

Published in The Daily Reporter on \_\_\_\_\_, 1994

RESOLUTION NO.

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW FOR TOPSOIL REMOVAL IN THE "E" LIGHT INDUSTRIAL 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 for topsoil removal on property zoned the "E" Light Industrial District, legally described below:

Case No. CU-368

Conditional use permit request to allow for topsoil removal on property zoned the "E" Light Industrial District

The W/2 of the SW/4 of Section 34-T26S-R1W of the 6th P.M., Sedgwick County, Kansas; EXCEPT that portion of said tract lying south and west of the south boundary line of the Missouri-Pacific Railroad, AND EXCEPT railroad right-of-way and existing road right-of-way. Generally located north of 29th Street North on the east side of Ridge Road.

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. Prior to this item being scheduled before the Board of County Commissioners, the applicant shall dedicate right-of-way by separate instrument as required for major arterials, 60 feet of half-street right-of-way for Ridge Road increasing to 75 feet within 350 feet of the intersection and 50 feet of half-street right-of-way for 29th Street North.

FILE COPY

- B. Prior to this being scheduled before the Board of County Commissioners, the applicant shall have the depth of the groundwater table on this site determined, in accordance with the established procedures of the City/County Health Department. This information, along with the proposed final grading plan, shall be submitted to the City/County Health Department for review as to any adverse impact to public health due to standing water. The Health Department may further limit the area permitted for topsoil removal or require alterations in the grading plan.
- C. Prior to the publication of the resolution effectuating the conditional use, the applicant shall submit and obtain approval of a drainage/grading plan from the County Bureau of Public Services. The drainage/grading plan shall indicate all topographic features and information required by County Engineering.
- D. Prior to the publication of the resolution effectuating the conditional use, all applicable state and federal permits shall be acquired for wetlands preservation along the Big Slough.
- E. The site shall be returned to original grade or the grade established by the drainage/grading plan approved by the County Bureau of Public Services.
- F. Topsoil or fill material shall not be stockpiled within 100 feet of the east line of Ridge Road, the north line of 29th Street North, or any perimeter of the application area which is adjacent to a residential use.
- G. Soil should be generally removed and stockpiled during the summer months. The areas where soil has been removed shall be graded, tilled, and planted with acceptable vegetative cover in the first available planting season, immediately following the soil removal. Should reasonable germination not occur, then replanting in the spring with some alternate cover material shall be required.
- H. In order to reduce the amount of blowing dust caused by truck traffic on the site, the soil removal contractor shall be responsible for applying water to the temporary roadways within the perimeter of the application area.
- I. All earth-moving and associated loading equipment that is stored on site when the earth extraction operation is not in progress shall be parked within a fenced enclosure. Said fence shall have a minimum height of 60 inches and shall include a reasonably wide access gate. The fence and gate 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;
2. A 48-inch high or higher solid metal or solid masonry fence with 3 or more strands or 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 degrees facing away from the excavation.

- J. 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.
- K. All soil removal and regrading of the entire site, in accordance with the approved grading plan, shall be completed within 5 years after approval of this conditional use permit by the Board of County Commissioners, unless an extension is granted by that governing body after a public hearing is held by the MAPC to review the application for extension.
- L. Violation of any of the conditions of approval shall render 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:

PAUL W. HANCOCK	<u>Aye</u>
THOMAS G. WINTERS	<u>Aye</u>
ANDREW L. BIAS	<u>Aye</u>
MARK F. SCHROEDER	<u>Aye</u>
BETSY GWIN	<u>Aye</u>

DATED this 11<sup>th</sup> day of May, 1994.

