



Wichita-Sedgwick County Metropolitan Area Planning Department

January 7, 2010

PFISCO, LLC.
Attn: John Pfister
PO Box 250
Kechi, KS 67067

RE: CON2009-00035 - City Conditional Use for Sand and Gravel Extraction on property zoned SF-5 Single-Family Residential, generally located 1/4 mile west of Hoover Road and 1/4 mile south of 33rd Street North.

Dear Ladies and Gentlemen:

At its regular meeting on **January 5, 2010**, the Wichita City Council considered the above captioned request. The action of the Council was to **APPROVE** the request, subject to the following conditions:

1. The Conditional Use permits mining or quarrying that is in compliance with the Supplementary Use Regulations found in the Article III, Section III-D.6.gg of the *Wichita-Sedgwick County Unified Zoning Code*, unless modified by this Conditional Use.
2. Prior to commencing operations, the applicant shall submit a revised site plan that includes the property through which ingress and egress to Hoover is provided.
3. The site shall be developed and operated in a manner consistent with the approved site plan, operations plan for extraction and the development standards contained in this Conditional Use.
4. Since access to the site is over non-publicly dedicated right-of-way, the applicant shall provide dust control measures, such as watering or gravel or other effective means if so directed by code enforcement officials, on the drive way providing access to the site.
5. The Conditional Use permit shall be effective for four years beginning from the date of final approval.
6. If so directed by the Traffic Engineer, the applicant shall install 100 feet of AB-3 adjacent to the Hoover right-of-way within two weeks of being so directed.
7. Prior to commencing operations the applicant shall have a Stormwater Engineer approved drainage plan.
8. The use's hours of operation are limited to Monday through Friday, 8:00 a.m. to 5:00 p.m.
9. In addition to other applicable enforcement remedies, if the Zoning Administrator finds

RESOLUTION No. 10-117

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO PERMIT MINING AND QUARRYING, ON APPROXIMATELY 14.2 ACRES ZONED SF-5 SINGLE-FAMILY RESIDENTIAL ("SF-5"), GENERALLY LOCATED ¼ MILE NORTH OF 29TH STREET NORTH AND ¼ MILE WEST OF HOOVER ROAD, WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. 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 V-D of the Wichita-Sedgwick County Unified Zoning Code, a Conditional Use to permit mining and quarrying, on approximately 4.2 acres zoned SF-5 Single-family Residential ("SF-5"), subject to the conditions listed below:

Case No. CON2009-00035

A Conditional Use to permit mining and quarrying, on approximately 4.2 acres zoned SF-5 Single-family Residential ("SF-5").

Parcel 1: The South 411.29 feet of the North half of the Southeast Quarter of Section 34, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, Except the East 1145' thereof.

Parcel 2: The South 290 feet of the East 1145 feet, of the North half, of the Southeast Quarter, Section 34, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, Except the North 150 feet, of the East 290.4 feet and Except the East 50 feet for road.

Generally located ¼ mile north of 29th Street North and ¼ mile west of Hoover Road.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The Conditional Use permits mining or quarrying that is in compliance with the Supplementary Use Regulations found in the Article III, Section III-D.6.gg of the *Wichita-Sedgwick County Unified Zoning Code*, unless modified by this Conditional Use.
2. Prior to commencing operations, the applicant shall submit a revised site plan that includes the property through which ingress and egress to Hoover is provided.
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6. If so directed by the Traffic Engineer, the applicant shall install 100 feet of AB-3 adjacent to the Hoover right-of-way within two weeks of being so directed.
7. Prior to commencing operations the applicant shall have a Stormwater Engineer approved drainage plan.
8. The use's hours of operation are limited to Monday through Friday, 8:00 a.m. to 5:00 p.m.
9. In addition to other applicable enforcement remedies, if the Zoning Administrator finds that there is a violation of any of these conditions of approval, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date

January 5, 2010.

