CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

February 25, 2013

Go Lake, Inc.
Attn: Bob Garlick, Pres.
828 S. Volutsia
Wichita, KS, 67211

Bob Bergkamp Const. Co., Inc.
Attn: Chris Snook, VP Ops
3709 S. West St.
Wichita, KS, 67217-3803

REFERENCE: CON2013-00001 - City Conditional Use for sand extraction in LI Limited Industrial ("LI") zoning,generally located east of Broadway and south of 31st Street South.

Dear Applicant:

At its regular meeting on **February 21, 2013**, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to **APPROVE** the Conditional Use, subject to the following conditions:

1. All 23 supplementary conditions of Sec-III-D.6.gg., of the Unified Zoning Code will be met.
2. The Conditional Use will begin at the time of the final action/approval by the appropriate governing body and end nine-months later. Days and hours of operation are Monday – Saturday, 7 a.m. – 6p.m.
3. If operations have not begun within 60 days of approval, the Conditional Use shall be null and void.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

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 City Clerk within 14 days of the conclusion of the MAPC hearing, by **March 7, 2013, at 5 PM.** 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. If there are no valid protests of CON2013-00001 the recommendation of the MAPC is considered the final action. If there are protests, this case will be scheduled for the April 2, 2013, Wichita City Council meeting.

NOTE: District Advisory Board III (DAB) will consider this case at their meeting to be held at 6:30 p.m., Wednesday, March 6, 2013, at the Wichita WATER Center, 101 E. Pawnee (Herman Hill Park), Wichita, KS. Additional information regarding the DAB meeting may be obtained by calling the Neighborhood Assistant, Janet Johnson at 303-8029, or jcjohnson@wichita.gov. You, the applicant need to attend this meeting.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Bill Longnecker
Senior Planner

Copies to: Milo M. Unruh, 300 W. Douglas, Ste 300, Wichita, KS, 67202
Janet Johnson, NA III, e-mail
James Clendenin, WCC III, e-mail
City of Wichita - Property Management, c/o John Philbrick, e-mail

CONDITIONAL USE RESOLUTION NO. CON2013-00001

WHEREAS, Go Lake, Inc, c/o Bob Garlick (owner); 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 "Mining or Quarrying," specifically sand extraction, on approximately 62.02-acres zoned LI Limited Industrial ("LI"), described as:

Lot 1, East Robbins Addition, Wichita, Sedgwick County, Kansas; generally located south of 31st Street South and east of Broadway Avenue.

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 7, 2013, 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 for "Mining or Quarrying," specifically sand extraction, on approximately 62.02-acres zoned LI Limited Industrial ("LI"), described as:

Lot 1, East Robbins Addition, Wichita, Sedgwick County, Kansas; generally located south of 31st Street South and east of Broadway Avenue.

Approved subject to the following conditions:

1. All 23 supplementary conditions of Sec-III-D.6.gg., of the Unified Zoning Code will be met.
2. The Conditional Use will begin at the time of the final action/approval by the appropriate governing body and end nine-months later. Days and hours of operation are Monday – Saturday, 7 a.m. – 6p.m.
3. If operations have not begun within 60 days of approval, the Conditional Use shall be null and void.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 7th day of March 2013.

METROPOLITAN AREA PLANNING COMMISSION

David Dennis, Chair MAPC

ATTEST:

John L. Schlegel, Secretary

WICHITA—SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 5

STAFF REPORT

MAPC February 21, 2013
DAB III March 6, 2013

CASE NUMBER: CON2013-00001

APPLICANT/OWNER: Go Lake, Inc, c/o Bob Garlick (owner) Bob Bergkamp Construction (applicant)

