



Wichita-Sedgwick County Metropolitan Area Planning Department

August 31, 2016

MKEC
Attn: Brian Lindebak
411 N. Webb
Wichita, KS 67206

Kristopher Nicholson
5800 N. Tyler Rd.
Maize, KS 67101

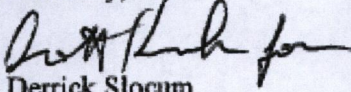
**RE: CON2016-00004 – County Conditional Use request for “mining and quarrying”
(sand extraction) on RR Rural Residential zoned property generally located south of
West 61st Street North and west of North Ridge Road.**

Dear Ladies and Gentlemen:

At its regular meeting on **March 17, 2016**, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to **APPROVE** the request subject to the conditions on the attached resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,


Derrick Slocum
Division Manager

Copies to:

Richard Ranzau, BoCC #4, County Mail Stop Rm 320
Justin Waggoner, County Law, County Mail Stop Rm 359
MABCD, Kelly Dixon, 1144 S Seneca, Wichita KS 67213
County Public Works, c/o Jim Weber, 1144 S Seneca, Wichita KS 67213
Fred Nicholson, 1940 N. Saint Paul, Wichita, KS 67203



Wichita-Sedgwick County Metropolitan Area Planning Department

March 18, 2016

MKEC
Attn: Brian Lindebak
411 N. Webb
Wichita, KS 67206

Kristopher Nicholson
5800 N. Tyler Rd.
Maize, KS 67101

RE: CON2016-00004 – County Conditional Use request for “mining and quarrying” (sand extraction) on RR Rural Residential zoned property generally located south of West 61st Street North and west of North Ridge Road.

Dear Ladies and Gentlemen:

At its regular meeting on **March 17, 2016**, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to **APPROVE** the request subject to the following conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site plan (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use regulations found in the *Unified Zoning Code* at Article III, Section III-D, gg (attached), unless specifically modified by conditions contained in this conditional use. If additional limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions.
2. In addition to the standard specified in Sec. III-D.gg.(6) and (22), interior roads, work areas and stockpiles shall be treated to minimize dust from blowing from the site. If requested by Metropolitan Area Building and Construction Department (MABCD), the applicant shall maintain a log detailing the type of dust retardant and how often and when the retardant was used and the log shall be provided to MABCD inspectors upon request.
3. The Conditional Use for sand extraction shall be valid for ten years following the date of final action (either MAPC or County Commission) approving extraction operations. The applicant may apply for an administrative adjustment for an additional two years should extraction operations not be completed at the end of the ten year time period.

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 F 316.268.4390

www.wichita.gov

4. The hours of operation are proposed to be 7:00 AM to 5:00 PM for trucking and from 6:00 AM to sunset for dredging operations.
5. The edges of the excavations are to be located at least 70 feet from the north and west property lines and 150 feet from the south and east property lines.
6. The Operational Plan and the Post Operational plan shall be revised to reflect newer floodplain mapping as shown in the Preliminary Floodplain maps.
7. Floodplain development permits shall be acquired from the Kansas Division of Water Resources and Sedgwick County prior to any work to develop area #2 of the site (shown on revised site plan) for sand extraction.
8. A Notice of Intent shall be acquired from the Kansas Department of Health and Environment and a Stormwater Permit shall be acquired from Sedgwick County prior to any work to develop the site for sand extraction.
9. The property is within the boundary of Groundwater Management District No. 2. GMD2 shall be contacted to see how their regulations affect the routing of drainage through the site, and the applicant shall implement the steps directed by GMD2 to protect the groundwater quality.
10. In order to insure that all permit requirements can be met, that improvements in the floodplain will not create adverse impacts in the area, that the channel of the Little Slough will not be interrupted, that the requirements of GMD2 can be met and that the completed site can be redeveloped; the applicant shall be required to obtain approval of a drainage plan by Sedgwick county Public Works prior to any work to develop the site for sand/gravel extraction.
11. The Operational Plan shall reflect that no materials, including overburden or spoil materials, may be placed in the floodplain unless specifically allowed by floodplain permits and the drainage plan. The boundaries of the floodplain shall be delineated with durable markings, such as posts with signs, prior to any work to develop the sand extraction operation.
12. The Conditional Use shall not allow the use of Hidden Acres Street to access the property until the sand extraction operation is complete and closed out.
13. The proposed site encompass properties owned by three different owners. The applicant shall provide and file, with the Register of Deeds, a private access easement encompassing all of the properties involved in the sand extraction to insure that the site can be served from the existing private drive throughout the period of operation.
14. The existing entrance to the sand extraction operation was not constructed according to county permit requirements and standards. Loaded trucks from the current operation predominantly turn south from the site and are tracking off of the shoulder of the drive and the shoulder of Ridge Road. Prior to commencing any work to develop the new site for sand extraction, the applicant shall be required to reconstruct the culvert to County standards and pave the drive with sufficient asphalt or concrete to withstand the heavy truck traffic. A right turn acceleration lane shall be constructed, to County standards, south of the entrance to provide for turning movements that do not obstruct northbound

traffic and allow trucks to track on pavement throughout the turn.

15. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Property owners may file written protest petitions on zoning related items heard by the MAPC. In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially within 1,000 feet of the property for which the application was filed, and must be submitted to the County Clerk within 14 days of the conclusion of the MAPC hearing by March 31, 2016, at 5 PM. Such petitions may cause the application to be disapproved, if the land area encompassed by the protesting owners exceeds 20% of the land area within 1,000 feet of the perimeter of the application area, unless the Board of County Commissioners overrides such a protest and approves the application by a vote of four (4) of its members.

If there are no protest to the request the recommendation of the MAPC is final. If appeals or protest petitions are filed against the request, your application will be forwarded to the Wednesday, April 20, 2016, Board of County Commissioner meeting as a non-consent item for final action. This meetings will be at 9 AM, the Sedgwick County Court House, 3rd Floor, 525 N. Main Street.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,



Derrick Slocum
Division Manager

Copies to:

Richard Ranzau, BoCC #4, County Mail Stop Rm 320
Justin Waggoner, County Law, County Mail Stop Rm 359
MABCD, Kelly Dixon, 1144 S Seneca, Wichita KS 67213
County Public Works, c/o Jim Weber, 1144 S Seneca, Wichita KS 67213
Fred Nicholson, 1940 N. Saint Paul, Wichita, KS 67203

CONDITIONAL USE RESOLUTION NO. CON2016-00004

WHEREAS, Fred Nicholson and Kristopher Nicholson (Owner/Applicant) and MKEC c/o Brian Lindebak (Agent); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for "mining and quarrying" (sand extraction) on approximately 83 acres zoned RR Rural Residential ("RR"), described as:

The Southwest Quarter of the Northeast Quarter of Section 16, Township 26 South, Range 1 West of the 6th P.M.,

AND

The Southeast Quarter of the Northwest Quarter of Section 16, Township 26 South, Range 1 West of the 6th P.M.

AND

A 60 foot wide tract of land in the East half of the Northeast Quarter of Section 16, Township 26 South, Range 1 West of the Sixth Principal Meridian, Maize, Sedgwick County, Kansas, said tract of land being the South 60.00 of the following described tract of land: Beginning at a point on the East line and 658.36 feet South of the Northeast corner of said Section 16; thence South 328.48 feet; thence West 1326 feet; thence North 328.46 feet; thence East 1326.5 feet more or less to the point of beginning.in Sedgwick County, Kansas.

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 March 17, 2016, 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 allow for Use for "mining and quarrying" (sand extraction) on approximately 83 acres zoned RR Rural Residential ("RR"), described as:

The Southwest Quarter of the Northeast Quarter of Section 16, Township 26 South, Range 1 West of the 6th P.M.,

AND

The Southeast Quarter of the Northwest Quarter of Section 16, Township 26 South, Range 1 West of the 6th P.M.

AND

A 60 foot wide tract of land in the East half of the Northeast Quarter of Section 16, Township 26 South, Range 1 West of the Sixth Principal Meridian, Maize, Sedgwick County, Kansas, said tract of land being the South 60.00 of the following described tract of land: Beginning at a point on the East line and 658.36 feet South of the Northeast corner of said Section 16; thence South 328.48 feet; thence West 1326 feet; thence North 328.46 feet; thence East 1326.5 feet more or less to the point of beginning.in Sedgwick County, Kansas.

Approved subject to the following conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site plan (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use regulations found in the *Unified Zoning Code* at Article III, Section III-D, gg (attached), unless specifically modified by conditions contained in this conditional use. If additional limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions.
2. In addition to the standard specified in Sec. III-D.gg.(6) and (22), interior roads, work areas and stockpiles shall be treated to minimize dust from blowing from the site. If requested by Metropolitan Area Building and Construction Department (MABCD), the applicant shall maintain a log detailing the type of dust retardant and how often and when the retardant was used and the log shall be provided to MABCD inspectors upon request.
3. The Conditional Use for sand extraction shall be valid for ten years following the date of final action (either MAPC or County Commission) approving extraction operations. The applicant may apply for an administrative adjustment for an additional two years should extraction operations not be completed at the end of the ten year time period.
4. The hours of operation are proposed to be 7:00 AM to 5:00 PM for trucking and from 6:00 AM to sunset for dredging operations.
5. The edges of the excavations are to be located at least 70 feet from the north and west property lines and 150 feet from the south and east property lines.
6. The Operational Plan and the Post Operational plan shall be revised to reflect newer floodplain mapping as shown in the Preliminary Floodplain maps.
7. Floodplain development permits shall be acquired from the Kansas Division of Water Resources and Sedgwick County prior to any work to develop area #2 of the site (shown on revised site plan) for sand extraction.
8. A Notice of Intent shall be acquired from the Kansas Department of Health and Environment and a Stormwater Permit shall be acquired from Sedgwick County prior to any work to develop the site for sand extraction.
9. The property is within the boundary of Groundwater Management District No. 2. GMD2 shall be contacted to see how their regulations affect the routing of drainage through the site, and the applicant shall implement the steps directed by GMD2 to protect the groundwater quality.
10. In order to insure that all permit requirements can be met, that improvements in the floodplain will not create adverse impacts in the area, that the channel of the Little

