CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

September 14, 2009

Lyle Schuette
11100 E 47th Street South
Derby, Kansas, 67037

RE: CON2009-25 – Sedgwick County Administrative Adjustment to CON2008-11 to adjust conditions #3 & #6, on property zoned "RR" Rural Residential zoning.

Legal Description: The East 990 feet of the South 1/2 of the Southeast ¼, except the South 60 feet & The East 50 feet for Roads, Section 16, Township 28 South, Range 3 West fo the 6th P.M., Sedgwick County, Kansas. Generally located on the northwest corner of Greenwich Road and 47th Street South. (District 5)

Dear Applicant:

We have reviewed your request for an Administrative Adjustment to conditions #3 & #6 of CON2008-11. Condition #3 reads:
3. Not more than one acre of ground may be roto-tilled and top soil removed at any one time. Once the soil had been removed from the one acre working area it must be reseeded, or some other form of erosion control acceptable to the Director of County Code Enforcement must be established, prior to beginning roto-tilling or soil removal on the next acre. A maximum of five acres of surface area may be mined in any given calendar year. The owner of the property shall be responsible for minimizing blowing dust from the site.

You are requesting that you be allowed to roto-till and removed up to 2-acres of top soil at any one time. You are also requesting that you be allowed to disc up to 4-acres of top soil to prepare it for roto-tilling and subsequent removal.

Condition #6 reads:
6. Mining is to begin east of the creek, and proceed south to north. Once mining is complete on the east side of the creek, mining may begin on the west side of the creek, south to north.

You are requesting that mining proceeds east to west, at the midpoint, rather than north to south, i.e., from the top of the site to the bottom. You are also requesting that because the mining proceeds east to west and not north to south, you be allowed to work both the east and west sides of the creek, rather than completing the east side of the creek before proceeding to the west side of the creek.

Sec. V-D.14. of the Unified Zoning Code allows the Planning Director, with the concurrence of the Zoning Administrator, to approve minor adjustments to conditions of a Conditional Use as long as the adjustment does not have any of the negative impacts stated in Sec. V-I.6. We find that permitting the adjustments as proposed meets the four conditions required by Section V-1.6 of the Unified Zoning Code as set out below:

1) Impact on safety and convenience of vehicular and pedestrian circulation: The proposed adjustments to conditions #3 and #6 of CON2008-11 will have no impact on the safety and convenience of vehicular and pedestrian circulation.

2) Impact on existing uses in surrounding areas: The proposed adjustments to conditions #3 and #6 of CON2008-11 are not increasing the size of the site (30.04-aces), it is not increasing the length of time it will be operating (#2 = 10-years maximum), and it is not increasing truck traffic (#7 = 10 daily truck trips) all which would increase the impact of the site on the surrounding area. The applicant is still required to reseed, or apply some other form of erosion control to the mined areas acceptable to the Director of County Code Enforcement (#3), cannot mine more than 5-acres of top soil a year (#3), and comply with all the other conditions of CON2008-11, including an approved drainage plan.

3) Compatibility with existing or permitted uses on abutting sites: This is a RR Rural Residential ("RR") zoned, rural area of Sedgwick County, but located inside of Wichita's 2030 Urban Growth Area. The area is developed with a mix of large-lot suburban residential, agricultural, township and institutional (cemetery) uses. Mining, top soil removal, is permitted in the RR district with an approved Conditional Use.

4) Effect on public health, safety or welfare: CON2008-11 introduced a new use to the area and with it an increase in truck traffic, possible soil erosion and blowing dust. The proposed adjustments will not increase the site's current impact on the area.

Our signatures below indicate that an Administrative Adjustment to CON2008-11 is as follows:

#3 Not more than two-acres of ground may be roto-tilled and top soil removed at any one time. Once the soil had been removed from the two-acre working area it must be reseeded, or some other form of erosion control acceptable to the Director of County Code Enforcement must be established, prior to beginning roto-tilling or soil removal on the next acre. The applicant may disc up to 4-acres of top soil to prepare it for roto-tilling and subsequent removal. A maximum of five acres of surface area may be mined in any given calendar year. The owner of the property shall be responsible for minimizing blowing dust from the site.

6. Mining is to begin east of the creek, and proceed east to west, at the midpoint, and across the creek.

The "Development Application" sign should now be removed from the property.