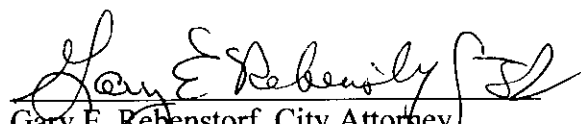

Carl Brewer, Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to form:


Gary E. Rebenstorf, City Attorney

STAFF REPORT

MAPC 12-3-2009

DAB V 12-7-2009

CASE NUMBER: CON2009-00035

APPLICANT/AGENT: PFISCO, LLC (John Pfister) / Ron C. Lee

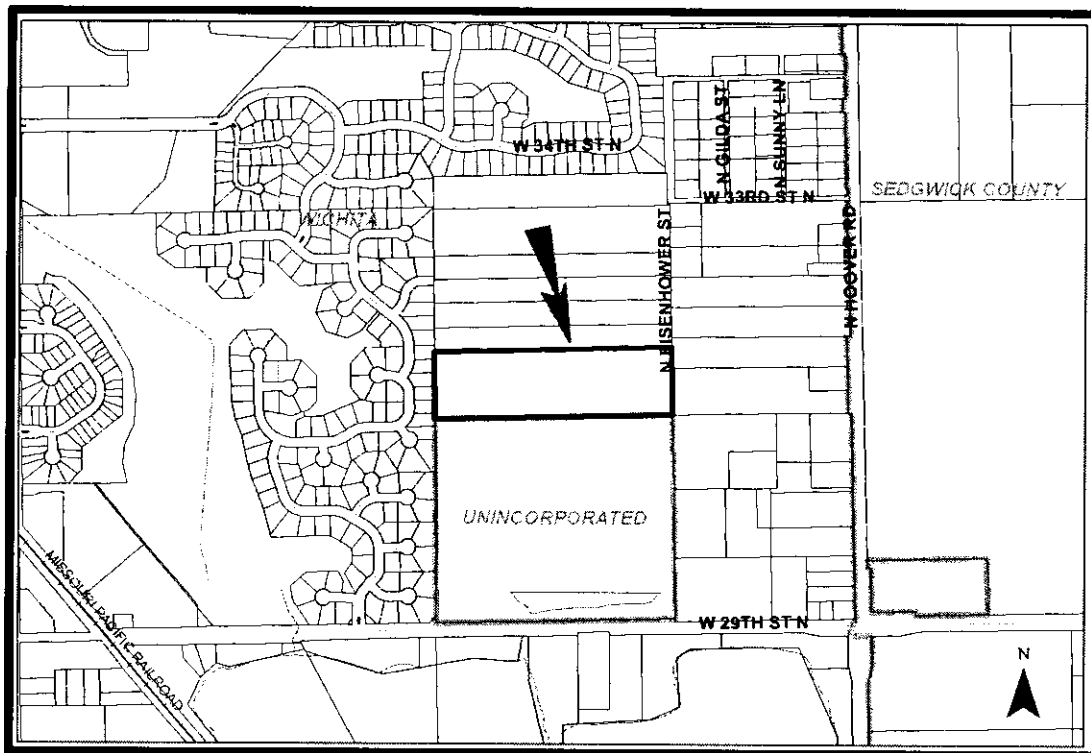
REQUEST: Conditional Use to permit “mining or quarrying” of sand

CURRENT ZONING: SF-5 Single-family Residential (“SF-5”)

SITE SIZE: 14.2 acres

LOCATION: 1,500 feet north of 29th Street North, 1,176 feet west of North Hoover Road (3227 N. Eisenhower)

PROPOSED USE: sand extraction



BACKGROUND: The applicant owns 14.2 unplatted acres located approximately 1,450 feet north of 29th Street North and 1,130 feet west of Hoover Road at 3227 North Eisenhower that is locate in the City of Wichita. The applicant is seeking approval of a Conditional Use to permit the “mining or quarrying” of a four-acre sand pit over a four year time period.

