



**Wichita-Sedgwick County Metropolitan Area Planning Department**

April 5, 2001

Jim Wirths  
#9 Breeze Court  
Valley Center, KS 67147

**RE: CON2000-00013 – Conditional Use to allow sand and gravel extraction, on property zoned “SF-20” Single Family Residential. Generally located south of 53<sup>rd</sup> Street North and east of Ridge Road.**

Dear Mr. Wirths:

At its regular meeting on June 21, 2000, the Board of County Commissioners considered the above-captioned request. The action of the County Commission was to APPROVE, the request subject to conditions listed in the letter dated June 21, 2000.

The action of the County Commission is FINAL. Enclosed is a signed copy of the above-referenced Resolution No. 105-00. If you have any questions concerning this case please contact our office at 268-4421.

Sincerely,

Scott Knebel  
Senior Planner

SK/rs

cc: Baughman Company, P.A., %Russ Ewy, 315 Ellis, Wichita, KS 67211  
Marlin Belshe, 6700 Childs, Wichita, KS 67205  
Bradley R. and Kimberly M. Stoskopf, 6415 W. 53<sup>rd</sup> Street North, Wichita, KS 67205  
Michael H. Miller, 5002 N. Ridge Road, Wichita, KS 67205  
Equus Beds Groundwater Management District No. 2, %Michael T. Dealy, Manager, 313 Spruce, Halstead, KS 67056-1925  
Carolyn McGinn, County Commissioner, District IV, Mail Stop County Room #320  
Glen Wiltse, Director Sedgwick County Code Enforcement  
Jim Weber, County Bureau of Public Services

RESOLUTION NO. 105-00

A RESOLUTION FOR A CONDITIONAL USE TO ALLOW SAND AND GRAVEL EXTRACTION FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D AS ADOPTED BY RESOLUTION NO. 248-1999.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

**SECTION I.** That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita Sedgwick County unified Zoning Code, a Conditional Use to allow sand and gravel extraction in the "SF-20" Single-Family Residential district legally described below:

**Case No. CON2000-00013**

Conditional Use to allow sand and gravel extraction, generally located south of 53<sup>rd</sup> Street North and east of Ridge Road, described as:

Beginning at a point on the North line of the Northwest Quarter of Section 22, Township 26 South, Range 1 West, of the 6th P.M., Sedgwick County, Kansas, said point being 776 feet West of the Northeast corner of said Northwest Quarter; thence South parallel to the East line of said Northwest Quarter on an assumed bearing of S 02 degrees 42'21"E a distance of 782.05 feet; thence N 89 degrees 59'54"E parallel to the North line of said Northwest Quarter a distance of 297.60 feet; thence S 02 degrees 41'41"E, 791.29 feet; thence S 88 degrees 51'17"W, 839.09 feet to a point on the West line of the East Half of said Northwest Quarter; thence N 02 degrees 27'09"W on the West line of the East Half of said Northwest Quarter a distance of 929.79 feet; thence N 89 degrees 59'54"E parallel to the North line of said Northwest Quarter a distance of 330 feet; thence N 02 degrees 27'09"W parallel to the West line of the East Half of said Northwest Quarter a distance of 660 feet to a point on the North line of said Northwest Quarter; thence N 89 degrees 59'54"E, 205.23 feet to the point of beginning, subject to road right-of-way on the North; TOGETHER WITH a tract described as follows: Beginning at a point on the East line of the Northwest Quarter of Section 22, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, said point being 782.05 feet of the Northeast corner of said Northwest Quarter; thence South on the East line of said Northwest Quarter on an assumed bearing of S 02 degrees 42'21"E a distance of 1817.59 feet to the Southeast corner of said

