

K#117-1990

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A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT FOR SOIL REMOVAL IN THE "R" RURAL 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 soil removal on property zoned the "R" Rural Residential District is hereby approved on lands legally described below:

Case No. CU-331
Conditional Use Permit for soil removal
operation on property zoned the "R" Rural
Residential District

The Southeast Quarter, Section 17, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the north 400 feet of the east 1,320 feet, and except beginning at the southeast corner of said Section 17; thence west along the south line of said Quarter Section 963 feet; thence north 296 feet; thence east 253 feet; thence north 54 feet; thence east 710 feet more or less to the east line of said Quarter Section; thence south along the east line of said Quarter Section, 350 feet more or less to the point of beginning, and except the south 45 feet and east 25 feet for road right-of-way. Generally located 200 feet north and 1,000 feet west of the northwest corner of Tyler Road and 53rd Street North.

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. This conditional use permit is for the extraction and removal of soil only, in accordance with the Site Grading Plan dated May 7, 1990. If, after the commencement of the soil removal operation, it is determined that a lesser amount of soil will need to be removed from the site than originally proposed, the applicant shall submit to both the Planning Department and the Bureau of Public Services an amended site grading plan for review and approval.
- B. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment yard. Once the soil removal operation has ceased and the land has been properly regraded, all soil excavation and grading equipment shall be removed from the property.
- C. The applicant shall dedicate by separate instrument the half-street rights-of-way required for adjacent Tyler Road and 53rd

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Street North. These right-of-way dedications shall conform to the requirements of Article 7-201(H) of the City/ County Subdivision Regulations.

- ✓ D. Prior to the publication of the resolution which will authorize the soil extraction operation, the applicant shall submit a drainage/grading plan to the County Bureau of Public Services for review and approval. The drainage/grading plan shall indicate all topographic features and information required by County Engineering.
- ✓ E. It is encouraged that soil be removed and stockpiled during the summer months. The areas where soil has been removed shall be graded, tilled and planted with acceptable vegetation 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.
- F. Sufficient topsoil shall be stockpiled on the property to allow for the spreading of a minimum of 6" topsoil over the soil excavation site.
- ✓ G. Topsoil or fill material shall not be stockpiled within 100 feet of the west line of Tyler Road, the north line of 53rd Street North, or any perimeter of the application area which is adjacent to a residential use.
- ✓ H. All access to and from the soil excavation site shall be by way of 53rd Street North. Access to and from the site by way of Tyler Road is prohibited. Prior to the scheduling of this case for County Commission review and consideration, a revised site grading plan shall be submitted which notes that all access to the site will be from 53rd Street North and no access will be from Tyler Road.
- ✓ I. All soil removal and regrading of the entire site, in accordance with the approved grading plan, shall be completed within 2 years after approval of this conditional use permit by the Board of County Commissioners. This conditional use permit shall expire 2 years from the date of County Commission approval, unless an extension is granted by that governing body after a public hearing is held by the MAPC to review the application for extension.
- ✓ J. In order to reduce the amount of blowing dust caused by truck traffic on the site, the soil removal contractor shall be responsible for applying water to the temporary roadways within the perimeter of the application area.
- ✓ K. All earth-moving and associated loading equipment that is stored on site when the earth extraction operation is not in progress shall be parked within a fenced enclosure. Said fence shall have a minimum height of 58 inches and shall include a reasonably wide access gate. The fence and gate shall be of the following types of construction:
 - a. A 48" high or higher chainlink fence with 3 or more strands of barbed wire; or
 - b. A 48" high or higher solid metal or solid masonry fence with 3 or more strands of barbed wire; or
 - c. A 48" high or higher wood fence which may have cracks or openings not in excess of 5% of the area of such fence, with 3 or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4" apart and placed at the top of the fence and gate at an angle not to exceed 160° facing away from the excavation.

