

CU-245 - Mr. Gail Woodard requests
Conditional Use Permit to Establish
an Earth Borrow Operation for the
extraction of Sand & Gravel on

have not returned
agreement returned with the County

closed

ACTION

DATE

COMMITTEE _____

M.A.P.C. Agreed adv to 2-12-81
conditions

B.C.C./B. CO. C. Agreed adv 3-11-81

to conditions except that
same was waived - Hold Harmless
Agreement required with the County

closed

POSTED
1-29-81
[Signature]

DU-745 - Mr. Gail Woodard requests
Conditional Use Permit to Establish
an Earth Borrow Operation for the
extraction of Sand & Gravel on

Map No. 4951B
Sec. 33
Twp. 26S
Range 1W

DATA SHEET
~~CONVEX~~ (CONDITIONAL USE)

Z- _____
SCZ- _____
CU- 245
Filed 1-21-81

ASSOCIATED CASE: _____

APPLICATION DATA: From Zoned "E" to _____

1. Applicant: Mr. Gail Woodard
Address 4320 N. Maize Road, 67205 Phone 722-0792
2. Agent: David C. Adams
Address 200 W. Douglas, #430, 67202 Phone 262-2671
3. General Location: Northwest corner of 29th St. North & Ridge Road
Address _____
4. Proposed Use: Earth Borrow Operation for Sand & Gravel extraction

AREA DATA:

1. Acres: 80-76.73 (1380 ft. by 2610 ft.)
2. Adjoining Zoning: E E S E W E N R-1
3. Land Use: East SINGLE FARM & JUNK YARD South UNDEVELOPED
West _____ North UNDEVELOPED
4. Sketch Plan Land Use is for: _____
5. Present Land Use is for: UNDEVELOPED
6. Area (is) (is not) platted.

PROCEDURE DATA:

1. Zoning Committee _____ by _____
2. MAPC Meeting:

Date	Action
<u>7-12-81</u>	<u>Approved with conditions</u>
_____	_____
_____	_____

3. Governing Body (~~Bd. City Commissioners~~ - Bd. County Commissioners)

Date	Action	Resolution
<u>3-11-81</u>	<u>Approved - awarded license</u>	<u>Not entered</u>
	<u>Refused "Hold Hazardous Agreement"</u>	
	<u>Refused applicant and the County</u>	

NOTES:

R 65-1981-Sub 11-18-81

LOS ANGELES COUNTY CLERK
HEARINGS, IN
AND OUT OF COURT
RECORDS SECTION
U.S.A.

Stamp
No. 2153C

Map No. 4951B
Sec. 33
Twp. 26S
Range 1W

DATA SHEET
~~(ZONING & CONDITIONAL USE)~~

Z- _____
SCZ- _____
CU- 245
Filed 1-21-81

ASSOCIATED CASE: _____

APPLICATION DATA: From Zoned "E" to _____

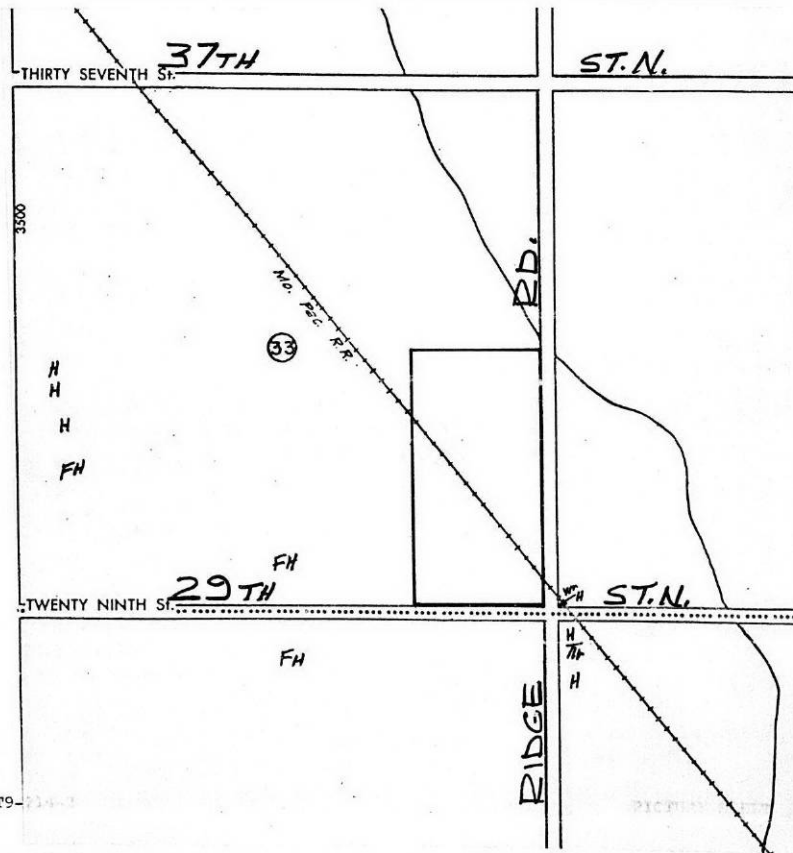
- Applicant: Mr. Gail Woodard
Address 4320 N. Maize Road, 67205 Phone 722-0792
- Agent: David C. Adams
Address 200 W. Douglas, #430, 67202 Phone 262-2671
- General Location: Northwest corner of 29th St. North & Ridge Road
Address _____
- Proposed Use: Earth Borrow Operation for Sand & Gravel extraction

AREA DATA:

- Acres: so 76.73 (1390 ft. by 2610 ft.)
- Adjoining Zoning: E "E" SE W E N R1
- Land Use: East SINGLE FAMILIAR JUNK YARD South UNDEVELOPED
West UNDEVELOPED North UNDEVELOPED
- Sketch Plan Land Use is for: _____
- Present Land Use is for: UNDEVELOPED
- Area (is) (is not) platted.

PHOTO DATA:

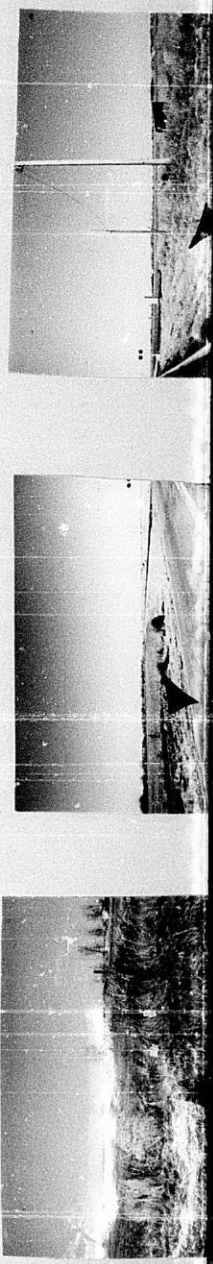
Taken by _____ Date _____ Time _____



Address 4320 N. Waize Road, 67205 Phone 722-0792
 2. Agent: David C. Adams
 Address 200 W. Douglas, #430, 67202 Phone 262-2671
 3. General Location: Northwest corner of 29th St. North & Ridge Road
 Address _____
 4. Proposed Use: Earth Borrow Operation for Sand & Gravel extraction

AREA DATA:
 1. Acres: 80-76.73 (1340 ft. by 2610 ft.)
 2. Adjoining Zoning: E "E" S E R1 W E N R1
 3. Land Use: East SINGLE FAMILY JUNK YARD South UNDEVELOPED
 West UNDEVELOPED North UNDEVELOPED
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use is for: UNDEVELOPED
 6. Area (is) (is not) platted.