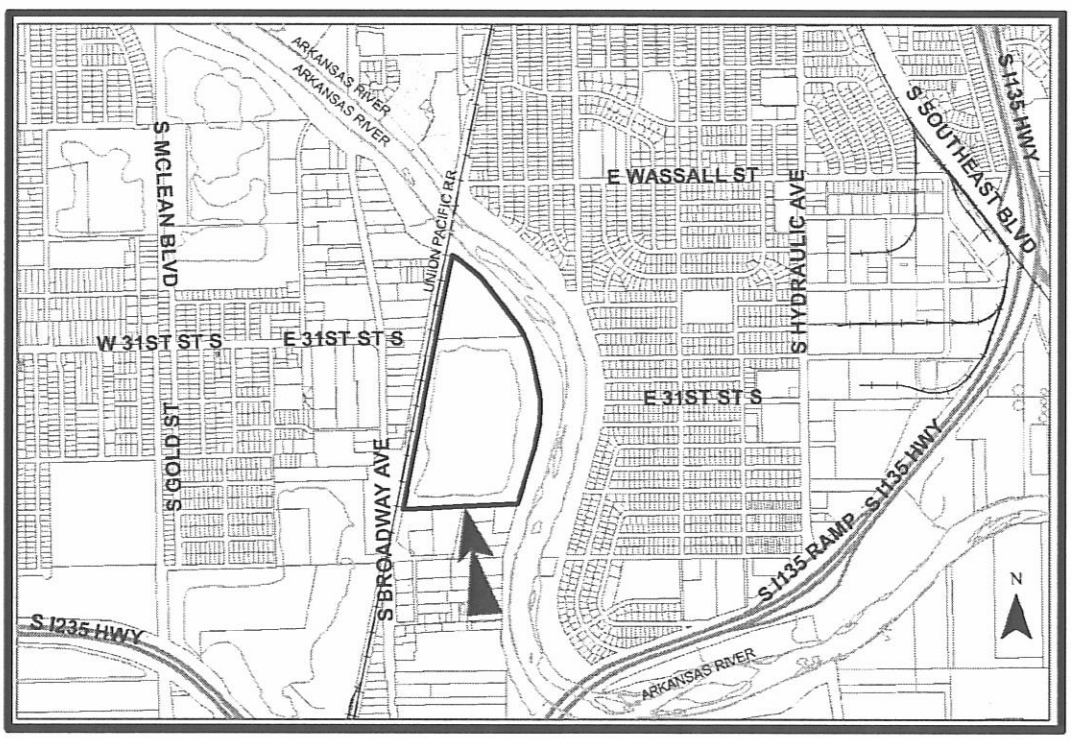
REQUEST: Conditional Use to permit "Mining or Quarrying," specifically sand extraction

CURRENT ZONING: LI Limited Industrial ("LI")

SITE SIZE: 62.02-acres

LOCATION: Generally located south of 31st Street South and east of Broadway Avenue

PROPOSED USE: Extraction of sand from existing sand pit for fill



BACKGROUND: The applicant is requesting a Conditional Use to allow "Mining or Quarrying" on the 62.02-acre, LI Limited Industrial ("LI") zoned Lot 1 East Robbins Addition. The Unified Zoning Code, allows consideration of mining or quarrying as a Conditional Use in the LI zoning district; UZC, Sec.III-D.6.gg. If approved, the Conditional Use would permit the excavation of sand and removal from the lake to provide fill for the eastern, adjacent City of Wichita Paving Project #427-84830. This project will replace the existing, adjacent Broadway Avenue Bridge and realign Broadway from 31st Street South to 37th Street South. The current Broadway Bridge goes over the Arkansas River, the Union Pacific Rail Road (RR) track and land abutting the south side of the site. The new bridge will do the same.

The site is currently used as a private recreational lake (Go Lake) with some trailers and campers scattered around it, as well as a few docks. Per the 2011 aerial, a private dirt drive/road goes around most of the lake. A chain link fence appears to go around the lake.

