CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

July 25, 2014

Bob Bergkamp Construction, Inc.
Attn: James K. Snook, CEO
3709 S. West Street
Wichita, KS 67217

Milo M. Unruh, Jr.
300 West Douglas #330
Wichita, KS 67202

RE: CON2014-00020 – County conditional use to permit "mining and quarrying" on property containing approximately 88.32 acres, zoned SF-20 Single-family Residential (SF-20) and generally located on the east side of North 151st Street West, north of West 13th Street North.

Dear Ladies and Gentlemen:

At its regular meeting on **July 23, 2014**, the Sedgwick County Commission considered the above captioned request. The action of the Commission was to **APPROVE** the requests 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 Director. 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. As directed by the Attica Township Trustee, the applicant shall maintain North 151st Street to prevent wash boarding and rutting; shall treat said road to prevent dust and shall restore any damage caused by activities permitted by this Conditional Use.

3. The operational plan shall illustrate which area is to be excavated and in what phase.

4. A redevelopment plan depicting uses for the property 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.

5. 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.

6. The excavation is limited to a maximum depth of 15 feet.

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.

8. 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.

9. 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.

10. 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.

11. 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.

12. The storage of equipment or stockpiling of soil 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; the recycling of concrete, asphalt or building materials; the placement of a rock crusher on the site; the use of high speed/high pressure hoses for excavation or dredging; or the excavation, widening or alteration of Dry Creek. 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.

14. Hours of operation for extraction shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday. (Hours of operation are a modification to Supplementary Use Regulation Article III, Section III-D.6.gg(16). All other Supplementary Use Regulations apply unless specifically modified.

15. The Conditional Use for the soil extraction operation shall be valid for a period of ten years. The applicant may apply to the Planning Director for additional time with an administrative adjustment.

16. All on-site water and sewage facilities shall be approved by and constructed to the standards of the MABCD for the County or Department of Environmental Services for the City of Wichita.

17. 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.

18. The applicant shall make the site available to the Sedgwick County Department of Environmental Resources for the installation and management of groundwater monitoring wells.

19. Any on-site storage of fuels or chemicals must be approved by Sedgwick County Fire Department officials and any other appropriate parties.

20. 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. As noted above the drainage plan has been approved provided: a floodplain development permit is obtained from MABCD prior to any grading or excavating and a county stormwater permit will be obtained prior to any land disturbing activities.

21. 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.

22. All other applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained. Instead of the perimeter fencing required by UZC Supplementary Regulation Article III, Section III-D.6.gg(4) barbed wire fencing is permitted. All other Supplementary Use Regulations apply unless specifically modified.

23. If operations have not begun within one year of approval, the Conditional Use shall be null and void.

24. The applicant shall maintain enough trees located along Dry Creek to provide a solid screen sufficient to block the view of the application and mining and quarrying areas from the subdivision located to the east. Within 30 days of final approval, the applicant shall submit a revised site plan that moves the easternmost extent of excavation further west to protect the existing trees located along Dry Creek, and ensures that mining and quarrying operations do not cause trees to be removed along Dry Creek. The revised site plan shall also reflect any other modified conditions of final approval.

25. Uses permitted on the 80.92 acres of the application area not approved for mining and quarrying are limited to agricultural uses as defined by the Wichita-Sedgwick County Unified Zoning Code.

26. The entrance to the haul road shall be moved further south than shown on the initial site plan, as permitted or directed by the appropriate permitting agency.

