



Wichita-Sedgwick County Metropolitan Area Planning Department

June 22, 2011

Ron Lee
1328 Manchester Court
Wichita, KS 67212

RE: CON2011-00012 - County Conditional Use request to allow the extraction of material from personal property (mining/quarrying) on the proposed site, generally located north and west of the intersection of East 69th Street North and North 159th Street East (7101 N. 159th St. E.)

Dear Applicant:

At its regular meeting on **June 15, 2011**, 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 extraction operation on the site shall proceed in accordance with an operational plan to be approved by the Planning Commission. The perimeter of the 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 on the site.
2. The operational plan shall illustrate which area is to be excavated and in what phase.
3. 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. Equipment on the site shall not project noise and/or light onto any surrounding properties which exceeds the noise and/or light spillage limits of existing County codes or compatibility standards.
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.

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 **F** 316.268.4390

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6. 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.
7. 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 excavation area being expanded, per the operational plan, 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.
8. 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.
9. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no steeper than four horizontal to one vertical.
10. 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 providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
11. 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.
12. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 12 months after completion of the extraction operation, the land surrounding the excavation pit shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related excavation equipment shall be removed from the subject site.
13. Hours of operation for extraction shall be limited to 6:00 a.m. to sunset.
14. The Conditional Use for the sand extraction operation shall be valid for a period of five years. The applicant may apply to the Planning Director for an additional two years by an administrative adjustment.
15. 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.
16. Any water wells needed to operate the facility must comply with the Water Well

RE: CON2011-00012 - County Conditional Use request to allow the extraction of material from personal property (mining/quarrying) on the proposed site, generally located north and west of the intersection of East 69th Street North and North 159th Street East (7101 N. 159th St. E.)

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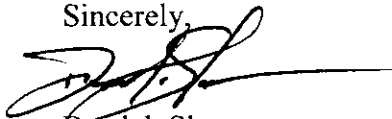
June 22, 2011

Construction Standards contained in Article 30 of the Kansas Department of Health and Environment rules and regulations.

17. The applicant shall make the site available to the Sedgwick County Department of Environmental Resources for the installation and management of groundwater monitoring wells.
18. Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Fire District #1.
19. A drainage plan shall be submitted to and approved by County Public Works prior to starting the extraction operation. All of the area included in the 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.
20. All operational roads shall be maintained in a sand or graveled condition and shall be treated with water or other acceptable dust retardant to minimize blowing dust.
21. A storm water permit will need to be obtained through the County Environmental Resources Department.
22. The site will require the applicant to obtain a Floodplain Development Permit due to the excavation area being within the floodplain
23. All other applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.
24. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
25. 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.

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

Sincerely,



Derrick Slocum
Associate Planner
Current Plans Division

RESOLUTION NO 131-2011

A RESOLUTION FOR A CONDITIONAL USE FOR MINING OR QUARRYING 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 NO. 84-01, 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 for Mining or Quarrying on 3.0 acres of property zoned RR Rural Residential ("RR").

Case No. CON 2011-00012

Legally described below:

A tract beginning 183.74 feet south of the northeast corner of the southeast quarter of the southeast quarter; thence south 308.94 feet; thence west 705 feet; thence north 308.94 feet; thence east to the beginning, EXCEPT for the road on the east, Section 1, Township 26 South, Range 2 East. In addition the southeast quarter excluding the northeast quarter thereof and excluding for the road on the south and excluding that part taken for the road on the east and excluding the south 308.94 feet of the north 492.68 feet of the east 750 feet of the southeast quarter of the southeast quarter thereof section 1, Township 26 South, Range 2 East; generally located north of 69th Street North, along the west side of 159th Street East (7101 North 159th Street East)

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The extraction operation on the site shall proceed in accordance with an operational plan to be approved by the Planning Commission. The perimeter of the 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 on the site.
2. The operational plan shall illustrate which area is to be excavated and in what phase.
3. 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. Equipment on the site shall not project noise and/or light onto any surrounding properties which exceeds the noise and/or light spillage limits of existing County codes or compatibility standards.
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. 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.

7. 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 excavation area being expanded, per the operational plan, 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.
8. 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.
9. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no steeper than four horizontal to one vertical.
10. 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 providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
11. 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.
12. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 12 months after completion of the extraction operation, the land surrounding the excavation pit shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related excavation equipment shall be removed from the subject site.
13. Hours of operation for extraction shall be limited to 6:00 a.m. to sunset.
14. The Conditional Use for the sand extraction operation shall be valid for a period of five years. The applicant may apply to the Planning Director for an additional two years by an administrative adjustment.
15. 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.
16. 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.
17. The applicant shall make the site available to the Sedgwick County Department of Environmental Resources for the installation and management of groundwater monitoring wells.
18. Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Fire District #1.
19. A drainage plan shall be submitted to and approved by County Public Works prior to starting the extraction operation. All of the area included in the 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.
20. All operational roads shall be maintained in a sand or graveled condition and shall be treated with water or other acceptable dust retardant to minimize blowing dust.

