Copy

CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

December 12, 2019

Ruud Concrete, LLC
P.O. Box 16082
Wichita, KS 67216

Kaw Valley Engineering
200 North Emporia Avenue, Suite 100
Wichita, KS 67202

RE: CON2019-00040 - County conditional use for mining and quarrying to expand an existing sand and gravel operation on the east side of South Hydraulic Road and one half mile south of East 71st Street South (7760 South Hydraulic Road).

Dear Applicant:

At its regular meeting on **November 7, 2019**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request in accordance with the attached resolution. No protests were filed, so this matter is considered complete, subject to the conditions outlined in the resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

David L. Yearout, AICP
Principal Planner

Copies to: MABCD – Kelly Dixon
BCCC #2 Michael B. O'Donnell, II
Justin Waggoner

CONDITIONAL USE RESOLUTION NO. CON2019-00040

WHEREAS, Ruud Concrete, LLC (Owner) (Applicant) and Kaw Valley Engineering – Levi Bond (Agent) pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use to expand a mining and quarrying for soil extraction on property zone RR Rural Residential and located on the east side of South Hydraulic Avenue and south of East 71st Street South (7760 South Hydraulic Avenue) and legally described as:

> The North half of the Southwest Quarter of Section 3, Township 29 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, excluding the west 60 feet and the east 30 feet for roads.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of November 7, 2019, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to expand a mining and quarrying for soil extraction on property zone RR Rural Residential and located on the east side of South Hydraulic Avenue and south of East 71st Street South (7760 South Hydraulic Avenue) and legally described as:

> The North half of the Southwest Quarter of Section 3, Township 29 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, excluding the west 60 feet and the east 30 feet for roads.

Subject to the following conditions:

1. The site plan shall be modified to better detail of the area to be excavated. The perimeter of the excavation shall conform to the approximate size and shape indicated on the approved site plan. To assist in the enforcement of the site plan, a copy of the approved site plan shall be posted on the site.

2. The excavation operation shall abide by the rules and design set forth in the Federal Aviation Administration Advisory Circular FAA AC150/5200-33 "Hazardous Wildlife Attractants On or Near Airports" to prevent attracting any hazardous wildlife.

3. A new Reclamation/Redevelopment Plan shall be submitted to the Planning Department within 60 days of approval of the Conditional Use permit showing the concept for reclamation/redevelopment of the subject property. Any subsequent changes to said plan shall be submitted to the Planning Director for review and a recommendation to the Planning Commission as to whether or not the development plan is compatible with surrounding land uses, the Comprehensive Plan or other plans or policies being utilized by the City or County.

4. Adjacent to the perimeter of the excavation area, a minimum 48-inch high, five strand barbwire fences shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. The posts shall not be set more than 50 feet apart.

5. 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.

6. The owner of the property shall be responsible for minimizing blowing dust from the site. To minimize blowing soil, overburden shall not be removed more than six months in advance of the excavation area being expanded, per the operational plan, 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. As part of the required operational plan, the site shall be divided into at least two distinct areas for the purpose of showing phased excavation over time.

7. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses that will permit the establishment of sod cover to help prevent erosion.

8. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no steeper than four horizontal to one vertical.

9. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the city legal counsel, prior to the commencement of any extraction providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.

10. The storage of equipment or stockpiling of sand or overburden is not permitted closer than 100 feet to any public right of way, or closer than 50 feet to any property line.

12. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the extraction operation, the land surrounding the excavation pit shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related excavation equipment shall be removed from the subject site.

13. The Conditional Use for the extraction operation shall be valid for a period of 10 years.

14. Hours of operation for extraction shall be limited to 7:00 a.m. to 7:00 p.m. six days a week. Sunday operations are prohibited.

15. The applicant shall make the site available to the Sedgwick County Department of Environmental Resources for the installation and management of groundwater monitoring wells.

16. Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Fire District #1.

17. A drainage plan shall be submitted to and approved by Sedgwick County Public Works prior to starting the extraction operation. All of the area included in the extraction operation shall be graded

in accordance with the approved drainage plan. The extraction area shall be developed so as to not become a wetland area.

18. All operational roads shall be maintained in a sand or graveled condition and shall be treated with water or other acceptable dust retardant to minimize blowing dust.

19. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.

20. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void. Upon the receipt of a complaint that is determined to be a violation of the conditions of approval, the applicant shall be notified of the complaint and have 72 hours to contact zoning enforcement to address the complaint. Failure to address the validated complaint may lead to additional enforcement efforts.

21. Within 60 days of final approval, the applicant shall file with the county register of deeds a document that provides notice that the property is subject to the development standards contained in Conditional Use 2019-00040.

22. The conditions established by CU-214 are null and void upon approval of this request.

Adopted this 7th Day of November, 2019

METROPOLITAN AREA PLANNING COMMISSION

Charles A. Warren, Chair, MAPC

ATTEST:

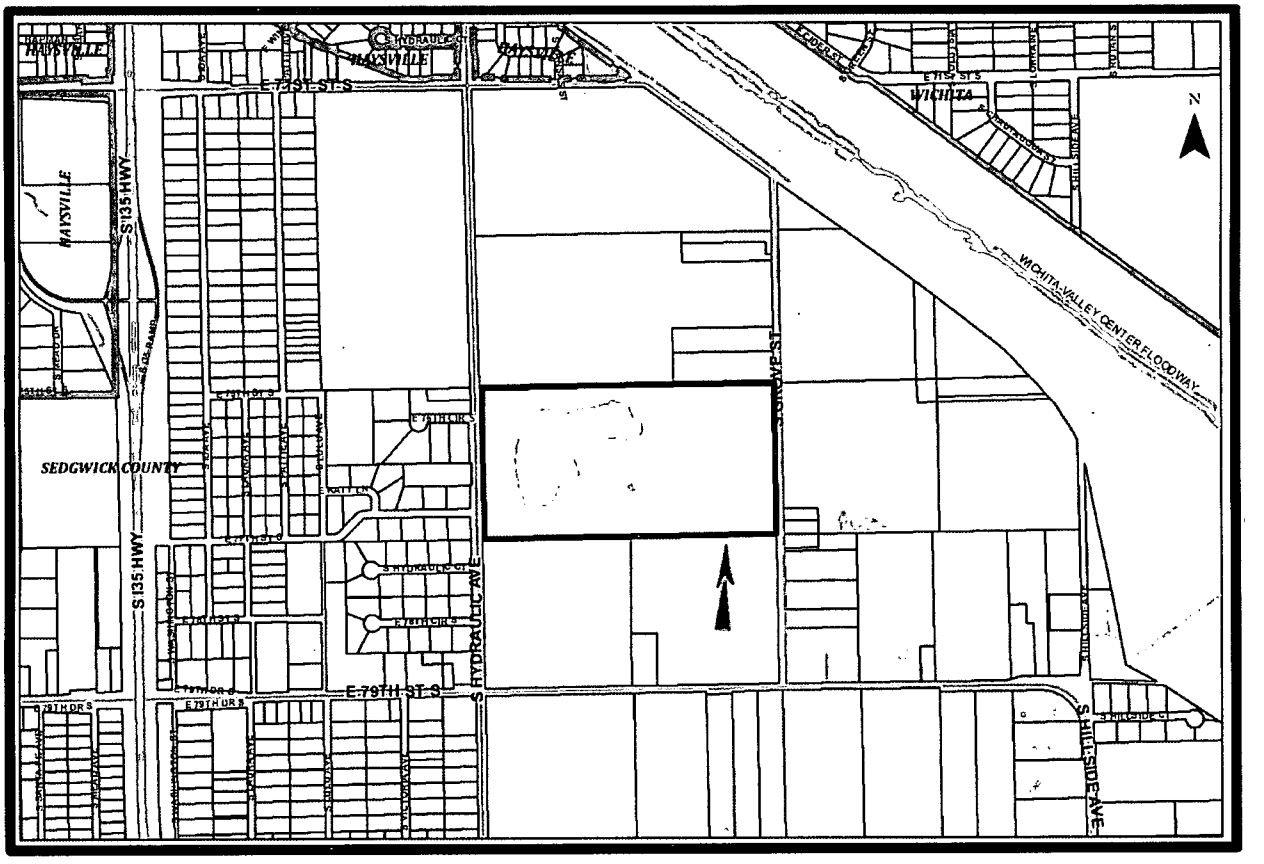
Dale Miller, Secretary

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 4.3

STAFF REPORT
MAPC November 7, 2019
Haysville PC October 24, 2019

CASE NUMBER:	CON2019-00040
APPLICANT/AGENT:	Ruud Concrete, LLC – (Owner/Applicant); Kaw Valley Engineering – Levi Bond (Agent)
REQUEST:	Conditional Use Permit for Sand and Gravel Extraction
CURRENT ZONING:	RR Rural Residential District and LI Limited Industrial District
SITE SIZE:	77+ acres
LOCATION:	Generally located on the east side of South Hydraulic Avenue and ¼ mile north of East 79th Street South