PHOTO DATA: (K) Date 2-16-81 Time 3 PM
 Taken by _____

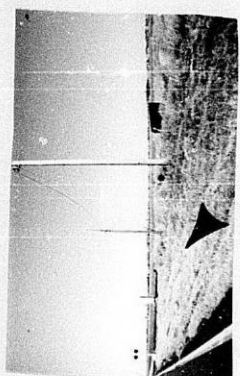
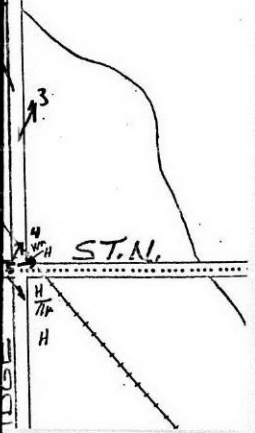


Phone 722-0792
Phone 262-2671
North F. Ridge Road
Address _____
Gravel extraction

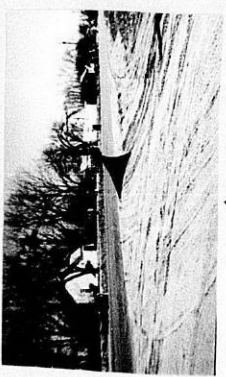
by 2610 ft.)
E N R
UNDEVELOPED
UNDEVELOPED
UNDEVELOPED

Time 3 PM

ST.N.



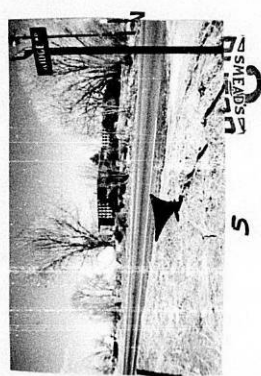
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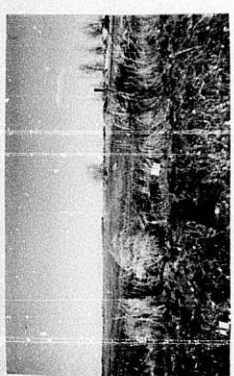
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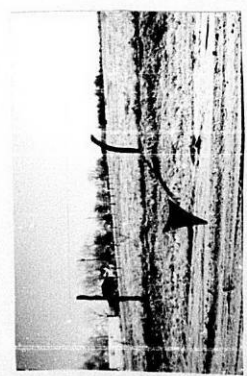
5



6



7



8

CU 245 Picture Sheet

MAPD

R# 65-1981

~~(over given)~~ Published in The Wichita Eagle-Beacon on 11-18, 1981

R E S O L U T I O N

CASE NO. CU-245

A RESOLUTION PERMITTING A SAND EXTRACTION OPERATION IN THE "E" LIGHT INDUSTRIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF EITHER THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 9.A.5.a AND SECTION 11.E OF THE ZONING RESOLUTION ADOPTED BY THE BOARD OF COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON MARCH 3, 1958, AND SUBSEQUENT AMENDMENTS THERETO.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

SECTION I. That after receiving a recommendation from 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 9.A.5.a and Section 11.E of the Zoning Resolution as amended, a Conditional Use Permit to allow a sand extraction operation in the "E" Light Industrial District is hereby approved on the lands legally described as follows:

The East Half of the Southeast Quarter of Section 33, Township 26 South, Range 1 West, (E/2 SE/4 33-26S-1W), Sedgwick County, Kansas. Generally located at the Northwest corner of 29th Street North and Ridge Road.

SUBJECT TO THE FOLLOWING:

- A. The applicant shall dedicate, by separate instrument sufficient half street right-of-way to bring Ridge Road up to the FAS 60 foot half street standard, and 75' half street right-of-way extending from the intersection of Ridge Road and 29th Street North 250' north, tapering to 60' of half street right-of-way, 350' north of the intersection. Twenty-ninth Street North shall have a 50' half street right-of-way dedication required and 75' of half street right-of-way extending 250' west of the intersection of Ridge Road and 29th Street North, tapering to 50' of half street right-of-way 350' west of the intersection.
- B. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50' of any property line or within 100' of any public right-of-way.
- C. 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.

- D. The earth shall be extracted to at least a minimum depth of six feet below the water table as 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. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- G. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
- H. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
- I. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- J. The applicant shall enter into a "Hold Harmless Agreement" with the County.
- K. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- L. The site shall be filled to comply with FEMA Flood Insurance Standards, to an elevation one foot above the 100 year flood plain after sand extraction operations have ceased and shall be required as a condition of platting.
- M. The applicant shall comply with conditions A, H, and J prior to the publication of the resolution establishing the conditional use.
- N. 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 approval 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.

PASSED AND ADOPTED by the Board of County Commissioners at Wichita, Kansas, this 11th day of March, 1951.

Absent, Chairman
Donald E. Gragg

Tom Scott, Commissioner
Tom Scott

Jack Spratt, Commissioner
Jack Spratt

ATTEST:

Dorothy K. White
Dorothy K. White, County Clerk
Judy Smith, Deputy
(SEAL)

Approved as to form by County Counselor

William D. Rustin
William D. Rustin, County Counselor

LAW OFFICES OF
MORRIS, LAING, EVANS, BROCK & KENNEDY

CHARTERED

SUITE 430
200 WEST DOUGLAS
WICHITA, KANSAS 67202
(316) 262-2671

LESTER L. MORRIS
1901-1966

VERNE M. LAING
FERD E. EVANS, JR.
RALPH R. BROCK
JOSEPH W. WENANDY
ROBERT I. GUENTHNER
DAVID C. ADAMS
KEN M. PETERSON
RICHARD D. GREENE
A. J. SCHWARTZ, JR.
DONALD C. SHRAG
WILLIAM B. SORENSEN, JR.
DENNIS H. FENEY
JOHN P. BOHMAN
JEFFREY A. SHADWICK
JEFFERY L. CARMICHAEL
ROBERT W. COVENDALL

TELECODIER
(316) 262-0226

November 9, 1981

Mr. Jack H. Galbraith, Chief Planner
Wichita-Sedgwick County Metropolitan
Area Planning Department
455 North Main, 10th Floor
Wichita, Kansas 67202


Re.: CU-245 - Earth Borrow Operation and Extraction
of Sand and Gravel. Northwest corner of 29th
Street North and Ridge Road

Dear Jack:

I am in receipt of a copy of your letter dated November 6, 1981, the original of which was addressed to Gary Wiley. With regard to the next to the last paragraph of your letter concerning the Hold Harmless Agreement, I enclose herewith a photocopy of Agreement to Hold Harmless and Indemnify dated August 13, 1981. The fully executed original was sent to Bill Rustin on August 25, 1981. He has since verbally advised me that the Agreement is acceptable. If there is a problem with proceeding now with the publication of the original resolution, please advise me in order that any existing problems may be resolved.

