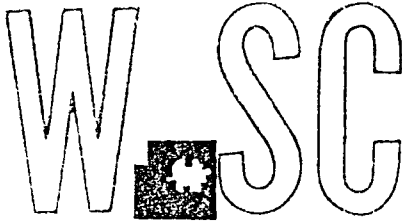


WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

October 20, 1998

DenMarkLand L.L.C.
Attention: Dennis Downes
8218 W. 19th Street
Wichita, KS 67212

RE: Administrative Adjustment, CU-484: Administrative Adjustment to allow removal of top soil and overburden prior to installation of the fence in order to build a landscape berm along Tyler Road (see attached site plan).

Legal Description: The north half of the southwest Quarter of Section 16, Township 26 south, Range 1, Sedgwick County, Kansas.

Dear Mr. Downes:

We received and reviewed your request for an administrative adjustment to CU-484 to allow removal of top soil and overburden prior to installation of the fence in order to build a landscape berm along Tyler Road. A revised site plan has been approved by Sedgwick County Public Works

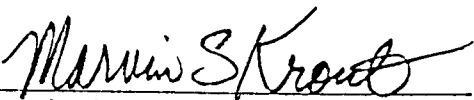
On the basis of our review, we feel that adjusting the Conditional Use in the manner you request is minor in nature, will not have any appreciable impact on traffic, or have any adverse effect on the CU or on other parcels in adjacent properties. To remind you, the Conditional Use requires any exposed areas be dredged or revegetated within 6 months of removal of overburden.

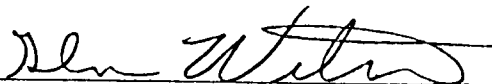
Our signatures below indicates that an administrative adjustment has been granted to allow removal of top soil and overburden prior to installation of the fence in order to build a landscape berm along Tyler Road of the approved Operational Plan for CU-484, that will be done according to the revised plan, stamp dated as received by the Planning Department on October 19, 1998.



Made with Recycled Paper

We will make a notation of this adjustment on our file copies of the C.U.P. drawing for future reference. The zoning notification signs may now be removed from the property.


Marvin S. Krout
Director of Planning


Glen Wiltse
Director of Code Enforcement

cc: Glen Wiltse, Code Enforcement
George Bloesing Code Enforcement

CONDITIONAL USE RESOLUTION NO. CU-484

WHEREAS, Susan G. Wilhite, pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested a Conditional Use to allow sand and gravel extraction on 76 ± acres zoned "RR" Rural Residential described as:

The North ½ of the SW 1/4 of Section 16, Township 26, Range 1 West, Sedgwick County, Kansas. Generally located 1/4 mile north of 53rd Street North on the east side of Tyler Road.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of July 16, 1998, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to permit a conditional use to allow sand and gravel extraction on 76 ± acres zoned "RR" Rural Residential described as:

The North ½ of the SW 1/4 of Section 16, Township 26, Range 1 West, Sedgwick County, Kansas. Generally located 1/4 mile north of 53rd Street North on the east side of Tyler Road.

subject to the following conditions:

- A. The extraction of sand on this site shall proceed in accordance with the operational plan approved by the MAPC. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan.
- B. No stockpiling of sand or storage of equipment shall occur within a 100 feet of any public right-of-way or within 50 feet of all remaining property lines.
- C. The earth shall be extracted to at least a minimum depth of six feet below the groundwater table as determined by the City-County Health Department.
- D. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five feet horizontal to one foot vertical.
- E. Nothing in the approval of this request shall be construed to permit a

contractor's material and equipment storage yard. Within 60 days after completion of the sand extraction operation, the land surrounding the lake shall be properly graded and planted with a vegetative cover. Also, all stockpiled sand, sand pumping and related equipment shall be removed from the project site.