27. 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,

Dale Miller

Dale Miller
Current Plans Manager
Current Plans Division

Copies to: Karl Peterjohn BoCC#3, Mailstop Room 320
Jim Weber, 1144 South Seneca, Wichita, KS 67202
Kelly Dixon, 1144 South Seneca, Wichita, KS 67202
Robert Parnacott, Mailstop Room 359
Don/Shirly Grimm, 12 North Hopper CT, Goddard, KS 67052
Occupant, 15202 West 19th Street North, Goddard, KS 67052
Ralph and Dolores Bolin, 1922 Marksdale, Goddard, KS 67502
Beverly and James Russell, 1921 Marksdale, Goddard, KS 67502
Arbah and Bonnie Johnson, 1912 Marksdale, Goddard, KS 67502
Jason Sneed, 1922 North 151st Street West, Goddard, KS 67052
Brett Andrews, 1443 North Blackstone, Wichita, KS 67235
Darlene Ball, 15201 West. 17th Street North, Goddard, KS 67052
Clarence Sponsel, 10300 West Central, Wichita, KS 67212
Occupant, 15207 West 13th Street, Goddard, KS 67052
Randy Riley, 1902 Marksdale, Goddard, KS 67052
Jim and Shirley Brooks, 1821 Marksdale, Goddard, KS 67052
Dennis O'Keefe, 1915 Marksdale, Goddard, KS 67052
Steven C. Easley, 15026 W. 13th St., N., Wichita KS 67235
Gary and Paula Dick, 1822 N. Marksdale Ave., Goddard, KS 67052
Karen A. Wegerer, 1420 W. 151st., W., Goddard, KS 67052
William and Monica Graf, 1911 Marksdale, Goddard, KS 67052
John and Ruth Strunk, 14920 W. 21st N., Wichita, KS 67235
Shirley I Martin Trust Trustee, Shirley Green, 12 N. Harper Ct., Goddard, KS 67052
Angela and Rhett Evans, 1511 N. Kentucky Ln, Wichita, KS 67235
Nathan and Shanna Churchill, 1534 N. Thoroughbred St., Wichita, KS 67235
Jacob and Kathryn Noble, 1605 N. Kentucky Ln,Wichita, KS 67235
Mitchell and Kelly Houser, 15229 W. Hunters View St., Wichita, KS 67235
Tonia Marshall, 1506 N. Kentucky Ln., Wichita, KS 67235
Charlene Albert Trustee, 1601N. 151st St., W., Goddard, KS 67052
Linley Simon, 14831 W. 13th St., N., Wichita, KS 67235

RESOLUTION NO 110-2014

A RESOLUTION FOR A CONDITIONAL USE TO PERMIT MINING AND QUARRYING OF SOIL 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 to permit mining and quarrying of topsoil, on approximately 88.32-acres of property zoned SF-20 Single-family Residential ("SF-20").

Case No. CON 2014-00020

Legally described below: The Southwest Quarter of Section 11, Township 27 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT a tract described as all that part of the west 750 feet of said Southwest Quarter lying south of the center line of Dry Creek, AND EXCEPT a tract described as beginning at a point on the West line of said Southwest Quarter, 467 feet north of the Southwest corner of said Southwest Quarter; thence east at right angles, 187.6 feet; thence southeasterly at an interior angle of 157°53'40", 474.15 feet; thence south at an interior angle of 112°06'20", 117 feet to the center of Dry Creek; thence northwesterly and southwesterly along the center line of said Dry Creek to a point on the West line of said Southwest Quarter, 151 feet north of the Southwest corner of said Southwest Quarter; thence north 316 feet to the point of beginning, AND EXCEPT a tract described as beginning at a point on the West line of said Southwest Quarter, 467 feet north of the Southwest corner of said Southwest Quarter; thence north 50 feet; thence east at right angles 187.6 feet; thence southeasterly at an interior angle of 157°53'40", 474.15 feet; thence south 50 feet; thence northwesterly, parallel to said Southeasterly line, 474.15 feet; thence west 187.6 feet to the point of beginning; AND EXCEPT that part described as Blackstone Addition, Wichita, Sedgwick County, Kansas; generally located 1,560 feet north of West 13th Street North, on the east side of North 151st Street West.

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 Director. 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. As directed by the Attica Township Trustee, the applicant shall maintain North 151st Street to prevent wash boarding and rutting; shall treat said road to prevent dust and shall restore any damage caused by activities permitted by this Conditional Use.

3. The operational plan shall illustrate which area is to be excavated and in what phase.

4. A redevelopment plan depicting uses for the property 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.

5. 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.

6. The excavation is limited to a maximum depth of 15 feet.

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.

8. 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.

9. 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.

10. 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.

11. 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.

12. The storage of equipment or stockpiling of soil 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; the recycling of concrete, asphalt or building materials; the placement of a rock crusher on the site; the use of high speed/high pressure hoses for excavation or dredging; or the excavation, widening or alteration of Dry Creek. 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.

