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METROPOLITAN PLANNING

ROUTE ~~Published in The Daily Reporter on _____, 1993~~

R E S O L U T I O N N O .

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW A SAND AND GRAVEL EXTRACTION OPERATION IN THE "R" RURAL 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 sand and gravel extraction operation on property zoned "R" Rural Residential, legally described below:

FILE COPY

Case No. CU-359

Conditional use permit request to allow a sand and gravel extraction operation on property zoned the "R" Rural Residential District

A tract of land in the SW 1/4, Sec. 28, T28S, R1E of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point 600 ft. east and 40 ft. north of the Southwest corner of said SW 1/4; thence north, parallel to the west line of said SW 1/4, 560 ft.; thence west, parallel to the south line of said SW 1/4, 110 ft.; thence north, parallel to the west line of said SW 1/4, 1040 ft.; thence east, parallel to the south line of said SW 1/4, 990 ft. more or less to the westerly right-of-way of the abandoned Midland Valley Railroad; thence southeasterly along the westerly right-of-way of the abandoned Midland Valley Railroad, 1400 ft. more or less to the west line of the Kansas Turnpike Authority right-of-way; thence south, along the west line of the Kansas Turnpike Authority, right-of-way, 400 ft. more or less to a

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point 40 ft. north of the south line of said SW 1/4; thence west, parallel to and 40 ft. north of the south line of said SW 1/4, 1595 ft. more or less to the point of beginning. Generally located east of Broadway on the north side of 63rd Street South.

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. Prior to the publication of the resolution effectuating the conditional use, the applicant shall dedicate by separate instrument, 60 feet of half-street right-of-way for 63rd Street South.
- B. The applicant shall proceed in accordance with the operational plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan. The sand plant operator shall exercise special care not to excavate closer to the perimeter of the fenced excavation site than is depicted on the operational plan.
- C. No stockpiling of sand or storage of equipment shall occur within 100 feet of any public right-of-way or within 50 feet of all remaining property lines.
- D. The earth shall be extracted to at least a minimum depth of six feet below the water table determined by the City-County Health Department.
- E. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five horizontal to one vertical.
- F. The applicant shall submit and obtain approval of a drainage plan from the County Engineer prior to the publication of the resolution effectuating the conditional use.
- G. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the sand extraction operation, the land surrounding the lake shall be properly graded and planted with a vegetative cover. Also, all stockpiled sand, sand pumping and related equipment shall be removed from the project site.

- H. The applicant shall submit a restrictive covenant which provides that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the site or in the extraction area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to publication of the resolution effectuating the conditional use.
- I. The applicant shall be responsible for maintaining all operational roads in a sand or graveled condition and shall apply water or other acceptable dust retardant so as to minimize blowing dust.
- J. 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 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.
- K. Concrete or asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc. shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.

- L. All slopes shall have vegetative covering consisting of a perennial drought resistant grass or a combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- M. The property shall be platted prior to the issuance of any zoning or building permits except those necessary for the sand excavation operation.
- N. Prior to the publication of the resolution effectuating the conditional use, the applicant shall submit 4 copies of a landscape plan for approval by the Planning Department denoting the location, types and size of plant materials to be utilized for screening around the southern boundary of the property and as a buffer from the existing single family residence to the west of the application area. Said plant materials shall be placed as indicated on the approved plan in the first planting season after the extraction operation commences and their planting and maintenance shall be the responsibility of the owner.
- O. The approval of the Conditional Use is for a period not to exceed fifteen years from the date of approval by the Board of County Commissioners and subject operation is to cease after that period of time with all equipment and materials associated with the operation removed from the premises. As part of the operational plan required in B above, the applicant shall divide the site into 2 or 3 distinct areas for the purpose of showing excavation over time. The plan would show which area was to be excavated and at what time. (This item is included due to the applicant's request of 15 years of operation, rather than the typical request of 5 to 10 years. This provision would prevent the entire tract from being disturbed until the latter years of operation.)

