

CORRECTED LEGAL DESCRIPTION ON CONDITIONAL USE RESOLUTION NO. CON2003-00003

WHEREAS, Floyd Neitzel (Owner), Mike Martin, Conoco-Phillips (agent), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to allow continued ground water remediation (a major utility) on 0.01 acres zoned "SF-20" Single-Family Residential described as:

Beginning at the center line of 31st Street South and 127th Street East; thence East 700 feet; thence South 125 feet; thence southwesterly 704 feet to the center of said 127th Street East; thence north 200 feet to the point of beginning, being in the Northwest Quarter of Section 11, Township 28 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas. Generally located southeast of 127th Street East and 31st Street South.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of March 6, 2003, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to permit a Conditional Use to allow continued ground water remediation (a major utility) on 0.01 acres zoned "SF-20" Single-Family Residential described as:

Beginning at the center line of 31st Street South and 127th Street East; thence East 700 feet; thence South 125 feet; thence southwesterly 704 feet to the center of said 127th Street East; thence north 200 feet to the point of beginning, being in the Northwest Quarter of Section 11, Township 28 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas. Generally located southeast of 127th Street East and 31st Street South.

subject to the following conditions:

1. The Conditional Use shall permit a groundwater remediation system, including a soil ventilation system that utilizes a vacuum blower, pump, and other necessary equipment for the operation of the remediation process.
2. The Conditional Use shall permit a temporary 20 by 24-foot metal building for the purpose of enclosing the remediation equipment. The building shall be permitted on the 0.01-acre site.
3. The Conditional Use shall be valid until such time that the Kansas Department of Health and Environment (KDHE) approves the completion of remediation on the site. The applicant shall inform the Metropolitan Area Planning Department in writing upon KDHE approved completion of remediation on the site. The building and all equipment shall be removed within 90 days of expiration of the Conditional Use.

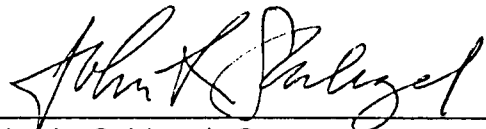
4. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