14. Hours of operation for extraction shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday. (Hours of operation are a modification to Supplementary Use Regulation Article III, Section III-D.6.gg(16). All other Supplementary Use Regulations apply unless specifically modified.

15. The Conditional Use for the soil extraction operation shall be valid for a period of ten years.

The applicant may apply to the Planning Director for additional time with an administrative adjustment.

16. All on-site water and sewage facilities shall be approved by and constructed to the standards of the MABCD for the County or Department of Environmental Services for the City of Wichita.

17. 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.

18. The applicant shall make the site available to the Sedgwick County Department of Environmental Resources for the installation and management of groundwater monitoring wells.

19. Any on-site storage of fuels or chemicals must be approved by Sedgwick County Fire Department officials and any other appropriate parties.

20. 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. As noted above the drainage plan has been approved provided: a floodplain development permit is obtained from MABCD prior to any grading or excavating and a county stormwater permit will be obtained prior to any land disturbing activities.

21. 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.

22. All other applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained. Instead of the perimeter fencing required by UZC Supplementary Regulation Article III, Section III-D.6.gg(4) barbed wire fencing is permitted. All other Supplementary Use Regulations apply unless specifically modified.

23. If operations have not begun within one year of approval, the Conditional Use shall be null and void.

24. The applicant shall maintain enough trees located along Dry Creek to provide a solid screen sufficient to block the view of the application and mining and quarrying areas from the subdivision located to the east. Within 30 days of final approval, the applicant shall submit a revised site plan that moves the easternmost extent of excavation further west to protect the existing trees located along Dry Creek, and ensures that mining and quarrying operations do not cause trees to be removed along Dry Creek. The revised site plan shall also reflect any other modified conditions of final approval.

25. Uses permitted on the 80.92 acres of the application area not approved for mining and quarrying are limited to agricultural uses as defined by the Wichita-Sedgwick County Unified Zoning Code.

26. The entrance to the haul road shall be moved further south than shown on the initial site plan, as permitted or directed by the appropriate permitting agency.

27. 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	Aye
TIM R. NORTON	Aye
RICHARD RANZAU	Aye
JAMES B. SKELTON	Aye
KARL PETERJOHN	No

DATED this 23 day of July, 2014

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

DAVID M. UNRUH, CHAIRMAN
First District

ATTEST:

KELLY B. ARNOLD
County Clerk

APPROVED AS TO FORM ONLY:

Robert W. Parnacott
ROBERT W. PARNACOTT
Assistant County Counselor

AGENDA ITEM REQUEST

14-512

Proposed Agenda Item: **CON2014-00020 – CONDITIONAL USE TO PERMIT MINING AND QUARRYING OF SOIL ON PROPERTY ZONED SF-20 SINGLE-FAMILY RESIDENTIAL (SF-20) GENERALLY LOCATED EAST OF NORTH 151ST STREET WEST, NORTH OF WEST 13TH STREET NORTH. (DISTRICT 3)**