BACKGROUND: The applicant is requesting a Conditional Use to permit expansion of the existing "mining and quarrying" for sand and gravel extraction to the balance of the subject property, which is located on the east side of South Hydraulic Avenue approximately ¼ mile north of East 79th Street South. The existing operation was approved in March of 1979 (CU-214) and covered only the west 40 acres of land within the subject property. At that same time, a portion of that property was rezoned to LI Limited Industrial (SCZ-0416) which was required under the Zoning Regulations at that time to establish the ready-mix concrete plat. The zoning actions in 1979 placed numerous conditions on the extraction operation that are consistent with other operations within the County. The ultimate redevelopment of the location was to establish single-family homes surrounding the lake, subject to platting of the property at that time in the future. The applicant has submitted a site plan showing the extent of the area proposed to be excavated. The proposed site plan is attached.

The Unified Zoning Code lists "Mining or Quarrying" as a Conditional Use in the RR zoning district. The Unified Zoning Code lists 23 conditions with which "Mining or Quarrying" should comply; these conditions exist for public safety, and to mitigate any negative effects the extraction may have on surrounding properties. If the Planning Commission recommends modifications to one or more of the Unified Zoning Code conditions for the requested Conditional Use, the request will then be forwarded to the Governing Body for final action. Many of these conditions are similar to those established in the original approval in 1979.

The area surrounding the subject property is mostly zoned RR Rural Residential. There is some SF-20 Single-Family Residential to the west, which is developed with single-family homes on large lots on the west side of Hydraulic Avenue. There are also some single-family homes on large lots to the east and southeast along South Grove Street. The property to the north and south of the subject property is used agriculturally. The residential development on the west side of South Hydraulic Avenue appears to have occurred after the establishment of the present excavation business. The three primary platted areas for the residential development are in the Peach Valley 2nd Addition (1989), the Orchard Pointe Addition (1992), and the Laverne Roy Addition (2003).

CASE HISTORY: As noted above, the subject property has a previous Conditional Use and rezoning for the existing sand and gravel excavation and concrete plant (CU-214 and SCZ-0416). The subject property is unplatted and would require platting to develop into any other use, including residential.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agricultural
SOUTH:	RR	Agricultural
EAST:	RR	Single-Family Residential and Agricultural
WEST:	SF-20 and RR	Single-Family Residential

PUBLIC SERVICES: The subject property has access to South Hydraulic Road, a two-lane arterial at this location which accommodates the existing traffic generated from this location. Municipal water and sewer services are not present at this location and the property relies upon on-site water and wastewater services. All other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The "Community Investments Plan 2015-2035" depicts this location as being in the Haysville Urban Growth Area. The Haysville Future Land Use Plan Map does not cover this area. All of the surrounding area under the "Community Investments Plan 2015-2035" Future Land Use Map is designated as "Rural Growth Areas". The ultimate redevelopment of this property will be for residential development upon the conclusion of the extraction activity, which would be consistent with the Comprehensive Plan.

RECOMMENDATION: Based upon the information available at the time the staff report was completed, staff recommends the requested conditional use for "mining and quarrying for sand and gravel extraction" be **APPROVED**, subject to the following:

1. The site plan shall be modified to better detail of the area to be excavated. The perimeter of the excavation shall conform to the approximate size and shape indicated on the approved site plan. To assist in the enforcement of the site plan, a copy of the approved site plan shall be posted on the site.

2. The excavation operation shall abide by the rules and design set forth in the Federal Aviation Administration Advisory Circular FAA AC150/5200-33 "Hazardous Wildlife Attractants On or Near Airports" to prevent attracting any hazardous wildlife.

3. A new Reclamation/Redevelopment Plan shall be submitted to the Planning Department within 60 days of approval of the Conditional Use permit showing the concept for reclamation/redevelopment of the subject property. Any subsequent changes to said plan shall be submitted to the Planning Director for review and a recommendation to the Planning Commission as to whether or not the development plan is compatible with surrounding land uses, the Comprehensive Plan or other plans or policies being utilized by the City or County.

