CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

October 16, 2008

Linda Snook
14800 W. Maple
Wichita, KS 67235

Linda L. Snook Trust
Attn: James Snook
3709 S. West St
Wichita, KS 67217

RE: **CON2008-00039** - County Conditional Use for mining/quarrying (soil extraction) on property zoned RR Rural Residential, generally located on the northeast corner of 151 Street West and Pawnee Avenue.

Dear Ladies and Gentlemen:

At its regular meeting on **October 15, 2008**, the Sedgwick County Commission considered the above-captioned request. The action of the Commission was to **APPROVE** the request, subject to the following conditions:

1. Dedication of right of way on Pawnee and 151st Street West to bring the application area in conformance with Subdivision Regulations. The instrument of dedication to be submitted to County Public Works prior to commencing operations.

2. Uses 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.

3. The extraction operation on the site shall proceed in accordance with an operational plan to be approved by the Planning Commission. 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.

3. The extraction operation on the site shall proceed in accordance with an operational plan to be approved by the Planning Commission. 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.

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

5. Adjacent to the perimeter of the extraction area, a minimum 48-inch high, five strand barbwire fence shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. The posts shall not be set more than 50 feet apart.

6. 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.

7. 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.

8. 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 above any future water table.

9. 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.

10. 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.

11. 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.

12. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days 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.

13. Hours of operation for extraction shall be limited to 6:00 am to sunset.

14. The Conditional Use for the extraction operation shall be valid for a period of 10 years.

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

16. Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Fire District #1.

17. A drainage plan shall be submitted to and approved by County Public Works prior to starting the extraction operation. All of the area included within the fenced 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 site for use as a detention storage facility for public drainage purposes, may be required as a condition of approval for the drainage plan. The pond is to be excavated to a depth no lower than 3 feet above the observed water table at that location.

18. 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.

19. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.

During the subsequent two-week protest period following the MAPC meeting, Staff received protests within the 1,000-foot County protest area. These protests equal 52% of the total land area, which is more than the 20% requiring a ¾ majority vote by the Commission to override neighborhood protest.

Alternatives:

1. Approve the Conditional Use, subject to the conditions recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC and authorize the Chairman to sign the prepared resolution (Three-quarters majority vote required to overturn the protest petitions); or
2. Deny the application, 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.

Financial Considerations: None.

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

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

SITE INFORMATION:

TOTAL AREA: 77± ACRES
MAXIMUM POND SIZE: 20 ACRES
POTENTIAL RESIDENTIAL LOTS: 125± LOTS

APPROVED
Cox2008-00039
Date: 10/27/2008

WEST STREET

151ST

PAWNEE

LANE

SHERRY

PROPOSED POND

RESERVE "A"

RESERVE "B"

RESERVE "C"

RESERVE "D"

RESERVE "E"

RESERVE "F"

SCALE: 1" = 200'

SITE PLAN

CON2008-39

BERGKAMP CONSTRUCTION, INC.
SOIL EXTRACTION

Revised

Baughman
ENGINEERING | SURVEYING | PLANNING
LANDSCAPE ARCHITECTURE

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

5. Adjacent to the perimeter of the extraction area, a minimum 48-inch high, five strand barbwire fence shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. The posts shall not be set more than 50 feet apart.

6. 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.

7. 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.

8. 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 above any future water table.

9. 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.

10. 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.

11. 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.

12. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days 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.

13. Hours of operation for extraction shall be limited to 6:00 a.m. to 6:00 p.m.

14. The operation is limited to run during the days of Monday thru Saturday with no extraction to take place on Sundays and on holidays.

15. The Conditional Use for the extraction operation shall be valid for a period of 5 years, with a review by the Board of County Commissioners at that time to determine whether the Conditional Use may be extended for an additional 5 years.

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

17. Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Fire District #1.

18. A drainage plan shall be submitted to and approved by County Public Works prior to starting the extraction operation. All of the area included within the fenced 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 site for use as a detention storage facility for public drainage purposes, may be required as a condition of approval for the drainage plan. The pond is to be excavated to a depth no lower than 3 feet above the observed water table at that location.

19. 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.

20. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.