The applicant’s site and operation plans are attached. As indicated in the applicant’s operations plan, Phase I is expected to take 12 months and average 10 daily truck trips. Some of the soil removed in this first phase (12,906 cubic yards) will be relocated to the applicant’s property located in Sedgwick County and immediately south of the application area (5950 West 29th Street North); some soil (3,226 cubic yards) will be stockpiled onsite and the remainder will be removed from the site. The Phase one material that will be transported to the applicant’s property located south of the application area will exit the southwest corner of the application area and travel along the rear of the residential lots located in Ridge Port Addition. Phases II and III will take an additional combined 24 months with Phase IV taking an additional 12 months for a total of four years of extraction. The pumps will be powered by Diesel engines. The four-acre pond would have setbacks of: 50 feet from the south property line, 235 feet from the west property line, 135 feet from the north and approximately 384 feet from the center-line of Eisenhower Street or 50 feet from the west fence line of the developed northeastern corner of the application area. The pond’s dimensions are to be 225 feet (north to south) by 850 feet (east to west). The site is to be fenced with a four-foot chain link fence topped with three strands of barbed wire. The site is mostly undeveloped except for the northeast corner where a rectangle approximately 275 x 350 feet has been improved and fenced. The completed pit will be used by the property owner for fishing and the raising of game fish.

The applicant does not propose any other improvements following completion of the pond. It should be noted that if the site is completed as shown it may be difficult to ultimately re-develop this land for a multi-lot urban density residential development that is in compliance with existing subdivision regulations.

The applicant’s site plan proposes to access the site from Hoover Road via a temporary property access easement beginning in the southeast corner of the applicant’s property, then through the applicant’s property located to the south of the application area, then east through the property at 3120 North Hoover Road (Marcilee Cook, et al) and 3059 North Hoover Road (William and Laurie Stone) to Hoover (not through 3227 Eisenhower as shown on the site plan). If this request is approved, a revised site plan that includes the property through which access to Hoover is obtained should be submitted. The applicant indicates the ingress and egress road is sand and gravel. To prevent the tracking of mud onto Hoover, the 100 feet of driveway adjacent to Hoover should be rocked with AB-3 type material.

Surrounding property located to the north is predominantly developed with a series of large lot (approximately four acres or larger) single-family residences zoned SF-5 Single-family Residential (“SF-5”). These lots have frontage on North Eisenhower, which is a substandard sand and gravel street that does not appear to be a publicly dedicated right-of-way. As currently constructed, this segment of North Eisenhower could not stand up to higher volumes of truck traffic without increased maintenance or improvement. Property to the east is also zoned SF-5

and is divided into large tracts. It appears there is a non-conforming salvage operation located to the east through which the applicant proposes to access Hoover Road. Land to the south is zoned SF-20 Single-family Residential ("SF-20"), is owned by the applicant and has a large completed sand pit (CU-242). The completed sand pit is, at its closest point, located approximately 50 feet south of the common property line between this tract and the application area; resulting in approximately 100 feet of separation between the completed pit and the proposed pit. Land to the west is zoned SF-5, is platted as the Ridge Port Addition and is developed with urban scale lots (12,000 square-foot lots) and single-family residences.

CASE HISTORY: The application area was annexed in 2000. The annexation established the site's SF-5 zoning.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential; large-lot single-family residences
SOUTH: SF-20 Single-family Residential; completed sand pit and large-lot single-family residence
EAST: SF-5 Single-family Residential; large-lot single-family residences
WEST: SF-5 Single-family Residential; urban scale single family residences

