

CU-293 Lola B. Torkleson, etal request conditional use permit to establish sand extraction operation on property zoned R-1 at the SW corner of Ridge Rd & 39th St North

POSTED 5-28-86  
KX

ACTION

DATE

COMMITTEE

M.A.P.C. Approved subject to conditions 6-12-86

B.C.C./B. C. C. Approved as recommended, except that a fencing plan was required instead of item I. 7-28-86  
Plan to be approved by the Bd of Comm.

B.C.C. 2-1 to waive all fence requirements 8-8-86 (Friday)

Closed

DATA SHEET

Z- \_\_\_\_\_  
 SCZ- \_\_\_\_\_  
 CU- 293  
 DR- \_\_\_\_\_  
 DP- \_\_\_\_\_

Case Filed: Amend  
 Associated Case: 5-6-86

APPLICATION DATA: Map No. 4951 A

1. General Location: At the southwest corner of 37th Street North and Ridge Road
2. From \_\_\_\_\_ to \_\_\_\_\_
3. Proposed Use: Conditional Use Permit to Establish a Sand Extraction Operation on Property Zoned "R-1" Suburban Residential District & "LC" Light Commercial District
4. DP Name: \_\_\_\_\_
5. Applicant: Lola B. Torkleson  
 Address 9632 West 37th Street North, Wichita, KS. 67205 Phone 722-0156
6. Applicant: Richard D. Hoskinson (Contract Purchaser)  
 Address 990 North WestLink, Wichita, KS. 67212 Phone 722-1865
7. Agent: Dave Adams  
 Address 200 West Douglas, Fourth Floor, Wichita, KS. 67202 Phone 262-2671
8. Engineer: Gary Wiley, Professional Engineering Consultants, P.A.  
 Address 1440 East English, Wichita, KS. 67211 Phone 262-2691

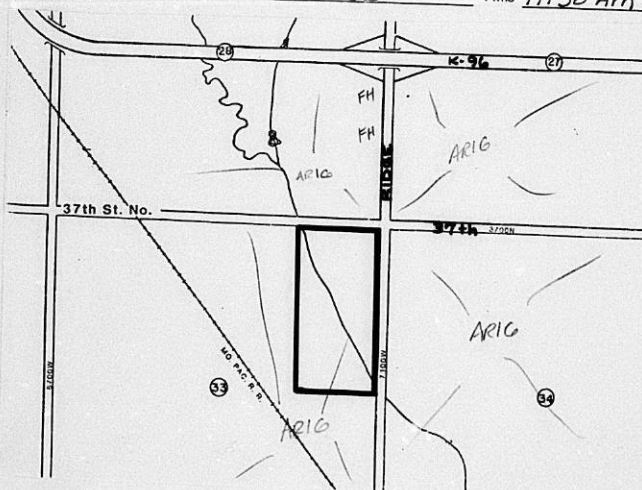
AREA DATA:

1. Acres: 80 ( \_\_\_\_\_ ft. by \_\_\_\_\_ ft.)
2. Adjoining Zoning: N "R-1" & "LC" S "E" w/OU E "R-1" & "LC" W "R-1"
3. Land Use: North East  
South West

PICTURE SHEET

PHOTO DATA:

Taken by (P) Date 6-4-86 Time 11:30 AM



NOTES:

T9-214-2

LOS ANGELES REGISTERED PROFESSIONAL ENGINEER  
 No. 21533  
 State of California  
 U.S.A.

**Spud.**



**SEDGWICK COUNTY, KANSAS**

DEPARTMENT OF PLANNING  
AND CODE ENFORCEMENT

**Ron R. Worley, C.B.O.**  
DEPARTMENT DIRECTOR

1248 SOUTH SENECA

WICHITA KANSAS 67213-4498

TELEPHONE (316) 268-7951

November 18, 1987

Mr. Richard D. Hoskinson  
Central Sand, Inc.  
999 North Westlink  
Wichita, Kansas 67212

Re: CU-293 3555 North Ridge Road

Dear Mr. Hoskinson:

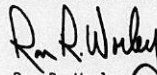
This letter is to review the conversation Jim Weber and I had with you yesterday at the above location.

I have enclosed a copy of Resolution #R-176-1986 which lists the conditions of approval of CU-293. Item j. was the main topic of our discussion.

As we discussed all the area on which you have begun removal of overburden will need to meet the requirements of item j. not later than November 17, 1988. This is a rather large area in comparison to the area you have excavated and formed a lake on to date. Thus this Department wants to make sure you are aware of and understand the requirements of item j. and have made plans to comply not later than November 17, 1988.

Requests for extension of time to comply or other changes to the conditions of CU-293 would need to be filed with the M.A.P.D. prior to November 17, 1988.

If you have further questions about your conditional use permit please call me at 268-7951.

  
Ron R. Worley  
Zoning Administrator

RRW:aec

enclosure

cc: Jack Galbraith, M.A.P.D.  
Jim Weber, P.E.

**RECEIVED**

NOV 20 1987

METROPOLITAN PLANNING  
ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

*for CU-293 file*

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: November 18, 1986

TO: Metropolitan Area Planning Commission

FROM: Jack H. Galbraith, Chief Planner

SUBJECT: CU-293 Request for a report on the Board of County Commission action on the sand extraction request at the southwest corner of Ridge Road and 37th Street North.

As an off agenda item at your meeting of November 13, 1986, you asked for a report concerning the elimination of a fencing requirement associated with the above-captioned case. In examining the file, the staff report pointed out the history of the property, that MAPC had recommended approval of a previous request CU-282 subject to the usual conditions including fencing. The applicant was not agreeable with fencing and therefore in 1985 the County Commission denied the request.

In the filing of case CU-293, the agents listed were Gary Wiley, PEC and Dave Adams, attorney. The staff report and the minutes of your meeting reflect that we called to your attention that the Big Slough bisects the property and we recommended a modification of the fencing requirement in the floodway area only. Wiley in his presentation stated that they were agreeable with all staff comments and on 6/12/86 you approved the application subject to conditions including fencing.

At the County Commission meeting of 7/23/86, Adams argued against the fencing requirement. Your attention is directed to those minutes (Attachment 1) and I remember in making the presentation that I was not aware there was any concern with any of the conditions of approval including fencing. The County Commission in approving the request modified substantially the standard fencing requirement as follows:

The sand extraction operation shall begin only after a fencing plan is formally approved by the Board of County Commissioners.

Following the action of the County Commission, the agent Gary Wiley began to work with Jim Weber and Ron Worley of the County Bureau of Public Services to determine a fencing plan that would be satisfactory. The attached copies of correspondence from the file reflect what happened in the next few weeks.

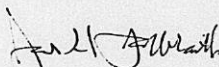
Attachment 2 Galbraith's letter to Wiley, July 28, 1986, advising of action of the County Commission that a fencing plan was required.

Attachment 3 Letter from J.W. Funk, Division of Water Resources, July 25, 1986 to James Weber relative to a fence across the regulatory floodway.

November 18, 1986

- Attachment 4 Letter from Wiley to Jim Weber, July 29, 1986, pointing out his client's preference in fencing alternates and asking for the matter to be scheduled before the Board of County Commissioners.
- Attachment 5 Memo to the County Commissioners from Worley and Weber, July 30, 1986, outlining the three alternates proposed by the applicant and an additional alternate that County Public Services proposed.
- Attachment 6 Minutes of the County Commission meeting, August 8, 1986, where a motion was made by Hentzen and seconded by Scott that the fencing requirement be waived (2-1, Gragg voting no).

Following this action, a resolution was published that did not include any fencing requirement. This provides you with all of the documents from the file that pertain to the fencing issue. If you have additional questions, please advise.



Jack H. Galbraith  
Chief Planner

JHG/lw

Attachments

cc: Ron Worley, County Zoning Administrator

*Attachment 1*

**BOARD OF SEDGWICK COUNTY COMMISSIONERS  
PROCEEDINGS**

Regular Meeting, July 23, 1986

'WHEREAS, the following County departments and agencies will be participating in the Fair: Emergency Communications, Appraiser's Office, Emergency Medical Service, Department on Aging, Civil Preparedness, Community Health Department, Sheriff's Department, and the Extension Service.

'NOW, THEREFORE, BE IT RESOLVED, that I, Bud Hentzen, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim the week of July 20 through July 26, 1986, as:

**SEDGWICK COUNTY FAIR WEEK**

and urge all residents to attend the Fair in Cheney, and experience this uniquely American event.'

**MOTION**

Chairman Hentzen moved to adopt the Proclamation.

Mr. Gragg seconded the Motion.

**VOTE**

Chairman Bernard A. Hentzen	Aye
Chairman Pro tem Donald E. Gragg	Aye
Commissioner Tom Scott	Aye

Mr. Don Ewing, a representative of the Sedgwick County Fair Board, stepped to the podium. "On behalf of the Sedgwick County Fair Board, I would like to thank you for this proclamation and would also like to invite everyone out to the Sedgwick County Fair because we have a lot of fun planned. It's a family activity. It's not just limited to come and watch; come and enter. This is where you really have some fun. We give away ribbons and things like this. You can see maybe how your cooking or your vegetables or your gardening, whatever you might have might fare out with somebody else.

"We've started something new this year. We are going for five years with a belt buckle which is being sold, and we're making a little money off it. I would like to present each of you Commissioners with a belt buckle for this first year. Now, the next...some years you might like to buy one, we'll gladly accept your money for those. We do thank you for the proclamation."

The Commissioners thanked Mr. Ewing.

**METROPOLITAN AREA PLANNING DEPARTMENT**

**Request for Conditional Use Permit.**

CU-293 - Conditional Use Permit for a sand extraction operation on property zoned "R-1" and "L.C." Generally located at the southwest corner of Ridge Road and 37th Street North. District #1.

BOARD OF SEDGWICK COUNTY COMMISSIONERS  
PROCEEDINGS

Regular Meeting, July 23, 1986

Mr. Jack Galbraith, Chief Planner, Current Plans, Metropolitan Area Planning Department, stepped to the podium. "Gentlemen, this application is a request for a County Conditional Use Case for a sand extraction operation to be located at the southwest corner of 37th Street North and Ridge Road.

SLIDES WERE SHOWN OF THE AREA.

"This is an 80-acre tract with the Big Slough running diagonally across the property. The yellow color on the slide represents the rural residential district and the light commercial in the corner. The Planning Commission, in considering this case, pointed out to you in your staff comments that this was considered a year ago and recommended by the Planning Commission but denied by the County Commission simply because the applicant was not agreeable to fencing the property as required in your previous resolutions. He has submitted a revised site plan this time showing the light commercial being retained in the corner, the balance of the land being extracted for sand purposes. It's slightly different than this application that you considered a year ago. As I state, he's now willing to fence it.

"This is looking at the property...looking from 37th Street South...Ridge Road here...general agricultural in use.

"The Planning Commission did recommend unanimously that this application be approved subject to a number of conditions. I call your attention to three conditions that now have changed since consideration a year ago—that's conditions f, g, and h on your referral sheet that all refer to changes because of the Flood Plain Management Resolution that you've adopted. The applicant is working toward solving all these conditions, the only thing that I think should be brought to your attention is we're trying to work with him on a slightly different fence in the Big Slough so floodwater can continue to pass. He will resolve that with the County Department of Public Works.

"I have no additional comments unless you have questions. The applicant and his agent are present today; there may be people here in opposition as one lady did speak at the Planning Commission Meeting. Are there questions?"

Mr. Gragg asked, "Mr. Galbraith, in the Planning Commission recommendations...how in your recommendations did they cover the fencing item?"