4. Adjacent to the perimeter of the excavation area, a minimum 48-inch high, five strand barbwire fences shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. The posts shall not be set more than 50 feet apart.

5. 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.

6. The owner of the property shall be responsible for minimizing blowing dust from the site. To minimize blowing soil, overburden shall not be removed more than six months in advance of the excavation area being expanded, per the operational plan, 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. As part of the required operational plan, the site shall be divided into at least two distinct areas for the purpose of showing phased excavation over time.

7. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses that will permit the establishment of sod cover to help prevent erosion.

8. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no steeper than four horizontal to one vertical.

9. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the city legal counsel, prior to the commencement of any extraction providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.

10. The storage of equipment or stockpiling of sand or overburden is not permitted closer than 100 feet to any public right of way, or closer than 50 feet to any property line.

12. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the extraction operation, the land

surrounding the excavation pit shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related excavation equipment shall be removed from the subject site.

13. The Conditional Use for the extraction operation shall be valid for a period of 10 years.

14. Hours of operation for extraction shall be limited to 7:00 a.m. to 7:00 p.m. six days a week. Sunday operations are prohibited.

15. The applicant shall make the site available to the Sedgwick County Department of Environmental Resources for the installation and management of groundwater monitoring wells.

16. Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Fire District #1.

17. A drainage plan shall be submitted to and approved by Sedgwick County Public Works prior to starting the extraction operation. All of the area included in the extraction operation shall be graded in accordance with the approved drainage plan. The extraction area shall be developed so as to not become a wetland area.

18. All operational roads shall be maintained in a sand or graveled condition and shall be treated with water or other acceptable dust retardant to minimize blowing dust.

19. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.

20. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void. Upon the receipt of a complaint that is determined to be a violation of the conditions of approval, the applicant shall be notified of the complaint and have 72 hours to contact zoning enforcement to address the complaint. Failure to address the validated complaint may lead to additional enforcement efforts.

21. Within 60 days of final approval, the applicant shall file with the county register of deeds a document that provides notice that the property is subject to the development standards contained in Conditional Use 2019-00040.

22. The conditions established by CU-214 are null and void upon approval of this request.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area surrounding the subject property is mostly zoned RR Rural Residential. There is some SF-20 Single-Family Residential to the west, which is developed with single-family homes on large lots on the west side of Hydraulic Avenue. There are also some single-family homes on large lots to the east and southeast along South Grove Street. The property to the north and south of the subject property is used agriculturally. The residential development on the west side of South Hydraulic Avenue appears to have occurred after the establishment of the present excavation business. The three primary platted areas for the residential development are in the Peach Valley 2nd Addition (1989), the Orchard Pointe Addition (1992), and the Laverne Roy Addition (2003).

2. The suitability of the subject property for the uses to which it has been restricted: The property is presently zoned RR Rural Residential and could be developed for single-family uses. The existing

sand and gravel extraction on a portion of the subject property is permitted based on previous zoning approvals.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed expansion to the remained of the subject property is away from the residential uses to the west. There are no other changes or modifications to the existing operation. As such, this activity should have no detrimental effect on any nearby property.

4. Length of time the property has been vacant as currently zoned: The property has been used for the existing operation since 1979. The expansion area is to the east and would only be available through the existing operation, which makes this action reasonable.

5. Relative gain to the public health, safety, and welfare by the destruction of the value of plaintiff's property as compared to the hardship imposed upon the individual landowner: The expansion of the existing sand and gravel extraction operation is beneficial to the public, health and welfare by continuing to provide this particular business service to the larger neighborhood and this portion of the County. Failure to allow the expansion would be a hardship to the owner by forcing a relocation of this business to another location much sooner than planned, which may be difficult because of the nature of the business.