- ✓ L. Prior to this case going to the Board of County Commissioners, the applicant shall have the depth of the groundwater table on this site determined. This determination shall be in accordance with the established procedures of the Health Department. This information, along with the proposed final grading plan, shall be submitted to the County Health Department for review as to any adverse impact to public health.
- M. Prior to scheduling this conditional use request for County Commission consideration, condition "C" (above) shall be completed.
- ✓ N. Any violation of these conditions shall declare the conditional use permit null and void.
- O. Prior to publication of this resolution, the applicant shall file a covenant which is acceptable to the County Counselor and the Sedgwick County Health Department that requires Health Department approval for future storage of potentially hazardous waste and/or materials on this site.

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 Department.

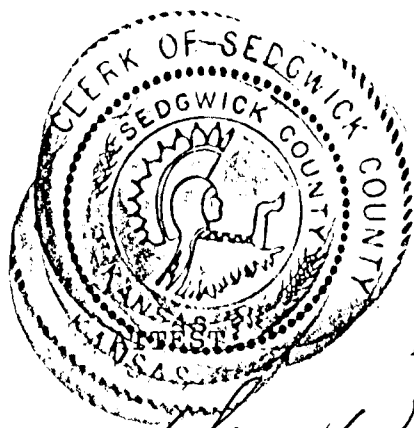
SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

Commissioners present and voting were:

DAVID BAYOUTH
PAUL W. HANCOCK
BERNARD A. HENTZEN
BILLY Q. McCRAY
MARK F. SCHROEDER

Aye
Aye
Aye
Aye
Aye

DATED this 23d day of May, 1990.



Don Wright
DON WRIGHT, County Clerk

APPROVED AS TO FORM ONLY:

Henry H. Bane
County Counselor/Assistant

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Mark F. Schroeder
MARK F. SCHROEDER, Chairman

David Bayouth
DAVID BAYOUTH, Chairman Pro Tem

Paul W. Hancock
PAUL W. HANCOCK, Commissioner

Bernard A. Hentzen
BERNARD A. HENTZEN, Commissioner

Billy Q. McCray
BILLY Q. McCRAY, Commissioner

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 6
MPC April 10, 1990
MAPC April 26, 1990

STAFF REPORT

CASE NUMBER: CU-331

OWNER/APPLICANT/AGENT: Gail Woodard (owner/applicant)
H.T. Ritchie for Ritchie Corporation
(contract purchaser)
Gary Wiley for P.E.C., P.A. (agent)

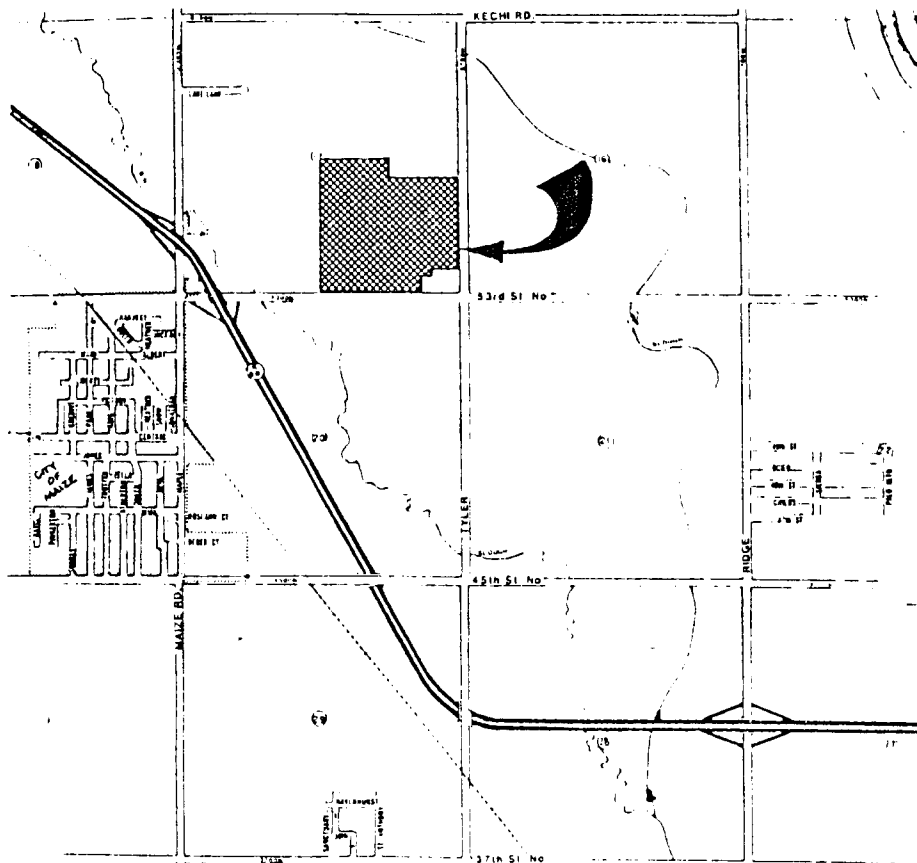
REQUEST: Conditional Use Permit for soil removal
operation