- F. The applicant shall submit a restrictive covenant which provides that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the site or in the extraction area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to County Counselor and Sedgwick County Department of Public Services prior to the commencement of any sand extraction operations.
- G. The applicant shall be responsible for maintaining all operational roads to 53rd Street North in a sand or graveled condition and shall apply water or other acceptable dust retardant to as to minimize blowing dust.
- H. All of the area included within the fenced sand extraction operation shall be graded in accordance with a plan submitted to, and approved by, the Sedgwick County Bureau of Public Services.
- I. Adjacent to the perimeter of the application Area, a minimum 60-inch high fence shall be constructed prior to the beginning of the excavation operation (topsoil, subsoil, and or sand) and shall be maintained at the locations depicted on the operational plan. Said fence shall be placed on steel posts which are not less than 7 feet tall. The posts shall not be set more than 16 feet apart. The fence shall be of the following types of construction:
 - 1. A 48-inch high or higher chain link fence with 3 or more strands of barber wire; or
 - 2. A 48-inch high or higher solid metal or solid masonry fence with 3 or more strands or barber wire; or
 - 3. A 48-inch high or higher wood fence which may have cracks or opening not is excess of 5% of the area or 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 inches apart and placed at the top of the fence and gate at an angle not to exceed 160 degrees facing away from the excavation.

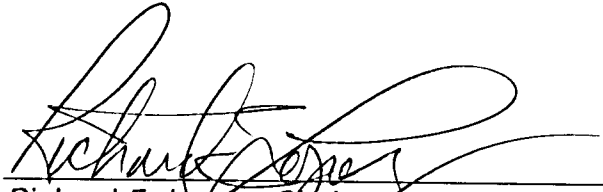
- J. No commercial recreational activities, such as boating, fishing, skiing, etc. shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- K. All slopes shall have vegetative covering consisting of a perennial drought

resistant grass or a combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.

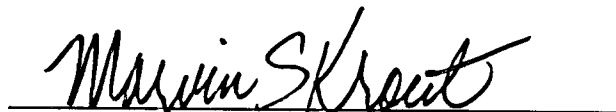
- L. The approval of the conditional use is for a period not to exceed five years, with that period beginning after permits from all applicable state agencies are issued and subject operation is to cease after that date, with all equipment and materials associated with the operation removed from the premises.
- M. In order to assist in the enforcement of the operational plan for this conditional use case, the applicant shall have a copy of the approved operational plan posted in the sand extraction office.
- N. 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.
- O. To minimize blowing soil in this area, overburden shall not be removed more than 6 months in advance of the lake being expanded into an area, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of grasses which will permit the establishment of sod cover to help prevent erosion. The applicant may not proceed from the north leg to the south until County Code Enforcement has certified compliance with all conditions.
- P. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- Q. Any water wells needed to operate the facility must comply with the Water Well Construction Standards contained in Article 30 of the Kansas Department of Health and Environment rules and regulations.
- R. The applicant shall make the site available to the Wichita-Sedgwick County Health Department for the installation and management of groundwater monitoring wells.
- S. Any on-site storage of fuels or chemical must be approved by the Wichita Sedgwick County Health Department.
- T. No pumping of sand or gravel shall occur between the hours of 7:00 p.m. and 6:00 a.m.
- U. All on-site water and sewage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- V. Drainage plan needs to be submitted and approved by the Bureau of Public Services prior to starting the sand and gravel extraction.

Adopted this 16th day of July, 1998. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION


Richard E. Lopez, Chairman

ATTEST:


Marvin S. Krout, Secretary

RESOLUTION NO. 135 - 1998

A RESOLUTION CHANGING THE ZONING CLASSIFICATION FOR 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-C AS ADOPTED BY RESOLUTION NO. 57-1997.

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 V-C of the Wichita Sedgwick County unified Zoning Code, the zoning classification or district of the lands legally described hereby are changed as follows:

Case No. CU-484

Conditional Use Permit to allow sand and gravel extraction on property generally located 1/4 mile north of 53rd Street North, on the east side of Tyler. Described as:

The North ½ of the SW 1/4 of Section 16, Township 26, Range 1 West, Sedgwick County, Kansas.

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. The extraction of sand on this site shall proceed in accordance with the operational plan approved by the MAPC. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan.
- B. No stockpiling of sand or storage of equipment shall occur within a 100 feet of any public right-of-way or within 50 feet of all remaining property lines.
- C. The earth shall be extracted to at least a minimum depth of six feet below the groundwater table as determined by the City-County Health Department.
- D. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five feet horizontal to one foot vertical.
- E. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the sand extraction operation, the land surrounding the lake shall be properly graded and planted with a vegetative cover. Also, all stockpiled sand, sand pumping and

related equipment shall be removed from the project site.

