CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

April 7, 2010

Cornejo & Sons Inc
2060 E Tulsa
Wichita, KS 67216

RE: **CON2009-00046** - County Conditional Use to permit mining/quarrying (soil extraction), generally located 1/4 south of 47th Street and west of Oliver Avenue (5051 S. Oliver Ave.).

Dear Ladies and Gentlemen:

At its regular meeting on **April 7, 2010**, the Sedgwick County Commission considered the above captioned request. The action of the Commission was to **APPROVE** the request, subject to the following conditions:

1. The Conditional Use permits mining or quarrying of soil that is in compliance with the Supplementary Use Regulations found in the Article III, Section III-D.6.gg of the *Wichita-Sedgwick County Unified Zoning Code*, (listed at the end of this report) unless modified by this Conditional Use. The following supplemental use regulations are modified: (4) waive the fencing requirement; (5) if the excavation does not reach groundwater the six feet of depth below water level is waived; (10) waiver of platting unless a building or other activity that typically triggers platting occurs; (14) waive the section prohibiting a contractor's storage yard and grading of slopes and (15) waive that portion requiring the removal of the dirt excavating equipment at the end of excavation.
2. Prior to commencing operations, the applicant shall submit a revised site plan that depicts limits of excavation by establishing setbacks of 100 feet from the property line and 50 feet from either side of the utility easement, and the phasing of excavations (the location of each 200 by 200-foot pit and what sequence of excavation). Excavation at any one time is limited to a maximum size of 200 feet by 200 feet. The previously excavated area must be filled with clean dirt prior to beginning another excavation.
3. When excavations are completed, the site's topographic features shall be substantially returned to pre-excavation contours unless alternate contours have been approved by grading plan that has been approved by County Public Works.
4. The site shall be managed so that water is not allowed to pond or to be retained on-site for more than 24 hours, and any water that is retained on the site shall be retained in such a manner that the water feature does not attract or became habitat for birds.

take other mud reducing measures adjacent to the Oliver Street right-of-way within two weeks of being so directed to minimize the tracking of mud on the public street.

9. The applicant shall grant access to the site for McConnell Air Force Base's bird harassment contractor during normal hours of operation.
10. 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: Property surrounding the site is zoned a variety of districts: LI, IP-A Industrial Park-Airport ("IP-A"), AFB Air Force Base ("AFB"), A-O I-S Airport Overlay District I-South ("A-O I-S") and SF-5 Single-family Residential ("SF-5"). Surrounding properties are vacant or used for agriculture, residences, office, warehouse and McConnell Air Force Base. The center-line line of the southern take off and approach for planes utilizing McConnell Air Force Base is located 1,620 feet east of the application's eastern property line. This is an area that has some sensitivity to the types of development that are permitted in order to protect the mission of McConnell and to ensure compatible land uses near existing residential, office and warehouse uses.

2. The suitability of the subject property for the uses to which it has been restricted: It appears the site has been zoned LI for many years. The LI district permits a wide variety of non-residential uses, including construction related services. The site has been utilized in the past as currently zoned and could be in the future.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Because of the need to protect current and potential missions of McConnell Air Force Base, Wichita and Sedgwick County have enacted various land use regulations that are reflected in the zoning that is present in the larger application area. Mining and quarrying of soil provides the opportunity for water to collect in the excavated areas that can attract geese or other birds that present a threat to flight operations from McConnell. The applicant's proposal to "fill as they go" reduces the potential for the site to become more attractive for birds, and their willingness to allow access to government contractors who work to reduce bird populations in the area also mitigates potential detrimental effects. The conditions of approval should address foreseeable impacts on existing residential and non-residential uses.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial presumably will cause the applicant a loss in both money and time. The public gains the closure of a construction and demolition landfill.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map adopted on June 1993, and amended in May 2005, indicates the site is appropriate as "employment / industry center." The employment / industry center encompasses areas that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The Comprehensive Plan's industrial land use strategies provide limited guidance. Strategy IV.A.1 indicates that appropriate buffers are needed to protect industrial areas from residential encroachment. Strategy IV.A.2 indicates that industrial uses that are based upon a natural resource are appropriate in rural areas of Sedgwick County. Strategy IV.A.3 says that industrial traffic should channeled to minimize any negative impact on local residential streets. The Oaklawn Sunview Neighborhood Revitalization Plan, adopted November 30, 2001, depicts this site as being appropriate, primarily, for commercial service (warehouse) use.

