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R E S O L U T I O N N O . 158-1990

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW A TOPSOIL REMOVAL 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 allow a topsoil removal operation on property zoned "R-1" Suburban Residential District is hereby approved on lands legally described below:

Case No. CU-336
Conditional Use Permit request to establish a
topsoil extraction operation on property zoned
the "R-1" Suburban Residential District

A tract of land in the Northwest Quarter of Section 9, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Commencing at the southwest corner of said Northwest Quarter; thence N 88°51'20" E, along the south line of said Northwest Quarter, a distance of 1,100 feet to the point of beginning; thence N 00°29'57" W, a distance of 379.98 feet; thence northeasterly on a 50-foot radius curve to the left a distance of 79.04 feet, the radius point of said curve being N 00°30'00" W, 431.45 feet and N 88°55'56" E, 1,100 feet from the southwest corner of said Northwest Quarter as recorded on Film 365, page 319; thence N 88°55'56" E 843.24 feet; thence N 00°32'24" W, 229.386 feet; thence N 88°58'15" E, a distance of 664.36 feet to the east line of said Northwest Quarter; thence S 00°33'12" E along the east line of said Northwest Quarter, a distance of 656.83 feet to the southeast corner of said Northwest Quarter; thence S 88°51'20" W along the south line of said Northwest Quarter, a distance of 1,538.14 feet to the point of beginning. Generally located in an area 1,100 feet east of Webb Road and approximately 2,000 feet south of 31st Street South.

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. This conditional use permit is for the extraction and removal of topsoil only, in accordance with the Site Grading Plan approved by the County Bureau of Public Services on June 27, 1990.
- B. Prior to the scheduling of this case before the County Commission, the applicant shall submit a drainage/grading

plan to the County Bureau of Public Services for review and approval. The drainage/grading plan shall indicate all topographic features and information required by the County Engineer.

- C. The applicant shall grant by separate instrument the Floodway Reserve needed on the application area.
- D. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment yard. Once the soil removal operation has ceased and the land has been properly regraded, all soil excavation and grading equipment shall be removed from the property.
- E. It is encouraged that soil be removed and stockpiled during the summer months. The areas where soil has been removed shall be graded, tilled and planted with acceptable vegetation cover in the fall, immediately following the soil removal. Should reasonable germination not occur, then replanting in the spring with some alternate cover material shall be required.
- F. Topsoil shall not be stockpiled within 100 feet of the Bradford Lane cul-de-sac right-of-way or within that portion of the application area being granted as Floodway Reserve. A revised Site Grading Plan which notes these stockpiling restrictions and depicts that part of the site being established as a Floodway Reserve shall be submitted prior to this case being scheduled for County Commission review.
- G. All soil removal and regrading of the entire site, in accordance with the approved Grading Plan, shall be completed within 3 years after approval of this conditional use permit by the Board of County Commissioners. This conditional use permit shall expire 3 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.
- H. Prior to scheduling this conditional use request for County Commission consideration, conditions "B", "C" and "F" (above) shall be completed.
- I. Any violation of these conditions 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:

DAVID BAYOUTH
PAUL W. HANCOCK
BERNARD A. HENTZEN
BILLY Q. McCRAY
MARK F. SCHROEDER

DATED this 18th day of July, 1990.



Don Wright
DON WRIGHT, County Clerk

APPROVED AS TO FORM ONLY:

Henry H. Chase
County Counselor/Assistant

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

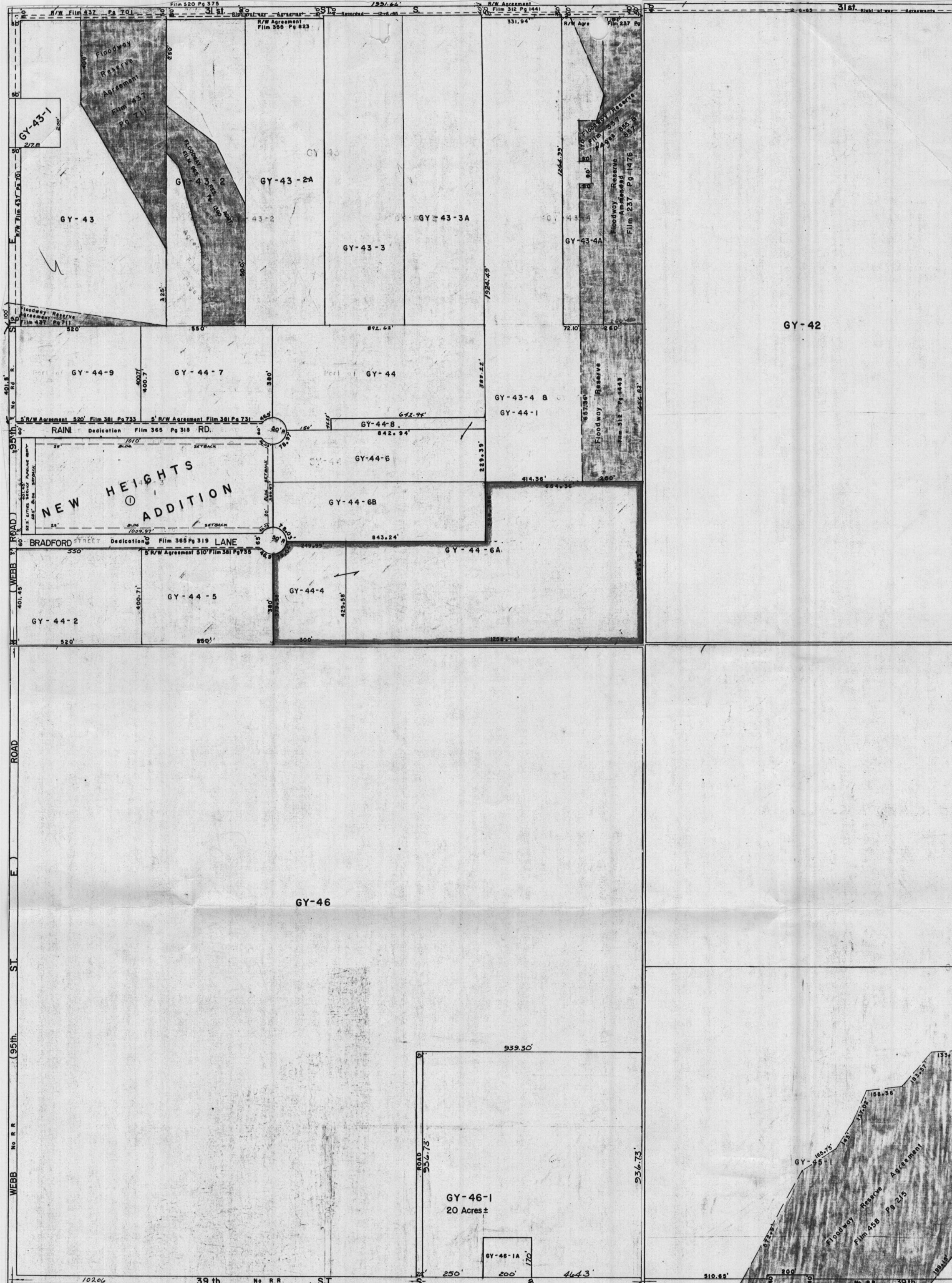
Mark F. Schroeder
MARK F. SCHROEDER, Chairman

David Bayouth
DAVID BAYOUTH, Chairman Pro Tem

- Absent -
PAUL W. HANCOCK, Commissioner

Bernard A. Hentzen
BERNARD A. HENTZEN, Commissioner

Billy Q. McCray
BILLY Q. MCCRAY, Commissioner



WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 5

June 21, 1990

STAFF REPORT

CASE NUMBER: CU-336

OWNER/APPLICANT/AGENT: Bob and Delores Callahan (owners/applicants)
Baughman Company, P.A. (agent)

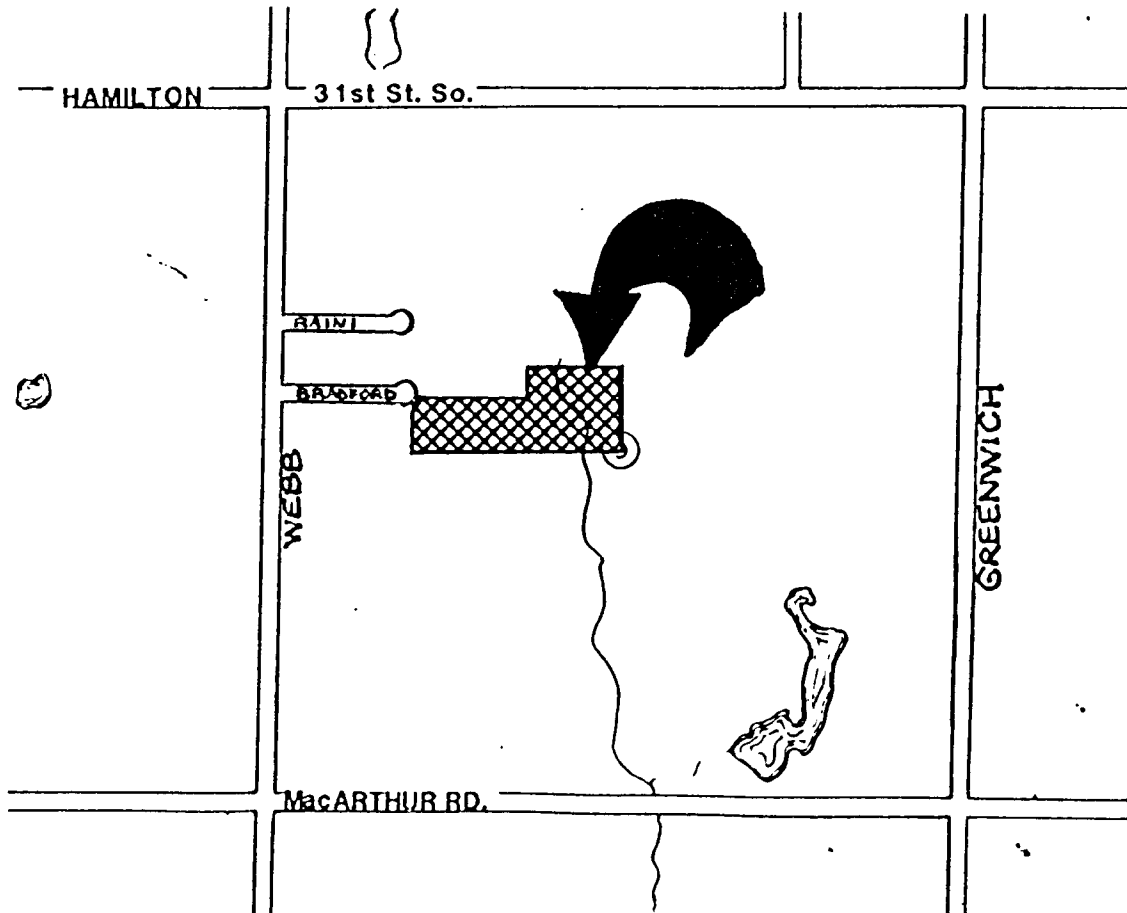
REQUEST: Conditional use permit for topsoil removal