BOARD OF COUNTY COMMISSIONERS OF  
SEDGWICK COUNTY, KANSAS

Betsy Gwin  
BETSY GWIN, Chair

Andrew L. Bias  
ANDREW L. BIAS, Chairman Pro Tem

ATTEST:

Susan Crockett-Spoon  
SUSAN CROCKETT-SPOON  
County Clerk

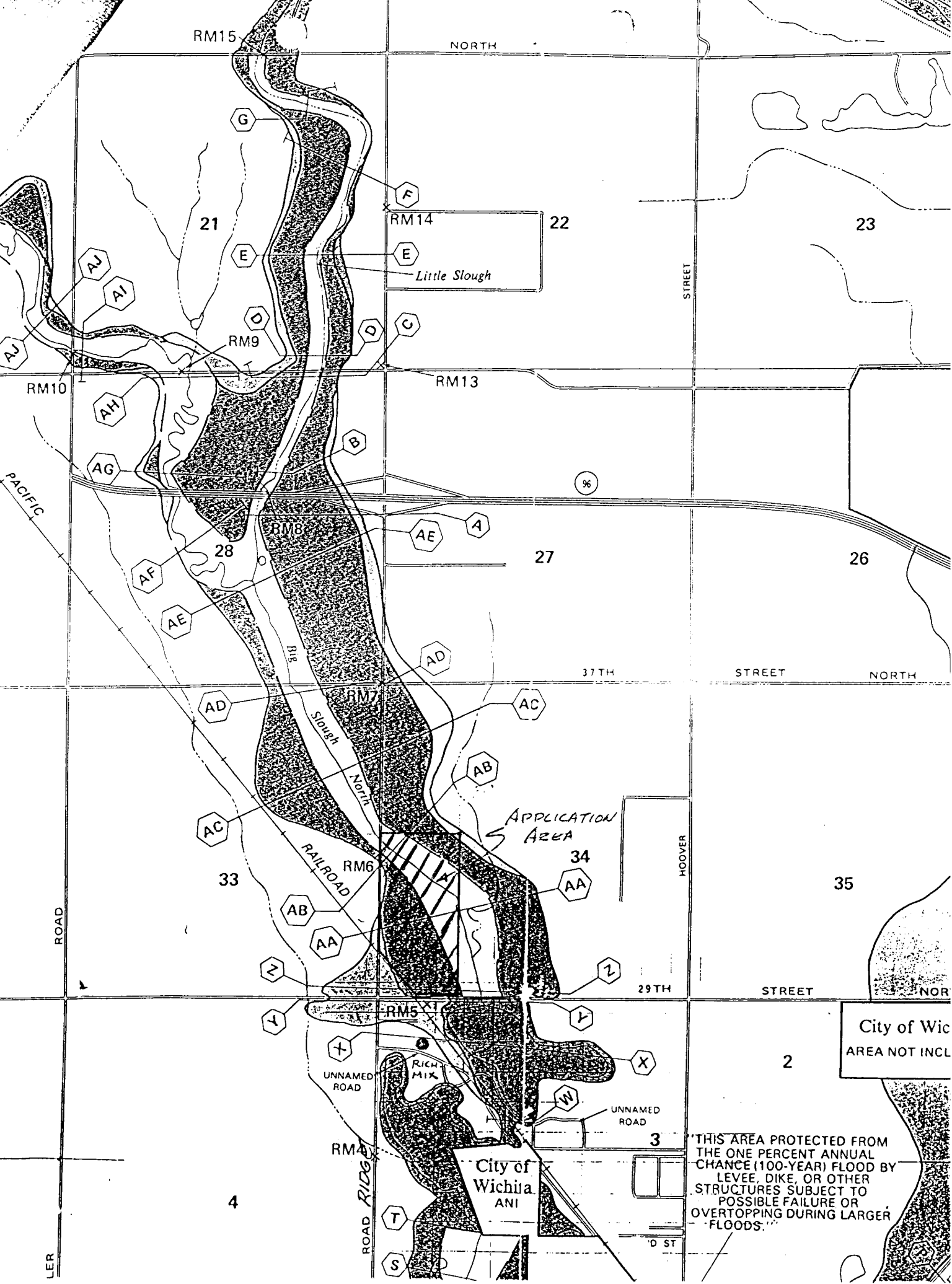
Paul W. Hancock  
PAUL W. HANCOCK, Commissioner