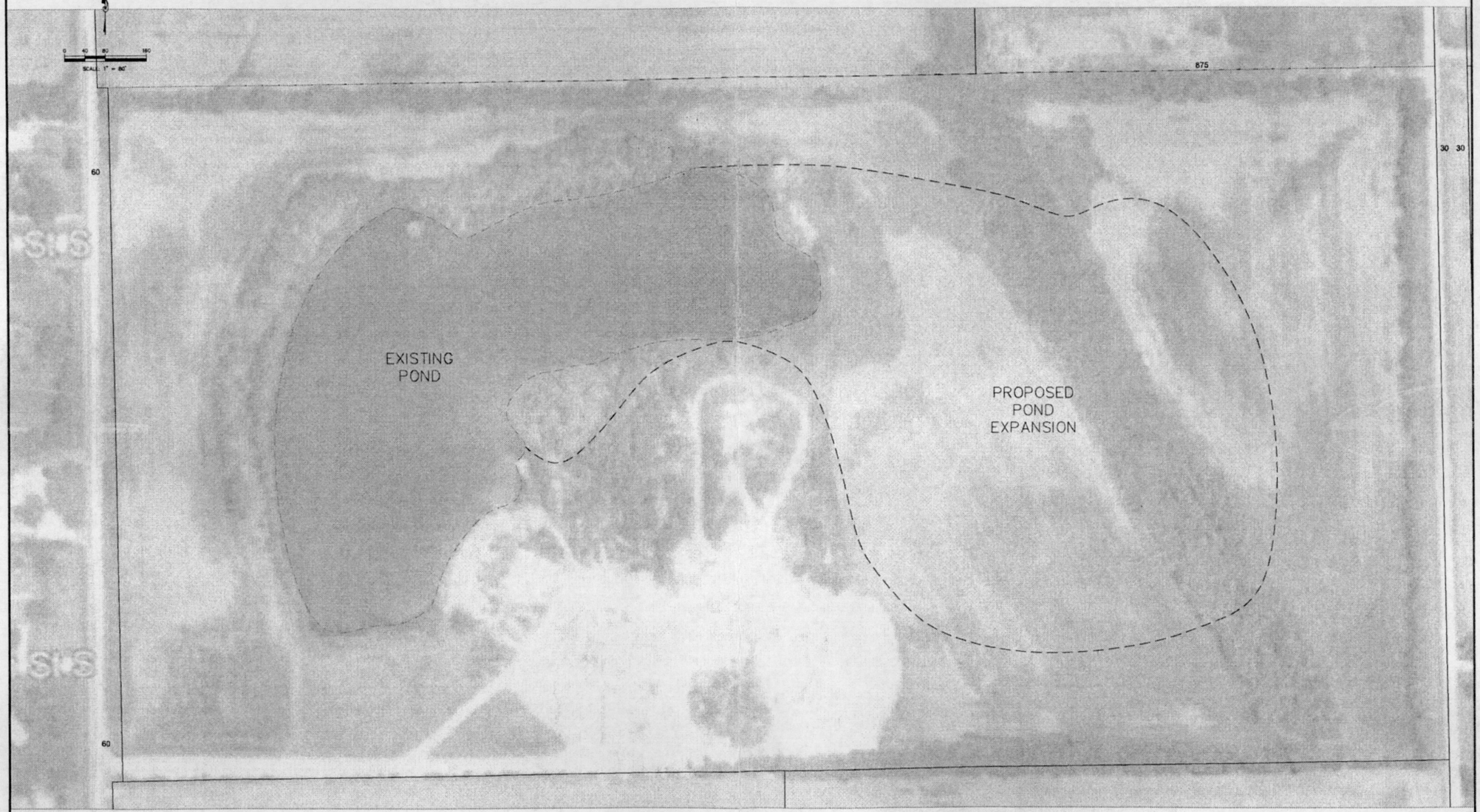
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Community Investments Plan 2015-2035" depicts this location as being in the Haysville Urban Growth Area. The Haysville Future Land Use Plan Map does not cover this area. All of the surrounding area under the "Community Investments Plan 2015-2035" Future Land Use Map is designated as "Rural Growth Areas". The ultimate redevelopment of this property will be for residential development upon the conclusion of the extraction activity, which would be consistent with the Comprehensive Plan. The use is in conformance with the Comprehensive Plan.

7. Impact of the proposed development on community facilities: Approval of this conditional use for this property would not have any impact on community facilities or resources. All public improvements are available to serve the property or will be extended upon replatting.

Attachments:

Proposed Site Plan
CU-214

SITE PLAN



200 N. EMPORIA, SUITE 100
WICHITA, KANSAS 67202
PH. (316) 440-4304 | FAX (316) 440-4309
KAW VALLEY ENGINEERING

DATE
1134 SK 01