintenance.

**FINDING.**

Our evaluation, which has considered factors such as compensatory storage, ineffective flow area, conveyance shadows, Manning’s formula, FIS-published data, and NFIP- and FEMA-published guidance for Communities, demonstrates that the proposed temporary Project, as described in this report, will not cause a rise in water surface elevations greater than 0.00 feet during the base flood.

FEMA-published literature, which supports the technical veracity of each consideration listed above has been referenced herein or is enclosed in the Appendix. Important to reiterate is that the proposed gravel mining project will be temporary. Preconstruction elevations will be restored as the Project progresses and finally at the conclusion of the Project. Permanent changes to current topography will not result from the Project; thus, the Project will not cause a rise in the effective BFE.

Thank you for your consideration of this Project.

**Temporary Permit to Practice Engineering**

Name: Eliot J Wong  
Permit No.: T-643; Expiration Date: 5/19/2024  
State of Licensure: Colorado; No.: 48402  
Project: Werner Gravel Pit  
7014 8 Street  
Columbus, NE 68601



## Appendix A – No-Rise Certification

**ATTACHMENT D - "NO-RISE" CERTIFICATION**

THIS IS TO CERTIFY THAT I AM A DULY QUALIFIED PROFESSIONAL CIVIL ENGINEER LICENSED TO PRACTICE IN THE STATE OF NEBRASKA.

IT IS FURTHER TO CERTIFY THAT THE TECHNICAL DATA PROVIDED WITH THIS CERTIFICATION SUPPORTS THE FACT THAT THE PROPOSED WERNER GRAVEL MINING PROJECT IN THE CITY OF COLUMBUS WILL NOT CAUSE ANY RISE IN 100-YEAR FLOOD ELEVATIONS ON LOUP RIVER ABOVE THE 100- YEAR FLOOD PROFILES PUBLISHED IN FEMA FLOOD INSURANCE STUDY NO. 31141CV000A FOR PLATTE COUNTY, NEBRASKA (EFFECTIVE APRIL 19, 2010).

PLEASE REFER TO THE "FLOODPLAIN DEVELOPMENT PERMIT APPLICATION, SUPPLEMENTAL REPORT, FOR WERNER CONSTRUCTION LLC", WHICH CONFIRMS THIS "NO-RISE" CERTIFICATION.

SEAL:



NAME: Francis S. Kwapnioski  
REGISTRATION NO.: 4981

Appendix B – Floodplain Management Bulletin

Floodplain Management Bulletin

# Variations and the National Flood Insurance Program

*FEMA P-993 / July 2014*



**FEMA**

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## Acronyms and Abbreviations

BFE	Base Flood Elevation
CFR	Code of Federal Regulations
DOI	Department of the Interior
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
NFIP	National Flood Insurance Program
SFHA	Special Flood Hazard Area
WSEL	Water Surface Elevation

only for the minimum necessary to afford relief related to the flood hazard. Communities should place conditions on this type of variance to minimize flood damages. An example would be stipulating that wet floodproofing measures (refer to text box) be applied to a boat storage facility to reduce damage to the structure and its contents. Property owners should understand, however, that wet floodproofing will not result in a reduction of insurance premiums. Structures that are wet floodproofed are rated by the elevation difference between the lowest floor (usually the ground elevation) and the BFE.

### 4.3 Subdivisions

Variances are not intended to provide a means of exempting lot divisions, phases of subdivisions, or entire subdivisions from floodplain management regulations. Variances should never be granted as part of a split or the creation of multiple lots, phases of subdivisions, or entire subdivisions. Variances can affect public safety, such as variances to the elevation requirement for a subdivision that could potentially increase the risk of flooding for a large number of people, as well as the demand on local emergency services. The granting of variances by a community should be based on a site-specific, structure-by-structure review to determine whether all variance criteria are met. When a property is subdivided, streets and utilities are installed, and individual sites graded, it is generally relatively manageable and cost effective for property owners to meet the floodplain elevation requirements as stated in the local ordinance.

Subdivision design should account for the flood hazard characteristics of the properties. Communities should not approve subdivisions unless the design accounts for the flood hazard. The design of a subdivision should consider access to and from the subdivision to allow local residents a safe evacuation route from the development during a hazard event such as a flood. A safe evacuation route will reduce the demand for emergency services.

### 4.4 Temporary Development

- Communities may be asked to consider a variance to allow temporary development, such as a highway project or drilling operation, in the floodplain. A variance cannot be granted by a community when the proposed measure is permanent or affects insurable structures.
- Temporary projects, however, for which there is a net public benefit (such as a highway project) are not inconsistent with the variance criteria, provided the conditions described in this subsection are met.

#### DEVELOPMENT

The NFIP defines development as any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

#### 4.4.1 Considerations for a Temporary Development Variance

- Two conditions should be closely considered by a community before granting a variance for temporary development:

- **The magnitude of the impact** (i.e., the potential height of the increase in WSEL) caused by the temporary project; and
- **The number of insurable structures** that would potentially be affected by such an increase during the base flood, and the severity of the impact.

Before granting a variance for temporary development, communities should consider issuing a temporary permit. The greater the increase in WSEL and number of potentially affected structures, the stricter the temporary performance requirements (e.g., sizing of temporary bridge openings) and the less justification for a variance. If the affected area has a low population density and one or more of the following factors are present, the community may want to consider allowing construction of a temporary project or other temporary development using a less restrictive standard:

- The increased flood hazard would be limited to property owned or leased by the State transportation agency or variance applicant, or property for which the owner has acquired “flowage” easement;
-  The increased flood hazard would be limited to undeveloped community areas that the local government judges to have no development potential during the time the temporary measure would be in place;
-  The increased flood hazard would not affect insurable structures (i.e., cause an increase in flood levels for structures that are already floodprone or cause non-floodprone structures to become floodprone); or
- The State or county transportation authority, another government agency with the power of eminent domain, or a private applicant has agreed to one of the following actions: (1) purchase or relocate structures affected by the proposed project, (2) elevate such structures to the temporary BFE, (3) purchase flowage or flooding easements, or (4) provide other forms of equivalent mitigation such as purchasing flood insurance for the duration of the temporary increase.

If one or more of the above factors are met, any increase in the BFE for the duration of the temporary permit should not adversely affect insurable structures in the community. In this case, the community may decide to grant a variance allowing a temporary project.

#### 4.4.2 Storage of Equipment and Material in Temporary Development Projects

Per the NFIP definition of development, the storage of equipment and materials is subject to local floodplain development permit requirements. Continuous storage operations—such as lumber yards, landscape material yards, recreational vehicle/automobile storage and sale, and junk yards—are also considered development and are subject to floodplain development permit requirements. The storage of equipment and materials should not increase flood heights in the floodway and should meet the other required standards of the floodplain management ordinance.

It is a community’s responsibility to make a prudent and reasonable distinction between types of storage activities. This distinction should be based on considerations such as the length of storage time, nature of the materials or equipment being stored, physical characteristics of the floodplain, and characteristics of the flood flows. As a guide, the smaller the SFHA and longer the storage time, the more concerned a

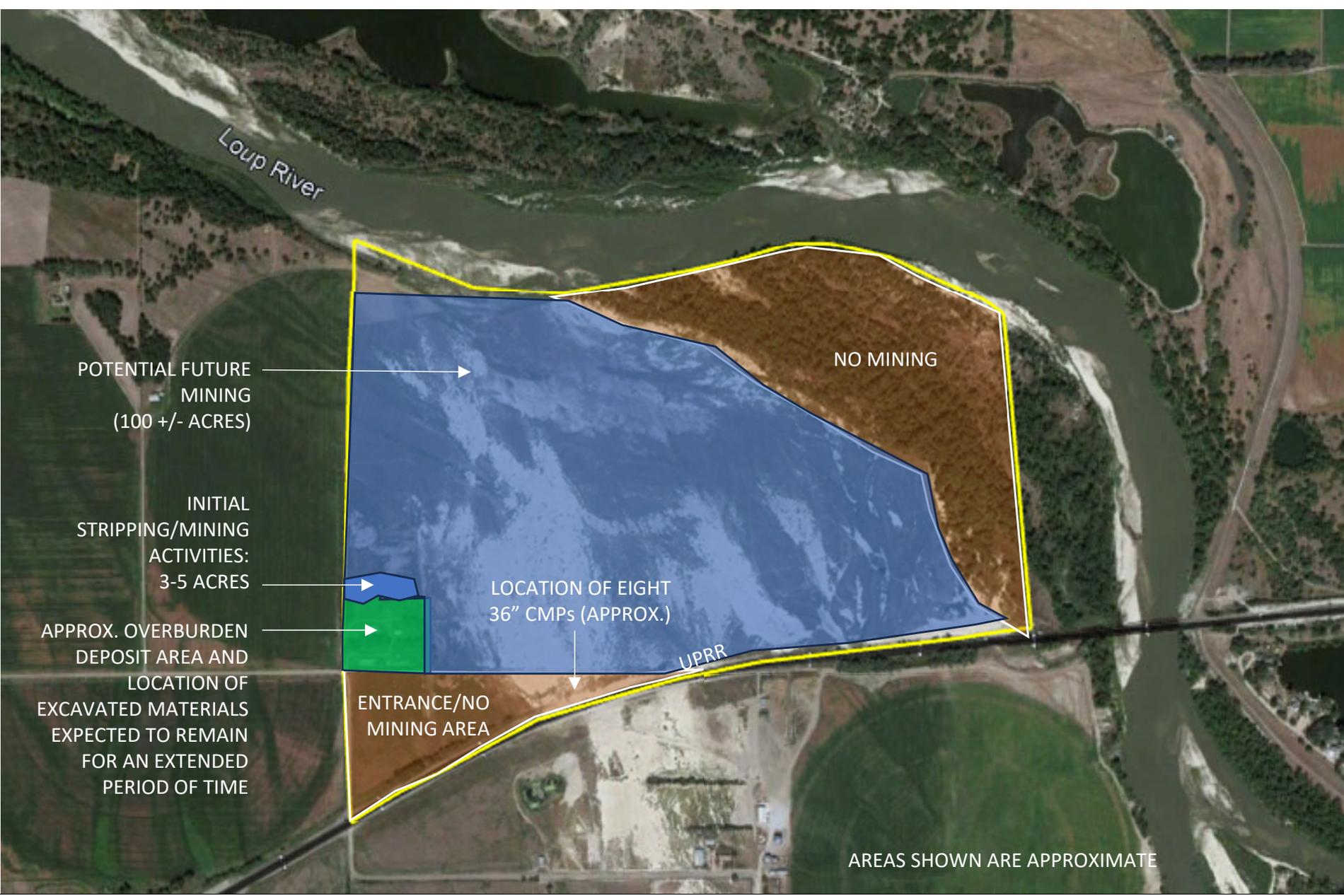
community should become with the placement of materials and equipment within the SFHA and the potential impact of such activities on the storage and conveyance of floodwaters.

