



**Wichita-Sedgwick County Metropolitan Area Planning Department**

October 26, 2009

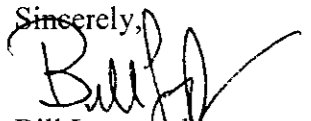
Deborah and Daniel McClure  
1939 W 55th St S  
Wichita, KS 67217

**RE: CON2009-00021** - City Conditional Use request to remove dirt and pump sand in order to create a farm pond for personal use; generally located approximately 1/4-mile east of Meridian Avenue on the south side of 55th Street South.

Dear Ladies and Gentlemen:

At its regular meeting on **September 24, 2009**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request subject to the conditions stated in the enclosed resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

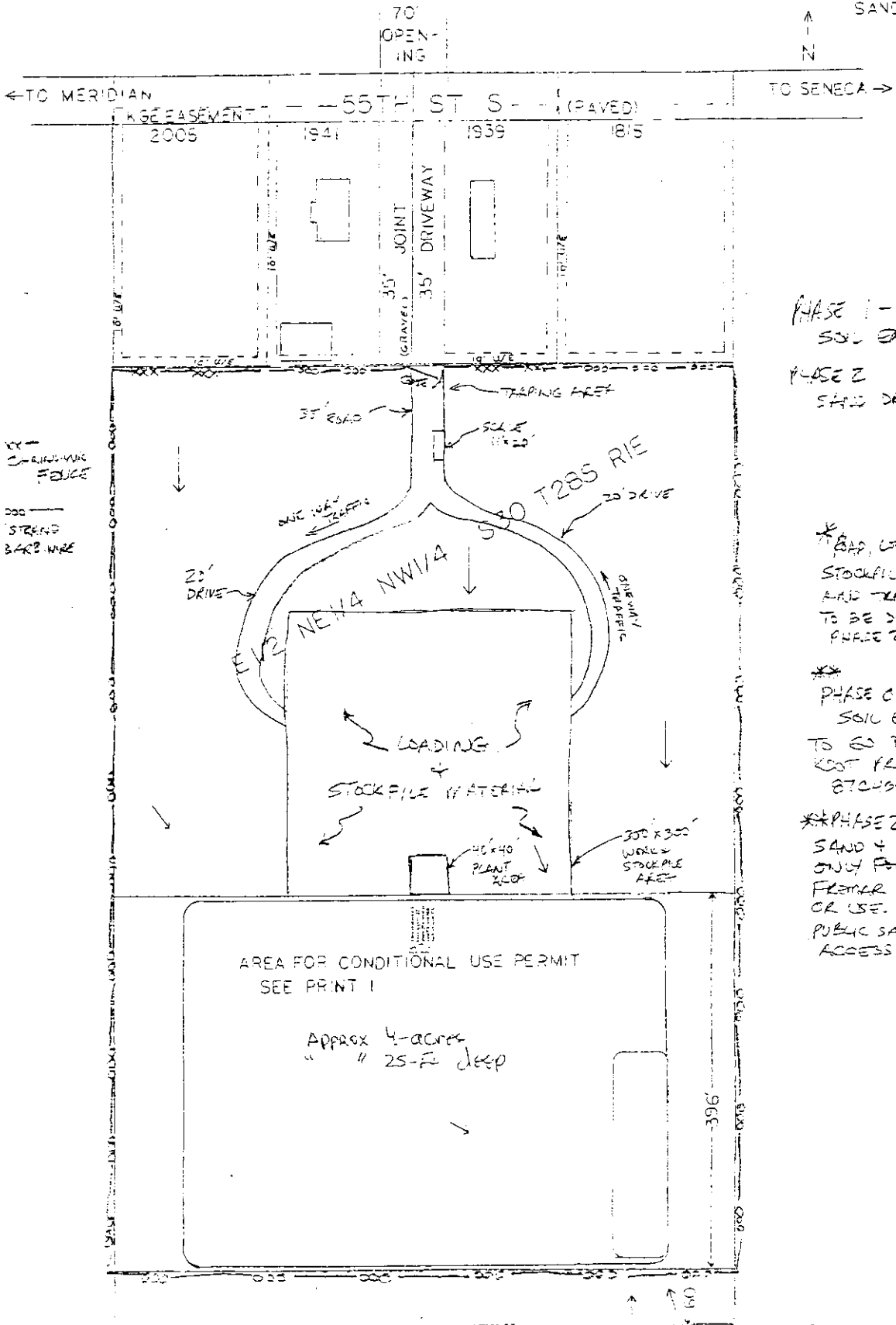
Sincerely,  
  
Bill Longnecker  
Senior Planner  
Current Plans Division

WL:mc  
Attachment

Copies to: Pat Lemons, Fremar Corporation, 5720 N. Broadway, Wichita, KS 67219  
Riverside Township, Dale V Kuhn, 6051 Southeast Blvd, Derby, KS 67037  
WCC IV, Paul Gray, Mail Stop 1-13  
N.A. IV, Kelli Glassman, Mail Stop 1-135  
Julianne Kallman, Engineering, Mail Stop 1-71  
Kurt Schroeder, Office of Central Inspection, Mail Stop 1-72  
J. R. Cox, Office of Central Inspection, Mail Stop 1-72  
Paul Hays, Office of Central Inspection, Mail Stop 1-72

LOC MAP

MCCLURE  
FARM POND /  
SAND PIT



PHASE 1 -  
SOIL EXTRACTION

PHASE 2  
SAND DRESSING

\*TRAP, LOADING AREA,  
STOCKPILES, PLANT,  
AND TRAFFIC ONLY  
TO BE DURING  
PHASE 2.

\*\*  
PHASE ONE:  
SOIL EXTRACTION  
TO GO TO  
KOST PROJECT  
87C4543-01

\*\*\*PHASE 2:  
SAND & ACCESS  
ONLY FOR  
FUTURE PROJECTS  
OR USE. NO  
PUBLIC SALES OR  
ACCESS.

(CON30001-2)

SCALE  
1" = 100'

## CONDITIONAL USE RESOLUTION NO. CON2009-21

**WHEREAS**, Daniel R. & Deborah E. McClure (owner) and Fremar Corporation, c/o Pat Lemmons (applicant); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for a for soil, sand & gravel extraction to create a sand pit/pond, on a potion of 15.47-acre tract zoned SF-5 Single-family Residential (“SF-5”) described as:

The East half of the Northeast Quarter of the Northwest Quarter, except the North 305 feet, of Section 30, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; generally