R# 117-1993

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RESOLUTION NO. 117-1993

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW A SAND AND GRAVEL EXTRACTION OPERATION IN THE "R" RURAL RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

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 17.C of the Zoning Regulations, a conditional use permit to allow a sand and gravel operation on property zoned "R" Rural Residential, legally described below:

Case No. CU-357

Conditional use permit request to allow a sand and gravel operation on property zoned the "R" Rural Residential District

The South Half of the Southwest Quarter of Section 16, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the South 523 feet of the East 1579 feet and except road right-of-way. Generally located at the northeast corner of 53rd Street North and Tyler Road.

SUBJECT TO THE FOLLOWING CONDITIONS:

A. The applicant shall dedicate by separate instrument, 60 feet of half street right-of-way for 53rd Street North and 50 feet of half street right-of-way for Tyler Road and the required right-of-way for the intersection improvements. The intersection right-of-way for Tyler may be a contingent dedication.

B. The applicant shall proceed in accordance with the operation plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the

banks as indicated on the approved plan. The sand plant operator shall exercise special care not to excavate closer to the perimeter of the fenced excavation site than is depicted on the operational plan.

C. No stockpiling of sand or storage of equipment shall occur within 100 feet of any public right-of-way or with 100 feet of the southern property line and within 50 feet of all remaining property lines. A revised operation plan shall be submitted prior to this item being scheduled before the Board of County Commissioners.

D. The earth shall be extracted to at least a minimum depth of six feet below the water table determined by the City-County Health Department.

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

F. Prior to scheduling this request before the Board of County Commissioners, the applicant shall submit and obtain approval of a drainage plan from the County Engineer. The plan shall restrict the flow of drainage into the pit during the years of operation.

G. Nothing in the approval of this request shal 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 project site.

H. The applicant shall submit a restrictive covenant which provides that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the site or in the extraction area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.

I. 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 so as to minimize blowing dust.

J. Adjacent to the perimeter of the application area, a minimum 60-inch high fence shall be constructed prior to

the beginning of any extraction operation (topsoil, subsoil or sand) and shall be maintained at the locations depicted on the 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:

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

2. A 48-inch high or higher solid metal or solid masonry fence with 3 or more strands of barbed wire; or

3. 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 degrees facing away from the excavation.

K. Concrete or asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.

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

M. The property shall be platted prior to the issuance of any zoning or building permits except those necessary for the sand excavation operation.

N. The applicant shall submit 4 copies of a landscape plan for approval by the Planning Department denoting the location, types and size of plant materials to be utilized for screening around the southern boundary of the site. Said plant materials shall be placed as indicated on the approved plan in the first planting season after the extraction operation commences and their planting and maintenance shall be the responsibility of the owner.

O. The approval of the Conditional use is for a period not to exceed fifteen years from the date of approval by 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 form the premises. As part of the operational plan required in B above, the applicant shall divide the site into 2 or 3 distinct areas for the purpose of phasing excavation over time. The plan would show which areas was to be excavated and at what time. (This item is included due to the applicant's request of 15 years of operation, rather than the typical request of 5 to 10 years. This provision would prevent the entire tract from being disturbed until the latter years of operation.)

P. In order to assist in the enforcement of the operational plan for this conditional use case, the applicant shall have a copy of the approved operational plan posted in the sand extraction office.

Q. 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.

R. To minimize blowing soil in this area, overburden shall not be removed more than one year 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 grasses which will permit the establishment of sod cover to help prevent erosion.

S. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.

T. The applicant shall allow the Wichita-Sedgwick County Health Department and the Kansas Department of Health and Environment access to the site for the purpose of establishing groundwater wells. The Health Departments shall provide adequate notification to the property owner before accessing the property.

U. The applicant shall submit a covenant satisfactory in form to the County Counselor and Sedgwick County Department of Public Works which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.

V. The applicant shall comply with conditions A, N and U, prior to the publication of the resolution effectuating the conditional use. Violation of any conditions of approval shall render the conditional use permit null and void.

W. Any on-site storage of fuels or chemicals must be approved by the City-County Health Department.

X. No pumping of sand or gravel shall occur between the hours of 7:00 p.m. and 6:00 a.m.

SECTION II. That upon the taking effect of this Resolution, the notation of such conditional use permit 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.

Commissioners present and voting were:

BETSY GWIN	Aye
PAUL W. HANCOCK	Aye
BILLY Q. McCRAY	Absent
MARK F. SCHROEDER	Aye
THOMAS G. WINTERS	Aye

DATED this 16th day of June, 1993.

BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

MARK F. SCHROEDER, Chairman

Absent

BILLY Q. McCRAY, Chair

ATTEST:

SUSAN CROCKETT-SPOON
County Clerk

APPROVED AS TO FORM ONLY:

County Counselor/Assistant

BETSY GWIN, Commissioner

PAUL W. HANCOCK, Commissioner

THOMAS G. WINTERS, Commissioner

N.W.COR. S 1/2 S.W 1/4
SEC. 16, T26S, RIW

N.E. COR. S 1/2 S.W. 1/4
SEC. 16, T26S, RIW.

50'

50'

Proposed Fence

50

200'

SECONDARY PLANT SITE (if needed)

PROPOSED TOP OF BANK AND LIMITS OF EXCAVATION 5:1 SIDE SLOPES

35.5 Ac.± LAKE
Minimum Depth 6 ft. bellow water table

50'

AREA 1

Excavation shall begin in Area 1. No excavation of any materials shall occur in Area 2 until excavatin is completed in Area 1.

AREA 2

ROAD

Ex. R/W=25'

℄ TYLER

#4

#5

#6

PROPOSED PLANT SITE

100'

100'

78 pine @ 20' o.c.

#3

#2

Proposed Fence

Note: No stockpiling of sand or storage of equipment shall occur within 100 feet of any public right-of-way or within 100 feet of the southern property line and within 50 feet of all remaining property lines.

Existing M.H. to remain

CONTINGENT DEDICATION

50

200'

75'

60'

Proposed Access

60'

30'

523'

1579'

S.E. COR. S.W. 1/4
SEC. 16, T26S, RIW.

S.W COR. S.W. 1/4 SEC. 16
T26S, RIW, 6TH. P.M.

Plat #1 Ex. R/W=30'

℄ 53RD. STREET NORTH

Landscape Plan #2

Revised plan submitted on correct operational plan drawing. However still proposes only pine trees and now S. Hoskinson says he wants 2'-3' trees instead of 4'-6' trees, as originally proposed, where adjacent to tracts already having trees as identified by green on this plan. (See photos also) Also, still no trees west of Halyard's home.