Mr. Galbraith replied, "The fencing item begins with Item i, and it's the standard...different types of fencing found acceptable in the past. The applicant has stated his willingness to fence the entire property at this time but is still working on some type of fence that might lay down in the Big Slough area. So, it will be the standard type of chain link fence plus three strands of barbed wire that you've found around sand pits in the past."

Mr. Gragg asked, "So, the Planning Commission recommendation is to fence as has been done in the past?"

Mr. Galbraith replied, "That's correct. I mean the applicant is agreeable to that with that one slight modification."

Mr. Gragg asked, "...and that is..."

BOARD OF SEDGWICK COUNTY COMMISSIONERS  
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Mr. Galbraith continued, "That's trying to resolve some type of fencing system that will not hold up the passage of floodwater in the Big Slough area."

Mr. Gragg stated, "OK; we'll hear him, but my question is...if that is the case and that hasn't been resolved, why are we hearing it today...won't that have to come back again to resolve that?"

Mr. Galbraith replied, "It really won't because they simply...the condition is that they work with the County Department of Public Works and resolve what type of fence will be satisfactory in that area. They may have some responses today on the type of fence that they'll use; I have not heard that. In any event, we'll make sure that we have a letter from Public Works before the resolution is published. That's one of their requirements—to resolve that matter before the Case is published."

Mr. Gragg asked, "You do have the letter dated November 18 from the Kansas Board of Agriculture?"

Mr. Galbraith replied in the negative.

Chairman Hentzen asked for anyone that wished to speak in favor of the CU Permit.

Mr. Dave Adams, representing the applicant, Dick Hoskinson, stepped to the podium. "There are 22 conditions set forth by the Planning Commission; we're in agreement with 21 of them; the fencing is the condition we have a problem with. I was not present at the Planning Commission Meeting, and I don't know what was discussed there.

"Our thinking on this is we are certainly wanting to cooperate with the County and the State Division of Water Resources, but it's a practical problem. On that 80 acres, more than 75 acres are in the floodway or flood plain and as is seen in that letter from the Division of Water Resources, a chain link fence would be impractical. What we would like to ask the Commission to do today is to approve the application without paragraph 'i' in other words, 21 conditions, but deleting 'i' with our agreement that we will work with the County in establishing whatever type of fencing may be required.

"If there are any questions, I'd be glad to try to answer those. We're simply saying 'i,' we believe, is far too stringent."

Mr. Gragg asked, "If we eliminate all of 'i,' that eliminates all the fencing; is that not the case...rather than just the portion of the floodway we're discussing?"

Mr. Adams responded, "That would be correct, the sense of that being, I believe, that that floodway is 600 feet wide and about 400 or 500 feet of that is on Ridge Road. It doesn't seem to make much sense to fence on Ridge Road and then leave a 400 or 500 foot gap."

Mr. Galbraith asked to comment. "Mr. Adams is taking the same position on this case now that he took a year ago when you denied the request. When the

BOARD OF SEDGWICK COUNTY COMMISSIONERS  
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"Planning Commission considered this, the agent representing the applicant that day had no difficulty with meeting the fencing condition—Condition #1—with the additional comment—to work with Public Works in resolving the type of fencing only in the Big Slough area. If now their position is to drop all fencing requirements—Number #1—I would suggest you send this piece back to the Planning Commission for reconsideration because this has changed, I think, considerably since they considered this when they stated a willingness to fence as all other sand plant operators have to do."

Chairman Hentzen asked, "Mr. Galbraith, let me ask you...and I got this letter from the Kansas State Board of Agriculture. Did the MAPFC have this?"

Mr. Galbraith responded, "We do not have that; I've checked in the file. MAPFC did not have it."

Chairman Hentzen quoted, "...very quickly..." Fencing of open areas in a floodway should be avoided because the flood debris accumulation will tend to negate the intent of the floodway designation. The objections in this agency to the use of cyclone fencing in a floodway are technical in nature and suggest strongly that such facilities should be avoided. So, maybe you didn't have this information."

Mr. Galbraith replied, "No, but without that letter, we were still aware of that problem. And, that's the reason for the note in the resolution under condition #1."

Chairman Hentzen asked, "Once a Conditional Use Permit is issued for sand extraction and we require fencing while that goes on...when the sand extraction is complete and the Conditional Use Permit is complete or done, what happens to the fence? Can it be removed?"

Mr. Galbraith replied, "Yes it can be. Once the Conditional Use Operation ceases—the extraction of sand—there's nothing requiring the fence to continue to remain there."

Chairman Hentzen stated, "In other words, there appears to be some good reasons for fencing during a sand extraction which we have adopted as a procedure, but in this particular case, it seems there's some good reasons not to fence it."

Mr. Galbraith commented, "...only in the one area where the Big Slough passes; that's the only area."

Chairman Hentzen stated, "I know that. I know if you have a fence and there's a void in it, the cow will find its way out and people will find their way in. What's the function of the fence?"

Mr. Galbraith replied, "As a deterrent...to keep people from trying to get into the area; that's the purpose of it."

BOARD OF SEDGWICK COUNTY COMMISSIONERS  
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Chairman Hentzen asked, "...with a 400 foot hole in it?"

Mr. Galbraith responded, "Well, I think something could be designed there that would lay down when water passes through. I don't know if they've made any contact with the Engineering Department of the County to discuss this since the Planning Commission acted on this case. I've had no contact with them at all relative to a problem with meeting this condition."

Mr. Gragg asked Mr. Spears if he had had any contact."

Mr. David Spears, Director, Bureau of Public Services, replied, "I haven't personally, and Mr. Weber hasn't reported to me that he's had any contact, so, not to my knowledge, we haven't."

Mr. Gary Wiley, with PEC...working on the engineering aspect of this for the applicant, stepped to the podium. "I have talked with Jim Weber at the County and right now, his thinking is just a barbed wire fence along that strip across the floodway on Ridge Road. We haven't come up with a total plan on it, but he is thinking of a barbed wire fence in that area...on Ridge as well as 37th Street North where the Big Slough crosses."

Mr. Dave Adams returned to the podium. "I think it is a difficult problem here. I think the Commission's decision needs to be one of, for example, no fencing at all because of the 500 foot gap or alternatively, barbed wire fencing all the way around...if that makes any sense at all...if that's going to keep anyone out, which in our opinion, it would not. I don't want this Commission or the Planning Commissioner, Mr. Galbraith, to feel misled on this. I was not at the Planning Commission, but I think the applicant took the position at the Planning Commission there was no reason to argue about fencing over there because we had already had their comments a year ago and that we would come here to talk about the fencing."

Mr. Gragg stated, "Mr. Galbraith, in fairness...there's a number of people involved in the sand extraction business in Sedgwick County. Has it not been the case that we required all the rest of them to fence; wouldn't this really be an exception of what our past policy has been?"

Mr. Galbraith replied in the affirmative.

Chairman Hentzen asked, "Do you know if any of the others have been in the floodway?"

Mr. Galbraith replied, "Not off hand, I can't think of any having a major slough going through them...as this one has."

Chairman Hentzen asked for anyone who wished to speak in opposition to the permit; after a period of silence, Mr. Gragg made some comments.

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Mr. Gragg stated, "Mr. Chairman, what I would like to do on this if we could is go ahead and approve the conditional use permit, subject to before it's signed, that a plan be brought back to the Commission on the fencing...part of that...I'm willing to work with them to get something equitable; on the other hand, we've required all the other extraction people to do it. We have an unusual problem, but rather than just leave it completely stricken from the requirements, I think we need to approve everything...and I don't know whether it needs to go back to the Planning Commission or not...but come back with a new item 'I' to where we do clarify what is going to be done and what is not going to be done because we do get into some legal tracking nuisance situations in these cases also."

Mr. Adams stated, "That would be acceptable to the applicant except to the extent that we need to have the ordinance published in order that the applicant can get on with the sand extraction immediately. He's sitting there with his machinery...not on site, but ready to go."

Mr. Gragg stated, "Well, I guess in fairness, I'm a little disappointed that this was not discussed at the Planning Commission Meeting because that is a public hearing body, that it wasn't resolved, and it was brought here without the staff input for us to resolve an open item that...we might not have agreed with them, but something more in writing in the agreement should be stated so we know where we are. Once we pass it, it's a gone deal forever."

Mr. Adams stated, "This may be a question for Mr. Rustin, but would it be possible to publish the ordinance, Mr. Rustin, with a condition—one of the 22 conditions—being that the fencing be brought back to the Commission or signed off on by the Commission?"

Mr. Bill Rustin, County Counselor, responded, "Dave, I'd have to look into that; I couldn't give you an answer this morning of right now without looking into that...you mean put an additional condition into this resolution...covering fencing?"

Mr. Adams replied, "Well, if the Commission were to approve the recommendation of the MAPC as it stands, then we could all move forward immediately. All we're asking is that 'I' be modified. There's still some judgment, I think, even in 'I' as it exists right now, that would be involved."

Mr. Rustin replied, "I think some rewording on 'I' could be done and the resolution changed and published that way, but it would take some time to modify 'I'."

Mr. Adams stated, "For example, 'I' right now says that the operator shall obtain approval from the County Bureau of Services for the type of fence. Could the Commission be substituted for the County Bureau of Services?"

Mr. Rustin responded, "Actually that would flow through Mr. Spears back to the Commission; I don't know if you would accomplish anything other than they would have to bring this back to the Commission since he is in charge of the Bureau of Public Services."

BOARD OF SEDGWICK COUNTY COMMISSIONERS  
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Mr. Gragg asked, "Mr. Rustin, what if we struck Item 'I'—the current wording, and put in there, 'Before the sand extraction operation may begin, a fencing plan shall be formally approved by the Board of Sedgwick County Commissioners?'"

Mr. Rustin replied, "The Board could do that, sir."

Mr. Adams asked Mr. Gragg to repeat his suggestion.

Mr. Gragg repeated his suggestion and added, "That would replace the current wording; we would eliminate Item 'I's' wording and substitute that wording in Item 'I'."

Mr. Adams said that was fine.

Mr. Rustin stated, "I would...it you wanted just to have Mr. Spears be able to approve the plan without it having to come back before the Commission for action..."

Mr. Gragg interjected, "That's not what my wording was."

MOTION

Mr. Gragg moved to approve CU-293, the wording in Item 'I' be stricken and new wording be added, "Before sand extraction may begin, a fencing plan shall be formally approved by the Board of Sedgwick County Commissioners."

Chairman Hentzen asked for a second; after a period of silence, Chairman Hentzen seconded the Motion.

Chairman Hentzen seconded the Motion.

Chairman Hentzen asked for any discussion.

Mr. Scott stated, "Mr. Chairman, if you please...Didn't about three or four years ago, didn't we waive the fencing of the Slough out west for this same company because of the problem?"

Mr. Adams replied, "If I may, Mr. Scott...the applicant previously owned a tract just south of the subject tract, and fencing was waived on that 80-acre tract some three, four, five years ago."

VOTE

Chairman Bernard A. Hentzen	Aye
Chairman Pro tem Donald E. Gragg	Aye
Commissioner Tom Scott	Aye

*Attachment 2*

July 28, 1986

Mr. Gary Wiley  
Professional Engineering  
Consultants, P. A.  
1440 East English  
Wichita, Kansas 67211

CU-293 - Sand Extraction Operation at the southwest corner of 37th  
Street North and Ridge Road.

Dear Mr. Wiley:

The above captioned case was considered by the Board of County  
Commissioners on July 23, 1986, subject to the conditions recommended by  
the Planning Commission, except that condition "j" on fencing was changed  
to read as follows:

"The sand extraction operation shall begin only after a fencing  
plan is formally approved by the Board of County Commissioners."