- F. The applicant shall submit a restrictive covenant which provides that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the site or in the extraction area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to County Counselor and Sedgwick County Department of Public Services prior to the commencement of any sand extraction operations.
- G. The applicant shall be responsible for maintaining all operational roads to 53rd Street North, including Tyler Road, in a sand or graveled condition and shall apply water or other acceptable dust retardant to as to minimize blowing dust.
- H. All of the area included within the fenced sand extraction operation shall be graded in accordance with a plan submitted to, and approved by, the Sedgwick County Bureau of Public Services.
- I. Adjacent to the perimeter of the application Area, a minimum 60-inch high fence shall be constructed prior to the beginning of the excavation operation (topsoil, subsoil, and or sand) and shall be maintained at the locations depicted on the operational plan. Said fence shall be placed on steel posts which are not less than 7 feet tall. The posts shall not be set more than 16 feet apart. The fence shall be of the following types of construction:
1. A 48-inch high or higher chain link fence with 3 or more strands of barbed wire; or
 2. A 48-inch high or higher solid metal or solid masonry fence with 3 or more strands or barbed wire; or
 3. A 48-inch high or higher wood fence which may have cracks or opening not in excess of 5% of the area or 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 inches apart and placed at the top of the fence and gate at an angle not to exceed 160 degrees facing away from the excavation.
- J. No commercial recreational activities, such as boating, fishing, skiing, etc. shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- K. All slopes shall have vegetative covering consisting of a perennial drought resistant grass or a combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- L. The approval of the conditional use is for a period not to exceed five years, with that period beginning after permits from all applicable state agencies are issued and subject operation is to cease after that date, with all equipment and

*Item F
Restrictive covenant
has been sent to
County Counselor and
Sedgwick County Dept.
of Public Services
10-7-88*

materials associated with the operation removed from the premises.

- M. In order to assist in the enforcement of the operational plan for this conditional use case, the applicant shall have a copy of the approved operational plan posted in the sand extraction office.
- N. 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.
- O. To minimize blowing soil in this area, overburden shall not be removed more than 6 months in advance of the lake being expanded into an area, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of grasses which will permit the establishment of sod cover to help prevent erosion. The applicant may not proceed from the north leg to the south until County Code Enforcement has certified compliance with all conditions.
- P. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- Q. Any water wells needed to operate the facility must comply with the Water Well Construction Standards contained in Article 30 of the Kansas Department of Health and Environment rules and regulations.
- R. The applicant shall make the site available to the Wichita-Sedgwick County Health Department for the installation and management of groundwater monitoring wells.
- S. Any on-site storage of fuels or chemical must be approved by the Wichita Sedgwick County Health Department.
- T. No pumping of sand or gravel shall occur between the hours of 7:00 p.m. and 6:00 a.m.
- U. All on-site water and sewage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- V. Drainage plan needs to be submitted and approved by the Bureau of Public Services prior to starting the sand and gravel extraction.

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.

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 J voting were:

BETSY GWIN	<u>aye</u>
PAUL W. HANCOCK	<u>absent</u>
THOMAS G. WINTERS	<u>aye</u>
MELODY C. MILLER	<u>aye</u>
MARK F. SCHROEDER	<u>aye</u>

DATED this 19th day of August, 1998.



BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

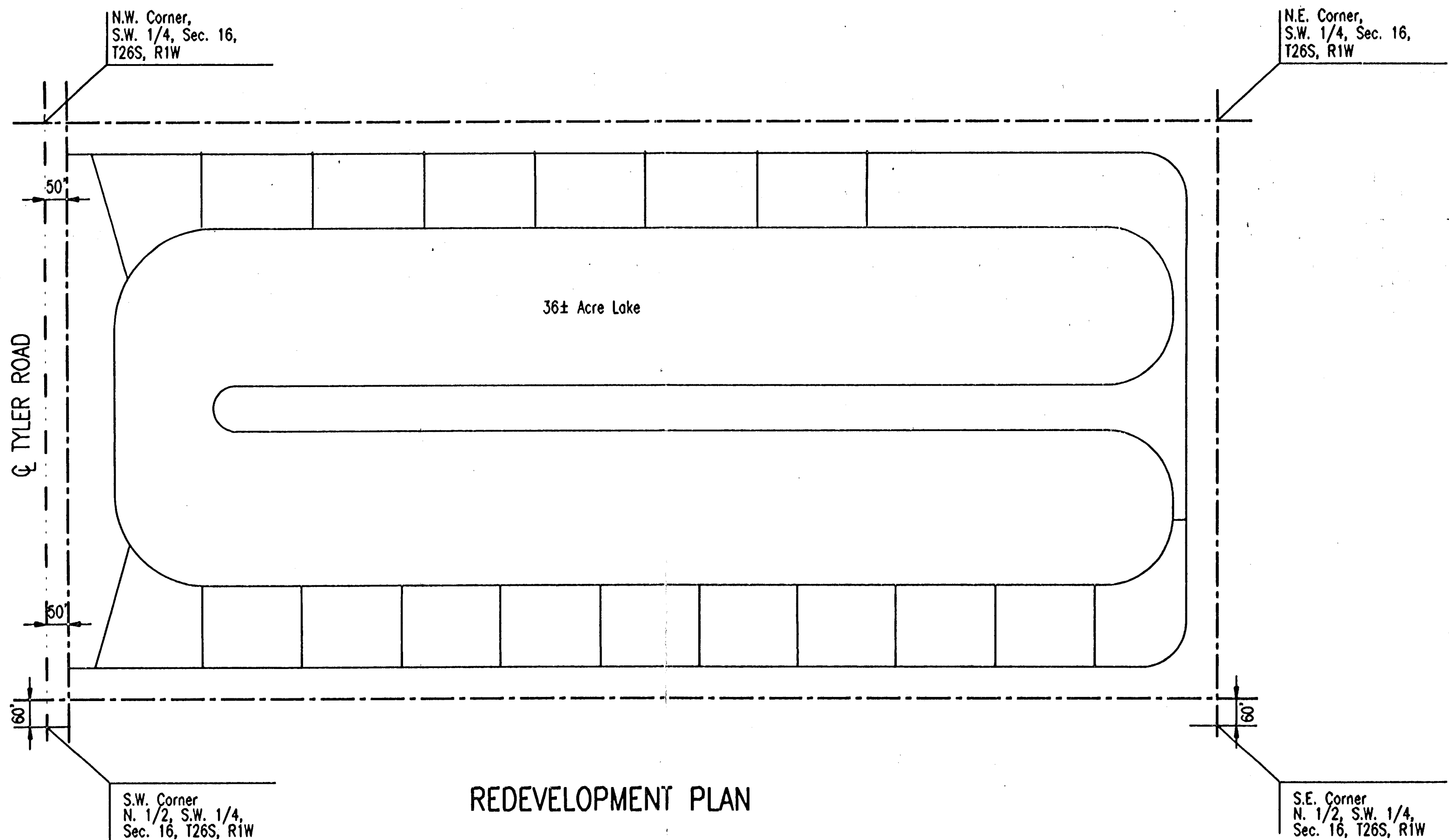