Presented By: John L. Schlegel, Director of Planning JLS

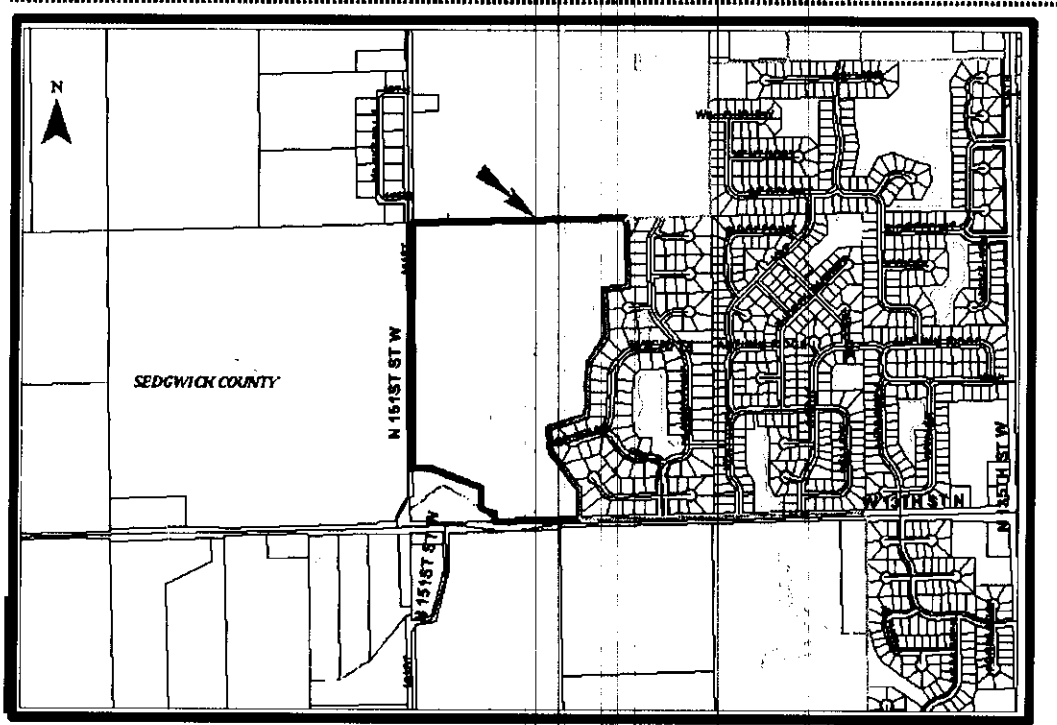
Recommended Action: Adopt the findings of the Metropolitan Area Planning Commission (MAPC), approve the Conditional Use subject to the conditions recommended by the MAPC, and authorize the Chairman to sign the resolution.

Proposed Agenda Date: July 23, 2014

Outside Attendees: James K. Snook / Milo Unruh, Jr. (Applicant / Agent)

Multimedia Presentation: PowerPoint

Donations: Not applicable



Background: The applicant is seeking approval of a "conditional use" to permit the "mining and quarrying" of soil from 88.32 unplatted acres, zoned SF-20 Single-family Residential (SF-20) that are located 1,560 feet north of West 13th Street North, east of North 151st Street West. The application area has approximately 700 feet of frontage along West 13th Street North and 2,080 feet of frontage along North 151st Street West. The application area does not include the 6.06 acres located immediately on the northeast corner of the intersection of West 13th Street North and North 151st Street West.

The applicant proposes to initially excavate the topsoil from two areas (depicted on the attached site plan and described in the attached "summary of operations") that total 7.40 acres, and which are located in the northeast corner and east central portions of the site. Eventually the two individual excavation sites will be combined into one larger excavation area that will contain 12.25 acres. A haul road is proposed to be installed in the northeastern corner of the site, and will parallel the north property line for half the width of the site and then turn south along the northern excavation area and terminate at the southern excavation area. The haul road will be maintained with motor grader and water truck. The excavation area is proposed to be enclosed with a barbed wire fence. (Note: The request to permit a barbed wire fence is a modification to the Wichita-Sedgwick County Unified Zoning Code (UZC) "supplementary use regulation" (Unified Zoning Code (UZC) Art. III, Sec. III-D.6.gg(4)) requirement for a four-foot tall chain link fence topped by three or more strands of barbed wire that requires MAPC or governing body approval.) Six trucks will be used to haul the dirt off-site to construction projects. From the site the trucks will travel north on North 151st Street West. The applicant has provided a maintenance agreement with Attica Township for North 151st Street West to: maintain the road with a motorgrader to prevent "wash boarding"; water the road to prevent dust and restore any damage caused by soil removal operation (attached). The applicant has requested 10 years to complete the project. Hours of operation are proposed to be Monday-Friday 7:00 a.m. to 5:00 p.m. Depth of excavation is proposed to be 15 feet from surface to the bottom of the excavation.

Most of the applicant's property is located within the 100 year floodplain of North Dry Creek, which is heavily treed. The applicant has included a drainage plan with the application. The drainage plan has been approved by County Engineering subject to two conditions: a floodplain development permit is required from MABCD prior to any grading or excavation and a county stormwater permit will be required prior to any land disturbing activities.

