

R#79-1989

Published in The Daily Reporter on March 13, 1989

RESOLUTION NO. 79-1989

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT FOR THE EXTRACTION OF TOPSOIL AND SUBSOIL IN THE "R-1" SUBURBAN RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN 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 GOVERNING BODY 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 17.C of the Zoning Regulations, a conditional use permit for the extraction of topsoil and subsoil on property zoned the "R-1" Suburban Residential District is hereby approved on lands legally described as follows:

CASE NO. CU-319

The east 30 acres of the west half of the Northeast Quarter of Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying north of the Missouri Pacific Railroad right-of-way. Generally located on the south side of 37th St. North in an area approximately 1/4-mile west of Ridge Road.

subject to the following:

- A. This conditional use permit is for the extraction and removal of topsoil and subsoil only, in accordance with the Site Grading Plan dated February 14, 1989.
- B. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard. Once the topsoil and subsoil removal operation has ceased and the land has been properly regraded, all soil excavation and grading equipment shall be removed from the property. Such equipment shall be removed within 30 days after termination of the conditional use permit.
- C. The applicant shall dedicate by separate instrument the required half-street right-of-way for 37th Street North.
- D. The applicant shall submit a drainage/grading plan to the County Bureau of Public Services for approval prior to the publication of the resolution. The drainage/grading plan shall indicate all topographic features and information required by County Engineering, as well as those portions of the application area that are to be dedicated as additional street right-of-way and floodway.
- E. To provide for bank stabilization and safety of future uses, the side slope of the extraction area shall be no more steep than 5 horizontal to 1 vertical.
- F. The applicant shall grant by separate instrument a "Floodway Reserve Agreement" satisfactory in form to the County Bureau of Public Services.
- G. It is encouraged that topsoil and subsoil be removed and stock-piled during the summer months. The area where soil has been removed shall be tilled and planted with acceptable vegetative cover in the fall immediately following the soil removal. Should reasonable germination not occur, then replanting in the spring with some alternate cover material shall be required.

- H. All topsoil and subsoil removal and regrading of the entire application area, in accordance with the approved grading plan, shall be completed by March 31, 1991. This conditional use shall expire on that date, unless an extension is granted by the County Commission after a public hearing is held by the MAPC to review the application for extension.
- I. Prior to scheduling this conditional use request for County Commission consideration, conditions C, D and F shall be completed.
- J. Any violation of these conditions shall declare the conditional use permit null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such conditional use permit 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 Commission.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

PASSED AND ADOPTED by the Board of County Commissioners at Wichita, Kansas, this 1st day of March, 1989.

Paul W. Hancock

Paul W. Hancock, Chairman

Bernard A. Hentzen

Bernard A. Hentzen, Chairman Pro Tem

Mark F. Schroeder

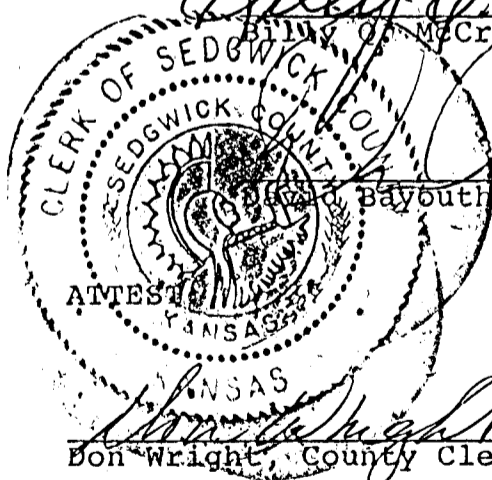
Mark F. Schroeder, Commissioner

Billy O. McCray

Billy O. McCray, Commissioner

James Bayouth

James Bayouth, Commissioner



Don Wright, County Clerk

(S e a l)

APPROVED AS TO FORM:

Henry H. Blase

HENRY H. BLASE, County Counselor

STAFF REPORT

CASE NUMBER: CU-319

OWNER/APPLICANT/AGENT: United American Bank and Trust Co.
(owner/applicant)
Michael Popp (contract purchaser)

