



Wichita-Sedgwick County Metropolitan Area Planning Department

December 22, 2009

Kansas Paving
Attn: Larry Hacker
4880 N. Broadway
Wichita, KS 67209

Richard Gronniger
9264 N. Hoover
Valley Center, KS 67147

RE: CON2009-00036 - County Conditional Use to permit 2-year time extension for an existing sand extraction (CON2002-00032 and CON2007-00044) operation on property zoned RR Rural Residential, generally located west of the Ridge Road and 73rd Street North intersection, on the southeast corner of 73rd Street North and 87th Street West.

Dear Ladies and Gentlemen:

At its regular meeting on **December 3, 2009**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the conditions stated in the enclosed resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Longnecker', written over a horizontal line.

Bill Longnecker
Senior Planner
Current Plans Division

WL:mc
Attachment

CONDITIONAL USE RESOLUTION NO. CON2009-00036

WHEREAS, Richard & Jennie L. Gronniger (owners) and Kansas Paving, Inc., c/o Larry Hacker (applicant); 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 amend condition #5 of CON2007-00044, allowing a 2-year time extension for an existing sand and gravel extraction operation on approximately 35.388-acres zoned RR Rural Residential ("RR") described as:

The North half of the Southwest Quarter lying South and West of the Little Arkansas River in Section 10, Township 25, Range 1 West of the 6th P.M., Sedgwick County. Generally located west of the Ridge Road – 73rd Street North intersection, on the southeast corner of 73rd Street North and 87th Street West. Sedgwick County, Kansas.

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 December 3, 2009, consider said application.

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 MAPC that this application be approved to permit a Conditional Use to amend condition #5 of CON2007-00044, allowing a 2-year time extension for an existing sand extraction operation on approximately 35.388-acres zoned RR Rural Residential ("RR") described as:

The North half of the Southwest Quarter lying South and West of the Little Arkansas River in Section 10, Township 25, Range 1 West of the 6th P.M., Sedgwick County. Generally located west of the Ridge Road – 73rd Street North intersection, on the southeast corner of 73rd Street North and 87th Street West. Sedgwick County, Kansas.

Approved subject to the following conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site and redevelopment plans (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use regulations found in the Unified Zoning Code at Article III, Section III-D.6.gg, unless specifically modified by conditions contained in this conditional use.
2. If limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan. The applicant shall provide a date when the 18-acre expansion of the original site will begin to be used as part of the sand and gravel extraction operation.
3. Fencing shall be what was approved in CON2003-32.
4. Signage shall be as allowed by the Sedgwick County Sign Code.
5. Sand extraction shall cease June 18, 2012. All equipment and materials associated with the operation shall be removed from the premises by September 18, 2012. Site restoration (grading, seeding, etc.) could continue after September 18, 2012.
6. The applicant will apply a dust control agent (Magnesium Chloride or Calcium Chloride) at rates and frequencies that will provide dust control on the plant drive and on 73rd Street North, from the entrance



STAFF REPORT

MAPC December 3, 2009

CASE NUMBER: CON2009-00036

APPLICANT/AGENT: Richard J Gronniger (owner) Kansas Paving, c/o Larry Hacker
(applicant) Baughman Co., c/o Russ Ewy (agent)

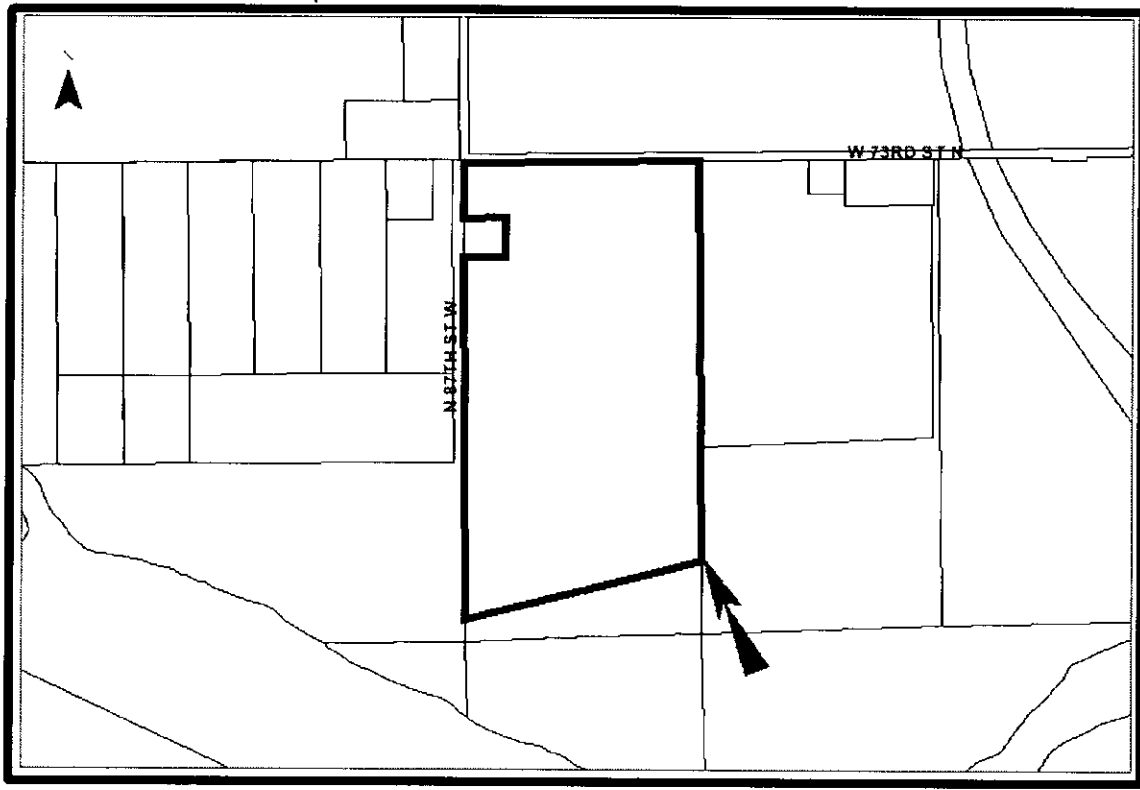
REQUEST: Amend condition #5 of CON2007-00044

