CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

March 17, 2008

Richard & Jennifer L. Gronniger
9264 N. Hoover
Valley Center, KS, 67147

RE: **CON2007-44** County Conditional Use to expand a sand and gravel extraction site, generally located west of the Ridge Road – 73rd Street North intersection, on the southeast corner of 73rd Street North and 87th Street West.

Dear Ladies and Gentlemen:

At its regular meeting on March 13, 2008 the Metropolitan Area Planning Commission (MAPC) considered the above-captioned request. The action of the MAPC was to **recommend approval** of CON2007-44, with the following conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site, redevelopment and drainage plans (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use regulations found in the Unified Zoning Code at Article III, Section III-D.6.gg, unless specifically modified by conditions contained in this conditional use.
2. If limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan. The applicant shall provide a date when the 18-acre expansion of the original site will begin to be used as part of the sand and gravel extraction operation.
3. Fencing shall be what was approved in CON2005-32: a five-strand barbed wire fence.
4. Signage shall be as allowed by the Sedgwick County Sign Code.
5. Sand extraction shall cease June 18, 2010. All equipment and materials associated with the operation shall be removed from the premises by September 18, 2010. Site restoration (grading, seeding, etc,) could continue after September 18, 2010. Note: This time frame is one year shorter, than what was

originally approved on CON2003-32.

6. The applicant will apply a dust control agent (Magnesium Chloride or Calcium Chloride) at rates and frequencies that will provide dust control on the plant drive and on 73rd Street North, from the entrance to the site to Ridge Road. The initial application rate and application schedule will be based on a written recommendation made by an experienced supplier for an annual maintenance cycle. A letter from the supplier stating the recommended annual schedule will be provided to the MAPD, County Pubic Works and Code Enforcement prior to April 1, 2008. Application of the dust control agent will begin within 15 days of the County's approval of the supplier's annual schedule. The applicant shall notify County Code Enforcement in writing within 10 days after each application of dust control agent. The notification shall state the dust control agent is used, application rate, total amount applied and date of application. The application schedule and rates may be adjusted by the applicant based on actual road and weather conditions with written approval from County Code Enforcement and County Public Works.
7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County's legal counsel and Public Works, prior to the commencement of any sand and gravel extraction operation, providing an area for temporary detention storage of drainage water drainage.
8. 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.

Property owners may also file written protest petitions on zoning-related items heard by the MAPC. In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially within 1,000 feet of the property for which the application was filed, and must be submitted to the County Clerk within 14 days of the conclusion of the MAPC hearing, **March 27, 2008 by 5:00 PM**. If protests are received, the case will proceed to the Sedgwick County Board of County Commissioners for final action at a date and time that will be sent to the applicant, protesters and everyone on the mailing list. Such petitions may cause the application to be disapproved, if the land area encompassed by the protesting owners exceeds 20% of the land area within 1,000 feet of the perimeter of the application area, unless the County Commission overrides such a protest and approves the application by a vote of 4 of its members.

The zoning notification signs should remain on the subject property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Bill Longnecker

Senior Planner
Current Plans Division

BL:mc

Copies to: Frank and Nita Lacy, 9555 W. 73rd Street North, Valley Center, KS 67147
Keith Wirths, 829 W. 35th St, North, Wichita, KS 67204
Robert A. Ulbrich Jr. & Helen M. Ulbrich Family Living Trust, 7759 N. Tyler, Valley Center, KS, 67147
Douglas J. & Teresa M. Ulbrich, 7425 N. Tyler, Valley Center, KS, 67147
Robert W. & Valerie E. Ulbrich, 7401 N. Tyler, Valley Center, KS, 67147
Suzanna K. & Vaughn M. Callaway, 7349 N. Tyler, Valley Center, KS, 67147
Vernon L. Watson Jr. & Anise Marie Watson Living Trust, 212 N. Young St, Wichita, KS, 67212
Jim Meyer, 9101 W. 73rd St. N, Valley Center, KS, 67147
Tom P. & Irma C. McGinthy, 10805 Haskell Cir, Wichita, KS, 67209
Heart of Kansas Southern Baptist Association Inc, 3474 S. Meridian, Wichita, KS, 67217
Douglass H. & Carolyn L. Keener, 3130 Cromwell Dr, Wichita, KS, 67204
Thelma Black, 8401 W. 73rd St. N, Valley Center, KS, 67147
Norman & Leatha Hein Trust, 8118 W. 73rd St. N, Valley Center, KS, 67147
Robert Kaplan, 430 N Market, Wichita, KS, 67202
Kelly Parks, BOCC IV, Mail Stop, County Room, 320
Bill Buchanan, County Manager, Mail Stop, County Room, 343
Bob Parnacott, County Law, Mail Stop, County Room 359
Glen Wiltse, County Code Enforcement, 1144 S. Seneca, Wichita, KS 67213
Jim Weber, County Public Works, 1144 S. Seneca, Wichita, KS 67213