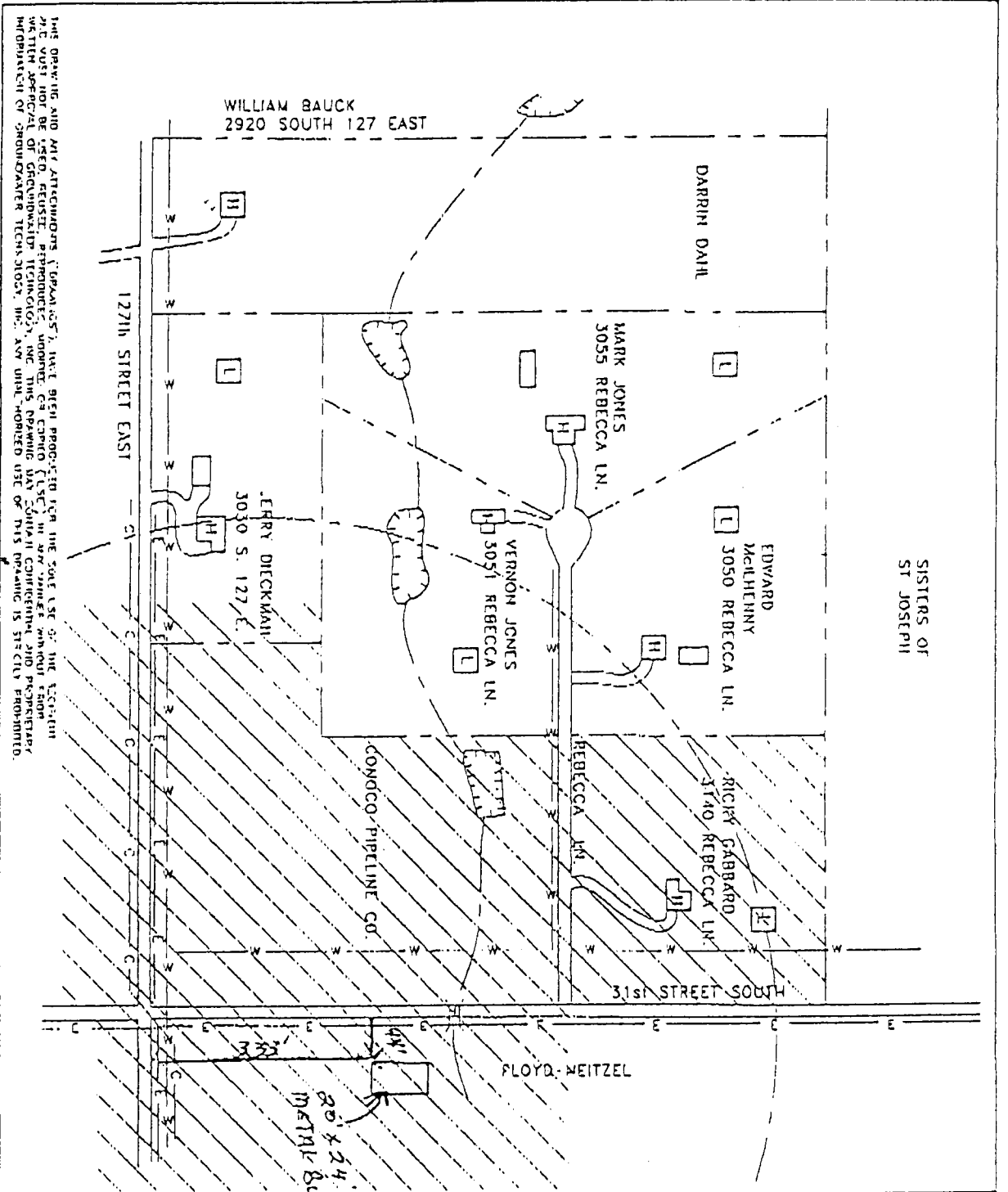
Adopted this 6th DAY of MARCH, 2003. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION


Bernard A. Hentzen, Chair MAPC

ATTEST:


John L. Schlegel, Secretary



SISTERS OF
ST JOSEPH

DARRIN DAHL

MARK JONES
3055 REBECCA LN.

EDWARD
McELHENNY
3050 REBECCA LN.

VERNON JONES
3051 REBECCA LN.

RIKRY GABBARD
3140 REBECCA LN.

FLOYD WEITZEL

CONOCO PIPELINE CO.

ERRY DIECKMANN
3030 S. 127 E.