6. Impact of the proposed development on community facilities: Truck traffic will likely increase on Oliver for the life of the permit, otherwise mining and quarrying do not require most other community facilities.

Wichita-Sedgwick County Unified Zoning Code Supplementary Use Regulations

gg. Mining or Quarrying, sand and gravel extraction. Sand and gravel extraction operations shall be subject to the following conditions:

(1) The extraction operation on the Site shall proceed in accordance with an operational plan approved by the Planning Commission. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved operational plan. To assist in the enforcement of the operational plan, a copy of the approved operational plan shall be posted in the extraction office.

(2) The operational plan shall illustrate which area is to be excavated and at what time.

(3) As part of the Conditional Use approval, the development plan for Uses after the conclusion of the extraction operation shall be submitted to the Planning Director for review and a recommendation to the Planning Commission as to whether or not the development plan is compatible with surrounding land uses, the *Comprehensive Plan* or other plans or policies being utilized by the City or County.

(4) Abutting the perimeter of the application area, a minimum 60-inch high Fence shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. Said Fence shall be placed on steel posts that are not less than seven 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:

(a) a 48-inch high or higher chain link Fence with three or more strands of barbed wire; or

(b) a 48-inch high or higher solid metal or solid masonry Screening Wall with three or more strands of barbed wire; or

(c) a 48-inch high or higher wood fence that may have cracks or openings not in excess of five percent of the area of such Fence, with three or more strands of barbed wire; whereby,

(d) the term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of four 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.

(5) The extraction shall be to at least a minimum depth of six feet below the normal water table, as determined by the Director of Sedgwick County Code Enforcement.

(6) The Owner of the property shall be responsible for minimizing blowing dust from the Site. To minimize blowing soil, overburden shall not be removed more than six months 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 which will permit the establishment of sod cover to help prevent erosion. As part of the required operational plan, the site shall be divided into at least two distinct areas for the purpose of showing phased excavation over time.

(7) All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses that will permit the establishment of sod cover to help prevent erosion.

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

(9) 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.

(10) The property shall be platted prior to the issuance of any zoning or Building Permits, except those permits necessary for the extraction operation.

(11) No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the development area, unless duly authorized under provisions of this Code and amendments thereto.

(12) The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the City or County legal counsel (as applicable), prior to the commencement of any extraction operation, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.

(13) The storage of equipment or stockpiling of sand or overburden is not permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.

(14) Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the extraction operation, the land surrounding the lake shall be properly graded and planted with a vegetative cover. Also, all stockpiled sand or overburden and sand pumping and related equipment shall be removed from the subject site.

(15) The length of time for the extraction operation and the hours of operation for removal of the overburden shall be set at the time of approval of the Conditional Use. Subject operation is to cease after that period of time with all equipment and materials associated with the operation removed from the premises.

(16) Hours of operation for the removal of overburden shall be limited to 6:00 a.m. to sunset. The same hours of operation shall apply if sand removal is conducted with the use of non-electric driven equipment. If sand is removed with the use of an electrical pump, sand extraction may operate 24 hours a day.

(17) All on-site water and sewage facilities shall be approved by and constructed to the standards of the Department of Code Enforcement for the County or Department of Environmental Services for the City.

(18) Any water wells needed to operate the facility must comply with the Water Well Construction Standards contained in Article 30 of the Kansas Department of Health and Environment rules and regulations.

(19) The applicant shall make the Site available to the Department of Code Enforcement for land in the County or Department of Environmental Services for land in the City for the installation and management of groundwater monitoring wells.

(20) Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Department of Environmental Resources for land in the County or Department of Environmental Services for land in the City.

(21) A drainage plan shall be submitted to and approved by City or County Public Works (as applicable) prior to starting the extraction operation. All of the area included within the fenced sand extraction operation shall be graded in accordance with the approved drainage plan. Additional requirements, such as a public drainage easement, a floodway reserve, or a covenant authorizing the area of the Site for use as a detention storage facility for public drainage purposes, may be required as a condition of approval for the drainage plan.

(22) All operational roads shall be maintained in a sand or graveled condition and shall be treated water or other acceptable dust retardant to minimize blowing dust.

(23) All applicable local, state, and federal permits necessary for the extraction operation shall be obtained and maintained.