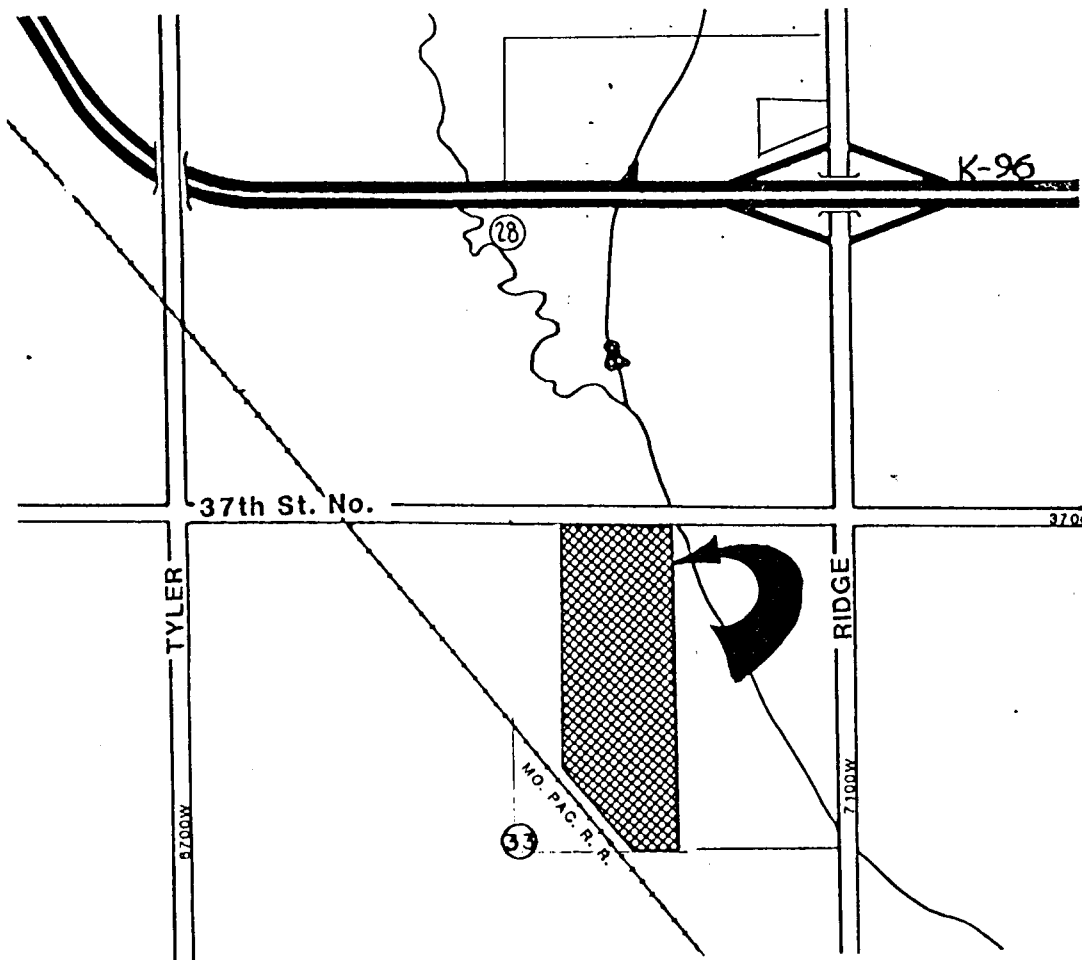
REQUEST: Conditional Use Permit for the extraction of topsoil and subsoil.

CURRENT ZONING: "R-1" Suburban Residential District

SITE SIZE: 30 acres (approx. 530 ft. x 2,600 ft.)

LOCATION: On the south side of 37th Street North in an area approximately ¼-mile west of Ridge Road.

PROPOSED USE: Topsoil and subsoil excavation and removal as a temporary use while the land is being prepared for construction of a private lake and one residence.



BACKGROUND: The applicant is requesting a conditional use permit for the removal of topsoil and subsoil from a 30-acre unplatted tract of land located on the south side of 37th Street North in an area approximately ¼-mile west of Ridge Road. The property is currently zoned "R-1" Suburban Residential and a portion of the site is within a designated floodway. The applicant desires to build a dwelling on the northern portion of the site for his own use and construct a 10- to 11-acre private lake.

