

RESOLUTION NO. 58-00

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW SAND AND GRAVEL EXTRACTION, LOCATED NORTH OF 111<sup>TH</sup> STREET SOUTH AND WEST OF HYDRAULIC ON PROPERTY ZONED "RR" RURAL RESIDENTIAL 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 COMMISISONERS 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 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-562**

A Conditional Use to allow sand and gravel extraction on property described as:

The East Half of the Southeast of Section 28, Township 29 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, except the East 40 feet and the south 550 feet thereof. Generally located north of 111<sup>th</sup> Street South and west of Hydraulic.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall submit a operational plan for the area to be excavated. 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.
2. In order to assist in the enforcement of the operational plan for this extraction use, the applicant shall have a copy of the approved operational plan posted in the sand extraction office.
3. Adjacent to the east and south property lines of the application area, as indicated on the approved operational plan, a minimum 60-inch-high fence shall be constructed prior to the beginning of any extraction operation. The fence along the east and south property lines and the existing hedge row along the north,

west, and south property lines shall be maintained at the locations depicted on the approved 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 a minimum height of 60 inches and shall be of the following types of construction:

- A. A 48-inch-high or higher chain link fence with 3 or more strands of barbed wire; or
- B. A 48-inch-high solid metal or solid masonry fence with 3 or more strands of barbed wire; or
- C. A 48-inch-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 inches apart and placed at the top of the fence and gate at an angle not to exceed 160° facing away from the excavation.

- 4. The earth and sand shall be extracted to at least a minimum depth of 6 feet below the normal water table, as determined by the Wichita-Sedgwick County Health Department.
- 5. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no more steep than five horizontal to one vertical.
- 6. 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.
- 7. 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 Works.
- 8. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County's legal counsel, prior to the commencement of any sand extraction operation, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
- 9. 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.

10. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of sod cover to help prevent erosion.
11. To minimize blowing soil in this area, overburden shall not be removed more than six 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 which will permit the establishment of sod cover to help prevent erosion.
12. The storage of equipment or stockpiling of sand is not permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
13. 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 subject site.
14. The approval of the Conditional Use is for a period not to exceed seven years from the date of approval by the MAPC and/or 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. As part of the required operational plan, the applicant shall divide the site into 2 distinct areas for the purpose of showing phased excavation over time. The plan would show which area was to be excavated and at what time.
15. Hours of operation for the sand extracting business shall be limited to 6:00 a.m. to sunset.
16. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
17. 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.
18. The applicant shall make the site available to the Wichita-Sedgwick County Health Department for the installation and management of groundwater monitoring wells.
19. Any on-site storage of fuels or chemical must be approved by the Wichita Sedgwick County Health Department.
20. Drainage plan needs to be submitted and approved by the Bureau of Public Works prior to starting the sand and gravel extraction. 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 Works.

21. 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.
22. Any violation of conditions attached shall declare the conditional use permit null and void.

**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 and voting were:

|                   |               |
|-------------------|---------------|
| BETSY GWIN        | <u>aye</u>    |
| BILL HANCOCK      | <u>aye</u>    |
| THOMAS G. WINTERS | <u>aye</u>    |
| CAROLYN McGINN    | <u>absent</u> |
| BEN SCIORTINO     | <u>aye</u>    |

DATED this 22<sup>nd</sup> day of March.



BOARD OF COUNTY COMMISSIONERS OF  
SEDGWICK COUNTY, KANSAS

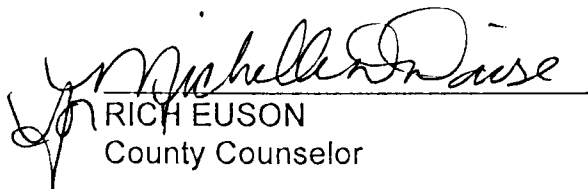
Thomas G. Winters  
THOMAS G. WINTERS, Chairman

ATTEST:



JAMES ALFORD  
County Clerk

APPROVED AS TO FORM ONLY:



RICH EUSON  
County Counselor

# SITE PLAN

40.2 ± ACRE LAKE

DRIVE

HYDRAULIC

HYDRAULIC

50' 60'

1-10-2000

0 150 300

NW Corner, E 1/2,  
SE 1/4 of Section 28,  
T29S, R1E of the 6th P.M.