The RR track runs parallel to the west and northwest sides of the site. The RR track separates the site from the arterial Broadway Avenue/US 81 and its development of mostly GC General Commercial ("GC") zoned car sales lots, vacant buildings, auto repair and paint shops, self storage, auto salvage yards, a small apartment complex and a SF-5 Single-Family Residential ("SF-5") and LI zoned spent sand pit. Some type of unimproved access/drive connects the west portion of the site's private dirt drive/road to Broadway. This access/drive crosses the RR track, but this is not a signaled or gated crossing. This access/drive will be removed by the new Broadway Bridge. Abutting the south side of the site is GC zoned vacant land (mostly City owned), mixed with some GC and SF-5 zoned single-family residences, a duplex and a garden supply center. There are maybe a total of 12 residences in this area. The City owned GC zoned land is where the new bridge will be located. There is some non-conforming outdoor storage/salvage/junk in the area. Unimproved portions of Topeka and Galena Streets move this area's vehicular traffic to an unimproved portion of 37th Street South and then to Broadway. Topeka, Galena and 37th Streets are local streets. The current Broadway Bridge goes over the Arkansas River, the RR track and the east side of this GC zoned area and its three streets. The Arkansas River separates the east and northeast portion of the site from SF-5 zoned single-family residential neighborhoods. The entire site and much of the abutting southern property is located within a FEMA Flood Zone.

The applicant has provided a letter summarizing the operations of the Conditional Use. As noted the Conditional Use will use the existing lake to excavate fill for the City's Broadway Bridge construction project. The duration of the project is from March 1, 2013 to November 30, 2013. Days of operation are Monday – Saturday, 7 a.m. – 6p.m. Trucks coming to and from the site will use unimproved Topeka, Galena and 37th Streets and the unimproved, unsignaled, private access/drive that crosses the RR track to the site from Broadway. Fill will be stockpiled on the City owned property abutting the south side of the lake and on the north side of the lake. The lake will not expand beyond its current size and configuration, but will become deeper in the areas of the excavation. The letter states that the applicant will conform to the supplemental use regulations of the UZC's, Sec.III-D.6.gg. The applicant's site plan needs to show stock piling areas, as well as equipment and equipment storage.

CASE HISTORY: The property is zoned LI and is platted as Lot 1 East Robbins Addition, recoded August 13, 1974. The site is the old Dolese sand pit. One person has complained to staff about the non-conforming outdoor storage/salvage/junk in the area.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5, GC	Arkansas River, single-family residences, apartments
SOUTH: GC, SF-5	Single-family residences, duplex, garden supply, vacant land, non-conforming outdoor storage/salvage/junk
EAST: SF-5	Arkansas River, single-family residences
WEST: GC, LI, SF-5	RR tracks, car sales lots, vacant buildings, auto repair and paint shops, self storage, Broadway Avenue, auto salvage yards, sand pit

PUBLIC SERVICES: All utilities are available to this site. Unimproved portions of Topeka and Galena Streets take a portion of the site's and all of the area's vehicular traffic to an unimproved portion of 37th Street South then to Broadway Avenue/US 81. Topeka, Galena and 37th Streets are local streets. Portions of Topeka and 37th from its intersection with Topeka to Broadway will be paved after the Broadway Bridge is completed. Broadway is an arterial. An unimproved access/drive connects the west portion of the site's private dirt drive/road to Broadway. This access/drive crosses the RR track, but this is not a signaled or gated crossing. This access/drive will be wiped out by the new Broadway Bridge and it will not be reopened.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this property as "Employment/Industry Center," which is defined as centers or concentrations of employment in industrial manufacturing, service or non-institutional sectors. The range of uses include manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The site is currently used as a private recreational lake and after this Conditional Use expires (if approved, March 1, 2013 to November 30, 2013) it will again be used as a private recreational lake. A recreational lake does not fit into the employment/industry center category.

The site is zoned LI. The UZC, allows consideration of mining or quarrying as a Conditional Use in the LI zoning district; UZC, Sec-III-D.6.gg. Sec-III-D.6.gg. has 23 supplementary conditions for the mining and quarrying Conditional Use. The applicant's letter states that they will conform to the supplemental use regulations of the UZC's, Sec.III-D.6.gg. The UZC lists mining and quarrying as an "Industrial, Manufacturing and Extractive" use; UZC, Sec.III-D. The LI zoning district is generally compatible with the Comprehensive Plan's employment/industry center category; UZC, Sec.III-B.20.a.

