

**CONDITIONAL USE RESOLUTION NO. CON2004-00001**

**WHEREAS**, Grant Township, c/o Jack Perrin, Trustee (Owner); Duit Construction c/o Ben Koerner and Mark Willy (Applicant) pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use for temporary concrete plant on 9 acres zoned "RR" Rural Residential described as:

A tract of land located in the Southeast Quarter of Section 16, Township 25 South, Range 1 East of the 6th P.M., described as Beginning at the Southeast corner of said Southeast Quarter; thence North 54 Rods; thence West 30 Rods; thence South 54 Rods; thence East 30 Rods to the point of beginning. Generally located at the northwest corner of 101<sup>st</sup> Street North and Hydraulic.

**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 February 19, 2004, 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 for temporary concrete plant on 9 acres zoned "RR" Rural Residential described as:

A tract of land located in the Southeast Quarter of Section 16, Township 25 South, Range 1 East of the 6th P.M., described as Beginning at the Southeast corner of said Southeast Quarter; thence North 54 Rods; thence West 30 Rods; thence South 54 Rods; thence East 30 Rods to the point of beginning. Generally located at the northwest corner of 101<sup>st</sup> Street North and Hydraulic.

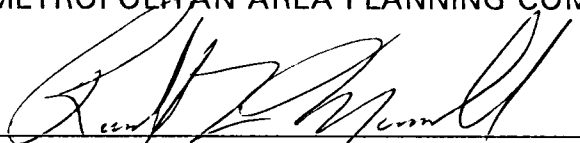
subject to the following conditions:

1. The temporary concrete plant shall comply with state air pollution regulations and shall obtain a permit from the Kansas Department of Health and Environment.
2. No contaminated soils may be stockpiled on the site, used for remediation or used in the operation of the temporary concrete plant.
3. All fuel tanks shall include fuel/spill containment systems approved by Sedgwick County Code Enforcement.

4. Any spills of materials capable of contaminating groundwater shall be cleaned up immediately to the satisfaction of Sedgwick County Code Enforcement.
5. The truck washing facility shall utilize a wastewater containment system approved by Sedgwick County Code Enforcement.
6. No waste, production materials, discarded equipment, or other such items shall be buried on site.
7. All equipment and materials utilized in operation of the temporary concrete plant shall be removed from the site and the site returned to its original condition, or better, within 30 days following completion of the highway reconstruction project, but no later than July 17, 2005.
8. Concrete trucks and other vehicles associated with the operation of the temporary concrete plant shall access the site only from 101<sup>st</sup> Street North and shall not be permitted to use Hydraulic to access the site.
9. Prior to commencement of operations on the site, the applicant shall receive approval of a site plan from the Planning Director. The site shall be developed and operated in general conformance with the approved site plan.
10. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
11. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Adopted this 19th DAY of FEBRUARY, 2004. 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.

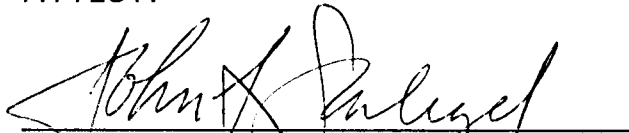
METROPOLITAN AREA PLANNING COMMISSION



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Ronald L. Marnell, Chair MAPC