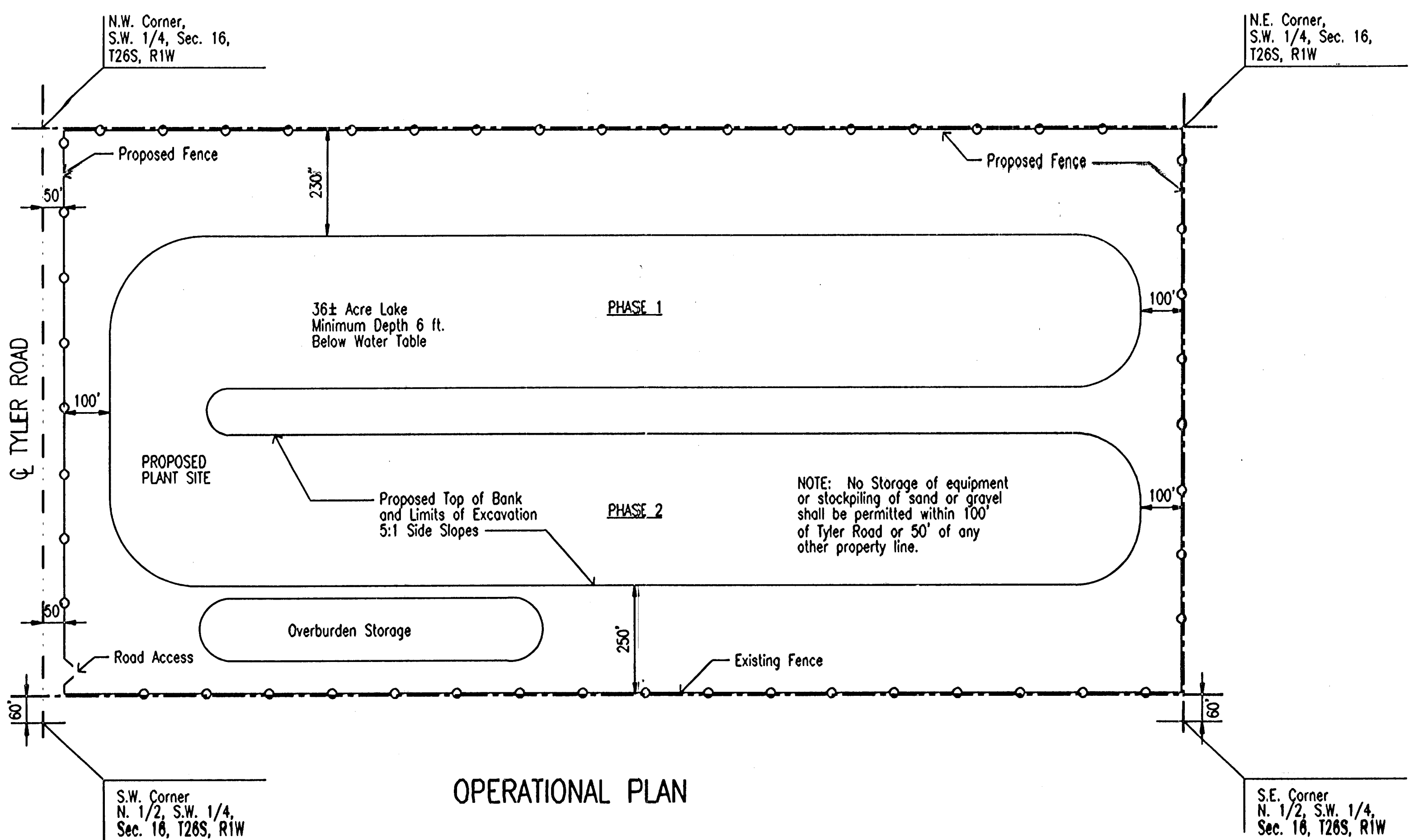
Mark F. Schroeder
MARK F. SCHROEDER, Chairman