Slough will not be interrupted, that the requirements of GMD2 can be met and that the completed site can be redeveloped; the applicant shall be required to obtain approval of a drainage plan by Sedgwick county Public Works prior to any work to develop the site for sand/gravel extraction.

11. The Operational Plan shall reflect that no materials, including overburden or spoil materials, may be placed in the floodplain unless specifically allowed by floodplain permits and the drainage plan. The boundaries of the floodplain shall be delineated with durable markings, such as posts with signs, prior to any work to develop the sand extraction operation.
12. The Conditional Use shall not allow the use of Hidden Acres Street to access the property until the sand extraction operation is complete and closed out.
13. The proposed site encompass properties owned by three different owners. The applicant shall provide and file, with the Register of Deeds, a private access easement encompassing all of the properties involved in the sand extraction to insure that the site can be served from the existing private drive throughout the period of operation.
14. The existing entrance to the sand extraction operation was not constructed according to county permit requirements and standards. Loaded trucks from the current operation predominantly turn south from the site and are tracking off of the shoulder of the drive and the shoulder of Ridge Road. Prior to commencing any work to develop the new site for sand extraction, the applicant shall be required to reconstruct the culvert to County standards and pave the drive with sufficient asphalt or concrete to withstand the heavy truck traffic. A right turn acceleration lane shall be constructed, to County standards, south of the entrance to provide for turning movements that do not obstruct northbound traffic and allow trucks to track on pavement throughout the turn.
15. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 17th day of March 2016.

METROPOLITAN AREA PLANNING COMMISSION

Carol Chapman August
Carol Neugent, Chair MAPC

ATTEST:

Dale Miller
Dale Miller, Secretary



LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
453868	0002287157	Published in The Wichita Eagle on February		\$46.20	1	77

Attention: maryann

CITY OF WICHITA/PLANNING DEPT
455 N MAIN ST FL 10
WICHITA, KS 67202

In The STATE OF KANSAS
In and for the County of Sedgwick
AFFIDAVIT OF PUBLICATION

1 Insertions

Beginning issue of: 02/25/2016

Ending issue of: 02/25/2016

STATE OF KANSAS)

.SS

County of Sedgwick)

Mark Fletchall, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 2/25/2016 to 02/25/2016.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Mark Fletchall

(Signature of Principal Clerk)
DATED: 2/25/2016

Jennifer Rae Bailey
Notary Public Sedgwick County, Kansas

JENNIFER RAE BAILEY
Notary Public - State of Kansas
My Appt. Expires 02/2017

LEGAL PUBLICATION

Published in The Wichita Eagle
on February 25, 2016 (2287157)
(One Time Only)

MAPC March 17, 2016
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, March 17, 2016 no earlier than 1:30 p.m., the WichitaSedgwick County Metropolitan Area Planning Commission will consider the following applications in the Planning Department Conference Room, 10th Floor, Wichita City Hall, 455 N. Main St., Wichita, Kansas. If you have any questions regarding the meeting or items on this notice, please call the WichitaSedgwick County Metropolitan Area Planning Department at (316)268-6001.

- CON201600004 County Conditional Use for mining or quarrying (sand extraction) on 82.7 acres in RR Rural Residential zoning, generally located south of West 61st Street North and west of Ridge Road. Elimination of the requirement that platting be a condition of granting a zone change as specified in MAPC Policy No. 5.
- DER201600001 City rezoning request for a Planned Unit Development (PUD) to allow GC General Commercial uses with restrictions and an offsite billboard sign, generally located north of E. Kellogg and 1/2 mile East of 143rd Street East.
- PUD201600001 City request to vacate a portion of a platted drainage easement on property located south of 13th Street North, east of Hoover Road and southwest of 11th and Curtis Streets (1137 N. Curtis St.).
- VAC201600003 City request to vacate a portion of the Minnesota Street public street rightofway located east of 1135 and north of 1st Street (220 N. Minnesota St.).
- VAC201600004 City request to vacate a portion of platted complete access control on property generally located between 34th and 35th Streets North on the west side of Webb Road (3595 N. Webb Rd.).
- VAC201600005 County request to vacate that portion of 93rd Street North public rightofway from 127th Street East to a 1/2-mile west.
- ZON201600006 County zone change request from RR Rural Residential to GC General Commercial, generally located south of 79th Street South and east of Broadway Avenue.
- ZON201600007 City zone change request from B Multifamily Residential to LC Limited Commercial on property generally located east of 1135, north of 1st Street, on the east side of Minnesota Street.

