

R# 137-1994

Published in The Daily Reporter on Nov 2, 1994

RESOLUTION NO.

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW SAND EXTRACTION FOR A 2-ACRE PRIVATE POND ON PROPERTY ZONED "R-1" SUBURBAN RESIDENTIAL 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 to allow sand extraction for a 2-acre private pond on property zoned "R-1" Suburban Residential District, legally described below:

Case No. CU-375

Conditional use permit request to allow sand extraction for a 2-acre private pond on property zoned "R-1" Suburban Residential.

At the south 1/2 of the east 323.5 feet of the southeast 1/4, southwest 1/4 Section 22, Twp. 26 S., R. 1 W, Sedgwick County, Kansas. Generally located 1/2 mile east of Ridge Road on the north side of 45th Street North.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. Prior to the publication of the resolution effectuating the conditional use, the applicant shall dedicate by separate instrument 20 feet of right-of-way along 45th Street North.
2. Prior to the publication of the resolution effectuating the conditional use, all applicable state and federal permits shall be acquired for wetlands preservation.

3. Prior to the publication of the resolution effectuating the conditional use, the applicant shall submit and obtain approval of a drainage/grading plan from the County Bureau of Public Services. The drainage/grading plan shall indicate all topographic features and information required by County Engineering.
4. The earth in the proposed lake area shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
5. As indicated on the sketch plan, site excavation shall occur no closer than 55 feet to the east or west property lines, and no closer than 85 feet from the north property line.
6. The approval of the Conditional Use is for a period not to exceed five (5) years from the date of approval by the Board of County Commissioners and subject operation is to cease after that period of time with all equipment and materials associated with the operation removed from the premises.
7. Violation of any of the conditions of approval shall render 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 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.

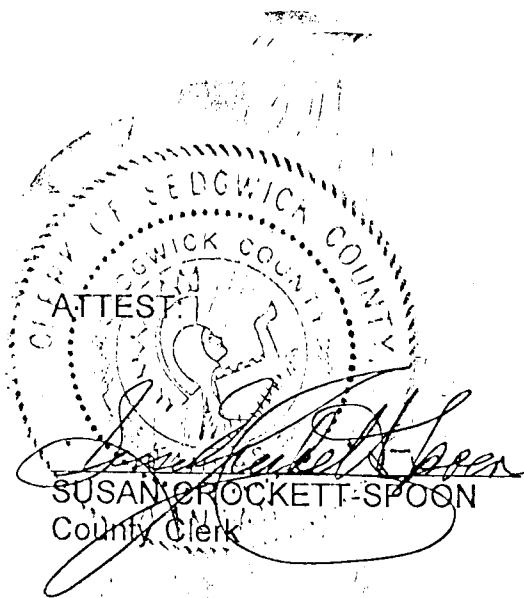
Commissioners present and voting were:

PAUL W. HANCOCK
THOMAS G. WINTERS
ANDREW L. BIAS
MARK F. SCHROEDER
BETSY GWIN

Aye
Aye
Aye
Aye
Aye

DATED this 24th day of August, 1994.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS



SUSAN CROCKETT-SPOON
County Clerk

APPROVED AS TO FORM ONLY:

David Kason
County Counselor/Assistant

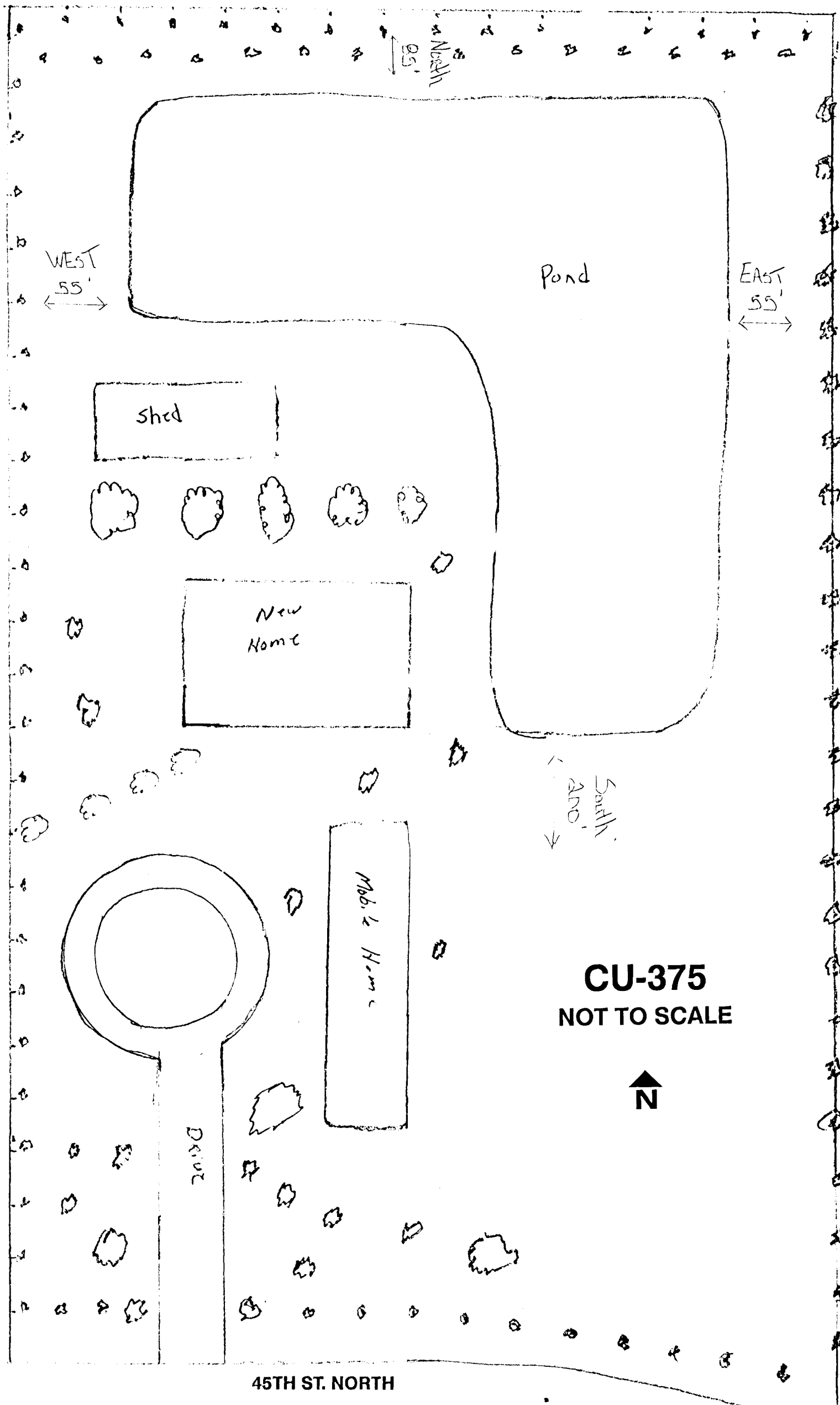
Betsy Gwin
BETSY GWIN, Chair 8-24-94

Andrew L. Bias
ANDREW L. BIAS, Chairman Pro Tem

Paul W. Hancock
PAUL W. HANCOCK, Commissioner

Thomas G. Winters
THOMAS G. WINTERS, Commissioner