Best personal regards.

Very truly yours,



David C. Adams
For the Firm

DCA:ml
Enclosure

cc: Gary Wiley
Dick Hoskinson

RECEIVED

NOV 10 1981

METROPOLITAN PLANNING

ROUTE 10

AGREEMENT TO HOLD HARMLESS AND INDEMNIFY

THIS AGREEMENT TO HOLD HARMLESS AND INDEMNIFY is given this 13th day of August, 1981, by Richard D. Hoskinson and Verda M. Hoskinson, husband and wife, ("Hoskinsons") in favor of Sedgwick County, Kansas, and the Board of County Commissioners of Sedgwick County, Kansas hereinafter collectively referred to as Sedgwick County.

WHEREAS, Hoskinsons are the owners of the following described property, to-wit:

The East Half (E/2) of the Southeast Quarter (SE/4) and that portion of the West Half (W/2) of the Southeast Quarter (SE/4), lying north and east of the Missouri-Pacific Railroad Right-of-Way in Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; and

WHEREAS, on or about March 11, 1981, the Board of County Commissioners of Sedgwick County, Kansas approved a request for the issuance of a conditional use permit for the establishment of an earth borrow operation for the extraction of sand and gravel on properties zoned "E" Light Industrial District and in so approving did not require that the above-described property be fenced as was recommended by the Wichita-Metropolitan Area Planning Commission in Case No. CU-245; and

WHEREAS, as a condition to the approval the Board of County Commissioners of Sedgwick County required that the owners of the above-described property agree to indemnify and hold harmless Sedgwick County from any liability by reason of the lack of fencing.

NOW, THEREFORE, for and in consideration of the issuance of the conditional use permit, the Hoskinsons do hereby agree to hold harmless and indemnify Sedgwick County from any liability of whatsoever nature arising out of a claim or claims based in whole or in part upon the issuance of a conditional use permit for the extraction of sand and gravel on the above-described property without the requirement that the area be fenced.

This Agreement to Hold Harmless and Indemnify shall remain effective so long as sand and gravel extraction operations are conducted upon the above-described premises and shall be binding upon the Hoskinsons, their heirs, successors and assigns.

IN WITNESS WHEREOF, this Agreement to Hold Harmless and Indemnify has been executed on this 13th day of August, 1981.

Richard D. Hoskinson
Richard D. Hoskinson

Verda M. Hoskinson
Verda M. Hoskinson

"Hoskinsons"

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

The foregoing instrument was acknowledged before me this 13th day of August, 1981, by Richard D. Hoskinson.



Appointment Expires:

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

The foregoing instrument was acknowledged before me this 13th day of August, 1981, by Verda M. Hoskinson.



Appointment Expires:

Mary L. Logan
Notary Public

Mary L. Logan
Notary Public

November 6, 1981

Gary Wiley
Land Development Division
Professional Engineering Consultants
1440 East English
Wichita, Kansas 67211

Re: CU-245 - Earth Borrow Operation
and Extraction of Sand and Gravel.
Northwest corner of 29th Street
North and Ridge Road.

Dear Gary:

Several weeks ago you advised that your client desired to change the operational plan and redevelopment plan associated with the above captioned case to reflect a change in the excavation limits, and to indicate future residential uses south of the railroad instead of industrial uses. The condition of approval to which your request is applicable, is as follows:

"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."

Based on this, we believe that staff cannot administratively approve the adjustment as requested. We would, however, schedule your request on the agenda for them to review the revised plan and for their approval if they so desire. We would need 12 copies and a letter of request. One major concern that the Director of Planning requested that I advise you of, is that there are no sewers available for this area and the area may not be developed as indicated.

Page Two
Gary Wiley
November 6, 1981

One other problem we have with this case and believe should be cleared up prior to our scheduling your request is that the original resolution is still not published. This is because the "Hold Harmless Agreement" as required by the County has still not been submitted. Our letter to Mr. Adams on March 11, 1981 advised him of this condition; that he should contact Mr. Rustin and submit the approved agreement to us. Until that matter is resolved, I believe no adjustments should be made on the approved plans.

If you have any questions on any of these comments, please contact me.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:el

cc: Dick Hoskinson, 990 N. Westlink, 67212
David C. Adams, 200 W. Douglas, #430, Wichita 67202

DIRECTORS

C. D. KNOP, P.E.
R. B. PEUGH, P.E.
C. J. FREUND, P.E.
W. H. KELTNER, P.E.
R. D. PLETCHER, P.E.
P. D. MIDDLETON, JR., P.E.
D. E. MALTBY, P.E.
M. D. SCHOMAKER, P.E.



**PROFESSIONAL
ENGINEERING
CONSULTANTS**
LAND DEVELOPMENT
DIVISION
PROFESSIONAL ASSOCIATION

September 24, 1981

Mr. Jack Galbraith, Chief Planner
Metropolitan Area Planning Department
10th Floor City Hall
455 N. Main
Wichita, Kansas 67202

RE: CU-245 - Earth Borrow Operation for Extraction of Sand & Gravel
PEC File No. 36-80360-799

Dear Mr. Galbraith:

The redevelopment plan for the above-referenced conditional use includes a site for industrial development. The owner of the property wishes to revise the redevelopment plan by replacing the industrial site with proposed single family development compatible with the site north of the railroad right-of-way.

Attached is a sketch showing the necessary revisions to the operational plan and the redevelopment plan. The revised sketch would result in a reduction in excavation from 22.4 acres \pm to approximately 17.7 acres.

The owner requests that the revisions be approved administratively by your department.

If additional information is desired, please advise.

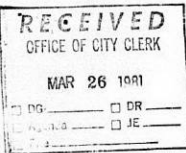
Very Truly Yours,


Gary Wiley
Land Development Division

cc: Dick Hoskinson
990 N. Westlink
Wichita, Kansas 67212

LOCATED AT:
355 ELLIS
WICHITA, KANSAS 67211
(316) 263-1107

FORWARD ALL MAIL TO:
1440 EAST ENGLISH
WICHITA, KANSAS 67211
(316) 262-2691



FILM 468 PAGE 921

RESTRICTIVE COVENANTS

GAIL WOODARD and JEAN E. WOODARD, husband and wife, do hereby make the following declaration as to restrictions, limitations and use of the following described real estate:

The East Half of the Southeast Quarter of Section 33, Township 26 South, Range 1 West, Sedgwick County, Kansas (E/2 SE/4 33-26S-12),

which said Declaration shall constitute covenants running with said land and shall be binding upon all owners and their successors, assigns and heirs;

"No rubbish, trees, car bodies or any other foreign matter shall be deposited on the application area, or within the excavation made in the removal of sand or gravel on the said premises at any time."

The above restriction and agreement shall be deemed a covenant running with the land and shall not be amended, deleted, or changed.

IN WITNESS WHEREOF, this Restriction has been executed on the 26th day of February, 1981.

STATE OF KANSAS
SEDGWICK COUNTY
FILED FOR RECORD AT
MAR 20 1981
5 30 739

Gail Woodard
Gail Woodard

Jean E. Woodard
Jean E. Woodard

STATE OF KANSAS
SEDGWICK COUNTY

NO. BETTE F. McCART
REGISTER OF DEEDS
SS: Pat Kittle

MICROFILMED
OF RECORD

The foregoing instrument was acknowledged before me this 26th day of February, 1981, by Gail Woodard and Jean E. Woodard, husband and wife.