At such time that you complete the plan and want it scheduled for  
consideration, we would like a copy for our file. I would also expect  
that the County Bureau of Public Services would also appreciate a copy.

There are a number of conditions that must be complied with prior to the  
publication of the resolution. At such time as they are all complete, we  
will see that it is published and that Ron Worley is advised.

If you have any questions, please call.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:blw

cc: Lola B. Torkleson, 9632 W. 37th Street North, Wichita, KS. 67205  
Dave Adams, 200 W. Douglas, Fourth Floor, Wichita, KS. 67202  
Jim Weber, Sedgwick County Bureau of Public Services  
Ron Worley, Zoning Administrator, Sedgwick County Bureau  
of Public Services



KANSAS STATE BOARD OF AGRICULTURE

Attachment 3

DIVISION OF WATER RESOURCES  
DAVID L. POPE, Chief Engineer-Director  
109 SW Ninth Street  
TOPEKA, KANSAS 66612-1283  
(913) 296-3717

HARLAND E. PRIBBLE  
Secretary

DONALD L. JACKA, JR.  
Acting Secretary

July 25, 1986

Mr. Jim Webber  
Sedgwick County Public Services  
1250 South Seneca Street  
Wichita, Kansas 67213

Re: Fence in floodway

RECEIVED  
JUL 29 1 26 PM '86  
BUREAU OF  
PUBLIC SERVICES

Dear Jim,

Questions have been raised about the thinking of this agency concerning the use of a chain-link fence across a regulatory floodway. If this situation arises, it may well be subject to variance procedures as a variation under K.S.A. 12-734 requiring approval of the Chief Engineer.

The concern is that any fence and most particularly a chain-link fence will trap flood debris, which, in fact, is a temporary obstruction to flow in a location causing an unreasonable effect on others. This is particularly true if the fence is a significant width across the floodway reducing opportunity for debris to float around the obstruction. Therefore, this agency discourages the use of such fencing.

However, there are at least two alternatives to avoid these flood concerns and still use chain-link fence in the regulatory floodway for security purposes. One system would place the fence in an excavated trench, which is both deep enough for the fence top to be at or below basic floodplain land elevation and wide enough for maintenance and security purposes. Another technique would involve a break away concept of using light weight twist wires to fasten the chain-link fence to the downstream side of the support posts. This works particularly well, if the regulatory floodway flow depth is a dimension nearly equal to the security height need.

Either of these alternatives would be recommended by the engineering staff for any approval by the Chief Engineer in the situation described above for which such approval was appropriately requested. Although attorneys may well disagree as to this agency's authority with respect to the chain-link fence, the concern is a legitimate concern.

Another fence alternative is a 3 or 4 wire fence, which does not trap debris as badly as does a chain-link fence. Although such fence might create some flood flow restriction, it should be quite small in relation to

Jim W. - copy  
Kane W. - copy

Mr. Jim Webber

Page 2.

July 25, 1986

the potential effect of a chain-link fence and we have no objection to such fence.

If this raises further questions, please feel free to call or write.

Very truly yours,

*J. W. Funk*

J.W. Funk, P.E.  
Engineer

JWF:cb

**DIRECTORS**

C. O. KNOP, P.E.  
R. B. PEUGH, P.E.  
C. J. FREUND, P.E.  
W. H. KELTSNER, P.E.  
R. D. PLETCHER, P.E.  
F. D. MIDDLETON, JR., P.E.  
D. E. MALTBYE, P.E.  
M. D. SCHOMAKER, P.E.  
G. D. SCHOCK, P.E.  
J. H. BAILEY, P.E., PH.D.

*Attachment 4*



**PROFESSIONAL  
ENGINEERING  
CONSULTANTS**  
PROFESSIONAL ASSOCIATION

July 29, 1986

Mr. James Weber, Engineer  
Sedgwick County  
Bureau of Public Services  
1250 South Seneca  
Wichita, Kansas 67213-4498

Reference: CU-293 - Fencing alternates for the Conditional Use at  
the southwest corner of Ridge Road and 37th Street North.  
PEC File No. 36-86237-799

Dear Jim:

After our meeting on Friday, July 25, 1986, Mr. Hoskinson and I  
discussed several alternates to fencing the above referenced  
Conditional Use.

Keeping in mind the Division of Water Resources has indicated that they  
prefer cyclone fencing not be utilized within the regulatory floodway,  
Mr. Hoskinson has suggested the following fencing alternates in his  
order of preference.

1. Four strands of barbed wire, 48-inches high around the entire site.
2. 48-inch chainlink fence with three strands of barbed wire  
commencing at the regulatory floodway on Ridge Road, north to the  
south line of 37th Street North, and west along the south line of  
37th Street North to the regulatory floodway. The balance of the  
site to be fenced with four strands of barbed wire, 48-inches high.
3. Fence the regulatory floodway with four strands of barbed wire,  
48-inches high, and the balance of the application area with  
48-inch chainlink fence with three strands of barbed wire.

We would appreciate your favorable consideration for alternates one or  
two, but would be agreeable with alternate three.

We would request you schedule this before the Board of County  
Commissioners at their meeting of August 7, 1986.

1440 EAST ENGLISH  
WICHITA, KANSAS 67211  
(316) 262-2691

James Weber  
Page 2 of 2

Should you have any questions, please call.

Very truly yours,

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.



Gary Wiley  
Manager  
Land Development

GW:sg

cc: Jack Galbraith MAPD



**SEDGWICK COUNTY, KANSAS**

DEPARTMENT OF PLANNING  
AND CODE ENFORCEMENT

Ron R. Worley  
DEPARTMENT DIRECTOR

AUG 01 1986

METROPOLITAN PLANNING

ROUTE

WICHITA, KANSAS 67213-4466

TELEPHONE (316) 268-7911

DATE: July 30, 1986

TO: Board of County Commissioners

FROM: Ron R. Worley, Zoning Administrator *RW*  
Jim Weber, Engineer *JW*  
Sedgwick County Bureau of Public Services

REF: CU-293 - Fencing alternates for the Conditional Use  
Application at the southwest corner of Ridge Road  
and 37th Street North.

Attached please find a copy of the Operation Plan proposed for CU-293 showing the alternate fencing plans proposed by Mr. Gary Wiley of PEC. Also attached is a copy of Mr. Wiley's letter explaining the three (3) alternate plans they would find acceptable. In addition to the three (3) alternatives outlined by Mr. Wiley, we have attached a drawing of another alternate fencing plan.

In the event the County Commissioners desire to require this applicant to provide fencing of the same materials normally required on all sand extraction operations, our drawings show how we believe this can be accomplished in the floodway areas of this application. Essentially, it involves lowering the ground level in the floodway area so that the top of the chain-link fence would be at the level of the surrounding ground. This would allow any flood flow and accompanying debris to pass over the top of the fences in the flood area.

Mr. Weber has contacted the Division of Water Resources regarding the acceptability of all of the alternates. A copy of their letter responding to his inquiry is attached for your reference. They have indicated that they would approve any of the fencing plans presented above, as well as a break away fence.

*Attachment 5*

July 30, 1986

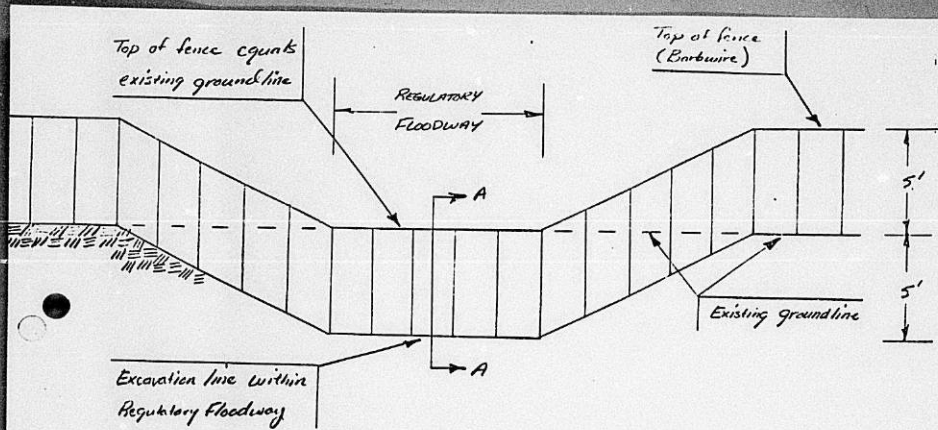
Page 2

CU-293 - Fencing alternates for the Conditional Use Application at the southwest corner of Ridge Road and 37th Street North.

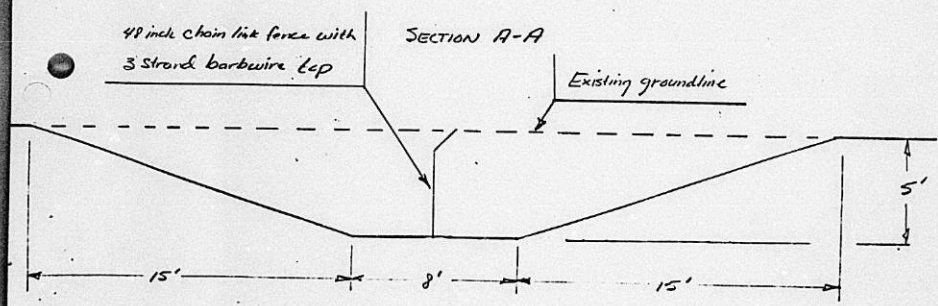
The Engineering Department supports the construction of sand pits within the Regulatory Floodway. Construction of this particular pit would provide detention storage capacity for the Big Slough and help to alleviate flooding problems downstream from the site.

am

cc: Jack Galbraith MAPD



Profile view of fence along property line



Cross section of fence in trench

July 30, 1966  
 CA-293  
 Fencing Plan (Alternative #4)

Attachment 6

BOARD OF SEDGWICK COUNTY COMMISSIONERS  
PROCEEDINGS

Special Meeting, August 8, 1986

There were no questions; and a motion was made.

MOTION

Mr. Gragg moved to approve the sale of one surplus generator.

Mr. Scott seconded the motion.

VOTE

Chairman Bernard A. Hentzen	Aye
Chairman Pro tem Donald E. Gragg	Aye
Commissioner Tom Scott	Aye

SELECTION OF A FENCING ALTERNATIVE REGARDING CU-293,  
CONDITIONAL USE APPLICATION AT THE SOUTHWEST CORNER OF RIDGE  
ROAD AND 37TH STREET NORTH.

Mr. Jim Webber, Bureau of Public Services, stepped to the podium and addressed the Commissioners. "The Bureau of Public Services has reviewed three fencing plans presented by the applicant's agent. We have found that all three plans are acceptable for construction within the regulatory floodway. We have also presented a fourth plan that will allow construction of a chainlink fence without obstructing the flow in the regulatory floodway. I have discussed these plans with the Division of Water Resources, and they have responded in writing that all four plans will be approved for construction within the regulatory floodway.

"I should point out that during our discussions when this was being heard by the Planning Commission, we were planning, I believe, alternative No. 3 which would have been the barbed wire just across the floodway section. As the flood considerations are a portion of the factors that need to be considered in developing a fencing plan for a sandpit, we have not specifically recommended an alternative today. I would be happy to try to answer any questions that you might have concerning the plan. I believe the applicant and his agent are here today if they wish to address the Board.

Chairman Hentzen asked, "Does the applicant or his agent have anything they want to say to us?"