East 1/4 Corner,  
Section 28, T29S,  
R1E of the 6th P.M.

EXISTING HEDGE ROW TO REMAIN

NOTE: NO STORAGE OF EQUIPMENT OR  
STOCKPILING OF SAND OR GRAVEL  
SHALL BE PERMITTED WITHIN 100'  
OF HYDRAULIC OR 50' OF ANY  
PROPERTY LINE.  
NO FENCE TO BE BUILT WITHIN  
THE EXISTING HEDGE ROWS.

50'

PLANT SITE

PROPOSED  
ACCESS

250'

60'

PROPOSED R/W

PROPOSED  
FENCE

40'

EXISTING R/W

40.2 ± ACRE LAKE

MINIMUM DEPTH 6" BELOW WATER TABLE

60'

PROPOSED R/W

250'

40'

EXISTING R/W

PROPOSED TOP OF BANK  
AND LIMITS OF EXCAVATION  
5:1 SIDE SLOPES

EXISTING HEDGE ROW TO REMAIN

PROPOSED FENCE

50'

550' North of the SW Corner,  
E 1/2, SE 1/4 of Section 28,  
T29S, R1E of the 6th P.M.

550' North of the SE Corner  
of Section 28, T29S, R1E of  
the 6th P.M.

HYDRAULIC

APPROVED 2-24-00 BY SK

REDEVELOPMENT PLAN

CAIN CONDITIONAL USE

OPERATIONAL PLAN



AGENDA ITEM NO. 10

## STAFF REPORT

MAPC January 27, 2000

MAPC February 24, 2000

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CASE NUMBER: CU-562

APPLICANT/AGENT: Kenneth J. Cain (Owner/Applicant); P.E.C., PA c/o Gary Wiley (Agent)