CONDITIONAL USE RESOLUTION NO. CON2007-00044

WHEREAS, Richard & Jennifer L. Gronniger (applicants); 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 amend CON2003-32, expanding the area of a sand and gravel extraction site, with conditions, on 18 acres zoned "RR" Rural Residential described as:

That part of the Southwest Quarter of Section 4, Twp. 26-South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as: The West half of said Southwest Quarter, EXCEPT the South 220 feet of the North 545 feet of the West 240 feet thereof, and EXCEPT beginning at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 00 degrees 27 minutes 48 seconds East, 120 feet along the West line of said Southwest Quarter; thence North 78 degrees 00 minutes 34 seconds East, 1,364.80 feet to the East line of said West half; thence South 00 degrees 22 minutes 58 seconds West, 400 feet to the Southeast corner of said W half; thence South 89 degrees 50 minutes 52 seconds West, 1,333.33 feet to the point of beginning. Generally located west of the 73rd Street North – Ridge Road intersection, on the southeast corner of the 73rd Street North & 87th Street West Intersection.

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 13, 2008, 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 a Conditional Use to amend CON2003-32, expanding the area of a sand and gravel extraction site, with conditions, on 18 acres zoned "RR" Rural Residential described as:

That part of the Southwest Quarter of Section 4, Twp. 26-South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as: The West half of said Southwest Quarter, EXCEPT the South 220 feet of the North 545 feet of the West 240 feet thereof, and EXCEPT beginning at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 00 degrees 27 minutes 48 seconds East, 120 feet along the West line of said Southwest Quarter; thence North 78 degrees 00 minutes 34 seconds East, 1,364.80 feet to the East line of said West half; thence South 00 degrees 22 minutes 58 seconds West, 400 feet to the Southeast corner of said W half; thence South 89 degrees 50 minutes 52 seconds West, 1,333.33 feet to the point of beginning. Generally located west of the 73rd Street North – Ridge Road intersection, on the southeast corner of the 73rd Street North & 87th Street West Intersection.

Approved subject to the following conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site, redevelopment and drainage plans (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use regulations found in the Unified Zoning Code at Article III, Section III-D.6.gg, unless specifically modified by conditions contained in this conditional use.
2. If limitations on the scope of excavation are required after final approval, the applicant shall provide

a revised site plan depicting those restrictions. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan. The applicant shall provide a date when the 18-acre expansion of the original site will begin to be used as part of the sand and gravel extraction operation.

3. Fencing shall be what was approved in CON2005-32: a five-strand barbed wire fence.
4. Signage shall be as allowed by the Sedgwick County Sign Code.
5. Sand extraction shall cease June 18, 2010. All equipment and materials associated with the operation shall be removed from the premises by September 18, 2010. Site restoration (grading, seeding, etc,) could continue after September 18, 2010. Note: This time frame is one year shorter, than what was originally approved on CON2003-32, which shall now be subject to the June 18, 2010 date.
6. The applicant will apply a dust control agent (Magnesium Chloride or Calcium Chloride) at rates and frequencies that will provide dust control on the plant drive and on 73rd Street North, from the entrance to the site to Ridge Road. The initial application rate and application schedule will be based on a written recommendation made by an experienced supplier for an annual maintenance cycle. A letter from the supplier stating the recommended annual schedule will be provided to the MAPD, County Pubic Works and Code Enforcement prior to April 1, 2008. Application of the dust control agent will begin within 15 days of the County's approval of the supplier's annual schedule. The applicant shall notify County Code Enforcement in writing within 10 days after each application of dust control agent. The notification shall state the dust control agent is used, application rate, total amount applied and date of application. The application schedule and rates may be adjusted by the applicant based on actual road and weather conditions with written approval from County Code Enforcement and County Public Works.
7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County's legal counsel and Public Works, prior to the commencement of any sand and gravel extraction operation, providing an area for temporary detention storage of drainage water drainage.
8. 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 day March 13, 2008.