APPROVED AS TO FORM ONLY:

Thomas G. Winters  
THOMAS G. WINTERS, Commissioner

David Pearson  
County Counselor/Assistant

Mark F. Schroeder  
MARK F. SCHROEDER, Commissioner



RM15

NORTH

21

RM14

22

23

Little Slough

RM9

RM13

RM10

96

28

27

26

Big Slough North

37TH

STREET

NORTH

RM7

APPLICATION AREA

34

33

RAILROAD

RM6

HOOPER

35

ROAD

Z

Z

29TH

STREET

NOR

RM5

City of Wichita  
AREA NOT INCL

2

UNNAMED ROAD

RICH MIX

UNNAMED ROAD

3

City of Wichita  
ANI

THIS AREA PROTECTED FROM THE ONE PERCENT ANNUAL CHANCE (100-YEAR) FLOOD BY LEVEE, DIKE, OR OTHER STRUCTURES SUBJECT TO POSSIBLE FAILURE OR OVERTOPPING DURING LARGER FLOODS.

4

ROAD RIDGE

T

D ST

LER

S

# STAFF REPORT

APRIL 7, 1994

CASE NUMBER: CU-368

APPLICANT/AGENT: Ritchie Corporation / Gary Wiley

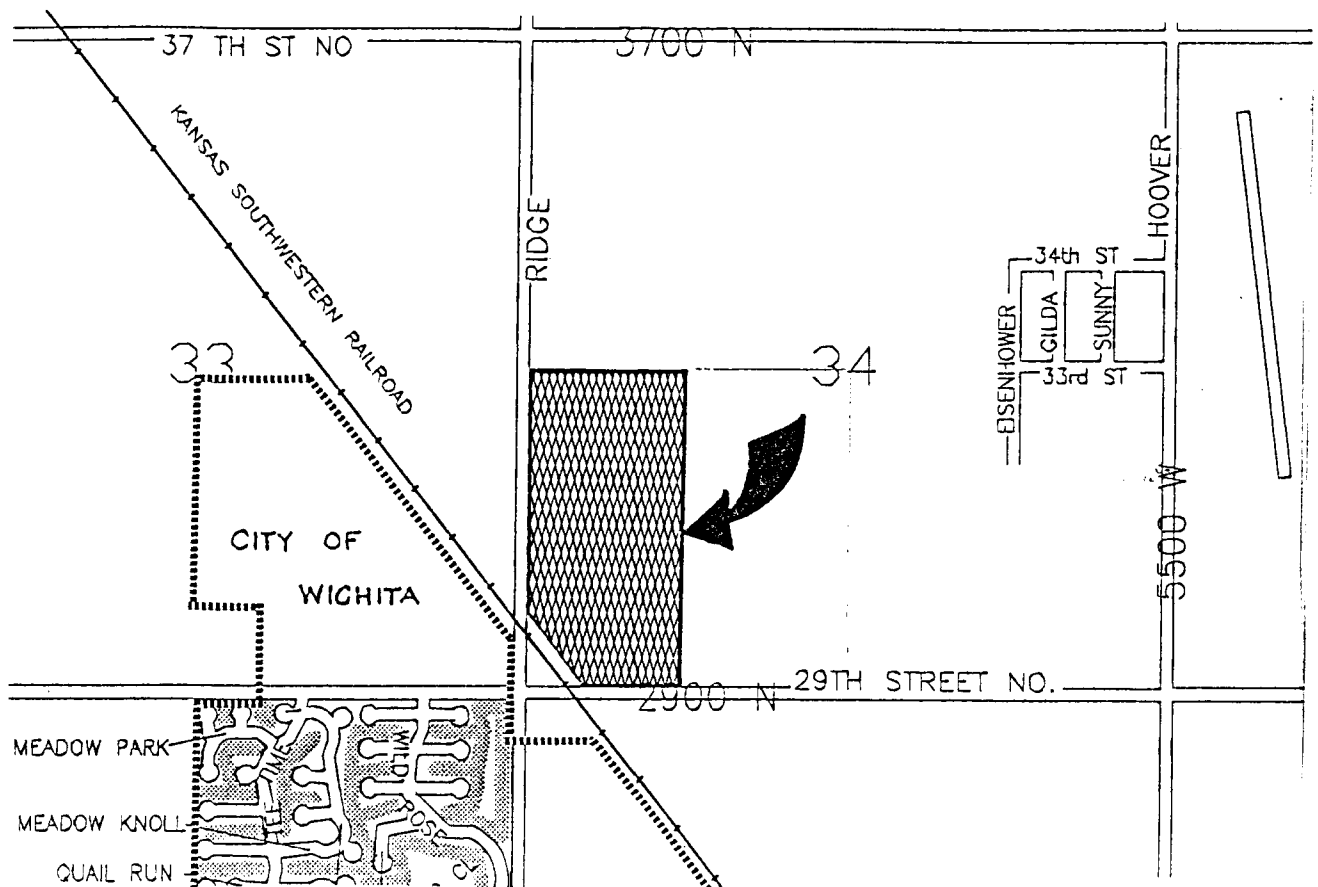
REQUEST: Conditional use permit for topsoil removal