Mark F. Schroeder
MARK F. SCHROEDER, Commissioner



STAFF REPORT

JULY 28, 1994

CASE NUMBER: CU-375

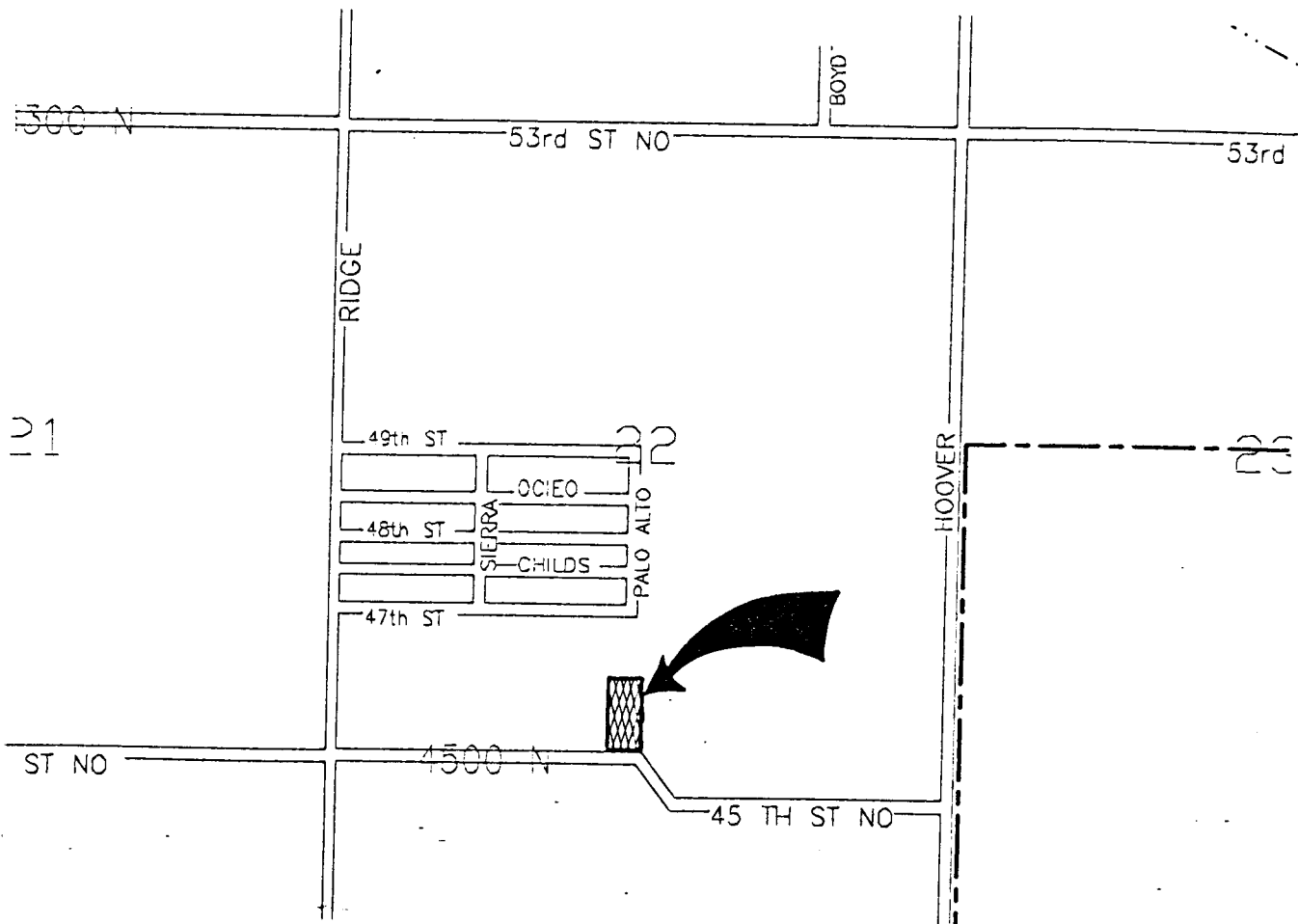
APPLICANT/AGENT: Larry E. Sprugeon

REQUEST: Conditional Use permit to allow sand extraction for a 2-acre private pond.