My Appointment Expires:
August 6, 1983

Mary L. Logan
Notary Public
MARY L. LOGAN

5.00 City Clerk

March 13, 1981

Donald C. Gisick, City Clerk

Jack H. Galbraith, Chief Planner

Case No. CU-245 - Sand and Gravel Extraction Operation -
generally located on the northwest corner of Ridge Road
and 29th Street North.

Attached is a copy of a covenant which was a condition of
approval on the above captioned case by the Board of County
Commissioners at their meeting of March 11, 1981. This
covenant should be filed of record with the Register of
Deeds, with the cost billed to the Planning Department.

G. Lynn Shirkey
Junior Planner

GLS:el

Attachment

LAW OFFICES OF
MORRIS, LAING, EVANS, BROCK & KENNEDY

CHARTERED

SUITE 430
200 WEST DOUGLAS
WICHITA, KANSAS 67202
(316) 262-2671

LESTER L. MORRIS
1901-1966

OLIVER A. WITTMERMAN
OF COUNSEL

TELECOPIER
(316) 262-6226

VERNE W. LAING
FERD E. EVANS
RALPH R. BROCK
JOSEPH W. KENNEDY
ROBERT I. QUENTHNER
DAVID C. ADAMS
KEN M. PETERSON
RICHARD D. GREENE
A.J. SCHWARTZ, JR.
DONALD E. SCHRAG
WILLIAM B. SORENSEN, JR.
DENNIS M. FEENEY
PATRICIA K. HIRSCH
JOHN R. BOWMAN

February 26, 1981

Mr. Art Chambers
Metropolitan Area Planning Commission
10th Floor - City Building
Wichita, Kansas 67202

Re.: CU 245
Earth Borrow Operation

Dear Art:

Attached are documents satisfying conditions A and H. Should you have any questions, please feel free to call.

Very truly yours,

David C. Adams
(encl)

David C. Adams

DCA:ml
Attachment

RECEIVED

FEB 26 1981

METROPOLITAN PLANNING
ROUTE 1176

DEDICATION

D-1007

Assoc CU 245

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Gail Woodard and Jean E. Woodard, husband and wife

being the owners of the following described real estate in Sedgwick County, Kansas, to wit:

Beginning at the southeast corner of the southeast 1/4, Section 33, Township 26 South, Range 1 West; thence west to the southwest corner of the East 1/2 of said SE 1/4, thence north 50 feet; thence east to a point 50 feet north and 350 feet west of the southeast corner of said SE 1/4; thence northeasterly to a point 75 feet north and 250 feet west of the southeast corner of said SE 1/4; thence east 250 feet; thence south 75 feet to the point of beginning.

do hereby dedicate the above described real estate to the public for street purposes.

Executed this 20th day of February 19 81.

Gail Woodard

Jean E. Woodard

Gail Woodard

Jean E. Woodard

STATE OF KANSAS)
SEDGWICK COUNTY) ss

BE IT REMEMBERED, that on this 20th day of February, 1981

came Gail Woodard and Jean E. Woodard, husband and wife,

to me personally known to be the same persons who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas,
this _____,

City Clerk

Mary L. Logan
Notary Public

My Commission Expires: 8/6/83



DEDICATION

D-1008

Assoc. CV-245

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby

acknowledged, the undersigned, Gail Woodard and Jean E. Woodard,
husband and wife

being the owners of the following described real estate in Sedgwick County, Kansas, to wit:

Beginning at the southeast corner of the southeast 1/4; Section 33, Township 26 South, Range 1 West; thence north to the northeast corner of said SE 1/4; thence west 60 feet; thence south to a point 60 west and 350 feet north of the southeast corner of said SE 1/4; thence south-westerly to a point 75 west and 250 north of the south-east corner of said SE 1/4; thence south 250 feet; thence east 75 feet to the point of beginning.

do hereby dedicate the above described real estate to the public for
street purposes.

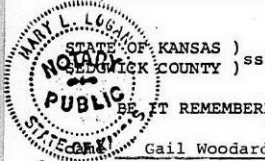
Executed this 26th day of February 1981.

Gail Woodard

Jean E. Woodard

Gail Woodard

Jean E. Woodard



BE IT REMEMBERED, that on this 26th day of February, 1981.

Gail Woodard and Jean E. Woodard, husband and wife,

to me personally known to be the same persons who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas,

this _____

City Clerk

Mary L. Logan
Notary Public

Appointment
My Commission Expires: 8/6/83

March 11, 1981

David C. Adams
200 West Douglas. #430
Wichita, Kansas 67202

Re: CU-245 - Earth Borrow Operation
for extraction of sand and gravel.
Northwest corner of 29th St. North
and Ridge Road.

Dear Mr. Adams:

The Board of County Commission on March 11, 1981 considered the above captioned request. Their action was to approve the conditional use subject to the conditions as recommended by MAPC, except that the condition on fencing was not required. Instead, the Commission required the applicant to enter into a "Hold Harmless Agreement" with the County.

Would you please contact William Rustin, the County Counselor, and upon reaching an acceptable agreement, furnish an approved copy for our files. Upon receiving the agreement, we will then be in the position to publish the resolution of approval. If you have any questions, please call.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:el

cc: Mr. Gail Woodard, 4320 N. Maize Rd., 67205
William Rustin, County Counselor
Syd Werbin, County Director, Building, Planning & Codes

() Published in The Wichita Eagle-Beacon on _____, 1981

R E S O L U T I O N

CASE NO. CU-245

A RESOLUTION PERMITTING A SAND EXTRACTION OPERATION IN THE "E" LIGHT INDUSTRIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF EITHER THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 9.A.5.a AND SECTION 11.E OF THE ZONING RESOLUTION ADOPTED BY THE BOARD OF COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON MARCH 3, 1958, AND SUBSEQUENT AMENDMENTS THERETO.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

SECTION I. That after receiving a recommendation from 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 9.A.5.a and Section 11.E of the Zoning Resolution as amended, a Conditional Use Permit to allow a sand extraction operation in the "E" Light Industrial District is hereby approved on the lands legally described as follows:

The East Half of the Southeast Quarter of Section 33, Township 26 South, Range 1 West, (E/2 SE/4 33-26S-1W), Sedgwick County, Kansas. Generally located at the Northwest corner of 29th Street North and Ridge Road.

SUBJECT TO THE FOLLOWING:

- A. The applicant shall dedicate, by separate instrument sufficient half street right-of-way to bring Ridge Road up to the FAS 60 foot half street standard, and 75' half street right-of-way extending from the intersection of Ridge Road and 29th Street North 250' north, tapering to 60' of half street right-of-way, 350' north of the intersection. Twenty-ninth Street North shall have a 50' half street right-of-way dedication required and 75' of half street right-of-way extending 250' west of the intersection of Ridge Road and 29th Street North, tapering to 50' of half street right-of-way 350' west of the intersection.
- B. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50' of any property line or within 100' of any public right-of-way.
- C. 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.