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Northwest Quarter; thence S 88 degrees 50'50"W on the South line of said Northwest Quarter a distance of 478.40 feet; thence N 02 degrees 41'41"W, 1827.20 feet; thence N 89 degrees 59'54"E parallel to the North line of said Northwest Quarter a distance of 478.40 feet to the point of beginning; TOGETHER WITH a tract described as follows: Beginning at a point on the West line of the East Half of the Northwest Quarter of Section 22, Township 26 South, Range 1 West, of the 6th P.M., Sedgwick County, Kansas, said point being 1589.79 feet South of the Northwest corner of the East Half of said Northwest Quarter; thence South on the West line of the East Half of said Northwest Quarter on an assumed bearing of S 02 degrees 27'09"E a distance of 1035.91 feet to the Southwest corner of the East Half of said Northwest Quarter; thence N 88 degrees 50'50"E on the South line of said Northwest Quarter a distance of 843.47 feet; thence N 02 degrees 41'41"W, 1035.91 feet; thence S 88 degrees 51'17"W, 839.09 feet to the point of beginning.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall submit an operational plan for the area to be excavated. The extraction of sand and gravel on the site shall proceed in accordance with the operational plan approved by the MAPC. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan.
2. In order to assist in the enforcement of the operational plan, the applicant shall post a copy of the approved operational plan in the sand and gravel extraction office.
3. The applicant shall submit a development plan showing how the site could be subdivided into approximately one acre lots served by on-site water wells and septic systems. The development plan should show the lots located south and east of the lake and accessed by local streets extending from 49<sup>th</sup> Street North.
4. Adjacent to all property lines of the application area, as indicated on the approved operational plan, a minimum 60-inch-high fence shall be constructed prior to the beginning of any extraction operation. The fence and existing hedge rows shall be maintained at the locations depicted on the approved operational plan. Said fence shall be placed on steel posts which are not less than 7 feet tall. The posts shall not be set more than 16 feet apart.

The fence shall be a minimum height of 60 inches and shall be of the following types of construction:

- A. A 48-inch-high or higher chain link fence with 3 or more strands of barbed wire; or

- B. A 48-inch-high or higher solid metal or solid masonry fence with 3 or more strands of barbed wire; or
- C. A 48-inch-high or higher wood fence which may have cracks or openings not in excess of 5% of the area of such fence, with 3 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 gate at an angle not to exceed 160° facing away from the excavation.

- 5. The sand and gravel shall be extracted to at least a minimum depth of 6 feet below the normal water table, as determined by the Wichita-Sedgwick County Health Department.
- 6. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no more steep than five horizontal to one vertical.
- 7. Sufficient overburden material shall be retained in the area of extraction to grade and construct the banks so they are formed with overburden material rather than sand.
- 8. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County's legal counsel, prior to the commencement of any sand and gravel extraction operation, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
- 9. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the Unified Zoning Code and amendments thereto.
- 10. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of sod cover to help prevent erosion.
- 11. To minimize blowing soil in this area, overburden shall not be removed more than six months in advance of the lake being expanded into an area, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of which will permit the establishment of sod cover to help prevent erosion.
- 12. The storage of equipment or stockpiling of sand is not permitted closer than within 250 feet of the south property line, 150 feet of the north property line, and 100 feet of the east and west property lines.

13. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the sand extraction operation, the land surrounding the lake shall be properly graded and planted with a vegetative cover. Also, all stockpiled sand, sand pumping and related equipment shall be removed from the subject site.
14. The approval of the Conditional Use is for a period not to exceed 10 years from the date of approval by the MAPC and/or the Board of County Commissioners and subject operation is to cease after that period of time with all equipment and materials associated with the operation removed from the premises. As part of the required operational plan, the applicant shall divide the site into 2 distinct areas for the purpose of showing phased excavation over time. The plan would show which area was to be excavated and at what time.
15. Hours of operation for the sand extracting business shall be limited to 6:00 a.m. to 7:00 p.m.
16. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
17. Any water wells needed to operate the facility must comply with the Water Well Construction Standards contained in Article 30 of the Kansas Department of health and Environment rules and regulations.
18. The applicant shall make the site available to the Wichita-Sedgwick County Health Department for the installation and management of groundwater monitoring wells.
19. Any on-site storage of fuels or chemicals must be approved by the Wichita Sedgwick County Health Department.
20. A drainage plan shall be submitted to and approved by the Sedgwick County Bureau of Public Works prior to starting the sand and gravel extraction. All of the area included within the fenced sand extraction operation shall be graded in accordance with the approved drainage plan.
21. The applicant shall be responsible for maintaining all operational roads in a sand or graveled condition and shall apply water or other acceptable dust retardant to minimize blowing dust.
22. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the sand and gravel extraction operation.