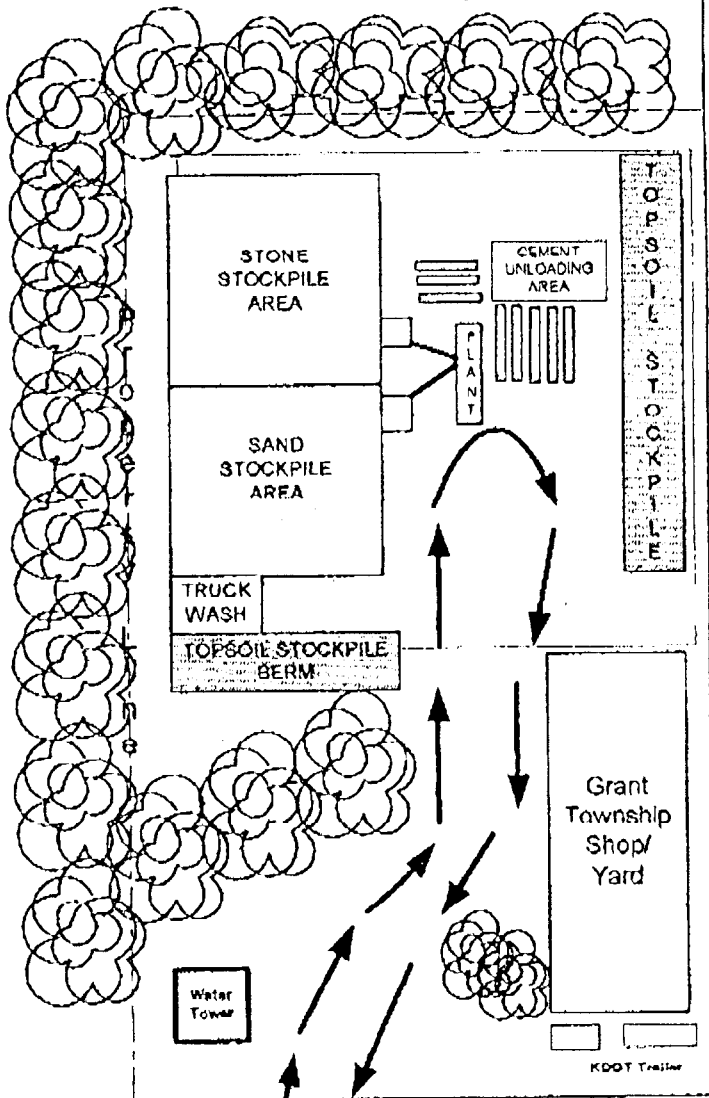
ATTEST:



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John L. Schlegel, Secretary

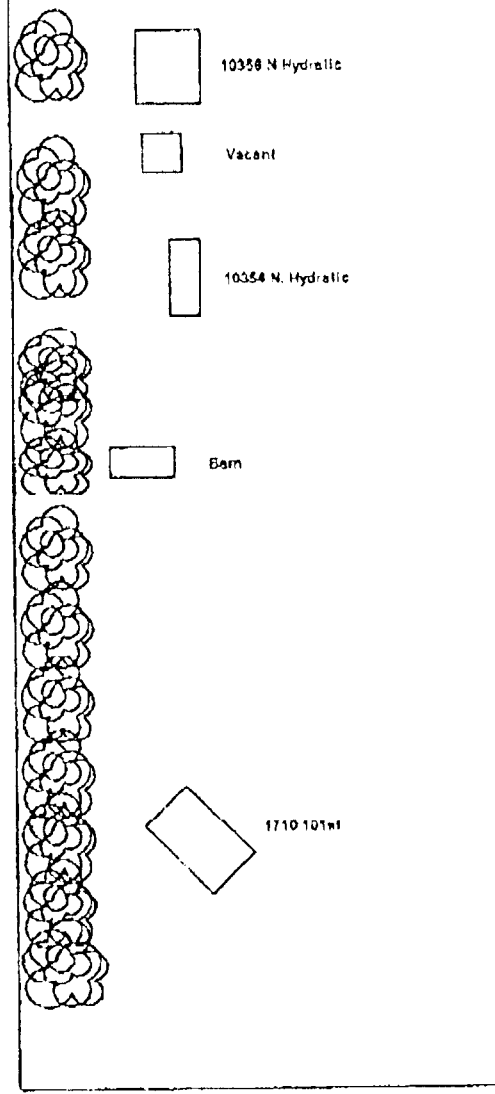
Cemetery



CULTIVATED LAND

860 Feet

101st North ← 500 Feet →



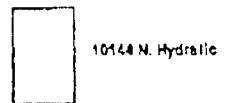
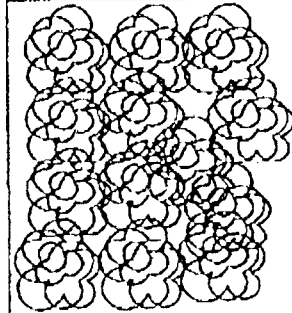
CON 2004-00001

# SITE PLAN

APPROVED 2-23-04 BY SK 10158 N. Hydraulic

- \* Temporary Concrete Plant for Reconstruction of Interstate I-35 from 85th St. North to 125th St. North
- \* Plant Site Address: 1610 E. 101st Street North
- \* Legal is 8 Acres in SE 1/4 of SE 14/, Sec. 16, T26S, R1E, Sedgwick County.
- \* Plant to be operational at various times between May 15, 2004 and November 19, 2004.