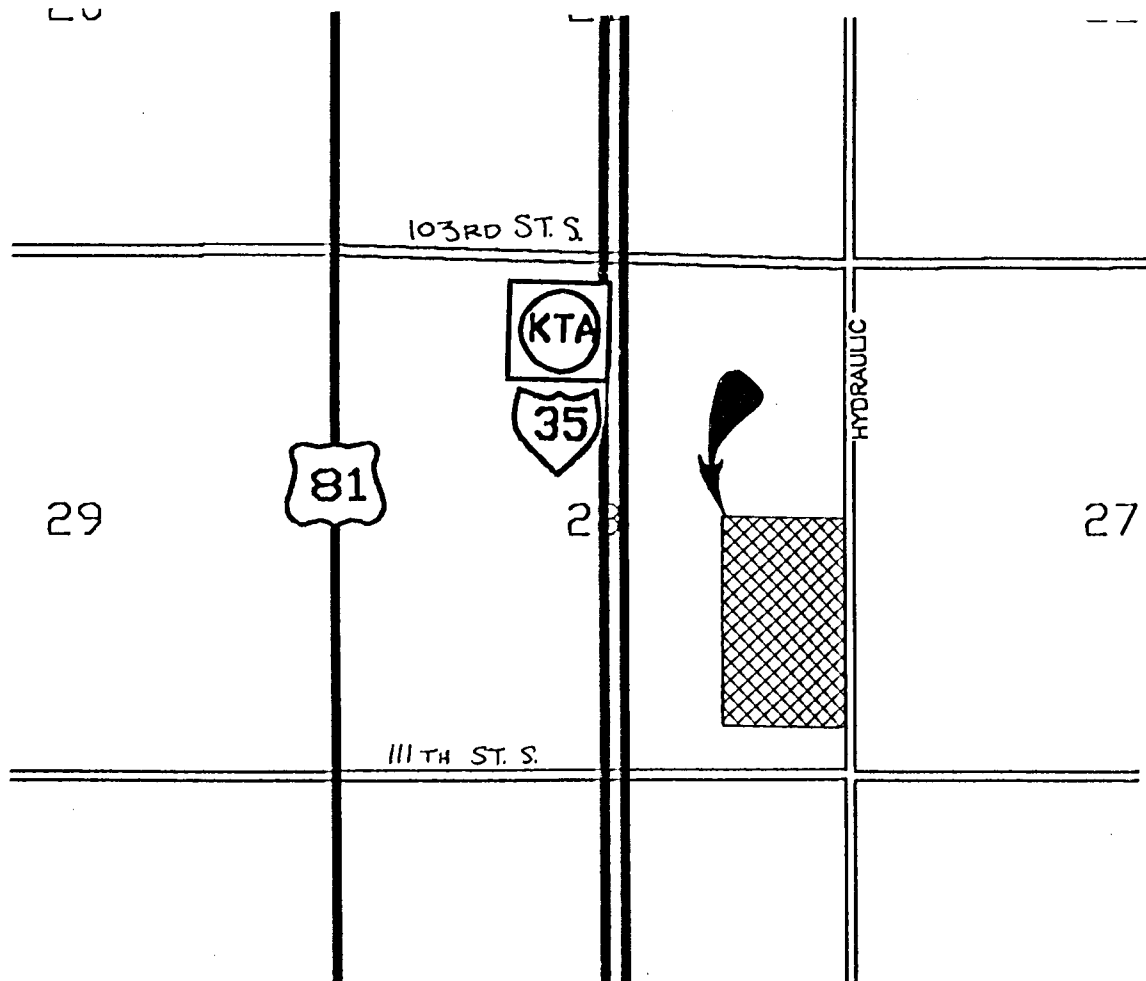
REQUEST: Conditional Use to allow sand and gravel extraction

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 60.3 acres

LOCATION: North of 111<sup>th</sup> Street South and west of Hydraulic

PROPOSED USE: Sand and gravel extraction



**BACKGROUND:** The MAPC considered this case at their January 27, 2000 hearing and received information from a neighboring property owner regarding problems with the proposed sand and gravel extraction and its impact on the availability of ground water in the area. Therefore, the MAPC voted to defer the case for four weeks to allow time to follow up on the information provided by the neighboring property owner. At the February 24, 2000 MAPC hearing, a representative from the Kansas Division of Water Resources will appear before the MAPC to provide information ground water impacts of this case.

The applicant is requesting a Conditional Use to allow sand and gravel extraction on a 60.3 acre unplatted tract located north of 111<sup>th</sup> Street South and west of Hydraulic. The subject property is zoned "RR" Rural Residential.

The attached site plan shows that the proposed sand and gravel extraction operation would create a 40.2 acre lake. The operational plan shows a fence east and south of the operation, with the remainder of the site to be enclosed by an existing hedge row. Storage of equipment and material would not be permitted within 100 feet of Hydraulic or 50 feet of any property line. The redevelopment plan shows that the portion of the site east of the lake is proposed to be platted as 11 residential lots along a frontage road to Hydraulic.

The subject property is within a zone likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Also, the most recent information pertaining to wetlands from the Sedgwick County Soil Conservation District and Soil Survey of Sedgwick County indicates that the site does not contain soil commonly associated with wetlands.