Mr. Gary Wiley, Manager of Land Development, Professional Engineering Consultants, P.A., stepped to the podium and greeted the Commissioners. "I am speaking on behalf of the contract purchaser. Mr. Hoskinson would be agreeable with either plans one, two, or three; but we feel like the fourth alternate the Bureau has come up with would be quite expensive. I would be happy to answer any questions."

Chairman Hentzen asked for questions.

BOARD OF SEDGWICK COUNTY COMMISSIONERS  
PROCEEDINGS

Special Meeting, August 8, 1986

Mr. Jim Webber stepped to the podium and said, "I might review them for you real quickly to save you a little time. The first plan is simply a 4-strand, 48-inch high barbed wire fence entirely surrounding the site. The second alternative would be chainlink in the areas on 37th Street North and Ridge Road that do not cross the regulatory floodway with the 4-strand barbed wire across the regulatory floodway and along the south and west lines of the property, and the 3rd alternative was to put up chainlink all along 37th and Ridge Road, barbed wire across the floodway, and across the west and south lines of the property so that the chainlink would be in all areas of the property except the regulatory floodway...Maybe I am not being clear."

Chairman Hentzen said, "I am going to try a motion; if we don't pass it, then I will try another one. I have looked at this from what the water authority people have said about not blocking that floodway at either end, and I do not recommend that we put a chainlink fence up there because I think that effectively blocks the floodway. So, with that in mind—that we shouldn't do that—I am going to propose that we waive the fencing requirement on this Conditional Use Permit, and not put up any fence."

MOTION

Mr. Hentzen moved that the fencing requirement be waived on Conditional Use Permit CU-293.

Mr. Scott seconded the motion.

Mr. Scott said, "Mr. Chairman, for a matter of record, I think that the same company came in and requested the same kind of treatment on the last Conditional Use Permit which was, I think, south of where you are now, and we didn't require him to put fencing there...so I think that to be fair with the man...I think that there is nothing wrong with what we are doing today because we have done it in the past."

Chairman Hentzen asked for further questions; there were none, and he called for the vote.

VOTE

Chairman Bernard A. Hentzen	Aye
Chairman Pro tem Donald E. Gragg	No
Commissioner Tom Scott	Aye

BUREAU OF PUBLIC SERVICES

I. Resolutions.

- a. Resolution to classify and assign the following road to the Valley Center Township System:

Jacobs Street - The centerline of a 70 foot wide right of way described as beginning 35 feet west of the southeast corner of the the



SEDGWICK COUNTY, KANSAS

DEPARTMENT OF PLANNING  
AND CODE ENFORCEMENT

Ron R. Worley, C.B.O.  
DEPARTMENT DIRECTOR

December 22, 1986

Mr. Richard D. Hoskinson  
Central Sand, Incorporated  
999 North Westlink  
Wichita, KS 67212

Re: CU-293. Sand Plant Permit.

Dear Mr. Hoskinson:

This letter is to confirm our conversation during our Monday, December 15, 1986, visit during which James Weber, P.E. and myself reviewed the conditions outlined in our November 25 letter to you.

As to the sand operation items #1 and #2, both have been corrected and are in compliance with the provisions of your conditional use. As to the two driveway entrances onto Ridge Road, the applications you filed per permit #042-86, were approved by the County Commission at the December 17, 1986, meeting and you may proceed to have the culverts installed as per the permit.

Thank you for your timely action to correct these deviations from the conditional use provisions. If you have any further questions you may reach me at 268-7951 and Mr. Weber at 268-7901.

Ron R. Worley, C.B.O.  
Building Official and  
Zoning Administrator

RRW:ls

cc: James Weber, P.E.  
CU-293 File  
Jack Galbraith, M.A.P.D.  
Bud Hentzen, County Commission Chairman

RECEIVED

DEC 23 1986

METROPOLITAN PLANNING

ROUTE



SEDGWICK COUNTY, KANSAS  
BUREAU OF PUBLIC SERVICES

TODD SENECA  
WICHITA, KANSAS 67204-4898  
(316) 268-7401

November 25, 1986

RECEIVED

DEC 01 1986

METROPOLITAN PLANNING

ROUTE

Mr. Richard D. Hoskinson  
Central Sand, Incorporated  
999 North Westlink  
Wichita, KS 67212

Re: CU-293. Sand Plant Permit.

Dear Mr. Hoskinson:

This letter is to confirm our phone conversation of Thursday p.m., November 20, 1986, in which we reviewed the findings of James Weber, P.E., and myself during our November 20, 1986, inspection of your sand plant site on North Ridge Road as permitted by CU-293.

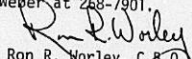
As we discussed, your operations are currently taking place within:

1. The 60 ft. dedicated  $\frac{1}{2}$  road right-of-way for Ridge Road, and
2. The 100 ft. setback from the right-of-way as per the operational plan of CU-293.

Both of these encroachments need to be removed as soon as possible but not later than December 31, 1986. As we discussed, you agreed that you would move whatever equipment necessary to insure that no further or additional encroachment of the sand production operation takes place in the setback areas and that you will sell sand from the stockpile area that is in violation as quickly as possible and not replace any stockpile in the violation area.

As Mr. Weber discussed with your son during our visit, the County does not have applications for the two driveway entrances onto Ridge Road and you will need to complete those applications as soon as possible but not later than December 12, 1986. At the time Mr. Weber receives those applications he will evaluate the drainage needs along Ridge Road.

Thank you for your attention to this matter and if you have any questions you can reach me at 268-7951 or Mr. Weber at 268-7901.

  
Ron R. Worley, C.E.O.  
Building Official and  
Zoning Administrator

RRW:ls

cc: James Weber, P.E.  
CU-293 File  
Jack Galbraith, M.A.P.D.  
Bud Hentzen, County Commission Chairman

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: November 18, 1986

TO: Metropolitan Area Planning Commission

FROM: Jack H. Galbraith, Chief Planner

SUBJECT: CU-293 Request for a report on the Board of County Commission action on the sand extraction request at the southwest corner of Ridge Road and 37th Street North.

As an off agenda item at your meeting of November 13, 1986, you asked for a report concerning the elimination of a fencing requirement associated with the above-captioned case. In examining the file, the staff report pointed out the history of the property, that MAPC had recommended approval of a previous request CU-282 subject to the usual conditions including fencing. The applicant was not agreeable with fencing and therefore in 1985 the County Commission denied the request.

In the filing of case CU-293, the agents listed were Gary Wiley, PEC and Dave Adams, attorney. The staff report and the minutes of your meeting reflect that we called to your attention that the Big Slough bisects the property and we recommended a modification of the fencing requirement in the floodway area only. Wiley in his presentation stated that they were agreeable with all staff comments and on 6/12/86 you approved the application subject to conditions including fencing.

At the County Commission meeting of 7/23/86, Adams argued against the fencing requirement. Your attention is directed to those minutes (Attachment 1) and I remember in making the presentation that I was not aware there was any concern with any of the conditions of approval including fencing. The County Commission in approving the request modified substantially the standard fencing requirement as follows:

The sand extraction operation shall begin only after a fencing plan is formally approved by the Board of County Commissioners.

Following the action of the County Commission, the agent Gary Wiley began to work with Jim Weber and Ron Worley of the County Bureau of Public Services to determine a fencing plan that would be satisfactory. The attached copies of correspondence from the file reflect what happened in the next few weeks.

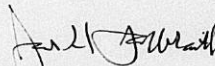
Attachment 2 Galbraith's letter to Wiley, July 28, 1986, advising of action of the County Commission that a fencing plan was required.

Attachment 3 Letter from J.W. Funk, Division of Water Resources, July 25, 1986 to James Weber relative to a fence across the regulatory floodway.

November 18, 1986

- Attachment 4 Letter from Wiley to Jim Weber, July 29, 1986, pointing out his client's preference in fencing alternates and asking for the matter to be scheduled before the Board of County Commissioners.
- Attachment 5 Memo to the County Commissioners from Worley and Weber, July 30, 1986, outlining the three alternates proposed by the applicant and an additional alternate that County Public Services proposed.
- Attachment 6 Minutes of the County Commission meeting, August 8, 1986, where a motion was made by Hentzen and seconded by Scott that the fencing requirement be waived (2-1, Gragg voting no).

Following this action, a resolution was published that did not include any fencing requirement. This provides you with all of the documents from the file that pertain to the fencing issue. If you have additional questions, please advise.

  
Jack H. Galbraith  
Chief Planner

JHG/lw

Attachments

cc: Ron Worley, County Zoning Administrator

Published in The Daily Reporter on October 29, 1986

RESOLUTION NO. R-176-1986

CASE NO. CU-293

A RESOLUTION TO PERMIT A SAND EXTRACTION OPERATION ON PROPERTY ZONED "R-1" SUBURBAN RESIDENTIAL DISTRICT AND "LC" LIGHT COMMERCIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984.

BE IT RESOLVED BY THE GOVERNING BODY 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 17.C of the Zoning Regulations, a Conditional Use Permit for a sand extraction operation on property zoned "R-1" Suburban Residential District and "LC" Light Commercial District is hereby approved on the lands legally described as follows:

The east half of the NE $\frac{1}{4}$  of Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located at the southwest corner of 37th Street North and Ridge Road.

SUBJECT TO THE FOLLOWING CONDITIONS:

- a. The applicant shall dedicate by separate instrument sufficient right-of-way to bring Ridge Road up to the FAS standard of 60 feet of half-street right-of-way, with enough additional right-of-way at its intersection with 37th Street (measured from the section line) to provide 75 feet in the north 250 feet, tapering to 60 feet at a point 350 feet south of the intersection. The applicant shall also dedicate sufficient right-of-way for 37th Street North to bring it up to the arterial standard of 50 feet of half-street right-of-way, with enough additional right-of-way at the intersection to provide 75 feet in the east 250 feet, tapering to 50 feet at a point 350 feet west of the intersection.
- b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, asphalt, building rubble, etc., shall be stockpiled on the application area or deposited within the excavation.
- c. The applicant shall submit a covenant and agreement satisfactory in form to the County Counselor and in content to the Sedgwick County Bureau of Public Services, which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.
- d. The applicant shall execute a Floodway Reserve agreement covering the area which is a designated floodway on the FEMA maps.
- e. The applicant shall submit to the Planning Department four (4) copies of the operational plan which have been revised to indicated "complete access control" to 37th Street and "access

control except two openings" to Ridge Road from this application area.

- f. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- g. In accordance with the County's Floodplain Management Resolution, the applicant shall provide the Bureau of Public Services an engineer's certification that the proposed site improvements will not increase the base flood elevation on the Big Slough during a 100-year flood.
- h. In accordance with the County's Floodplain Management Resolution, the applicant shall submit his operational and extraction plans to the State Division of Water Resources for review. Approval from the Division must be obtained prior to publication of the resolution authorizing the conditional use permit for sand extraction.

*Waived by Bd Com  
on 8-8-86 (1)*

The sand extraction operation shall begin only after a fencing plan is formally approved by the Board of County Commissioners.

- j. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- k. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
- l. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- m. 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.
- n. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
- o. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing dust.
- p. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- q. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- r. 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 to the approximate size as indicated on the approved plan.
- s. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- t. Within 60 days after completion of the sand extraction operation, the ground surrounding the lake shall be properly graded; all stockpiled materials and all equipment shall be removed

from the site; and the land shall be planted with a vegetative cover.