*Cops of
Corrected Res
eliminating
reprint.
JH*

- D. The earth shall be extracted to at least a minimum depth of six feet below the water table as 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. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- G. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
- H. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
- I. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- J. The applicant shall enter into a "Hold Harmless Agreement" with the County.
- K. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- L. The site shall be filled to comply with FEMA Flood Insurance Standards, to an elevation one foot above the 100 year flood plain after sand extraction operations have ceased and shall be required as a condition of platting.
- M. The applicant shall comply with conditions A, H, and J prior to the publication of the resolution establishing the conditional use.
- N. 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 approval 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.

PASSED AND ADOPTED by the Board of County Commissioners at Wichita, Kansas, this ____ day of _____, 19____.

_____, Chairman
Donald E. Gragg

_____, Commissioner
Tom Scott

_____, Commissioner
Jack Spratt

ATTEST:

Dorothy K. White, County Clerk

(SEAL)

Approved as to form by County Counselor

William D. Rustin, County Counselor

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION TO
BOARD OF COUNTY COMMISSIONERS

REQUEST FOR CONDITIONAL USE PERMIT

CASE NO. CU-245

CONSIDERED BY MAPC: 2-12-81

REQUEST FOR: Conditional Use Permit

REASON FOR REQUEST (AS PROVIDED BY APPLICANT):

"The highest and best use of the subject property is for
use as a sand and gravel extraction operation."

GENERAL LOCATION: Northwest corner of 29th Street North and Ridge Road.

LEGAL DESCRIPTION:

(See excerpt from Planning Commission minutes of
February 12, 1981)

APPLICANT: Mr. Gail Woodard, 4320 N. Maize Road.

AGENT FOR APPLICANT: David C. Adams, attorney, 200 W. Douglas.

PROTESTORS (LIST AGENT) IF ANY: John Brewer, 2910-1/2 N. Ridge Road.

SURROUNDING ZONING: North, "R-1"; East, South and West, "E".

LAND USE: Existing, Undeveloped, railroad track; North and South,
Undeveloped; East, Undeveloped, single-family; West, Agriculture.

PLANNING COMMISSION RECOMMENDATION:

That this application be approved subject to conditions as shown in
excerpt from Planning Commission minutes of February 12, 1981. Bayouth
moved, Jones seconded and it carried unanimously. Martens was not
present. Savina and Shook were absent.

ACTION: 1. Concur with the findings of fact of the Metropolitan Area
Planning Commission, approve the application subject to the recommended
conditions and adopt a resolution establishing the conditional use; or
2. Take such action as the County Commission deems appropriate.

*Sott - Approve - waive the fence
Hold harmless agreement for the County*

2-0

EXCERPT FROM PLANNING COMMISSION MINUTES OF FEBRUARY 12, 1981

12. Case No. CU-245 - Mr. Gail Woodard requests Conditional Use Permit for the East Half of the Southeast Quarter of Section 33, Township 26 South, Range 1 West, (E/2 SE/4 33-26S-1W), Sedgwick County, Kansas. Generally located at the Northwest corner of 29th Street North and Ridge Road.

GALBRAITH pointed out land use, zoning and showed slides of the general area. He reviewed the following staff report:

COMMENTS:

1. The following items should be considered by the Planning Commission in making findings of fact.

The applicant's request for approval of a sand extraction operation on the 76 acre site at 29th Street North and Ridge Road appears appropriate. The use would be compatible with the surrounding land uses, the majority of which is undeveloped, and zoned "E" Light Industrial. The property is bisected by the Missouri Pacific Railroad line and a 50' City water transmission easement. Both activities have easements through the subject property, and the operational plan submitted indicates that they will be adequately protected from encroachment.

The subject property has frontage and access along 29th Street North and Ridge Road, which is a designated FAS road. Additional right-of-way will be needed on both Streets and at the intersection of Ridge Road and 29th Street North to allow intersection improvements in the future.

2. The applicant has submitted an operational plan indicating the limits of the area to be excavated, and a redevelopment plan which proposes residential lots around the lake, which would be developed after the extraction operation ceases. The subject property lies in an area delineated by FEMA as a 100 year flood plain, and any redevelopment will require filling the site. Although the property is zoned "E" Light Industrial residences may be constructed on the site, but it may be questionable whether residential development on the property will be appropriate in the future, as the tract(s) to the west are zoned for Light Industry. With the proper landscaping and site plan, residences could be buffered from any future adjoining industrial uses.
3. Should the Planning Commission determine the extraction use appropriate for the area, it should be approved subject to the following conditions:
- A. The applicant shall dedicate, by separate instrument sufficient half street right-of-way to bring Ridge Road up to the FAS 60 foot half street standard, and 75' half street right-of-way extending from the intersection of Ridge Road and 29th Street North 250' north, tapering to 60' of half street right-of-way, 350' north of the intersection. Twenty-ninth Street North shall have a 50' half street right-of-way dedication required and 75' of half street right-of-way extending 250' west of the intersection of Ridge Road and 29th Street North, tapering to 50' of half street right-of-way 350' west of the intersection.
- B. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50' of any property line or within 100' of any public right-of-way.

- C. 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.
- D. The earth shall be extracted to at least a minimum depth of six feet below the water table as 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. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- G. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
- H. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
- I. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- J. A minimum 58 inch high fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site on no less than 7 foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as in the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of material:
 - 1. A 48-inch or higher chain link fence with three or more strands of barbed wire; or
 - 2. A 48-inch or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - 3. A 48-inch or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three 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 gates at an angle not to exceed 160 degrees facing away from the excavation.

- K. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.

- L. The site shall be filled to comply with FEMA Flood Insurance Standards, to an elevation one foot above the 100 year flood plain after sand extraction operations have ceased and shall be required as a condition of platting.
- M. The applicant shall comply with conditions A and H prior to the publication of the resolution establishing the conditional use.
- N. Violation of conditions of approval shall render the conditional use permit null and void.

GALBRAITH stated that the staff has reviewed the application and redevelopment plan and they are in support of a sand excavation operation on this site. GALBRAITH said that he did have some discussion with the applicant's attorney on the fencing condition. He pointed out that the fencing standards suggest three types of fences resulting in a fence approximately 58 inches high. In the City ordinances sandpits are required to be fenced, and for a number of years the Planning Commission has these same conditions of approval for sandpits in the County. The sandpits are considered an attractive nuisance and the staff believes that they should be fenced.

DAVID C. ADAMS, attorney, representing the applicants, stated that the applicants have no objections to the conditions of approval other than the fencing. The basis for objecting to the fencing is that although there is a requirement in the City ordinance requiring fencing, there is no legal requirement requiring fencing of sandpits in the County. Although others in the County may have had a condition of fencing, he was not aware of anyone asking that it be waived. He did not think that the applicants should be bound by others deciding not to ask for waiver of the fencing. ADAMS mentioned one sandpit owner that had the fencing requirement waived that was in an area far more populous than this one. He asked the Commission to consider the fact that within the City that there are five and six acre retention ponds which are not fenced. ADAMS also stated that after the sand extraction ceases, the fence comes down and the land is put to other purposes.

