

land has been properly regraded, all topsoil and grading equipment shall be removed from the property.

- C. The applicant shall dedicate, by separate instrument, required major street right-of-way for 13th Street.
- D. The applicant shall submit a grading and drainage plan to the County Bureau of Public Services for approval prior to the publication of the resolution. The plan shall indicate the depth of cut and fill, and approximate cubic yards to be removed from the application area, as well as to be relocated on site.
- E. The applicant shall grant an appropriate drainage easement from 13th Street to the proposed lake at a location to be determined by the applicant and the County Bureau of Public Services.
- F. The applicant shall dedicate by separate instrument a "Floodway Reserve Agreement" satisfactory in form to the County Bureau of Public Services.
- G. It is encouraged that topsoil be removed and stockpiled during the summer months. The area where topsoil has been removed shall be tilled and planted to acceptable vegetative cover in the fall immediately following the topsoil removal. Should reasonable germination not occur, then replanting in the spring with some alternate cover material shall be required.
- H. The excavation site shall be kept watered down during times of high wind to prevent blowing dust.
- I. Every attempt should be made to maintain the natural trees along the banks of the Cowskin Creek. Any removal of trees shall be coordinated with the County Bureau of Public Services.
- J. The hours of operation shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday.
- K. All topsoil removal and regrading of the entire application area shall be completed by December 31, 1990, in accordance with the approved grading plan. This conditional use shall expire on that date unless an extension is granted by the County Commission after a public hearing is held by the MAPC to review the application for extension.
- L. Prior to scheduling this request for County Commission review, conditions C, D, E and F shall be satisfactorily completed.
- M. Any violation of these conditions shall declare the conditional use permit null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional 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 Commission.

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 by the Board of County Commissioners
at Wichita, Kansas, this 6th day of July, 1988.

Mark F. Schroeder, Chairman
Mark F. Schroeder

Billy Q. McCray, Chairman pro tem
Billy Q. McCray

David Maybuth, Commissioner
David Maybuth

Tom Scott, Commissioner
Tom Scott

Bernard A. Hentzen, Commissioner
Bernard A. Hentzen



Don Wright, County Clerk
Don Wright, County Clerk

(SEAL)

Approved as to form by County Counselor

Robert R. Arnold
Robert R. Arnold, County Counselor

May 26, 1988

STAFF REPORT

CASE NUMBER: CU-316

OWNER/APPLICANT/AGENT: Jay Russell (owner/applicant)
Bill G. Yung Design (agent)

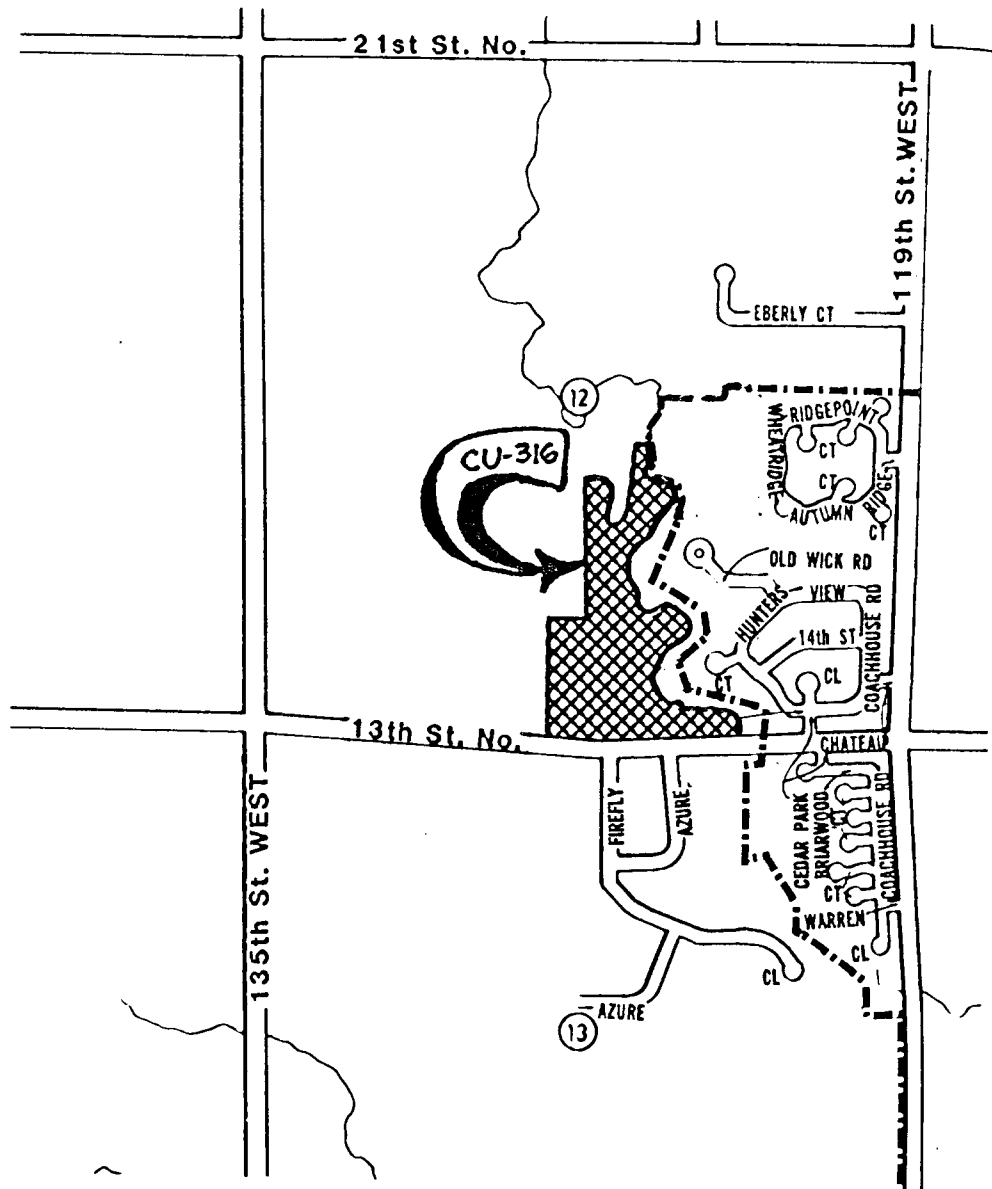
REQUEST: Conditional Use Permit for the removal and sale of topsoil

