

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the residential character of the area to the north; the residential zoning and uses on nearby property; the suitability of the subject property for a mobile home park; and taking into consideration staff's recommendations and the recommendation of approval by the Valley Center Planning Commission; I move that we recommend to the County Commission that this application be approved subject to the following conditions:

- a. The applicant shall meet all of the applicable conditions established in the County Trailer Code.
- b. The applicant shall obtain a mobile home park license from the Health Department prior to placing a second mobile home on the site.
- c. The number of mobile homes on the site shall not exceed two.

Jones moved, Wright seconded and it carried unanimously. Martens was not present. Savina and Shook were absent.

12. Case No. CU-245 - Mr. Gail Woodard requests Conditional Use Permit for the East Half of the Southeast Quarter of Section 33, Township 26 South, Range 1 West, (E/2 SE/4 33-26S-1W), Sedgwick County, Kansas. Generally located at the Northwest corner of 29th Street North and Ridge Road.

GALBRAITH pointed out land use, zoning and showed slides of the general area. He reviewed the following staff report:

COMMENTS:

1. The following items should be considered by the Planning Commission in making findings of fact.

The applicant's request for approval of a sand extraction operation on the 76 acre site at 29th Street North and Ridge Road appears appropriate. The use would be compatible with the surrounding land uses, the majority of which is undeveloped, and zoned "E" Light Industrial. The property is bisected by the Missouri Pacific Railroad line and a 50' City water transmission easement. Both activities have easements through the subject property, and the operational

plan submitted indicates that they will be adequately protected from encroachment.

The subject property has frontage and access along 29th Street North and Ridge Road, which is a designated FAS road. Additional right-of-way will be needed on both Streets and at the intersection of Ridge Road and 29th Street North to allow intersection improvements in the future.

2. The applicant has submitted an operational plan indicating the limits of the area to be excavated, and a redevelopment plan which proposes residential lots around the lake, which would be developed after the extraction operation ceases. The subject property lies in an area delineated by FEMA as a 100 year flood plain, and any redevelopment will require filling the site. Although the property is zoned "E" Light Industrial residences may be constructed on the site, but it may be questionable whether residential development on the property will be appropriate in the future, as the tract(s) to the west are zoned for Light Industry. With the proper landscaping and site plan, residences could be buffered from any future adjoining industrial uses.
3. Should the Planning Commission determine the extraction use appropriate for the area, it should be approved subject to the following conditions:
 - A. The applicant shall dedicate, by separate instrument sufficient half street right-of-way to bring Ridge Road up to the FAS 60 foot half street standard, and 75' half street right-of-way extending from the intersection of Ridge Road and 29th Street North 250' north, tapering to 60' of half street right-of-way, 350' north of the intersection. Twenty-ninth Street North shall have a 50' half street right-of-way dedication required and 75' of half street right-of-way extending 250' west of the intersection of Ridge Road and 29th Street North, tapering to 50' of half street right-of-way 350' west of the intersection.
 - B. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50' of any property line or within 100' of any public right-of-way.
 - C. The applicant shall proceed in accordance with the operational plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan.

- D. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
- E. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five horizontal to one vertical.
- F. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- G. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
- H. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
- I. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- J. A minimum 58 inch high fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site on no less than 7 foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as in the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of material:
 - 1. A 48-inch or higher chain link fence with three or more strands of barbed wire; or
 - 2. A 48-inch or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - 3. A 48-inch or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.

- K. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- L. The site shall be filled to comply with FEMA Flood Insurance Standards, to an elevation one foot above the 100 year flood plain after sand extraction operations have ceased and shall be required as a condition of platting.
- M. The applicant shall comply with conditions A and H prior to the publication of the resolution establishing the conditional use.
- N. Violation of conditions of approval shall render the conditional use permit null and void.

GALBRAITH stated that the staff has reviewed the application and redevelopment plan and they are in support of a sand excavation operation on this site. GALBRAITH said that he did have some discussion with the applicant's attorney on the fencing condition. He pointed out that the fencing standards suggest three types of fences resulting in a fence approximately 58 inches high. In the City ordinances sandpits are required to be fenced, and for a number of years the Planning Commission has these same conditions of approval for sandpits in the County. The sandpits are considered an attractive nuisance and the staff believes that they should be fenced.