The unique characteristics of the site in relation to the flood threat and type of activity, material, or items to be stored may be significant. The type of flood exposure, such as flash flooding or backwater ponding, water velocity and depth, time of concentration, and potential accumulation of debris are factors to consider when determining the effect of allowing temporary storage within the floodplain.

Generally, the potential for water to rise more rapidly, the greater the depth and velocity, and the potential to adversely impact neighboring properties, the greater the concern the community should have with the placement of materials and equipment and its impact on the storage and conveyance of floodwaters.

Local governments should be sure to distinguish between the temporary storage of materials and equipment in flood hazard areas and the storage activities associated with continuous businesses, construction operations, or other commercial and industrial enterprises.

Appendix C – Initial- and Post-Development Project Site Plans



POTENTIAL FUTURE MINING  
(100 +/- ACRES)

INITIAL STRIPPING/MINING ACTIVITIES:  
3-5 ACRES

APPROX. OVERBURDEN DEPOSIT AREA AND LOCATION OF EXCAVATED MATERIALS EXPECTED TO REMAIN FOR AN EXTENDED PERIOD OF TIME

LOCATION OF EIGHT 36" CMPs (APPROX.)

ENTRANCE/NO MINING AREA

NO MINING

UPRR

AREAS SHOWN ARE APPROXIMATE



DATE:	
REVISIONS:	
NO. DESCRIPTION:	

PROJECT NO.

PROJECT TITLE:  
LOUP RIVER GRAVEL MINING PROJECT

DRAWING TITLE:  
INITIAL SITE PLAN

SCALE:

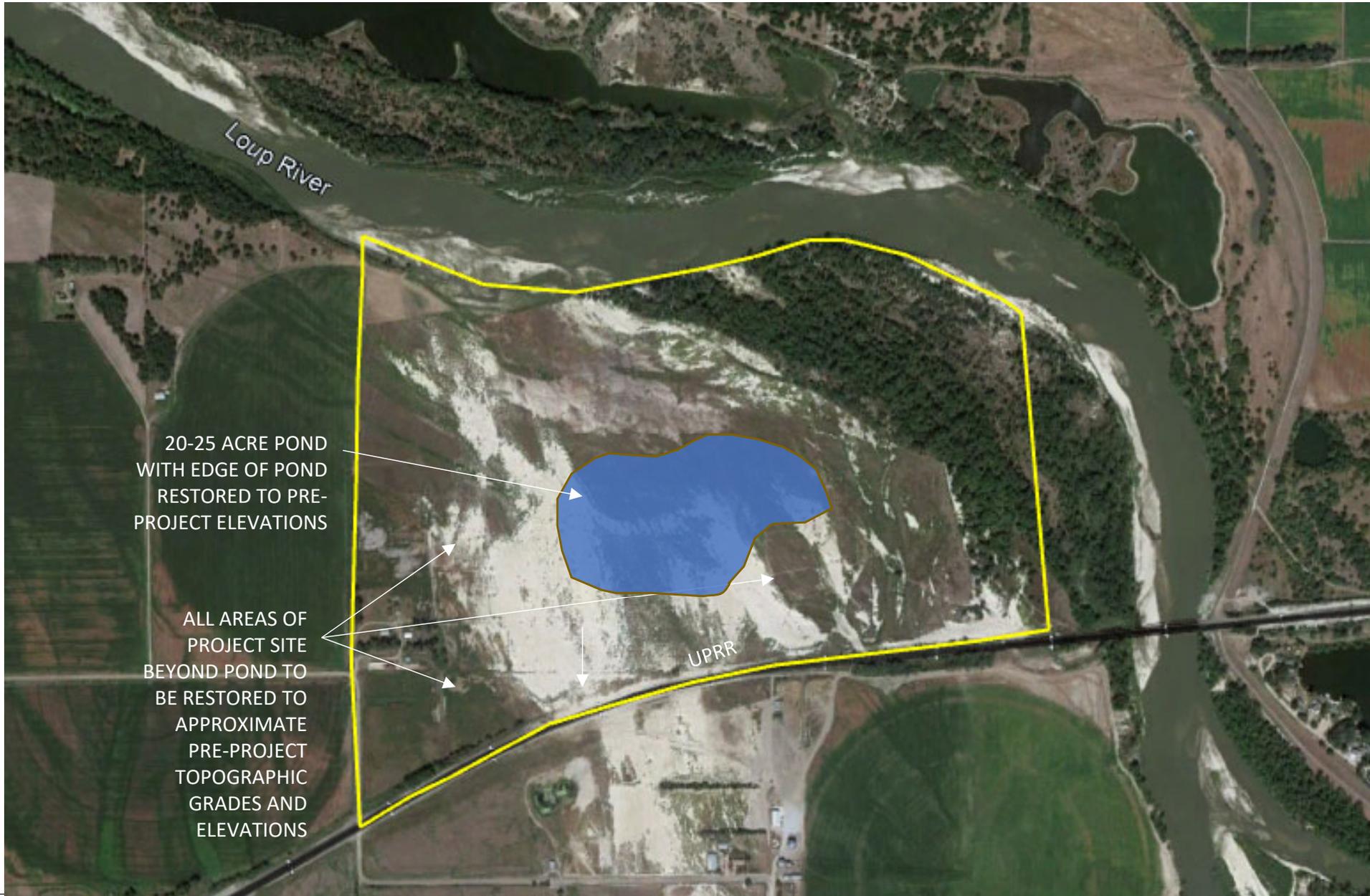
DATE:

DESIGN:

DRAWN:

CHECK:

DRAWING NO.



Loup River

UPRR

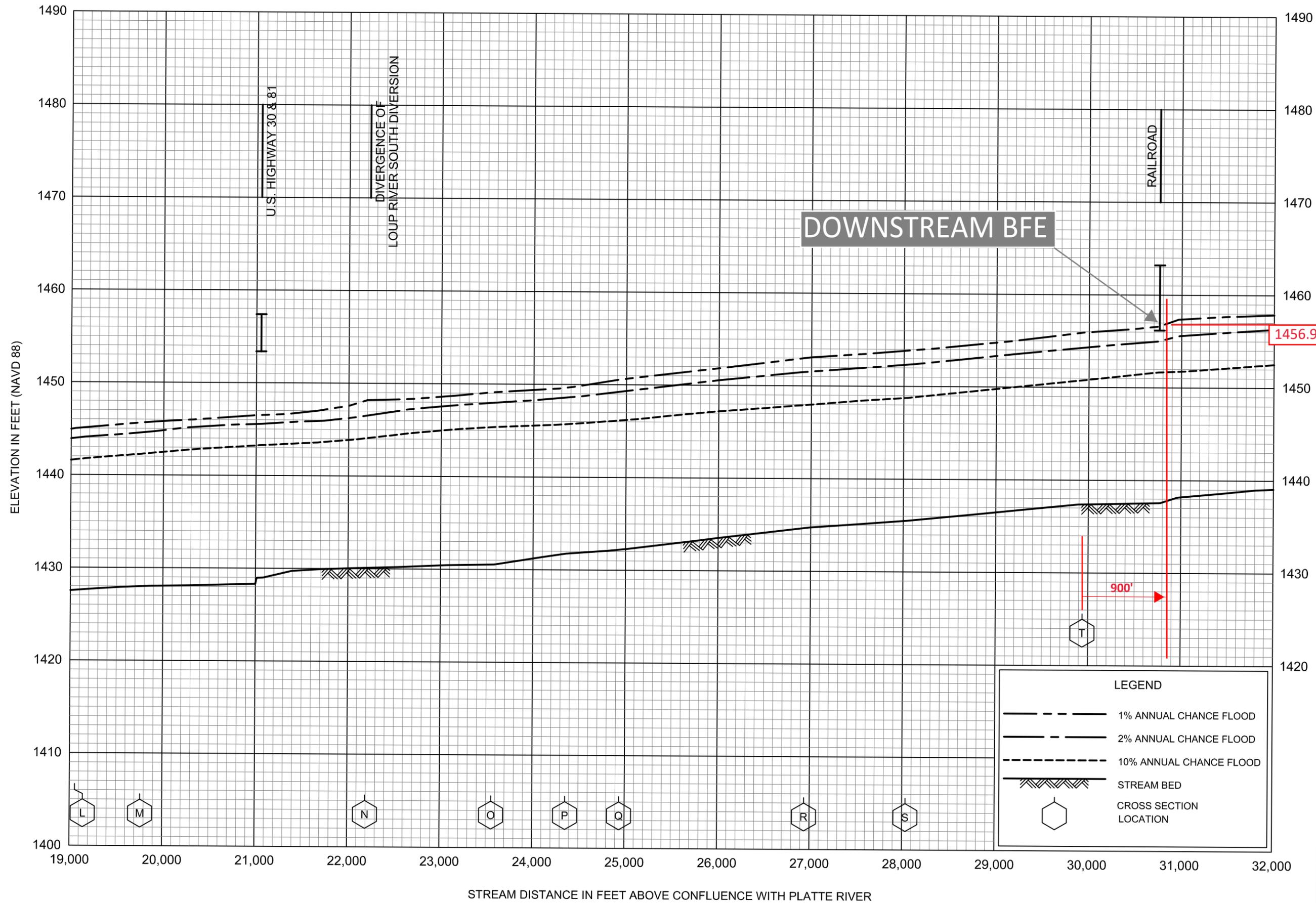
20-25 ACRE POND  
WITH EDGE OF POND  
RESTORED TO PRE-  
PROJECT ELEVATIONS

ALL AREAS OF  
PROJECT SITE  
BEYOND POND TO  
BE RESTORED TO  
APPROXIMATE  
PRE-PROJECT  
TOPOGRAPHIC  
GRADES AND  
ELEVATIONS



DATE:	
REVISIONS:	
NO. DESCRIPTION:	
PROJECT NO.	
PROJECT TITLE:	LOUP RIVER GRAVEL MINING PROJECT
DRAWING TITLE:	POST DEVELOPMENT SITE PLAN
SCALE:	
DATE:	
DESIGN:	
DRAWN:	
CHECK:	
DRAWING NO.	

