CITY OF WICHITA

FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

June 3, 2005

Richard Gronniger
Applicant
7428 W. 73rd N.
Valley Center, KS 67147

RE: CON2005-07 – Amend conditions of approval associated with CON2003-32 to substitute a five-strand barbed wire fence for a chain link fence surrounding a sand pit. Generally located south of 73rd Street North, ¾ mile west of Ridge Road. (District IV)

Dear Ladies and Gentlemen:

At its regular meeting on **June 1, 2005,** the Board of County Commissioners considered the above-captioned request. The action of the County Commission was to APPROVE the request subject to the conditions stated in the enclosed resolution.

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

Sincerely,

Dale Miller

Dale Miller, Manager
Current Plans Division

DLM/rms

Cc: Robert W. Kaplan, Kaplan, McMillan & Harris, 430 N. Market, Wichita, KS 67202
Frank and Nita Lacy, 9555 W. 73rd Street North, Valley Center, KS 67147
Kevin Quenzer, 7410 W. 73rd Street North, Valley Center, KS 67147
Dennis York, 8443 W. 73rd Street North, Valley Center, KS 67147
Phyllis Haigh, Property Owner, 7451 N. 73rd Street W., Valley Center, KS 67147
Lucy Burtnett, BOCC IV, Mail Stop, County Room 320
Bob Parnacott, County Law Department, Mail Stop, County Room 320
Glen Wiltse, County Code Enforcement, 1144 S. Seneca, Wichita, KS 67213

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	Absent
LUCY BURTNETT	Aye
BEN SCIORTINO	Aye

DATED this 1st day of June, 2005.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

DAVID M. UNRUH, CHAIRMAN
First District

CLERK OF SEDGWICK COUNTY SEDGWICK COUNTY KANSAS KANSAS

ATTEST:

DON BRACE, County Clerk

APPROVED AS TO FORM:

ROBERT W. PARNACOTT,
Assistant County Counselor

RESOLUTION N.O. 83-05

A RESOLUTION APPROVING AN AMENDMENT TO CONDITIONS OF APPROVAL ASSOCIATED WITH CON2003-00032 TO SUBSTITUTE A FIVE-STRAND BARBED WIRE FENCE FOR A CHAIN LINK FENCE SURROUNDING A SAND PIT CONTAINING 17.33 ACRES, LOCATED APPROXIMATELY 3/4 MILE WEST OF RIDGE ROAD, SOUTH OF 73RD STREET NORTH ON PROPERTY ZONED "RR" RURAL RESIDENTIAL, 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. CON2005-00007

A Conditional Use to amend conditions of approval associated with CON2003-00032 to substitute a five-strand barbed wire fence for a chain link fence surrounding a sand pit on property described as:

The West Half of the Southwest Quarter of Section 4, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the South 220 feet of the North 545 feet of the West 240 feet thereof, and except beginning at the Southwest corner of the Southwest Quarter (SW/4), thence North 120 feet, thence Northeasterly 1,364.80 feet to the East line of the West Half of the Southwest Quarter; thence South 400 feet to the Southeast corner of said W/2 SW/4; thence West 1,333.33 feet beginning. Generally located approximately 3/4 mile west of Ridge Road, south of 73rd Street North.

SUBJECT TO THE FOLLOWING CONDITIONS:

Modify the fencing requirements contained in Section III.D.6.gg of the Unified Zoning Code as applied to CON 2003-00032 to allow a five-strand barbed wire fence instead of the code required fencing. The fencing is to enclose the operational area within 60 days of the County Commission approval (July 30, 2005).

SECTION II. That upon the taking effect of this Resolution, the notation of such zone change 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.

CONDITIONAL USE

DRY SAND COMPANY

ADDRESS: 8443 W. 73RD NORTH
VALLEY CENTER, KS 67147
APPLICANTS: RICHARD J. GRONNIGER
DENNIS R. YORK

USE: SAND AND GRAVEL EXTRACTION OPERATION
DATE: AUGUST 8, 2003

SITE PLAN

APPROVED 01-08-03 BY [signature]

PK 16

S W 1/4 SEC. 4 TWP. 26 S. R. 1 W.