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The revised operational plan, which shall also show the plant site 200 feet south of the original location, shall be submitted prior to this item being scheduled before the Board of County Commissioners.

- P. In order to assist in the enforcement of the operational plan for this conditional use case, the

applicant shall have a copy of the approved operational plan posted in the sand extraction office.

- Q. 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.
- R. 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.
- S. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- T. The applicant shall allow the Wichita Sedgwick County Health Department and the Kansas Department of Health and Environment access to the site for the purpose of establishing groundwater wells. The Health Departments shall provide adequate notification to the property owner before accessing the property.
- U. Prior to the publication of the resolution effectuating the conditional use, 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.
- V. Any on-site storage of fuels or chemicals must be approved by the Wichita Sedgwick County Health Department.
- W. No pumping of sand or gravel shall occur between the hours of 7:00 pm and 6:00 am.
- X. Violation of 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:

BETSY GWIN	<u><i>Betsy Gwin</i></u>
PAUL W. HANCOCK	<u><i>Paul W. Hancock</i></u>
BILLY Q. McCRAY	<u><i>Billy Q. McCray</i></u>
MARK F. SCHROEDER	<u><i>Mark F. Schroeder</i></u>
THOMAS G. WINTERS	<u><i>Thomas G. Winters</i></u>

DATED this 23rd day of June, 1993.



BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Mark F. Schroeder
MARK F. SCHROEDER, Chairman

Billy Q. McCray
BILLY Q. McCRAY, Chairman Pro Tem

ATTEST:

Susan Crockett-Spoon
SUSAN CROCKETT-SPOON
County Clerk

Betsy Gwin
BETSY GWIN, Commissioner

APPROVED AS TO FORM ONLY:

Paul W. Hancock
PAUL W. HANCOCK, Commissioner

[Signature]
County Counselor/Assistant

Thomas G. Winters
THOMAS G. WINTERS, Commissioner

**WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION**

AGENDA ITEM NO. 9
HAYSVILLE PC 5-13-93
MAPC 5-20-93

STAFF REPORT

CASE NUMBER: CU-359

APPLICANT/AGENT: Gerald Blood
Gary Wiley

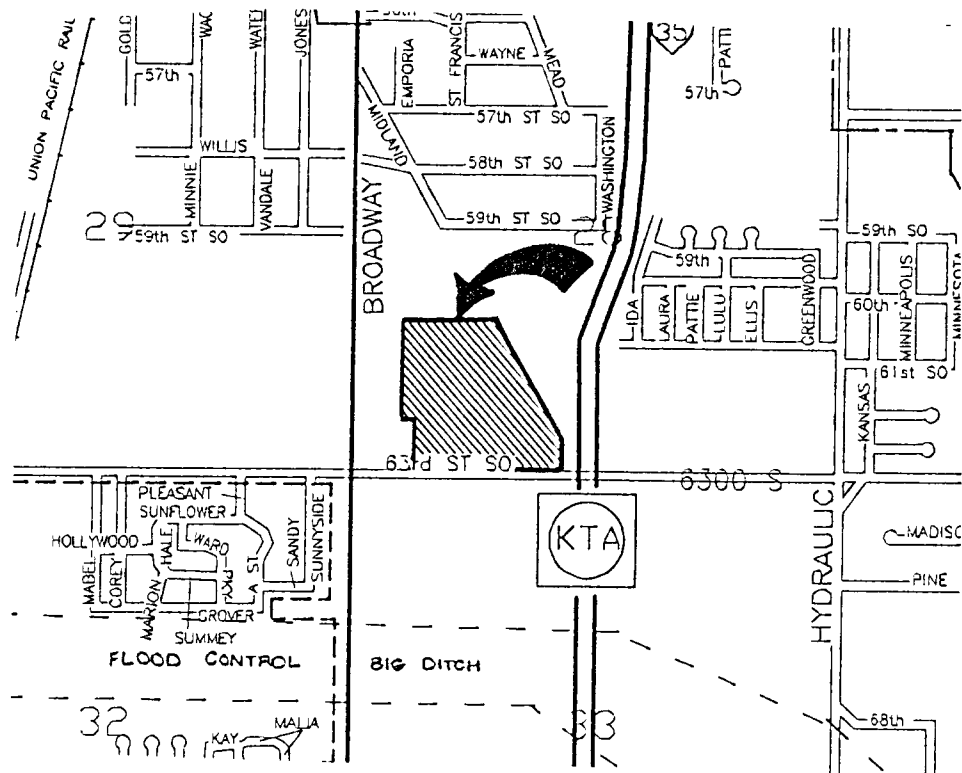
REQUEST: Conditional Use Permit for sand and gravel extraction