Appendix D – FIS Loup River 100-Year Flood Profiles & BFE Determinations

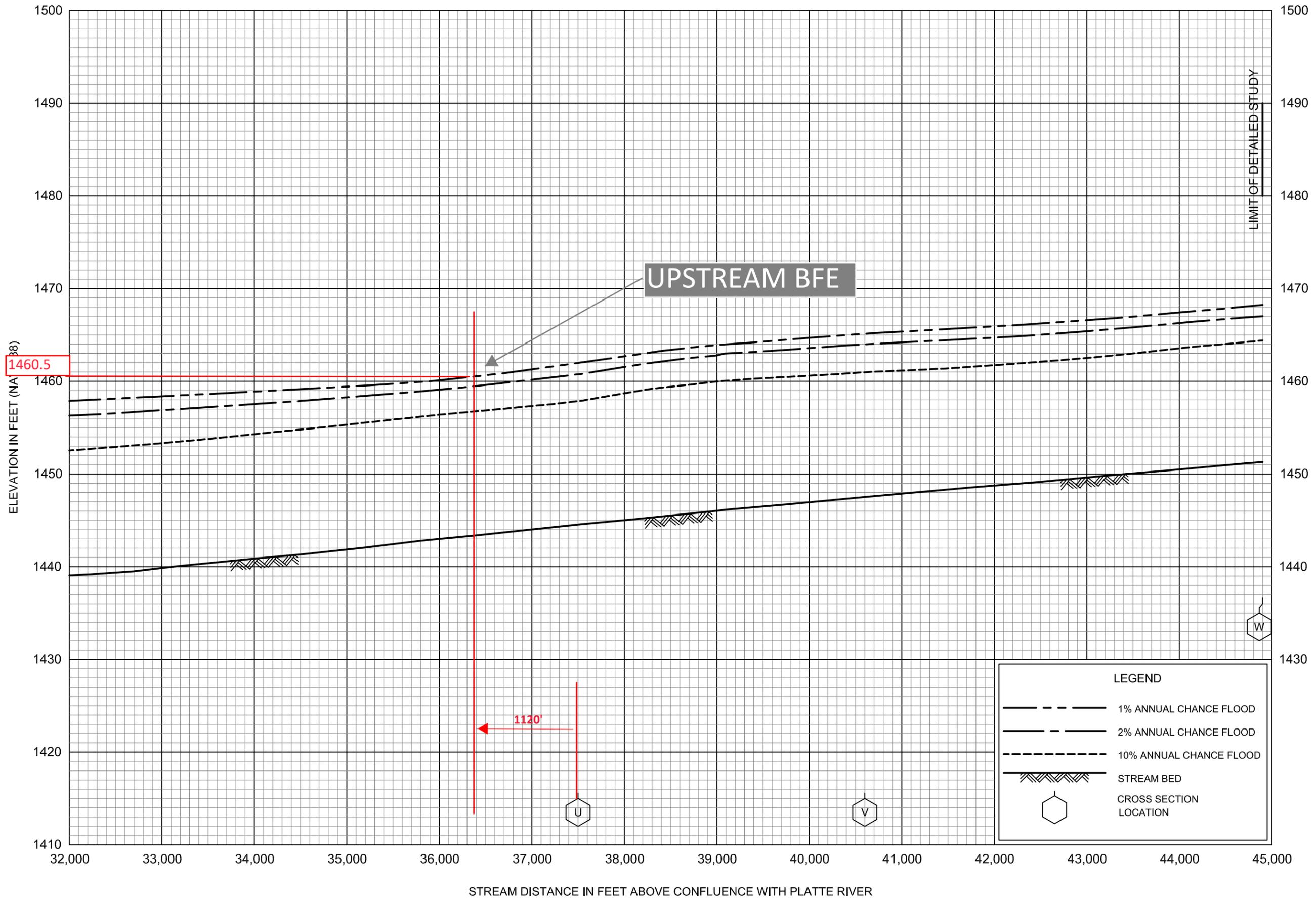


FLOOD PROFILES

LOUP RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY  
 PLATTE COUNTY, NE  
 AND INCORPORATED AREAS

05P



FLOOD PROFILES

LOUP RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY

PLATTE COUNTY, NE  
AND INCORPORATED AREAS

Appendix E – Pictures of Structures To Be Removed From Project Site











## Appendix F – Vegetation Maintenance Commitment

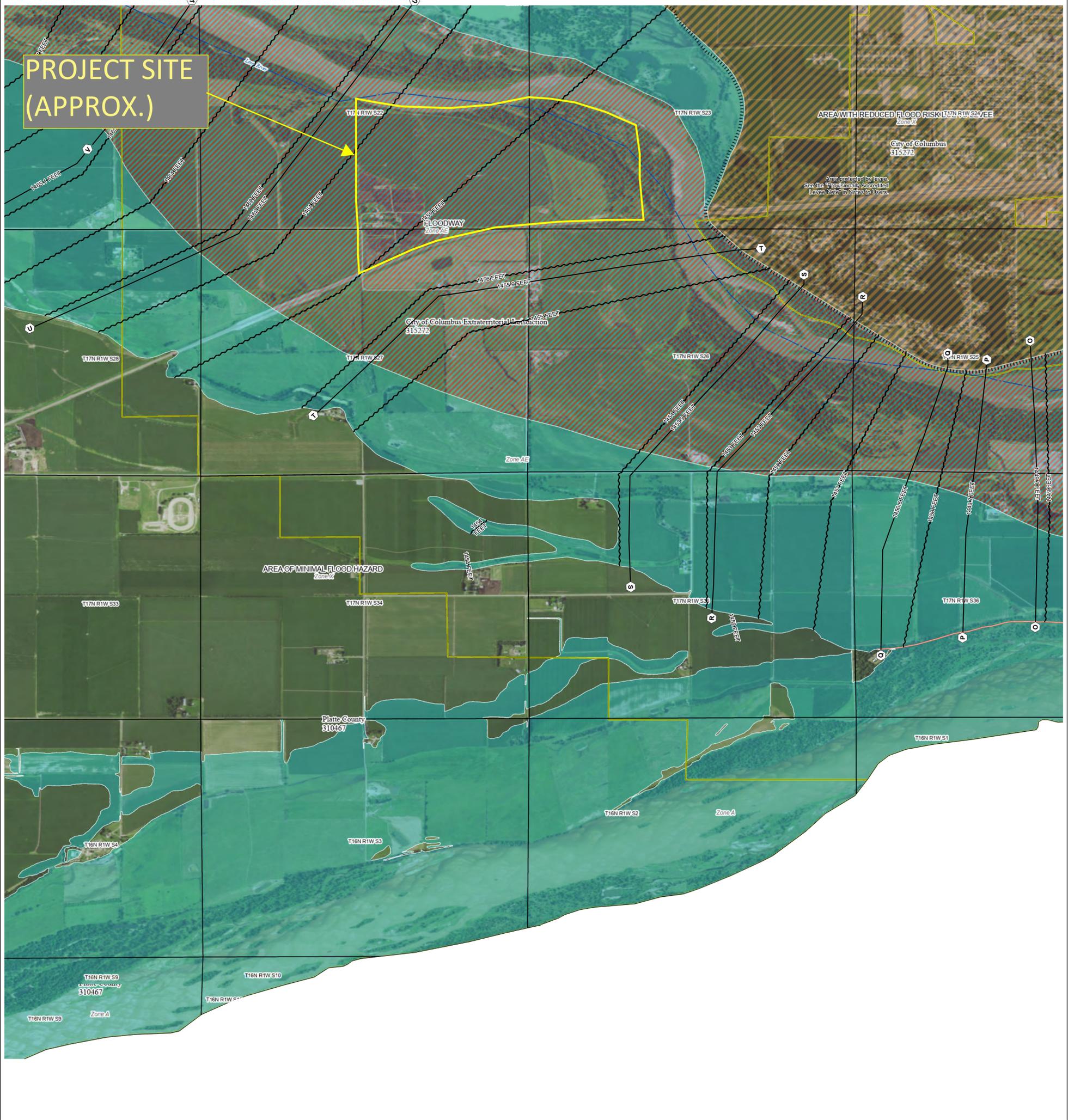
## Vegetation Maintenance Plan Commitment Statement

As part of initial site development of the proposed gravel mining project along the Loup River in Columbus, NE, Werner Construction, LLC will address new tree and plant growth that has resulted from recent flooding. Existing fugitive vegetation and future fugitive growth will be identified during semi-annual inspections and maintenance will be performed annually. Maintenance activities will include bush-cutting identified vegetation and removing it and/or implementing an acceptable herbicide to contain the growth. Werner Construction, LLC commits to dedicating the resources necessary to fulfill this Vegetation Maintenance Plan should the proposed project come to fruition.

Authorized Representative's Signature: \_\_\_\_\_  
Werner Construction, LLC

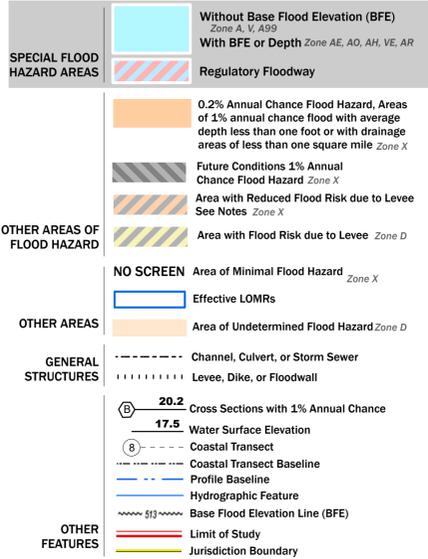
Date: \_\_\_\_\_

Appendix G - Effective Flood Insurance Rate Map



**FLOOD HAZARD INFORMATION**

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR DRAFT FIRM PANEL LAYOUT



**NOTES TO USERS**

For information and questions about this Flood Insurance Rate Map (FIRM), available products associated with this FIRM, including historic versions, the current map date for each FIRM panel, how to order products, or the National Flood Insurance Program (NFIP) in general, please call the FEMA Map Information eXchange at 1-877-FEMA-MAP (1-877-336-6627) or visit the FEMA Flood Map Service Center website at <https://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the website.