METROPOLITAN AREA PLANNING COMMISSION

M.S. Mitchell, Chair MAPC

ATTEST:

John L. Schlegel, Secretary

AGENDA ITEM NO. _____

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

STAFF REPORT

MAPC March 13, 2008
MAPC December 20, 2007

CASE NUMBER: CON2007-00044

APPLICANT/AGENT: Richard J Gronniger (Owner/Applicant)
Robert J Kaplan (Agent)

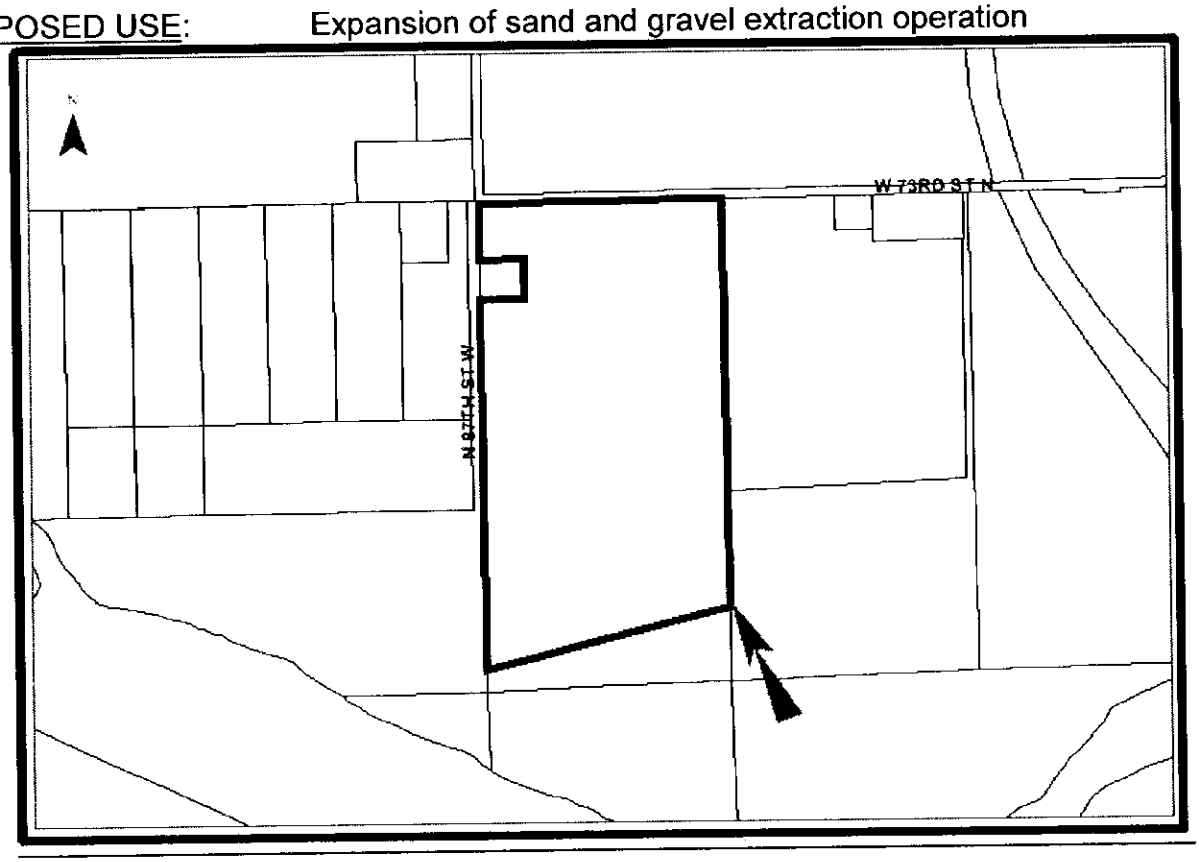
REQUEST: County Conditional Use to expand a sand and gravel extraction site: CON2003-32 (BoCC #4)

