CONDITIONAL USE RESOLUTION NO. CON2002-00035

WHEREAS, Bledsoe Enterprises, Inc., %Harry Bledsoe (Applicant/Owner); Baughman Company, P.A., c/o Russ Ewy (Agent), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to allow "Mining and Quarrying," the excavation of fill material on 53.8 acres zoned "SF-20" Single-Family Residential described as:

> The West Half of the Northwest Quarter of Section 26, Township 27 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, lying north of the right-of-way of the Atchison, Topeka and Santa Fe Railroad, EXCEPT that part taken for Highway in District Court Condemnation Case #A-38302, and EXCEPT that part deeded for Highway in Deed Book 1422, Page 226. Generally located at the southeast corner of Kellogg (US Highway 54) and 135th Street West.

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 July 25, 2002, 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 permit a Conditional Use to allow "Mining and Quarrying," the excavation of fill material on 53.8 acres zoned "SF-20" Single-Family Residential described as:

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subject to the following conditions:

1. Dedication of right of way on 135th Street West to bring the application area in conformance with Subdivision Regulations. The instrument of dedication to be submitted to County Public Works prior to commencing operations.

2. An extraction plan, and modified site plan, shall designate a phased extraction plan, extraction area, depth of extraction, drainage plan, internal circulation, buffer area around the extraction area, and a required 60-inch fence.

3. The extraction operation on the site shall proceed in accordance with the extraction plan to be approved by the Planning Commission. The perimeter of the excavation shall conform to the 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 on the site.

4. 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.

5. Adjacent to the perimeter of the application area, a minimum 60-inch high fence, topped with three strands of barbwire, shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. The fence shall be placed on steel posts not more than seven feet tall and spaced not more than 16 feet apart.

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 excavation area being expanded, per the operational plan, 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. Side slopes of the extraction shall at no time be steeper than four horizontal to one vertical.

8. 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 providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.

9. 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.

10. 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 excavation site shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related excavation equipment shall be removed from the subject site.

11. The Conditional Use for the extraction operation shall be valid for a period of 4 years.

12. Hours of operation for extraction shall be limited to 6:00 a.m. to sunset.

13. The applicant shall make the site available to the Wichita-Sedgwick County Health Department for the installation and management of groundwater monitoring wells.

14. Any on-site storage of fuels or chemicals must be approved by the Wichita-Sedgwick County Health Department.

15. A drainage plan shall be submitted to and approved by County Public Works prior to starting the extraction operation. All of the area included within the fenced extraction operation shall be graded in accordance with the approved drainage plan. Said plan shall be designed to minimize erosion, and sediment from leaving the site. The extraction area shall be developed so as to not become a wetland area.

16. 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.

17. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.

18. If operations have not begun within one year of approval, the Conditional Use shall be null and void.

19. 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 25th DAY of JULY, 2002. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION

Bernard A. Hentzen

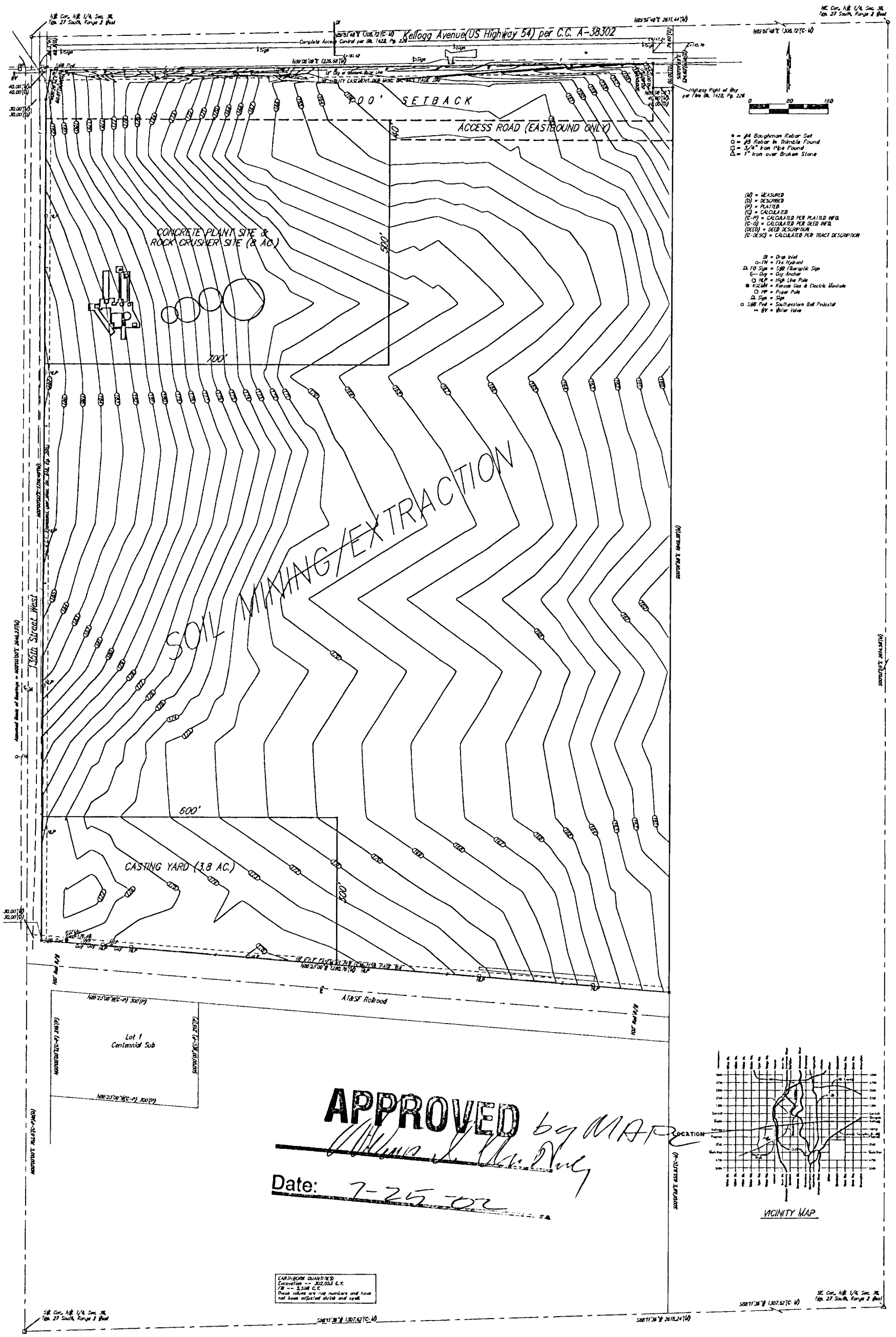
Bernard A. Hentzen, Chair MAPC

ATTEST:

Dale Miller

Dale Miller, Secretary

EXCAVATION PLAN
WILDCAT CONSTRUCTION



WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 16

STAFF REPORT

MAPC 07-25-02

CASE NUMBER: CON2002-00035

APPLICANT/AGENT: Bledsoe Enterprises, Inc., Harry Bledsoe (owner); Baughman Company, P.A., Russ Ewy (agent)