Communities annexing land on adjacent FIRM panels must obtain a current copy of the adjacent panel as well as the current FIRM Index. These may be ordered directly from the Flood Map Service Center at the number listed above.

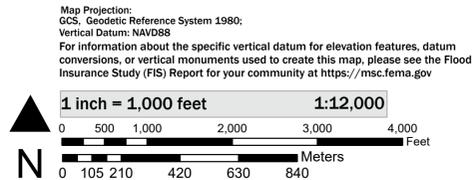
For community and countywide map dates, refer to the Flood Insurance Study Report for this jurisdiction.

To determine if flood insurance is available in this community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

Basemap information shown on this FIRM was provided in digital format by the United States Geological Survey (USGS). The basemap shown is the USGS National Map: Orthoimagery, Last refreshed October, 2020.

This map was exported from FEMA's National Flood Hazard Layer (NFHL) on 11/11/2021 6:33 PM and does

**SCALE**



**NATIONAL FLOOD INSURANCE PROGRAM  
FLOOD INSURANCE RATE MAP**

PANEL 320 OF 400

Panel Contains:

COMMUNITY	NUMBER	PANEL
POLK COUNTY	310468	0320
CITY OF COLUMBUS	315272	0320
PLATTE COUNTY	310467	0320
CITY OF COLUMBUS EXTRATERRITORIAL JURISDICTION	315272	0320



FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

WERNER GRAVEL MINE AT LOUP RIVER

**ATTACHMENT B – TOPOGRAPHIC MAP OF SITE AND SURROUNDING AREA**



CULVERTS- ALL ARE 36" STEEL PIPES						
CULVERT	NORTH END NORTHING	NORTH END EASTING	NORTH END TOP ELEV.	SOUTH END NORTHING	SOUTH END EASTING	SOUTH END TOP ELEV
1	589761.03	2349715.78	1453.14	589707.26	2349742.15	1453.45
2	589762.89	2349719.97	1453.19	589709.15	2349746.16	1453.33
3	589764.68	2349723.17	1453.28	589711.13	2349749.69	1453.47
4	589767.90	2349730.43	1453.23	589714.12	2349756.54	1453.01
5	589769.51	2349733.28	1453.41	589716.08	2349759.87	1452.38
6	589771.64	2349737.39	1453.00	589717.88	2349763.79	1452.27
7	589775.39	2349745.48	1453.03	589722.13	2349772.29	1451.93
8	589777.75	2349749.61	1452.45	589724.26	2349776.10	1452.34

NOTE:  
ALL ELEVATIONS SHOWN ARE NAVD88 AND ALL COORDINATES ARE NAD83  
NEBRASKA STATE PLANE.

**SURVEYOR'S CERTIFICATE:**  
I HEREBY CERTIFY THAT THIS TOPOGRAPHIC SURVEY WAS MADE BY ME OR UNDER MY SUPERVISION AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE, AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NEBRASKA.

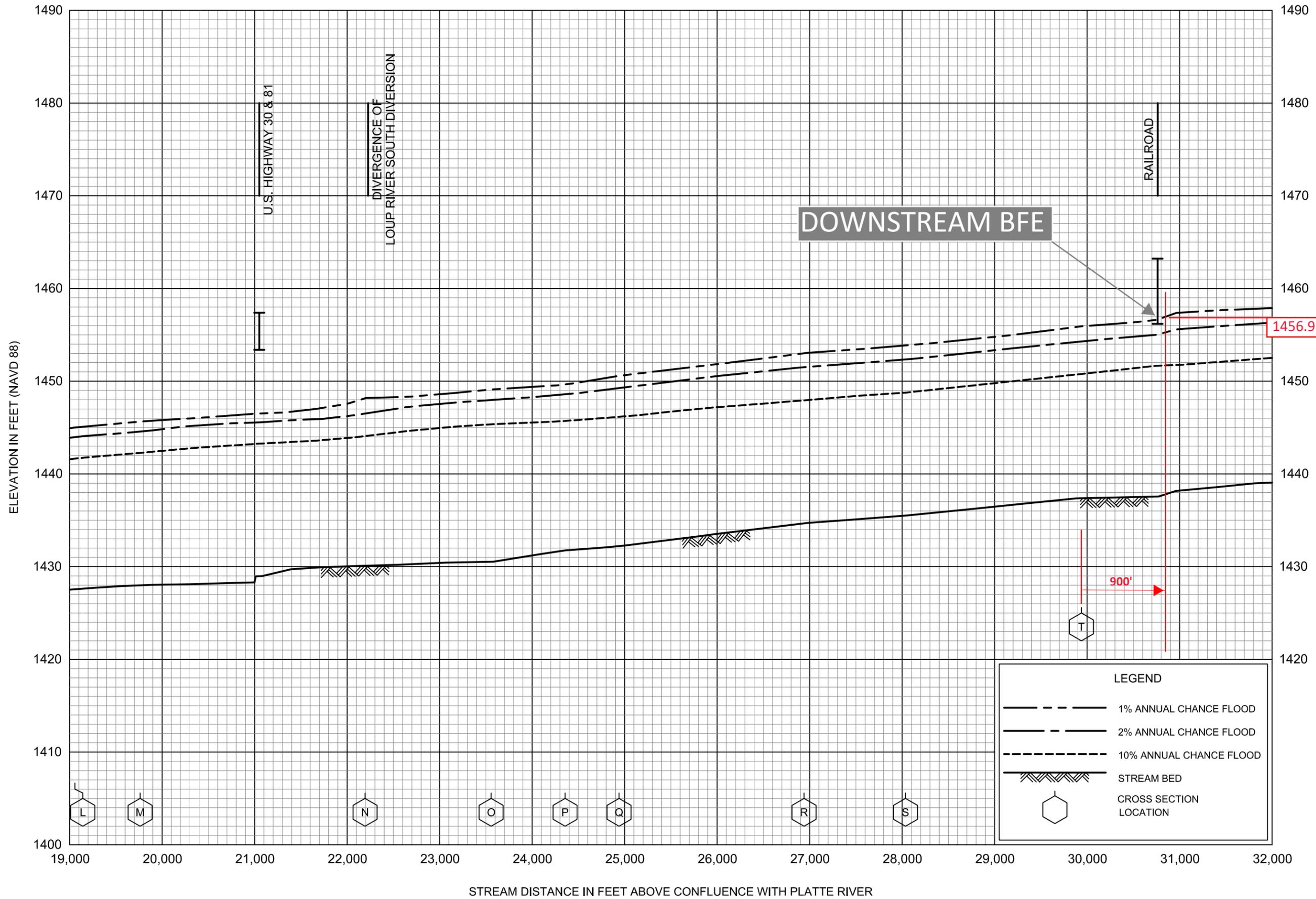
*J.D.B.*  
JOSHUA D. BORCHERS, LS 766



PROJECT NO.	211566
DATE	3/7/2022
DRAWN BY	AWH
FILE NAME	211566_Columbus_sheet.dwg
FIELD BOOK	PLATTE CO. 3
FIELD CREW	AH/MS
SURVEY FILE NO.	---
PLAN IN HAND	---
INITIALS	---
DATE	---
70 PERCENT REVIEW	---
INITIALS	---
DATE	---
95 PERCENT REVIEW	---
INITIALS	---
DATE	---
REVISIONS	---

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION  
WERNER GRAVEL MINE AT LOUP RIVER