CURRENT ZONING: "R" Rural Residential

SITE SIZE: 50.34 acres

LOCATION: Generally located east of Broadway on the north side of 63rd St South.

PROPOSED USE: Sand and gravel extraction



BACKGROUND: The applicant is requesting a conditional use permit for sand and gravel extraction for a 50 acre unplatted tract generally located east of Broadway on the north side of 63rd Street South. The application area is currently zoned "R" Rural Residential. A site plan submitted by the applicant indicates that 35 acres of the site will be excavated. The remaining portion of the applicant's property is proposed for redevelopment into a residential subdivision. The applicant has indicated that 15 years will be required to complete excavation of materials from the site.

The application area is currently vacant. Surrounding property to the north is currently zoned "R" Rural Residential and is currently undeveloped agricultural ground. Property to the east is currently zoned "R" Rural Residential and is undeveloped except for the Kansas Turnpike. Property to the west is zoned "R" Rural Residential and "C" Commercial and is developed with a fire station, a single family home and a craft store. The Cumley Sand Company exists to the south on property zoned "R" Rural Residential.

The 1978 Comprehensive Plan indicates this area for agricultural uses. This area is depicted within the City of Haysville's Growth Area by the proposed 1992 Comprehensive Plan. The 1992 Haysville Comprehensive Plan indicates the application area for commercial uses. In addition, the proposed Wichita-Sedgwick County plan indicates that industrial uses should only be located in rural areas when dependent upon a natural resource, agriculturally oriented or as a logical expansion of an existing industrial area.

The application area has access to 63rd Street South, an FAS designated, 2-lane arterial with 40 feet of existing half-street right-of-way; whereas 60 feet would be required. The nearest municipal services from the City of Wichita are located at 55th Street South and Broadway. Municipal services are not available at this location from the City of Haysville.

Staff believes that sand and gravel extraction is a reasonable temporary use of the applicant's property. To ensure the environmental quality of the site, staff is recommending that the Wichita-Sedgwick County Health Department (WSCHD) and the Kansas Department of Health and Environment be allowed access to the site for the purpose of water testing. In addition, all on-site water and sewage facilities and on-site storage of chemicals and fuel shall be approved by the WSCHD. Landscaping is also being recommended along 63rd Street South and as a buffer from the existing single family residence to the west of the application area.

On May 13, 1993, the Haysville Planning Commission met to consider this item. The action taken was to approve the request (3-1) subject to staff comments. Two persons were present in opposition to the request.

CASE HISTORY: none

ADJACENT ZONING AND LAND USE:

NORTH:	"R"	undeveloped
SOUTH:	"R"	Cumley Sand Co. (CU-291 & CU-166)
EAST:	"R"	Kansas Turnpike, undeveloped
WEST:	"R"&"C"	fire station, single family residence, craft store

PUBLIC SERVICES: The application area has access to 63rd Street South, an FAS designated, 2-lane arterial with 40 feet of existing half-street right-of-way, whereas 60 feet would be required. The nearest municipal services from the City of Wichita are located at 55th Street South and Broadway. Municipal services are not available at this location from the City of Haysville.

