

Published in The Daily Reporter on November 27, 1991

R E S O L U T I O N N O. 246-1991

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO ESTABLISH A SAND AND GRAVEL EXTRACTION OPERATION IN THE "R-1" SUBURBAN RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION I. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section 17.C of the Zoning Regulations, a conditional use permit to establish a sand and gravel extraction operation on property zoned "R-1" Suburban Residential District is hereby approved on lands legally described below:

Case No. CU-346

Conditional Use Permit to establish a sand and gravel extraction operation on property zoned the "R-1" Suburban Residential District

Government Lots 2, 3 and 6 and the south half of the Southwest Quarter of Section 14; Government Lot 2 and the east half of the Southeast Quarter of Section 15; all in Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the south 45 feet for road right-of-way and that part taken for Big Arkansas River Levee by Condemnation Case A-33666. Generally located on the northeast and northwest corners of Hoover and 53rd Street North.

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. Since the proposed excavation is within 1,000 feet of a flood protection structure, the applicant shall obtain a permit from the County Engineer. This permit is required by K.S.A. 19-3309 and shall be obtained prior to this case being considered by the Board of County Commissioners.

- B. The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the City-County Flood Control Office and as to form by the County Counselor. The covenant shall provide for the construction and/or maintenance of a loop levee on the premises at such a location as the Flood Control Office may direct in accordance with construction specifications, Sections 1 through 4, inclusive, and maintenance specifications, Sections 1 and 2 of Construction and Maintenance Specifications, as prepared by the City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors, or assigns.
- C. 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. Special care shall be exercised to assure that the perimeter of the lake does not encroach closer to the boundary of the application area than is depicted on the operational plan.
- D. Four copies of a revised operational plan shall be submitted for review and approval prior to this case being scheduled for review by the Board of County Commissioners. The revised plan shall indicate the division of the excavation area into a minimum of three (3) approximately equal areas. Each area shall be numbered, with the westernmost area being identified as Area 1, and a note shall be included on the operational plan that states that excavation will begin in the lowest-numbered area and that the excavation of any materials (i.e., sand, gravel, subsoil or topsoil) shall not occur in any higher-numbered area until excavation has been completed in all areas designated with a lower number. The boundary lines which define the numbered excavation areas shall be appropriately dimensioned.
- E. In order to assist in the enforcement of the operational plan for this extraction operation, the applicant shall have a copy of the approved operational plan posted in the plant office.
- F. Adjacent to the perimeter of the application area, a minimum 60-inch-high fence shall be constructed prior to the beginning of any extraction operation (topsoil, subsoil 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 a minimum height of 60 inches and 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 of barbed wire; or
3. 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.

- G. 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 City-County Health Department.
- H. To provide for bank stabilization and safety of future uses, the side slope of the extraction shall be no more steep than 5 horizontal to 1 vertical.
- I. 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.
- J. A drainage and grading plan shall be submitted to and approved by the County Engineer prior to any excavation.
- K. The owner of the property shall be responsible for:
 1. Insuring that the loop levee elevation be maintained, if constructed.
 2. Maintaining all operational roads with sand and/or gravel in order to minimize blowing dust.
- L. The applicant shall submit a restrictive covenant satisfactory in form to the County Counselor providing that no foreign matter, such as non-operational equipment, rubbish, trees, car bodies, asphalt, building rubble, etc. shall be stockpiled on the application area or deposited within the excavation.
- M. The applicant shall submit a covenant satisfactory in form to the County Counselor, Sedgwick County Department of Public Works and the Wichita-Sedgwick County Health Department, which authorize the use of the extraction area as a detention storage facility for public drainage purposes, if determined to be necessary and appropriate.

- N. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction plant.
- O. 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.
- P. 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.
- Q. 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.
- R. 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.
- S. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard.
- T. The applicant shall dedicate, by separate instrument, the 60 feet of half-street right-of-way required for 53rd Street North adjacent to this property.
- U. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- V. The applicant shall allow the Wichita-Sedgwick County Health Department to enter the property to install groundwater monitoring wells at locations to be determined by the Department. The Health Department shall be responsible for testing and evaluating information provided by the monitoring wells. The Health Department will determine the effects of the extraction operation on surface and groundwater quality and verify if Kansas Department of Health and Environment water quality standards are being exceeded as a result of the extraction operation. Negative findings regarding pollution shall be cause for temporary suspension or permanent discontinuance of the extraction operation.
- W. Prior to the commencement of any excavation on this property, including topsoil and subsoil removal, the

applicant shall vacate Hoover Road, as noted on the operational plan. If the Board of County Commissioners should deny this street vacation request, the applicant shall submit new operational and redevelopment plans. These plans shall be submitted to the Planning Department within 45 days after the date that the County Commission denied the vacation case. The new plans shall be scheduled for review and approval by the Planning Commission at one of its regularly scheduled meetings.