**ATTACHMENT C – BFE DETERMINATION SHEETS**

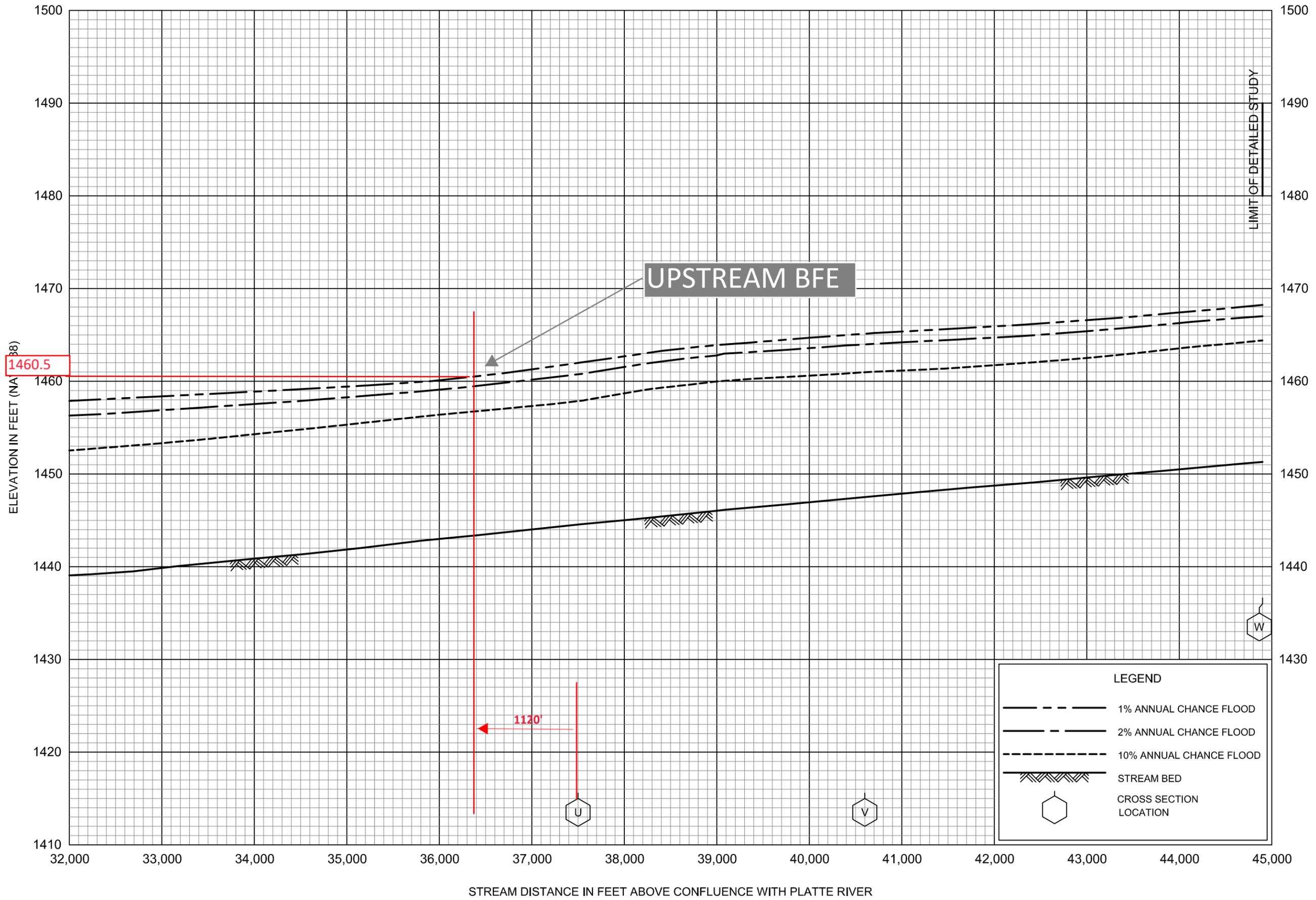


FLOOD PROFILES

LOUP RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY  
PLATTE COUNTY, NE  
AND INCORPORATED AREAS

05P



FLOOD PROFILES

LOUP RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY

PLATTE COUNTY, NE  
AND INCORPORATED AREAS

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION  
WERNER GRAVEL MINE AT LOUP RIVER

**ATTACHMENT D - NO-RISE CERTIFICATION**

**"NO-RISE" CERTIFICATION**

THIS IS TO CERTIFY THAT I AM A DULY QUALIFIED PROFESSIONAL CIVIL ENGINEER LICENSED TO PRACTICE IN THE STATE OF NEBRASKA.

IT IS FURTHER TO CERTIFY THAT THE TECHNICAL DATA PROVIDED WITH THIS CERTIFICATION SUPPORTS THE FACT THAT THE PROPOSED WERNER GRAVEL MINING PROJECT IN THE CITY OF COLUMBUS WILL NOT CAUSE ANY RISE IN 100-YEAR FLOOD ELEVATIONS ON LOUP RIVER ABOVE THE 100- YEAR FLOOD PROFILES PUBLISHED IN FEMA FLOOD INSURANCE STUDY NO. 31141CV000A FOR PLATTE COUNTY, NEBRASKA (EFFECTIVE APRIL 19, 2010).

PLEASE REFER TO THE ATTACHED DOCUMENT, WHICH SUPPORTS THIS "NO-RISE" CERTIFICATION.

SEAL:



NAME: Francis S. Kwapnioski  
REGISTRATION NO.: 4981

- 7. Public hearing - Application of Aramis Curbelo Sangil on behalf of Randy A. Lott for Special Use Permit to allow automotive rental/sales in an "ML/C-1" (Light Industrial District) zone located at 2254 E 32nd Avenue.**

NOTICE OF HEARING  
TO ALL PARTIES IN INTEREST AND CITIZENS OF  
COLUMBUS, NEBRASKA

You are hereby notified that a public hearing before the Planning Commission of the City of Columbus, Nebraska will be held on Monday, September 11, 2023, at 6 p.m. in the Columbus Community Building, Community Room, 2500 14 St, Columbus, NE, on the application for a Special Use Permit to allow for automotive rental/sales on the following described real estate in an "ML/C-1" (Light Industrial District) zone: A tract of land in part of Block 3, Canal Industrial Park, located in the NW¼ of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska described as follows: The north half of the east half of the north 818.7 feet of Block 3, Canal Industrial Park, located in the NW¼ of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska, and the north 11.5 feet of the south half of the east half of the north 818.7 feet of said Block 3; EXCEPT the north 247.0 feet of the north half of the east half of the north 818.7 feet of said Block 3: AND EXCEPT a track of land located in the north 11.5 feet of the south half of the north 818.7 feet of Block 3, Canal Industrial Park, located in the NW¼ of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska, described as follows: Beginning at the SW Corner of the north 11.5 feet of said south half; thence E'ly on the south line of the north 11.5 feet of said south half, 336.1 feet, said point being 175.0 feet west of the east line of said Block 3; thence N'ly, and parallel with the east line of said Block 3, 0.5 feet; thence W'ly to a point on the west line of the north 11.5 feet of said south half and 2.3 feet north of the SW Corner of the north 11.5 feet of said south half; thence S'ly, 2.3 feet on the west line of the north 11.5 feet of said south half, to the point of the beginning; and the south 0.3 feet of the west 41.6 feet of the east 175.0 feet of the north 11.5 feet of the south half of the east half of the north 818.7 feet of said Block 3. DESCRIPTION OF SAID BLOCK 3 IS AS FOLLOWS: Commencing at the NW Corner of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska, thence S'ly on the west line of said Section 23 for a distance of 60 feet to a point, thence E'ly at a deflection angle of 90°37' Left for a distance of 33 feet to the point of beginning; thence continuing E'ly on a straight line, 60 feet south of, and parallel to the north line of said Section 23, for a distance of 1,021.4 feet to a point, thence S'ly at a deflection angle of 90°30' Right on a straight line for a distance of 1,918.7 feet to a point; on the north line of the Union Pacific Rail Road, Right of Way, thence SW'ly on a deflection angle of 84°22' Right, along the North R.O.W. line of the Union Pacific Rail Road for a distance of 1,030.4 feet to a point 33 feet east of the west line of said Section 23, thence N'ly at a deflection angle of 94°45' Right on a straight line that is 33 feet east of, and parallel to the west line of said Section 23, for a distance of 2,010.8 feet to the point of beginning. The above described tract is also described as Block 3, Canal Industrial Park, and is shown on Survey in Plat Book 11, Page 2, Office of Platte County Register of Deeds (2254 E 32 Ave) and at said time and place you may appear and be heard.

CITY OF COLUMBUS, NE  
Janelle Kline, City Clerk

Publish: 09:01:23  
Two Affidavits of Publication

**CITY OF COLUMBUS  
MEMORANDUM**

---

**DATE:** August 25, 2023  
**FROM:** Andy Woehrer, Chief Building & Code Official  
**TO:** Tara Vasicek, City Administrator  
**RE:** Special Use Permit to allow Automotive Rental/Sales in a ML/C1 zoning district at 2254 E 32<sup>nd</sup> Ave.

**RECOMMENDATION:**

I recommend the Special Use Permit be approved along with the following notations.

1. Complete all corrections as required by the State Fire Marshal
2. Follow screening requirements for the Vehicle Storage Use

**DISCUSSION:**

We have received an application for a Special Use Permit to allow Automotive Rental/Sales in an ML/C1 zone. The applicant intends to use this property for Auto Services, Vehicle Storage and if approved of Automotive Rental/Sales.

**FISCAL IMPACT:**

None

**ALTERNATIVE:**

Deny the Special Use Permit

**SIGNATURE:**

By: Andy Woehrer

Approved By: 

# SPECIAL USE PERMIT APPLICATION

An application for a Special Use Permit may be filed with the Community Development Office. Any such application will not be deemed submitted until all of the stated information is included. It is the responsibility of the applicant to provide all of the requested information. Incomplete applications WILL NOT be placed on the Planning Commission Agenda until all such missing information is provided. Such completed application shall be submitted to the Community Development Office at least 21 calendar days (including holidays) before the Planning Commission meeting at which time the public hearing on the application will be held.

APPLICANT/PROPERTY OWNER NAME: Aramis Curbelo Sangil; Jeffrey A. Johnson; Randy A. Lott; Fran A. Lott

APPLICANT MAILING ADDRESS: 1550 45th Avenue, Columbus, NE 68601

APPLICANT PHONE NUMBER: 402-276-6600

APPLICANT EMAIL ADDRESS: perezmaidelys0@gmail.com

LEGAL REPRESENTATION FIRM/ATTORNEY: Josiah Nelson, Dvorak Law Group, LLC

ATTORNEY PHONE NUMBER: 402-933-2472

ATTORNEY E-MAIL ADDRESS: jnelson@ddlawgroup.com

ADDRESS OF PROPERTY: 2254 East 32nd Avenue, Columbus, NE 68601

LEGAL DESCRIPTION OF PROPERTY:

See attached Exhibit A.

PRESENT ZONING CLASSIFICATION: ML/C-1

DESCRIPTION OF THE REASON FOR THE SPECIAL USE PERMIT APPLICATION:

To operate a used automotive sales business on the property.

NATURE AND OPERATING CHARACTERISTICS OF THE PROPOSED USE: (Include aerial image of proposed development on property and existing surrounding zoning classifications, any graphic information, including site plans, elevations or other drawings, necessary to describe the proposed use)

See drawings attached as Exhibits B and C.

I hereby apply for a Special Use Permit and have paid the \$500 application fee.

DATED THIS 2nd DAY OF August, 2023



Owner or Owner's Representative

AUTHORIZATION FOR FILING  
SPECIAL USE PERMIT APPLICATION

Comes now the undersigned owners of the real estate described on the attached Exhibit A, more generally referred to as 2254 East 32nd Avenue, Columbus, Nebraska, 68601, and hereby appoint and authorize Aramis Curbelo Sangil to serve as the undersigned's Agent for the purpose of seeking and making application for a special use permit for the property legally described on the attached Exhibit A.

DATED this 3 day of August, 2023.