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 18-acres

LOCATION: West of the Ridge Road – 73rd Street North intersection, on the southeast corner of 73rd Street North and 87th Street West

PROPOSED USE: Expansion of sand and gravel extraction operation



BACKGROUND: The applicant is requesting a Conditional Use to allow an 18-acre expansion of an existing unplatted 17.388-acre sand and gravel extraction operation; CON2003-32. The proposed expansion would extend the existing operation north, towards 73rd Street North. The proposed expansion would increase the 15-acre sandpit lake (final depth of 40-feet), by 18-acres. The applicant is not asking for an extension of CON2003-32's approved operation time of 8-years. The subject property and the existing sand pit are zoned "RR" Rural Residential, which permits consideration of a Conditional Use.

CON2007-44's site plan shows CON2003-32's existing operational area (Phase I) which includes the existing plant site, the scale, the existing sand pit lake and the proposed expansion of it (Phases II & III), fencing, a gate at the entrance to the operational site, a gate at the entrance of access road onto 73rd Street North and existing tree lines. The site plan shows a 222.9-foot setback located along a portion of the south side of the site and 165-foot setbacks on the east and west sides of the site. The site plan shows the minimum required 50-foot setback on the north side of the site. The site plan identifies the existing and proposed fence in reference to compliance with CON2005-0007, which allowed a 5-strand barbed wire instead of chain link. The site plan does not show any existing or proposed signs, which must be shown on the plan for consideration. The County allows a 32 square-foot sign, if the applicant wants a larger sign, they must apply for an amendment to the Conditional Use. The site plan shows a house (1900), owned by the applicant and located just north of the expanded site. The applicant's redevelopment plan shows one (1) single-family residence on the site, after extraction operations ended.

The area is primarily agricultural in use with scattered large tract/lot single-family residences, including 15-18 houses on either side of the site along 73rd Street North. Non-residential development includes a contractor's yard northeast of the site and two church campgrounds west of the site, both along 73rrd Street. Access onto the site will be off of 73rd Street, a non-section line sand road maintained by Park Township with contractual assistance from the applicant. Sedgwick County OCI has received complaints about the condition of the road and dust off of, as generated by trucks coming and going to the existing sand pit. The merging of the Arkansas River and a section of the Wichita – Valley Center Floodway forms the triangle shaped south boundary of the area. The site is located within this triangle of merging river and man-made drainage canal. There are at least two other spent sandpits (CU-277 & CU-268) and one approved sandpit (CON2006-13, not in operation) located within approximately ½-mile of the site, with all of them having or will be directing their sand trucks to Ridge Road.

The subject property appears to be entirely in the Arkansas River 100-year flood boundary, therefore, the Sedgwick County Public Works Department will require a drainage plan, including easements, reserves, or covenants (as applicable) to ensure that the floodway is properly maintained. Sedgwick County Public Works Department will also require that the applicant apply for and receive an approved Flood Plain Development Permit, which will partially address the County's concerns about obstructions in the flood plain, such as equipment and aggregate piles. This permit will also require the applicant to include in his site plan how untreated storm water will be excluded from the proposed sand and gravel pit and confirmation that the site is a minimum of 1,000-feet from the levee along the Arkansas River. The County is also requiring the applicant comply with State Statute 24-126, "Levee Law" which addresses stockpiling on the property, this will be obtained through the Division of Water Resources, located in Topeka. The subject property also is located within the Equus Beds Groundwater Management District #2. The applicant must apply for water rights through the Division of Water Resources, located in Topeka.

All County and State required permits, inspections and plans must be approved prior to the site operating for sand and gravel extraction.

CASE HISTORY: The site is unplatted. The site is proposed to be an expansion of CON2003-32, a Conditional Use for a sand and gravel extraction operation that was approved September 18, 2003. CON2003-32 is permitted to operate for 8-years. CON2005-0007 amended CON2003-32, to allow a five-strand barbed wire fence instead of the required chain link fence. CON2005-0007 was approved June 1, 2005.