CURRENT ZONING: "R-1" Suburban Residential District

SITE SIZE: 18.8 acres (irregular shape)

LOCATION: In an area 1,100 ft. east of Webb Road and
approx. 2,000 ft. south of 31st St. South.

PROPOSED USE: Topsoil removal operation



BACKGROUND: The applicant is requesting a conditional use permit for a topsoil removal operation on an unplatted tract of land located 1,100 feet east of Webb Road and approximately 2,000 feet south of 31st Street South. The application area measures 18.8 acres and is zoned "R-1" Suburban Residential. If this conditional use request is approved, the applicants' agent has advised that 1 foot of topsoil (approximately 20,000 cubic yards of material) will be removed over a three-year period. A portion of this topsoil will be used on a project the applicant has at McConnell Air Force Base and the remainder will be used on other sites.

The applicant's agent has advised that the proposed soil removal operation will be small in scale and therefore will not be overly disruptive to surrounding property owners or create such a volume of truck traffic as to cause excessive damage to unpaved Bradford Lane which accesses this property. Even with this information, staff is reluctant to support this request. This reluctance is based on a belief that the soil removal operation will adversely impact the owners of the two residences that must use Bradford Lane as their access to and from Webb Road. Soil removal operations should be located adjacent to section line roads which are preferably paved, not in the middle of a section of land where access is by way of an unpaved residential street.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH	"R-1"	Single-family residence
SOUTH	"R-1"	Undeveloped/agricultural use
EAST	"R-1"	Undeveloped/agricultural use
WEST	"R-1"	Single-family residence

PUBLIC SERVICES: This property is not served with either municipal water or sanitary sewer. Access to the soil removal operation is by way of Bradford Lane, which is an unpaved residential street.

CONFORMANCE TO PLANS/POLICIES: The Land Use Element of the Comprehensive Plan designates this property for agricultural use.

RECOMMENDATION: It is recommended that the conditional use permit be denied. If the Planning Commission should determine that the proposed topsoil removal operation is appropriate at this location, the following are recommended conditions of approval:

- A. This conditional use permit is for the extraction and removal of topsoil only, in accordance with the Site Grading Plan approved by the County Bureau of Public Services on _____.

- B. Prior to the scheduling of this case before the County Commission, the applicant shall submit a drainage/grading plan to the County Bureau of Public Services for review and approval. The drainage/grading plan shall indicate all topographic features and information required by the County Engineer.
- C. The applicant shall grant by separate instrument the Floodway Reserve needed on the application area.
- D. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment yard. Once the soil removal operation has ceased and the land has been properly regraded, all soil excavation and grading equipment shall be removed from the property.
- E. It is encouraged that soil be removed and stockpiled during the summer months. The areas where soil has been removed shall be graded, tilled and planted with acceptable vegetation cover in the fall, immediately following the soil removal. Should reasonable germination not occur, then replanting in the spring with some alternate cover material shall be required.
- F. Topsoil shall not be stockpiled within 100 feet of the Bradford Lane cul-de-sac right-of-way or within that portion of the application area being granted as Floodway Reserve. A revised Site Grading Plan which notes these stockpiling restrictions and depicts that part of the site being established as a Floodway Reserve shall be submitted prior to this case being scheduled for County Commission review.
- G. All soil removal and regrading of the entire site, in accordance with the approved Grading Plan, shall be completed within 3 years after approval of this conditional use permit by the Board of County Commissioners. This conditional use permit shall expire 3 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.
- H. Prior to scheduling this conditional use request for County Commission consideration, conditions "B", "C" and "F" (above) shall be completed.
- I. Any violation of these conditions shall declare the conditional use permit null and void.