  
\_\_\_\_\_  
Jeffrey A. Johnson

  
\_\_\_\_\_  
Randy R. Lott

  
\_\_\_\_\_  
Fran A. Lott

## "EXHIBIT A"

### Legal Description

A tract of land in part of Block 3, Canal Industrial Park, located in the NW¼ of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska described as follows:

The north half of the east half of the north 818.7 feet of Block 3, Canal Industrial Park, located in the NW¼ of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska, and the north 11.5 feet of the south half of the east half of the north 818.7 feet of sold Block 3;

EXCEPT the north 247.0 feet of the north half of the east half of the north 818.7 feet of said Block 3:

AND EXCEPT a track of land located in the north 11.5 feet of the south half of the north 818.7 feet of Block 3, Canal Industrial Park, located in the NW¼ of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska, described as follows: Beginning at the SW Corner of the north 11.5 feet of said south half; thence E'ly on the south line of the north 11.5 feet of said south half, 336.1 feet, said point being 175.0 feet west of the east line of said Block 3; thence N'ly, and parallel with the east line of said Block 3, 0.5 feet; thence W'ly to a point on the west line of the north 11.5 feet of said south half and 2.3 feet north of the SW Corner of the north 11.5 feet of said south half; thence S'ly, 2.3 feet on the west line of the north 11.5 feet of said south half, to the point of the beginning; and

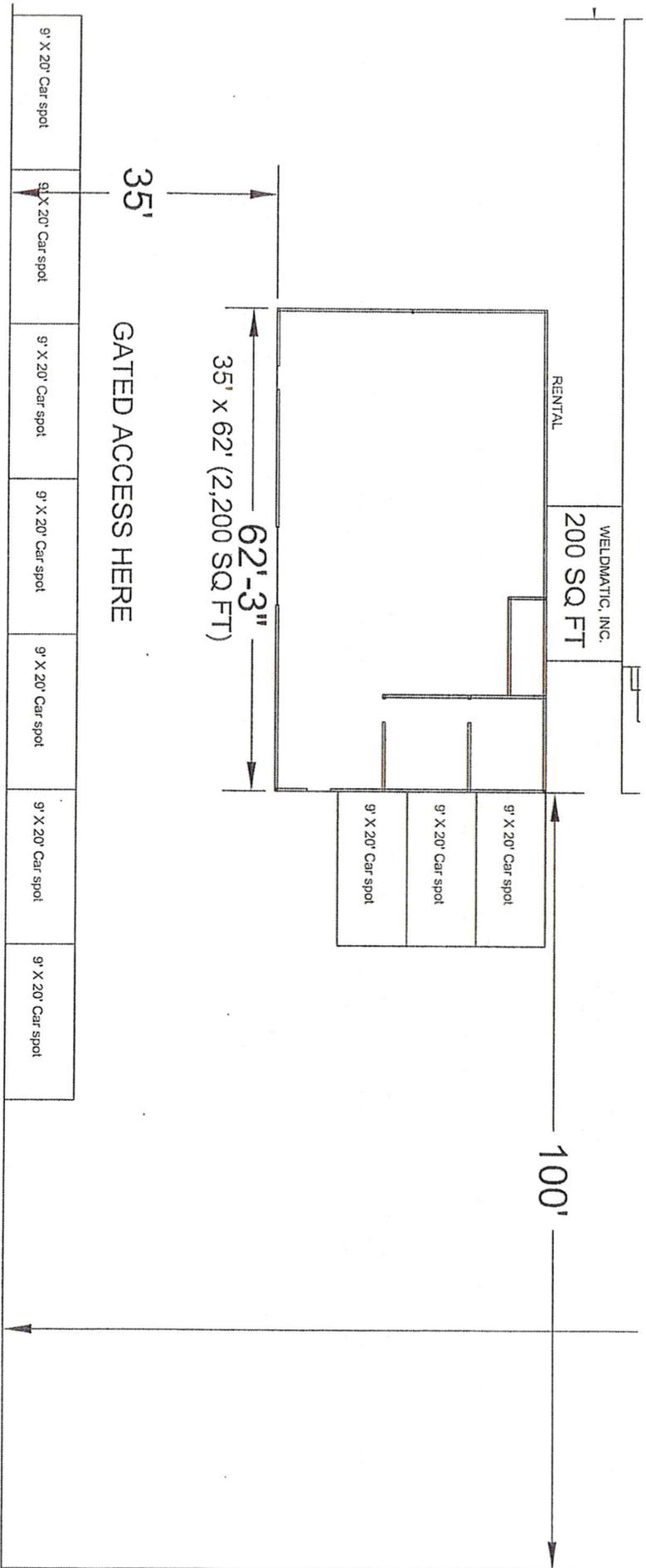
The south 0.3 feet of the west 41.6 feet of the east 175.0 feet of the north 11.5 feet of the south half of the east half of the north 818.7 feet of said Block 3.

#### DESCRIPTION OF SAID BLOCK 3 IS AS FOLLOWS:

Commencing at the NW Corner of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska, thence S'ly on the west line of said Section 23 for a distance of 60 feet to a point, thence E'ly at a deflection angle of 90°37' Left for a distance of 33 feet to the point of beginning; thence continuing E'ly on a straight line, 60 feet south of, and parallel to the north line of said Section 23, for a distance of 1,021.4 feet to a point, thence S'ly at a deflection angle of 90°30' Right on a straight line for a distance of 1,918.7 feet to a point; on the north line of the Union Pacific Rail Road, Right of Way, thence SW'ly on a deflection angle of 84°22' Right, along the North R.O.W. line of the Union Pacific Rail Road for a distance of 1,030.4 feet to a point 33 feet east of the west line of said Section 23, thence N'ly at a deflection angle of 94°45' Right on a straight line that is 33 feet east of, and parallel to the west line of said Section 23, for a distance of 2,010.8 feet to the point of beginning. The above described tract is also described as Block 3, Canal Industrial Park, and is shown on Survey in Plat Book 11, Page 2, Office of Platte County Register of Deeds.



Exhibit C



Views Aff



City of Columbus  
2424 14th St.  
P.O. Box 1677  
Columbus, NE 68601  
(402) 562-4220

# RECEIPT

**Number:** 262626

SPECIAL USE PERMIT APPLICATION (2254 E 32ND AVE)

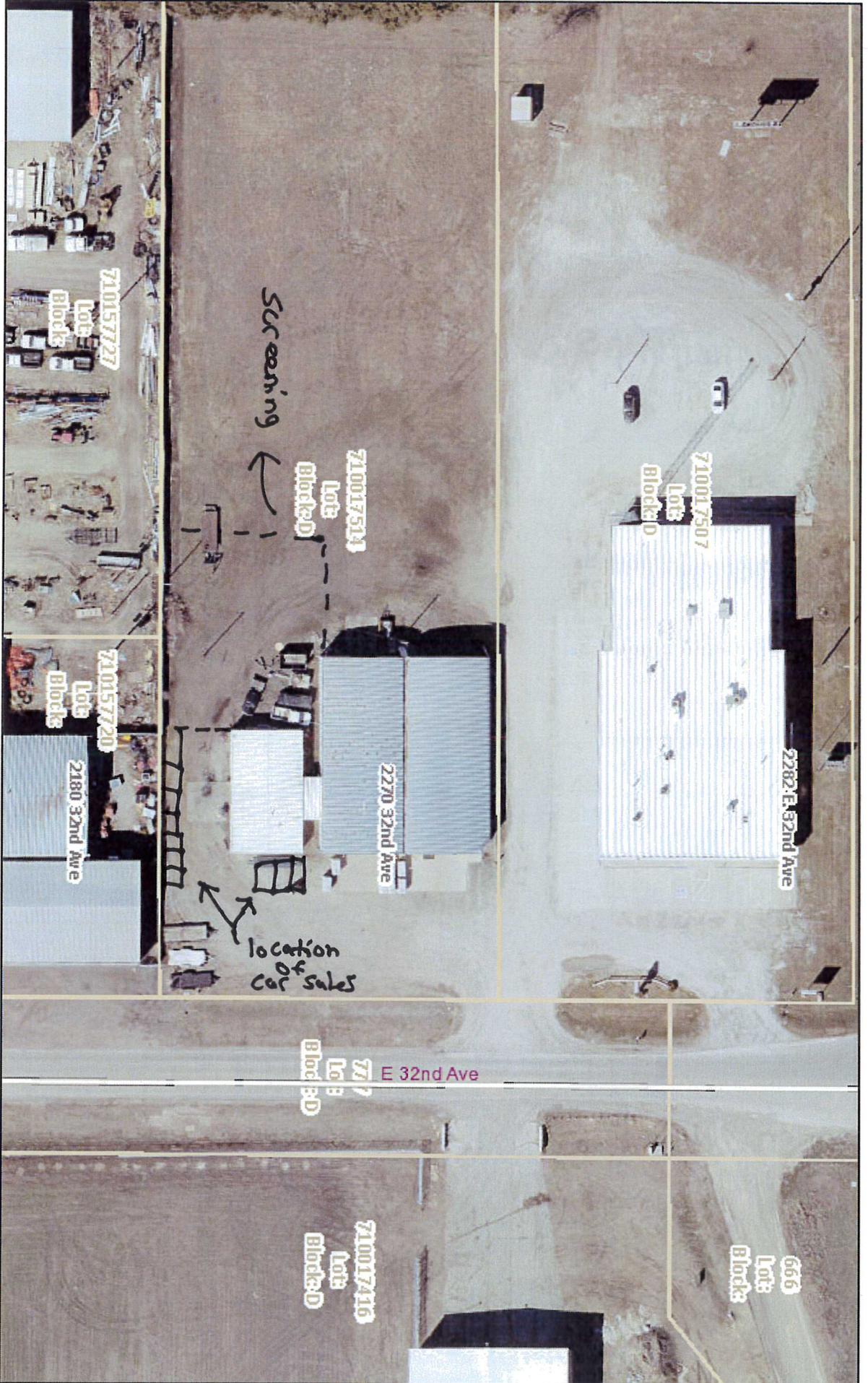
**Date:** 08/08/23

**Received Of:** MAIDELYS PEREZ PEREZ

**The sum of:** \$500.00

DESCRIPTION	AMOUNT
SUBDIVISION & REZONE FEES	\$500.00
<b>Total:</b>	<b>\$500.00</b>
<b>CHECK</b>	<b>\$500.00</b>