CURRENT ZONING: "E" Light Industrial

SITE SIZE: Approximately 71.8 acres

LOCATION: North of 29th Street North on the east side of Ridge Road

PROPOSED USE: Topsoil removal



**BACKGROUND:** The applicant requests a conditional use permit for topsoil removal on 71.8 acres zoned "E" Light industrial District, generally located north of 29th Street North on the east side of Ridge Road. The application area is unplatted and currently used for agricultural uses. The applicant proposes to remove 6 to 12 inches of topsoil from the application area, or approximately 100,000 cubic yards over the next five years. The topsoil will be hauled to the Rich-Mix Products plant located to the east of Ridge Road, approximately 1,000 feet south of the application area. The material will be mixed with cow manure and distributed in 50 pound bags as topsoil.

The Soil Survey of Sedgwick County identifies hydric soils (Plevna, Lesho loam, Waldeck sandy loam) on a majority of the application area. These soils are commonly associated with wetlands. The U.S. Army Corps of Engineers indicates that the site likely includes wetlands along the Big Slough in the areas which are currently not cultivated for agricultural purposes. Therefore, prior to excavating this site, the applicant will need to acquire all necessary permits for the protection and management of any wetland or riparian areas located within the application area.

According to the Hydrogeologic Map of Sedgwick County, Kansas, groundwater elevations range from 6 feet approximately ½ mile to the north of the application area and approximately 11 feet at a point 1 mile south.

**CASE HISTORY:** This application area was zoned "E" Light Industrial as part of 3-mile zoning in 1958.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"R-1"	Agricultural uses
SOUTH:	"E"	Single family home
EAST:	"E"	Agricultural uses
WEST:	"AA", "E"	Forest Lakes Addition, agricultural, City of Wichita

**PUBLIC SERVICES:** This site has access from Ridge Road, a 2-lane paved F.A.S. designated road with 40 feet of existing half street right-of-way, and 29th Street North, an unimproved section line road with 30 feet of existing half street right-of-way. The standard half street right-of-way is 60 feet for F.A.S. designated roads and 50 feet for section line roads.

**CONFORMANCE TO PLANS/POLICIES:** The Sedgwick County Development Guide of the Comprehensive Plan identifies this area for agricultural uses. The Development Guide also identifies New Growth areas to the west and south of this application area.