ATTEST:

James Alford
JAMES ALFORD
County Clerk

APPROVED AS TO FORM ONLY:

Quinn Kanon
County Counselor



STAFF REPORT

Maize PC -July 09, 1998

MAPC - July 16, 1998

CASE NUMBER: CU-484

APPLICANT/AGENT: Susan G. Wilhite (applicant/owner); Dennis Downes (Contract Purchaser); Gary Wiley, PEC, PA (Agent)

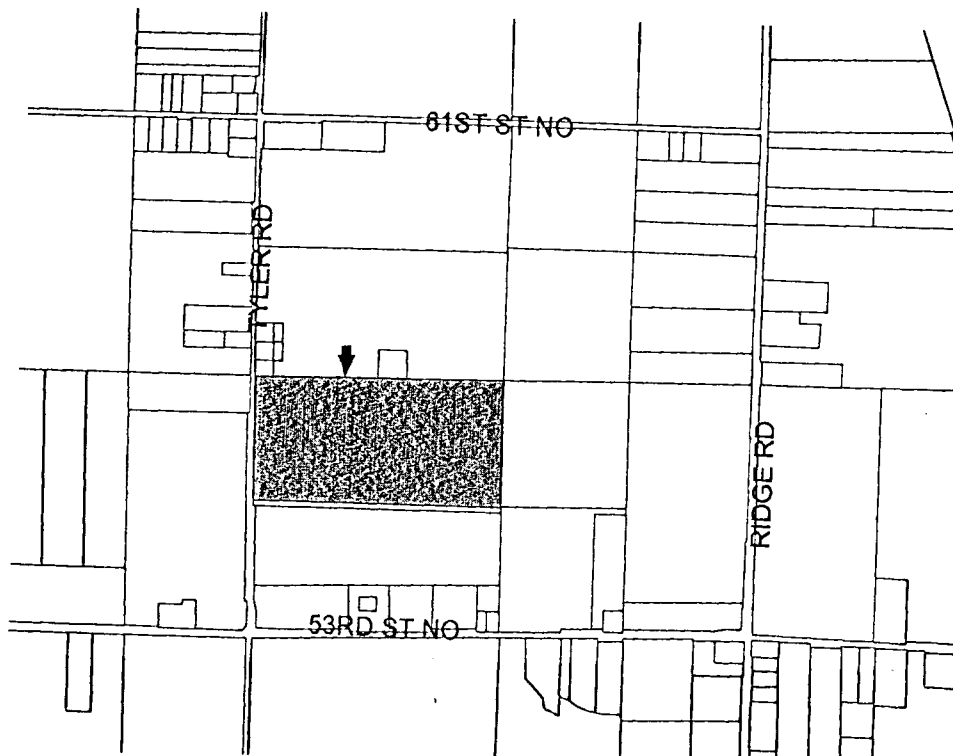
REQUEST: Conditional Use to allow sand and gravel extraction.

CURRENT ZONING: "RR"

SITE SIZE: 76 plus acres

LOCATION: ¼ mile north of 53rd Street North, on the east side of Tyler Road.

PROPOSED USE: Construct a sand and gravel operation to create lakes for future residential development.



BACKGROUND: The applicant is requesting a Conditional Use permit for sand and gravel extraction on a 76 acre unplatted tract generally located ¼ mile north of 53rd Street North, on the east side of Tyler Road. The application area is currently zoned "RR" Rural Residential and currently farmed. The applicant has indicated that 5 years will be required to complete excavation of materials from the site. The applicant's site plan depicts a U-shaped excavation with the open end to the east with a 100 foot area in the middle for a common area. Excavation would be set back 230 feet from the north and 250 feet from the south boundaries. The east and west setback are shown to be 100 feet. The northern leg of the U-shaped excavation would be excavated first, followed by the south leg. Access to the site from Tyler is to be located on the southwest corner. The applicant anticipates 50 to 100 trips per day.

A redevelopment plan was submitted depicting a ring road with 1 acre lots backing up to the lake. The Health Department can approve 1 acre lot sites with septic systems if conditions merit it.

The area surrounding the subject site is a mix of agricultural and large-lot uses. A mobile home exists at the northeast corner of 53rd Street North and Tyler Road, approximately a quarter-mile south of the application area. Other large-lot homes exist along the north side of 53rd Street, separated from the application by Central Sand's operations. Central Sand is a sand contractor located immediately south of the application area, operating under CU-357. The closest home to the south is approximately 800 feet away. All surrounding property is currently zoned "RR" Rural Residential. Property to the north includes a farmstead and agricultural ground as well as large-lot residences. A conditional use permit (CU-331) for soil removal was issued for property immediately west of the application area; however, this permit has expired. A farmstead and agricultural land is located to the east. The closest of the homes to the application area is approximately 200 feet north. However, a hedge row of trees exists between the home and that portion of the application area closest to the home.