- X. All sand and gravel extraction shall be completed within 25 years after approval of this conditional use permit by the Board of County Commissioners. This is the case as long as surface and groundwater monitoring does not verify that the existence of the extraction operation is a source of surface and groundwater pollution and should consequently be discontinued. Within 25 years after County Commission approval, the land surrounding the lake shall be properly graded and planted with a vegetative cover and all stockpiled sand, sand pumping and related equipment shall have been removed from the property. This conditional use permit shall expire 25 years from the date of County Commission approval, unless an extension is granted by that governing body after a public hearing is held by the MAPC to review the application for extension.
- Y. Prior to scheduling this conditional use request for County Commission consideration, conditions A, B, D, L, M and T shall be completed.
- Z. 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 conditional use permit shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

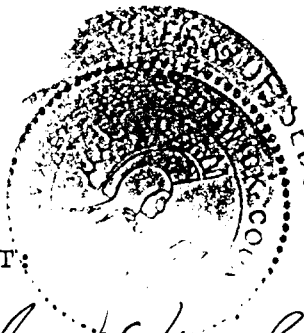
Commissioners present and voting were:

BETSY GWIN
PAUL W. HANCOCK
BERNARD A. HENTZEN
BILLY Q. McCRAY
MARK F. SCHROEDER

Aye
Aye
Aye
No
Aye

DATED this 23rd day of October, 1991.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS



ATTEST:

Don Wright
DON WRIGHT, County Clerk

APPROVED AS TO FORM ONLY:

Henry H. Buse
County Counselor/Assistant

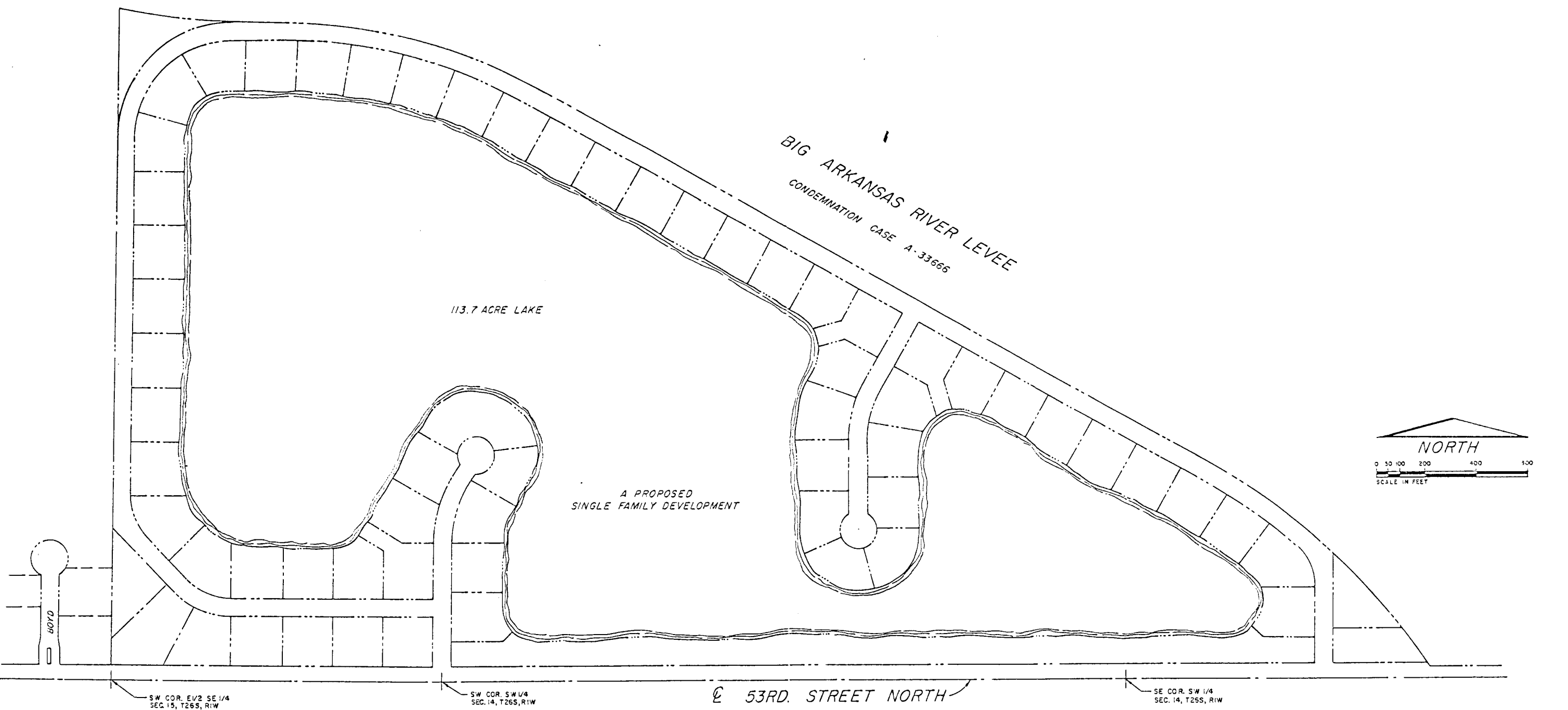
Billy Q. McCray
BILLY Q. McCRAY, Chairman