The Comprehensive Plan recommends the protection of areas which provide significant wildlife habitat, are environmentally sensitive or unique, or have

significant water and topographic features. The Plan also recommends development in rural areas when it is agriculturally-oriented or dependent upon a natural resource.

**RECOMMENDATION:** Planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. Prior to this item being scheduled before the Board of County Commissioners, the applicant shall dedicate right-of-way by separate instrument as required for major arterials, 60 feet of half-street right-of-way for Ridge Road increasing to 75 feet within 350 feet of the intersection and 50 feet of half-street right-of-way for 29th Street North.
- B. Prior to this being scheduled before the Board of County Commissioners, the applicant shall have the depth of the groundwater table on this site determined, in accordance with the established procedures of the City/County Health Department. This information, along with the proposed final grading plan, shall be submitted to the City/County Health Department for review as to any adverse impact to public health due to standing water. The Health Department may further limit the area permitted for topsoil removal or require alterations in the grading plan.
- C. Prior to the publication of the resolution effectuating the conditional use, the applicant shall submit and obtain approval of a drainage/grading plan from the County Bureau of Public Services. The drainage/grading plan shall indicate all topographic features and information required by County Engineering.
- D. Prior to the publication of the resolution effectuating the conditional use, all applicable state and federal permits shall be acquired for wetlands preservation along the Big Slough.
- E. The site shall be returned to original grade or the grade established by the drainage/grading plan approved by the County Bureau of Public Services.
- F. Topsoil or fill material shall not be stockpiled within 100 feet of the east line of Ridge Road, the north line of 29th Street North, or any perimeter of the application area which is adjacent to a residential use.
- G. Soil should be generally removed and stockpiled during the summer months. The areas where soil has been removed shall be graded, tilled, and planted with acceptable vegetative cover in the first available planting season, immediately following the soil removal. Should reasonable germination not occur, then replanting in the spring with some alternate cover material shall be required.

- H. In order to reduce the amount of blowing dust caused by truck traffic on the site, the soil removal contractor shall be responsible for applying water to the temporary roadways within the perimeter of the application area.
- I. All earth-moving and associated loading equipment that is stored on site when the earth extraction operation is not in progress shall be parked within a fenced enclosure. Said fence shall have a minimum height of 60 inches and shall include a reasonably wide access gate. The fence and gate 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;
  - 2. A 48-inch high or higher solid metal or solid masonry fence with 3 or more strands or 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 degrees facing away from the excavation.

- J. All access to and from the site shall be by way of 29th Street North. Access to and from the site by way of Ridge Road is prohibited.
- K. 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.
- L. All soil removal and regrading of the entire site, in accordance with the approved grading plan, shall be completed within 5 years after approval of this conditional use permit by the Board of County Commissioners, unless an extension is granted by that governing body after a public hearing is held by the MAPC to review the application for extension.
- M. Violation of any of the conditions of approval shall render the conditional use permit null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: Although zoned industrial, the surrounding area is primarily characterized by residential and agricultural uses. Several sand extraction and/or topsoil removal operations are operating or have

been approved in this area of the County. Topsoil removal is similar in nature to raising crops.

2. Detrimental effects on nearby property. The conditions of approval, including requirements for replanting, watering of roadways, etc. should minimize detrimental effects.

3. Conformance of the requested change to adopted or recognized Plans/Policies: The Comprehensive Plan identifies this area for agricultural uses. The Comprehensive Plan recommends the protection of areas which provide significant wildlife habitat and are environmentally sensitive or unique and the preservation of existing stands of trees and other native vegetation. Any significant natural features will be subject to review by appropriate federal and state agencies. Also, the applicant is required to obtain any necessary permits for wetlands preservation. The grading plan submitted by the applicant should avoid the more critical areas along the Slough.

4. Impact of the proposed development on community facilities: The proposed extraction operation will not require municipal services. Traffic conflicts should be reduced by limiting access to 29th Street North.