Sedgwick County Maps CON 09-46



5. The site shall be developed and operated in a manner consistent with the approved site plan, operations plan for extraction and the development standards contained in this Conditional Use.
6. The applicant shall provide dust control measures, such as watering or gravel or other effective means if so directed by code enforcement officials, on the roads within the site or the driveway providing access to the site.
7. The Conditional Use permit shall be effective for 12 months beginning from the date of final approval.
8. If so directed by the County Engineer, the applicant shall install 100 feet of AB-3 rock or take other mud reducing measures adjacent to the Oliver Street right-of-way within two weeks of being so directed to minimize the tracking of mud on the public street.
9. The applicant shall grant access to the site for McConnell Air Force Base's bird harassment contractor during normal hours of operation.
10. 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.
11. Each excavation is to have a 48-inch high fence installed around the perimeter of each excavation.
12. At the end of daily operations, equipment is to be parked near Oliver and away from the residential neighborhood.

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

Sincerely,

Dale Miller
Current Plans Manager
Current Plans Division

DLM:mc

Copies to: Morgan Koon, 2060 East Tulsa, Wichita, KS 67216
Jim Costlow, 14911 Black Oak Ct., Wichita, KS 67230
Denice I. Alligood, 4236 Wildflower Cir., Wichita, KS 67210
BCOC V, Gwen Welshimer, Mail Stop County, Room 320
Bill Buchanan, County Manager, Mail Stop County Room 343
Bob Parnacott, County Law, Mail Stop County Room 359
Deer Lakes, Jim D. Costlow, 14911 Black Oak Ct, Wichita, KS 67230
Oakview, Barbara Stapleton, 4940 S. Hemlock, Wichita, KS 67216
Riverside Township, Dale V Kuhn, 6051 Southeast Blvd, Derby, KS 67037

RESOLUTION NO. 61-10

A RESOLUTION FOR A CONDITIONAL USE FOR MINING AND QUARYING ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D AS ADOPTED BY RESOLUTION 137-09, AS SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS 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 to permit mining and quarrying on 37 acres zoned LI Limited Industrial ("LI").

Case No. CON2009-46

Legally described as: The South half of the Southeast Quarter of the Northeast Quarter, except the East 50 feet for road, of Section 23, Township 28, Range 1 East of the 6th P.M., Sedgwick County, Kansas.
AND
The South 330 feet of the East 662.83 feet of the North half of the Southeast Quarter of the Northeast Quarter, except the East 50 feet for road, of Section 23, Township 28, Range 1 East of the 6th P.M., Sedgwick County, Kansas.
AND
The North half of the Southeast Quarter of the Northeast Quarter, except the South 330 feet of the East 662.83 feet and except the East 320 feet of the North 316 feet and except the East 50 feet to the road of Section 23, Township 28, Range 1 East of the 6th P.M., Sedgwick County, Kansas (5051 South Oliver).

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The Conditional Use permits mining or quarrying of soil that is in compliance with the Supplementary Use Regulations found in the Article III, Section III-D.6.gg of the *Wichita-Sedgwick County Unified Zoning Code*, (listed at the end of this report) unless modified by this Conditional Use. The following supplemental use regulations are modified: (4) waive the fencing requirement; (5) if the excavation does not reach groundwater the six feet of depth below water level is waived; (10) waiver of platting unless a building or other activity that typically triggers platting occurs; (14) waive the section prohibiting a contractor's storage yard and grading of slopes and (15) waive that portion requiring the removal of the dirt excavating equipment at the end of excavation.

2. Prior to commencing operations, the applicant shall submit a revised site plan that depicts limits of excavation by establishing setbacks of 100 feet from the property line and 50 feet from either side of the utility easement, and the phasing of excavations (the location of each 200 by 200-foot pit and what sequence of excavation). Excavation at any one time is limited to a maximum size of 200 feet by 200 feet. The previously excavated area must be filled with clean dirt prior to beginning another excavation.
3. When excavations are completed, the site's topographic features shall be substantially returned to pre-excavation contours unless alternate contours have been approved by grading plan that has been approved by County Public Works.
4. The site shall be managed so that water is not allowed to pond or to be retained on-site for more than 24 hours, and any water that is retained on the site shall be retained in such a manner that the water feature does not attract or became habitat for birds.
5. The site shall be developed and operated in a manner consistent with the approved site plan, operations plan for extraction and the development standards contained in this Conditional Use.
6. The applicant shall provide dust control measures, such as watering or gravel or other effective means if so directed by code enforcement officials, on the roads within the site or the driveway providing access to the site.
7. The Conditional Use permit shall be effective for 12 months beginning from the date of final approval.
8. If so directed by the County Engineer, the applicant shall install 100 feet of AB-3 rock or take other mud reducing measures adjacent to the Oliver Street right-of-way within two weeks of being so directed to minimize the tracking of mud on the public street.
9. The applicant shall grant access to the site for McConnell Air Force Base's bird harassment contractor during normal hours of operation.
10. 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.
11. Each excavation is to have a 48-inch high fence installed around the perimeter of each excavation.
12. At the end of daily operations, equipment is to be parked near Oliver and away from the residential neighborhood.