Land to the north and south of the site is zoned SF-20, and is developed with large-lot residences (tracts of 2.52, 3.54 and 4.38 acres) or is farm land. Land to the east of the site is zoned SF-5 Single-family Residential (SF-5) and is platted as the Blackstone Addition containing 17,424 square-foot residential lots. Construction on lots located within the Blackstone Addition is in the beginning stages. Much of the Blackstone Addition is currently undeveloped. Land to the west of the site, across North 151st Street West, is zoned RR Rural Residential (RR), and is farm land. Northwest of the site is the Marksdale Addition that contains 14 lots containing approximately 26,136 square feet per lot that are developed with single-family residences.

26. The entrance to the haul road shall be moved further south than shown on the initial site plan, as permitted or directed by the appropriate permitting agency.

27. 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	Aye
TIM R. NORTON	Aye
RICHARD RANZAU	Aye
JAMES B. SKELTON	Aye
KARL PETERJOHN	No

DATED this 23 day of July, 2014

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

DAVID M. UNRUH, CHAIRMAN
First District

ATTEST:

CLERK OF SEDGWICK COUNTY SEDGWICK COUNTY KANSAS

KELLY B. ARNOLD
County Clerk

APPROVED AS TO FORM ONLY:

Robert W. Parnacott
ROBERT W. PARNACOTT
Assistant County Counselor

Article III, Sec.III-D.6.gg of the UZC contains 23 development standards related to mining or quarrying, sand and gravel extraction. In summary, the "supplementary use regulations" require: 1) submission and development of the site in compliance with the site plan; 2) the depiction of the area to be excavated and the timing of the excavation; 3) a redevelopment plan for the site when excavation is completed; 4) perimeter fencing; 5) minimum excavation depth to be six feet below the water table; 6) dust control; 7) erosion control; 8 and 9) bank stabilization with topsoil; 10) platting when building or other non-excavation permits are required; 11) commercial recreation activities to be prohibited; 12) a restrictive covenant preventing use of the site as a landfill or dumping ground; 13) stockpiled material to be located 100 feet or more from public right-of-way or within 50 feet of a property line; 14) the prohibition of a contractor's material and equipment storage yard; 15) the length of time excavation can occur to be established by the conditional use; 16) hours of operation to be between 6:00 a.m. to sunset; 17) approval of on-site water and sewer facilities; 18) any water wells required by the excavation to be approved; 19) the site to be open for inspection and installation of groundwater monitoring wells; 20) approval for the storage of fuel or chemicals; 21) approval of a drainage plan; 22) haul roads shall be sand or gravel condition and shall be maintained to minimize blowing dust and 23) the applicant to obtain all applicable permits.

Analysis: The request was heard by the Metropolitan Area Planning Commission (MAPC) on June 19, 2014. Several nearby property owners spoke in opposition. In general, those in opposition expressed concerns with potential adverse impacts on: section-line roads, Dry Creek and its floodplain; wildlife habitat; loss of trees that provide screening. Neighbors were also concerned with: machine noise, increased truck traffic and dust and potential for pollution. Protestors presented two documents expressing their concerns and desired conditions of approval should the request be approved. The MAPC incorporated the neighbor's requested items (no recycling, rock crushing, high speed/high pressure hoses for excavation or excavation in Dry Creek; moving the entrance to the haul road further south; 7:00 a.m. to 5:00 p.m., Monday-Friday and limit use of the area not mined to agricultural activities) in the MAPC's recommended conditions of approval. The MAPC voted (9-0-1) to recommend approval of the requested Conditional Use 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 Director. 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. As directed by the Attica Township Trustee, the applicant shall maintain North 151st Street to prevent wash boarding and rutting; shall treat said road to prevent dust and shall restore any damage caused by activities permitted by this Conditional Use.

3. The operational plan shall illustrate which area is to be excavated and in what phase.

4. A redevelopment plan depicting uses for the property 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.

5. 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.

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.

8. 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.

9. 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.

10. 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.

11. 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.

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; the recycling of concrete, asphalt or building materials; the placement of a rock crusher on the site; the use

of high speed/high pressure hoses for excavation or dredging; or the excavation, widening or alteration of Dry Creek. 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.

14. Hours of operation for extraction shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday. (Hours of operation are a modification to Supplementary Use Regulation Article III, Section III-D.6.gg(16). All other Supplementary Use Regulations apply unless specifically modified.