23. The applicant shall dedicate by separate instrument right-of-way for 53<sup>rd</sup> Street North pursuant to Article 7-201(H) of the Wichita-Sedgwick County Subdivision Regulations.
24. The applicant shall submit a covenant satisfactory in form to the County Counselor and County Department of Public Works, prior to the commencement of any sand extraction operation, which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.
25. Any violation of the conditions of approval shall declare the Conditional Use null and void.

**SECTION II.** That upon the taking effect of this Resolution, the notation of such Conditional Use shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

**SECTION III.** That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

Commissioners present and voting were:

|                   |            |
|-------------------|------------|
| BETSY GWIN        | <u>aye</u> |
| BILL HANCOCK      | <u>aye</u> |
| THOMAS G. WINTERS | <u>aye</u> |
| CAROLYN McGINN    | <u>aye</u> |
| BEN SCIORTINO     | <u>aye</u> |

DATED this 21<sup>st</sup> day of June, 2000.

BOARD OF COUNTY COMMISSIONERS OF  
SEDGWICK COUNTY, KANSAS



THOMAS G. WINTERS, Chairman

ATTEST:



Don E. Brace  
County Clerk



APPROVED AS TO FORM ONLY:



RICH EUSON  
County Counselor



## STAFF REPORT

MAPC May 25, 2000

CASE NUMBER: CON2000-00013

APPLICANT/AGENT: Jim Wirths (Owner/Applicant); Baughman Company, PA c/o Russ Ewy (Agent)

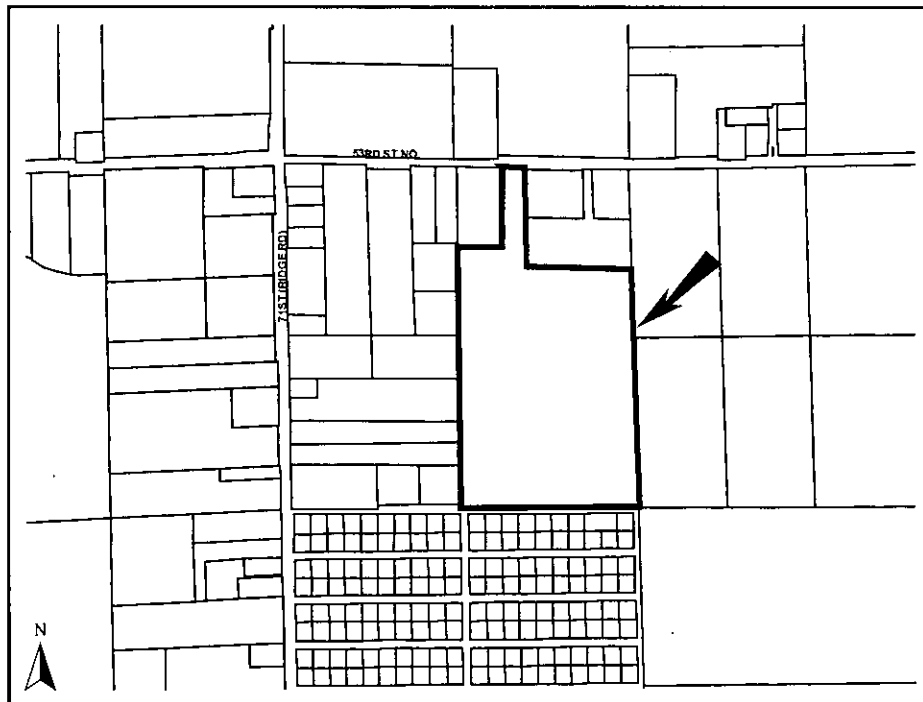
REQUEST: Conditional Use to allow sand and gravel extraction

CURRENT ZONING: "SF-20" Single Family Residential

SITE SIZE: 60 acres

LOCATION: South of 53<sup>rd</sup> Street North and east of Ridge Road

PROPOSED USE: Sand and gravel extraction



**BACKGROUND:** The applicant is requesting a Conditional Use to allow sand and gravel extraction on a 60 acre unplatted tract located south of 53<sup>rd</sup> Street North and east of Ridge Road. The subject property is zoned "SF-20" Single Family Residential.

