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MKEC
 ENGINEERING
 CONSULTANTS
 611 N. WALK ROAD
 WICHITA, KS. 67208
 316 - 262 - 9459

SIMON LAKES
 PROJECT NAME

LAND PLAN OVERLAY
 SHEET TITLE

AKC

WORKER NO.

AKS 2006

DATE

AKC

ISSUER NO.

06339

JOB NO.

ISA

ISSUES NO.

1 / 1

SHEET NO.

A RESOLUTION APPROVING A CONDITIONAL USE TO ALLOW SAND EXTRACTION ON 500 ACRES, ZONED "RR" RURAL RESIDENTIAL, LOCATED ON BOTH SIDES OF 61ST STREET NORTH BETWEEN MAIZE ROAD AND TYLER ROAD, LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY 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 BOARD OF COUNTY COMMISSIONERS
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 V-D of the Wichita-Sedgwick County Unified Zoning Code, a conditional use for the land legally described herein is approved as follows:

Case No. CON2006-00035

A Conditional Use to allow sand extraction on property legally described as:

The south ½ of the NE quarter, the west ½ of the SE quarter, the SW quarter and the NE quarter of the SE quarter, except beginning at a point on the east line of said SE quarter lying 2,014.58 feet north of the southeast corner of said quarter; thence west at 90 degrees to the west line of said east half; thence along said west line to a point 1,337.86 feet north of the south line of said SE quarter; thence parallel with said south line 1,337.86 feet to the east line of said SE quarter; thence along said east line 676.72 feet to the point of beginning in Section 8, Township 26, Range 1 West of Sedgwick County, Kansas, and the east 100 feet of the west half of the SE quarter, Section 17, Township 26 South, Range 1 West of the sixth Principal Meridian, except road right-of-way; the west ½ of the NE quarter and the east ½ of the NW quarter of Section 17, Township 26, Range 1 West. Generally located on both side of 61st Street North, between Maize Road and Tyler Road.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The Conditional Use for sand extraction shall be valid for fifteen (15) years following the date of final action approving extraction operations.
2. Hours of load-out operations shall be limited to 7:00 a.m. to 5:00 p.m., allowing completion of any loading that started before 5:00 p.m. Excepting five Sundays in each calendar year, no load-out operations shall be conducted on Sundays.
3. The height of stockpiles shall be limited to thirty-five (35) feet.

4. The applicant shall install a groundwater monitoring well in accordance with guidelines and regulations of the State. Within six months of final approval of the conditional use, the applicant shall submit a groundwater monitoring plan to the Sedgwick County Department of Environmental Resources for approval. The plan shall show the proposed location of the monitoring well and include consistent sampling and analysis procedures to ensure results provide data representative of groundwater quality and quantity. Groundwater monitoring shall be conducted before extraction operations begin according to the approved plan to determine background concentrations for the monitoring parameters set out in the approved groundwater monitoring plan. Groundwater monitoring shall be conducted after extraction operations begin according to the approved plan. Results of all ground water monitoring will be provided to the Sedgwick County Department of Environmental Resources within 10 days of testing, and will be made available for any interested party.
5. The applicant shall complete a traffic study prior to the start of operations that analyzes the traffic impacts of the proposed sand pit on 53rd Street from Maize Road to Ridge Road. The traffic study shall be submitted to the appropriate governing body for its review and approval. The applicant shall be responsible for any road and traffic control improvements recommended by the study.
6. The applicant shall guarantee the installation of acceleration, deceleration and left-turn lanes on 53rd Street North at the access easement that provides the entrance to the mining operation. The access road between 53rd Street and 61st Street, the crossing of the access road over 61st Street N. and high traffic areas around the scales shall be paved. The improvements shall be installed prior to commencement of mining. The issue of vacating 61st Street shall be left to the discretion of the City or County Engineer, as appropriate. The number of driveways allowed along 61st Street shall be limited to six.
7. The extraction operation on the site shall proceed in accordance with Conceptual Land Plan "N" (Feb. 2007) and all other plans and drawings submitted by the applicant, including any modifications agreed to by the applicant and approved by the governing body, subject to limitations required by other regulating agencies. The extraction operation is subject to the supplementary use regulations found in the *Unified Zoning Code* at Article III, Section III-D.6.gg (attached), unless specifically modified by conditions contained in this conditional use. If limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions.
8. In addition to the standard specified in Sec. III-D.6.gg (6) and (22), unpaved interior roads, work areas and stockpiles shall be treated to minimize dust from blowing from the site. If requested by City or County Code Enforcement, as appropriate, the applicant shall maintain a log detailing the type of dust retardant and how often and when the retardant was used shall be maintained and provided to City or County inspectors.
9. The applicant shall contact the Wichita-Sedgwick County Flood Control Department (Flood Control) to make a determination if any restrictions are required on extraction near the Big Arkansas River Levee. Based on the recommendations of Flood Control, a permit as required under KSA 19-3307 or 19-3309 for excavation within 1000 feet of flood control works shall be obtained prior to commencement of operations. Revised operations and development plans shall be submitted for approval prior to excavation if restrictions in the permit require a change to the area to be excavated.
10. Applicant shall provide a contact person to receive complaints from the public regarding extraction operations and traffic concerns.