15. The Conditional Use for the sand extraction operation shall be valid for a period of ten years. The applicant may apply to the Planning Director for additional time with 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.

17. 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.

18. The applicant shall make the site available to the Sedgwick County Department of Environmental Resources for the installation and management of groundwater monitoring wells.

19. Any on-site storage of fuels or chemicals must be approved by Sedgwick County Fire Department officials and any other appropriate parties.

20. 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. As noted above the drainage plan has been approved provided: a floodplain development permit is obtained from MABCD prior to any grading or excavating and a county stormwater permit will be obtained prior to any land disturbing activities.

21. 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.

22. All other applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained. Instead of the perimeter fencing required by UZC Supplementary Regulation

Article III, Section III-D.6.gg(4) barbed wire fencing is permitted. All other Supplementary Use Regulations apply unless specifically modified.

23. If operations have not begun within one year of approval, the Conditional Use shall be null and void.

24. The applicant shall maintain enough trees located along Dry Creek to provide a solid screen sufficient to block the view of the application and mining and quarrying areas from the subdivision located to the east. Within 30 days of final approval, the applicant shall submit a revised site plan that moves the easternmost extent of excavation further west to protect the existing trees located along Dry Creek, and ensures that mining and quarrying operations do not cause trees to be removed along Dry Creek. The revised site plan shall also reflect any other modified conditions of final approval.

25. Uses permitted on the 80.92 acres of the application area not approved for mining and quarrying are limited to agricultural uses as defined by the Wichita-Sedgwick County Unified Zoning Code.

26. The entrance to the haul road shall be moved further south than shown on the initial site plan, as permitted or directed by the appropriate permitting agency.

27. 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.

Valid protests totaling 71.3 percent have been received. Protests to a County Conditional Use request require final action by the County Commission; UZC, Sec.V-D.10, and protests greater than 20 percent trigger a three-fourths majority by the County Commission to approve the request.

Alternatives:

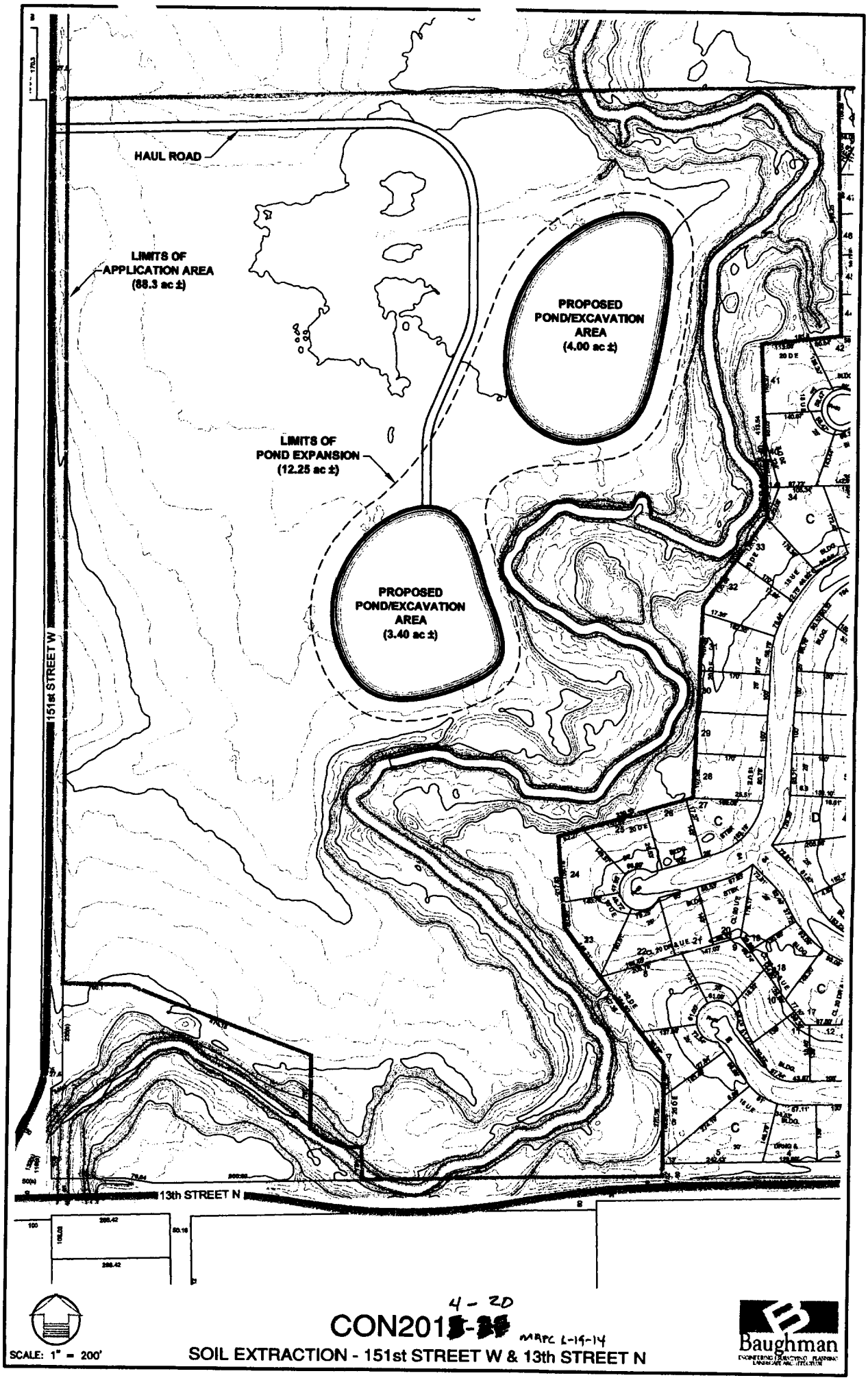
1. Adopt the findings of the MAPC, approve the Conditional Use, subject to the recommended conditions, authorize the Chairman to sign the resolution and authorize the resolution to be published (three-fourths majority vote required because of protests).
2. Deny the Conditional Use and override the MAPC's recommendation (requires a two-third majority vote).
3. Return such recommendation to the MAPC with a statement specifying the basis for the BOCC's failure to approve or disapprove (requires a simple majority vote).

