

DR 75-20 - Paul Dugan requests special permit for temporary use for a concrete & asphalt mixing plant in the "R-1" Dist. on so. side of 37th St. No. in an area west of Hoover.

ACTION

DATE

COMMITTEE

M.A.P.C. *Approved subject to condition*

~~B.C.C.~~ / B. CO. C. *Approved* 7-30-75

Closed 8/11/75

() Published in The Wichita Beacon on 8 - 8 - , 1975

R E S O L U T I O N

CASE NO. DR 75-20

A RESOLUTION PERMITTING THE CONSTRUCTION OF A
CONCRETE AND ASPHALT MIXING PLANT,

ON CERTAIN LANDS LOCATED WITHIN THE
UNINCORPORATED TERRITORY LYING WITHIN THREE MILES
OF EITHER THE CITY OF WICHITA, THE CITY OF HAYSVILLE,
THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF
VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION
OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY
AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS
ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS,
UNDER THE AUTHORITY GRANTED BY SECTION 11.F OF THE
ZONING RESOLUTION ADOPTED BY THE BOARD OF COUNTY
COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON MARCH
3, 1958, AND SUBSEQUENT AMENDMENTS THERETO.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF
SEGDWICK COUNTY, KANSAS:

SECTION I. That after receiving a recommendation from
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 11.F of the Zoning Resolution as amended, a Special Use
Permit to allow the construction of a concrete and asphalt mixing
plant, is hereby approved on the lands legally described as fol-
lows:

West half of north 10 acres of the northeast
quarter of the northeast quarter of Section
34, Twp. 26, R1W of the 6th P.M., Sedgwick
County, Kansas. Generally located on the
south side of 37th Street North in an area
west of Hoover,

SUBJECT TO THE FOLLOWING:

1. Approval shall be subject to approval of Conditional Use
Case No. 180.
2. That the special permit is authorized only until February 1,
1976, at which time the concrete and asphalt batch plant shall
cease operation and the facilities removed from the premises.

SECTION II. That upon the taking effect of this Resolution,
the notation of such Special Use approval shall be entered in the
Official zoning atlas on file in the Office of the County Zoning Ad-
ministrator and in the Office of the Wichita-Sedgwick County Metro-
politan Area Planning Department.

SECTION III. That this Resolution shall take effect and
be in force from and after its adoption and publication in the Offi-
cial County Paper.

PASSED AND ADOPTED at Sedgwick County, Kansas, this 30th
day of July, 1975.

Earl E. Rush
Earl E. Rush, Chairman

John Hale
John Hale

Tom Scott
Tom Scott

ATTEST:

George Pierce
George Pierce, County Clerk

(SEAL)

Approved as to Form:

Jack Turner
Jack Turner, County Counselor

July 31, 1975

Mr. Paul Dugan, Attorney
2707 West Douglas
Wichita, Kansas 67213

Subject: CU-180 - Conditional Use to
permit an earth borrow oper-
ation and DR 75-20 - Special
permit for temporary use for
a concrete & asphalt mixing
plant on south side of 37th St.
No. in area west of Hoover

Dear Mr. Dugan:

The Board of County Commissioners at their regular meeting on July 30, 1975, approved the above captioned cases subject to the conditions as recommended by the Metropolitan Area Planning Commission.

At such time as Condition #1 is complied with we will then be in a position to be able to publish the resolution effectuating these uses. If you have any questions on this condition, please contact our office.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:js

Form T9-221A

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION TO
BOARD OF COUNTY COMMISSIONERS

REQUEST FOR APPROVAL OF A CONDITIONAL USE
AND APPROVAL OF A SPECIAL PERMIT

CASE NO. CU-180 and DR 75-20 CONSIDERED BY MAPC: 7-10-75

REQUEST FOR: Approval of a Conditional Use and
Approval of a special permit

REASON FOR REQUEST (AS PROVIDED BY APPLICANT):

To permit an earth borrow operation in the "R-1" Suburban Residential Dwelling District, and for construction of a concrete and asphalt mixing plant as a temporary use in the "R-1" Suburban Residential Zoning District.