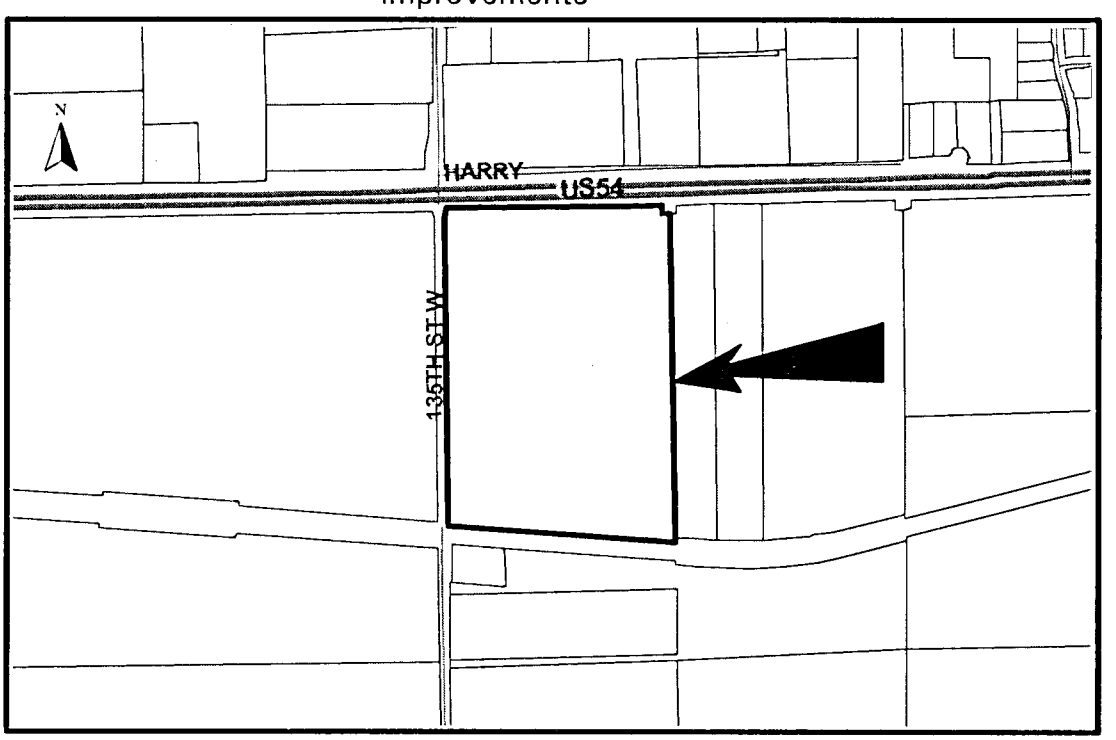
REQUEST: Conditional Use to allow "Mining and Quarrying," the excavation of fill material

CURRENT ZONING: "SF-20" Single Family Residential

SITE SIZE: 53.8 acres

LOCATION: Southeast corner of Kellogg (US Highway 54) and 135th Street West

PROPOSED USE: To allow soil mining for the proposed Kellogg freeway improvements



BACKGROUND: The applicant requests a Conditional Use to allow "Mining and Quarying" for the excavation of fill material to be used on the anticipated West Kellogg highway project. The unplatted, undeveloped property is located southeast of the Kellogg and 135th intersection, and is zoned "SF-20". The application area is 53.8 acres, however, as shown on the site plan, an eight-acre portion of the site is planned for a temporary rock crusher, and a 3.8-acre portion is planned for a temporary casting yard, permitted by right in "SF-20". Planning staff has received a separate Conditional Use application for the temporary rock crusher, that case will be heard separately from this Conditional Use request. The applicant has not indicated the intended depth of excavation, nor has the applicant provided information regarding groundwater depth on the site. Proposed access to the site is off 135th at a point 600 feet south of Kellogg, and another point into the casting yard. Setbacks indicated on the site plan are 100 feet from Kellogg and 150 feet from 135th.