PUBLIC SERVICES: Public access to the site is via undedicated North Eisenhower; however, the applicant does not intend to use Eisenhower as the primary access to the property. Public sewer is located along the western property line. The closest public water appears to be located along 29th Street.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide depicts this site as being within Wichita's 2030 Urban Growth Area, which means that it was projected to have the potential to be developed by 2030 due to its proximity to public services. It is somewhat unusual for there to be request for mining and quarrying inside the corporate limits of the City of Wichita. The Comprehensive Plan's industrial land use strategies provide limited guidance. Strategy IV.A.1 indicates that appropriate buffers are needed to protect industrial areas from residential encroachment. Strategy IV.A.2 indicates that industrial uses that are based upon a natural resource are appropriate in rural areas of Sedgwick County. The Strategy does not provide guidance for locations within the City of Wichita. Strategy IV.A.3 says that industrial traffic should be channeled to minimize any negative impact on local residential streets.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use permits mining or quarrying that is in compliance with the Supplementary Use Regulations found in the Article III, Section III-D.6.gg of the *Wichita-Sedgwick County Unified Zoning Code*, unless modified by this Conditional Use.
2. Prior to commencing operations, the applicant shall submit a revised site plan that includes the property through which ingress and egress to Hoover is provided.
3. The site shall be developed and operated in a manner consistent with the approved site

plan, operations plan for extraction and the development standards contained in this Conditional Use.

4. Since access to the site is over non-publicly dedicated right-of-way, the applicant shall provide dust control measures, such as watering or gravel or other effective means if so directed by code enforcement officials, on the drive way providing access to the site.
5. The Conditional Use permit shall be effective for four years beginning from the date of final approval.
6. If so directed by the Traffic Engineer, the applicant shall install 100 feet of AB-3 adjacent to the Hoover right-of-way within two weeks of being so directed.
7. In addition to other applicable enforcement remedies, if the Zoning Administrator finds that there is a violation of any of these conditions of approval, 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: Except for the spent sand pit zoned SF-20 Single-family Residential located south of the application area, surrounding properties are zoned SF-5, located inside the city limits of the City of Wichita and are vacant or developed with residential uses or non-conforming wrecking and salvage. Land to the west is developed at urban density while the properties to the north, east and south are larger lots or tracts. The character of the area is a contrast of residential, industrial and lakes.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 which allows a limited range of residential and non-residential uses typically found in a residential setting such as churches, schools or parks. The site could be developed as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed development conditions should minimize anticipated detrimental impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval provides additional private open space and potential building sites at some time in the future.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide depicts this site as being within Wichita's 2030 Urban Growth Area, which means that it was projected to have the potential to be developed by 2030 due to its proximity to public services. It is somewhat unusual for there to be request for mining and quarrying inside the corporate limits of the City of Wichita. The Comprehensive Plan's industrial land use strategies provide limited guidance. Strategy IV.A.1 indicates that appropriate buffers are needed to protect industrial areas from residential encroachment. Strategy IV.A.2 indicates that industrial uses that are based upon a natural resource are appropriate in rural areas of Sedgwick

County. The Strategy does not provide guidance for locations within the City of Wichita. Strategy IV.A.3 says that industrial traffic should be channeled to minimize any negative impact on local residential streets.

6. Impact of the proposed development on community facilities: Sand extraction does not typically impact publicly provided facilities other than increased truck traffic on roads. In this instance the applicant will have access to an arterial street. The condition requiring the applicant to provide some form of mud removal prior to exiting on to Hoover, if needed, should address that.

P. ISCO, LLC, JOHN R. PRISTER
CONDITIONAL USE: PERSONAL USE POND
SAND & GRAVEL EXTRACTION

LEGAL: S 41.29 FT N $\frac{1}{2}$ SE $\frac{1}{4}$
EXC E 1145 FT SEC 34-26-1W



4 STRAND BARBED WIRE

48" 3 STRAND

235'

4.0 ACRE SURFACE AREA

850'

PROPERTY

48" 3 STRAND BARB WIRE

155'

222'

50'

50'

411.29'

3227 EISENHOWER

40' CHAIN LINE

1479.71'

14.2 A

EXISTING LAKE

----- FENCE

DRAWN BY: RONC. LEE

1" = 100'