GENERAL LOCATION: South side of 37th Street North
in an area west of Hoover

LEGAL DESCRIPTION:

West half of north 10 acres of the Northeast Quarter of the Northeast quarter of Section 34, Township 26, R1W of the 6th P.M., Sedgwick County, Kansas.

APPLICANT: Harvey L. Mills, 3751 North Hoover 67205

COUNSEL FOR APPLICANT: Paul Dugan, Attorney

PROTESTORS (LIST COUNSEL) IF ANY: None

SURROUNDING ZONING: To the north, east, south,
and west is "R-1"

LAND USE: Subject property and that to the north, south,
and west is undeveloped; east is single-family

PLANNING COMMISSION RECOMMENDATION:

That CU-180 and DR 75-20 be approved, subject to the following conditions: (See attached excerpt from Planning Commission minutes of July 10, 1975 for conditions.) Geobel moved, Bayouth seconded and it carried by a vote of 8 in favor (Goebel, Bayouth, Kamen, Rising, Hopper, Taylor, Gragg and Savina), and 1 opposed (Hennessy).

ACTION: 1. Approve the permits as recommended by the Metropolitan Area Planning Commission, subject to the recommended conditions of approval and adopt resolutions effectuating the conditional use and special permit; or
2. Deny the permits.

EXCERPT FROM PLANNING COMMISSION MINUTES OF JULY 10, 1975:

11. Case No. CU-180 - Harvey L. Mills requests approval of a Conditional Use to permit an earth borrow operation in the "R-1" Suburban Residential Dwelling District on property legally described as follows:

West half of north 10 acres of the northeast quarter of the northeast quarter of Section 34, Twp. 26, RLW of the 6th P.M., Sedgwick County, Kansas. Generally located on the south side of 37th Street North in an area west of Hoover.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

Comments

1. The applicant is requesting a Conditional Use permit under Section 4.A.10.f) of the Sedgwick County Zoning Resolution, in order to establish a borrow area to excavate dirt and sand for use in the construction of Kansas Highway K-96.
2. The applicant indicates that the request is only for temporary use (until February 1, 1976) and the depth of the excavation will not exceed four feet and will not be to the water level.
3. Although a site plan indicating the excavation and stockpiling areas has been submitted with the application, the plan does not indicate how the land will be graded after the operation ceases. However, the applicant's attorney advises that, after the excavation is completed, the applicant is going to remove the topsoil from the adjacent portion of his property, fill in the excavated area with the underlying fill from the adjacent property, and then spread the topsoil over the entire area, including the excavated area.
4. In conjunction with this application, the applicant is requesting approval of a special permit to allow the operation of an asphalt and concrete batch plant in conjunction with the extraction operation which is proposed to be located on subject property (DR 75-20).
5. Should the Planning Commission recommend the approval of this request, the following conditions are recommended for consideration:
 - a. Two copies of a site grading plan showing the final grade on subject property, once the extraction operation is completed, shall be submitted to the Wichita-Sedgwick County Flood Control Office for their review and approval.
 - b. Once the extraction operation has ceased, final grading shall be completed and no foreign matter such as rubbish, construction debris, construction equipment, etc., shall remain on the property.
 - c. No excavation shall occur nearer than 50 feet from the south right-of-way line of 37th Street North or within 50 feet of the west and south property lines.
 - d. That the Conditional Use permit is authorized only until February 1, 1976, and that subject property must be completed by that date; and any violation of the conditions of approval shall declare the conditional use permit null and void.

12. Case No. DR 75-20 - Paul Dugan requests special permit for temporary use for a concrete and asphalt mixing plant in the "R-1" Suburban Residential District, for land described as follows: (See previous Case CU-180 for legal description.)

GALBRAITH pointed out the area on the map and reviewed the following staff report:

Comments

1. The applicant is requesting a special permit under Section 11 F of the County Zoning Resolution in order to construct a temporary concrete and asphalt mixing plant. The permit may be granted subject to whatever protective restrictions are deemed necessary.
2. Subject property is located on a major street (37th Street North) and is unplatted as are all surrounding lands.
3. The applicant has submitted a site plan with the application which indicates the location of the proposed facilities on the site.
4. In the event the Planning Commission recommends approval of this request, the following are recommended conditions of approval:
 - a. Approval shall be subject to approval of Conditional Use Case No. 180.
 - b. That the special permit is authorized only until February 1, 1976, at which time the concrete and asphalt batch plant shall cease operation and the facilities removed from the premises.