RR BK-B PG 94 11-22-1879

73rd

1333.33'

PROPERTY LINE

NOTE: APPLICANT'S DAUGHTER LIVES ON PROPERTY PK-24-A.

325'

200'

24.0'

PK-24-A

239'

220'

240'

1515' +/-

EQUIPMENT PARKING

24' ROAD

#3 SAND

#1 SAND

#2 SAND

SETTLING POND FILL SAND 75' X 100'

LOAD OUT AREA

LOAD OUT AREA

16'X16' TIPPLE

190'

SETTLING POND FILL SAND 75' X 100'

PEA GRAVEL UNDERGROUND DRAIN

CLAY SLURRY LINE

DREDGE FUEL TANK

3' BERM

PHYSICAL PLANT SITE DETAIL

SCALE 1" = 50'

DRAINAGE DIRECTION OF FLOW

DIRECTION OF FLOW

596.5'

24' ROAD APPROX. DISTANCE= 1928' +/-

N.

STOP SIGN

ENTRANCE AND SCALE (SEE DETAIL)

LIMITS OF FLOODPLAIN

200'

497'

188'

PK-24-1C

PK-24-1A

283'

200'

497'

73RD ST NORTH

EMPLOYEE PARKING

20' CULVERT

5' HIGH X 50' LONG FENCE
4" WOVEN WIRE: 1 BARBED WIRE

2 - 5' HIGH X 12' LONG GATES

RED LIGHT POLE

12' X 8' SCALE OFFICE

PORTABLE RESTROOM

10' X 25' LONG SCALE

SCALE AREA	= 0.172 ACRES
ROADWAY	= 1.370 ACRES
PHYSICAL PLANT	= 0.875 ACRES
TOTAL	= 2.417 ACRES

50'

6" ROAD CROWN

DITCH 6" X 2' (AS REQUIRED)

ENTRANCE AND SCALE DETAIL

1975' ± chainlink fence topped by 3 strand barbed wire

DRAINAGE DIRECTION OF FLOW

DIRECTION OF FLOW

PROPERTY LINE

PHYSICAL PLANT SITE 0.875 ACRES

OVERBURDEN

1000'

LAKE BANK

PROPOSED LAKE 14.921 ACRES

166.5'

650'

MINIMUM DEPTH - 6' BELOW WATER TABLE
5:1 SIDE SLOPES

NOTES: 1. PROPOSED DREDGING TO TAKE PLACE OVER A TEN YEAR PERIOD.
2. HOURS OF OPERATION: 6 AM TO SUNSET.
~~3. THE COUNTY HAS INDICATED THAT THE FENCE REQUIREMENT SHALL BE WAIVED BECAUSE IT IS IN THE FLOODPLAIN.~~
4. CURRENT ZONING IS RR - RURAL RESIDENTIAL.

1000'

222.9'

PROPERTY LINE

1364.8'

PK-24-2

EXISTING TREES

NRR

120'

1333.33'

NRR

Chainlink fence will extend south to existing wire fence.

PK-24-1

PROPERTY LINE

1289.9'±

166.5'

650'

643.5'

1335'

EXISTING TREES

PK-24-1B

400'

1322.9'±

THIS SHEET PREPARED UNDER SUPERVISION OF

SEDGWICK COUNTY CLERK

SCALE

OPERATIONAL PLAN

Within a ½ mile of the site there are approximately 10-12 residences and the Heart of Kansas Southern Baptist Association, which has a camp located immediately to the west. The Southern Baptist camp has a sizeable lake on their site. Another property owner west of the site also has a small pond located immediately northwest of the Baptist's lake. There is also a sizeable pond located about a ¼ mile to the east of the application area. None of these ponds or lakes are enclosed with solid fencing. Further east of the Baptist campground is the First Presbyterian Church campground. Except for the two campgrounds, the majority of the remaining land in the area is used for agricultural purposes.