CURRENT ZONING: RR Rural Residential ("RR")

SITE SIZE: Approximately 35.388-acres

LOCATION: West of the Ridge Road – 73rd Street North intersection, on the southeast corner of 73rd Street North and 87th Street West. (BoCC #4)

PROPOSED USE: Allow an additional two-years for a sand and gravel extraction operation



BACKGROUND: The applicant is requesting an amendment to Conditional Use CON2007-00044's condition #5: Sand extraction shall cease June 18, 2010. All equipment and materials associated with the operation shall be removed from the premises by September 18, 2010. Site restoration (grading, seeding, etc.) could continue after September 18, 2010.

The applicant is requesting a two-year extension for both the sand extraction and removal of equipment, due to a slow down of the economy, specifically construction. The proposed amendment would change condition #5 to read: 5. Sand extraction shall cease June 18, 2012. All equipment and materials associated with the operation shall be removed from the premises by September 18, 2012. Site restoration (grading, seeding, etc.) could continue after September 18, 2012.

The subject property and the surrounding area is zoned RR Rural Residential ("RR"), which permits consideration of a Conditional Use for sand and gravel extraction. The area is outside the 2030 urban growth area for Wichita and the small cities. The area is primarily agricultural in use with scattered large tract/lot single-family residences, including 15-18 houses along 73rd Street North. Non-residential development includes a contractor's yard northeast of the site and two church campgrounds west of the site, both along 73rd Street North. Access onto the site is off of 73rd, a non-section line sand and gravel road maintained by Park Township with contractual assistance from the applicant. The merging of the Arkansas River and a section of the Wichita – Valley Center Floodway forms the triangle shaped south boundary of the area. The site is located within this triangle of merging river and man-made drainage canal. There are at least two other spent sandpits (CU-277 & CU-268) and one approved sandpit (CON2006-13, not in operation) located within approximately ½-mile of the site, with all of them having or will be directing their sand trucks to Ridge Road.

CASE HISTORY: The current, unplatted 35.388-acre site was approved for:

- (a) CON2003-32, a 17.388-acre sand and gravel extraction operation, which created a 15-acre sand pit lake. The Conditional Use was permitted to operate for 8-years, with conditions. CON2003-32 was approved by the MAPC September 18, 2003. No recorded protests were received.
- (b) CON2005-0007 amended CON2003-32, to allow a five-strand barbed wire fence instead of the required chain link fence, in consideration that the site was located entirely in the Arkansas River 100-year flood boundary. Because the applicant was requesting a modification of a Supplemental Use Regulation standard of the Unified Zoning Code, the request went to the Board of County Commissioners (BoCC, the governing body) for consideration and action. The BoCC approved the request at their June 1, 2005, meeting while retaining the other conditions of CON2003-32. No recorded protest were received
- (c) CON2007-44 amended CON2005-0007 by;
 - (i) Allowing an 18-acre expansion of the existing unplatted 17.388-acre sand and gravel extraction operation; this increased the 15-acre sand pit lake by 18-acres.
 - (ii) Requiring the applicant to apply a dust control agent (Magnesium Chloride or Calcium Chloride) at rates and frequencies that will provide dust control on the plant drive and on 73rd Street North, from the entrance to the site to Ridge Road.
 - (iii) Ending all operations by June 18, 2010 and removing all equipment from the site by September 18, 2010. The new dates were one year less, than as approved on CON2003-32.

