

RESOLUTION NO. 73-02

A RESOLUTION APPROVING A CONDITIONAL USE TO ALLOW MINING AND QUARRYING, LOCATED SOUTH OF MACARTHUR AND WEST OF WEST STREET, ON PROPERTY ZONED "LI" LIMITED INDUSTRIAL, LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY 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 V-D of the Wichita Sedgwick County Unified Zoning Code, a conditional use for the land legally described herein is approved as follows:

Case No. CON2002-00012

A Conditional Use to allow mining and quarrying on property described as:

That part of the southeast quarter of Section 14, Township 28, South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying west of the MOPAC Railroad Right-of-Way, now Kansas Southwestern Rail Road, and easterly of the Wichita-Valley Center Floodway as condemned in case A-30410. Generally located south of MacArthur and west of West Street.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The requirements of Section III.D.6.gg. of the Unified Zoning Code shall be met with the exception of #3 and #5, which are not applicable in this case, and with the exception that #8 shall be modified to require a slope of 4:1 instead of 5:1.
2. The approval of the Conditional Use is for a period not to exceed 10 years from the date of approval by the MAPC or governing body, as applicable.
3. The maximum depth of excavation shall not exceed 20 feet. If groundwater is encountered during the excavation, the applicant shall notify the Health Department within 3 working days to establish a new maximum depth of excavation to prevent the exposure of groundwater.

4. Documentation that all applicable local, state, and federal requirements (i.e., covenants, drainage plan, etc.) necessary for the extraction operation shall be submitted to the Planning Department prior to the issuance of the resolution authorizing the Conditional Use.
5. Any violation of the conditions of approval shall declare the Conditional Use null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director 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 by the Governing Body.

Commissioners present and voting were:

BETSY GWIN	<u>aye</u>
TIM R. NORTON	<u>aye</u>
THOMAS G. WINTERS	<u>aye</u>
CAROLYN MCGINN	<u>aye</u>
BEN SCIORTINO	<u>absent</u>

DATED this 15th day of May, 2002.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Betsy Gwin for
BEN SCIORTINO, Chairman
Fifth District

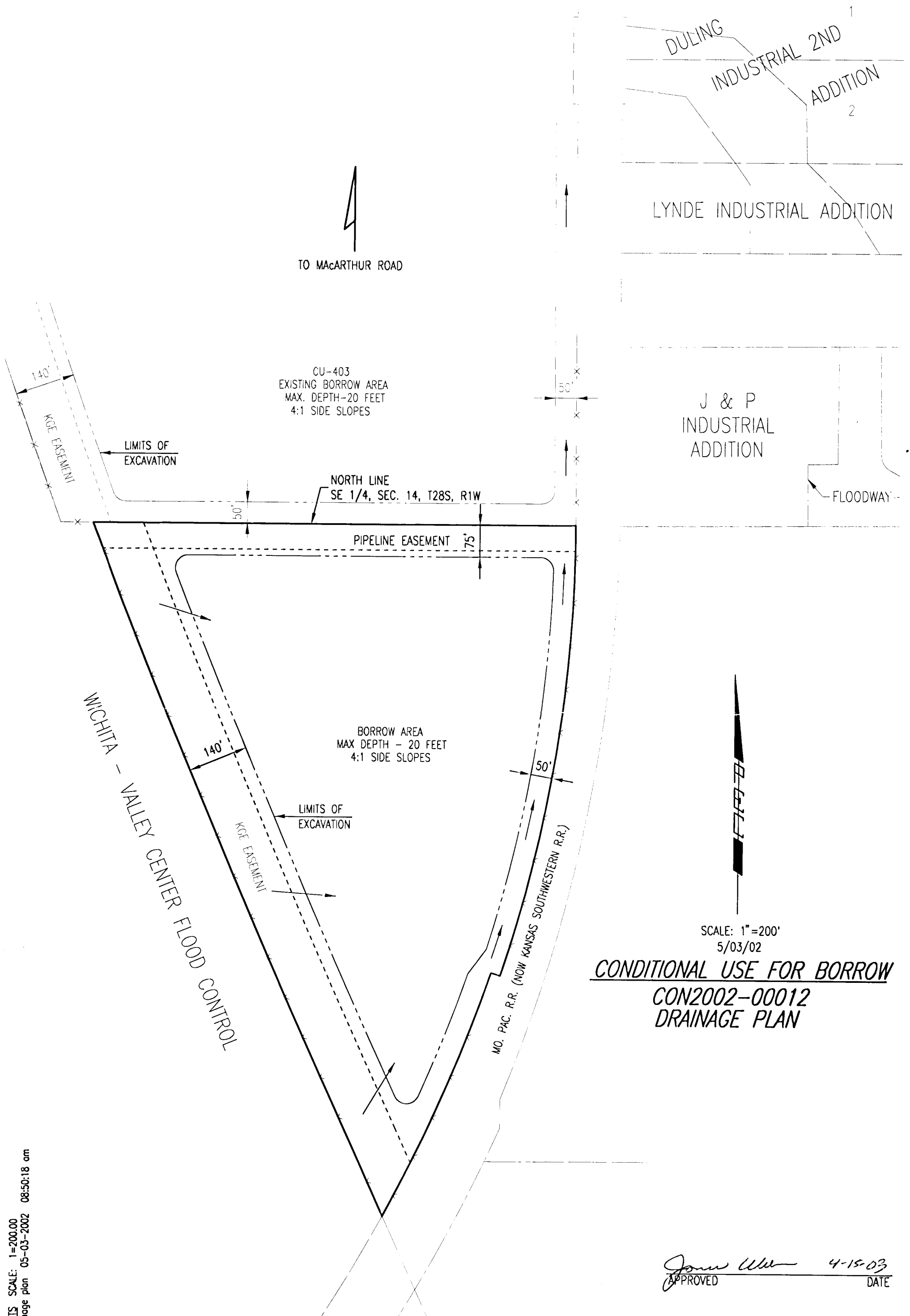
ATTEST:

Don Brace
DON BRACE
County Clerk

APPROVED AS TO FORM ONLY

Robert W. Parnacott
ROBERT W. PARNACOTT
Assistant County Counselor





STAFF REPORT

MAPC April 18, 2002

CASE NUMBER: CON2002-00012

APPLICANT/AGENT: James K. Snook (Owner/Applicant); PEC, P.A. c/o Gary Wiley (Agent)

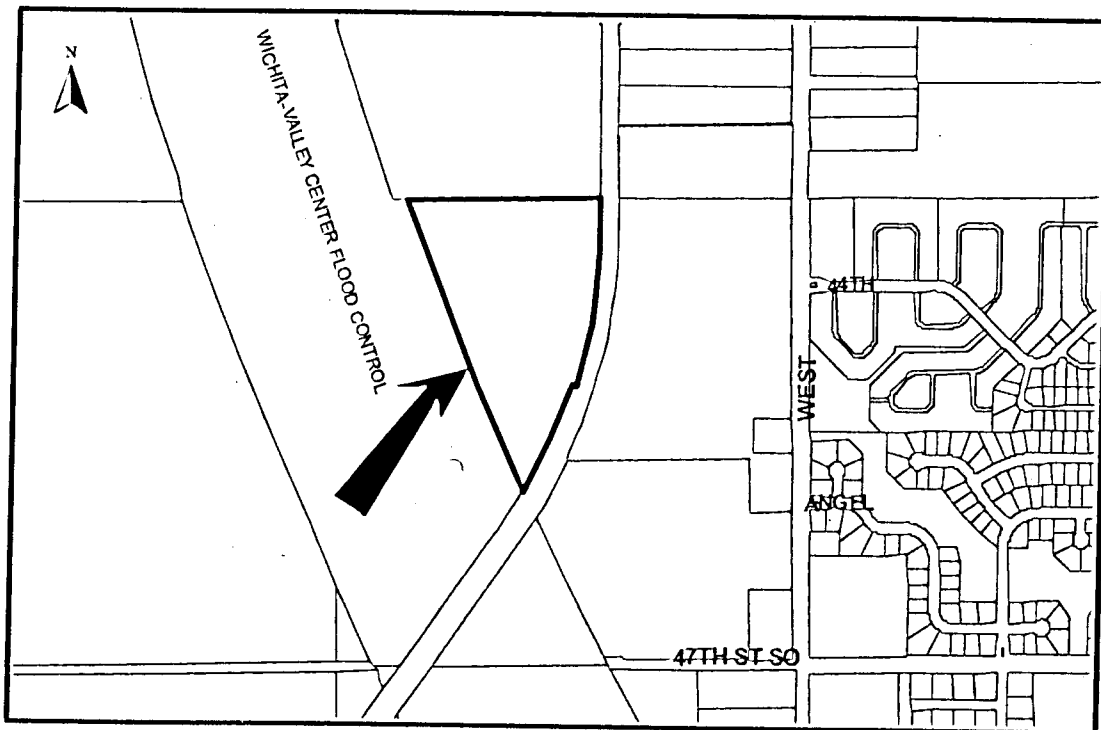
REQUEST: Conditional Use to allow Mining and Quarrying

CURRENT ZONING: "LI" Limited Industrial

SITE SIZE: 24.74 acres

LOCATION: South of MacArthur and west of West Street

PROPOSED USE: Excavation of fill material



BACKGROUND: The applicant requests a Conditional Use to allow the excavation of approximately 450,000 cubic yards of fill material to be used on local construction projects. The subject property is zoned "LI" Limited Industrial. The Unified Zoning Code defines the excavation of fill material as "Mining and Quarrying", which may be permitted as a Conditional Use in the "LI" Limited Industrial zoning district. The subject property is 24.74 acres in size and is unplatted and used for agriculture.

slides → The subject property is located southwest of the MacArthur and West Street intersection and is located immediately south of an existing site for the excavation of fill material that also is owned by the applicant. Adjacent properties to the north, south, and east are zoned "LI" Limited Industrial and are used for a variety of industrial and agricultural uses. The subject property borders the Big Ditch along its western boundary, and the subject property is separated from adjacent properties to the east by a rail road track.