Betsy Gwin
BETSY GWIN, Chair/Pro Tem

Paul W. Hancock
PAUL W. HANCOCK, Commissioner

Bernard A. Hentzen
BERNARD A. HENTZEN, Commissioner

Mark F. Schroeder
MARK F. SCHROEDER, Commissioner



REDEVELOPMENT PLAN

ASSOCIATED MATERIAL
AND SUPPLY CO., INC.

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 6

September 12, 1991

STAFF REPORT

CASE NUMBER: CU-346

OWNER/APPLICANT/AGENT: Mike and Joanne Adams (owners/applicants)
Associated Material & Supply Company
(contract purchasers)
Professional Engineering Consultants (agent)

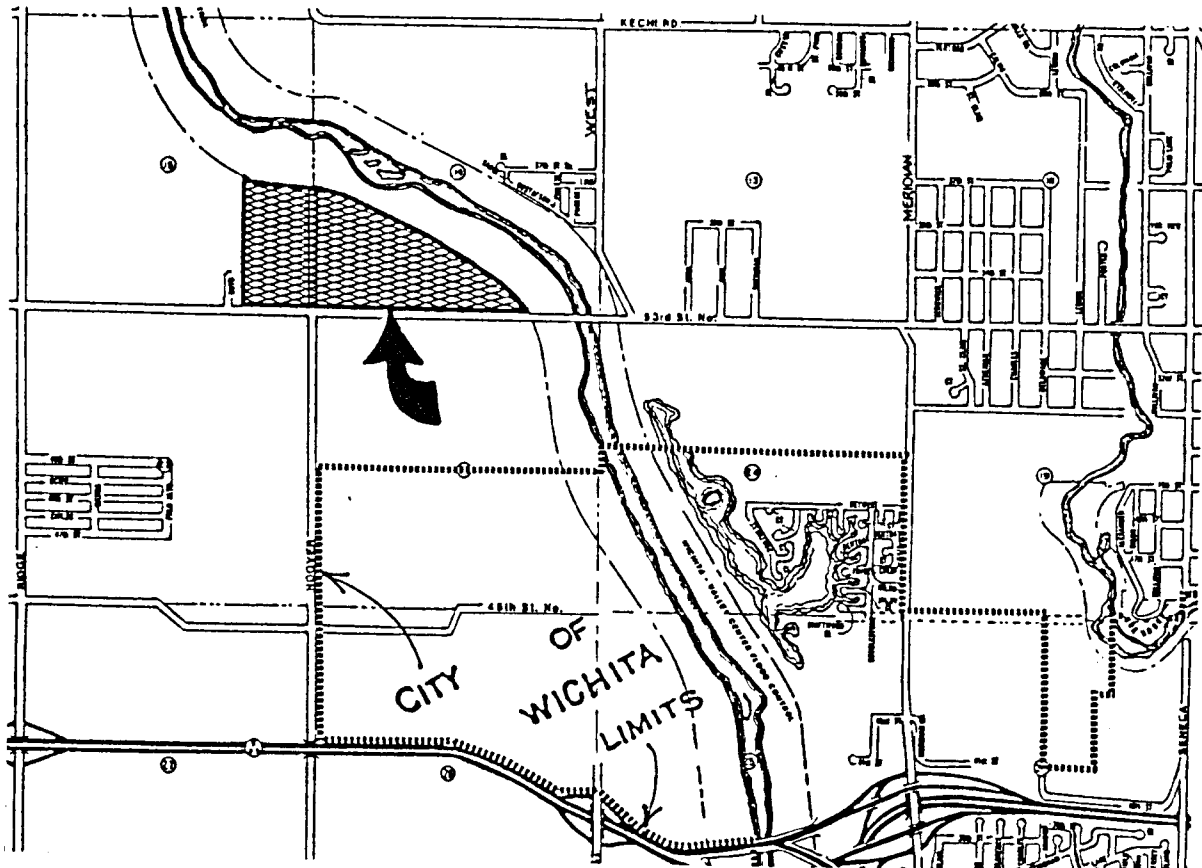
REQUEST: Conditional use permit to establish a sand and gravel extraction operation.