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, Wichita City Hall, 10th Floor. As provided in Section V of the WichitaSedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.

WITNESS MY HAND on February 22, 2016
Dale Miller, Secretary
WichitaSedgwick County
Metropolitan Area Planning Commission

STAFF REPORT

MAPC March 17, 2016
Maize P.C. April 7, 2016
BoCC (if necessary) April 20, 2016

CASE NUMBER: CON2016-00004

APPLICANT/AGENT: Kristopher Nicholson and Fred Nicholson
(Owner(s)/Applicant(s))
MKEC Engineering Consultants Inc. c/o Brian Lindebak
(Agent)

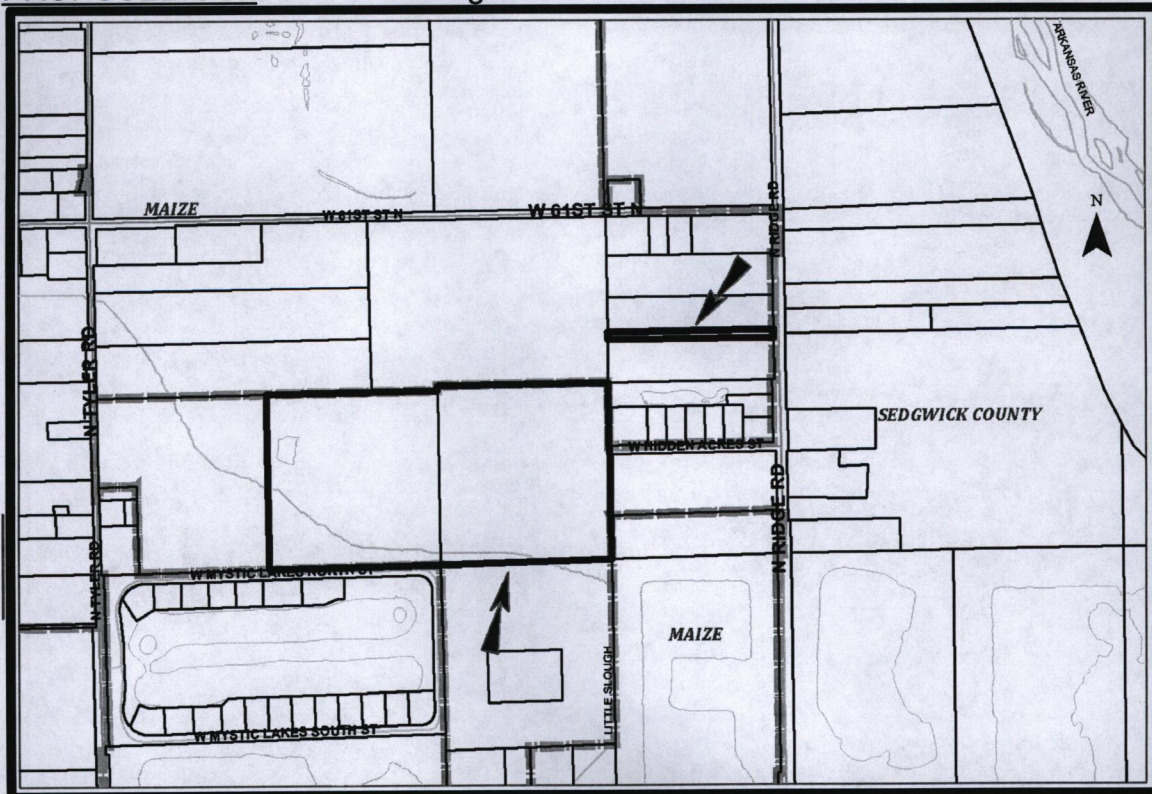
REQUEST: Mining or Quarrying (Sand Extraction)

CURRENT ZONING: RR Rural Residential

SITE SIZE: Approximately 83 acres

LOCATION: South of West 61st Street North and west of North Ridge Road

PROPOSED USE: Sand/gravel extraction



BACKGROUND: The applicant is seeking a conditional use to permit sand extraction on approximately 83 acres located south of West 61st Street North and west of North Ridge Road. Access to the site is proposed to be along an existing off-site private drive from North Ridge Road, that is owned by the applicant and is currently being used for the existing sand extraction operation abutting the north part of the subject site (see attached Operational Plan). Vehicles would enter and exit this driveway from North Ridge Road. The existing operation to the north of the subject site and the access drive are located in the city limits of the City of Maize.