- u. The applicant shall comply with Conditions "a" and "e" prior to this case being scheduled for County Commission review and shall comply with conditions b, c, d, f, g and h prior to publication of the resolution establishing this conditional use.
- v. Any violation of conditions attached shall declare the conditional use permit null and void.

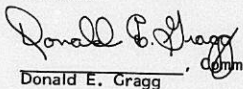
SECTION II. That upon the taking effect of this Resolution, the notation of such conditional use approval shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Commission.

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 23<sup>rd</sup> day of July, 1986.

  
Bernard A. Mentzer, Chairman

  
Tom Scott, Commissioner

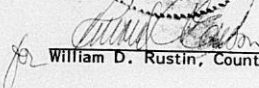
  
Donald E. Cragg, Commissioner



Dorinda L. Wright, County Clerk

(SEAL)

Approved as to form by County Counselor

  
William D. Rustin, County Counselor



**SEDGWICK COUNTY, KANSAS**  
BUREAU OF PUBLIC SERVICES

1250 S. SENECA  
WICHITA, KANSAS 67213-4498  
(316) 268-7901

TO: Louise Olivarez, Senior Planner  
Metropolitan Area Planning Department

FROM: James Weber, P.E., Engineer *JW*

SUBJ: CU-293

I have enclosed copies of the following documents which were required for approval of CU-293.

- 1) Floodway Reserve Agreement covering the Big Slough Floodway.
- 2) Floodplain Development Permit covering all areas of the site located in the Zone A flood hazard area.
- 3) Letter, permit, and approved plan from the Division of Water Resources.
- 4) Engineers certification that the proposed development will not increase the base flood elevation.

I have not enclosed a copy of the Restrictive Covenant and Agreement for Detention Storage as I believe that you already have a copy. All of the above referenced documents are satisfactory, therefore, the applicant has met requirements c, d, f, g and h of County Resolution No. 176-1986.

JW/sd

cc: Ron Worley, Planning & Code Enforcement

enclosures

**RECEIVED**

OCT 17 1986

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

Sedgwick County, Kansas  
**FLOODWAY RESERVE AGREEMENT**

WHEREAS, to assure protection of the interests and safety of the public, it becomes necessary that Sedgwick County, State of Kansas, Party of the First Part, provide flood protection and preserve the natural drainageway through the establishment of a "FLOODWAY RESERVE" within the property below described.

STATE OF KANSAS }  
 SEDGWICK COUNTY } THE EAST 1/2 OF THE NORTHEAST 1/4, SECTION 33, T26S, R1W OF THE 6th P.M.;  
 FILED FOR RECORD AT } EXCEPT ROAD RIGHT-OF-WAY.

OCT 9 1986

NO. 8 37862  
 PAT KETTLER  
 REGISTER OF DEEDS

MICROFILMED  
 OF RECORD

*Ed Perea*  
 Deputy

AND WHEREAS, Lola B. Torkleson, Party of the Second Part, is the rightful owner of, or legal agent for, the above property;

THE PARTIES HERETO AGREE as follows: That the Party of the Second Part, for himself, his heirs, executors, administrators, and assigns for the consideration of ONE Dollars and 2870 Cents (\$ 1.00), and other valuable consideration as follows:       

One dollar (\$1.00) of the above amount being paid in hand and receipt therefore being hereby acknowledged, the remainder to be allowed at the next regular meeting of the Board of County Commissioners when claim is presented as required by law in similar cases do        hereby Grant and Convey to the Party of the First Part and its successors a "FLOODWAY RESERVE" over and across the following described portion of the above described tract, to-wit:

A TRACT OF LAND 300 FEET WIDE ON EITHER SIDE OF THE FOLLOWING DESCRIBED LINE:  
 COMMENCING AT THE NW CORNER OF THE E 1/2, NE 1/4, SECTION 33, T26S, R1W of the 6th P.M.; THENCE SOUTH ALONG THE WEST LINE OF THE E 1/2 OF SAID 1/4 SECTION, 200 FEET TO THE POINT OF BEGINNING; THENCE SOUTHEASTERLY TO THE SOUTHEAST CORNER OF SAID 1/4 SECTION.

FURTHER, the "FLOODWAY RESERVE" shall be the responsibility of the owners of the property, Party of the Second Part, until such time as the governing body exercising jurisdiction elects to assume the responsibility for maintenance of and improvement of drainage. Provided further, that no building shall be constructed on or within said "FLOODWAY RESERVE" nor shall any fill, change of grade, creation of channels or other work be carried on without the permission of the Sedgwick County Engineer and the Wichita-Valley Center Flood Control Office or their successors. Grantor        their heirs or assigns, to fully use and enjoy the premises except for and subject to the right of the grantee for the purpose herein granted.

DATED THIS 22<sup>nd</sup> DAY OF September, 1986

PARTY OF THE SECOND PART

Lola B. Torkleson  
 Lola B. Torkleson

*ODH*

County Clerk

*Wicki*

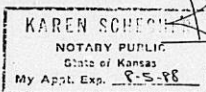
STATE OF KANSAS) 88  
SEDGWICK COUNTY)

I hereby certify that on this 20<sup>th</sup> day of September, 19 86.

before me the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_  
Lola B. Torkleson

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

WITNESS my hand and Notary Seal on the day and date last above written.



Karen Scheich  
NOTARY PUBLIC

My commission expires \_\_\_\_\_

SUBMITTED TO THE OFFICE OF COUNTY ENGINEER AND THE BOARD OF COUNTY COMMISSIONERS FOR APPROVAL ON October 8, 1986

APPROVED BY:

David C. Spears  
DAVID C. SPEARS, P.E.,  
COUNTY ENGINEER/DIRECTOR OF  
PUBLIC WORKS

PARTY OF THE FIRST PART  
SEDGWICK COUNTY COMMISSIONERS

Bernard A. Hentzen  
BERNARD A. HENTZEN,  
CHAIRMAN

Donald E. Gragg  
DONALD E. GRAGG,  
COMMISSIONER

TOM SCOTT [Signature]  
COMMISSIONER



APPROVED TO FORM ONLY

Richard A. Euson  
RICHARD A. EUSON, ASSIST.  
COUNTY COUNSELOR

## FLOODPLAIN DEVELOPMENT PERMIT/APPLICATION

Application # FP-14-86 Date AUGUST 8, 1986  
 Building Permit # N/A Date N/A

1. Name of Applicant Richard D. Hoskinson, Central Sand Inc.  
 2. Address of Development Site E $\frac{1}{2}$ , NE $\frac{1}{4}$ , Sec. 33, T26S, R1W

## 3. Type of Development:

Filling  Grading  Excavation  Routine Maintenance

Minor Improvement  Substantial Improvement  New Construction

(If Applicable)

Pre-improvement Value of Structure \_\_\_\_\_ Cost of Improvement \_\_\_\_\_

4. Description of Development Excavation of sand and gravel to form  
a pit type lake

5. Property located in a designated Floodway? Yes  No

IF ANSWERED YES, CERTIFICATION MUST BE PROVIDED PRIOR TO THE ISSUANCE OF A PERMIT TO DEVELOP, THAT THE PROPOSED DEVELOPMENT WILL RESULT IN NO INCREASE IN THE BASE FLOOD (100-Year) ELEVATION.

6. Property located in a designated Floodway Fringe? Yes  No

a) Elevation of the Base (100-year) Flood 1329 to 1331 MSL/NGVD

b) Elevation/floodproofing requirement 1330 to 1332 MSL/NGVD

c) Elevation of the proposed development site (if known) \_\_\_\_\_ MSL/NGVD

THIS PERMIT IS ISSUED WITH THE CONDITION THAT THE FIRST FLOOR (INCLUDING BASEMENT FLOOR) OF ANY NEW OR SUBSTANTIALLY IMPROVED RESIDENTIAL BUILDING WILL BE ELEVATED ABOVE THE BASE FLOOD ELEVATION. IF THE PROPOSED DEVELOPMENT IS A NON-RESIDENTIAL BUILDING, THIS PERMIT IS ISSUED WITH THE CONDITION THAT THE FIRST FLOOR (INCLUDING BASEMENT) OF A NEW OR SUBSTANTIALLY IMPROVED NON-RESIDENTIAL BUILDING WILL BE ELEVATED OR FLOODPROOFED ABOVE THE BASE FLOOD ELEVATION.

7. Source of Base Flood Elevation Data if not available on FIRM. FIRM

Panel number of FIRM 125

8. Other permits required? Corps of Engineers 404 Permit: Yes  No

State Permit: Yes  No

Local Levee District: Yes  No

Local Drainage District: Yes  No

Other: \_\_\_\_\_

All Provisions of the Sedgwick County Kansas, Flood Damage Prevention Resolution (Resolution Number 122-86) shall be complied with.

THIS PERMIT IS ISSUED WITH THE CONDITION THAT THE DEVELOPER/OWNER WILL PROVIDE CERTIFICATION BY A REGISTERED ENGINEER, ARCHITECT, OR LAND SURVEYOR OF THE "AS-BUILT" LOWEST FLOOR (INCLUDING BASEMENT) ELEVATION OF ANY NEW OR SUBSTANTIALLY IMPROVED BUILDING COVERED BY THIS PERMIT.

Plans and Specifications Approved this 14<sup>th</sup> Day of October 1986

Richard D. Hoskinson  
 Signature of Developer/Owner

Don R. Wiley  
 Sedgwick County Kansas  
 Building Official & Zoning Administrator



KANSAS STATE BOARD OF AGRICULTURE

Oct 14 1 20 PM '86

DIVISION OF WATER RESOURCES  
DAVID L. POPE, Chief Engineer-Director  
109 SW Ninth Street, Suite 202  
TOPEKA, KANSAS 66612-1283  
(913) 296-3717

BUREAU OF  
PUBLIC SERVICES

October 7, 1986

COPY  
For Your Information

Mr. Richard D. Hoskinson  
Central Sand, Incorporated  
990 North Westlink  
Wichita, Kansas 67212

Re: Sand plant permit  
Big Slough North  
E $\frac{1}{2}$  of NE $\frac{1}{4}$  of Sec. 33, T26S, R1W,  
Sedgwick County

Dear Mr. Hoskinson:

Consideration has been given to your application for a permit and approval of plans for the proposed construction of a sand plant and dredging operation along and in the Big Slough North at a location in the E $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Section 33, Township 26 South, Range 1 West, in Sedgwick County, Kansas.

In accordance with the provisions of K.S.A. 82a-301 to 305a, the Chief Engineer-Director has approved the plans and issued the enclosed permit on this date, authorizing construction and operation of the sand plant.

The five sets of plans submitted to our office have been endorsed with the Chief Engineer's approval. One set of these plans will be retained in our files, and one set is returned to you herewith with other copies distributed as below.

Your attention is directed to the conditions of the permit. If you intend to operate this plant beyond the November 1, 1987, expiration date specified in condition 4, you should request an extension of time, by letter, approximately thirty days prior to the expiration date.

Very truly yours,

*J. W. Funk*  
J.W. Funk, P.E.  
Engineer

JWF:cb

Enc.

cc: Dist. Engineer, K.C. Dist. w/enc  
U.S. Corps of Engineers  
FEMA/KC w/enc w/o permit  
Sedgwick Co. Dept. of Public Works w/permit w/o enc.  
Mr. Gary Wiley w/enc

THE STATE



OF KANSAS

STATE BOARD OF AGRICULTURE

Donald L. Jacko, Jr., *Acting Secretary*

DIVISION OF WATER RESOURCES

David L. Pope, *Chief Engineer-Director*

P E R M I T

The Chief Engineer-Director of the Division of Water Resources, by virtue of the powers and duties vested in and imposed upon him by K.S.A. 82a-301 to 305a, regulating the placing of obstructions in rivers and streams, changing the course, current or cross section of streams, and providing penalties for the violation thereof, hereby issues this permit to Central Sand, Incorporated, 990 North Westlink, Wichita, Kansas 67212, pursuant to a written application filed in the office of the Division of Water Resources, State Board of Agriculture, on the 25th day of August, 1986, giving his consent to said Central Sand, Incorporated, to change in certain respects the course, current and cross section of the Big Slough North while in the process of producing sand and gravel from the stream bed, screening out the desired material and depositing waste materials in a shallow pit, which filters the water returning to the source.