JOHN BREWER, 2910-1/2 North Ridge Road, speaking in opposition, said that he represented most of the residents on 28th Street and the ones that border 28th Street on Ridge Road. He stated that they have one sandpit in their back yard now, and the dust is terrible when the wind blows. He felt that the property could be put to better use since it is zoned industrial. He stated that apartments are moving in that direction very rapidly now and they would be more acceptable than another sandpit. He said that the whole block was vigorously opposed to the application.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the undeveloped character of the neighborhood; the industrial zoning to the south, east, and west; the suitability of the subject site for sand excavation and future redevelopment, and considering staff's recommendation; I move that we recommend to the County Commission that this application be approved subject to the following conditions:

- A. The applicant shall dedicate, by separate instrument sufficient half street right-of-way to bring Ridge Road up to the FAS 60 foot half street standard, and 75' half street right-of-way extending from the intersection of Ridge Road and 29th Street North 250'

north, tapering to 60' of half street right-of-way, 350' north of the intersection. Twenty-ninth Street North shall have a 50' half street right-of-way dedication required and 75' of half street right-of-way extending 250' west of the intersection of Ridge Road and 29th Street North, tapering to 50' of half street right-of-way 350' west of the intersection.

- B. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50' of any property line or within 100' of any public right-of-way.
- C. 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.
- D. The earth shall be extracted to at least a minimum depth of six feet below the water table as 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. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- G. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
- H. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
- I. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- J. A minimum 58 inch high fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site on no less than 7 foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as in the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of material:
 - 1. A 48-inch or higher chain link fence with three or more strands of barbed wire; or
 - 2. A 48-inch or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - 3. A 48-inch or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three 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 gates at an angle not to exceed 160 degrees facing away from the excavation.

- K. All slopes shall have vegetative covering consisting of a perennial growth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- L. The site shall be filled to comply with FEMA Flood Insurance Standards, to an elevation one foot above the 100 year flood plain after sand extraction operations have ceased and shall be required as a condition of platting.
- M. The applicant shall comply with conditions A and H prior to the publication of the resolution establishing the conditional use.
- N. Violation of conditions of approval shall render the conditional use permit null and void.

Bayouth moved, Jones seconded and it carried unanimously. Martens was not present. Savina and Shook were absent.

(_____) Published in The Wichita Eagle-Beacon on _____, 1981

RESOLUTION

CASE NO. CU-245

A RESOLUTION PERMITTING A SAND EXTRACTION OPERATION IN THE "E" LIGHT INDUSTRIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF EITHER THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 9.A.5.a AND SECTION 11.E OF THE ZONING RESOLUTION ADOPTED BY THE BOARD OF COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON MARCH 3, 1958, AND SUBSEQUENT AMENDMENTS THERETO.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

SECTION I. That after receiving a recommendation from 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 9.A.5.a and Section 11.E of the Zoning Resolution as amended, a Conditional Use Permit to allow a sand extraction operation in the "E" Light Industrial District is hereby approved on the lands legally described as follows:

The East Half of the Southeast Quarter of Section 33, Township 26 South, Range 1 West, (E/2 SE/4 33-26S-1W), Sedgwick County, Kansas. Generally located at the Northwest corner of 29th Street North and Ridge Road.

SUBJECT TO THE FOLLOWING:

- A. The applicant shall dedicate, by separate instrument sufficient half street right-of-way to bring Ridge Road up to the FAS 60 foot half street standard, and 75' half street right-of-way extending from the intersection of Ridge Road and 29th Street North 250' north, tapering to 60' of half street right-of-way, 350' north of the intersection. Twenty-ninth Street North shall have a 50' half street right-of-way dedication required and 75' of half street right-of-way extending 250' west of the intersection of Ridge Road and 29th Street North, tapering to 50' of half street right-of-way 350' west of the intersection.
- B. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50' of any property line or within 100' of any public right-of-way.
- C. 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.

- D. The earth shall be extracted to at least a minimum depth of six feet below the water table as 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. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
 - G. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
 - H. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
 - I. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
 - J. A minimum 58 inch high fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site on no less than 7 foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as in the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of material:
 - 1. A 48-inch or higher chain link fence with three or more strands of barbed wire; or
 - 2. A 48-inch or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - 3. A 48-inch or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three 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 gates at an angle not to exceed 160 degrees facing away from the excavation.
- K. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
 - L. The site shall be filled to comply with FEMA Flood Insurance Standards, to an elevation one foot above the 100 year flood plain after sand extraction operations have ceased and shall be required as a condition of platting.

- M. The applicant shall comply with conditions A and II prior to the publication of the resolution establishing the conditional use.
- N. 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 approval 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.

PASSED AND ADOPTED by the Board of County Commissioners at Wichita, Kansas, this ____ day of _____, 19____.

_____, Chairman
Donald E. Gragg

_____, Commissioner
Tom Scott

_____, Commissioner
Jack Spratt

ATTEST:

Dorothy K. White, County Clerk

(SEAL)

Approved as to form by County Counselor

William D. Rustin, County Counselor

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby

acknowledged, the undersigned, Gail Woodard

being the owner of the following described real estate in Sedgwick County, Kansas, to wit:

Beginning at the southeast corner of the southeast 1/4; Section 33, Township 26 South, Range 1 West; thence north to the northeast corner of said SE 1/4; thence west 60 feet; thence south to a point 60 west and 350 feet north of the southeast corner of said SE 1/4; thence southwesterly to a point 75 west and 250 north of the southeast corner of said SE 1/4; thence south 250 feet; thence east 75 feet to the point of beginning.

do hereby dedicate the above described real estate to the public for _____ street _____ purposes.

Executed this _____ day of _____ 19 ____.

Gail Woodard

STATE OF KANSAS)
SEDGWICK COUNTY) ss

BE IT REMEMBERED, that on this _____ day of _____, came _____

to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas,
this _____,

City Clerk

Notary Public
My Commission Expires: _____

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Gail Woodard

being the owner of the following described real estate in Sedgwick County, Kansas, to wit:

Beginning at the southeast corner of the southeast 1/4, Section 33, Township 26 South, Range 1 West; thence west to the southwest corner of the East 1/2 of said SE 1/4, thence north 50 feet; thence east to a point 50 feet north and 350 feet west of the southeast corner of said SE 1/4; thence northeasterly to a point 75 feet north and 250 feet west of the southeast corner of said SE 1/4; thence east 250 feet; thence south 75 feet to the point of beginning.

do hereby dedicate the above described real estate to the public for street purposes.

Executed this _____ day of _____ 19 ____.

Gail Woodard

STATE OF KANSAS)
SEDGWICK COUNTY) ss

BE IT REMEMBERED, that on this _____ day of _____, came _____

to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas,

this _____, _____

City Clerk

Notary Public

My Commission Expires: _____

February 16, 1981

John Brewer
2910 North Ridge Road
Wichita, Kansas

Re: CU-245

Dear Mr. Brewer:

The Planning Commission at its regular meeting of February 12, 1981, considered the above-captioned request, and their action was as indicated on the attached letter. Attached is a copy of the staff report so that you can see the recommended conditions of approval A - N.

This is to advise you that if you and others owning property within 1000 feet of the application area desire to submit legal protest petitions, they must be submitted to the Office of the County Clerk no later than 5:00 p.m., Monday, February 23, 1981. Enclosed are six copies of the protest petition form, and if you have need for more forms, they may be obtained at this office.