At their December 20, 2007 public hearing meeting the MAPC considered this case, CON2007-44. After considering the information provided by the staff, the applicant and the neighborhood (see attached minutes) the MAPC recommended that the applicant and staff come to a resolution in regards to improvements, maintenance and repair of 73rd Street North. The changes that were agreed to by the staff and the applicant are the conditions in bold in the "Recommendation" portion of this report.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	agriculture, scattered large tract single-family, contractor's yard
SOUTH:	"RR"	agriculture, Arkansas River, sand pits
EAST:	"RR"	agriculture, scattered large tract single-family, drainage
WEST:	"RR"	scattered large tract single-family, church campgrounds

PUBLIC SERVICES: This site has access to 73rd Street North, a sand, non-section line, Park Township road. 73rd Street North intersects Ridge Road, a two lane paved County Highway, located ¾ of a mile east of the site. There are no current traffic volume figures available for either road. The "2030 Transportation Plan" estimates that the traffic volume on Ridge Road, between 77th Street North and 61st Street North will be approximately 5,500 vehicles per day in 2030. Municipal water and sewer services are not currently available to serve this site. Use of the site for sand and gravel extraction can be supported by on-site water and sewer service. The site is located outside the 30-year urban service area and all small city growth areas.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide classifies this area as "Rural." This classification encompasses land outside the 2030 urban growth areas for Wichita and the small cities. The "Rural" classification is intended to accommodate agricultural and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately large lot residential sites or subdivisions with provisions for individual, or community water and sewer services. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial uses in rural areas should be limited to those that are agriculturally oriented, dependent upon a natural resource, or part of an appropriate expansion of an existing industrial use. Sand and gravel extraction would be dependent on a natural resource. Sand and gravel extraction operations are a common development in areas of rural Sedgwick County that are in close proximity to the Arkansas River.

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 the approved site and redevelopment plans (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use

regulations found in the Unified Zoning Code at Article III, Section III-D.6.gg, unless specifically modified by conditions contained in this conditional use.

2. If limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan. The applicant shall provide a date when the 18-acre expansion of the original site will begin to be used as part of the sand and gravel extraction operation.
3. Fencing shall be what was approved in CON2003-32.
4. Signage shall be as allowed by the Sedgwick County Sign Code.
5. **Sand extraction shall cease June 18, 2010. All equipment and materials associated with the operation shall be removed from the premises by September 18, 2010. Site restoration (grading, seeding, etc,) could continue after September 18, 2010. Note: This time frame is one year shorter, than what was originally considered by the MAPC.**
6. **The applicant will apply a dust control agent (Magnesium Chloride or Calcium Chloride) at rates and frequencies that will provide dust control on the plant drive and on 73rd Street North, from the entrance to the site to Ridge Road. The initial application rate and application schedule will be based on a written recommendation made by an experienced supplier for an annual maintenance cycle. A letter from the supplier stating the recommended annual schedule will be provided to MAPD, County Pubic Works and Code Enforcement prior to April 1, 2008. The applicant shall notify County Code Enforcement in writing within 10 days after each application of dust control agent. The notification shall state the dust control agent used, application rate, total amount applied and date of application. The application schedule and rates may be adjusted by the applicant based on actual road and weather conditions with written approval from County Code Enforcement and County Public Works.**
7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County's legal counsel and Public Works, prior to the commencement of any sand and gravel extraction operation, providing an area for temporary detention storage of drainage water drainage.
8. 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:

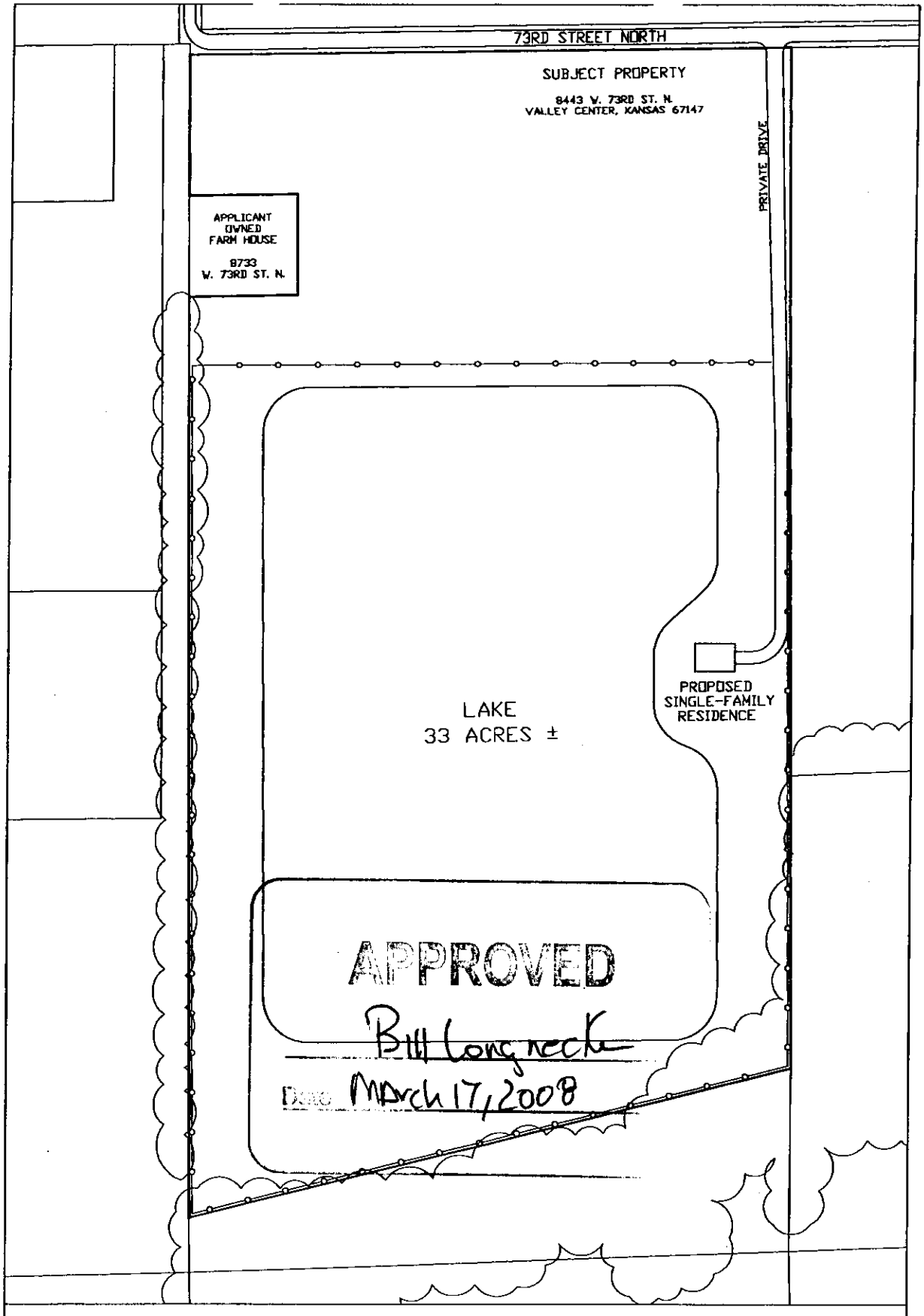
1. The zoning, uses and character of the neighborhood: The character of the surrounding immediate area is primarily agricultural with scattered large tract single-family residential all zoned RR Rural Residential. The proposed expansion of the existing sand and gravel at this location is consistent with the zoning, uses, and character of the area. There are at least 3 other gravel and sand extraction operations, spent or approved from the Arkansas River to 77th Street North, west of Ridge Road.

2. The suitability of the subject property for the uses to which it has been restricted: The RR Rural Residential zoning designation of the subject property permits sand and gravel extraction upon approval of a Conditional Use. Location of the site within the Arkansas River Flood Plain and the Equus Bed will require the applicant to met County and State requirements for flood plain development and development over the Equus Bed.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on nearby property should be minimized by the various setback requirements and operational restrictions required as conditions of approval. The advised treatment method and schedule of treatments for 73rd Street North, in consideration to the volume of heavy truck traffic on the street, will address the dust off of 73rd Street North and the site caused by this traffic, as noted by complaints received by County OCI.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita/Sedgwick County Comprehensive Plan indicates that industrial type uses such as sand and gravel extraction are appropriate in rural areas where the natural resource is located. The Land Use Guide of the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for "Rural" development.

5. Impact of the proposed development on community facilities: The expansion of this sand and gravel extraction operation will continue to have a significant impact on community facilities, via the impact on the flood plain, the Equus bed and the impact of the heavy truck traffic on 73rd Street North, a non-section line sand road maintained by Park Township with a contract the applicant.