WILLIAM BAUCK
2920 SOUTH 127 EAST

127th STREET EAST

31st STREET SOUTH

20' x 24'
METAL BUILDING

LEGEND

[L] SEWAGE LAGOON

[H] SINGLE RESIDENT HOUSE

[] SHED

[] SEASONAL POND

--- WATER/TREATMENT SYSTEM

--- APPROXIMATE PROPERTY LINE

--- WATER LINE

--- OVERHEAD ELECTRIC LINE

--- CONOCO PIPELINE

[Hatched Area] AREA OF INVESTIGATION

--- N ---

0 200 400
SCALE
FEET

GROUNDWATER TECHNOLOGY
2713/95
3455-5041

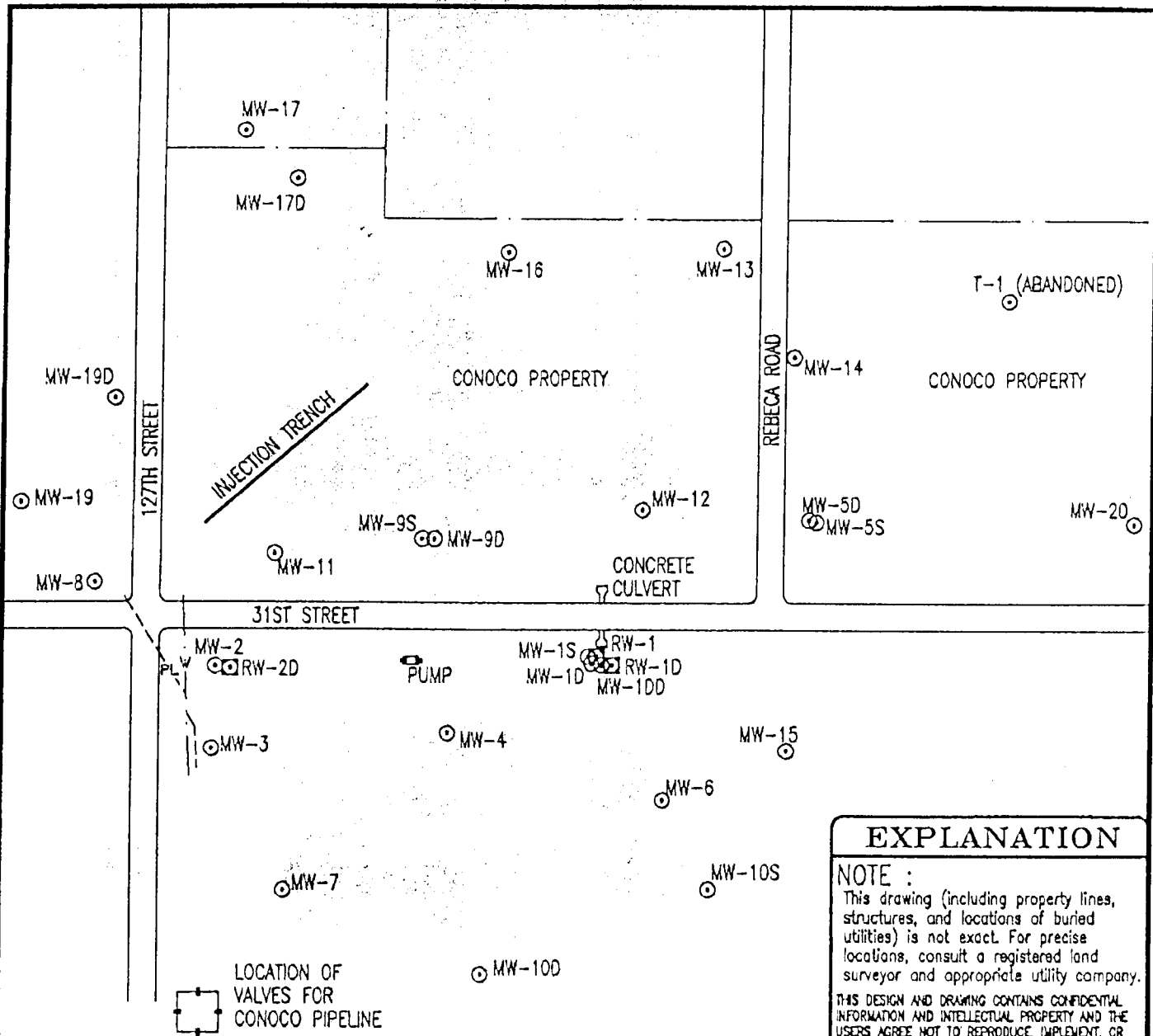
AREA BASE MAP

DATE	CONOCO PIPELINE CORP.	NO.
LOCATION: 100' x 1' SECTION 2, T8S, R2E, 10W AND 50' x 1/4 SECTION 35, T27S, R17E, 10W STOCKPORT COUNTY, KS		02/95
DRAWN BY: [Signature]	PROJECT NO.	MADE
DATE	DATE	2

SITE PLAN

APPROVED 02/23/95 BY [Signature]