Land Use-Industrial Strategy IV.A.1 recommends protecting industrial areas "from encroachment or expansion of residential land uses by requiring appropriate buffers for expansion of the residential use when a nuisance situation is likely to be created." The Industrial Locational Guidelines recommend:

(1) Industrial areas should be located in close proximity to support services such as major arterials, truck routes, highways, utilities trunk lines, rail spurs, and airports and as

extensions of existing industrial uses. *The site is in close proximity to Broadway Avenue, an arterial street.*

(2) Industrial traffic not feed directly into local streets in residential areas. *The Conditional Use for sand extraction will generate industrial traffic (primarily dump trucks) through the east edge of a small residential area, of maybe 12 residences. Most of these residences where built in the 1940s – the mid 1950s. Most of these residences are located on either side of 37th Street South, a local residential street. These residences will be sharing 37th with the industrial traffic generated by the Conditional Use.*

(3) Located away from existing or planned residential areas, and site so as not to generate industrial traffic through less intensive land use areas. *The residences located south of the site are all zoned GC or GC and SF-5. The GC zoning district permits residential uses by right. However, the GC zoning district primary intent is for regional commercial development.*

RECOMMENDATION: The request would permit a short term (nine months) industrial use (sand excavation and removal) to provide the greater community with a needed new Broadway Bridge over the Arkansas River and the Union Pacific Rail Road track. The site's immediate proximity to this project makes it an efficient subcontractor. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions as required by the UZC:

1. All 23 supplementary conditions of Sec-III-D.6.gg., of the Unified Zoning Code will be met.
2. The Conditional Use will begin at the time of the final action/approval by the appropriate governing body and end nine-months later. Days and hours of operation are Monday – Saturday, 7 a.m. – 6p.m.
3. If operations have not begun within 60 days of approval, the Conditional Use shall be null and void.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

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

1. **The zoning, uses and character of the neighborhood:** The character of the neighborhood is one of isolation. The LI zoned subject site's recreational lake is a dominate feature, but it is fenced off from the abutting southern area's mostly GC zoned vacant land, garden center and what appears to be some non-conforming outdoor storage/salvage/junk yards. The area's GC and SF-5 zoned 12 residences are mixed in with these non-residential uses. This area in turn is located below the current Broadway Bridge and is hemmed in by the abutting RR track on its west side and the Arkansas River on its east side. The area is poorly served by three unimproved streets, is hard to get into and appears to be in a long decline. All of these factors, plus having much of this area located in a FEMA Flood Zone, makes maintenance or redevelopment challenging.

2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LI, which is meant to accommodate moderate intensity manufacturing, industrial, commercial and complimentary land use. The excavation and removal of sand (mining and quarrying) for fill can be considered as a Conditional Use in the LI zoning district. At some time in the past the site's existing recreational lake was created by the excavation and removal of sand for construction projects in Wichita and Sedgwick County. The site can continue to be used as a private recreational lake.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** An increase in truck traffic, soil erosion and blowing dust are a given. However, the relatively short time of the proposed excavation and the proposed conditions of approval help mitigate anticipated negative effects on nearby property.

4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** See "Conformance to Plans and Policies" portion of this staff report.

5. **Impact of the proposed development on community facilities:** The primary impact of the proposed use is a needed new Broadway Bridge to replace the current bridge, which is a benefit for the greater community.

CONDITIONAL USE

CON2013-01

BOB BERGKAMP CONST. CO., INC.