The applicants propose a conditional use permit to mine sand/gravel from the ground on unincorporated land. The applicants previously achieved a Conditional Use (CU-01-009) in the City of Maize on the site directly north and adjoining the subject site. The applicants have previously obtained the necessary water rights for both the proposed groundwater pond and the existing groundwater pond depicted as CU-01-009 Sandpit. The applicants are nearing the maximum size of their pond (22 +/- acres) and propose to continue their operations on their lands to the south as per this application. They propose to utilize the same haul road route, as previously approved, and propose to retain the existing scales, sand washing/sifting and office locations on the land as approved on CU-01-0009 until the completion within the next 5 to 10 years. The hours of operation are proposed to be 7:00 AM to 5:00 PM for trucking and from 6:00 AM to sunset for dredging operations. A 100-year floodplain runs along the south and west section of the proposed pond. The edges of the excavations are to be located at least 150 feet from the north, south and east property line, and at least 70 feet from the west property line. The redevelopment plan indicates a large lot with three residences surrounding the proposed pond, accessed by the existing access road and private drives through the subject site.

The application area is currently used for agricultural production, and is zoned RR Rural Residential. Surrounding land is divided into large-lot tracts with a mix of large-lot residential, agricultural uses and a sand/gravel extraction operation that are either zoned RR Rural Residential or within the city limits of the City of Maize. There are approximately 10 homes located east of the application area, most of which have frontage or access to North Ridge Road. South of the application area is the Mystic Lakes residential development that currently contains approximately 20 residences with access off of North Tyler Road and within the city limits of Maize. There is one residence to the west of the site on a large lot residential/agricultural property, zoned RR. Directly north of the site is an existing sand/gravel extraction operation that is within the City of Maize city limits and was approved by a Conditional Use (CU-01-009). Surrounding property owners rely on on-site wells for water supplies. If approved, the applicant will have to obtain any required permits dealing with ground water from the Groundwater Management District and any other agency charged with managing groundwater resources.

CASE HISTORY: Property north of the subject site (under the same ownership as the subject site) is currently being used as a sand extraction operation, with a Conditional Use for the operation and the access road, approved by the City of Maize in 2009. The

subject site's current RR zoning was probably granted in 1985 with the adoption of countywide zoning. The site is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	City of Maize	Sand/gravel Extraction
SOUTH:	RR and City of Maize	Farmland and Residential
EAST:	RR and City of Maize	Farmland and Residential
WEST:	RR	Farmland and Residential

PUBLIC SERVICES: West 53rd Street North and North Ridge Road are both paved rural major collectors, section line roads. 61st Street North is a paved, two lane, local serving section line road. Staff believes these roads are maintained by Park Township. Significant truck traffic will lead to increased maintenance requirements, and will trigger a need for additional improvements to mitigate the impact. No City of Wichita served public sewer or water is available in this area.

CONFORMANCE TO PLANS/POLICIES: The Community Investments Plan 2035 Urban Growth Areas Map depicts this site as being located within the City of Maize's 2035 "Small City Urban Growth Area." These areas are generally located adjacent to existing municipal boundaries and indicate the likely direction and magnitude of growth these communities can expect to experience out to the year 2035. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors. Commercial/industrial development should be limited to the following: agricultural-oriented uses; rural home occupations; natural resource dependent; convenience services; highway-oriented services at interchange areas; or uses that need significant buffering from residential areas (to mitigate nuisance or hazard impacts). Industrial and major commercial land uses that generate pollution, odor, noise, light, safety hazards, and high levels of traffic should be located away from residential areas and developed with screening, buffering, and site design features sufficient to mitigate adverse impacts. The site is located within the City of Maize's "urban area of influence" and they are scheduled to hear the request on April 7, 2016. The City of Maize Land Use Plan depicts this site where the excavations will occur for "agricultural uses."

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 extraction operation on the site shall proceed in accordance with the approved site plan (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use regulations found in the *Unified Zoning Code* at Article III, Section III-D, gg (attached), unless specifically modified by conditions contained in this conditional use. If additional limitations on the scope of excavation are

required after final approval, the applicant shall provide a revised site plan depicting those restrictions.