21. A storm water permit will need to be obtained through the County Environmental Resources Department.
22. The site will require the applicant to obtain a Floodplain Development Permit due to the excavation area being within the floodplain
23. All other applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.
24. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
25. 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.

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	<u>Aye</u>
TIM R. NORTON	<u>Aye</u>
RICHARD RANZAU	<u>Aye</u>
JIM SKELTON	<u>No</u>
KARL PETERJOHN	<u>Aye</u>

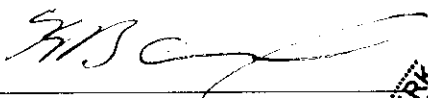
DATED this 15 day of JUNE, 2011

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS



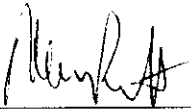
David M. Unruh, CHAIRMAN
District One

ATTEST:


KELLY B. ARNOLD
County Clerk



APPROVED AS TO FORM ONLY:


ROBERT W. PARNACOTT
Assistant County Counselor

STAFF REPORT

MAPC: May 12, 2011

Tentative BoCC Date: February 9, 2011
(If protests are received or waivers needed)

CASE NUMBER: CON2011-00012

APPLICANT/OWNER: Brad Young (Owner/Applicant)
Ron Lee (Agent)

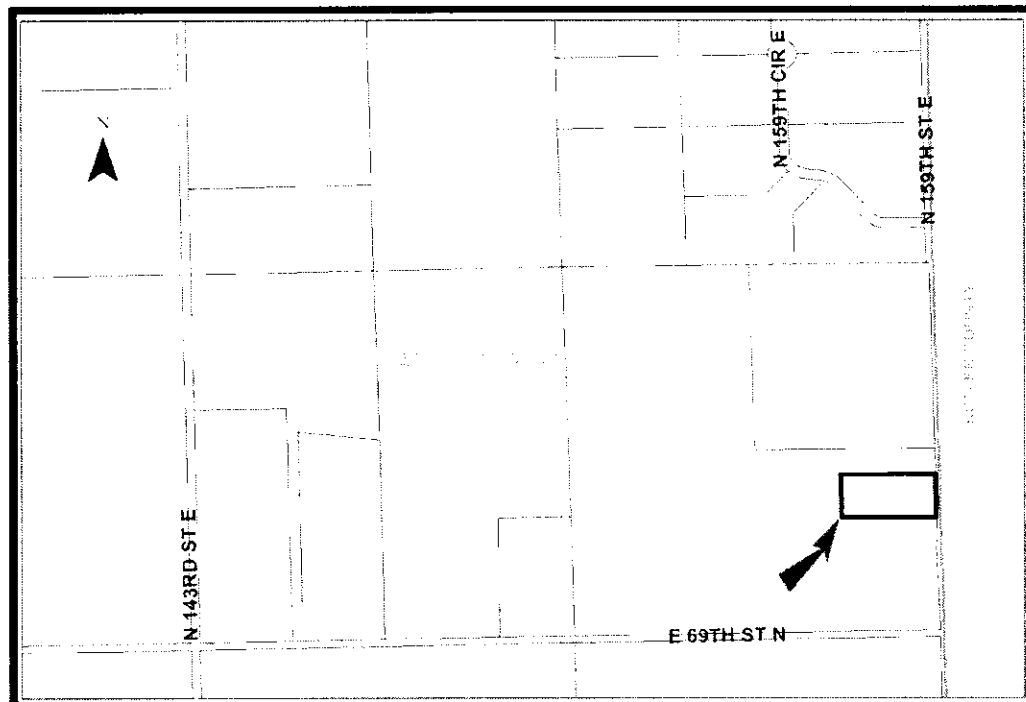
REQUEST: Conditional Use to permit a "Mining or Quarrying" (soil extraction)

CURRENT ZONING: RR Rural Residential ("RR")

SITE SIZE: 3.0 acres

LOCATION: Generally located north of 69th Street North, along the west side of 159th Street East (7101 North 159th Street East)

PROPOSED USE: Extraction of material from personal property (mining/quarrying) on the proposed site



BACKGROUND: The owner of the unplatted three-acre site located north and west of the intersection of North 159th Street East and East 69th Street North seeks a Conditional Use to allow “mining/quarrying.” The applicant proposes to enlarge an existing pond on the subject site, and to haul the extracted material to a proposed building site in Kechi. The site is currently zoned RR Rural Residential (“RR”). “Mining or quarrying” is permitted in the RR district with an approved Conditional Use. The site is currently developed with a large-lot single-family residence served by a lagoon, located on the west portion of the property. The applicant intends to extract the material needed to enlarge the existing pond and have the material transported by truck to a building site in Kechi.