The location of the Central Sand, Incorporated, plant is in the left bank floodplain of the Big Slough North. The site for the plant and pit is approximately 80 acres of which a maximum of 56 acres may be excavated.

As a channel change the interim channel and the final channel will have a larger flood conveyance capacity than the existing channel and no change is proposed in the channel conditions at either the entrance or exit point of the property.

Since the flood conveyance capacity within the designated regulatory floodway will be increased through the length of this sand pit as shown on the accompanying plat, there can be no increase in the regulatory flood elevation within the floodway.

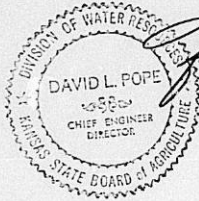
This permit is issued subject to the following conditions and restrictions, based upon the above-described physical conditions of the stream at this location, and which shall be limitations to the rights and privileges granted, to wit:

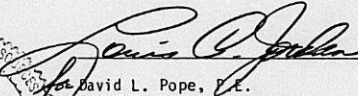
1. The provisions of this permit apply along the Big Slough North in an area of the E<sub>1</sub> of the NE<sub>4</sub> of Section 33, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas.
2. Substantial markers shall be placed and maintained along the property line shown on the plat, so that their location will be readily apparent at all times. Such markers shall show the excavation limits.
3. The removal of sand and gravel shall be done in such a manner and at such locations as not to interfere or restrict the flow of Big Slough North from its natural entrance into the pit or exit from the pit into its natural channel.

Page 2.

4. The Chief Engineer-Director of the Division of Water Resources further reserves the right to modify, suspend or revoke this permit at any time, should such action be deemed necessary in the interest of public safety and welfare. This permit is issued for the period ending November 1, 1987, and, if not previously revoked or specifically extended, shall cease and be null and void.

Done at Topeka, Kansas, this 7th day of October, 1986.



  
David L. Pope, P.E.  
Chief Engineer-Director  
Division of Water Resources  
Kansas State Board of Agriculture

COMPLETE ACCESS CONTROL

NW Cor. E 1/2, NE 1/4,  
Sec. 33, T26S, R1W

NE Cor.,  
Sec. 33, T26S, R1W

37th STREET

100 Year  
Flood Plain

NO FILL MATERIAL, STORAGE OF EQUIPMENT,  
OR STOCKPILING OF MATERIALS SHALL BE  
PERMITTED WITHIN THE FLOODWAY.

DRAINAGE WILL BE CARRIED THROUGH  
THE SITE AT ALL TIMES.

FLOODWAY

Proposed  
Plant  
Site

56.0 Acre Lake

Minimum Depth - 6'  
below Water Table

No storage of equipment shall be permitted  
closer than 100' to any public R/W or  
within 50' of any property line.

BIG  
SLOUGH

Proposed Shoreline & Limits of Excavation.  
5:1 Side Slopes

100 Year  
Flood Plain

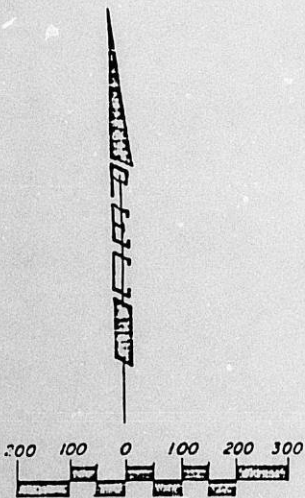
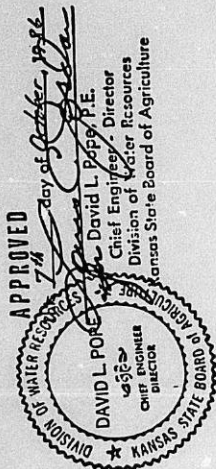
SW Cor. E 1/2, NE 1/4,  
Sec. 33, T26S, R1W

E 1/4 Cor.  
Sec. 33, T26S, R1W

ACCESS CONTROL EXCEPT 2 OPENINGS

COMPLETE ACCESS CONTROL

RIDGE ROAD



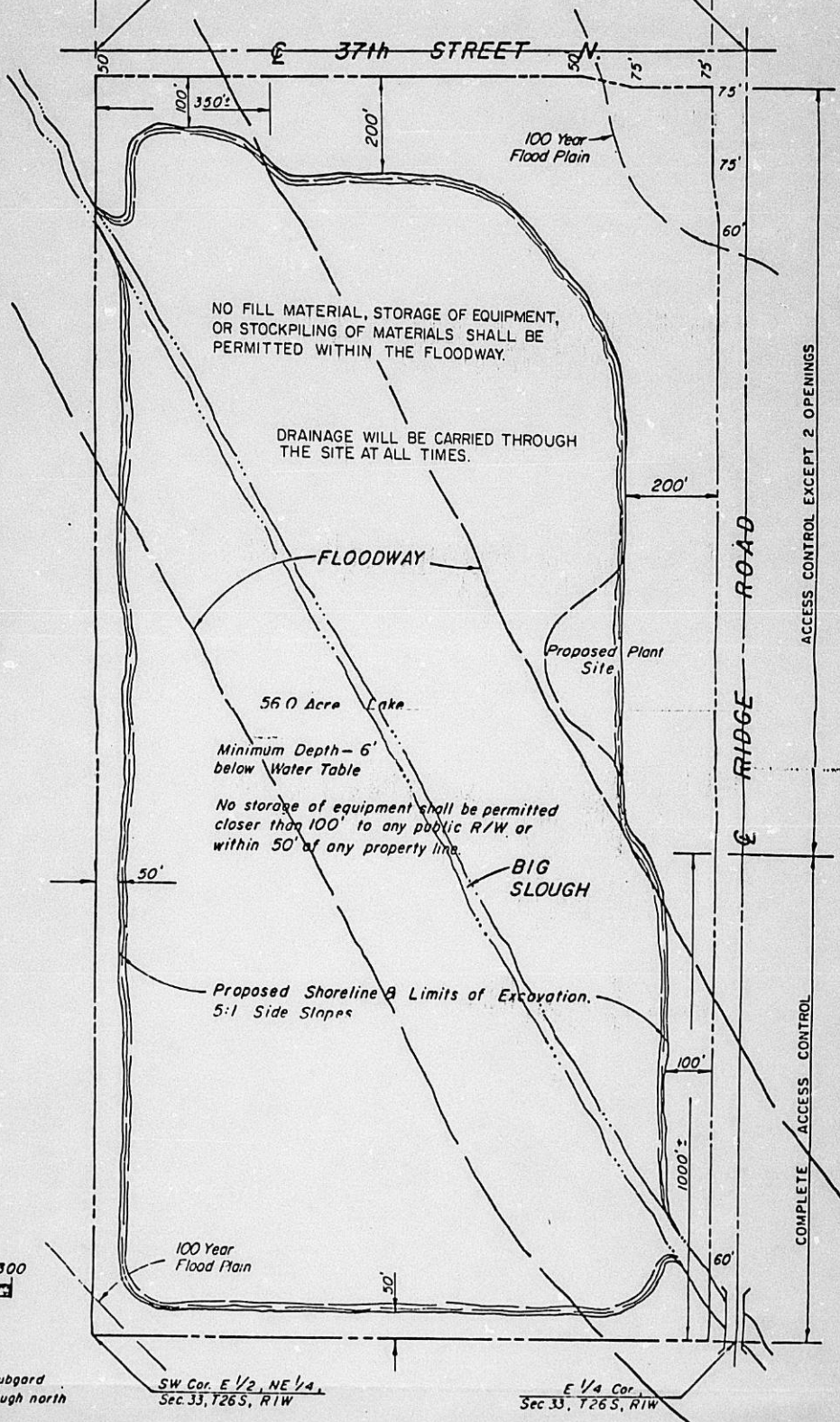
B.M. Brass Plate center east hubgard  
Ridge Road Bridge over Big Slough north  
Elev. 1331.34 m.s.l.

OPERATIONAL PLAN

#CU-293

NW Cor. E 1/2, NE 1/4,  
Sec. 33, T26S, R1W

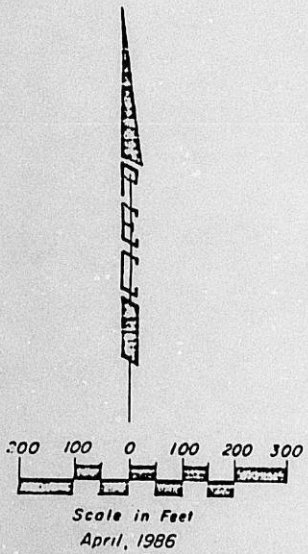
NE Cor.,  
Sec. 33, T26S, R1W



APPROVED  
7/14 day of October, 1986

DAVID L. POPE, P.E.  
Chief Engineer, Director  
Division of Water Resources  
Kansas State Board of Agriculture

DIVISION OF WATER RESOURCES  
DAVID L. POPE  
CHIEF ENGINEER  
DIRECTOR  
KANSAS STATE BOARD OF AGRICULTURE



B.M. Brass Plate center east hubgard  
Ridge Road Bridge over Big Slough north  
Elev. 1331.34 m.s.l.

SW Cor. E 1/2, NE 1/4,  
Sec. 33, T26S, R1W

E 1/4 Cor.,  
Sec. 33, T26S, R1W

### OPERATIONAL PLAN

#CU-293



# CENTRAL SAND CONDITIONAL USE

DIRECTORS

C O KNOP P.E.  
R B PEUGH P.E.  
C J FREUND P.E.  
W H KELTNER P.E.  
R D PLETCHER P.E.  
F D MIDDLETON, JR. P.E.  
D E MALTBIE P.E.  
M D SCHOMAKER P.E.  
G D SCHOCK P.E.  
J H BAILEY P.E., PH.D.

RECEIVED  
SEP 16 1 10 PM '86  
BUREAU OF  
PUBLIC SERVICES



PROFESSIONAL  
ENGINEERING  
CONSULTANTS  
PROFESSIONAL ASSOCIATION

September 15, 1986

David C. Spears, P.E.  
Director, Bureau of Public Services  
1250 South Seneca  
Wichita, Kansas 67213-4498

Reference: CU-293 Conditional Use Permit  
(E1/2, NE1/4, Sec 33 T26S, R1W)  
Excavation in a Floodway and Floodplain  
PEC File No: 36-86237-799

Gentlemen:

This is to certify that the proposed site improvement (excavation) on the subject property will not increase the base flood elevation on the Big Slough during the 100-year flood.

Very truly yours,

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

*Charles S. Brown*  
Charles S. Brown, P.E.  
P.E. No. 7581

xc: Jim Weber, Engineer

CSB/mkm



1440 EAST ENGLISH  
WICHITA, KANSAS 67211  
(316) 262-2681

RESTRICTIVE COVENANT

The undersigned, Lola B. Torkleson, do hereby impose upon the following described real property, towit:

THE EAST 1/2 OF THE NE 1/4, SECTION 33, T26S, R1W OF THE 6TH P.M., EXCEPT ROAD RIGHT-OF-WAY. GENERALLY LOCATED ON THE WEST SIDE OF RIDGE ROAD, SOUTH OF 37TH ST. NORTH,

covenant to run with the land as follows:

1. No foreign matter, including but without limitation to, rubbish, trees, car bodies, new asphaltic concrete mix, and building rubble or other trash shall be deposited on the above described real property or within any sand pit excavation thereon.