The attached site plan shows that the proposed sand and gravel extraction operation would create a 20 acre lake. The operational plan shows a fence around the perimeter of the entire property. Storage of equipment and material would not be permitted within 250 feet of the south property line, 150 feet of the north property line, and 100 feet of the east and west property lines. The redevelopment plan shows that one single family residence is proposed for the site north of the lake.

The subject property is within a zone likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Also, information pertaining to wetlands from the Sedgwick County Soil Conservation District and Soil Survey of Sedgwick County indicates that the site does not contain soil commonly associated with wetlands.

The property east, west, and south of the site is zoned "SF-20" Single Family Residential, and the property north of the site is zoned "RR" Rural Residential. The property to the east is used for agriculture, and the property to the north and west is developed with single family residences or manufactured homes on large rural lots (2+ acres). The property to the south is developed at suburban densities (1/3 of an acre platted lots) with single family residences and manufactured homes served by septic systems.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

|         |         |                                   |
|---------|---------|-----------------------------------|
| NORTH:  | "RR"    | Agriculture; Single Family        |
| SOUTH:  | "SF-20" | Single Family; Manufactured Homes |
| EAST: " | "SF-20" | Agriculture                       |
| WEST:   | "SF-20" | Single Family; Manufactured Homes |

**PUBLIC SERVICES:** This site has access to 53<sup>rd</sup> Street North, a two-lane paved section line road. 53<sup>rd</sup> Street North has current traffic volumes of approximately 2,500 average daily trips. The 2030 Transportation Plan estimates that these volumes will increase to approximately 8,500 average daily trips. Municipal water and sewer services are not currently available to serve this site, and the site is located outside the 30 year urban service area. Use of the site for sand and gravel extraction and, subsequently, one single family residence can be supported by on-site water and sewer service.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the recently adopted update to the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for "Rural" development, which accommodates agricultural uses as well as other uses common in rural areas, such as sand and gravel extraction, that are no more offensive than normal agricultural uses. In the "Rural" category, large lot residential uses, as proposed in the redevelopment plan, should be developed with provisions for future water and sewer services.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The applicant shall submit an operational plan for the area to be excavated. The extraction of sand and gravel on the site shall proceed in accordance with the operational plan approved by the MAPC. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan.
2. In order to assist in the enforcement of the operational plan, the applicant shall post a copy of the approved operational plan in the sand and gravel extraction office.
3. The applicant shall submit a development plan showing how the site could be subdivided into approximately one acre lots served by on-site water wells and septic systems. The development plan should show the lots located south and east of the lake and accessed by local streets extending from 49<sup>th</sup> Street North.
4. Adjacent to all property lines of the application area, as indicated on the approved operational plan, a minimum 60-inch-high fence shall be constructed prior to the beginning of any extraction operation. The fence and existing hedge rows shall be maintained at the locations depicted on the approved operational plan. Said fence shall be placed on steel posts which are not less than 7 feet tall. The posts shall not be set more than 16 feet apart.

The fence shall be a minimum height of 60 inches and shall be of the following types of construction:

- A. A 48-inch-high or higher chain link fence with 3 or more strands of barbed wire; or
- B. A 48-inch-high or higher solid metal or solid masonry fence with 3 or more strands of barbed wire; or
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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 gate at an angle not to exceed 160° facing away from the excavation.

5. The sand and gravel shall be extracted to at least a minimum depth of 6 feet below the normal water table, as determined by the Wichita-Sedgwick County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no more steep than five horizontal to one vertical.