2. In addition to the standard specified in Sec. III-D.gg.(6) and (22), interior roads, work areas and stockpiles shall be treated to minimize dust from blowing from the site. If requested by Metropolitan Area Building and Construction Department (MABCD), the applicant shall maintain a log detailing the type of dust retardant and how often and when the retardant was used and the log shall be provided to MABCD inspectors upon request.
3. The Conditional Use for sand extraction shall be valid for ten years following the date of final action (either MAPC or County Commission) approving extraction operations. The applicant may apply for an administrative adjustment for an additional two years should extraction operations not be completed at the end of the ten year time period.
4. The hours of operation are proposed to be 7:00 AM to 5:00 PM for trucking and from 6:00 AM to sunset for dredging operations.
5. The edges of the excavations are to be located at least 150 feet from the north, south and east property line, and at least 70 feet from the west property line.
6. The Operational Plan and the Post Operational plan shall be revised to reflect newer floodplain mapping as shown in the Preliminary Floodplain maps.
7. Floodplain development permits shall be acquired from the Kansas Division of Water Resources and Sedgwick County prior to any work to develop the site for sand extraction.
8. A Notice of Intent shall be acquired from the Kansas Department of Health and Environment and a Stormwater Permit shall be acquired from Sedgwick County prior to any work to develop the site for sand extraction.
9. The property is within the boundary of Groundwater Management District No. 2. GMD2 shall be contacted to see how their regulations affect the routing of drainage through the site, and the applicant shall implement the steps directed by GMD2 to protect the groundwater quality.
10. In order to insure that all permit requirements can be met, that improvements in the floodplain will not create adverse impacts in the area, that the channel of the Little Slough will not be interrupted, that the requirements of GMD2 can be met and that the completed site can be redeveloped; the applicant shall be required to obtain approval of a drainage plan by Sedgwick county Public Works prior to any work to develop the site for sand/gravel extraction.

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15. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is currently used for agricultural production, and is zoned RR Rural Residential. Surrounding land is divided into large-lot tracts with a mix of large-lot residential, agricultural uses and a sand/gravel extraction operation that are either zoned RR Rural Residential or within the city limits of the City of Maize. There are approximately 10 homes located east of the application area, most of which have frontage or access to North Ridge Road. South of the application area is the Mystic Lakes residential development that currently contains approximately 20 residences with access off of North Tyler Road and within the city limits of Maize. There is one residence to the west of the site on a large lot residential and agricultural property, zoned RR. Directly north of the site is an existing sand/gravel extraction operation that is within the City of Maize city limits and was approved by a Conditional Use (CU-01-009). Surrounding property owners rely on on-site wells for water supplies. If approved, the applicant will have to obtain

any required permits dealing with ground water from the Groundwater Management District and any other agency charged with managing groundwater resources.

2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned RR Rural Residential, which is one of the more restrictive districts found in the code. The site could be developed as currently zoned for low-density residential uses with a two-acre minimum zoning lot size. However these homes would have to use on-site sewer systems or extend sewer service since sewer service is not available.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: During excavation there will be additional noise, truck traffic and blowing dust when compared to residential development. When excavation is completed, the resulting lake could be seen as an enhancement as water features are generally viewed as positive additions to residential settings. The conditions of approval will help to mitigate detrimental affects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The construction industry requires sand. The applicant is in the aggregate business and cannot operate his business without sand. When one is dependent upon a resourced based material like sand, one must go where the sand is located. If the request is denied, presumably the applicant will suffer an economic loss, as he will need to find another site. Since sand is used in many public and private projects a shortage of sand could negatively impact these projects by raising the cost or increasing the time to complete these projects. When completed the resulting lake can be seen as an amenity to the community.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Community Investments Plan 2035 Urban Growth Areas Map depicts this site as being located within the City of Maize's 2035 "Small City Urban Growth Area." These areas are generally located adjacent to existing municipal boundaries and indicate the likely direction and magnitude of growth these communities can expect to experience out to the year 2035. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors. Commercial/industrial development should be limited to the following: agricultural-oriented uses; rural home occupations; natural resource dependent; convenience services; highway-oriented services at interchange areas; or uses that need significant buffering from residential areas (to mitigate nuisance or hazard impacts). Industrial and major commercial land uses that generate pollution, odor, noise, light, safety hazards, and high levels of traffic should be located away from residential areas and developed with screening, buffering,

and site design features sufficient to mitigate adverse impacts. The site is located within the City of Maize's "urban area of influence" and they are scheduled to hear the request on April 7, 2016. The City of Maize Land Use Plan depicts this site where the excavations will occur for "agricultural uses."

6. Impact of the proposed development on community facilities: Increased truck traffic on section line roads will likely increase maintenance requirements. The conditions of approval requiring County standard road improvements will help mitigate the maintenance impacts. Sand extraction does not require publicly supplied sewer or water services.

Sec. III-D.gg. of the Unified Zoning Code (UZC) supplementary regulations for Mining or Quarrying, sand and gravel extraction.