GALBRAITH pointed out that several years ago the zoning resolution was amended to allow an asphalt batch plant by special permit, rather than having to establish "E" zoning for such a use on a temporary basis where associated with a government contract for construction of a segment of highway. He said in this case, the applicant intends to excavate to a depth of about four feet and after completion of the project plans to level the entire site and place it back into an agricultural state. GALBRAITH said a location plan has been submitted showing proposed structures, a circular driveway and location of the stockpiling of silt material. He said in addition to the conditions shown in the staff report, it is also suggested that a performance bond be required guaranteeing that when the project is completed, the land will be left in a useable state, the amount of such bond to be determined by the County Engineer.

HENNESSY noted that the staff report indicates the applicant is going to use topsoil to fill in when the project is completed and asked why the topsoil cannot be used for what he is going to do rather than excavating.

GALBRAITH said it was his understanding that silt material will be mixed with asphalt and that topsoil is not appropriate for such use.

PAUL DUGAN, attorney for the applicant, said with respect to the conditional use request, that his client has a contract for the paving of K-96 from the Maize Road into the City of Wichita, and rather than going out of town or at a considerable distance and having to truck in this particular aggregate, if he can obtain this conditional use, it will be much more convenient to use the silt material from subject site. He pointed out that it would be a temporary use and would cease when the project is completed. As for the use of topsoil, DUGAN said it is not useable as an aggregate for the type of construction to be done, and that the silt needed will be mixed with asphalt concrete and water for a sub-surface, and with concrete over the top.

Referring to the request for a special permit for the batch plant, DUGAN thought there was no opposition, but in any case he emphasized that there would be no smoke emitted from the plant, no heat would be used at all, and there would be no offensive odors, and it also would be only a temporary use for the life of the project. DUGAN said so far as a performance bond, he had inquired about it of the staff and was advised that it has not been used much in the last several years. He said it would be just added expense, and his client would submit the customary documents and assurance that the property would be left in a useable condition; however, he felt his client would comply with the submission of a performance bond rather than having the requests denied, if it is deemed absolutely necessary. DUGAN explained further that Mr. Mills, the applicant, is in the dirt hauling business and so has the necessary equipment for such work.

When asked what was considered a "temporary" length of time, MILLS said with good weather, he expected to have the project completed in December of this year, but in view of the uncertainty of weather, he would like to have until February of 1976. Upon further questioning, MILLS said he owns adjoining property on the east and lives there. MILLS explained further his intention of levelling off the sand dunes which have accumulated over the years on his holdings in this area, which is really what has made the kind of material needed in this project. He said it is hard to farm real fine sand, and his plan is to excavate down to four feet below the road level and still above the water level, then level it off, and then add topsoil.

DUGAN explained that this material is not available in Sedgwick County on a commercial basis because it is very rare, and the usual commercial sand is not suitable at all. If this is not approved, the construction company will have to ship or truck it in. DUGAN reported further that as to the borrow pit request, it would appear there could not be a better site for such a use, as there are already several sandpits in the immediate area, it is not a heavily populated area, and the property would be left in a better condition than it is presently, inasmuch as topsoil will be brought in and a farming operation will be conducted.

DALE SHONELABOR, representing Prairie States Construction Company, Inc., said this will be the first time this particular type of base for paving construction has been used, and it is necessary to have a certain standard, mixed with asphalt, to meet the State's requirements. He said it appears the material desired to be obtained in this case will meet the requirements much closer than anything else that has been located in the immediate area.

RISING expressed interest in knowing more about the operation. DUGAN answered that the substance to be used is more or less new, but this type of borrow pit operation has been done by this company and others on various occasions.

MS. BAKER, 3539 North Hoover, said they have the adjoining property and have no objection to the borrow pit operation, but were concerned as to the mixing plant and its affect on the neighborhood area so far as environmental conditions.