OPERATIONAL PLAN

NORTH

200 100 0 200

SCALE IN FEET
APRIL 1993
Rev. 5-12-93

SCOTT HOSKINSON CONDITIONAL USE CU-357

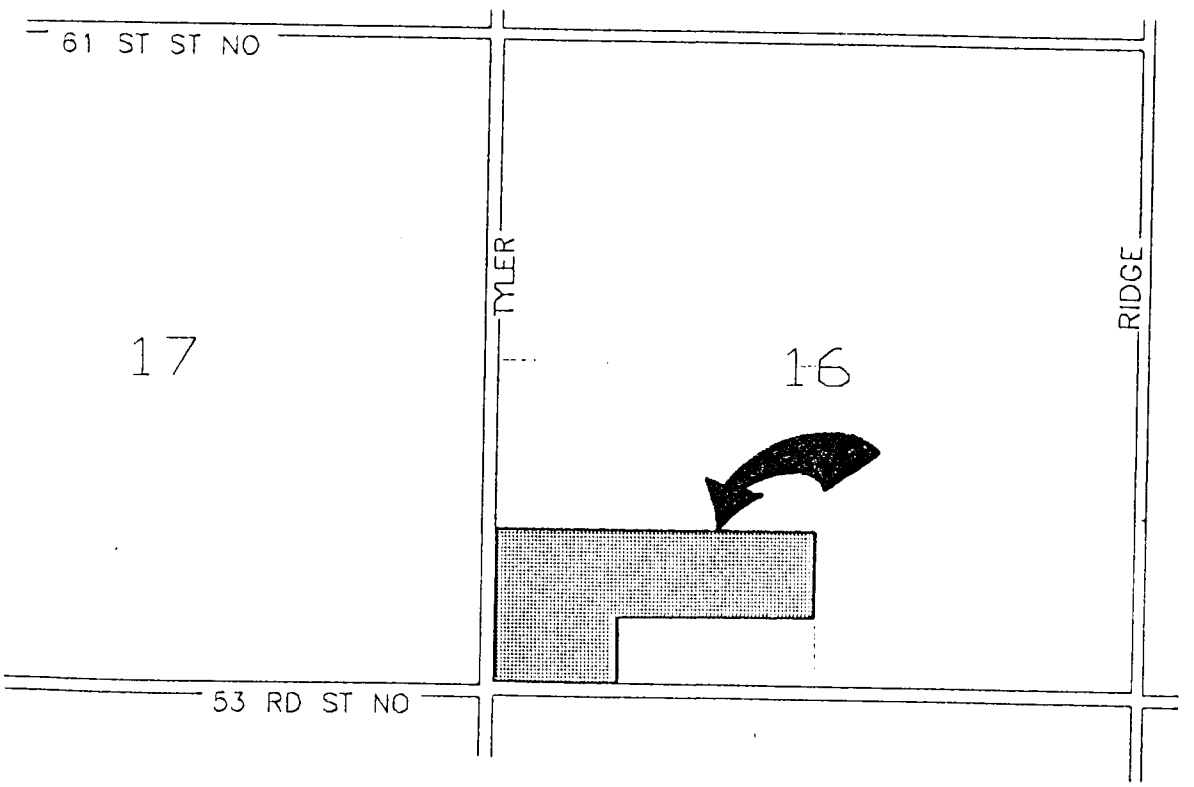
received 7/01/93

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 6
MAPC 5-06-93

STAFF REPORT

CASE NUMBER:	CU-357
APPLICANT:	John Wright, T-53 Farm Inc. Scott Hoskinson
AGENT:	Gary Wiley, PEC
REQUEST:	A conditional use permit for sand and gravel extraction
CURRENT ZONING:	"R" Rural Residential
SITE SIZE:	60 acres
LOCATION:	Generally located on the northeast corner of 53rd St. N. and Tyler Rd.
PROPOSED USE:	Sand and gravel extraction



BACKGROUND: The applicant is requesting a conditional use permit for sand and gravel extraction for a 60 acre unplatted tract generally located at the northeast corner of 53rd St. N. and Tyler Rd. The application area is currently zoned "R" Rural Residential. A site plan submitted by the applicant indicates that 37 acres of the site will be excavated. The remaining 23 acres are proposed to be redeveloped into eleven 2-acre residential lots. The applicant has indicated that 15 years will be required to complete excavation of materials from the site.

The application area is primarily used for agricultural purposes, however a mobile home does exists at the southwest corner of the property. All surrounding property is currently zone "R" Rural Residential. Four single family residences exist south of the application area. Property to the north is agricultural ground. A conditional use permit for soil removal was issued for property immediately west of the application area, however, this permit has expired. A single family residence also exists to the west. Surrounding property to the east is currently undeveloped.

The 1978 and the proposed 1992 Comprehensive Plans depict this area for agricultural uses. In addition, the proposed plan indicates that industrial uses should only be located in rural areas when dependent upon a natural resource, agriculturally oriented or as a logical expansion of an existing industrial area.

The application area has access to Tyler, a 2-lane unimproved road with 25 feet of existing half street right-of-way and to 53rd St. N., a 2-lane, paved arterial with 30 feet of existing half street right-of-way. Additional right-of-way will be required for both streets and their intersection. The applicants have indicated that they will be accessing the property from 53rd St.

The application area is located within the Equus Beds Groundwater Management District #2. The Management District has indicated that there are several water quality concerns in this area. Because of a high water table (2-5 feet) and drainage pattern, they have expressed concerns about the unknown water quality of surface drainage which may be introduced to the Equus Beds via the sand extraction pit. They have also indicated that, due to the high water table, the future use of septic tanks in this area may create groundwater pollution problems. The recommendations of the Management District pertain to monitoring groundwater quality, prohibiting untreated on- and off-site drainage into the excavation area, requiring permits from the Kansas Division of Water Resources for hydraulic dredging and berming and prohibiting on-site septic systems for the proposed development. These concerns and recommendations of the Management District are similar to those raised in several other cases involving extraction in the Groundwater Management

District.

The Wichita-Sedgwick County Department of Community Health (WSCHD) has indicated to staff that on-site septic systems and gasoline storage associated with the dredging equipment pose the biggest environmental concerns at this site. They have further indicated, as previously, that surface discharges from stormwater and normal run-off should not be a problem. An experimental monitoring program of an extraction site on North Meridian has not found any impacts to surface or groundwater quality.

Staff believes that sand and gravel extraction is a reasonable temporary use of the applicant's property. However, because of the close proximity of several homes to the proposed excavation site, staff is recommending additional separation and landscaping requirements to ensure compatibility. Because of existing environmental concerns, staff is also recommending that the applicant allow WSCHD and the KDHE access to the site, after proper notification, for the purpose of groundwater testing, and approval of all on-site water and sewage facilities by the WSCHD.

Therefore, based on the recommendation of the Comprehensive Plan, the ability of the County to require site specific design criteria to ensure compatibility and the temporary nature of the proposed use, staff recommends approval subject to conditions.

CASE HISTORY: In 1982 an application (CU 343) for sand and gravel extraction was made on the current application area. The request was recommended for approval by the Planning Commission and denied by the Board of County Commissioners.

ADJACENT ZONING AND LAND USE:

NORTH:	R	undeveloped agricultural ground
SOUTH:	R	undeveloped agricultural ground, single family residence
EAST:	R	single family residence
WEST:	R	single family residence, sand extraction (CU 331)

PUBLIC SERVICES: Municipal services are not available to serve this site and are not anticipated for extension by either the City of Wichita or the City of Maize. The site has access to Tyler Rd, a 2-lane, unimproved road with 25 feet of existing half street right-of-way and 53rd St. N., a 2-lane, paved arterial with 30 feet of existing half street right-of-way. Fifty feet of right-of-way would be required for Tyler and 53rd and 75 feet for their intersection. Because of the existing mobile home, staff will accept a contingent dedication of the additional right-of-way required for the intersection improvements on Tyler.