located approximately ¼-mile east of Meridian Avenue, on the south side of 55<sup>th</sup> 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 September 24, 2009, 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 allow soil, sand & gravel extraction to create a sand pit/pond, on a potion of 15.47-acre tract zoned SF-5 Single-family Residential (“SF-5”) described as:

The East half of the Northeast Quarter of the Northwest Quarter, except the North 305 feet, of Section 30, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; generally located approximately ¼-mile east of Meridian Avenue, on the south side of 55<sup>th</sup> Street South.

Approved subject to the following conditions:

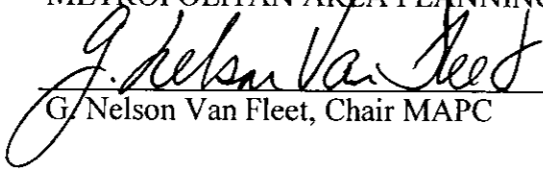
1. The UZC’s Supplementary Use Regulations found in the Article III, Section III-D.6.gg shall be met unless modified as follows.
2. Install a temporary biodegradable erosion control mat to stabilize pond/sand pit side slopes, after slopes are final seeded and having the sides capped with 6-inches of top soil. The edge of the sand pit must be 125 feet from all the abutting property lines at all times.
3. Between October 2009 and December 2013 (end of the extraction operation), Monday – Friday, 7:00 AM – 5:00 PM no more than a total of 20 truck leaving the site is permitted. All trucks shall leave the site going east on 55th Street South. All trucks shall enter the site from the west off of the 55th Street South – Meridian Avenue intersection going east on 55th. The applicant is required to post directional signs stating the above requirement on the site.
4. Truck traffic to and from the site will be limited to two (2) trucks between 7 AM – 8 AM and between 3 PM – 4 PM, which is the general hours when school begins and ends at both, adjacent USD 261 schools. This will be enforced during the school year.
5. A commercial type driveway shall be installed, at the applicants’ expense, which meets County standards.
6. Asphalt slag will be laid over the drive used by the trucks, including the internal drive where operations are staged.
7. Contact the County for signage alerting the area around the USD 261 schools about truck traffic.