CHAIRMAN KAMEN pointed out that any batch plant operation would be under control of the environmental agency and have to meet certain standards so far as cleanliness and operation. DUGAN emphasized again that there would be no heating or smoke and that materials would be placed in a covered hopper for mixing, and he could not visualize any possibility of dust. He said there would be engines and trucks, but that Ms. Baker's home is about 1/4 mile away from the plant itself. He stated further that the plant would be operated only during daylight hours.

MOTION: That the Planning Commission recommend to the County Commission that CU-180 and DR 75-20 be denied, as it appears to be on an experimental basis, and if such an operation is started all over the area, there would be a problem. Hennessy moved. This motion was not seconded.

MOTION: That the Planning Commission recommend to the County Commission that CU-180 be approved subject to the following conditions:

1. Two copies of a site grading plan showing the final grade on subject property, once the extraction operation is completed, shall be submitted to the Wichita-Sedgwick County Flood Control Office for their review and approval. The applicant shall submit a satisfactory guarantee either in the form of a performance bond or an irrevocable letter of credit, in the amount set by the County Engineer, to guarantee final grading in compliance with the site grading plan.
2. Once the extraction operation has ceased, final grading shall be completed and no foreign matter, such as rubbish, construction debris, construction equipment, etc. shall remain on the property.
3. The depth of the excavation shall not exceed four feet below the existing grade and in no event shall excavation be to the water level.
4. That the conditional use permit is authorized only until February 1, 1976, and that subject property must be completed by that date; and any violation of the conditions of approval shall declare the conditional use permit null and avoid,

and that DR 75-20, request for special permit be approved, subject to the following conditions:

1. Approval shall be subject to approval of Conditional use No. 180.
2. That the special permit is authorized only until February 1, 1976, at which time the concrete and asphalt batch plant shall cease operation and the facilities removed from the premises.

Goebel moved, Bayouth seconded and it carried by a vote of 8 in favor (Goebel, Bayouth, Kamen, Rising, Hopper, Taylor, Gragg and Savina), and 1 opposed (Hennessy).

July 23, 1975

Jack Turner, County Counselor

Jack H. Galbraith, Chief Planner

CU-180 - Request for Conditional Use for earth borrow operation; and DR 75-20 - Request for special permit for temporary use for a concrete and asphalt mixing plant - South side of 37th Street North in an area west of Hoover

Attached for your information and files is a copy of the referral sheet and minutes of the Metropolitan Area Planning Commission meeting of July 10, 1975 on the above-captioned cases, which are scheduled to appear on the agenda of the Board of County Commissioners at their meeting of July 30, 1975.

Enclosed for your review and approval are copies of the resolutions effectuating the conditional use and special permit, which have been prepared on our standard form.

If you have any comments in regard to the resolutions, we would appreciate hearing from you by July 29, 1975, so that any corrections or additions may be made prior to being submitted to the Commissioners for their signatures.

Jack H. Galbraith
Chief Planner

JHG:GLS:ber

Attachment

() Published in The Wichita Beacon on _____, 1975

R E S O L U T I O N

CASE NO. DR 75-20

A RESOLUTION PERMITTING THE CONSTRUCTION OF A
CONCRETE AND ASPHALT MIXING PLANT,

ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF EITHER THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 11.F OF THE ZONING RESOLUTION ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON MARCH 3, 1958, AND SUBSEQUENT AMENDMENTS THERETO.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

SECTION I. That after receiving a recommendation from 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 11.F of the Zoning Resolution as amended, a Special Use Permit to allow the construction of a concrete and asphalt mixing plant, is hereby approved on the lands legally described as follows:

West half of north 10 acres of the northeast quarter of the northeast quarter of Section 34, Twp. 26, RLW of the 6th P.M., Sedgwick County, Kansas. Generally located on the south side of 37th Street North in an area west of Hoover,

SUBJECT TO THE FOLLOWING:

1. Approval shall be subject to approval of Conditional Use Case No. 180.
2. That the special permit is authorized only until February 1, 1976, at which time the concrete and asphalt batch plant shall cease operation and the facilities removed from the premises.