7. Sufficient overburden material shall be retained in the area of extraction to grade and construct the banks so they are formed with overburden material rather than sand.
8. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County's legal counsel, prior to the commencement of any sand and gravel extraction operation, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
9. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the Unified Zoning Code and amendments thereto.
10. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of sod cover to help prevent erosion.
11. To minimize blowing soil in this area, overburden shall not be removed more than six months in advance of the lake being expanded into an area, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of which will permit the establishment of sod cover to help prevent erosion.
12. The storage of equipment or stockpiling of sand is not permitted closer than within 250 feet of the south property line, 150 feet of the north property line, and 100 feet of the east and west property lines.
13. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the sand extraction operation, the land surrounding the lake shall be properly graded and planted with a vegetative cover. Also, all stockpiled sand, sand pumping and related equipment shall be removed from the subject site.
14. The approval of the Conditional Use is for a period not to exceed five years from the date of approval by the MAPC and/or the Board of County Commissioners and subject operation is to cease after that period of time with all equipment and materials associated with the operation removed from the premises. As part of the required operational plan, the applicant shall divide the site into 2 distinct areas for the purpose of showing phased excavation over time. The plan would show which area was to be excavated and at what time.
15. Hours of operation for the sand extracting business shall be limited to 6:00 a.m. to sunset.
16. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.

17. Any water wells needed to operate the facility must comply with the Water Well Construction Standards contained in Article 30 of the Kansas Department of health and Environment rules and regulations.
18. The applicant shall make the site available to the Wichita-Sedgwick County Health Department for the installation and management of groundwater monitoring wells.
19. Any on-site storage of fuels or chemicals must be approved by the Wichita Sedgwick County Health Department.
20. A drainage plan shall be submitted to and approved by the Sedgwick County Bureau of Public Works prior to starting the sand and gravel extraction. All of the area included within the fenced sand extraction operation shall be graded in accordance with the approved drainage plan.
21. The applicant shall be responsible for maintaining all operational roads in a sand or graveled condition and shall apply water or other acceptable dust retardant to minimize blowing dust.
22. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the sand and gravel extraction operation.
23. The applicant shall dedicate by separate instrument right-of-way for 53<sup>rd</sup> Street North pursuant to Article 7-201(H) of the Wichita-Sedgwick County Subdivision Regulations.
24. The applicant shall dedicated by separate instrument a public drainage easement pursuant to Article 7-205(B) of the Wichita-Sedgwick County Subdivision Regulations.
25. Any violation of the conditions of approval shall declare the Conditional Use null and void.

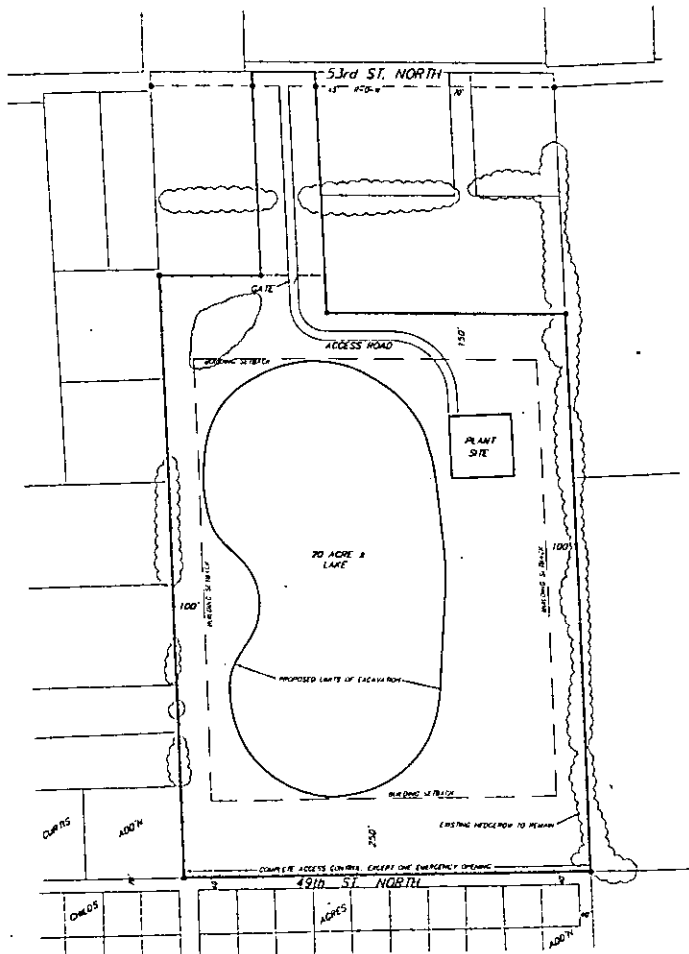
This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property east, west, and south of the site is zoned "SF-20" Single Family Residential, and the property north of the site is zoned "RR" Rural Residential. The property to the east is used for agriculture, and the property to the north and west is developed with single family residences or manufactured homes on large rural lots (2+ acres). The property to the south is developed at suburban densities (1/3 of an acre platted lots) with single family residences and manufactured homes served by septic systems.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently used for agriculture and this use could continue given the agricultural character of the area.