9/6/2023



Streets



TaxParcel\_1K



Easement\_1K



Green: Band\_2

Blue: Band\_3

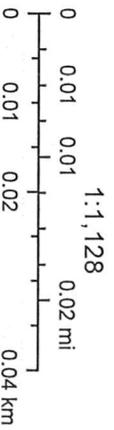
Road Centerlines

Address Points

GIS GIS AERIAL 2023 3IN

Red: Band\_1

Red: Band\_1



City of Columbus GIS. Sources: Esri, HERE, Garmin, Intermap, P Corp., GEBCO, USGS, FAO, NPS, NRCAN, Geobase, IGN, Kadaster NL,

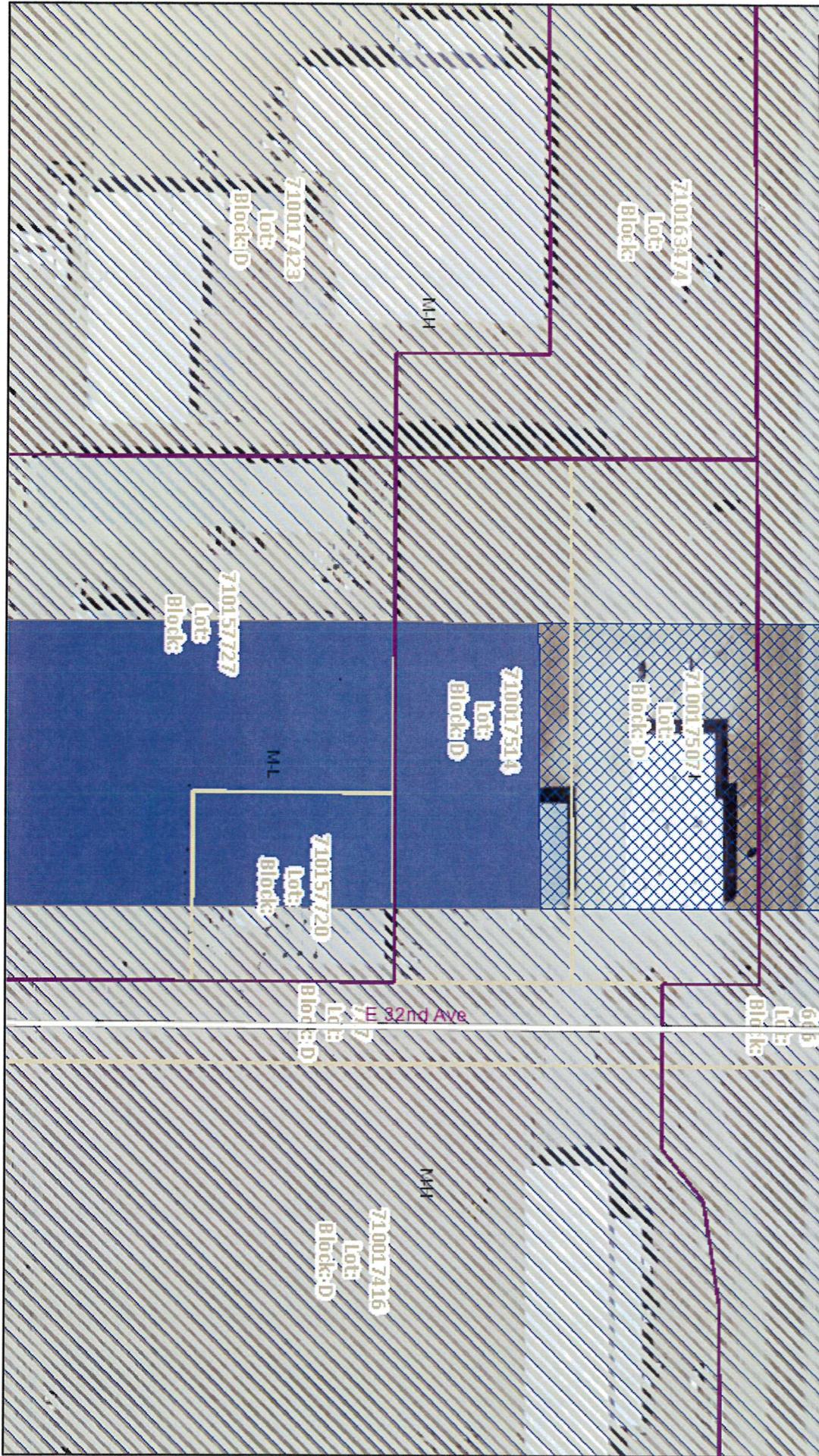
E 23rd St

E 24th St

E 25th St

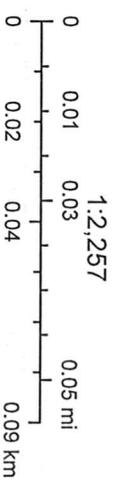
E 26th St

E 27th St



9/6/2023

- Streets
- Road Centerlines
- Subdivision\_2K
- TaxParcel\_2K
- Easement\_2K
- ColumbusZoning
- <all other values>
- AG
- B-1
- B-1C
- B-2
- B-2C
- C-1
- C-1C
- M-L
- M-LC
- M-LC-1
- M-LHC
- M-L
- M-L/C-1
- R-1
- R-1C
- Office



City of Columbus GIS, Sources: Esri, HERE, Garmin, Intermap, P Corp., GEBCO, USGS, FAO, NPS, NRCAN, Geobase, IGN, Kadaster NL,

## CHAPTER 1, ARTICLE 12: ADMINISTRATION AND PROCEDURES

### 12-3 Special Use Permit Procedure

#### a. Purpose

The Special Use Permit Procedure provides for public review and discretionary City Council approval for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.

#### b. Administration

The Planning Commission shall review and evaluate each application and transmit its recommendation to the City Council. The City Council shall review, evaluate, and act upon all applications submitted pursuant to this procedure.

#### c. Application Requirements

An application for a Special Use Permit may be filed by the owner(s) of a property or by the property owner's authorized agent with the Community Development Director's Office. Any such application will not be deemed submitted until all of the information set forth below is included. It is the responsibility of the applicant to provide all of the requested information. Incomplete applications will not be placed on the Planning Commission Agenda until all such missing information is provided. Such application shall be submitted to the Community Development Director's Office at least 21 calendar days (including holidays) before the Planning Commission meeting at which the public hearing on the application will be held. The application shall include the following information and be submitted on a form approved by the Community Development Director's Office:

1. Name, email and mailing address and phone number of the property owner who is making application or said property owner's authorized agent.
2. Legal Representation: Name of Firm, attorney, phone number, email and mailing address
2. Owner, address and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. A site plan, when requested by the building official, which includes all information as described in 12-2 (d)(4.)
5. Excavation Special Use Permits applications must include a proposed post development site plan.

## CHAPTER 1, ARTICLE 12: ADMINISTRATION AND PROCEDURES

5. The special use requested and the current zoning.
6. Be signed by the property owner or the property owner's duly authorized agent.

**TABLE 12-1: CRITERIA FOR SITE PLAN REVIEW AND SPECIAL USE PERMITS**

		CRITERIA		APPLICATION TO	
		Site Plan Review	Special Use Permit		
<b>Land Use Compatibility</b>					
Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features.		X		
<b>Height and Scale</b>					
Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	X	X		
Setbacks	Development should respect pre-existing setbacks in surrounding areas. Variations should be justified by site or operating characteristics.	X	X		
Building Coverage	Building coverage should be similar to that of surrounding development if possible. Higher coverage should be mitigated by landscaping or site amenities.	X	X		
<b>Site Development</b>					
Frontage	Project frontage along a street should be similar to lot width.	X	X		
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles.	X	X		
	All structures must be accessible to public safety vehicles.	X	X		
	Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	X	X		
Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainage-ways should be preserved to the extent possible.	X	X		
Building Design	Architectural design and building materials should be compatible with surrounding areas or highly visible locations.		X		

## CHAPTER 1, ARTICLE 12: ADMINISTRATION AND PROCEDURES

Operating Characteristics			
Traffic Capacity	Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	X	X
External Traffic Effects	Project design should direct non-residential traffic away from residential areas.	X	X
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	X	X

**TABLE 12-1: CRITERIA FOR SITE PLAN REVIEW AND SPECIAL USE PERMITS**

	CRITERIA	APPLICATION TO	
		Site Plan Review	Special Use Permit
<b>Operating Characteristics</b>			
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	X	X
<b>Public Facilities</b>			
Sanitary Waste Disposal	Developments within 300 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare.	X	X
	Sanitary sewer must have adequate capacity to serve development.	X	X
Storm Water Management	Development should handle storm water adequately to prevent overloading of public storm water management system.	X	X
	Development should not inhibit development of other properties.	X	X
	Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	X	X
Utilities	Project must be served by utilities if the property is located within 300 ft of said utility.	X	X

## CHAPTER 1, ARTICLE 12: ADMINISTRATION AND PROCEDURES

Comprehensive Plan	Projects shall be consistent with the comprehensive development plan of Columbus.		X
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d. Approval Process

1. The Planning Commission, following ten days notice as required by Paragraph 12-3 (e), shall hold a public hearing on each proposed Special Use Permit and following such public hearing, shall recommend action to the City Council.
  
2. The City Council, after the ten days notice as required by Paragraph 12-3 (e) and after public hearing, shall act on the Special Use Permit. The City Council may apply any reasonable conditions to the approval of the permit.
  
3. The applicant shall be responsible for preparing and furnishing in proper form a "draft" Ordinance including any reasonable conditions recommended by the Planning Commission sufficiently in advance of the City Council Meeting for review by City staff and for distribution to the Mayor and members of the City Council. A "final" ordinance for said special use permit shall be thereafter submitted by applicant for action by the City Council.

e. Required Notice and Publication

Prior to consideration of and/or approval of a Special Use Permit by the Planning Commission and by the City Council, notice of public hearing before the Planning Commission and before the City Council shall be provided as follows:

1. **Posted Notice:** A notice shall be posted by the applicant in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than 18 inches in height and 24 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 placed on or near such premises that it is easily visible from the street and shall be posted at least ten days before the date of such hearing. It shall be the duty of the applicant to make sure the signs are laminated or otherwise protected from the weather so that they remain visible and legible for said ten-day period. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing. It shall be the responsibility of the applicant to make sure the signs remain posted for said ten-day period and in the event any sign is removed, mutilated, destroyed or changed, it shall be the duty of the applicant to promptly post a new sign for the remainder of the ten-day period.
  