11. The extraction operations may be inspected annually to confirm the extraction is in substantial conformance with the approved site and redevelopment plans, including any modifications to limitations required by other regulating agencies. If the extraction operations do not substantially conform to the approved site and redevelopment plans, applicant shall either bring the extraction operations into substantial conformance, or apply for approval of revised plans.
12. 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

SECTION II. That upon the taking effect of this Resolution, the notation of such zone change 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 by the Governing Body.

Commissioners present and voting were:

DAVID M. UNRUH	YEA
TIM R. NORTON	YEA
THOMAS G. WINTERS	YEA
KELLY PARKS	YEA
GWEN WELSHIMER	NAY


DATED this 18th day of April, 2007.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS



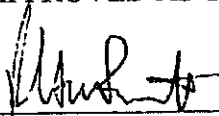
DAVID M. UNRUH, CHAIRMAN
First District

ATTEST:



DON BRACE, County Clerk

APPROVED AS TO FORM:



ROBERT W. PARNACOTT,
Assistant County Counselor



STAFF REPORT

MAIZE 9-7-06

MAPC 9-21-06

CASE NUMBER: CON2006-00035

APPLICANT/AGENT: Steven and Helen Simon / Robert Kaplan

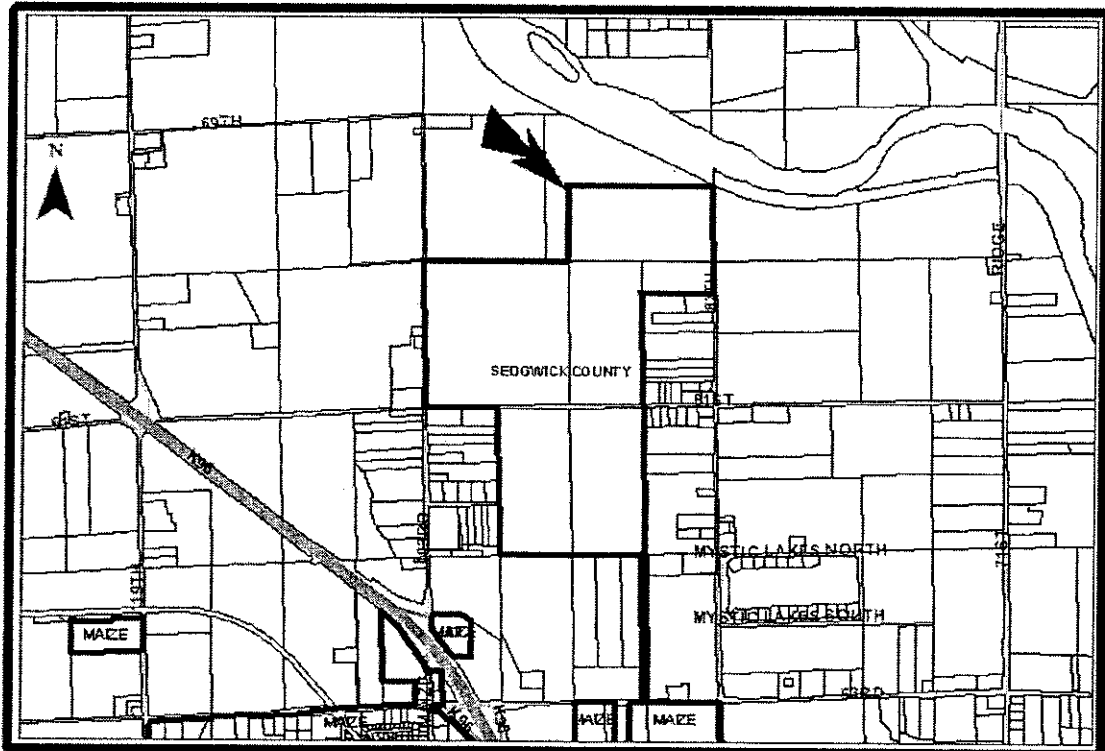
REQUEST: Conditional Use to permit mining