The application area has a slight hilltop near the western edge of the property. The applicant indicates that the extraction plan would include taking fill from the high portion of the site, preventing a "borrow pit" effect on the site. The applicant indicates that after the Conditional Use is no longer needed, the site will be graded and developable. North of the application area, across Kellogg, is property zoned "GC" and undeveloped or developed with businesses. South of the application area is an "SF-20" zoned railroad corridor, a KG&E substation, agriculturally developed land, and a large lot single-family residence beyond the railroad, substation, and agricultural field. East of the application area is "SF-20" zoned property developed with agricultural uses. West of the application area is property zoned "GC" and "LI" developed with agricultural uses and a concrete mixing plant.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC"	undeveloped, retail business
SOUTH:	"SF-20"	railroad, utility substation, agriculture, single-family residence
EAST:	"SF-20"	agriculture
WEST:	"GC", "LI"	agriculture, concrete mixing plant

PUBLIC SERVICES: The property is located along 135th Street West, a two-lane, unpaved section line road. The existing half-width right of way on this section of Ridge Road is 30 feet; County Public Works has indicated a desire to increase that half-width right of way to the desired standard of 70 feet. The traffic count as of July 2000 was 788 cars per day (ADTs) on this section of 135th. The projected traffic volume for 2030 is 3,961 cars per day. No street projects are currently included in the C.I.P for this section of 135th; the *2030 Transportation Plan* designates this section of

135th to be a two-lane arterial. The property currently has no improved entrances onto 135th.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this property as "Industrial/Transportation/Utility/Communication", reflecting its location along Kellogg. The "Sedgwick County Development Guide" designates the application area as within the 2010 Urban Service Area.

The Unified Zoning Code lists "Mining or Quarrying" as a Conditional Use in the "SF-20" zoning district. The Zoning Code lists 23 conditions with which "Mining or Quarrying" should comply; these conditions exist for public safety, and to mitigate any negative effects the extraction may have on surrounding properties. Not all of these conditions are applicable to the proposed fill material excavation. Should the Planning Commission recommend modifications to one or more of the Unified Zoning Code conditions for the requested Conditional Use, the request must then be forwarded to the Governing Body for final action.

RECOMMENDATION: With the proper conditions in place, this proposal should not have a detrimental affect on the surrounding properties. The conditions suggested below should mitigate potential negative impacts caused by this Conditional Use. Required permits and drainage plans should further ensure the safe operation of the Conditional Use.

For these reasons and based on information available prior to the public hearings, Staff recommends that the Conditional Use request be **APPROVED**, subject to the following conditions:

1. Dedication of right of way on 135th Street West to bring the application area in conformance with Subdivision Regulations. The instrument of dedication to be submitted to County Public Works prior to commencing operations.

2. An extraction plan, and modified site plan, shall designate a phased extraction plan, extraction area, depth of extraction, drainage plan, internal circulation, buffer area around the extraction area, and a required 60-inch fence.

3. The extraction operation on the site shall proceed in accordance with the extraction plan to be approved by the Planning Commission. The perimeter of the excavation shall conform to the 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 on the site.

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19. 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 properties surrounding the application area are zoned "SF-20" and "GC"; the area is a mixture of rural, industrial, and commercial uses. The Conditional Use should not negatively affect the character of the neighborhood, as like uses already exist.

2. The suitability of the subject property for the uses to which it has been restricted: The application area could be developed as zoned for agricultural uses or single-family residential use. The site location, adjacent to a freeway and near an existing concrete mixing plant, may not make it attractive for residential uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions provided in the Unified Zoning Code for this Conditional

Use should prevent any detrimental affect on nearby property. These conditions work to mitigate any negative dust, noise, or environmental effects. The fencing requirement should prevent trespassing and accidents on this property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *Comprehensive Plan* does not specifically address "borrow pits"; however, the plan does recognize the uniqueness of mining and extractive resources (e.g. sand, gravel, clay soils, etc.). The Plan recommends that the extraction use location be compatible with the built and natural environment. The land use guide identifies this area as designated for "Industrial/Transportation/Utility/Communication"; the requested use is consistent with this designation.

5. Impact of the proposed development on community facilities: Traffic to and from the requested Conditional Use at this location will increase the daily trips on this section of 135th; this increase should not exceed the safe capacity of this road. The recommended right of way dedication would allow for further widening of 135th, should an increase in traffic make widening necessary.