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

Sincerely,

Derrick K. Slocum
Associate Planner
Current Plans Division

DKS:mc

Copies to: Baughman Company, PA, Attn: Russ Ewy, 315 Ellis, Wichita, KS 67211
Attica Township, Frank Sipos, 1335 S 199Th St W., Goddard, KS 67052
Art & Sharon Krueger, 1960 S 151St West, Goddard, KS 67052
Larry Neff, 2201 Sherry Lane, Wichita, KS 67235
Ron Sippel, 2222 Sherry Lane, Wichita, KS 67235
Vern Conley, 15225 Highview Dr, Goddard, KS 67052

BoCC III Tom Winters, Mail Stop County, Room 320
County Manager, Bill Buchanan, County Room 343
Bob Parnacott, County Law, Mail Stop Room 359
Glen Wiltse County Code Enforcement, 1144 S Seneca, Wichita, KS 67213
Jim Weber County Public Works, 1144 S Seneca, Wichita, KS 67213

RESOLUTION NO 159-8

A RESOLUTION FOR A CONDITIONAL USE FOR MINING/QUARRYING (SOIL EXTRACTION) 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 for Mining/Quarrying (Soil Extraction) on 76.75-acres of property zoned RR Rural Residential ("RR").

Case No. CON 2008-00039

Legally described below:

The West Half of the Southwest ¼ of Section 35, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas; EXCEPT beginning at the Northwest corner of said Southwest ¼; thence east, 255 feet; thence southwesterly along a curve to a point 90 feet south of point of beginning; thence north to point of beginning.

Generally located northeast of the intersection of Pawnee and 151st Street West.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. Dedication of right of way on Pawnee and 151st Street West to bring the application area in conformance with Subdivision Regulations. The instrument of dedication to be submitted to County Public Works prior to commencing operations.

2. Uses 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.

3. The extraction operation on the site shall proceed in accordance with an operational plan to be approved by the Planning Commission. 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.

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detention storage facility for public drainage purposes, may be required as a condition of approval for the drainage plan. The pond is to be excavated to a depth no lower than 3 feet above the observed water table at that location.

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20. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.

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
KELLY PARKS	No
GWEN WELSHIMER	Aye
THOMAS G. WINTERS	Aye

DATED this 15th day of October, 2008

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Thomas G. Winters

Thomas G. Winters, CHAIRMAN
Third District

ATTEST:

Don Brace

DON BRACE
County Clerk

APPROVED AS TO FORM ONLY:

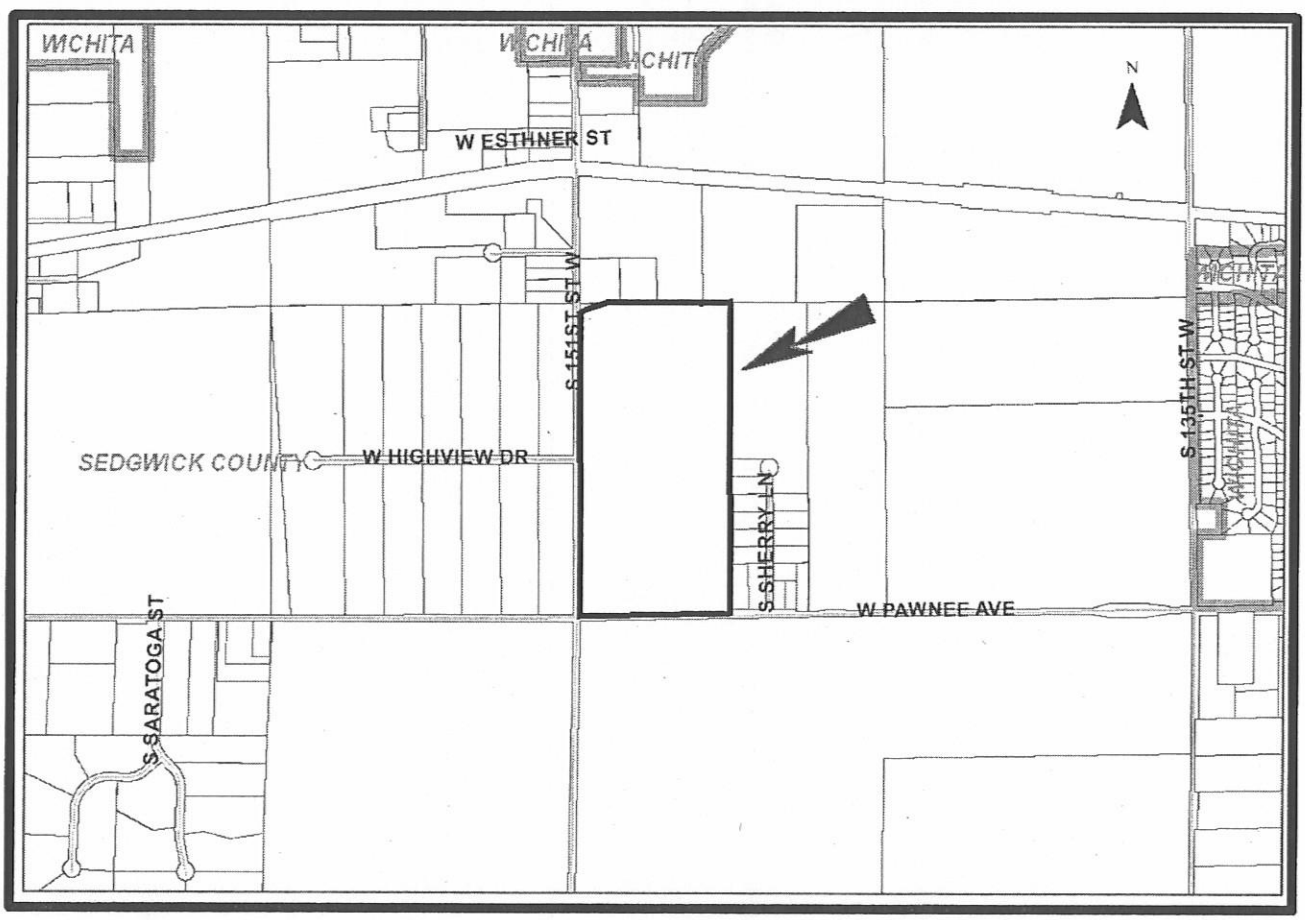
ROBERT W. PARNACOTT
Assistant County Counselor