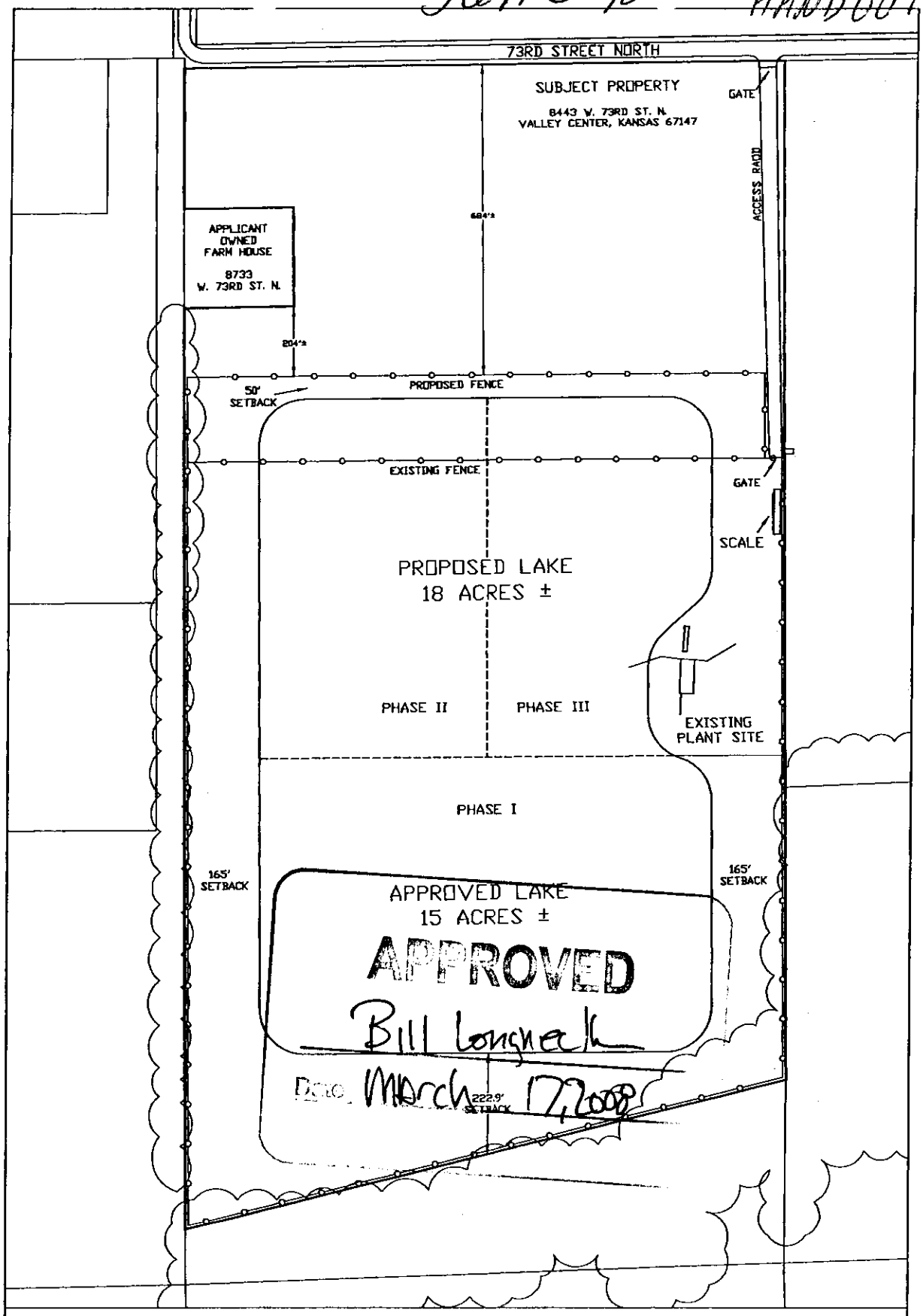
CON2007-44
REDEVELOPMENT SITE PLAN

8443 W. 73RD STREET NORTH

SCALE: 1" = 200'

Baughman
ENGINEERING · SURVEYING · PLANNING
LANDSCAPE ARCHITECTURE

Item 10 HANDOUT



CON2007-44
OPERATIONAL SITE PLAN
8443 W. 73RD STREET NORTH

SCALE: 1" = 200'

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LANDSCAPE ARCHITECTURE