CURRENT ZONING: "R-1" Suburban Residential District

SITE SIZE: 39.6 acres

LOCATION: North side of 13th Street approximately ½-mile west of 119th Street West.

PROPOSED USE: Topsoil removal and sale as a temporary use while the land is being prepared for construction of a large lake and one residence.



BACKGROUND: The applicant is requesting a conditional use permit for the removal and sale of topsoil from a 40±-acre unplatted tract of land on the north side of 13th Street west of the Cowskin Creek (½-mile west of 119th St. West). All but a small portion in the southwest corner of the site is in the designated floodway which permits no structures. Six to eight feet of fill is needed to bring even the southwest portion of the site up to an elevation suitable for construction of a home. The applicant desires to build his own home on this property and construct a (16±-acre) private lake. The topsoil will be removed from the proposed lake area and some of it stored on site for re-use around the home. The excess topsoil will be sold and removed from the site. The overburden extracted from the lake area will be used to provide the fill for the southwest portion of the site. The area proposed for fill includes a portion of two adjacent ownerships to the west. Neither the construction of the lake nor the filling of a portion of the site requires a conditional use permit, only the sale of topsoil and its removal from the site. The applicant has estimated that it will take about three years to get rid of all the excess topsoil.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH	"R-1"	Undeveloped
SOUTH	"R-1"	Single-family dwellings
EAST	"AA"	Single-family dwellings
WEST	"R-1"	Single-family dwellings

PUBLIC SERVICES: City of Wichita sewer and water are not yet available to serve the proposed future home site, but are very near to the southeast corner of this property. 13th Street is an FAS Road which needs 60 feet of half-street right-of-way, plus an additional width in either right-of-way or drainage easement near the bridge over Cowskin Creek.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan designates this area as vacant or agricultural.

RECOMMENDATION: Because of the floodway on most of this property which restricts development, the ultimate use of this site for one home and large private lake seems ideal. If the topsoil is not removed from the site too much in advance of the lake being formed, and if the excavation site is kept watered down during times of high wind to prevent blowing dirt, this temporary use of the land should not have a detrimental impact on the neighborhood. The majority of residences are located to the east of the Cowskin Creek and to the south of 13th Street. A recommendation of approval should be subject to the following conditions:

- A. This conditional use permit is for the extraction and removal of topsoil only, in accordance with the Site Grading Plan dated _____.
- B. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard. No buildings shall be constructed unless the entire application area is first platted. Once the topsoil removal operation has ceased and the land has been properly regraded, all topsoil and grading equipment shall be removed from the property.

- C. The applicant shall dedicate, by separate instrument, required major street right-of-way for 13th Street.
- D. The applicant shall submit a grading and drainage plan to the County Bureau of Public Services for approval prior to the publication of the resolution.
- E. The applicant shall grant an appropriate drainage easement from 13th Street to the proposed lake at a location to be determined by the applicant and the County Bureau of Public Services.
- F. The applicant shall dedicate by separate instrument a "Floodway Reserve Agreement" satisfactory in form to the County Bureau of Public Services.
- G. It is encouraged that topsoil be removed and stockpiled during the summer months. The area where topsoil has been removed shall be tilled and planted to acceptable vegetative cover in the fall immediately following the topsoil removal. Should reasonable germination not occur, then replanting in the spring with some alternate cover material shall be required.
- H. The excavation site shall be kept watered down during times of high wind to prevent blowing dust.
- I. Every attempt should be made to maintain the natural trees along the banks of the Cowskin Creek.
- J. All topsoil removal and regrading of the entire application area shall be completed by December 31, 1989, in accordance with the approved grading plan. This conditional use shall expire on that date unless an extension is granted by the County Commission after a public hearing is held by the MAPC to review the application for extension.
- K. Prior to scheduling this request for County Commission review, conditions C, D, E and F shall be satisfactorily completed.
- L. Any violation of these conditions shall declare the conditional use permit null and void.