If you have any questions concerning this matter, please call.

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:sad
Encl.

February 16, 1981

David C. Adams
200 West Douglas, #430
Wichita, Kansas 67202

Re: CU-245 - Earth Borrow Operation
for extraction of Sand & Gravel

Dear Mr. Adams:

At its regular meeting of February 12, 1981, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the Commission was to recommend that the application be approved subject to the recommended conditions A - H in the Planning Department Staff Report. It is necessary that conditions A & H be complied with by February 27th so that subject case can be scheduled for consideration by the Board of County Commissioners on March 11, 1981. Enclosed are the necessary dedications and sample restrictive covenants for your use.

If you have any questions, please contact our office.

Sincerely yours,

Jack H. Galbraith
Chief Planner

JGH:sad

Encl.

cc: Syd Werbin, County Zoning Officer
Gail Woodard, 4320 North Maize Road, Wichita, 67205
Gary Wiley, Professional Engineering Consultants, 1440 East
English, Wichita 67211
John Brewer, 7017 West 28th Street North, Wichita 67205

WICHITA-SEDBECK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

LAPC HEARING DATE: 2-12-81

Case No. CU-245 Request: Conditional Use Permit
for Sand Extraction

Location: The northwest corner of 29th Street North & Ridge Road.

Reason: "The highest and best use of the subject property is for
use as a sand and gravel extraction operation".

Acres: 76.73 Size: 1380' x 2610'

	<u>Land Use</u>	<u>Zoning</u>
Existing North	Undeveloped, railroad track	"E"
East	Undeveloped	"R-1"
South	Undeveloped, single-family	"E"
West	Undeveloped	"E"
	Agriculture	"E"

Existing Right-of-way - 29th Street North - 30' half street
Ridge Road - 40' half street

Proposed Right-of-way - 29th Street North - 50' half street with
75' right-of-way extending 250' from the
major intersection
- Ridge Road - 30' half street with 75'
right-of-way extending 250' from the major
intersection

COMMENTS:

1. The following items should be considered by the Planning Commission in making findings of fact.

The applicant's request for approval of a sand extraction operation on the 76 acre site at 29th Street North and Ridge Road appears appropriate. The use would be compatible with the surrounding land uses, the majority of which is undeveloped, and zoned "E" Light Industrial. The property is bisected by the Missouri Pacific Railroad line and a 50' City water transmission easement. Both activities have easements through the subject property, and the operational plan submitted indicates that they will be adequately protected from encroachment.

The subject property has frontage and access along 29th Street North and Ridge Road, which is a designated FAS road. Additional right-of-way will be needed on both Streets and at the intersection of Ridge Road and 29th Street North to allow intersection improvements in the future.

2. The applicant has submitted an operational plan indicating the limits of the area to be excavated, and a redevelopment plan which proposes residential lots around the lake, which would be developed after the extraction operation ceases. The subject property lies in an area delineated by FEMA as a 100 year flood plain, and any redevelopment will require filling the site. Although the property is zoned "E" Light Industrial residences may be constructed on the site, but it may be questionable whether residential development on the property will be appropriate in the future, as the tract(s) to the west are zoned for Light Industry. With the proper landscaping and site plan, residences could be buffered from any future adjoining industrial uses.

3. Should the Planning Commission determine the extraction use appropriate for the area, it should be approved subject to the following conditions:
- A. The applicant shall dedicate, by separate instrument sufficient half street right-of-way to bring Ridge Road up to the FAS 60 foot half street standard, and 75' half street right-of-way extending from the intersection of Ridge Road and 29th Street North 250' north, tapering to 60' of half street right-of-way, 350' north of the intersection. Twenty-ninth Street North shall have a 50' half street right-of-way dedication required and 75' of half street right-of-way extending 250' west of the intersection of Ridge Road and 29th Street North, tapering to 80' of half street right-of-way 350' west of the intersection.
 - B. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50' of any property line or within 100' of any public right-of-way.
 - C. 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.
 - D. The earth shall be extracted to at least a minimum depth of six feet below the water table as 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. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
 - G. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
 - H. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
 - I. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
 - J. A minimum 53 inch high fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site on no less than 7 foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as in the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 53 inches and shall be of the following types of material:

1. A 48-inch or higher chain link fence with three or more strands of barbed wire; or
2. A 48-inch or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
3. A 48-inch or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three 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 gates at an angle not to exceed 180 degrees facing away from the excavation.

- K. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- L. The site shall be filled to comply with FEMA Flood Insurance Standards, to an elevation one foot above the 100 year flood plain after sand extraction operations have ceased and shall be required as a condition of platting.
- M. The applicant shall comply with conditions A and H prior to the publication of the resolution establishing the conditional use.
- N. Violation of conditions of approval shall render the conditional use permit null and void.

CU-245 - 13 - "Notice to Adjoining Property Owners" mailed 1-29-81 for
the MAPC meeting for 2-12-81

1 to Joe Freeman, Acting County Director - Dept. of
Public Works.

—
14 TOTAL

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION
CITY HALL, TENTH FLOOR, 455 North Main Street
Wichita, Kansas 67202

NOTICE TO ADJOINING PROPERTY OWNERS:

January 29, 1981

This is a notice of a request for a zoning change in your area. As an area property owner, you have the right to appear before the Metropolitan Area Planning Commission (MAPC) meeting in support or in opposition to this request for a zoning change. The MAPC will consider the following case in the City Commission Meeting Room, City Hall, First Floor, 455 North Main, Wichita, Kansas, at its meeting on February 12, 1981, which will commence at 1:30 p.m. You may appear either in person or by agent or attorney if you so desire.

CASE NO. CU-245

Conditional Use Request to Permit Establishment of
an Earth Borrow Operation for the
Extraction of Sand and Gravel on Property
Zoned "E" Light Industrial District

The East Half of the Southeast Quarter of Section 33,
Township 26 South, Range 1 West, (E/2 SE/4 33-26S-1W),
Sedgwick County, Kansas. Generally located at the
Northwest corner of 29th Street North and Ridge Road.

Additional information concerning this case and official protest procedures may be obtained from the Planning Department, 10th Floor, City Hall, or by calling 268-4421.

Robert A. Lakin
Secretary

Summary Description of County Zoning Districts

- "R" - Rural Residential District
Permits one single-family dwelling for each lot of two acres.
- "R-1" - Suburban Residential District
Permits one single-family dwelling for each lot of 20,000 square feet of land area if served by a public water supply, or 40,000 square feet if served by a private domestic water supply source.
- "AA" - One-Family Dwelling District
One-family dwellings require a minimum of 6,500 square feet.
- "BB" - Office District
Permits agriculture, one-family dwellings and all business and professional offices. All commercial activities are prohibited.
- "LC" - Light Commercial District
Permits one-family dwellings and any retail commercial uses conducted within an enclosed building.
- "C" - General Commercial District
Permits all commercial activities; outdoor displays and sales; selected light manufacturing and light commercial uses.
- "E" - Light Industrial District
Permits most manufacturing uses and uses permitted in "C". Mobile home parks and trailer camps are not permitted.
- "F" - Heavy Industrial District
Permits any use except those objectionable uses such as slaughter houses, salvage yards and fertilizer plants which require special permits. Mobile home parks and trailer camps are not permitted.
- "CU" - Conditional Use in any of the above districts
Allows certain uses listed in the County Zoning Resolution by special permit rather than as a use by right.
- NOTE: - The above list is not intended to be all inclusive. For complete regulations see the Sedgwick County Zoning Resolution.