CLERK OF SEDGWICK COUNTY KANSAS

RECEIVED

AGENDA ITEM REQUEST

Proposed Agenda Item:	CON2008-00039 Sedgwick County Conditional Use for mining/quarrying (soil extraction); generally located northeast of the intersection of Pawnee and 151st Street West. (District 3)
Presented By:	John L. Schlegel, Planning Director JLS
Recommended Action:	Approve the Conditional Use, subject to the conditions recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC and authorize the Chairman to sign the prepared resolution.
Proposed Agenda Date:	October 15, 2008
Outside Attendees:	Baughman Company, P.A. c/o Russ Ewy (Agent)
Multimedia Presentation:	Powerpoint
Donations:	Not applicable



Background: The applicant requests a Conditional Use to allow "Mining and Quarrying" on property zoned RR Rural Residential ("RR") for the excavation of fill material to be used on projects proposed on the west side of the city and county. The excavation on undeveloped property is located at the northeast corner of Pawnee and 151st Street West. The excavation will create a 20-acre pond, excavated to a depth of 12 to 14 feet, located approximately in the middle of the 76.75-acre tract (see the attached site plan). According to GIS, the average depth of the ground water is nearly 30 feet from the surface. The applicant proposes two accesses to the site, one approximately 2,000 feet north of Pawnee and the other being approximately 700 feet east of 151st Street West. Existing access appears to be located on 151st Street West, approximately 1,000 feet north of Pawnee. The site is not currently fenced, but fencing of the excavation area will be a condition of approval.

Some concern in this request is the potential for pollutants, sediment and erosion that could occur and enter the nearby waterways through storm water runoff. Existing and planted vegetation can help to remove pollutants from storm water runoff before entering the waterways. Other concerns that have been voiced are the access and the direction of truck movement, dust and mud, drainage and noise. These issues will be address as conditions of approval for the conditional use.

North of the application area is property zoned RR and is developed as a single-family residence and a farmstead. The property south of the application area is zoned RR and is developed as a farmstead. The property east of the application area is zoned RR and is developed with a single-family residence and a farmstead. Property west of the subject site is zoned RR and is developed with farmsteads.

Analysis: The MAPC considered the Conditional Use request at their September 11, 2008 meeting. There were three citizens that spoke in opposition to the case. Their concerns were in regards to traffic onto Pawnee, groundwater, flooding, noise and air pollution and hours of operation. The MAPC discussed these issues and revised a couple conditions and added one condition to address some concerns that were raised by the citizens and commission. The changes included adding a time limit on the conditional use permit, updating the county departments that are responsible for oversight on certain phases of the operation, amending the hours of operation and the addition of maximum pond depth in relation to the observed water table depth. The commission and applicant did point out to the concerned citizens that a number of conditions recommended by staff address most of the concerns that were brought forward to the planning commission. The MAPC voted (12-0) to recommend approval with the conditions recommended by Staff with the addition of a 10-year time span, separation from water table that the applicant has agreed to work out with staff, amended hours of operation and the modification of language to reflect proper agency names responsible for oversight. The MAPC's recommended conditions of approval are:

1. Dedication of right of way on Pawnee and 151st Street West to bring the application area in conformance with Subdivision Regulations. The instrument of dedication to be submitted to County Public Works prior to commencing operations.

2. Uses 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.