All of the property surrounding the site is zoned "RR" Rural Residential and is used for agriculture with farm-related single family residences. The Cowskin Creek and the Kansas Turnpike are located west of the property. The nearest residences not owned by the applicant are located approximately 300 feet north and 600 feet south of the site.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

|         |      |             |
|---------|------|-------------|
| NORTH:  | "RR" | Agriculture |
| SOUTH:  | "RR" | Agriculture |
| EAST: " | "RR" | Agriculture |
| WEST:   | "RR" | Agriculture |

**PUBLIC SERVICES:** This site has access to Hydraulic, a two-lane paved section line road. Hydraulic has current traffic volumes of 725. The 2030 Transportation Plan estimates that these volumes will increase to 1,422. Municipal services are not available to serve this site. On-site water and sewer services will be required to serve this site due to its remote location.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for "Agriculture" (20 acre minimum lot size), which accommodates agricultural operations as well as other uses common in rural areas, such as sand and gravel extraction, that are no more offensive than normal agricultural



uses. In the "Agriculture" category, subdivision into multiple lots less than 20 acres, as proposed in the redevelopment plan, generally should be developed through cluster provisions that reserve land for agricultural uses or open space, which is proposed by the applicant with 11 single family lots on 60.3 acre site with a 40.2 acre lake reserved for open space.

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

1. The applicant shall submit a operational plan for the area to be excavated. 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.
2. In order to assist in the enforcement of the operational plan for this extraction use, the applicant shall have a copy of the approved operational plan posted in the sand extraction office.
3. Adjacent to the east and south property lines of the application area, as indicated on the approved operational plan, a minimum 60-inch-high fence shall be constructed prior to the beginning of any extraction operation. The fence along the east and south property lines and the existing hedge row along the north, west, and south property lines shall be maintained at the locations depicted on the approved 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 a minimum height of 60 inches and shall be of the following types of construction:

- A. A 48-inch-high or higher chain link fence with 3 or more strands of barbed wire; or
- B. A 48-inch-high solid metal or solid masonry fence with 3 or more strands of barbed wire; or
- C. A 48-inch-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 inches apart and placed at the top of the fence and gate at an angle not to exceed 160° facing away from the excavation.

4. The earth and sand shall be extracted to at least a minimum depth of 6 feet below the normal water table, as determined by the Wichita-Sedgwick County Health Department.

5. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no more steep than five horizontal to one vertical.
6. 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.
7. 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 Works.
8. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County's legal counsel, prior to the commencement of any sand extraction operation, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
9. 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.
10. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of sod cover to help prevent erosion.
11. To minimize blowing soil in this area, overburden shall not be removed more than six 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 which will permit the establishment of sod cover to help prevent erosion.
12. The storage of equipment or stockpiling of sand is not permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
13. 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 subject site.
14. The approval of the Conditional Use is for a period not to exceed seven years from the date of approval by the MAPC and/or 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. As part of the required operational plan, the applicant shall divide the site into 2 distinct areas for the purpose of showing phased excavation over time. The plan would show which area was to be excavated and at what time.

15. Hours of operation for the sand extracting business shall be limited to 6:00 a.m. to sunset.
16. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
17. 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.
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21. 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.
22. Any violation of conditions attached shall declare 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 site is zoned "RR" Rural Residential, which accommodates very large lot, single-family residential development in areas where a full range municipal facilities and services are not available. All of the property surrounding the site is zoned "RR" Rural Residential and is used for agriculture with farm-related single family residences. The Cowskin Creek and the Kansas Turnpike are located west of the property.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently used for agriculture and this use could continue given the exclusively agricultural character of the area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects should be minimized by the various setback requirements and operational restrictions required as conditions of approval.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Wichita/Sedgwick County Comprehensive

Plan identifies this area as appropriate for "Agriculture" (20 acre minimum lot size), which accommodates agricultural operations as well as other uses common in rural areas, such as sand and gravel extraction, that are no more offensive than normal agricultural uses. In the "Agriculture" category, subdivision into multiple lots less than 20 acres, as proposed in the redevelopment plan, generally should be developed through cluster provisions that reserve land for agricultural uses or open space, which is proposed by the applicant with 11 single family lots on 60.3 acre site with a 40.2 acre lake reserved for open space.

5. Impact of the proposed development on community facilities: The development of this property as a sand and gravel extraction operation should not have a significant impact on community facilities. This operation does not generate significant traffic. On-site water and sewer services will be required to serve this site due to its remote location.