Signage will be at the applicants' expense.

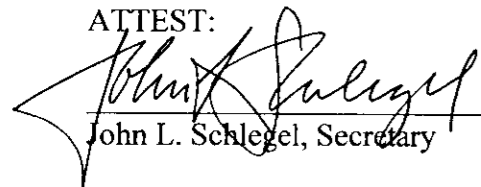
8. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Adopted this 24<sup>th</sup> Day of September 2009

METROPOLITAN AREA PLANNING COMMISSION

  
G. Nelson Van Fleet, Chair MAPC

ATTEST:

  
John L. Schlegel, Secretary

## STAFF REPORT

MAPC September 24, 2009  
MAPC September 10, 2009  
DAB IV, September 2, 2009

CASE NUMBER: CON2009-21

APPLICANT/AGENT: Daniel & Deborah McClure (owners)  
Fremar Corporation, c/o Pat Lemmons (agent)

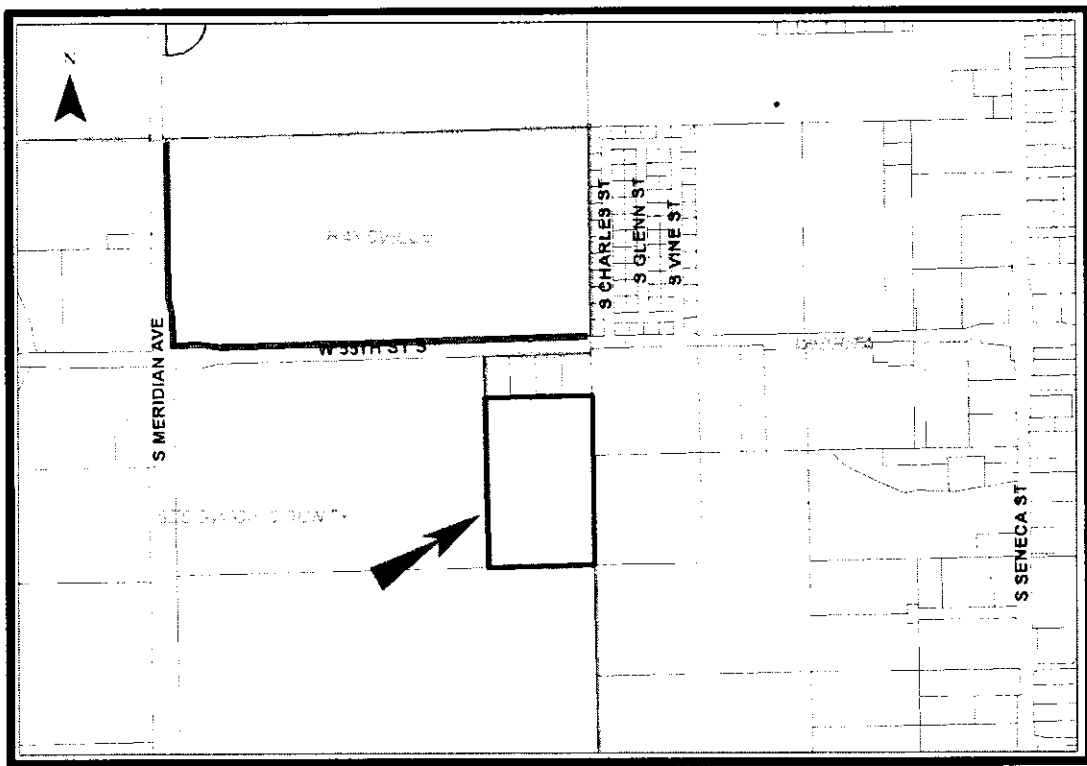
REQUEST: Conditional Use to permit soil, sand & gravel extraction