John L. Schlegel
Planning Director

Glen Wiltse
County Zoning Administrator

cc: Glen Wiltse Sedgwick County Superintendent of Central Inspection, 1144 S Seneca, Wichita, KS 67213
Jim Weber, Sedgwick County Public Works Engineer, 1144 S Seneca, Wichita, KS, 67213
Kelley Dixon, Sedgwick County Code Enforcement, 1144 S Seneca, Wichita, KS 67213

RESTRICTIVE COVENANT

We the undersigned Lyle A. Schuette Deborah K. Schuette do hereby impose upon the following described real property, to wit:

The East 990 feet of the South 1/2 of the Southeast ¼, except the South 60 feet & the East 50 feet for Roads, Section 16, Township 28 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas. Generally located at the northwest corner of south Greenwich Road and 47th Street South.

a covenant to run with the land as follows:

No foreign matter, including but not limited to, rubbish, trees, car bodies, etc., shall be deposited on the application area described above or within the extraction area as shown on the approved site plan.

This covenant shall be binding upon the undersigned, his successors and assigns, and shall run with the land.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HAND THIS 24th DAY OF AUGUST, 2009

Lyle A Schuette Deborah K Schuette

STATE OF KANSAS)
SEDGWICK COUNTY)

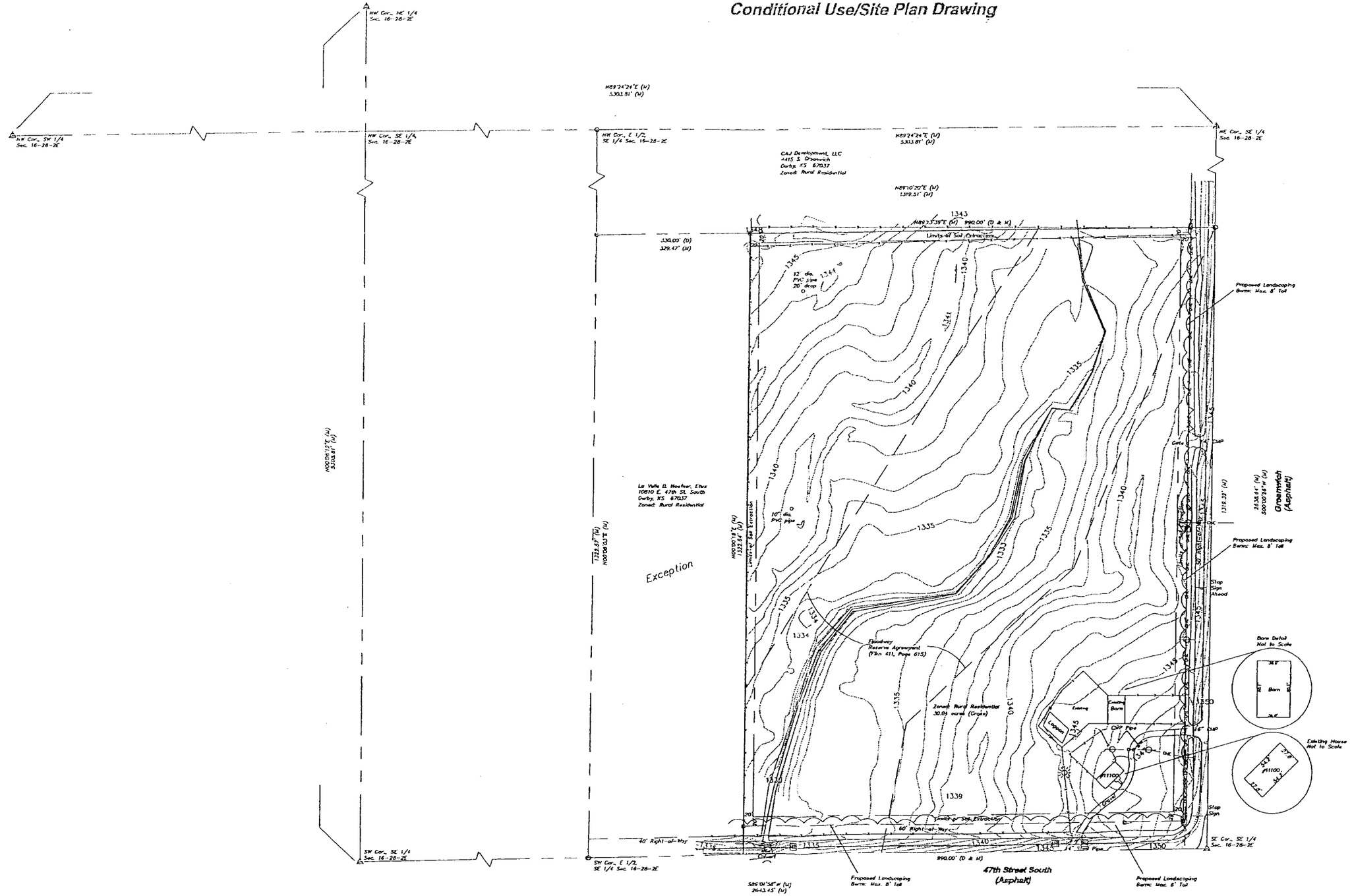
The foregoing instrument was acknowledged before me this 24th day of August 2009, by MaryAnn Crockett