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:

David M. Unruh Aye
Tim R. Norton Aye
Kelly Parks Aye
Gwen Welshimer Aye
Karl Peterjohn Aye

DATED this 7 day of April, 2010

BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

Karl Peterjohn, CHAIRMAN
Third District

ATTEST:

Karen S Bailey
for KELLY B. ARNOLD
County Clerk

CLERK OF SEDGWICK COUNTY SEDGWICK COUNTY KANSAS KANSAS

APPROVED AS TO FORM ONLY

ROBERT W. PARNACOTT
Assistant County Counselor

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. _____

STAFF REPORT

Derby P.C. 2-4-10
MAPC 2-18-10

CASE NUMBER: CON2009-00046

APPLICANT/AGENT: Cornejo & Sons, Inc., Morgan B. Koon (applicant, agent)

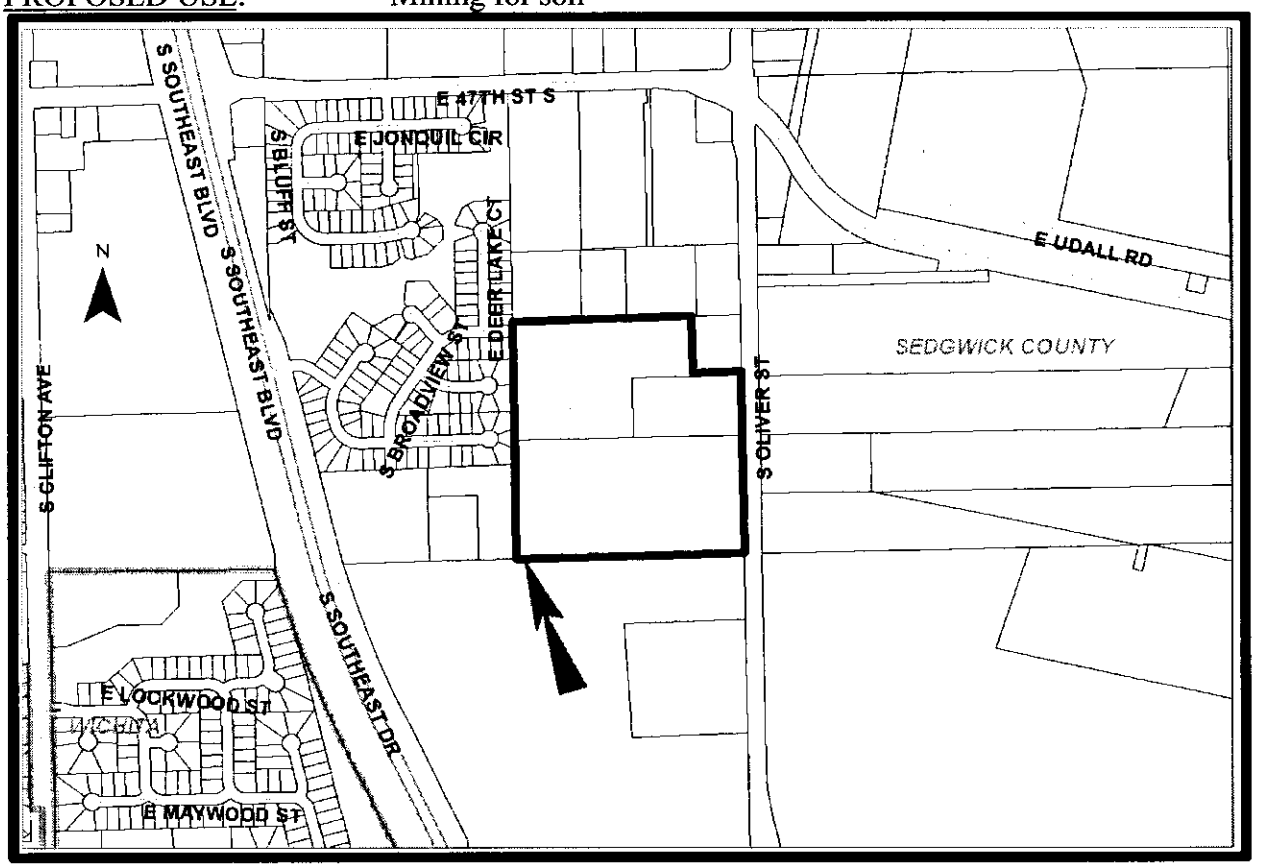
REQUEST: Conditional Use to permit "mining or quarrying"