Analysis: The Metropolitan Area Planning Commission reviewed this request on April 28, 2005. Four people not connected with the application spoke expressing opposition to the request primarily due to: the inadequacy of a barbed wire fence to keep children out instead of chain link, and the increased volume of truck traffic on 73rd Street that results in the need for increased road maintenance. In general, the speakers indicated that 73rd Street was too narrow and too poorly maintained to accommodate the amount of truck traffic generated by the sand pit. The additional truck traffic on the unpaved road was seen as a safety issue. The applicant pointed out that they had complied with all conditions of approval relating to road maintenance by securing an agreement with the township to provide materials for improving the road, and further stated they had supplied all required materials. Planning commissioners inquired if barbed wire had been allowed previously. Staff advised them that at least in one situation barbed wire had been allowed. The MAPC voted 11-2 to recommend approval of the request to modify the fencing requirement.

No written protest petitions were received by the clerk's office.

Alternatives:

1. Adopt the findings of the MAPC that amend the conditions of approval for CON2003-00032 to substitute a five-stand barbed wire fence for a chain link fence, and authorize the Chairman to sign the resolution.
2. Deny the request (by making alternative findings) and override the MAPC recommendation. (Two-thirds majority vote required.)
3. Return the case to the MAPC for further consideration with a statement specifying the basis for the BoCC's failure to approve or deny the application. (Simply majority vote required.)

Financial Considerations: Not applicable.

Policy Considerations: The MAPC recommendation for approval is based on the findings of fact stated in the MAPC minutes.

Legal Considerations: ☑ *Approved as to form and signed by County Counselor's Office*

AGENDA ITEM REQUEST

Proposed Agenda Item: CON2005-00007 – Amend conditions of approval associated with CON2003-00032 to substitute a five-strand barbed wire fence for a chain link fence surrounding a sand pit. Generally located south of 73rd Street North, 3/4 mile west of Ridge Road. (District IV)

Presented By: John L. Schlegel, Planning Director JLS

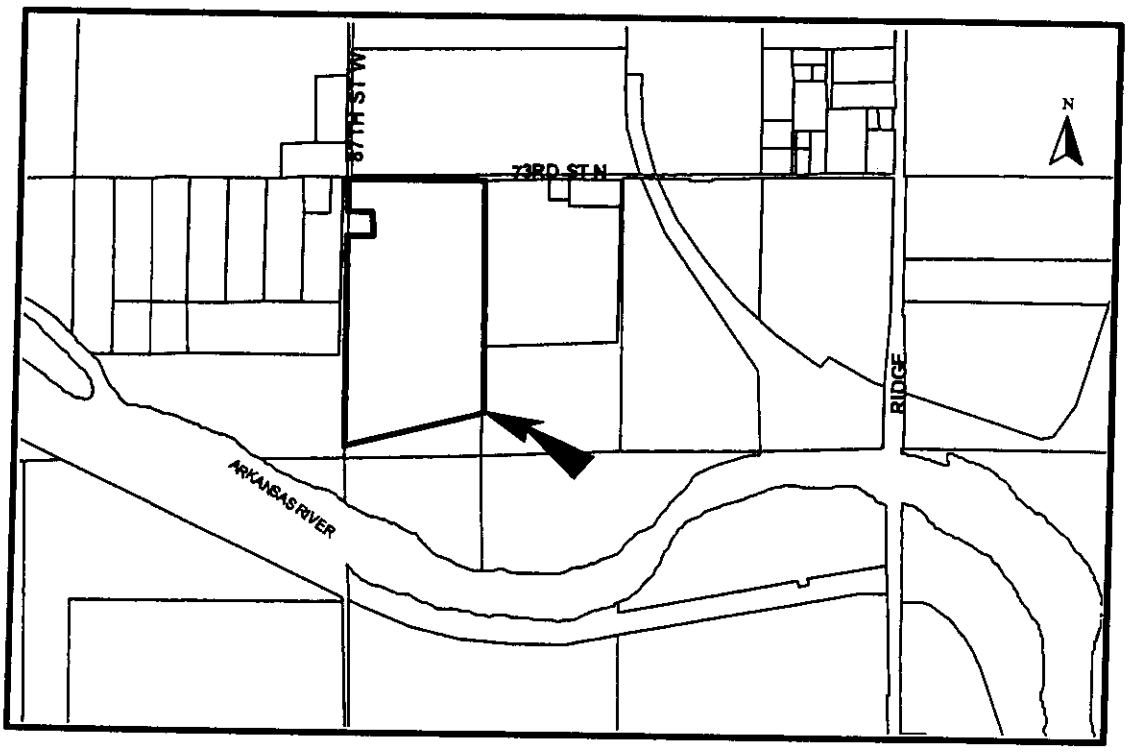
Recommended Action: Adopt the findings of the MAPC that amend the conditions of approval for CON2003-00032 to substitute a five-stand barbed wire fence for a chain link fence, and authorize the Chairman to sign the resolution.