CURRENT ZONING: "R" Rural Residential

SITE SIZE: 142.5 acres (irregular shape)

LOCATION: On the north side of 53rd St. N. in an area
west of Tyler Road.

PROPOSED USE: Removal of select fill material needed for
construction of K-96 Freeway.



BACKGROUND: The applicant is requesting a conditional use permit for a soil removal operation on an unplatted tract of property located on the north side of 53rd Street North in an area west of Tyler Road. The application area is undeveloped, measures approximately 142.5 acres and has 1,962 and 1,689 feet of frontage to Tyler Road and 53rd Street North, respectively.

The purpose of this conditional use permit is to permit the removal from the site of approximately 650,000 cubic yards of select fill material for use during the grading phases for the new K-96 Freeway in eastern Wichita and Sedgwick County. The applicant's agent has advised that approximately 250,000 cubic yards of material will be needed for both the Wichita and Sedgwick County phases and 150,000 cubic yards of fill will be required for the proposed K-96 and I-135 connection. It is estimated that the requested soil removal operation will be needed for 2 years and will involve removal of 4 to 5 feet of soil from the application area. Depending on the quality of soil uncovered, the applicant's agent has advised that excavation of the entire application area may not be necessary. In this case, the applicant would like to have the ability to amend the final grading plan to depict the removal of less material.

A part of the applicant's planned soil removal operation involves the stockpiling of sufficient topsoil on the property to cover the excavated area with approximately 4 inches of topsoil. The respreading of topsoil will be accomplished as part of the final regrading of the site to match the finish grade contours depicted on the site plan for this conditional use permit. A copy of this site plan is attached to this staff report. After regrading of the site has been completed, the planned reuse of this property will be for agricultural purposes.

This conditional use permit application was reviewed by the Maize Planning Commission on April 10, 1990. At that public hearing, the Maize Planning Commissioners chose to recommend three additional conditions of approval. The additional conditions are J, K and L of this staff report.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH	"R"	Undeveloped (agricultural use)
SOUTH	"R"	Two single-family residences
EAST	"R"	Undeveloped (agricultural use)
WEST	"R"	Undeveloped (agricultural use)

PUBLIC SERVICES: This unplatted tract of property is not served with either municipal water or sanitary sewer. Adjacent Tyler Road is a two-lane unpaved arterial street. Only 25 feet of half-street right-of-way exists for Tyler Road, whereas a minimum of 50 feet is required. Adjacent 53rd Street North is a two-lane, paved FAS Road. Only 45 feet of half-street right-of-way exists for 53rd Street, whereas 60 feet is required.

CONFORMANCE TO PLANS/POLICIES: The Land Use Element of Sedgwick County's Comprehensive Plan depicts this property for agricultural uses. Section 4(A)(9)(f) of the County Zoning Resolution provides for extraction of raw materials in the "R" zoning district, provided the Metropolitan Area Planning Commission reviews the request and the Board of County Commissioners approves the use by issuing a conditional use permit. The application area lies within the zoning area of influence for the City of Maize.

RECOMMENDATION: It is recommended that this conditional use permit request be approved, subject to the following conditions:

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- B. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment yard. Once the soil removal operation has ceased and the land has been properly regraded, all soil excavation and grading equipment shall be removed from the property.
- C. The applicant shall dedicate by separate instrument the half-street rights-of-way required for adjacent Tyler Road and 53rd Street North. These right-of-way dedications shall conform to the requirements of Article 7-201(H) of the City/County Subdivision Regulations.
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