DAVID C. ADAMS, attorney, representing the applicants, stated that the applicants have no objections to the conditions of approval other than the fencing. The basis for objecting to the fencing is that although there is a requirement in the City ordinance requiring fencing, there is no legal requirement requiring fencing of sandpits in the County. Although others in the County may have had a condition of fencing, he was not aware of anyone asking that it be waived. He did not think that the applicants should be bound by others deciding not to ask for waiver of the fencing. ADAMS mentioned one sandpit owner that had the fencing requirement waived that was in an area far more populous than this one. He asked the Commission to consider the fact that within the City that there are five and six acre retention ponds which are not fenced. ADAMS also stated that after the sand extraction ceases, the fence comes down and the land is put to other purposes.

JOHN BREWER, 2910-1/2 North Ridge Road, speaking in opposition, said that he represented most of the residents on 28th Street and the ones that border 28th Street on Ridge Road. He stated that they have one sandpit in their back yard now, and the dust is terrible when the wind blows. He felt that the property could be put to better use since it is zoned industrial. He stated that apartments are moving in that direction very rapidly now and they would be more acceptable than another sandpit. He said that the whole block was vigorously opposed to the application.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the undeveloped character of the neighborhood; the industrial zoning to the south, east, and west; the suitability of the subject site for sand excavation and future redevelopment, and considering staff's recommendation; I move that we recommend to the County Commission that this application be approved subject to the following conditions:

- A. The applicant shall dedicate, by separate instrument sufficient half street right-of-way to bring Ridge Road up to the FAS 60 foot half street standard, and 75' half street right-of-way extending from the intersection of Ridge Road and 29th Street North 250' north, tapering to 60' of half street right-of-way, 350' north of the intersection. Twenty-ninth Street North shall have a 50' half street right-of-way dedication required and 75' of half street right-of-way extending 250' west of the intersection of Ridge Road and 29th Street North, tapering to 50' of half street right-of-way 350' west of the intersection.
- B. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50' of any property line or within 100' of any public right-of-way.
- C. The applicant shall proceed in accordance with the operational plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan.
- D. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
- E. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five horizontal to one vertical.

- F. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- G. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
- H. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
- I. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- J. A minimum 58 inch high fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site on no less than 7 foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as in the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of material:
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 - 2. A 48-inch or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - 3. A 48-inch or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.

- K. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.

- L. The site shall be filled to comply with FEMA Flood Insurance Standards, to an elevation one foot above the 100 year flood plain after sand extraction operations have ceased and shall be required as a condition of platting.
- M. The applicant shall comply with conditions A and H prior to the publication of the resolution establishing the conditional use.
- N. Violation of conditions of approval shall render the conditional use permit null and void.

Bayouth moved, Jones seconded and it carried unanimously. Martens was not present. Savina and Shook were absent.

13. Case No. Z-2313 - N. J. Abraham requests zone change from "B" to "LC" for part of Reserve A, Eastridge 2nd Addition to Wichita, Kansas, described as commencing at the northwest corner of said Reserve A; thence south 89° 58' east along the north line of said Reserve A, 420 feet; thence north 0° 00' east along the west line of said Reserve A, 40 feet for a place of beginning; thence south 89° 58' east, 119.15 feet; thence north 41° 55' 36" east, 107.47 feet to the north line of said Reserve A; thence north 89° 58' west along the north line of said Reserve A, 160.96 feet to the P.C. of a curve to the left having a radius of 29.98 feet; thence southwesterly along said curve 47.11 feet to the P.T. of said curve; thence south 0° 00' west along the tangent of said curve 50 feet to the place of beginning. Generally located in an area adjacent to the alley that lies south of Kellogg between Woodlawn and Hunter Street.

GALBRAITH pointed out land use, zoning and showed slides of the general area. He reviewed the following staff report:

COMMENTS:

1. The following items should be considered by the Planning Commission in making findings of fact.

The applicant is requesting a change of zoning from "B" Multiple-family to "LC" Light Commercial in order to expand a new and used car sales operation located to the north which fronts on Kellogg.