CURRENT ZONING: RR Rural Residential

SITE SIZE: Approximately 500 acres

LOCATION: Between 53rd and 69th Streets North and Maize and Tyler Roads

PROPOSED USE: Sand extraction



BACKGROUND: The applicant is seeking a conditional use to permit sand extraction on an irregularly shaped tract of approximately 500 acres located: north of 53rd Street North, east of Maize Road, one-half mile south of 69th Street and west of Tyler Road. Access to the site is proposed to be along an approximately one-half mile long, 100-foot wide access easement running north to south between 53rd Street and 61st Street, located one-quarter mile west of Tyler Road. Vehicles would then cross 61st Street North into the plant area. This traffic pattern avoids using Maize and Tyler roads, which are unpaved, and have residential lots fronting the roadways.

The major excavation areas are to be divided between four areas located one-half mile north of 53rd Street North, between Maize and Tyler. The excavations are to occur in four phases with the first phase, approximately 35 acres in size, located north of 61st Street North and east of Maize Road. Phase 2 is located immediately north of Phase 1, and is approximately 54 acres in size. Phase 3 is approximately 85 acres in size, and located east and north of Phase 2 (or west of Tyler Road, just south of the Arkansas River). Phase 4 is located south of 61st Street North, approximately one-quarter mile east of Maize Road, and is approximately 127 acres in size. A 100-year floodplain runs between Phases 1 & 2 and Phase 3, and east of Phase 4. The edges of the excavations are to be located at least 150 feet from the property line. It is estimated it will take 20 years to complete excavation. Each phase will be completed before moving on to the next phase. The redevelopment plan indicates a series of large lots fronting the lakes created by the excavations. The sand plant is proposed to be located on the north side of 61st Street, approximately ¼ mile west of Tyler Road. The number of trips generated by this use varies with the time of year and the number of customers. The applicant is estimating there will be trips on an average day.

The application area is currently used for agricultural production, and is zoned RR Rural Residential. Surrounding land is divided into large-lot tracts with a mix of large-lot residential and/or agricultural uses that are zoned RR Rural Residential. There are over 25 homes located west of the application area, most of which have frontage or access to Maize Road. One tract, located south of 61st and just west of the application area only has access to 61st Street. There are at least 21 homes located to the east of the application area, about one-half of which have access or frontage to Tyler Road; the remaining 11 other tracts take their access directly from 61st Street. The application area and the properties surrounding it are located within the Equus Beds Groundwater Management District No. 2. Property owners rely on on-site wells for water supplies. If approved, the applicant will have to obtain any required permits dealing with ground water from the Groundwater Management District and any other agency charged with managing groundwater resources. Planning staff has contacted the Groundwater Management District and was advised that the applicants have been approved permit for a specified acre-feet of water rights and that they will not be allowed to allow untreated surface water to drain into the pits. Their approval is based upon a safe-yield analysis that evaluates water rights and uses within a two mile radius of the application area.

Unless modified by conditions contained in this conditional use, the code permits hours of operation from 6:00 am to sunset and does not limit the height of stockpiles.

CASE HISTORY: The site's current zoning was probably granted in 1985 with the adoption of countywide zoning.

ADJACENT ZONING AND LAND USE:

NORTH: RR Rural Residential; large-lot residential or agriculture
SOUTH: RR Rural Residential; large-lot residential or agriculture
EAST: RR Rural Residential; large-lot residential or agriculture
WEST: RR Rural Residential; large-lot residential or agriculture

PUBLIC SERVICES: 53rd Street North is a paved rural major collector, however Maize Road north of K-96 and Tyler Road north of 53rd are unpaved local serving section lines. 61st Street North is an unpaved local serving section line road. Staff believes these roads are maintained by Park Township. Significant truck traffic on unpaved roads will lead to increased maintenance requirements, and will trigger a need for additional improvements to mitigate the impact. No public sewer or water is available in this area.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Development guide depicts this site as being located within the City of Maize's 2030 "urban growth area," and contains polices that look favorably on uses that are resource based. The plan also contains recommendations stating that industrial uses should not feed directly to local streets in residential areas; and that industrial areas should be generally located away from existing residential areas, and sited so as not to generate industrial traffic through less intensive areas. The site is located within the City of Maize's "zoning area of influence" and they are scheduled to hear the request on September 7, 2006. The City of Maize Land Use Plan depicts this site where the excavations will occur, up to one-half mile north of 61st Street, as appropriate for "large-lot residential."