CONFORMANCE TO PLANS/POLICIES: The 1978 Comprehensive Plan depicts this area for agricultural uses. The proposed Comprehensive Plan shows this area within the City of Haysville's Growth Area. Commercial uses are indicated for the application area by the 1992 Haysville Comprehensive Plan. There are no MAPC adopted zoning policies for this area.

RECOMMENDATION:

- A. Prior to the publication of the resolution effectuating the conditional use, the applicant shall dedicate by separate instrument, 60 feet of half-street right-of-way for 63rd Street South.
- B. The applicant shall proceed in accordance with the operational plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan. The sand plant operator shall exercise special care not to excavate closer to the perimeter of the fenced excavation site than is depicted on the operational plan.
- C. No stockpiling of sand or storage of equipment shall occur within 100 feet of any public right-of-way or within 50 feet of all remaining property lines.
- D. The earth shall be extracted to at least a minimum depth of six feet below the water table determined by the City-County Health Department.
- E. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five horizontal to one vertical.
- F. The applicant shall submit and obtain approval of a drainage plan from the County Engineer prior to the publication of the resolution effectuating the conditional use.
- G. Nothing in the approval of this request shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the sand

extraction operation, the land surrounding the lake shall be properly graded and planted with a vegetative cover. Also, all stockpiled sand, sand pumping and related equipment shall be removed from the project site.

- H. The applicant shall submit a restrictive covenant which provides that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the site or in the extraction area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to publication of the resolution effectuating the conditional use.
- I. The applicant shall be responsible for maintaining all operational roads in a sand or graveled condition and shall apply water or other acceptable dust retardant so as to minimize blowing dust.
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 - 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 degrees facing away from the excavation.

- K. Concrete or asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc. shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- L. All slopes shall have vegetative covering consisting of a perennial drought resistant grass or a combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- M. The property shall be platted prior to the issuance of any zoning or building permits except those necessary for the sand excavation operation.

- N. Prior to the publication of the resolution effectuating the conditional use, the applicant shall submit 4 copies of a landscape plan for approval by the Planning Department denoting the location, types and size of plant materials to be utilized for screening around the southern and as a buffer from the existing single family residence to the west of the application area. Said plant materials shall be placed as indicated on the approved plan in the first planting season after the extraction operation commences and their planting and maintenance shall be the responsibility of the owner.
- O. The approval of the Conditional Use is for a period not to exceed fifteen years from the date of approval by the Board of County Commissioners and subject operation is to cease after that period of time with all equipment and materials associated with the operation removed from the premises. As part of the operational plan required in B above, the applicant shall divide the site into 2 or 3 distinct areas for the purpose of showing excavation over time. The plan would show which area was to be excavated and at what time. (This item is included due to the applicant's request of 15 years of operation, rather than the typical request of 5 to 10 years. This provision would prevent the entire tract from being disturbed until the latter years of operation.) The revised operational plan shall be submitted prior to this item being scheduled before the Board of County Commissioners.
- P. In order to assist in the enforcement of the operational plan for this conditional use case, the applicant shall have a copy of the approved operational plan posted in the sand extraction office.
- Q. 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.
- R. 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.
- S. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- T. The applicant shall allow the Wichita Sedgwick County Health Department and the Kansas Department of Health and Environment access to the site for the purpose of establishing groundwater wells. The Health Departments shall provide adequate notification to the property owner before accessing the property.

- U. Prior to the publication of the resolution effectuating the conditional use, 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.
- V. Any on-site storage of fuels or chemicals must be approved by the Wichita Sedgwick County Health Department.
- W. No pumping of sand or gravel shall occur between the hours of 7:00 pm and 6:00 am.
- X. The applicant shall provide a west bound deceleration lane on 63rd Street at the entrance to the site. The deceleration lane shall be approved by the County Engineer.
- Y. Violation of conditions of approval shall render the conditional use permit null and void.