SECTION II. That upon the taking effect of this Resolution, the notation of such Special Use approval shall be entered in the Official zoning atlas on file in the Office of the County Zoning Administrator and in the Office 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 and publication in the Official County Paper.

PASSED AND ADOPTED at Sedgwick County, Kansas, this _____
day of _____, 1975.

Earl E. Rush, Chairman

John Hale

Tom Scott

ATTEST:

George Pierce, County Clerk

(SEAL)

Approved as to form:

Jack Turner, County Counselor

() Published in The Wichita Beacon on _____, 1975

R E S O L U T I O N

CASE NO. DR 75-20

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CONCRETE AND ASPHALT MIXING PLANT,

ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF EITHER THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 11.F OF THE ZONING RESOLUTION ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON MARCH 3, 1958, AND SUBSEQUENT AMENDMENTS THERETO.

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John Hale

Tom Scott

ATTEST:

George Pierce, County Clerk

(SEAL)

Approved as to form:

Jack Turner, County Counselor

Form T9-221A

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION TO
BOARD OF COUNTY COMMISSIONERS

REQUEST FOR APPROVAL OF A CONDITIONAL USE
AND APPROVAL OF A SPECIAL PERMIT

CASE NO. CU-180 and DR 75-20 CONSIDERED BY MAPC: 7-10-75

REQUEST FOR: Approval of a Conditional Use and
Approval of a special permit

REASON FOR REQUEST (AS PROVIDED BY APPLICANT):

To permit an earth borrow operation in the "R-1" Suburban Residential Dwelling District, and for construction of a concrete and asphalt mixing plant as a temporary use in the "R-1" Suburban Residential Zoning District.

GENERAL LOCATION: South side of 37th Street North
in an area west of Hoover

LEGAL DESCRIPTION:

West half of north 10 acres of the Northeast Quarter of the Northeast quarter of Section 34, Township 26, RLW of the 6th P.M., Sedgwick County, Kansas.

APPLICANT: Harvey L. Mills, 3751 North Hoover 67205

COUNSEL FOR APPLICANT: Paul Dugan, Attorney

PROTESTORS (LIST COUNSEL) IF ANY: None

SURROUNDING ZONING: To the north, east, south,
and west is "R-1"

LAND USE: Subject property and that to the north, south,
and west is undeveloped; east is single-family

PLANNING COMMISSION RECOMMENDATION:

That CU-180 and DR 75-20 be approved, subject to the following conditions: (See attached excerpt from Planning Commission minutes of July 10, 1975 for conditions.) Geobel moved, Bayouth seconded and it carried by a vote of 8 in favor (Goebel, Bayouth, Kamen, Rising, Hopper, Taylor, Gragg and Savina), and 1 opposed (Hennessy).

ACTION: 1. Approve the permits as recommended by the Metropolitan Area Planning Commission, subject to the recommended conditions of approval and adopt resolutions effectuating the conditional use and special permit; or
2. Deny the permits.

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1. Case No. CU-180 - Harvey L. Mills requests approval of a Conditional Use to permit an earth borrow operation in the "R-1" Suburban Residential Dwelling District on property legally described as follows:

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When asked what was considered a "temporary" length of time, MILLS said with good weather, he expected to have the project completed in December of this year, but in view of the uncertainty of weather, he would like to have until February of 1976. Upon further questioning, MILLS said he owns adjoining property on the east and lives there. MILLS explained further his intention of levelling off the sand dunes which have accumulated over the years on his holdings in this area, which is really what has made the kind of material needed in this project. He said it is hard to farm real fine sand, and his plan is to excavate down to four feet below the road level and still above the water level, then level it off, and then add topsoil.

DUGAN explained that this material is not available in Sedgwick County on a commercial basis because it is very rare, and the usual commercial sand is not suitable at all. If this is not approved, the construction company will have to ship or truck it in. DUGAN reported further that as to the borrow pit request, it would appear there could not be a better site for such a use, as there are already several sandpits in the immediate area, it is not a heavily populated area, and the property would be left in a better condition than it is presently, inasmuch as topsoil will be brought in and a farming operation will be conducted.