CURRENT ZONING: SF-5 Single-family Residential ("SF-5")

SITE SIZE: 15.47-acres

LOCATION: Approximately 1/4-mile east of Meridian Avenue on the south side of 55th Street South

PROPOSED USE: Create a pond/sand pit for personal use



**BACKGROUND:** The applicant/owners propose to extract soil and sand from the SF-5 Single-family Residential ("SF-5") zoned, 15.47-acre, unplatted site. The proposed activities are classified by the Unified Zoning Code (UZC) as "Mining or Quarrying" and are permitted in the SF-5 zoning district with an approved Conditional Use. The UZC considers Mining or Quarrying an industrial use. The site is currently a field, located immediately south of the owners' SF-5 zoned single-family residence and three (3) other, SF-5 zoned single-family residences; Slades 1<sup>st</sup> Subdivision Addition. These four single-family residences separate the site from 55<sup>th</sup> Street South, by approximately 255 feet. As shown on the site plan, the site is currently fenced with barbed wire on the west, south and east sides and a combination of chain link and barbed wire on its north side; the fencing does not meet the standards for "mining or quarrying" of the UZC's Supplementary Use Regulations found in the Article III, Section III-D.6.gg. At the end of the soil and sand extraction the owners will have an approximately 4-acre, 25-foot deep pond, to be used as an amenity to their single-family residence.

The site plan shows two operational phases at the site. Phase I will be the excavation of soil, running from the middle of October to the middle of December. This excavation of soil could generate as many as 20 truck trips per day, Monday – Friday, 7 AM – 5PM. The soil will be used for the bridge work over the "Big Ditch" at Hydraulic Avenue and 71<sup>st</sup> Street South; KDOT project 87C4343-01. Phase II will be the pumping and removal of sand from the site. The sand will be used only for Fremar (applicant) projects. The pumps will operate 3 days a week, 7 AM – 5 PM. Removal of the sand will be as needed by Fremar's projects, Monday – Friday, 7 AM – 5 PM. The amount of truck trips generated depends on the projects, but could be less than 20 trips per day. Total time requested for all phases is 4 years. The relative small size to be excavated, 4-acres, 25 feet deep, coupled with the requested 4 years to do it and having only one user, could mean less truck traffic per day generated off the site during Phase II of operations. When operations end, there will be a 4-acre pond (386 feet {x} 513 feet), 25 feet deep, to be used by the owners' existing single-family residence. The finished pond will be located 65 feet from the abutting southern property and 72 feet from the abutting western and eastern properties. The site has one access point, a shared, gravel drive onto 55<sup>th</sup> Street South.

Properties abutting the west, south and east sides of the site are zoned SF-20 Single-family Residential ("SF-20") and SF-5. These properties are agricultural fields and a farm house, built in 1920. As noted there are four, SF-5, single-family residences (built 1945 - 1981) abutting the north side of the site; Staff has not received calls or input from these neighbors. North of these residences, across 55<sup>th</sup> Street South, is Campus High School and Ruth Clark Elementary School; USD 261. Merging of traffic generated by the schools and truck traffic on and off of the site is a consideration. Staff and the applicants/owners have spoken with the principals of both schools and the Superintendent/members of the Haysville School District, USD 261, in regards to traffic and other considerations. The City of Wichita's South Lakes Park is also located in the immediate area, on the north side of 55<sup>th</sup> and around the north and east sides of the USD 261 schools, over to Meridian Avenue.

**CASE HISTORY:** The site was annexed into the City of Wichita between 1991 and 2000. The site's zoning was probably established in 1985 with the adoption of a county-wide zoning code and subsequently changed to SF-5 upon annexation.