CURRENT ZONING: "R-1" Suburban Residential District

SITE SIZE: 203.6 acres (irregular shape)

LOCATION: North side of 53rd Street North in areas on the east and west sides of Hoover Road.

PROPOSED USE: Sand and gravel extraction operation.



BACKGROUND: The applicants are requesting a conditional use permit to establish a sand extraction operation on an unplatted tract of property located on the north side of 53rd Street North in areas east and west of Hoover Road. The application area measures approximately 204 acres and is zoned "R-1" Suburban Residential. Should this case be approved by the County Commission, the applicants plan to sell the subject property to Associated Material and Supply Company. The agent for this case has advised that this company currently extracts sand and gravel at another location, but wishes to acquire a new site in order to supply their long-term needs.

The applicants have submitted an operational and redevelopment plan indicating the limits of excavation, the location of the permanent plant, approximate shoreline, a note regarding limitations on areas for equipment storage and material stockpiling, perimeter fencing, the access point to 53rd Street, and future lotting arrangements around the lake. As mentioned above, the subject property is proposed to be a replacement site for sand and gravel extraction for a local company. That is, after an existing extraction site used by the contract purchaser has been completed, this new site will be utilized. The contract purchaser and the applicants' agent are requesting 25 years to complete the proposed sand and gravel removal.

The applicants' redevelopment plan depicts the use of this land with 1-acre lots around the perimeter of the sand pit excavation. Lots of this size will exceed the minimum lot size required by the "R-1" zoning district. The applicants are advised, however, that if a minimum of 10 feet of separation cannot be maintained between a septic tank sewage disposal system and groundwater, then an alternate means of sewerage will need to be provided. The minimum lot size for use of on-site sewage lagoons is 5 acres.

One of the issues that the MAPC needs to discuss regarding this case is the length of time requested by the contract purchaser for completion of sand and gravel removal. As stated above, 25 years' time has been requested for the extraction operation. Normally, sand mining operations are approved for only a five- to ten-year time frame. The extraction operation immediately to the west of this site (CU-328) was approved for ten years' time. The last sand pit case (CU-343) reviewed by the MAPC was located near the northwest corner of 53rd Street and Ridge Road and five years was granted to complete the sand removal.

Rather than recommending approval for only that portion of the site which would be expected to have the extraction operation completed within five to ten years, staff is proposing that the entire site be approved, but only if a phasing plan is developed. The requirement for the dividing of the site into areas and the requirement that materials be removed from only one area at a time is outlined in condition "D" of the recommended conditions for this case. Also, because of the requested 25-year time frame for this case, additional

language has been added to the requirement for groundwater monitoring wells. The requirement for monitoring wells has become common for cases located within a Groundwater Management District.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH	"R-1"	Flood control right-of-way
SOUTH	"R-1"	Single-family residence & agricultural use
EAST	"R-1"	Flood control right-of-way
WEST	"R-1"*	Single-family residence & land approved for sand extraction

*w/CU-328

PUBLIC SERVICES: This property is not served with either sanitary sewer or municipal water. Adjacent 53rd Street is a paved, two-lane F.A.S. road for which additional street right-of-way is required. Nearby Ridge Road and Meridian Avenue also offer two lanes of pavement, as well as access onto the K-96 Expressway.

CONFORMANCE TO PLANS/POLICIES: Section 5(A)(10)(f) of the County Zoning Resolution provides for extraction of raw materials in the "R-1" zoning district, provided the MAPC reviews the request and the Board of County Commissioners approves the use by issuing a conditional use permit. The Land Use Element of the Comprehensive Plan depicts this area of the county for agricultural purposes. Development of the proposed extraction facility with on-site water and sewerage facilities will require Health Department approval. This site is located within the boundaries of the Equus Beds Groundwater Management District No. 2.