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Legend

Truck Route

Trees

## STAFF REPORT

MAPC February 19, 2004

CASE NUMBER: CON2004-00001

APPLICANT/AGENT: Grant Township c/o Jack Perrin, Trustee (Owner); Duit Construction c/o Ben Koerner & Mark Willy (Applicant)

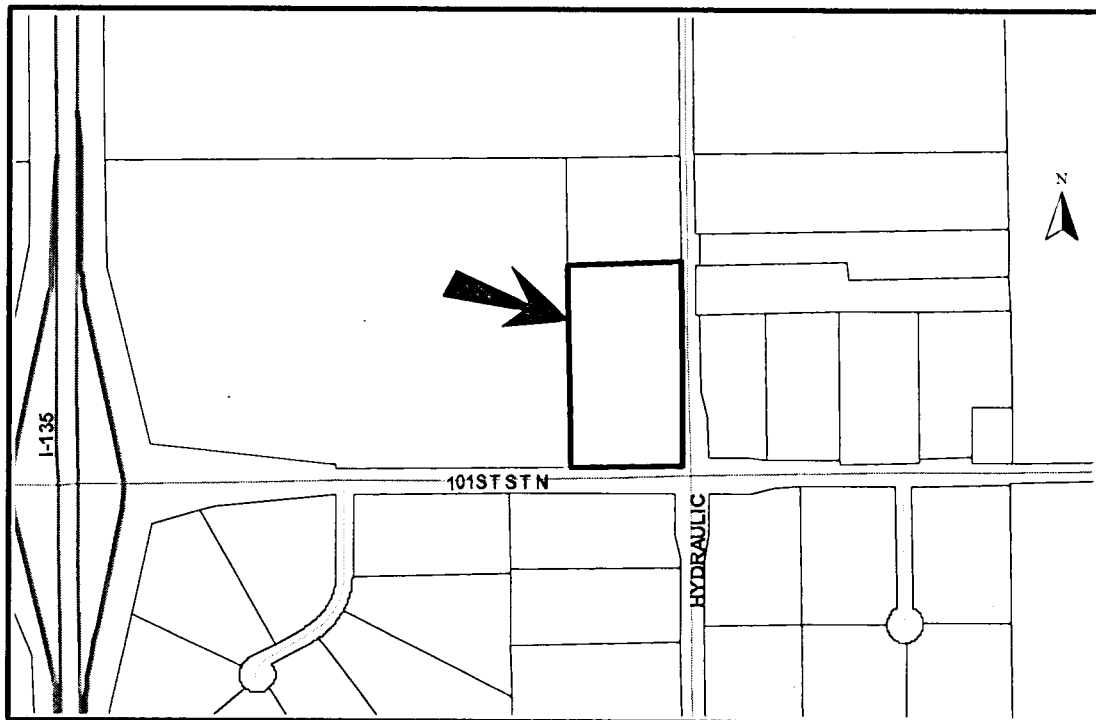
REQUEST: Conditional Use to allow a temporary concrete plant

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 9 acres

LOCATION: Northwest corner of 101<sup>st</sup> Street North and Hydraulic

PROPOSED USE: Temporary concrete plant for reconstruction of I-135



**BACKGROUND:** The applicant is requesting a Conditional Use to allow temporary concrete plant for the reconstruction of I-135 on a 9-acre unplatted tract located at the northwest corner of 101<sup>st</sup> Street North and Hydraulic. The subject property is zoned "RR" Rural Residential and is used as the Grant Township maintenance yard. The applicant proposes to use the subject property for a temporary concrete plant, material storage, office trailers for the highway reconstruction project. The applicant indicates that the highway reconstruction project will be completed by June 17, 2005.