Proposed Agenda Date: June 1, 2005

Outside Attendees: Robert W. Kaplan, Kaplan, McMillan & Harris, 430 N. Market, Wichita, KS 67202

Multimedia Presentation: Powerpoint

Donations: Not applicable



Background: On September 9, 2003, the Metropolitan Area Planning Commission (MAPC) approved a request (CON2003-32) to allow sand and gravel extraction on a 17.33-acre tract that is part of a larger ownership of 71 acres located approximately ¾ mile west of Ridge Road, south of 73rd Street North. The 17.33-acre extraction area is located roughly in the southern one-third of the larger 71-acre tract. A 14.9-acre lake is to be created by the extraction of sand and gravel over an eight-year time period that began with the MAPC approval. One of the conditions of approval required the applicant to comply with all the Supplemental Use Regulations regarding sand and gravel extraction contained in Section III.D.6.gg of the *Unified Zoning Code.*

One of the Supplemental Use Regulations, gg. (4), requires the installation of a minimum 60-inch high fence adjacent to the perimeter of the application area. Three types of fencing materials are permitted: a 48-inch high or higher chain link fence with three or more strands of barbed wire; or a 48-inch high or higher solid metal or solid masonry fence with three or more strands of barbed wire; or a 48-inch or higher wood fence that may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The applicant is requesting a waiver of the aforementioned fencing standards; they desire to use new and existing multi-strand barbed wire fencing in place of the chain link, metal, masonry or wood fencing called for by the code. The applicant indicates that there is an existing barbed wire fence enclosing the larger 71-acre site along the east, south and west sides. To close in the northern perimeter, a new proposed five-strand barbed wire fence could be installed at one of two locations – running east to west along the south side of 73rd Street North where the applicant's property fronts 73rd Street or further south, approximately 1,250 feet south of 73rd Street north, running east to west with a jog in the middle. On the eastern end the fence would extend south along the 17-acre extraction area's eastern side to tie in with an existing perimeter fence. (See attached site plans.) With the first option, the applicant's entire 71-acres site would be enclosed; with the second option the 17.33-acre sand plant and the excavation area located on the southern portion of the site would be enclosed.

The Unified Zoning Code permits the governing body to waive or modify Supplemental Use Regulation standards. The MAPC may make recommendations regarding these standards, however they cannot waive or modify them. The governing body did not hear the 2003 Conditional Use request, as there were not any protests or appeals filed. The applicant thought that the fencing standards had been modified as a result of the 2003 MAPC approval, and moved ahead with the project; obtaining all required permits and complying with all requirements, other than the fencing. Apparently, complaints regarding truck traffic and the condition of 73rd Street prompted a review of the site, bringing to light the situation with the fence.

Part of the reason why the applicant may have been confused regarding the fencing requirement is nearly all the site lies within the 100-year floodplain, and is located 450 feet north of the Arkansas River. There were various discussions among staff, and between staff and the applicant about the potential negative consequences of having the types of fences required by the Code in a 100-year floodplain, and in such close proximity to the river. The chain link or solid fencing required by the Code is likely to be an impediment to good drainage by acting as a dam or catching debris that will ultimately act as dam. A five-strand barbed wire fence would allow water and debris to flow through much more effectively than chain link or solid fencing.