CURRENT ZONING: "R-1" Suburban Residential

SITE SIZE: 6 acres

LOCATION: ½ mile east of Ridge Road on the north side of 45th Street North



BACKGROUND: The applicant requests a Conditional Use permit to allow sand extraction for a 2-acre private pond on a 6-acre unplatted parcel generally located ½ mile east of Ridge Road on the north side of 45th Street North. A mobile home, shed, and a small pond currently occupy the site. The applicant proposes to expand the existing pond with his own equipment on a part time basis over a period of 5 years; using a majority of the extracted material on-site for landscaping purposes, with the remaining portion of the extracted material to be sold from the site. Therefore, because of the sale of extracted material, a Conditional Use permit is necessary under the County Zoning Resolution.

The subject property is located in an area identified by the Wichita-Sedgwick County Comprehensive Plan for suburban residential uses. The general vicinity is characterized by a mixture of agricultural uses and suburban single family homes. An undeveloped parcel of land is located directly to the west of the site, with a single family home located further to the west along the north side of 45th Street North. A single family housing subdivision is located less than ¼ mile to the north.

According to the Hydrogeologic Map of Sedgwick County and the Environmental Constraints map of the Comprehensive Plan (Fig.3, pg. 14), the application area is characterized by shallow ground water at depths of 6 feet or less below the surface.

The most recent information pertaining to wetlands from the Sedgwick County Soil Conservation District and the Soil Survey of Sedgwick County indicates that the site includes Carwile fine sandy loam soil, which is commonly associated with wetlands. Therefore, prior to extracting material from this site, the applicant would need to meet with the Corps and acquire all necessary permits for the protection and management of any wetland or riparian areas located within the application area.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH:	"R-1" Single Family home / agricultural uses
SOUTH:	"R-1" Agricultural uses
EAST:	"R-1" Agricultural uses
WEST:	"R-1" Single Family home / agricultural uses

PUBLIC SERVICES: Municipal water and sewer services are not necessary to serve the proposed use. The site has access to 45th Street North, a 2-lane paved section line arterial with 30 feet of existing half-street right-of-way. The standard half-street right-of-way for section line arterials is 50 feet.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Development Guide of the Comprehensive Plan identifies this area for suburban residential uses. The suburban category provides for large-lot residential living areas where the full range of municipal services including public water and sewer systems is not available or planned.

RECOMMENDATION: Planning staff recommends that the request be APPROVED, subject to the following conditions:

1. Prior to this item being scheduled before the Board of County Commissioners, the applicant shall dedicate by separate instrument 20 feet of right-of-way along 45th Street North.
2. Prior to the publication of the resolution effectuating the conditional use, all applicable state and federal permits shall be acquired for wetlands preservation.
3. Prior to the publication of the resolution effectuating the conditional use, the applicant shall submit and obtain approval of a drainage/grading plan from the County Bureau of Public Services. The drainage/grading plan shall indicate all topographic features and information required by County Engineering.
4. The earth in the proposed lake area shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
5. As indicated on the sketch plan, site excavation shall occur no closer than 55 feet to the east or west property lines, and no closer than 85 feet from the north property line.
6. The approval of the Conditional Use is for a period not to exceed five (5) years from the date of approval by the Board of County Commissioners and subject operation is to cease after that period of time with all equipment and materials associated with the operation removed from the premises.
7. Violation of any of the conditions of approval shall render the conditional use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The general vicinity is characterized by a mixture of agricultural uses and suburban single family homes. A single family home is located directly to the west and a single family housing

subdivision is located less than ¼ mile to the north. The proposed use would be compatible with the surrounding area.

2. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use would be required to receive approval by the Health Department to ensure groundwater quality, as well as approval by the County Bureau of Public Services to ensure drainage from the property will not adversely impact surrounding properties.

3. Conformance of the requested change to adopted or recognized Plans/Policies: The Comprehensive Plan identifies the area for suburban residential uses. While the Plan does not specifically address private ponds, the proposed extraction for a private pond would be consistent with activities and land uses permitted in agricultural and suburban residential areas.

4. Impact of the proposed development on community facilities: Municipal water and sewer services are not necessary for the proposed use. The proposed extraction of sand material will be limited and should have a minimal impact upon area roadways.