193-06

RESOLUTION N.O. 193-06

A RESOLUTION APPROVING A CONDITIONAL USE TO ALLOW SAND EXTRACTION ON 160-ACRES, ZONED "RR" RURAL RESIDENTIAL, LOCATED ON THE NORTHEASTCORNER OF 77TH STREET NORTH AND 87TH STREET WEST, LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984 AND 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 the land legally described herein is approved as follows:

Case No. CON2006-00013

A Conditional Use to allow sand extraction on property legally described as:

The Southwest Quarter of Section 33, Township 25, Range 1 West, Sedgwick County, Kansas. Generally located on the northeast corner of 77th Street North and 87th Street West.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The extraction operation on the site shall proceed in accordance with the approved revised site plan, showing relocation of the entrance to the application area as close as practical to the eastern boundary line of the application area; no other access shall be allowed from the application area onto 77th St. North or onto 87th St. West.
2. The extraction operation shall be subject to the supplementary use regulations found in the Unified Zoning Code at Article III, Section III-D.6.gg. All improvements, including berms and fencing shall be installed before operations begin.
3. The Conditional Use for sand extraction shall be valid for 20 years following the date of final action. The applicant may apply for an administrative adjustment for an additional two years should extraction operations not be completed at the end of the initial 20-year time period. For the purposes of this resolution the term "applicant" shall include the applicant, as well as any successors or assigns.
4. In order to mitigate the impact of the proposed 20 years of heavy truck traffic to and from the site:
   a) The applicant shall, at the applicant's expense, pave 77th Street North, adjacent to the east half of the southeast quarter of Section 33, Township 25 South, Range 1 W to the county industrial road standard.
   b) Applicant shall also improve, at the applicant's expense, that portion of 77th St. North from the west line of the east half of the southeast quarter of Section 33, Township 25 South, Range 1 West, to the point of entrance to the application

site onto 77th St. North, up to county standard for sand and gravel roads for high volume truck traffic.

c) Applicant shall also provide, at no cost to the County or to Valley Center Township, road materials for the maintenance of the portion of 77th St. North described in Sec. 4.b above during the term of this Conditional Use, provided, however, this requirement will not apply if sand extraction operations have permanently ceased, an alternate access under Sec. 3.h. has been obtained, or this portion of 77th St. North is required to be paved at the time of the three year review under Sec. 3.f .

d) Applicant shall also post, at the applicant's expense, signs directing all heavy truck traffic to and from the site, on 77th Street North east to Ridge Rd., and stating no heavy truck traffic associated with the sand extraction site is allowed to proceed west of the entrance on 77th St. North or on Tyler Rd.

e) No operations shall begin until all of the conditions of this section are met.

f) Applicant agrees that the Board of County Commissioners may review the status of the road conditions three years after commencement of operations to determine if modification of these truck traffic mitigation conditions are necessary. If determined necessary at that time, the Board of County Commissioners may impose additional reasonable road improvement and/or maintenance requirements, which may include paving that portion of 77th St. North described in Sec. 4.b. above.

g) Applicant shall provide to the County sufficient guarantee for the cost of any additional road improvements required after the three year review.

h) If during the term of this Conditional Use Applicant obtains alternate access to Ridge Rd. from the application area by way of private easement, applicant may submit a revised site plan for administrative approval showing such alternate access, along with dedication of complete access control from the application area to 77th St. North, at which time, if the revised site plan is approved, any conditions imposed on the applicant to mitigate the impact of truck traffic on 77th St. North shall no longer apply. Such alternate access outside of the application area may be subject to separate regulation under the Unified Zoning Code.

i) If improvements required in Secs. 4.a., b., and f., above are made privately, separate agreements shall be executed by the applicant and the appropriate governing body prior to the commencement of any improvement work.

5. The County Engineer requires a drainage plan for review and approval for both the site and that portion 77th Street North that serves the site.
6. The subject site is located within the Equus Beds Groundwater Management District #2. District #2 will require that the applicant apply for water rights through the Division of Water Resources, located in Topeka.
7. Pursuant to Sec. 6-346(g) of the Sedgwick County Sign Code, the following additional or alternative requirements concerning signs are imposed as conditions hereunder: the applicant is permitted to have one (1) business sign, as that term is defined in the Sign Code, of up to thirty-two (32) square feet in surface area. All other applicable requirements of the Sign Code shall be met, including but not limited to sign height, setbacks and illumination.
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.

SECTION II. That upon the taking effect of this Resolution, the notation of such conditional use shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office 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
THOMAS G. WINTERS Aye
LUCY BURTNETT Aye
BEN SCIORTINO Aye

DATED this 20th day of December, 2006.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

BEN SCIORTINO, CHAIRMAN
Fifth District

ATTEST:

DON BRACE, County Clerk

CLERK OF SEDGWICK COUNTY SEDGWICK COUNTY KANSAS KANSAS

APPROVED AS TO FORM:

ROBERT W. PARNACOTT,
Assistant County Counselor