The applicant intends to excavate fill material from the site to a depth of 20 feet, as indicated on the attached site plan. Although the property is within an area identified as being prone to shallow groundwater, the applicant indicates that groundwater is not present at a depth of 20 feet. This is supported by the excavation area to the north, which has been excavated to a depth of 20 feet and has not exposed groundwater.

At this point in time, there is not an identified post excavation use. The applicant does not anticipate that a lake or pond will result with the excavation. The site is wedged in between the Big Ditch and a railroad track, which further complicates redevelopment. The applicant has not submitted a redevelopment plan, and in the opinion of planning staff, it is appropriate in this instance that a redevelopment plan not be required since the property is zoned "LI" Limited Industrial and could not be redeveloped with residential uses as excavation sites are typically redeveloped.

Access to the site is proposed to be through the existing fill material excavation site located immediately north of the subject property and owned by the applicant. The existing fill material excavation site has access to Broad Street, a local road that accesses MacArthur two blocks north of the site. Setbacks for the excavation area are proposed to be 50 feet on the east, 75 feet on the north, and 140 feet on the west. The property is triangular-shaped with no southern lot line for which to provide a setback.

CASE HISTORY: A conditional use (CU-403) for the excavation of fill material and a rock crusher on the applicant's property north of the subject property was approved on August 28, 1996.

ADJACENT ZONING AND LAND USE:

NORTH:	"LI"	Excavation of fill material, rock crusher
SOUTH:	"LI"	County Public Works maintenance yard
EAST:	"LI"	Agriculture
WEST:	R.O.W.	Big Ditch

PUBLIC SERVICES: The subject property will access MacArthur, a two-lane arterial street, via a two block stretch of Broad Street. MacArthur at this location has current traffic volumes of approximately 5,500 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on MacArthur will increase to approximately 15,500 vehicles per day. The 2030 Transportation Plan indicates that MacArthur will need to be widened to four lanes to support the increased traffic volumes. Municipal water and sewer services are not available to serve the subject property; however, the proposed use of the subject property does not require these services.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the Wichita-Sedgwick County Comprehensive Plan identifies this property as appropriate for "Industrial" development. The proposed use of the subject property is consistent with the "Industrial" land use designation. The Unified Zoning Code lists 23 conditions with which "Mining or Quarrying" must comply. These conditions exist for public safety and to mitigate any negative effects the extraction may have on surrounding properties. Should the MAPC recommend modification of these conditions, as is recommended in this case, then the request must be forwarded to the County Commission for a final decision.

RECOMMENDATION: With the proper conditions in place, this proposal should not have a detrimental affect on the surrounding properties, as they are developed with industrial and agricultural uses, or are well buffered from the site by the Big Ditch. The recommended conditions should mitigate potential negative impacts caused by this Conditional Use. Required permits and drainage plans should further ensure the safe operation of the Conditional Use. Existing services are adequate for the proposed Conditional Use. For these reasons and based on information available prior to the public hearings, planning staff recommends that the Conditional Use request be **APPROVED**, subject to the following conditions:

1. The requirements of Section III.D.6.gg. of the Unified Zoning Code (attached) shall be met with the exception of #3 and #5, which are not applicable in this case. *and except for #8, which shall be modified to require slope of 4:1 instead of 5:1.*
2. The approval of the Conditional Use is for a period not to exceed 10 years from the date of approval by the MAPC or governing body, as applicable.

3. The maximum depth of excavation shall not exceed 20 feet. If groundwater is encountered during the excavation, the applicant shall notify the Health Department within 3 working days to establish a new maximum depth of excavation to prevent the exposure of groundwater.
4. Documentation that all applicable local, state, and federal requirements (i.e., covenants, drainage plan, etc.) necessary for the extraction operation shall be submitted to the Planning Department prior to the issuance of the resolution authorizing the Conditional Use.
5. Any violation of the conditions of approval shall declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are zoned "LI" Limited Industrial and are used for a variety of industrial and agricultural uses, including the extraction of fill material and rock crushing. The character of the area is industrial. The proposed use of the subject property is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The application area could be developed with a variety of industrial uses, but the property's poor access and proximity to an existing fill material excavation area make it suitable for the proposed use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions provided in the Unified Zoning Code for this Conditional Use should prevent any detrimental affect on nearby property. These conditions work to mitigate any negative dust, noise, or environmental effects. The fencing requirement should prevent trespassing and accidents on this property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" of the Wichita-Sedgwick County Comprehensive Plan identifies this property as appropriate for "Industrial" development. The proposed use of the subject property is consistent with the "Industrial" land use designation.
5. Impact of the proposed development on community facilities: Traffic to and from the requested Conditional Use at this location will increase the daily trips on the nearby section of MacArthur; however, this increase should not exceed the safe capacity of this road.