CURRENT ZONING: LI Limited Industrial ("LI")

SITE SIZE: 37 acres

LOCATION: South of 47th Street South and west of Oliver

PROPOSED USE: Mining for soil



BACKGROUND: The applicant is seeking approval of Conditional Use 2009-00046 to permit mining and quarrying on 37 acres located west of south Oliver and approximately ¼ mile south of 47th Street South. The applicant intends to mine the site for clay that can be used as "cap" material for final cover for landfills or other construction uses. The site is mostly vacant but appears to be or has been used to store construction equipment. Access to the site will be from an existing drive located on Oliver. The site will have only one access point. At any one time only one 200 by 200-foot area will be excavated. Each 200 by 200-foot excavated area will be filled in with dirt as the borrowing is completed, allowing the site to be returned to its pre-excavation topography. Excavation is scheduled to take approximately one year. The site plan submitted with the application is sufficient to conduct the public hearings; however, if the request is approved the applicant shall submitted a revised site plan that complies with supplemental use regulation Sec. III-D.6.gg. (2), (3).

The site is currently zoned LI Limited Industrial ("LI"). The LI district accommodates moderate intensity manufacturing, industrial, commercial and complementary land uses. The Wichita-Sedgwick County Unified Zoning Code permits "mining and quarrying" with Conditional Use approval in the LI district subject to Supplementary Use Regulations Article III, Section III-D.6.gg (1)-(23), listed below. A triangular portion of the site located in the extreme southeastern corner of the site is subject to the Airport Overlay District I-South West Subdistrict ("A-O I-S WSd"). The triangle zoned A-O I-S begins at the southeast corner of the property and runs 490 feet north along Oliver and 113 feet west along the south property line from the same southeastern corner and is closed by the 611-foot southwest to northeast angle. If the property is ever platted the A-O I-S WSd regulations would apply to the entire property even though only a portion of the lot is covered by the overlay district. The A-O district specifies land uses and development standards designed to ensure a compatible relationship between McConnell Air Force operations and other land uses in the vicinity. Unified Zoning Code general regulations: Sec. III-C.5.f (1) indicates that the regulations of the underlying zoning district apply unless specifically modified by this section; Sec. III-C.5.g.(b) indicates the following uses are permitted: agriculture, excluding livestock farming / animal breeding, agricultural structures, and retail or wholesale sales permitted by Sec. III-D.6.b; surface parking lots, outside storage areas, airport runways and taxiways that are accessory to adjacent uses; all other uses legally established prior to August 31, 2007, subject to the limitations set for in Sec. III-C.5.f. The site also has a high voltage electric transmission line located approximately 400 feet east of the western property line running north and south through the site.

Property surrounding the site is zoned a variety of districts: LI, IP-A Industrial Park-Airport ("IP-A"), AFB Air Force Base ("AFB"), A-O I-S and SF-5 Single-family Residential ("SF-5"). Surrounding properties are vacant or used for agriculture, residences, office, warehouse and McConnell Air Force Base. The center-line line of the southern take off and approach for planes utilizing McConnell Air Force Base is located 1,620 feet east of the application's eastern property line.

Because of need to protect current and potential missions of McConnell Air Force Base, Wichita and Sedgwick County have enacted various land use regulations that are reflected in the zoning that is present in the application area. One of the concerns with mining or quarrying is the

creation of features that would retain water and attract geese or other birds that present a threat to air operations from bird strikes. The base has hired a private contractor who, with the permission of land owners, takes a dog(s) onto property near the base to discourage the presence of birds.