APPLICATION FOR APPROVAL OF CONDITIONAL USE PERMIT
FOR PROPERTY LOCATED WITHIN THE JURISDICTION
OF THE BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

map 4951 B
sec 33
TRW
CU-245

This is an application for a Conditional Use Permit. The form must be completed and filed at the Planning Department, Tenth Floor, City Hall, 455 North Main Street, Wichita, Kansas, in accordance with directions on the accompanying instruction sheet. AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.

1. Name of applicant or applicants and/or their agent or agents. All owners of all property requested to be considered in this application must be listed in this item.

A. APPLICANT Mr. Gail Woodard 67205
ADDRESS 4320 N. Maize Road, Wichita, Ks. PHONE 722-0792

AGENT David C. Adams 67205
ADDRESS 200 W. Douglas, #430, Wichita, Ks. PHONE 262-2671

B. APPLICANT _____
ADDRESS _____ PHONE _____

AGENT _____
ADDRESS _____ PHONE _____

C. APPLICANT _____
ADDRESS _____ PHONE _____

AGENT _____
ADDRESS _____ PHONE _____

(Use separate sheet if necessary for names of additional applicants).

2. a. The applicant proposes to establish a sand and gravel extraction
operation (use)

on property legally described as Lot(s) N/A
_____, Block(s) N/A
of the N/A Addition.

(If appropriate, metes and bounds description may be provided in the space below or on an attached sheet).

The East Half of the Southeast Quarter of Section 33,
Township 26 South, Range 1 West, (E/2 SE/4 33-26S-1W),
Sedgwick County, Kansas.

OK for legal

2. b. There are 80 acres (round to nearest tenth) in the above described property.

3. THIS PROPERTY IS LOCATED AT (ADDRESS) N/A

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

A. AT THE northwest CORNER OF 29th Street North AND Ridge Road, OR

B. ON THE N/A SIDE OF N/A (AVE.) STREET BETWEEN N/A (AVE.) STREET AND N/A (AVE.) STREET.

*NE 29th
West of
Ridge Road
East of
Ridge Road*

4. THE PROPERTY INCLUDED IN THIS APPLICATION IS ZONED E (light industrial) (ZONING DISTRICT CLASSIFICATION).

5. I REQUEST THIS CONDITIONAL USE PERMIT FOR THE FOLLOWING REASONS:

The highest and best use of the subject property is for use as a sand and gravel extraction operation.

6. I (WE), THE APPLICANT(S), ACKNOWLEDGE RECEIPT OF THE INSTRUCTION SHEET EXPLAINING THE METHOD OF SUBMITTING THIS APPLICATION. I (WE) REALIZE THAT THIS APPLICATION CANNOT BE PROCESSED UNLESS IT IS COMPLETELY FILLED IN; IS ACCOMPANIED BY A CURRENT ABTRACTOR'S CERTIFICATE AS REQUIRED IN THE INSTRUCTION SHEET; AND IS ACCOMPANIED BY THE APPROPRIATE FEE. I (WE) FURTHER CERTIFY THAT THE ABOVE AND FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY (OUR) KNOWLEDGE. I (WE) ACKNOWLEDGE THAT THE BOARD OF COUNTY COMMISSIONERS SHALL HAVE AUTHORITY TO IMPOSE SUCH CONDITIONS AT IT DEEMS NECESSARY IN ORDER TO SERVE THE PUBLIC INTEREST AND WELFARE.

NOTE: AT LEAST ONE OWNER MUST SIGN THIS APPLICATION. OTHER OWNERS MAY BE REPRESENTED BY AN AGENT OR AGENTS.

X Gail Woodard
BY Gail Woodard AUTHORIZED AGENT (IF ANY)

BY _____ AUTHORIZED AGENT (IF ANY)

BY _____ AUTHORIZED AGENT (IF ANY)

7. OFFICE USE ONLY

This application was received at the Planning Department at 135 (AM, PM) on Jan 21, 1981 (day, month, year). It has been checked and found to be complete and accompanied by required documents and the appropriate fee of \$ 700.

Arden & Chambers Name
S. P. Brown Title

TO: David Adams

Legal: Within 1000 feet of property located at 29th and Ridge Road -
the East half of the Southeast Quarter of Section 33, Township
26 South, Range 1 West, Sedgwick County, Kansas

- ✓ 1. Gail L. Woodard
Maize, Kansas 67101
- ✓ 2. Agnes E. Kessler, et al
1711 Burton
Wichita, Kansas 67213
- ✓ 3. Kelley Cast Stone Company
7080 West 29th Street
Wichita, Kansas 67205
- ✓ 4. Ritchie Paving, Inc.
Box 4048
Wichita, Kansas 67204
- ✓ 5. Nelda R. Carp, et al
2760 N. Tyler Rd.
Wichita, KS 67205
- ✓ 6. V. M. Brooks, et ux
6124 Judson
Wichita, KS 67219
- ✓ 7. Beverly J. Nicholson, et vir
2912 North Ridge Road
Wichita, KS 67205
- ✓ 8. L. E. Watson, et ux *Resent to: 1624 Highland*
~~Box 141~~ *Augusta 67010*
Maize, Kansas 67101
- ✓ 9. Gary L. Breitenstein, et ux
4209 Bella Vista
Wichita, KS 67212
- ✓ 10. Paul Joseph Magnan
909 N. Market
Wichita, KS 67214
- ✓ 11. Randy J. Westfahl, et ux
2910 North Ridge Road
Wichita, KS 67205
- ✓ 12. James Cotton and Christina Cotton
7030 West 28th Street North
Wichita, KS 67205

That the undersigned is a duly licensed and qualified abstractor in and for the County and State aforesaid, whose bond as required by law is in force at the date of this certificate.

Dated at Wichita, Kansas, this 14th day of January, A.D. 19 81, at
3 o'clock P. M.



INSURED TITLES, INC.

NAME OF FIRM

By *Bernard G. Collins*
Bernard G. Collins, Abstractor

FORM 29-000 PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT
<i>Contract for</i>	<i>\$700</i>
<i>Sanitation</i>	

NAME: *David Watson*

ADDRESS: *22211 Douglas 67230*

FUND: *11071 220* DUE DATE: _____

COMMENTS: _____

DATE: *6/20/81* BY: *L. E. Watson*

CO-245 *Edie*

WICHITA - SEDGWICK COUNTY

W.S.C.


METROPOLITAN AREA PLANNING DEPARTMENT
CITY HALL - TENTH FLOOR
406 NORTH MAIN STREET
WICHITA, KANSAS 67202

No Box 141

L. E. WATSON, ET UX
BOX 141
MAIZE KANSAS 67101

Resent: 1624 Highland, Augusta 67010

ATTEMPTED - NOT KNOWN



Important! Notice of Meeting Enclosed

*

This CU File

Has a Large Drawing

On 35mm Microfilm.

Roll # 1

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