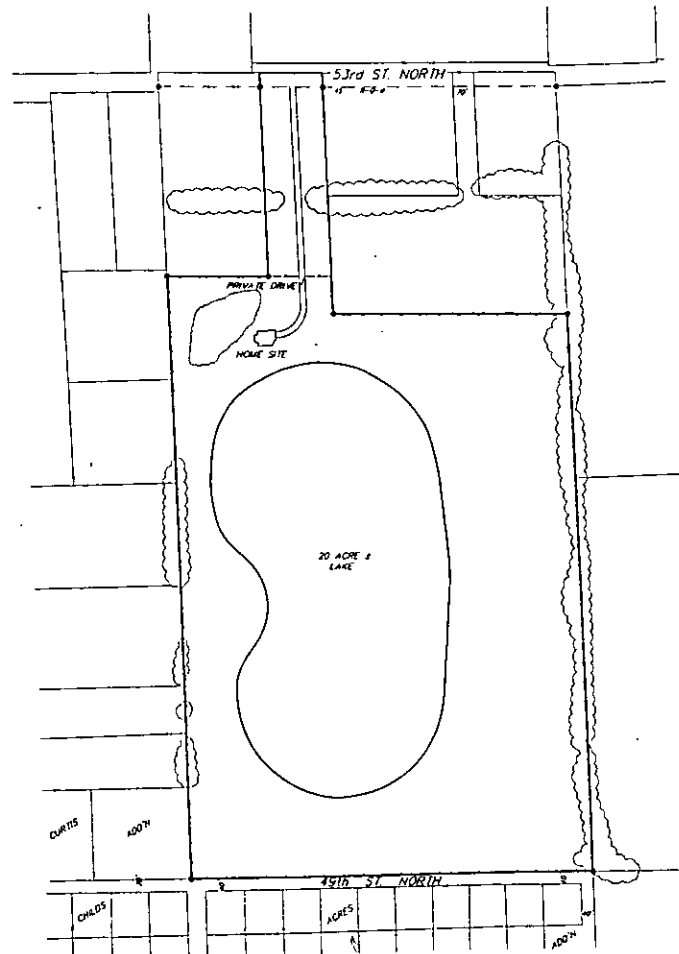
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects should be minimized by the various setback requirements and operational restrictions required as conditions of approval.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the recently adopted update to the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for "Rural" development, which accommodates agricultural uses as well as other uses common in rural areas, such as sand and gravel extraction, that are no more offensive than normal agricultural uses. In the "Rural" category, large lot residential uses, as proposed in the redevelopment plan, should be developed with provisions for future water and sewer services.
5. Impact of the proposed development on community facilities: The development of this property as a sand and gravel extraction operation should not have a significant impact on community facilities. On-site water and sewer services will be required to serve this site.

# WIRTHS SAND EXTRACTION

## CONDITIONAL USE - CU-???



## OPERATIONAL PLAN



## DEVELOPMENT PLAN


$$I^* = 400'$$