The application area is located within the Equus Beds Groundwater Management District #2. The Management District has been notified of this conditional use.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Farmstead, Agricultural
SOUTH:	"RR"	Sand Pit, 5 houses on 53rd St. N.
EAST:	"RR"	Farmstead, Agricultural
WEST:	"RR"	Agricultural

PUBLIC SERVICES: Municipal services are not available to serve this site and are not

anticipated for extension by either the City of Wichita or the City of Maize. The site has access to Tyler Road, a 2-lane unimproved with a 50 feet of existing half street right-of-way.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan depict this area for agricultural uses. In addition, the proposed plan indicates that industrial uses should only be located in rural areas when dependent upon a natural resource, agriculturally oriented or as a logical expansion of an existing industrial area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. The extraction of sand on this site shall proceed in accordance with the operational plan approved by the MAPC. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan.
- B. No stockpiling of sand or storage of equipment shall occur within a 100 feet of any public right-of-way or within 50 feet of all remaining property lines.
- C. The earth shall be extracted to at least a minimum depth of six feet below the groundwater table as determined by the City-County Health Department.
- D. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five feet horizontal to one foot vertical.
- E. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the sand extraction operation, the land surrounding the lake shall be properly graded and planted with a vegetative cover. Also, all stockpiled sand, sand pumping and related equipment shall be removed from the project site.
- F. The applicant shall submit a restrictive covenant which provides that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the site or in the extraction area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to County Counselor and Sedgwick County Department of Public Services prior to the commencement of any sand extraction operations.
- G. The applicant shall be responsible for maintaining all operational roads in a sand or graveled condition and shall apply water or other acceptable dust retardant to as to minimize blowing dust.

- H. All of the area included within the fenced sand extraction operation shall be graded in accordance with a plan submitted to, and approved by, the Sedgwick County Bureau of Public Services.
- I. Adjacent to the perimeter of the application Area, a minimum 60-inch high fence shall be constructed prior to the beginning of the excavation operation (topsoil, subsoil, and or sand) and shall be maintained at the locations depicted on the operational plan. Said fence shall be placed on steel posts which are not less than 7 feet tall. The posts shall not be set more than 16 feet apart. The fence shall be of the following types of construction:
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 3. A 48-inch high or higher wood fence which may have cracks or opening not in excess of 5% of the area or 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 inches apart and placed at the top of the fence and gate at an angle not to exceed 160 degrees facing away from the excavation.

- J. No commercial recreational activities, such as boating, fishing, skiing, etc. shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- K. All slopes shall have vegetative covering consisting of a perennial drought resistant grass or a combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- L. The approval of the conditional use is for a period not to exceed five years, after approval by the MAPC or the Board of County Commissioners, and subject operation is to cease after that date, with all equipment and materials associated with the operation removed from the premises.
- M. In order to assist in the enforcement of the operational plan for this conditional use case, the applicant shall have a copy of the approved operational plan posted in the sand extraction office.
- N. 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.

- O. To minimize blowing soil in this area, overburden shall not be removed more than one year in advance of the lake being expanded into an area, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of grasses which will permit the establishment of sod cover to help prevent erosion. The applicant may not proceed from the north leg to the south until County Code Enforcement has certified compliance with all conditions.
- P. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- Q. Any water wells needed to operate the facility must comply with the Water Well Construction Standards contained in Article 30 of the Kansas Department of Health and Environment rules and regulations.
- R. The applicant shall make the site available to the Wichita-Sedgwick County Health Department for the installation and management of groundwater monitoring wells.
- S. Any on-site storage of fuels or chemical must be approved by the Wichita Sedgwick County Health Department.
- T. No pumping of sand or gravel shall occur between the hours of 7:00 p.m. and 6:00 a.m.
- U. All requirements of Equus Beds Management must be met.
- V. All on-site water and sewage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The site is zoned "RR" Rural Residential district. The general vicinity is characterized by a mixture of agricultural uses and single-family homes on property zoned "RR" Rural Residential. There is a sand extraction site just south of the subject property.
- 2. Extent to which removal of the restrictions will detrimentally affect nearby property: The establishment of this use would not pose a new threat to this area of the county, which is characterized by a sand extraction site that is in operation. Furthermore, the conditions of approval included in this staff report are designed to mitigate any adverse impact this use may have on surrounding

properties.

3. Conformance of the requested change to adopted or recognized Comprehensive Plan: The request is in conformance with the land use objectives of the plan by placing industrial uses in rural areas only when it is agriculturally-oriented, dependent upon a natural resource, or as part of an appropriate expansion of an existing industrial area.
4. Impact of the proposed development on community facilities: Municipal water and sewer services are not necessary for the proposed use.