CON2007-44 was considered by the MAPC December 20, 2007, which recommended that the applicant and staff come to a resolution in regards to improvements, maintenance and repair of 73rd Street North. The agreed improvements, maintenance and repair of 73rd were approved at the MAPC's March 13, 2008, meeting, as reflected above. Although no protests were recorded, there were neighborhood concerns expressed at the MAPC's meetings about truck traffic generated by the sand and gravel extraction and its impact on 73rd Street North and the neighborhood, as well as drainage. As stated in the background of this report the applicant is asking to be allowed a two year extension of all operations.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	agriculture, scattered large tract single-family, contractor's yard
SOUTH:	"RR"	agriculture, Arkansas River, sand pits
EAST:	"RR"	agriculture, scattered large tract single-family, drainage
WEST:	"RR"	scattered large tract single-family, church campgrounds

PUBLIC SERVICES: This site has access to 73rd Street North, a sand, non-section line, Park Township road. 73rd Street North intersects Ridge Road, a two lane paved County Highway, located ¾ of a mile east of the site. There are no current traffic volume figures available for either road. The "2030 Transportation Plan" estimates that the traffic volume on Ridge Road, between 77th Street North and 61st Street North will be approximately 5,500 vehicles per day in 2030. Municipal water and sewer services are not currently available to serve this site. Use of the site for sand and gravel extraction can be supported by on-site water and sewer service. The site is located outside the 30-year urban service area and all small city growth areas.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide classifies this area as "Rural." This classification encompasses land outside the 2030 urban growth areas for Wichita and the small cities. The "Rural" classification is intended to accommodate agricultural and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately large lot residential sites or subdivisions with provisions for individual, or community water and sewer services. A sand and gravel extraction operation is considered "mining and quarrying," which is an industrial use. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial uses in rural areas should be limited to those that are agriculturally oriented, dependent upon a natural resource, or part of an appropriate expansion of an existing industrial use. Sand and gravel extraction would be dependent on a natural resource. Sand and gravel extraction operations are a common use in areas of rural Sedgwick County that are in close proximity to the Arkansas River.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, amending condition #5, as shown in bold, and retaining the other listed conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site and redevelopment plans (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use regulations found in the Unified Zoning Code at Article III, Section III-D.6.gg, unless specifically modified by conditions contained in this conditional use.
2. If limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions. The perimeter of the lake

excavation shall conform to the approximate size and shape indicated on the approved plan. The applicant shall provide a date when the 18-acre expansion of the original site will begin to be used as part of the sand and gravel extraction operation.

3. Fencing shall be what was approved in CON2003-32.
4. Signage shall be as allowed by the Sedgwick County Sign Code.
5. **Sand extraction shall cease June 18, 2012. All equipment and materials associated with the operation shall be removed from the premises by September 18, 2012. Site restoration (grading, seeding, etc.) could continue after September 18, 2012.**
6. The applicant will apply a dust control agent (Magnesium Chloride or Calcium Chloride) at rates and frequencies that will provide dust control on the plant drive and on 73rd Street North, from the entrance to the site to Ridge Road. The initial application rate and application schedule will be based on a written recommendation made by an experienced supplier for an annual maintenance cycle. A letter from the supplier stating the recommended annual schedule will be provided to MAPD, County Public Works and Code Enforcement prior to April 1, 2008. The applicant shall notify County Code Enforcement in writing within 10 days after each application of dust control agent. The notification shall state the dust control agent used, application rate, total amount applied and date of application. The application schedule and rates may be adjusted by the applicant based on actual road and weather conditions with written approval from County Code Enforcement and County Public Works.
7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County's legal counsel and Public Works, prior to the commencement of any sand and gravel extraction operation, providing an area for temporary detention storage of drainage on the site.
8. 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 character of the surrounding area is primarily agricultural with scattered large tract single-family residential all zoned RR. The proposed two year extension of all operations (including removal of equipment as listed in the amended condition #5) of the sand and gravel extraction site will not alter the zoning, uses, and character of the area. There are at least 3 other gravel and sand extraction operations, spent or approved from the Arkansas River to 77th Street North, west of Ridge Road.
2. The suitability of the subject property for the uses to which it has been restricted: The RR zoning designation of the subject property permits sand and gravel extraction upon approval of a Conditional Use. The current use could continue as permitted with CON2007-44, but because of the slowdown in the economy the extraction of sand and gravel from the site will be less than what was anticipated. The resulting sand pit, to be used by the property owner, would also be smaller than what was permitted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed two-year extension means a longer period of heavy truck traffic to and from the site. The applicant is still required to operate within the conditions of CON2007-44,

including providing dust control on the plant drive and on 73rd Street North, from the entrance to the site to Ridge Road.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for “Rural” development. The “Rural” classification is intended to accommodate agricultural and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately large lot residential sites or subdivisions with provisions for individual, or community water and sewer services. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial uses in rural areas should be limited to those that are agriculturally oriented, dependent upon a natural resource, or part of an appropriate expansion of an existing industrial use. A sand and gravel extraction operation is considered “mining and quarrying,” which is an industrial use. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial type uses such as sand and gravel extraction are appropriate in rural areas where the natural resource is located. The proposed two-year extension of the operation of the sand and gravel extraction operation is a result of the current slow economy. The proposed extension of the operation of the sand and gravel extraction operation does not change the character of the subject site and as such is not out of conformance to the adopted or recognized Comprehensive Plans or policies.

5. Impact of the proposed development on community facilities: The proposed two-year extension of the operation of the sand and gravel extraction operation will extend heavy truck traffic on 73rd Street North, a non-section line sand road maintained by Park Township and the applicant. However, the current maintenance arrangement seems to have addressed the original concerns.