DALE SHONELABOR, representing Prairie States Construction Company, Inc., said this will be the first time this particular type of base for paving construction has been used, and it is necessary to have a certain standard, mixed with asphalt, to meet the State's requirements. He said it appears the material desired to be obtained in this case will meet the requirements much closer than anything else that has been located in the immediate area.

RISING expressed interest in knowing more about the operation. DUGAN answered that the substance to be used is more or less new, but this type of borrow pit operation has been done by this company and others on various occasions.

MS. BAKER, 3539 North Hoover, said they have the adjoining property and have no objection to the borrow pit operation, but were concerned as to the mixing plant and its affect on the neighborhood area so far as environmental conditions.

CHAIRMAN KAMEN pointed out that any batch plant operation would be under control of the environmental agency and have to meet certain standards so far as cleanliness and operation. DUGAN emphasized again that there would be no heating or smoke and that materials would be placed in a covered hopper for mixing, and he could not visualize any possibility of dust. He said there would be engines and trucks, but that Ms. Baker's home is about 1/4 mile away from the plant itself. He stated further that the plant would be operated only during daylight hours.

MOTION: That the Planning Commission recommend to the County Commission that CU-180 and DR 75-20 be denied, as it appears to be on an experimental basis, and if such an operation is started all over the area, there would be a problem. Hennessy moved. This motion was not seconded.

MOTION: That the Planning Commission recommend to the County Commission that CU-180 be approved subject to the following conditions:

1. Two copies of a site grading plan showing the final grade on subject property, once the extraction operation is completed, shall be submitted to the Wichita-Sedgwick County Flood Control Office for their review and approval. The applicant shall submit a satisfactory guarantee either in the form of a performance bond or an irrevocable letter of credit, in the amount set by the County Engineer, to guarantee final grading in compliance with the site grading plan.
2. Once the extraction operation has ceased, final grading shall be completed and no foreign matter, such as rubbish, construction debris, construction equipment, etc. shall remain on the property.
3. The depth of the excavation shall not exceed four feet below the existing grade and in no event shall excavation be to the water level.
4. That the conditional use permit is authorized only until February 1, 1976, and that subject property must be completed by that date; and any violation of the conditions of approval shall declare the conditional use permit null and avoid,

and that DR 75-20, request for special permit be approved, subject to the following conditions:

1. Approval shall be subject to approval of Conditional use No. 180.
2. That the special permit is authorized only until February 1, 1976, at which time the concrete and asphalt batch plant shall cease operation and the facilities removed from the premises.

Goebel moved, Bayouth seconded and it carried by a vote of 8 in favor (Goebel, Bayouth, Kamen, Rising, Hopper, Taylor, Gragg and Savina), and 1 opposed (Hennessy).

July 11, 1975

Mr. Paul Dugan, Attorney
2707 West Douglas
Wichita, Kansas 67213

Re: DR 75-20 - Request for special
permit for temporary concrete
and asphalt batch plant - south
side of 37th Street North in an
area west of Hoover

Dear Mr. Dugan:

At the regular meeting of the Metropolitan Area Planning Commission on July 10, 1975, the above-captioned case was considered. It was the action of the Commission to recommend approval of the request subject to the following conditions:

- a. Approval shall be subject to approval of Conditional Use Case No. 180.
- b. That the special permit is authorized only until February 1, 1976, at which time the concrete and asphalt batch plant shall cease operation and the facilities removed from the premises.

This matter will be forwarded to the County Commission for consideration on July 30, 1975, the meeting to start at 9:00 a.m. in Room 320 Sedgwick County Courthouse.

If you have any questions, please call.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:ber

cc: Harvey L. Mills, 3751 North Hoover 67205
Ms. Margaret Baker, 3539 North 55th Street North 67205
Don Yelton, Acting Division Head, County Building,
Planning and Inspection, 1015 Stillwell 67213

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

MEPC HEARING DATE: July 10, 1975

Case No. DR 75-20

Request: Special Permit

Location: South side of 37th Street North in
an area west of Hoover

Reason: Installation of a temporary concrete and asphalt batch
plant.

Acres: 5

Size: 330 ft. by 660 ft.