2. **Notice by Publication:** At least ten days before the date of hearing the City Clerk shall have published in a newspaper having a general circulation in the City of Columbus a Notice of the time, place and subject matter of such hearing.

## CHAPTER 1, ARTICLE 12: ADMINISTRATION AND PROCEDURES

3. Notice by Personal Service or Mail: At least 10 days prior to the date of the hearing the applicant shall either:
  - a) personally serve, or
  - b) mail to the last known address,

written notice of such hearing to each of the following:

- i) the owners of the real estate which is the subject of the Special Use Permit;
- ii) all properties whether in whole or in part which are located within 300 feet of the real estate which is the subject of the Special Use Permit; and
- iii) the Board of Education of each school district in which the real estate which is the subject of the Special Use Permit is located.

If the record title owners of any real estate included in such proposed change be non-residents of the municipality, a written notice of such hearing shall be mailed by certified mail to their last-known address at least ten days prior to the date of such hearing.

4. Exception: The provisions of Subsection 1 "Posted Notice" and Subsection 3 "Notice by Personal Service or Mail" shall not apply in the event of a proposed change in the application of Special Use Permits throughout entire areas of an existing zoning district or of the City or parts thereof, or in the event of a proposed change in such regulations, restrictions or districts governing said Special Use Permits.
5. Affidavit of Notice Compliance: The applicant shall be responsible for filing with the City Clerk prior to 3:00 PM on the date of the hearing an Affidavit of Notice Compliance. Said Affidavit shall verify that the "Posted Notice" requirements set forth in Subsection 1 above and that the "Notice by Personal Service or Mail" requirements set forth in Subsection 3 above were both complied with. Said Affidavit shall be submitted on a form approved by the City Clerk's office.

### f. Scope of Approval

1. The City Council may, at its discretion, apply a Special Use Permit to a specific owner or applicant. The City Council may establish special site development or operational regulations as a condition for approval of a Special Use Permit.

### g. Lapse, Revocation or Completion of Permit

## CHAPTER 1, ARTICLE 12: ADMINISTRATION AND PROCEDURES

1. A Special Use Permit shall become void two years after its effective date if the applicant has not carried out development or occupancy during that period.
2. The City Council may revoke a Special Use Permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.
3. Completion of a Special Use Permit for resource extraction and excavation shall include a final record drawing site plan.

### h. Previously Approved Permits

Any special use approved under regulations in effect before the effective date of this Ordinance shall be considered to have a valid Special Use Permit, subject to requirements imposed at the time of its approval.

### i. Denial of Special Use Permit; Waiting Period

In the event that a Special Use permit as provided in this Article is denied by the City Council, no new request shall be made for the same or a substantially similar Special Use Permit within six months of said denial.

## **12-3 Development Review Team (DRT)**

### a. Purpose

The DRT meets weekly with project representatives to identify opportunities and resolve potential issues before project and development plans are finalized. Through the DRT process all aspects of a project can be discussed including key issues and expectations such as site issues, time lines, processing of applications, phasing, design issues and code requirements. The DRT provides the best possible customer service by maintaining allowing close contact with project representatives, by providing thorough review and feedback on every major proposed project, and by working to resolve issues at the earliest possible stage of development.

### b. Administration

Members of the DRT are the City Administrator, Community Development Director and/or Building Official, City Engineer, Public Works Director and City Planner. These members may invite other staff and professionals as they see fit based on project scope. If applicable, DRT members will visit the project location prior to the DRT meetings and be prepared to discuss all potential issues and opportunities. The DRT shall takes notes during the meeting and shall provide those notes to all participates. The DRT and/or staff members of the DRT will provide professional recommendations to the Planning Commission and City Council.

**"EXHIBIT A"**

**Legal Description**

A tract of land in part of Block 3, Canal Industrial Park, located in the NW¼ of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska described as follows:

The north half of the east half of the north 818.7 feet of Block 3, Canal Industrial Park, located in the NW¼ of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska, and the north 11.5 feet of the south half of the east half of the north 818.7 feet of sold Block 3;

EXCEPT the north 247.0 feet of the north half of the east half of the north 818.7 feet of said Block 3:

AND EXCEPT a track of land located in the north 11.5 feet of the south half of the north 818.7 feet of Block 3, Canal Industrial Park, located in the NW¼ of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska, described as follows: Beginning at the SW Corner of the north 11.5 feet of said south half; thence E'yly on the south line of the north 11.5 feet of said south half, 336.1 feet, said point being 175.0 feet west of the east line of said Block 3; thence N'yly, and parallel with the east line of said Block 3, 0.5 feet; thence W'yly to a point on the west line of the north 11.5 feet of said south half and 2.3 feet north of the SW Corner of the north 11.5 feet of said south half; thence S'yly, 2.3 feet on the west line of the north 11.5 feet of said south half, to the point of the beginning; and

The south 0.3 feet of the west 41.6 feet of the east 175.0 feet of the north 11.5 feet of the south half of the east half of the north 818.7 feet of said Block 3.

DESCRIPTION OF SAID BLOCK 3 IS AS FOLLOWS:

Commencing at the NW Corner of Section 23, Township 17 North, Range 1 East of the 6<sup>th</sup> P.M., Platte County, Nebraska, thence S'yly on the west line of said Section 23 for a distance of 60 feet to a point, thence E'yly at a deflection angle of 90°37' Left for a distance of 33 feet to the point of beginning; thence continuing E'yly on a straight line, 60 feet south of, and parallel to the north line of said Section 23, for a distance of 1,021.4 feet to a point, thence S'yly at a deflection angle of 90°30' Right on a straight line for a distance of 1,918.7 feet to a point; on the north line of the Union Pacific Rail Road, Right of Way, thence SW'yly on a deflection angle of 84°22' Right, along the North R.O.W. line of the Union Pacific Rail Road for a distance of 1,030.4 feet to a point 33 feet east of the west line of said Section 23, thence N'yly at a deflection angle of 94°45' Right on a straight line that is 33 feet east of, and parallel to the west line of said Section 23, for a distance of 2,010.8 feet to the point of beginning. The above described tract is also described as Block 3, Canal Industrial Park, and is shown on Survey in Plat Book 11, Page 2, Office of Platte County Register of Deeds.

**8. Building report for August 2023.**

# City of Columbus

## Building Department Monthly Report

09/05/2023

August                      2023                      2022

	August		2023		August		2022	
	Count	Permit Fees	Value		Count	Permit Fees	Value	
<b>Accessory Structu</b>	4	\$320.51	\$41270.00		3	\$370.75	\$54420.00	
<b>Building Moving</b>	0	\$0.00	\$0.00		0	\$0.00	\$0.00	
<b>Com Addition</b>	0	\$0.00	\$0.00		0	\$0.00	\$0.00	
<b>Com Alteration</b>	2	\$53.63	\$160675.00		1	\$1462.82	\$424435.00	
<b>Com New Constr</b>	2	\$15312.74	\$6804355.00		1	\$93451.88	\$45000000.00	
<b>Com Plumbing</b>	5	\$2051.00	\$854300.00		6	\$1036.00	\$3359737.00	
<b>Com Pool</b>	0	\$0.00	\$0.00		0	\$0.00	\$0.00	
<b>Deck</b>	6	\$532.00	\$67950.00		6	\$284.50	\$28580.00	
<b>Demolition</b>	0	\$0.00	\$0.00		1	\$27.50	\$3000.00	
<b>Fence</b>	17	\$501.50	\$48870.00		15	\$430.50	\$87450.87	
<b>Gas line</b>	0	\$0.00	\$0.00		42	\$1339.50	\$21500.00	
<b>Res Addition</b>	3	\$1088.62	\$282000.00		3	\$441.25	\$67334.00	
<b>Res Addition Wo</b>	0	\$0.00	\$0.00		0	\$0.00	\$0.00	
<b>Res Alteration</b>	5	\$439.61	\$69050.00		5	\$522.08	\$83834.04	
<b>Res New Construc</b>	4	\$4078.15	\$1318928.00		2	\$2835.64	\$959000.00	
<b>Res Plumbing</b>	17	\$1077.00	\$4561150.00		8	\$725.00	\$112500.00	
<b>Res Pool</b>	0	\$0.00	\$0.00		0	\$0.00	\$0.00	
<b>Sewer / Water</b>	0	\$0.00	\$0.00		0	\$0.00	\$0.00	
<b>Signs</b>	5	\$185.00	\$69800.00		0	\$0.00	\$0.00	
<b>Sprinklers</b>	13	\$273.00	\$59300.00		13	\$265.00	\$24000.00	
<b>Water Softner/RC</b>	0	\$0.00	\$0.00		0	\$0.00	\$0.00	
<b>Wireless Tower</b>	0	\$0.00	\$0.00		0	\$0.00	\$0.00	
<b>YEAR TOTAL</b>	<b>83</b>	<b>\$25912.76</b>	<b>\$14337648.00</b>		<b>106</b>	<b>\$103192.42</b>	<b>\$50225790.91</b>	

Population: All Records  
 Permit.DateIssued Between 8/1/2022 12:00:00 AM  
 AND 8/31/2023 11:59:59 PM



# *City of Columbus*

## Building Department

Phone: 402-562-4236 Email: [CommDevPermits@columbusne.us](mailto:CommDevPermits@columbusne.us)  
[www.columbusne.us](http://www.columbusne.us)

### August 2023 Building Report Comments

For the Residential area, two new house permits were made out, one permit for a townhouse and a handful of residential alteration/addition permits. Also, a couple decks, fences and accessory structures were permitted in the month of August. Not much going on at this time do to cost of product and interest rates still being the main factor.

On the Commercial side, a permit was made out for St Isidore Church addition and new construction permit for Pepper Jax restaurant. Plan reviews have been started on multiple storage buildings, Cassette House, Connection Christian Church, Pizza Ranch addition, CCC fine arts and resource alteration, renovation of the restrooms of the jail and a couple of wireless tower projects.

*Andy Woehrer*  
Chief Building and Code Official  
City of Columbus



## **9. Adjournment.**