The applicant's plan is to trade a contractor approximately the top one foot of topsoil, from the entire 30-acre site, for excavation of a lake and preparation of a suitable building pad for a home site at the northern end of the property. The applicant has advised that removal of the topsoil will likely be completed within 120 days after starting.

The primary area of subsoil removal will be located in the proposed lake area. The applicant has advised that most of the subsoil will be stored on site for later use. Anticipated sand pumping on the property will be used solely for relocating the sand from the lake site to the perimeter berms and other fill areas. An estimated 86,000 cubic yards of sand will be pumped. The applicant has stated that the perimeter berms will be between 5 and 8 feet in height and will be graded to a 1:5 slope. It has been estimated that approximately 108,000 cubic yards of fill material will be required for the perimeter berms and fill areas.

After completion of the lake, the applicant has advised that the depth of the lake will be between 8 to 9 feet. The applicant has stated that the entire project, from removal of topsoil to installation of required ground cover after the lake and final site grading has occurred, will take less than two years.

A wooden bridge on 37th Street North that is located adjacent to the application area and crosses the Big Slough has a posted load carrying capacity of four (4) tons. The applicant is aware that to cross this bridge with heavy equipment and trucks loaded with excavated material would be hazardous. To solve this problem, the applicant has been working with County Engineering toward gaining approval for construction of a temporary crossing just south of the wooden bridge. This temporary crossing is expected to consist of two (2) 36-inch corrugated metal pipes that will be placed in the bottom of the Big Slough. These pipes will then be covered with soil to a depth significant to allow vehicles to cross the drainage area without crushing the pipes. The temporary structure will be removed after the project has been completed.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

| | | |
|-------|-------|---------------------------|
| NORTH | "R-1" | Undeveloped |
| SOUTH | "R-1" | Railroad right-of-way |
| EAST | "R-1" | Sand extraction operation |
| WEST | "R-1" | Undeveloped |

PUBLIC SERVICES: This property is not served with either municipal water or sanitary sewer. Adjacent 37th Street North is an unpaved two-lane section line road for which additional street right-of-way is needed.

CONFORMANCE TO PLANS/POLICIES: The Land Use Element of Sedgwick County's Comprehensive Plan depicts agricultural land use for this general area.

RECOMMENDATION: It is recommended that this application be approved, subject to the following conditions:

- A. This conditional use permit is for the extraction and removal of topsoil and subsoil only, in accordance with the Site Grading Plan dated _____.
- B. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard. Once the topsoil and subsoil removal operation has ceased and the land has been properly regraded, all soil excavation and grading equipment shall be removed from the property. Such equipment shall be removed within 30 days after termination of the conditional use permit.
- C. The applicant shall dedicate, by separate instrument, required half-street right-of-way for 37th Street North.
- D. The applicant shall submit a drainage/grading plan to the County Bureau of Public Services for approval prior to the publication of the resolution. The drainage/grading plan shall indicate all topographic features and information required by County Engineering, as well as those portions of the application area that are to be dedicated as additional street right-of-way and floodway.
- E. To provide for bank stabilization and safety of future uses, the side slope of the extraction area shall be no more steep than 5 horizontal to one vertical.
- F. The applicant shall grant by separate instrument a "Floodway Reserve Agreement" satisfactory in form to the County Bureau of Public Services.

- G. It is encouraged that topsoil and subsoil be removed and stockpiled during the summer months. The area where soil has been removed shall be tilled and planted with acceptable vegetative cover in the fall immediately following the soil removal. Should reasonable germination not occur, then replanting in the spring with some alternate cover material shall be required.
- H. All topsoil and subsoil removal and regrading of the entire application area, in accordance with the approved grading plan, shall be completed by March 31, 1991. This conditional use shall expire on that date unless an extension is granted by the County Commission after a public hearing is held by the MAPC to review the application for extension.
- I. Prior to scheduling this conditional use request for County Commission consideration, conditions C, D and F shall be completed.
- J. Any violation of these conditions shall declare the conditional use permit null and void.