	<u>Land Use</u>	<u>Zoning</u>
Existing North	Undeveloped	"R-1"
East	Undeveloped	"R-1"
South	Single-family	"R-1"
West	Undeveloped	"R-1"
	Undeveloped	"R-1"

Existing R/W - 37th St. No. (half) 30 ft.

Platted: No

Proposed R/W - 37th St. No. (half) 50 ft.

History: None

Comments

1. The applicant is requesting a special permit under Section 11 F of the County Zoning Resolution in order to construct a temporary concrete and asphalt mixing plant. The permit may be granted subject to whatever protective restrictions are deemed necessary.
 2. Subject property is located on a major street (37th Street North) and is unplatted as are all surrounding lands.
 3. The applicant has submitted a site plan with the application which indicates the location of the proposed facilities on the site.
 4. In the event the Planning Commission recommends approval of this request, the following are recommended conditions of approval:
 - a. Approval shall be subject to approval of Conditional Use Case No. 180.
 - b. That the special permit is authorized only until February 1, 1976, at which time the concrete and asphalt batch plant shall cease operation and the facilities removed from the premises.
-

DR 75-20 - 9 NOTICES TO ADJACENT PROPERTY OWNERS MAILED 6-27-75 for MAPC 7-10-75

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION
CITY BUILDING ANNEX, 104 South Main
WICHITA, KANSAS 67202

June 27, 1975

NOTICE TO ADJOINING PROPERTY OWNERS:

The Wichita-Sedgwick County Metropolitan Area Planning Commission will consider the following item in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at its meeting beginning at 1:30 p.m. on July 10, 1975, at which time you may appear either in person or by agent or attorney, if you so desire.

CASE NO. DR 75-20

Special Permit Request for the construction of a Concrete and Asphalt Mixing Plant as a Temporary Use in the "R-1" Suburban Residential Zoning District

West half of north 10 acres of the Northeast Quarter of the Northeast Quarter of Section 34, Township ... Twp. 26. RLW of the 6th P.M., Sedgwick County, Kansas.
Generally located on the south side of 37th St North in an area west of Hoover.

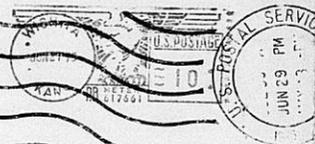
NOTE: It is the policy of the Planning Commission that any request for a deferral of the hearing of this case shall be submitted to the Secretary, Robert A. Lakin, 104 South Main, 7 days prior to the meeting. The Chairman and Secretary may grant such a request for deferral. Persons requesting deferrals will be charged with the cost of preparing and mailing new notices.

Robert A. Lakin
Secretary

WICHITA—SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
COMMISSION
CITY BUILDING ANNEX
104 S. MAIN ST.
WICHITA, KANSAS 67202




ADDRESSEE UNKNOWN
CHISHOLM



Sanders Inc.
3002 South Millwood
Wichita, Ks. 67217

FIRST CLASS

No longer at this address

DR-75-20

TRACT DESCRIPTION

OWNER & ADDRESS

SE $\frac{1}{4}$ of SE $\frac{1}{4}$ 27-26-1W

Noble C. & Harriet E. Gifford
✓ 1235 Sullivan Court
Wichita, Kansas 67204

SE $\frac{1}{4}$ of SW $\frac{1}{4}$ 26-26-1W

X James M. Miller & Lillian M. Miller
Address Unknown

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 34-26-1W

✓ June M. Woodman
Box 103
Sedgwick, Kansas 67205

Beg. at NW cor. E $\frac{1}{2}$ S $\frac{1}{2}$
NE $\frac{1}{4}$ 34-26-1W, S 224.4 ft.,
E 382.8 ft., N 224.4 ft.,
W to beginning

✓ Harry L. Baker
3539 North 55th St. West
Wichita, Kansas 67205

N $\frac{1}{2}$ N $\frac{1}{2}$ SE NE $\frac{1}{4}$ 34-26-1W

✓ Cash M. Sandusky
Rural Route #7
Wichita, Kansas 67205



Dated at Wichita, Kansas, this 16th day of June,
1975 at 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

BY *Carita Shay*
Asst. Sec. ag

Tracer No. 28974