CONFORMANCE TO PLANS/POLICIES: The 1978 and the proposed 1992 Comprehensive Plans depict this area for agricultural uses. In addition, the proposed plan indicates that industrial uses should

only be located in rural areas when dependent upon a natural resource, agriculturally oriented or as a logical expansion of an existing industrial area. There are no adopted MAPC zoning policies for this area.

RECOMMENDATION: Staff recommends that the request be approved subject to the following conditions:

A. The applicant shall dedicate by separate instrument, ~~50~~ **60** feet of half-street right-of-way for 53rd Street North and **50 feet of half street right-of-way for** Tyler Rd. and the required right-of-way for the intersection improvements. The intersection right-of-way for Tyler may be a contingent dedication.

B. The applicant shall proceed in accordance with the operational plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan. The sand plant operator shall exercise special care not to excavate closer to the perimeter of the fenced excavation site than is depicted on the operational plan.

C. No stockpiling of sand or storage of equipment shall occur within 100 feet of any public right-of-way or within 100 feet of the southern property line and within 50 feet of all remaining property lines. A revised operational plan shall be submitted prior to this item being scheduled before the Board of County Commissioners.

D. The earth shall be extracted to at least a minimum depth of six feet below the water table determined by the City-County Health Department.

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

F. Prior to scheduling this request before the Board of County Commissioners, the applicant shall submit and obtain approval of a drainage plan from the County Engineer.

G. 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 project site.

H. The applicant shall submit a restrictive covenant which provides that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the site or in the

extraction area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.

I. 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 so as to minimize blowing dust.

J. ~~A minimum 58 inch high fence shall be constructed prior to the beginning of the excavation operation (topsoil, subsoil, sand or gravel) and shall be maintained at the locations depicted on the site plan. Said fence shall consist of a minimum of 5 strands of barbed wire and posts not more than 12 feet apart. The fence may provide for a reasonably wide access gate installed at the same height as the fence. The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart.~~

Adjacent to the perimeter of the application area, a minimum 60-inch high fence shall be constructed prior to the beginning of any extraction operation (topsoil, subsoil or sand) and shall be maintained at the locations depicted on the operational plan. Said fence shall shall be placed on steel posts which are not less than 7 feet tall. The posts shall no 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:

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

2. A 48-inch high or higher solid metal or solid masonry fence with 3 or more strands of barbed wire; or

3. 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 degrees facing away from the excavation.

K. Concrete or asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc. shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.

L. All slopes shall have vegetative covering consisting of a perennial drought resistant grass or a combination of grasses which will permit the establishment of a good sod

cover to help prevent erosion.

M. The property shall be platted ~~within one year of the completion of the excavation and~~ prior to the issuance of any zoning or building permits except those necessary for the sand excavation operation.

N. The applicant shall submit 4 copies of a landscape plan for approval by the Planning Department denoting the location, types and size of plant materials to be utilized for screening around the southern boundary of the site. Said plant materials shall be placed as indicated on the approved plan in the first planting season after the extraction operation commences and their planting and maintenance shall be the responsibility of the owner.

O. The approval of the Conditional Use is for a period not to exceed fifteen years from the date of approval by 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 operational plan required in B above, the applicant shall divide the site into 2 or 3 distinct areas for the purpose of phasing excavation over time. The plan would show which area was to be excavated and at what time. (This item is included due to the applicant's request of 15 years of operation, rather than the typical request of 5 to 10 years. This provision would prevent the entire tract from being disturbed until the latter years of operation.)

P. In order to assist in the enforcement of the operational plan for this conditional use case, the applicant shall have a copy of the approved operational plan posted in the sand extraction office.

Q. 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.

R. To minimize blowing soil in this area, overburden shall not be removed more than one year 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 grasses which will permit the establishment of sod cover to help prevent erosion.

S. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.

T. ~~The applicant shall install groundwater monitoring wells at locations to be determined by the Wichita-Sedgwick County Health Department. The monitoring wells shall be installed prior to the commencement of sand extraction operations~~.

This property shall be made available for the establishment of groundwater monitoring wells.

U. The applicant shall submit a covenant satisfactory in form to the County Counselor and Sedgwick County Department of Public Works which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.

V. The applicant shall comply with conditions A,C, H, N, and U, prior to the publication of the resolution effectuating the conditional use. Violation of any conditions of approval shall render the conditional use permit null and void.

W. Any on-site storage of fuels or chemicals must be approved by the City-County Health Department.

Z. The applicant will provide a west bound decellaration lane on 53rd at the entrance to the site which has been approved by the County Engineer.