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 extraction operation on the site shall proceed in accordance with the approved site plan (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, gg (attached), unless specifically modified by conditions contained in this conditional use. If limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions.
2. The applicant shall guarantee the installation of right-turn and left turn lanes on 53rd Street North at the access easement that provides the entrance to the mining operation. The applicant shall request vacation of a portion of 61st St. and provide cul-de-sacs at appropriate locations to terminate the road. The improvements shall be installed prior to the commencement of mining. An application for the vacation or closure of 61st Street must be on file prior to the commencement of mining. If the 61st Street vacation or closure request is not successful, the applicant will work with County Public Works to arrive at another solution within three months of the failure of the vacation action. The access road between 53rd Street and 61st Street shall be paved.
3. In addition to the standard specified in Sec. III-D.gg.(6) and (22), interior roads, work areas and stockpiles shall be treated to minimize dust from blowing from the site. If requested by

County Code Enforcement, the applicant shall maintain a log detailing the type of dust retardant and how often and when the retardant was used shall be maintained and provided to County inspectors.

4. The Conditional Use for sand extraction shall be valid for twenty years following the date of final action (either MAPC or County Commission) approving extraction operations. The applicant may apply for an administrative adjustment for an additional two years should extraction operations not be completed at the end of the twenty year time period.
5. 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: All land in the general area is zoned RR Rural Residential and used for a mix of agricultural and large-lot residential. Due to the number of large-lot residences and the area's proximity to Maize the area exhibits a "suburban" residential character.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned RR Rural Residential and is one of the more restrictive districts found in the code. The site could be developed as currently zoned for low-density residential uses with a two-acre minimum zoning lot size. However these homes would have to use on-site sewer systems or extend sewer service since sewer service is not available.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: During excavation there will be additional noise, truck traffic and blowing dust when compared to residential development. When excavation is completed, the resulting lake could be seen as an enhancement as water features are generally viewed as positive additions to residential settings. The conditions of approval will help to mitigate detrimental affects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The construction industry requires sand. The applicant is in the aggregate business and cannot operate his business without sand. When one is dependent upon a resourced based material like sand, one must go where the sand is located. If the request is denied, presumably the applicant will suffer an economic loss, as he will need to find another site. Since sand is used in many public and private projects a shortage of sand could negatively impact these projects by raising the cost or increasing the time to complete these projects. When completed the resulting lake can be seen as an amenity to the community.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Sedgwick County Development guide depicts this site as being located within the City of Maize's 2030 "urban growth area," and contains polices that look favorably on uses that are resource based. The plan also contains recommendations stating that industrial uses should not feed directly to local streets in residential areas; and that industrial areas

should be generally located away from existing residential areas, and sited so as not to generate industrial traffic through less intensive areas. The City of Maize Land Use Plan depicts this site where the excavations will occur, up to one-half mile north of 61st Street, as appropriate for “large-lot residential.” The applicant’s proposal for the access road removes truck traffic from section line roads and the redevelopment plan is consistent with long-range land use objectives of the City of Maize. The City of Maize could not have anticipated that so much of this area would be taken up by lake area thereby reducing the total land area available for development in this area. However, the quality of development that usually occurs around sandpits is higher than average when compared to developments that don’t have similar amenities.

6. Impact of the proposed development on community facilities: Increased truck traffic on section line roads will likely increase maintenance requirements. Sand extraction does not require publicly supplied sewer or water services.



Wichita-Sedgwick County Metropolitan Area Planning Department

May 8, 2007

Mr. And Mrs. Steven and Helen Simon
7700 W. 61st St., North
Maize, KS 67101

RE: CON2006-00035 - Conditional Use Permit Request by LaFarge located on both sides of 61st Street North, between Maize Road and Tyler Road

Dear Ladies and Gentlemen:

At its regular meeting on **April 18, 2007**, the Sedgwick County Commission considered the above-captioned request. The action of the County Commission was to **APPROVE** the request subject to the conditions stated in the enclosed resolution.

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

Sincerely,

A handwritten signature in cursive script that reads 'Dale Miller'.

Dale Miller
Current Plans Manager
Current Plans Division

DM/mc
Enclosure

cc: Robert Kaplan, 430 N. Market, Wichita, KS 67202
Bill Buchanan, County Manager, Mail Stop, County Rm 343
Bob Parnacott, County Law, Mail Stop, County Rm 359
Glen Wiltse, County Code Enfor, 1144 S. Seneca, Wichita, KS 67213
Jim Weber, County Public Works, 1144 S. Seneca, Wichita, KS 67213
Mark and Linda Register, 8501 Mystic Lakes N., Maize, KS 67101
Charles Benjamin, PO Box 1642, Lawrence, KS 66044

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