2. Bank stabilizations and fill materials shall include sidewalk pavement, concrete pavement, concrete pavement with asphaltic concrete overlays, and asphaltic concrete pavement. All asphaltic concrete materials shall have aged sufficiently so that the water soluble pollutants have dissipated. In no instance will asphaltic concrete exceed 15% of the total materials used.

Reinforcing materials protruding in excess of 12 inches shall not be permitted. Materials used for final grade shall have reinforcing materials clipped as close to flush as possible.

The covenant herein contained shall be binding upon the undersigned, their successors in interest and assigns. The said covenant may be enforced in any appropriate action in any Court having jurisdiction thereof by the City of Wichita, the County of Sedgwick or any member of the public in whose favor and for whose benefit this covenant is made.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND THIS 22nd day of ~~August~~, 1986.  
*SEPTEMBER*

By Lola B. Torkleson  
Lola B. Torkleson

STATE OF KANSAS )  
                          ) SS  
SEDGWICK COUNTY )

BE IT REMEMBERED, that on this 22nd day of <sup>*Sept*</sup> August, 1986, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Lola B. Torkleson, personally known to me to be the same person who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

**KAREN SCHECHER**  
NOTARY PUBLIC  
State of Kansas  
My Appl. Exp. 8-5-88

Karen Schecher  
Notary Public

STATE OF KANSAS }  
SEDGWICK COUNTY } SS  
FILED FOR RECORD AT  
1 31 P.M.

SEP 22 1986

NO. 8 34019  
PAT KETTLER  
REGISTER OF DEEDS

Ann Johnson  
Deputy

*Copy*

*Louis*

RESTRICTIVE COVENANT AND  
AGREEMENT FOR DETENTION STORAGE

THIS RESTRICTIVE COVENANT AND AGREEMENT FOR DETENTION STORAGE made as of this 27<sup>th</sup> day of September, 1986, by and between LOLA B. TORPLESON, an unmarried person (hereinafter "Owner"), and SEDGWICK COUNTY, KANSAS, acting by and through the Sedgwick County Board of Commissioners (hereinafter "County").

WHEREAS, Owner has applied for the issuance of a Conditional Use Permit for a sand extraction operation upon a tract of land within the East Half of the Northeast Quarter (E/2 NE/4) of Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, generally located at the southwest corner of Ridge Road and 37th Street North (CU-293); and

WHEREAS, the Big Slough traverses the area proposed to be excavated; and

WHEREAS, Owner has agreed that in the event the Conditional Use Permit (CU-293) is granted, Owner will designate the area proposed to be excavated for use as Temporary Detention Storage.

NOW, THEREFORE, for and in consideration of the premises and as a condition to the approval of CU-293, Owner hereby agrees as follows:

1. The area proposed to be excavated as shown in the proposed operational plan, a copy of which is attached hereto as Exhibit "A" and specifically incorporated herein by reference, covering fifty-six acres located in the East Half of the Northeast Quarter (E/2 NE/4) of Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas (hereinafter "Subject Property") is hereby designated for use by the County for Temporary Detention Storage of drainage water.
2. The Subject Property is required to provide only Temporary Storage Volume and the cost, if any, of structures and equipment necessary to provide such storage will not be charged to or assessed against the Subject Property or its owner(s).
3. In the event the Conditional Use Permit (CU-293) is not duly issued, this Restrictive Covenant and Agreement for Detention Storage shall be null and void and of no further force or effect.
4. The above restrictions, agreements and conditions shall be deemed covenants running with the land and shall not be amended, deleted or changed without written consent of the engineering agency of the County.

*Copy*

5. This instrument shall be recorded in the office of the Register of Deeds of Sedgwick County, Kansas.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Lola B. Torkleson  
LOLA B. TORKLESON

STATE OF KANSAS )  
                          ) ss:  
COUNTY OF )

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of September, 1986, by Lola B. Torkleson.

Karen Schecher  
Notary Public, State of Kansas

My Commission Expires: 

KAREN SCHECHER
NOTARY PUBLIC
State of Kansas
My Appt. Exp. <u>8-5-88</u>

STATE OF KANSAS  
SEDGWICK COUNTY  
FILED FOR RECORD AT  
1:37 P.M.

SEP 22 1986  
NO. 8 34018  
PAT KETTLER  
REGISTER OF DEEDS

Ann Johnson  
Deputy



**SEDGWICK COUNTY, KANSAS**  
BUREAU OF PUBLIC SERVICES

1200 S. SENECA  
WICHITA, KANSAS 67213-4498  
1516, 268-7901

September 15, 1986

David C. Adams  
Morris, Laing, Evans, Brock & Kennedy  
200 West Douglas, Fourth Floor  
Wichita, Kansas 67202-3084

Dear Dave:

Re: CU-293

We have reviewed and approved your draft of a Restrictive Covenant and Agreement for Detention Storage. Please have the document signed by the landowner (we are unsure of the actual ownership), file it with the Register of Deeds, and submit copies of the filed document to both MAPD and this office.

Sincerely,

James Weber, P.E.,  
Engineer

JW/sd

cc: Louise Olivarez, MAPD  
Gary Wiley, P.E.C.

**RECEIVED**  
SEP 17 1986  
METROPOLITAN PLANNING  
ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

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

FOURTH FLOOR  
200 WEST DOUGLAS  
WICHITA, KANSAS 67202-3084  
(316) 262-2671

LESTER L. LITTLE  
1901-1966

FRED E. EVANS, JR.  
RETIRED

TELECOPIER  
(316) 262-0226

VERNE M. LAING  
RALPH R. BROCK  
JOSEPH W. KENNEDY  
ROBERT I. GUENTHNER  
DAVID C. ADAMS  
KEN M. PETERSON  
RICHARD D. GREENE  
A. J. SCHWARTZ, JR.  
DONALD E. SCHRAG  
WILLIAM B. SORENSEN, JR.  
DENNIS W. FEENEY  
JEFFERY L. CARMICHAEL  
ROBERT W. COYKENDALL  
TED E. WROPP  
JOSEPH J. HLAVACEK  
ROBERT K. ANDERSON  
KARL R. SWARTZ  
SUSAN R. SCHRAG

July 29, 1986

Mr. Jim Weber  
Sedgwick County Bureau of Public Services  
1250 S. Seneca  
Wichita, Kansas 67213

Ms. Louise Olivarez  
Metropolitan Area Planning Commission  
City Bldg., 10th Floor  
Wichita, Kansas 67202

Re: CU-293

Dear Jim and Louise:

Enclosed please find a proposed draft of Restrictive Covenant and Agreement for Detention Storage in satisfaction of condition C of the requirements set forth by the MAPC at its June 12, 1986 meeting.

Should either of you have any suggested changes or questions regarding the Agreement, please do not hesitate to contact me.

Very truly yours,

*David*

David C. Adams

DCA/hv  
enclosures

cc: Gary Wiley (w/encl.)  
Dick Hoskinson (w/encl.)

**RECEIVED**

JUL 30 1986

METROPOLITAN PLANNING

ROUTE

*Why is it  
being signed by  
Torbleen?*

RESTRICTIVE COVENANT AND  
AGREEMENT FOR DETENTION STORAGE

THIS RESTRICTIVE COVENANT AND AGREEMENT FOR DETENTION STORAGE made as of this \_\_\_\_\_ day of August, 1986, by and between LOLA B. TORKLESON, an unmarried person (hereinafter "Owner"), and SEDGWICK COUNTY, KANSAS, acting by and through the Sedgwick County Board of Commissioners (hereinafter "County").

WHEREAS, Owner has applied for the issuance of a Conditional Use Permit for a sand extraction operation upon a tract of land within the East Half of the Northeast Quarter (E/2 NE/4) of Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, generally located at the southwest corner of Ridge Road and 37th Street North (CU-293); and

WHEREAS, the Big Slough traverses the area proposed to be excavated; and

WHEREAS, Owner has agreed that in the event the Conditional Use Permit (CU-293) is granted, Owner will designate the area proposed to be excavated for use as Temporary Detention Storage.

NOW, THEREFORE, for and in consideration of the premises and as a condition to the approval of CU-293, Owner hereby agrees as follows:

1. The area proposed to be excavated as shown in the proposed operational plan, a copy of which is attached hereto as Exhibit "A" and specifically incorporated herein by reference, covering fifty-six acres located in the East Half of the Northeast Quarter (E/2 NE/4) of Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas (hereinafter "Subject Property") is hereby designated for use by the County for Temporary Detention Storage of drainage water.
2. The Subject Property is required to provide only Temporary Storage Volume and the cost, if any, of structures and equipment necessary to provide such storage will not be charged to or assessed against the Subject Property or its owner(s).
3. In the event the Conditional Use Permit (CU-293) is not duly issued, this Restrictive Covenant and Agreement for Detention Storage shall be null and void and of no further force or effect.
4. The above restrictions, agreements and conditions shall be deemed covenants running with the land and shall not be amended, deleted or changed without written consent of the engineering agency of the County.

5. This instrument shall be recorded in the office of the Register of Deeds of Sedgwick County, Kansas.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

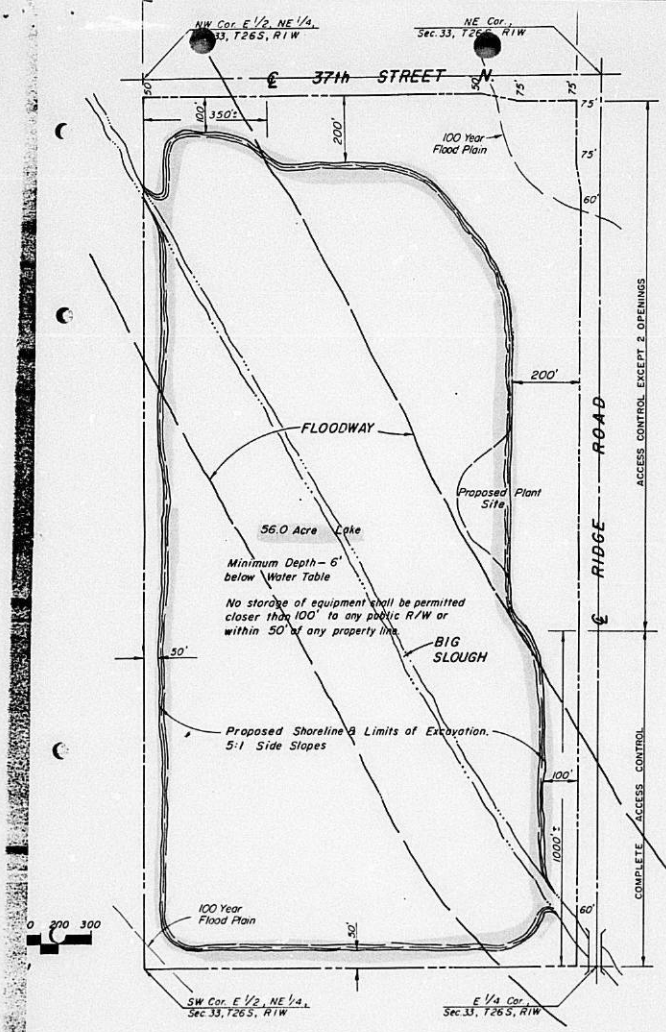
\_\_\_\_\_  
LOLA B. TORKLESON

STATE OF KANSAS            )  
                                  ) ss:  
COUNTY OF                 )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of August, 1986, by Lola B. Torkleson.