Most other mining and quarrying applications result in a permanent pit that creates a lake. Because this application is different in that they do not intend to leave a pit they are seeking to waive some of the standard supplementary use regulation requirements contained in Sec III-D.6.gg: (4) waive the fencing requirement; (5) if the excavation does not reach groundwater the six feet of depth below water level is waived; (10) waiver of platting unless a building or other activity that typically triggers platting occurs; (14) waive the section prohibiting a contractor's storage yard and (15) waive that portion requiring the removal of the dirt excavating equipment at the end of excavation. The arguments for the waivers are in order: since they are filling as they go the holes do not pose the same threat that a permanent pit would; since they are not mining sand and intend to fill each hole the six-foot depth requirement is unnecessary; platting will be triggered when they request a building permit or other activity that typically triggers platting; the site is zoned LI which allows a contractor's storage yard by-right and since they are excavating soil, and not sand, they will be using a backhoe or scraper, not pumping machinery normally associated with sand mining and quarrying.

CASE HISTORY: The Derby Planning Commission reviewed this request on February 4, 2009, and recommended approval (6-0) subject to staff recommendations plus the requirement that the applicant install "orange fencing" around unfilled excavation areas. At least four neighboring property owners spoke. They commented on the closeness of the homes in Deer Lake Estates to the applicant's property, some of them being only 20 feet from the property line; the impact heavy equipment would have being used close to their homes; the lack of fencing and the danger the excavation presents to area children who play on the property; drainage concerns and what type of material will be used to fill the holes.

ADJACENT ZONING AND LAND USE:

NORTH:	LI Limited Industrial; warehouse, office
SOUTH:	IP-A Industrial Park – residence, agriculture
EAST:	AFB Air Force Base and A-O I-S Airport Overlay District I-South, IP-A Industrial Park – McConnell Air Force Base; vacant land owned by McConnell Air Force Base, vacant
WEST:	LI Limited Industrial, SF-5 Single-family Residential; manufactured home subdivision, agriculture

PUBLIC SERVICES: Oliver is a paved four-lane arterial street with 50 feet of half-street right-of-way. Mining and quarrying operations generally do not normal public services. Public sewer and water is located in the subdivision to the west, but it may not be available for extension to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map adopted on June 1993, and amended in May 2005, indicates the site is appropriate as

"employment / industry center." The employment / industry center encompasses areas that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The Comprehensive Plan's industrial land use strategies provide limited guidance. Strategy IV.A.1 indicates that appropriate buffers are needed to protect industrial areas from residential encroachment. Strategy IV.A.2 indicates that industrial uses that are based upon a natural resource are appropriate in rural areas of Sedgwick County. Strategy IV.A.3 says that industrial traffic should channeled to minimize any negative impact on local residential streets. The Oaklawn Sunview Neighborhood Revitalization Plan, adopted November 30, 2001, depicts this site as being appropriate primarily for commercial service (warehouse) use.

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

1. The Conditional Use permits mining or quarrying of soil that is in compliance with the Supplementary Use Regulations found in the Article III, Section III-D.6.gg of the *Wichita-Sedgwick County Unified Zoning Code*, (listed at the end of this report) unless modified by this Conditional Use. The following supplemental use regulations are modified: (4) waive the fencing requirement; (5) if the excavation does not reach groundwater the six feet of depth below water level is waived; (10) waiver of platting unless a building or other activity that typically triggers platting occurs; (14) waive the section prohibiting a contractor's storage yard and grading of slopes and (15) waive that portion requiring the removal of the dirt excavating equipment at the end of excavation.
2. Prior to commencing operations, the applicant shall submit a revised site plan that depicts limits of excavation by establishing setbacks of 100 feet from the property line and 50 feet from either side of the utility easement, and the phasing of excavations (the location of each 200 by 200-foot pit and what sequence of excavation). Excavation at any one time is limited to a maximum size of 200 feet by 200 feet. The previously excavated area must be filled with clean dirt prior to beginning another excavation.
3. When excavations are completed, the site's topographic features shall be substantially returned to pre-excavation contours unless alternate contours have been approved by a grading plan that has been approved by County Public Works.
4. The site shall be managed so that water is not allowed to pond or to be retained on-site for more than 24 hours, and any water that is retained on the site shall be retained in such a manner that the water feature does not attract or became habitat for birds.
5. The site shall be developed and operated in a manner consistent with the approved site plan, operations plan for extraction and the development standards contained in this Conditional Use.
6. The applicant shall provide dust control measures, such as watering or gravel or other effective means if so directed by code enforcement officials, on the roads within the site or the driveway providing access to the site.
7. The Conditional Use permit shall be effective for 12 months beginning from the date of final approval.
8. If so directed by the County Engineer, the applicant shall install 100 feet of AB-3 rock or