SHEET 1 of 2



SITE PLAN

APPROVED 01/23/03 BY DG
 SHEET 2 of 2



PROJECT NUMBER	17-8405
DRAWING NUMBER	8-03-A
WATER FILE NAME	8405-03A
PLAT SCALE	1" = 200'
DRAWN BY	D. Reader
APPROVED BY	

EPOCH
 ENVIRONMENTAL GROUP

Offices: Lino Lakes, MN - Bettendorf, IA
 Ann Arbor, MI - Fort Worth, TX - Charlotte, NC

EPOCH
 01/23/03

SITE MAP	
WICHITA SE PIPELINE 127TH AND 31ST STREET WICHITA, KANSAS	
DATE 01/31/01	PLAT 01/31/01
FILE NUMBER	2



AGENDA ITEM NO. 6

STAFF REPORT

MAPC 03-06-03

CASE NUMBER: CON2003-00003

APPLICANT/AGENT: Floyd Neitzel (owner); Mike Martin, Conoco-Phillips (agent)

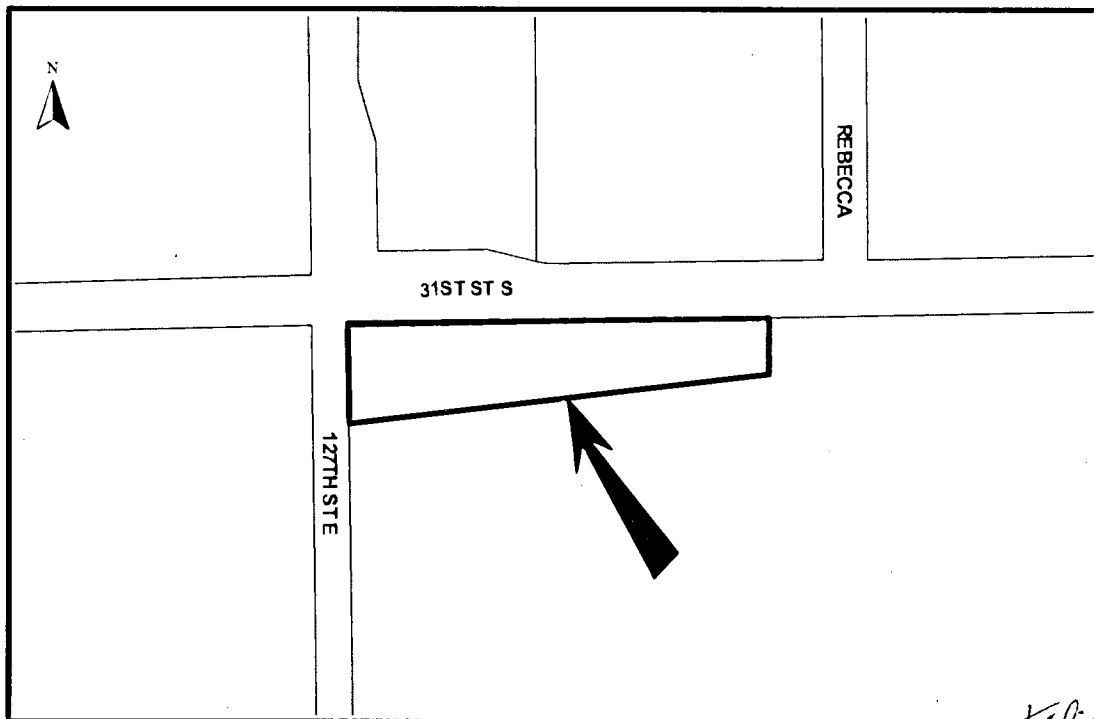
REQUEST: Conditional Use to allow continued ground water remediation (a major utility)

CURRENT ZONING: "SF-20" Single Family Residential

SITE SIZE: .01 acres

LOCATION: Southeast corner of 31st Street South and 127th Street East

PROPOSED USE: Continue ground water remediation as approved by Special Use Permit DR-95-8



*utility,
is a major - which
is a CR under
SF 20*

BACKGROUND: The applicant requests a Conditional Use to continue a ground water remediation process on .01 acres of a 38-acre, unplatted tract. The ground water remediation use, and the existing 20 by 24-foot metal building are defined as a “major utility” in the Wichita-Sedgwick County Unified Zoning Code (UZC). The application area is zoned “SF-20”, which requires a Conditional Use for a major utility.