Sand and gravel extraction operations shall be subject to the following conditions:

- (1) The extraction operation on the Site shall proceed in accordance with an operational plan approved by the Planning Commission. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved operational plan. To assist in the enforcement of the operational plan, a copy of the approved operational plan shall be posted in the extraction office.
- (2) The operational plan shall illustrate which area is to be excavated and at what time.
- (3) As part of the Conditional Use approval, the development plan for Uses after the conclusion of the extraction operation shall be submitted to the Planning Director for review and a recommendation to the Planning Commission as to whether or not the development plan is compatible with surrounding land uses, the Comprehensive Plan or other plans or policies being utilized by the City or County.
- (4) Abutting the perimeter of the application area, a minimum 60-inch high Fence shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. Said Fence shall be placed on steel posts that are not less than seven 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 three or more strands of barbed wire; or
 - (b) a 48-inch high or higher solid metal or solid masonry Screening Wall with three or more strands of barbed wire; or
 - (c) a 48-inch high or higher wood Fence that may have cracks or openings not in excess of five percent of the area of such Fence, with three or more strands of barbed wire; whereby
 - (d) the term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of four 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.
- (5) The extraction shall be to at least a minimum depth of six feet below the normal water table, as determined by the Director of Sedgwick County Code Enforcement.

- (6) The Owner of the property shall be responsible for minimizing blowing dust from the Site. To minimize blowing soil, 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. As part of the required operational plan, the site shall be divided into at least two distinct areas for the purpose of showing phased excavation over time.
- (7) All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses that will permit the establishment of sod cover to help prevent erosion.
- (8) To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no steeper than five horizontal to one vertical.
- (9) 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.
- (10) The property shall be platted prior to the issuance of any zoning or Building Permits, except those permits necessary for the extraction operation.
- (11) No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the development area, unless duly authorized under provisions of this Code and amendments thereto.
- (12) The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the City or County legal counsel (as applicable), prior to the commencement of any 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.
- (13) The storage of equipment or stockpiling of sand or overburden is not permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- (14) Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the extraction operation, the land surrounding the lake shall be properly graded and planted with a vegetative cover. Also, all stockpiled sand or overburden and sand pumping and related equipment shall be removed from the subject site.
- (15) The length of time for the extraction operation and the hours of operation for removal of the overburden shall be set at the time of approval of the Conditional Use. Subject operation is to cease after that period of time with all equipment and materials associated with the operation removed from the premises.

- (16) Hours of operation for the removal of overburden shall be limited to 6:00 a.m. to sunset. The same hours of operation shall apply if sand removal is conducted with the use of non-electric driven equipment. If sand is removed with the use of an electrical pump, sand extraction may operate 24 hours a day.
- (17) All on-site water and sewage facilities shall be approved by and constructed to the standards of the Department of Code Enforcement for the County or Department of Environmental Services for the City.
- (18) 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.
- (19) The applicant shall make the Site available to the Department of Code Enforcement for land in the County or Department of Environmental Services for land in the City for the installation and management of groundwater monitoring wells.
- (20) Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Department of Environmental Resources for land in the County or Department of Environmental Services for land in the City.
- (21) A drainage plan shall be submitted to and approved by City or County Public Works (as applicable) prior to starting the extraction operation. All of the area included within the fenced sand extraction operation shall be graded in accordance with the approved drainage plan. Additional requirements, such as a public drainage easement, a floodway reserve, or a covenant authorizing the area of the Site for use as a detention storage facility for public drainage purposes, may be required as a condition of approval for the drainage plan.
- (22) All operational roads shall be maintained in a sand or graveled condition and shall be treated with water or other acceptable dust retardant to minimize blowing dust.
- (23) All applicable local, state, and federal permits necessary for the extraction operation shall be obtained and maintained.

SITE PLAN

APPROVED B-27-16 BY [Signature]

CONDITIONAL USE DESCRIPTION

The applicants desire a conditional use permit to mine sand from the ground on unincorporated land. The applicants previously achieved a Conditional Use (CU-01-009) in the City of Malze, Kansas on the site directly north and adjoining the subject property. The applicants have previously obtained the necessary water rights for both the proposed groundwater pond and the existing groundwater pond depicted as CU-01-009 Sandpitt. The applicants are nearing the maximum size of their pond (22+/- acres) and desire to continue their operations on their lands to the south as per this application. They desire to utilize the same haul road route as previously approved and desire to retain the existing scales, sand washing / sifting, and office locations on the land as approved on CU-01-009 until the completion within the next five-ten years. The hours of operation is proposed to be 7:00 AM to 5:00 PM for trucking and from 6:00 AM to sunset for dredging operations.