Section III-D.6.d of the Unified Zoning Code (attached) enumerates the conditions under which a temporary concrete plant is permitted by right in the "RR" Rural Residential zoning district. If all of these conditions cannot be met, then approval of a Conditional Use is required to permit a temporary concrete plant. Since the proposed temporary concrete plant would be located closer than 1,000 feet from the nearest residence, approval of the requested Conditional Use is required to permit a temporary concrete plant on the subject property.

The surrounding area is characterized by large-lot rural residential development. All of the adjacent properties are zoned "RR" Rural Residential. Large-lot rural residential uses are located east and south of the subject property. A cemetery is located north of the subject property. The property located west of the subject property is used for agriculture.

The applicant submitted the attached site plan illustrating the proposed use of the subject property. The site plan indicates that the temporary concrete plant would be located in the northern portion of the subject property and would be screened from surrounding residences by topsoil berms. Material stockpiles and a truck wash would be located west of the temporary concrete plant. Office trailers would be located in the southern portion of the subject property. Concrete truck traffic would enter the site from 101<sup>st</sup> Street North and exit from the site onto Hydraulic.

**CASE HISTORY:** The subject property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR"	Cemetery
SOUTH:	"RR"	Single family
EAST:	"RR"	Single family
WEST:	"RR"	Agriculture

**PUBLIC SERVICES:** The subject property has access to 101<sup>st</sup> Street North, a paved two-lane arterial street, and Hydraulic, an unpaved township road. The property is served with rural water and on-site sanitary sewer. No impacts on public services are anticipated due to the temporary nature of the request.

**CONFORMANCE TO PLANS/POLICIES:** The Sedgwick County Development Guide of the Comprehensive Plan identifies this area as appropriate for “Rural” development and identifies the area immediately south of the subject property as a “Small City Growth Area.” The Industrial Locational Guidelines of the Comprehensive Plan indicate that industrial areas should be located in close proximity to support services and away from planned residential areas. Due to the temporary nature of the request, the proposed concrete plant meets the intent of these policies.

**RECOMMENDATION:** Based upon these factors and the information available prior to the public hearings, planning staff recommends that a Conditional Use for a temporary concrete plant be APPROVED subject to the following conditions:

1. The temporary concrete plant shall comply with state air pollution regulations and shall obtain a permit from the Kansas Department of Health and Environment.
2. No contaminated soils may be stockpiled on the site, used for remediation or used in the operation of the temporary concrete plant.
3. All fuel tanks shall include fuel/spill containment systems approved by Sedgwick County Code Enforcement.
4. Any spills of materials capable of contaminating groundwater shall be cleaned up immediately to the satisfaction of Sedgwick County Code Enforcement.
5. The truck washing facility shall utilize a wastewater containment system approved by Sedgwick County Code Enforcement.
6. No waste, production materials, discarded equipment, or other such items shall be buried on site.
7. All equipment and materials utilized in operation of the temporary concrete plant shall be removed from the site and the site returned to its original condition, or better, within 30 days following completion of the highway reconstruction project, but no later than July 17, 2005.
8. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
9. The site shall be developed in general conformance with the approved site plan.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the

concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by large-lot rural residential development. All of the adjacent properties are zoned "RR" Rural Residential. Given the existence of the township maintenance yard on the property and the temporary nature of the proposed concrete plant, the request is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property could continue to be used as a non-conforming maintenance yard that was established prior to the existence of zoning in the area. The proposed use is temporary and is not significantly more intense than a maintenance yard or other agricultural-related uses permitted in the "RR" district, and therefore is a suitable use of the property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: No detrimental affects on nearby properties are anticipated due to the temporary existence of the concrete plant.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Sedgwick County Development Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development and identifies the area immediately south of the subject property as a "Small City Growth Area." The Industrial Locational Guidelines of the Comprehensive Plan indicate that industrial areas should be located in close proximity to support services and away from planned residential areas. Due to the temporary nature of the request, the proposed concrete plant meets the intent of these policies.
5. Impact of the proposed development on community facilities: No impact on community facilities is anticipated.