The ground water remediation process was approved in 1995 as a Special Use Permit (DR-95-8, see attached). DR-95-8 was approved prior to Conditional Uses existing in the unincorporated Sedgwick County under the UZC. DR-95-8 Condition Number Three permitted the Special Use permit for up to five years, with the option for the County Commission to grant a time extension, after a hearing by the MAPC.

The groundwater remediation system, including a soil ventilation system, was required by the Kansas Department of Health and Environment (KDHE) following a gasoline pipeline spill. The Special Use Permit DR-95-8 expired in 2000, and KDHE has not relieved the applicants of their responsibility to complete the required remediation. The applicants now wish to be in compliance with the UZC, and obtain the required Conditional Use. The applicants are unable to estimate the remaining time required to complete the remediation. The applicants ask that the Conditional Use be structured to expire once KDHE has approved the completion of remediation on the site.

An existing metal building on the site houses the remediation equipment, an unpaved drive from 127th Street East accesses the site. The application area, and the surrounding properties, is zoned “SF-20”. The surrounding properties are developed with agricultural uses and some large lot residences.

CASE HISTORY: DR-95-8 was approved as a Special Use Permit by MAPC on July 13, 1995, and by the Board of County Commissioners on August 9, 1995.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-20”	large lot single-family residences
SOUTH:	“SF-20”	agricultural uses
EAST:	“SF-20”	agricultural uses
WEST:	“SF-20”	agricultural uses

PUBLIC SERVICES: 31st Street South is a two-lane paved arterial with a 40-foot half-width right-of-way at the application area. 127th Street East is a two-lane unpaved section line road with a 30-foot right-of-way at the application area.

CONFORMANCE TO PLANS/POLICIES: The “Wichita Land Use Guide” of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this property as “Rural”. The UZC lists “Major Utility” as a Conditional Use in the “SF-20” zoning

district.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use request be APPROVED subject to the following conditions:

1. The Conditional Use shall permit a groundwater remediation system, including a soil ventilation system that utilizes a vacuum blower, pump, and other necessary equipment for the operation of the remediation process.
2. The Conditional Use shall permit a temporary 20 by 24-foot metal building for the purpose of enclosing the remediation equipment. The building shall be permitted on the 0.01-acre site.
3. The Conditional Use shall be valid until such time that the Kansas Department of Health and Environment (KDHE) approves the completion of remediation on the site. The applicant shall inform the Metropolitan Area Planning Department in writing upon KDHE approved completion of remediation on the site. The building and all equipment shall be removed within 90 days of expiration of the Conditional Use.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, 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 "SF-20" and developed with agricultural or single-family uses. The metal building housing the requested Conditional Use is not out of character with the surrounding area.
2. The suitability of the subject property for the uses to which it has been restricted: The application area could be used for residential or agricultural development without the requested Conditional Use. However, KDHE requires the applicants to complete the groundwater remediation on the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed conditions ensure that the Conditional Use will expire upon completion of the required groundwater remediation. The Conditional Use should not detrimentally affect nearby property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *Comprehensive Plan* does not specifically address groundwater remediation facilities. However, the UZC lists “major utility” as a Conditional Use in the “SF-20” district.

5. Impact of the proposed development on community facilities: The Conditional Use is serviced by one vehicle on a frequent basis, and should have no impact on community facilities.