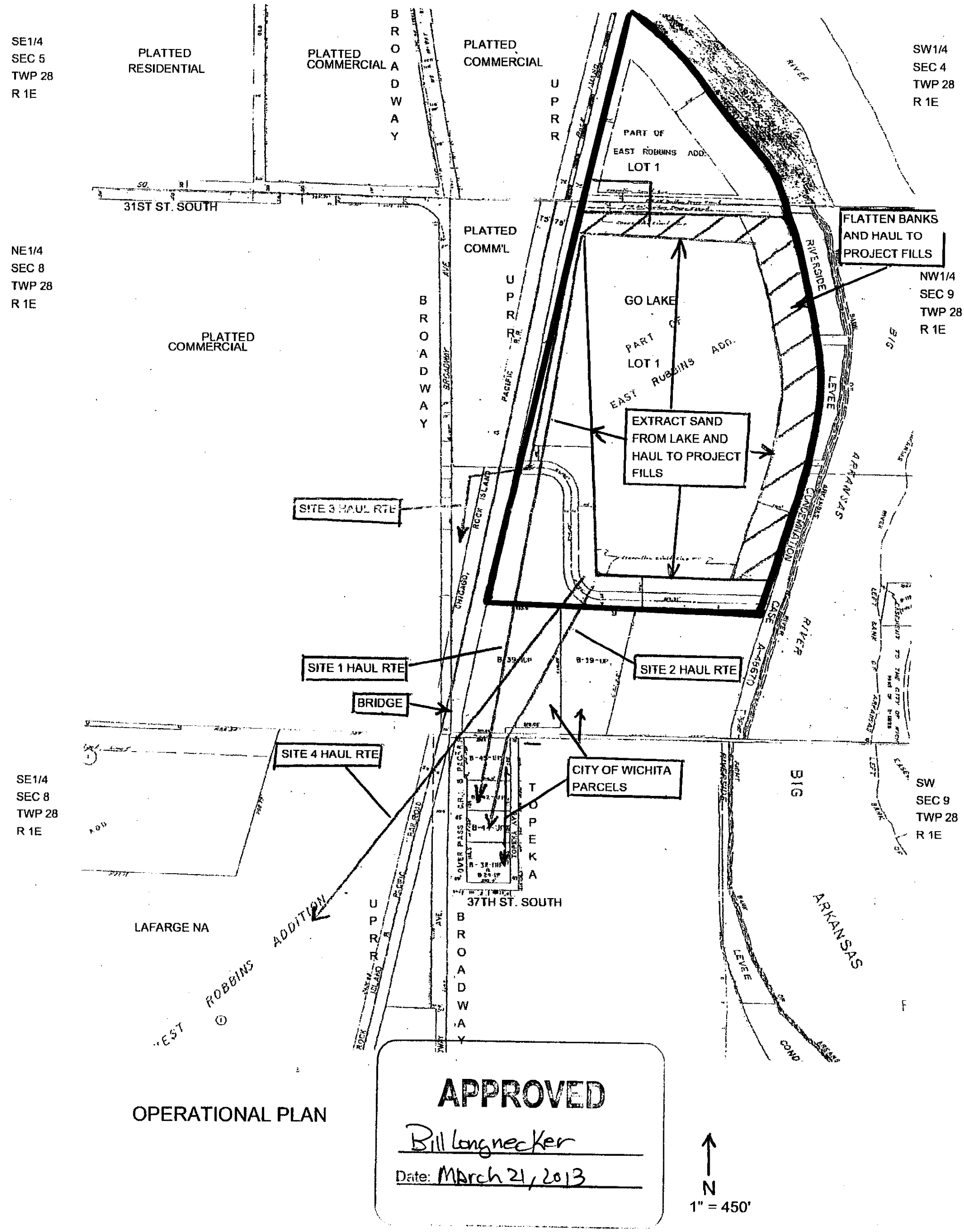
ADDRESS: 3360 S. BROADWAY
WICHITA, KS 67216

LOT 1 EAST ROBBINS ADDITION

APPLICANTS: BOB BERGKAMP CONST. CO., INC. and GO LAKE, INC.

USE: SAND EXTRACTION

DATE: JANUARY 22, 2013



OPERATIONAL PLAN

APPROVED

Bill Longnecker

Date: March 21, 2013

N

1" = 450'