Financial Considerations: There are not any additional financial considerations to the County associated with this application.

Policy Considerations: The MAPC recommendations are based upon the findings of fact stated in the MAPC minutes.

Legal Considerations: ☐ ***Approved as to form and signed by County Counselor's Office:*** The City and County are authorized by K.S.A. 12-741, et seq. to

adopt and amend a comprehensive plan, joint zoning code and official zoning map. The City and County have done so, and in that code have provided for the zoning of properties, including overlay districts, planned unit developments, protective overlays, conditional uses and community unit plans.



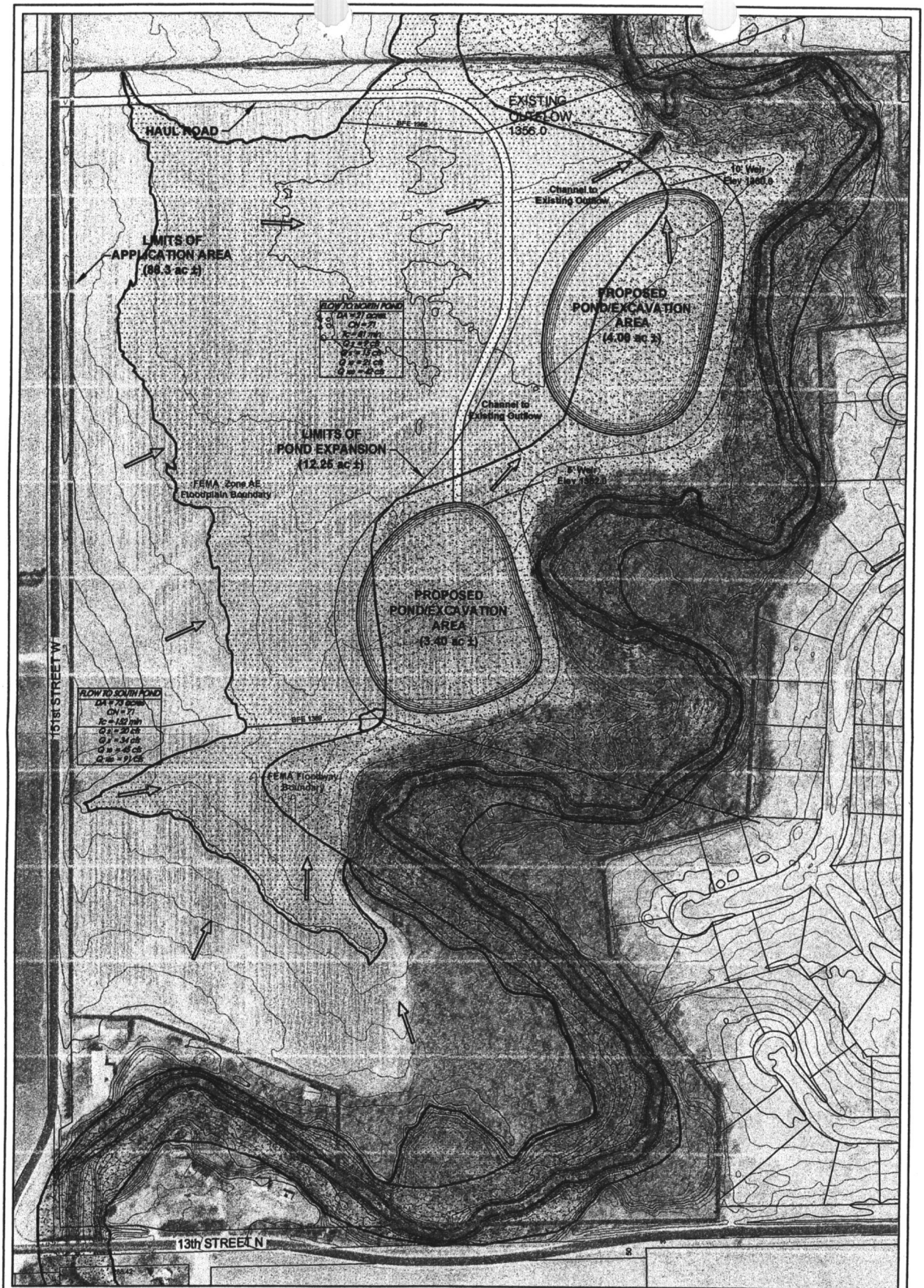
SCALE: 1" = 200'

4-2D

CON201[redacted]-[redacted] MRPC 1-15-14

SOIL EXTRACTION - 151st STREET W & 13th STREET N

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NOTE: The drainage flow pattern depicted herein assumes only a localized storm event. However, all drainage will flow to the east and northeast upon a flooding stage in Dry Creek. At this time, all flooding will presumably follow the FEMA Floodplain Boundary and inundate all surrounding properties. The base flood elevation on Dy Creek will inundate the pond(s) and site and will control the peak water surface elevation(s).