Notary Public

MARYANN CROCKETT
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 5-22-2011

My Commission Expires 5-22-2011

Conditional Use/Site Plan Drawing



NOTES:

1) No live tree removal
2) Contour elevations are existing NAVD 88 Datum
3) 10" Maximum Proposed Top Soil Removal
4) Proposed Maximum Top Soil Removal of 10 Truck Loads per Day
5) Proposed Maximum Top Soil Removal of 5 acres (Surface Area) per Year
6) Maximum of 1 acre of Top Soil (surface area) will be removed before reseeding
7) 4" of Top Soil will be left after Top Soil extraction
8) 1 acre work site will be disced to help elevicle dust blowing
9) All excavated areas will be reseeded in grass

FLOOD NOTE: By graphic plotting only, this property is in Zone(s) "X" of the Flood Insurance Rate Map, Community Panel No. 20173C0036E which bears an effective date of Feb. 2, 2007 and is not in a Special Flood Hazard Area. By telephone call dated March 1, 2008 to the National Flood Insurance Program, (800-638-6620) we have learned this community does currently participate in the program. No field surveying was performed to determine this zone and an elevation certificate may be needed to verify this determination or apply for a variance from the Federal Emergency Management Agency.

Zone "X" represents areas to be determined to be outside the 0.2% annual chance floodplain.

LEGEND:

(M) = MEASURED OR CALCULATED FROM MEASUREMENT
△ = FOUND 5/8" REBAR (ORIGIN UNKNOWN)
○ = FOUND 1/2" IRON PIPE (ORIGIN UNKNOWN)
● = FOUND 3/4" IRON PIPE (ORIGIN UNKNOWN)
○ = FOUND 1/2" IRON PIPE (ORIGIN UNKNOWN)
● = SET 1/2" REBAR (LS #68)
CMP = CORRUGATED METAL PIPE
OHL = OVERHEAD ELECTRIC LINE
= FENCE
= MANHOLE
= WELL HEAD
= SIGN (As Noted)
= POWER POLE
= TELEPHONE RISER
= LIGHT POLE
= GUY WIRE

State of Kansas)
) SS
County of Sedgwick)

I, Chad R. Abbott, L.S. #340 do hereby certify that this drawing is a true representation of a Conditional Use Grading performed by me or under my direct supervision and that I am a duly licensed Land Surveyor in the State of Kansas.

The East 950 feet of the South half of the Southeast Quarter EXCEPT South 60 feet and East 50 feet for roads, Section 16, Township 28, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

Date of Survey: January 11, 2008
Date of Preparation: March 3, 2008

Chad R. Abbott, L.S. #340

SCALE : 1" = 100'

-100 0 50 100 200 300

JOB DESCRIPTION:
Conditional Use

PREPARED FOR:
Lyle Schuette
15001 E. 79th South
Derby, KS 67037

JOB LOCATION: 47th South & Greenwich
DATE OF PREPARATION: 1/30/08
JOB NUMBER: 8078
SHEET 1 OF 1

Benchmark
LAND SURVEY, P.A.
817 E. WILLIAM WICHITA, KS 67202
PH 316.262.2262 FAX 316.262.2263