**Update:** As directed by the MAPC, a two-week deferral was given to the applicant and Staff to resolve the MAPC's concerns over erosion around the sand pit's edges and the sand pit's impact on the airport in reference to it attracting birds. Storm Water has suggested using a temporary biodegradable erosion control mat to stabilize pond/pit side slopes, after slopes are final seeded and having the sides capped with 6-inches of top soil. Move the sand pit 125 feet from the abutting property lines. These will be added to the conditions of approval.

The site is located on the outside edge of the 5-mile perimeter of the "Hazardous Wildlife Attractants Overlay Zone," but outside of the more critical 10,000-foot perimeter and the approach paths; see exhibit Hazardous Wildlife Attractants Overlay Zone map. Staff and the applicant are waiting for direction from the Airport Authority in regards to this matter.

DAB IV approved the proposed Conditional Use. There have been no calls or written protest to the proposed Conditional Use.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5, Haysville	Single-family residences, Campus High School, Ruth Clark Elementary School, park land
SOUTH:	SF-20, SF-5	Agricultural fields
EAST:	SF-5	Farm, Agricultural fields
WEST:	SF-20	Agricultural fields

**PUBLIC SERVICES:** All utilities are available, including municipally supplied sewer and water. Both 55<sup>th</sup> Street South and Meridian Avenue are paved two-lane County Highways/arterials at this location. 55<sup>th</sup> is projected to remain a two-lane arterial, while Meridian is projected to be a four-lane arterial. Average trips per along this portion of 55<sup>th</sup> are approximately 4,089. The 55<sup>th</sup> and Meridian intersection's average trips per day are approximately 7,277 – 4,089. There 8 drives off of the two USD 261 schools onto 55<sup>th</sup>, with the applicants' drive located between the two most eastern drives of the elementary school. 55<sup>th</sup> currently has 50 feet of half-street right-of-way.

**CONFORMANCE TO PLANS/POLICIES:** The site is on the east edge of rural, west Sedgwick County. The 2030 Wichita Functional Land Use Guide shows this area located inside of Wichita's 2030 Urban Growth Area and categorized as "Urban Development Mix." This category encompasses land that is likely to be developed by the year 2030. Uses within this category include all types of residential, institutional, commercial, parks, and employment/industrial uses; this category is market driven, with a broad range of development possibilities. Soil and sand extraction is a use dependent on a natural resource; there are several older, finished sand pits in the area. The Wichita/Sedgwick County Comprehensive Plan's Locational Criteria indicates that

industrial uses should be located with good access to major arterials, truck routes, belt highways, utility truck lines, rail spurs, and airports. The site has access to 55<sup>th</sup> Street South, an arterial. It is advisable not to locate a sand pit close to an airport, because of the number of birds they can attract and the potential hazard/conflict of birds and planes. An industrial use should not feed directly into local streets in residential areas. This site does not access a local street, but it will use a shared private drive that the owner and a neighbor use; Staff has not received calls from that neighbor. An industrial use should be located away from existing or planned residential areas and sited so as not to generate industrial traffic through less intensive land uses areas. The area has a mix of institutional, agricultural, urban and suburban single-family residential development; development that reflects the Urban Development Mix category. Truck traffic will go through a suburban – urban - rural landscape.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for soil and sand extraction operation be APPROVED, subject to the following conditions:

1. The UZC's Supplementary Use Regulations found in the Article III, Section III-D.6.gg shall be met unless modified as follows.
2. Install a temporary biodegradable erosion control mat to stabilize pond/pit side slopes, after slopes are final seeded and having the sides capped with 6-inches of top soil. Move the sand pit 125 feet from the abutting property lines.
3. Between October 2009 and December 2013, Monday – Friday, 7:00 AM – 5:00 PM no more than a total of 20 truck leaving the site is permitted. All trucks shall leave the site going east on 55<sup>th</sup> Street South. All trucks shall enter the site from the west off of the 55<sup>th</sup> Street South – Meridian Avenue intersection going east on 55th. The applicant is required to post directional signs stating the above requirement on the site.
4. Truck traffic to and from the site will be limited to two (2) trucks between 7 AM – 8 AM and between 3 PM – 4 PM, which is the general hours when school begins and ends at both USD 261 schools. This will be enforced during the school year.
5. A commercial type driveway shall be installed, at the applicants' expense, which meets County standards.
6. Asphalt slag will be laid over the drive used by the trucks, including the internal drive where operations are staged.
7. Contact the County for signage alerting the area around the USD 261 schools about truck traffic. Signage will be at the applicants' expense.
8. In addition to other applicable enforcement remedies, if the Zoning Administrator finds that there is a violation of any of these conditions of approval, 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 site is on the east edge of west, rural Sedgwick County, where it meets the cities of Wichita and