SOUTH POND (Static = 1362)

STAGE	SURFACE	STORAGE	ELEVATION
0'	38 ac	0 ac-ft	1362
10'	41 ac	77 ac-ft	1372
100'	71 ac	61 ac-ft	1462

NORTH WEST BASIN

ELEVATION	TOTAL STORAGE (ac-ft)
1362	0
1372	77.70

NORTH POND (Static = 1362)

STAGE	SURFACE	STORAGE	ELEVATION
0'	38 ac	0 ac-ft	1362
10'	51 ac	78 ac-ft	1372
100'	71 ac	61 ac-ft	1462

NORTH WEST BASIN

ELEVATION	TOTAL STORAGE (ac-ft)
1362	0
1372	78.70

NOTES: Majority of the site lies within FEMA Zone AE & Floodway per FEMA FIRM Panel 309 of 700 for Sedgwick County, Kansas, effective May 2, 2012.

Any fill placed in the FEMA SFHA will require a Kansas Division of Water Resources floodplain fill permit prior to placement.

All drainage will be via sheet flow / shallow concentrated flow to the east, as existing, and into the proposed borrow pits. All flow currently and proposed will enter Dry Creek via the opening near the north east corner of the site.

CONDITIONAL USE DRAINAGE PLAN

CON2014-20
MAPC 6-19-14

SOIL EXTRACTION - 151st STREET W & 13th STREET N

SCALE: 1" = 200'

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