RECOMMENDATION: It is recommended that this conditional use permit for a sand and gravel extraction operation be approved, subject to the following conditions:

- A. Since the proposed excavation is within 1,000 feet of a flood protection structure, the applicant shall obtain a permit from the County Engineer. This permit is required by K.S.A. 19-3309 and shall be obtained prior to this case being considered by the Board of County Commissioners.
- B. The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the City-County Flood Control Office and as to form by the County Counselor. The covenant shall provide for the construction and/or maintenance of a loop levee on the premises at such a location as the Flood Control Office may direct in accordance with construction specifications, Sections 1 through 4, inclusive, and maintenance specifications, Sections 1 and 2 of Construction and Maintenance Specifications, as prepared by the City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, suc-

- C. 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. Special care shall be exercised to assure that the perimeter of the lake does not encroach closer to the boundary of the application area than is depicted on the operational plan.
- D. Four copies of a revised operational plan shall be submitted for review and approval prior to this case being scheduled for review by the Board of County Commissioners. The revised plan shall indicate the division of the excavation area into a minimum of four (4) approximately equal areas. Each area shall be numbered and a note shall be included on the operational plan that states that excavation will begin in the lowest-numbered area and that the excavation of any materials (i.e., sand, gravel, subsoil or topsoil) shall not occur in any higher-numbered area until excavation has been completed in all areas designated with a lower number. The boundary lines which define the numbered excavation areas shall be appropriately dimensioned.
- E. In order to assist in the enforcement of the operational plan for this extraction operation, the applicant shall have a copy of the approved operational plan posted in the plant office.
- F. Adjacent to the perimeter of the application area, a minimum 60-inch-high fence shall be constructed prior to the beginning of any extraction operation (topsoil, subsoil 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 a minimum height of 60 inches and shall be of the following types of construction:
 - 1. A 50-inch-high or higher chain link fence with 3 or more strands of barbed wire; or
 - 2. A 50-inch-high or higher solid metal or solid masonry fence with 3 or more strands of barbed wire; or
 - 3. A 50-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.

- G. 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 City-County Health Department.

- H. To provide for bank stabilization and safety of future uses, the side slope of the extraction shall be no more steep than 5 horizontal to 1 vertical.
- I. 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.
- J. All of the area included within the fenced earth and sand extraction operation shall be graded so as to drain into the lake.
- K. The owner of the property shall be responsible for:
 - 1. Insuring that the loop levee elevation be maintained, if constructed.
 - 2. Maintaining all operational roads with sand and/or gravel in order to minimize blowing dust.
- L. The applicant shall submit a restrictive covenant satisfactory in form to the County Counselor providing that no foreign matter, such as rubbish, trees, car bodies, asphalt, building rubble, etc. shall be stockpiled on the application area or deposited within the excavation.
- M. The applicant shall submit a covenant satisfactory in form to the County Counselor and Sedgwick County Department of Public Works which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.
- N. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction plant.
- O. 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.
- P. 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.
- Q. 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.

- R. 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.
- S. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard.
- T. The applicant shall dedicate, by separate instrument, the 60 feet of half-street right-of-way required for 53rd Street North adjacent to this property.
- U. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- V. The applicant shall install groundwater monitoring wells at locations to be determined by the Wichita-Sedgwick County Health Department. The monitoring wells shall be installed prior to the commencement of the sand extraction operation. The Health Department shall be responsible for testing and evaluating information provided by the monitoring wells. The Health Department shall determine the effects of the extraction operation on surface and groundwater quality and verify if Kansas Department of Health and Environment water quality standards are being exceeded as a result of the extraction operation. Negative findings regarding pollution shall be cause for temporary suspension or permanent discontinuance of the extraction operation.
- W. Prior to the commencement of any excavation on this property, including topsoil and subsoil removal, the applicant shall vacate Hoover Road, as noted on the operational plan. If the Board of County Commissioners should deny this street vacation request, the applicant shall submit new operational and redevelopment plans. These plans shall be submitted to the Planning Department within 45 days after the date that the County Commission denied the vacation case. The new plans shall be scheduled for review and approval by the Planning Commission at one of its regularly scheduled meetings.
- X. All sand and gravel extraction shall be completed within 25 years after approval of this conditional use permit by the Board of County Commissioners. This is the case as long as surface and groundwater monitoring does not verify that the existence of the extraction operation is a source of surface and groundwater pollution and should consequently be discontinued. Within 25 years after County Commission approval, the land surrounding the lake shall be properly graded and planted with a vegetative cover and

all stockpiled sand, sand pumping and related equipment shall have been removed from the property. This conditional use permit shall expire 25 years from the date of County Commission approval, unless an extension is granted by that governing body after a public hearing is held by the MAPC to review the application for extension.

- Y. Prior to scheduling this conditional use request for County Commission consideration, conditions A, B, D, L, M and T shall be completed.
- Z. Any violation of conditions attached shall declare the conditional use permit null and void.