Haysville. Zoning is mix a mix of SF-5 and SF-20 zoning, developed with urban sized single-family residential development or larger suburban size lots. Agricultural fields also occupy both SF-5 and SF-20 zoned properties. The City of Haysville's Campus High School and Ruth Clark Elementary School are located across 55<sup>th</sup> Street South. The City of Wichita's South Lakes Park is also located in the immediate area, on the north side of 55<sup>th</sup> around the north and east sides of the USD 261 schools over to Meridian Avenue.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 Single-family Residential, which permits primarily single-family residences. The 15.47-acre site is currently an agricultural field, which is not out of character with the area, but could be platted and developed as single-family residential, as permitted by its current SF-5 zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the requested Conditional Use will introduce a use not currently found in the immediate area. An increase in truck traffic by up to 20 trips a day, to and from the site, during Phase I of operations (soil extraction) is almost certain from mid October to mid December. The relative small size to be excavated, 4-acres, 25 feet deep, coupled with the requested 4 years to do it and having only one user, could mean less truck traffic, per day, generated off the site during Phase II of operations. Soil erosion and blowing dust are possible. However, the limited scale of the proposed excavation (4-acres) and the proposed conditions of approval mitigate most of the anticipated negative effects on nearby property.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: During Phase I of operations, the extracted soil will be used for the bridge work over the Big Ditch at Hydraulic Avenue and 71<sup>st</sup> Street South; KDOT project 87C4343-01. This is a benefit to the general public. Denial would cause the applicant to look for another site, but may preserve the current mix of agricultural, urban and suburban residential and institutional character of the area.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The site is on the east edge of rural west Sedgwick County. The 2030 Wichita Functional Land Use Guide shows this area located inside of Wichita's 2030 Urban Growth Area and categorized as "Urban Development Mix." This category encompasses land that is likely to be developed by the year 2030. Uses within this category include all types of residential, institutional, commercial, parks, and employment/industrial uses; this category is market driven, with a broad range of development possibilities. Soil and sand extraction is a use dependent on a natural resource; there are several older, finished sand pits in the area. The Wichita/Sedgwick County Comprehensive Plan's Locational Criteria indicates that industrial uses should be located with good access to major arterials, truck routes, belt highways, utility

truck lines, rail spurs, and airports. The site has access to 55<sup>th</sup> Street South, an arterial. It is advisable not to locate a sand pit close to an airport, because of the number of birds they can attract. An industrial use should not feed directly into local streets in residential areas. This site does not access a local street, but it will use a shared private drive that the owner and a neighbor use; Staff has not received calls from that neighbor. An industrial use should be located away from existing or planned residential areas and sited so as not to generate industrial traffic through less intensive land uses areas. The area has a mix of institutional, agricultural, urban and suburban single-family residential development; development that reflects the Urban Development Mix category. Truck traffic will go through a suburban - urban - rural landscape.

6. Impact of the proposed development on community facilities: The primary impact of the proposed use is an increase in truck traffic, onto 55<sup>th</sup> Street South. An increase in truck traffic by up to 20 trips a day, to and from the site, during Phase I of operations (soil extraction) is almost certain from mid October to mid December. The relative small size to be excavated, 4-acres, coupled with the requested 4 years to do it and having only one user, could mean less truck traffic generated off the site during Phase II of operations.