The applicant’s site plan establishes a limit of excavation line at 80 feet from the front property line, 45 feet from the access road to the north and 50 feet from the pipeline easement (as shown on site plan). The site appears to have one access point off of 159th Street East (1000 feet north of the intersection with 69th Street North). The applicant also included with the application a map showing the route the dirt trucks will take from the excavation site to the yard where the material will be deposited. According to the map, the route will run south along 159th Street East and then west on K-254 to the Woodlawn Avenue exit. The route would then take the trucks just south of the exit, turning west on Huffman Road to the drop-off site near the terminus of Huffman Road.

The Sedgwick County soils map indicates the soil on this property as mix of Irwin silty clay loam and Elandco silt loam. The FEMA Floodplain map shows the area of the existing pond and the expansion area is within Zone A. Zone A is a Special Flood Hazard Area identified by FEMA that is subject to inundation from a 100-year flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

All property surrounding the site is zoned RR. Property to the north, south and west of the subject site is used for agricultural purposes/farmland. Butler County is directly east of the subject site.

CASE HISTORY: The property was zoned RR in 1985 when the county adopted county-wide zoning. The property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Farming
SOUTH:	RR	Farming
EAST:	Butler County	
WEST:	RR	Farming

PUBLIC SERVICES: Municipally supplied sewer and water service are not available. The site is currently served by a lagoon and has access to either Butler County RWD #5 or well water. Both 159th Street East and 69th Street North are paved two-lane section line roads. 159th Street East currently has 30 feet of half-street right-of-way

along the frontage of the subject site.

CONFORMANCE TO PLANS/POLICIES: The property is shown on the Wichita and Small Cities 2030 Urban Growth Areas map as being “rural.” Rural areas are located outside the 2030 urban growth area for Wichita and the small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County.

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 extraction operation on the site shall proceed in accordance with an operational plan to be approved by the Planning Commission. The perimeter of the 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 on the site.
2. The operational plan shall illustrate which area is to be excavated and in what phase.
3. 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. Equipment on the site shall not project noise and/or light onto any surrounding properties which exceeds the noise and/or light spillage limits of existing County codes or compatibility standards.
5. Adjacent to the perimeter of the excavation area, a minimum 48-inch high, five strand barbwire fences shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. The posts shall not be set more than 50 feet apart.
6. 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.
7. 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.
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six months in advance of the excavation area being expanded, per the operational plan, 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.

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12. 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.
13. 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 excavation pit shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related excavation equipment shall be removed from the subject site.
14. Hours of operation for extraction shall be limited to 6:00 a.m. to sunset.
15. The Conditional Use for the sand extraction operation shall be valid for a period of five years. The applicant may apply to the Planning Director for an additional two years by an administrative adjustment.
16. 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.
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of Environmental Resources for the installation and management of groundwater monitoring wells.

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24. All other applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.
25. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
26. 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.

The staff's recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** All property surrounding the site is zoned RR. Property to the north, south and west of the subject site is used for agricultural purposes/farmland. Butler County is directly east of the subject site.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned RR Rural Residential, which permits primarily large-lot residential, and agricultural uses by-right. The site is also developed with a single-family home and various out-buildings; making the site suitable for use as currently zoned.

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, soil erosion and blowing dust are possible. However, the limited scale of the proposed excavation and the proposed conditions of approval mitigate 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:** The conditions provided in the Unified Zoning Code for this Conditional Use, and those recommended in this report, should prevent any detrimental effects on nearby property. These conditions work to mitigate any negative light, noise, or environmental effects. Enlarging of the existing pond will only increase its capacity, and should not affect runoff or drainage onto the surrounding properties.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The property is shown on the Wichita and Small Cities 2030 Urban Growth Areas map as being "rural." Rural areas are located outside the 2030 urban growth area for Wichita and the small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County.
6. **Impact of the proposed development on community facilities:** The primary impact of the proposed use is a minimal increase in truck traffic, which can be handled by current roadways.

SITE PLAN

APPR

6/22/11

DKS

101 N 159th St E, Benton, KS 67017

Image U.S. Geological Survey

© 2010 Google

2009 Google

Imagery Dates: May 31, 2004 Feb 29, 2008

37°48'44.73" N 97°09'20.27" W elev 1312 ft

Eye alt 3162 ft

PROPOSED EXCAVATED AREA

EXHIBIT #4