LEGAL DESCRIPTION:

The Southeast Quarter of the Northwest Quarter Except Road on West AND the Southwest Quarter of the Northeast Quarter all in Section 16, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas

PROPERTY OWNERS / CO-APPLICANTS

Kristopher Nicholson
5800 N. Tyler Road
Malze, Kansas 67101

Fred Nicholson
1940 N. Saint Paul Street
Wichita, Kansas 67203

PROPOSED OPERATOR

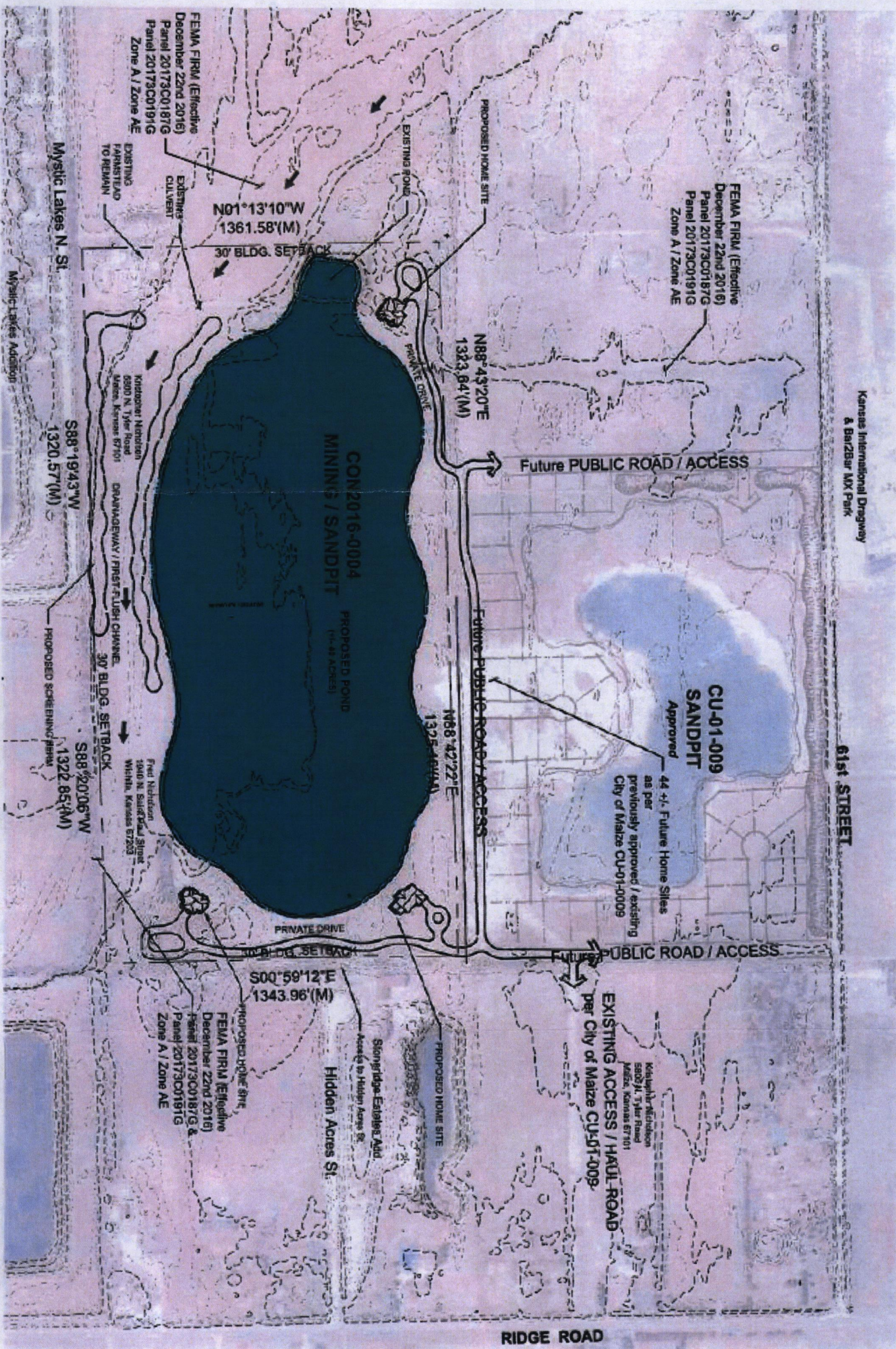
Northridge Sand, LLC
6033 N. Ridge Rd.
Malze, Kansas 67101
316-721-9852

PROPERTY AGENTS

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Wichita, KS 67205

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Chartered
Old Town Square
300 N. Mead, Suite 200
Wichita, KS 67202-2722

SITE PLAN



03.11.2016
revised 08-26-2016

POST OPERATIONAL PLAN

Nicholson Property - 61st and Ridge Road