\_\_\_\_\_  
Notary Public, State of Kansas

My Commission Expires:



**OPERATIONAL PLAN**

**CONDITIONAL USE** Exhibit "A"

- proposed excavation area

August 22, 1986

Mr. Gary Wiley  
Professional Engineering  
Consultants, P. A.  
1440 East English  
Wichita, Kansas 67211

RE: CU-293

Dear Gary:

At your request I have enclosed a copy of the county resolution authorizing the sand extraction operation at the southwest corner of 37th Street North and Ridge Road. The resolution is not effective until published and will not be published until items b, c, d, f, g, and h have been satisfactorily completed. With regard to item "i", on August 8, 1986, the Board of County Commissioners reviewed several alternative fencing plans and recommended the waiver of all fencing requirements.

Sincerely,

Louise Olivarez  
Senior Planner

LO:blw  
Enclosure

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: August 15, 1986

TO: Ron Worley, Sedgwick County Zoning Administrator  
FROM: Louise Olivarez, Senior Planner, Current Plans  
SUBJECT: CU-293 - Southwest corner of 37th Street North and Ridge Road

Enclosed are two copies of the approved operational plan for Hoskinson's sand pit at 37th and Ridge. The County Commission approved this conditional use permit on July 23, 1986, subject to a number of conditions being satisfactorily completed. We are still waiting for compliance with items b, c, d, f, g, and h of the permit before the resolution can be published.

Please call if you have any questions about this conditional use case.

Louise Olivarez  
Senior Planner

LO:blw  
Enclosures

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: August 13, 1986

TO: Donald C. Gisick, City Clerk

FROM: Louise Olivarez, Senior Planner, Current Plans

SUBJECT: Recording of dedication associated with CU-293.

On July 23, 1986, the Board of County Commissioners approved a conditional use permit for a sand extraction operation on property located at the southwest corner of 37th Street North and Ridge Road. They also accepted the dedication of right-of-way for both streets, as this was one of the permit requirements. Attached to this memo is the dedication which needs to be recorded with the Register of Deeds as soon as possible. You may bill the recording costs to account number 755-68-360-50000-295-000-000.

Thank you.

Louise Olivarez  
Senior Planner

LO:blw  
Attachment

---

DEDICATION

FORM 824 PAGE 0404

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, Lola B. Torkleson

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

See Attached Legal

STATE OF KANSAS  
SEDGWICK COUNTY } SS  
FILED FOR RECORD AT  
8:00 A.M.

MICROFILMED  
OF RECORD

AUG 19 1986

NO. 8 26844

PAT KETTLER  
REGISTER OF DEEDS

*Ed [Signature]*  
Deputy

do hereby dedicate the above described real estate to the public for

Street \_\_\_\_\_ purposes.

Executed this 3<sup>rd</sup> day of July 19 86.

*If (U-293 Conditional Use Permit is not approved this dedication is null and void.*

Lola B. Torkleson  
Lola B. Torkleson

ENTERED ON  
TRANSFER RECORD

AUG 19 1986

DON WRIGHT  
COUNTY CLERK

STATE OF KANSAS )  
SEDGWICK COUNTY ) SS

BE IT REMEMBERED, that on this 3<sup>rd</sup> day of July

came Lola B. Torkleson

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

Karen Schaefer  
Notary Public

My Comm. Expires: \_\_\_\_\_  
KAREN SCHAEFER  
NOTARY PUBLIC  
State of Kansas  
My Appt. Exp. 8-5-88

600

city clerk

A TRACT OF LAND FOR RIGHT-OF-WAY PURPOSES IN THE E 1/2 OF THE NE 1/4 OF SECTION 33, TOWNSHIP 26 SOUTH, RANGE 1 WEST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT THE N.W. CORNER E 1/2, N.E. 1/4 OF SAID SECTION 33, THENCE EAST ALONG THE NORTH LINE OF SAID N.E. 1/4 TO THE N.E. CORNER OF SAID N.E. 1/4; THENCE SOUTH ALONG THE EAST LINE OF SAID N.E. 1/4 TO THE S.E. CORNER OF SAID N.E. 1/4; THENCE WEST ALONG THE SOUTH LINE OF SAID N.E. 1/4 A DISTANCE OF 60 FEET MORE OR LESS; THENCE NORTH PARALLEL TO AND 60 FEET WEST OF THE EAST LINE OF SAID N.E. 1/4 TO A POINT 350 FEET MORE OR LESS SOUTH OF THE NORTH LINE OF SAID N.E. 1/4; THENCE NORTHWESTERLY A DISTANCE OF 101.12 FEET TO A POINT 75 FEET WEST OF THE EAST LINE OF SAID N.E. 1/4; THENCE NORTH PARALLEL TO AND 75 FEET WEST OF THE EAST LINE OF SAID N.E. 1/4 A DISTANCE OF 175.00 FEET TO A POINT 75 FEET SOUTH OF THE NORTH LINE AND 75 FEET WEST OF THE EAST LINE OF SAID N.E. 1/4; THENCE WEST PARALLEL TO AND 75 FEET SOUTH OF THE NORTH LINE OF SAID N.E. 1/4 A DISTANCE OF 175.00 FEET; THENCE NORTHWESTERLY A DISTANCE OF 103.08 FEET TO A POINT 50 FEET SOUTH OF THE NORTH LINE OF SAID N.E. 1/4; THENCE WEST PARALLEL TO AND 50 FEET SOUTH OF THE NORTH LINE OF SAID N.E. 1/4 TO A POINT IN THE WEST LINE OF THE E 1/2 OF SAID N.E. 1/4; THENCE NORTH ALONG SAID WEST LINE A DISTANCE OF 50 FEET MORE OR LESS TO THE POINT OF BEGINNING.

Attachment 6

BOARD OF SEDGWICK COUNTY COMMISSIONERS  
PROCEEDINGS

Special Meeting, August 8, 1986

There were no questions; and a motion was made.

MOTION

Mr. Gragg moved to approve the sale of one surplus generator.

Mr. Scott seconded the motion.

VOTE

Chairman Bernard A. Hentzen	Aye
Chairman Pro tem Donald E. Gragg	Aye
Commissioner Tom Scott	Aye

SELECTION OF A FENCING ALTERNATIVE REGARDING CU-293,  
CONDITIONAL USE APPLICATION AT THE SOUTHWEST CORNER OF RIDGE  
ROAD AND 37TH STREET NORTH.

Mr. Jim Webber, Bureau of Public Services, stepped to the podium and addressed the Commissioners. "The Bureau of Public Services has reviewed three fencing plans presented by the applicant's agent. We have found that all three plans are acceptable for construction within the regulatory floodway. We have also presented a fourth plan that will allow construction of a chainlink fence without obstructing the flow in the regulatory floodway. I have discussed these plans with the Division of Water Resources, and they have responded in writing that all four plans will be approved for construction within the regulatory floodway.

"I should point out that during our discussions when this was being heard by the Planning Commission, we were planning, I believe, alternative No. 3 which would have been the barbed wire just across the floodway section. As the flood considerations are a portion of the factors that need to be considered in developing a fencing plan for a sandpit, we have not specifically recommended an alternative today. I would be happy to try to answer any questions that you might have concerning the plan. I believe the applicant and his agent are here today if they wish to address the Board.

Chairman Hentzen asked, "Does the applicant or his agent have anything they want to say to us?"

Mr. Gary Wiley, Manager of Land Development, Professional Engineering Consultants, P.A., stepped to the podium and greeted the Commissioners. "I am speaking on behalf of the contract purchaser. Mr. Hoskinson would be agreeable with either plans one, two, or three; but we feel like the fourth alternate the Bureau has come up with would be quite expensive. I would be happy to answer any questions."

Chairman Hentzen asked for questions.

BOARD OF SEDGWICK COUNTY COMMISSIONERS  
PROCEEDINGS

Special Meeting, August 8, 1986

Mr. Jim Webber stepped to the podium and said, "I might review them for you real quickly to save you a little time. The first plan is simply a 4-strand, 48-inch high barbed wire fence entirely surrounding the site. The second alternative would be chainlink in the areas on 37th Street North and Ridge Road that do not cross the regulatory floodway with the 4-strand barbed wire across the regulatory floodway and along the south and west lines of the property, and the 3rd alternative was to put up chainlink all along 37th and Ridge Road, barbed wire across the floodway, and across the west and south lines of the property so that the chainlink would be in all areas of the property except the regulatory floodway...Maybe I am not being clear."

Chairman Hentzen said, "I am going to try a motion; if we don't pass it, then I will try another one. I have looked at this from what the water authority people have said about not blocking that floodway at either end, and I do not recommend that we put a chainlink fence up there because I think that effectively blocks the floodway. So, with that in mind—that we shouldn't do that—I am going to propose that we waive the fencing requirement on this Conditional Use Permit, and not put up any fence."

MOTION

Mr. Hentzen moved that the fencing requirement be waived on Conditional Use Permit CU-293.

Mr. Scott seconded the motion.

Mr. Scott said, "Mr. Chairman, for a matter of record, I think that the same company came in and requested the same kind of treatment on the last Conditional Use Permit which was, I think, south of where you are now, and we didn't require him to put fencing there...so I think that to be fair with the man...I think that there is nothing wrong with what we are doing today because we have done it in the past."

Chairman Hentzen asked for further questions; there were none, and he called for the vote.

VOTE

Chairman Bernard A. Hentzen	Aye
Chairman Pro tem Donald E. Gragg	No
Commissioner Tom Scott	Aye

BUREAU OF PUBLIC SERVICES

L. Resolutions.

- a. Resolution to classify and assign the following road to the Valley Center Township System:

Jacobs Street - The centerline of a 70 foot wide right of way  
described as beginning 35 feet west of the southeast  
corner of the

**DIRECTORS**

C. O. KNOP, P.E.  
R. B. PEUGH, P.E.  
C. J. FREUND, P.E.  
W. H. KELTNER, P.E.  
R. D. PLETCHER, P.E.  
F. D. MIDDLETON, JR., P.E.  
D. E. MALTBIE, P.E.  
M. D. SCHOMAKER, P.E.  
G. D. SCHOCK, P.E.  
J. H. BAILEY, P.E., Ph.D.



**PROFESSIONAL  
ENGINEERING  
CONSULTANTS**  
PROFESSIONAL ASSOCIATION

August 8, 1986

Kansas State Board of Agriculture  
Division of Water Resources  
109 S.W. 9th Street  
Topeka, Kansas 66612-1283

Attention: Mr. J.W. Funk, P.E.

Reference: C.U.-293 Conditional use permit for the extraction of sand at the southwest corner of Ridge Road and 37th Street North.  
PEC File No: 36-86237-799

Dear Mr. Funk:

The Board of Sedgwick County Commissioners at their meeting of August 8, 1986, approved the above referenced conditional use permit subject to approval of the operational and extraction plan by your office.

Enclosed is a copy of our proposed operational and extraction plan and a copy of a portion of Panel 125 showing the subject property.

In addition, the action of the Board of County Commissioners was to delete the fencing requirement for this conditional use.

Should you have any questions, or need additional information, please call.

Very truly yours,

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

*Gary Willey*  
Gary Willey  
Land Development

xc: Dick Hoskinson  
Jim Weber  
Louise Ollvarez

GW/nmm

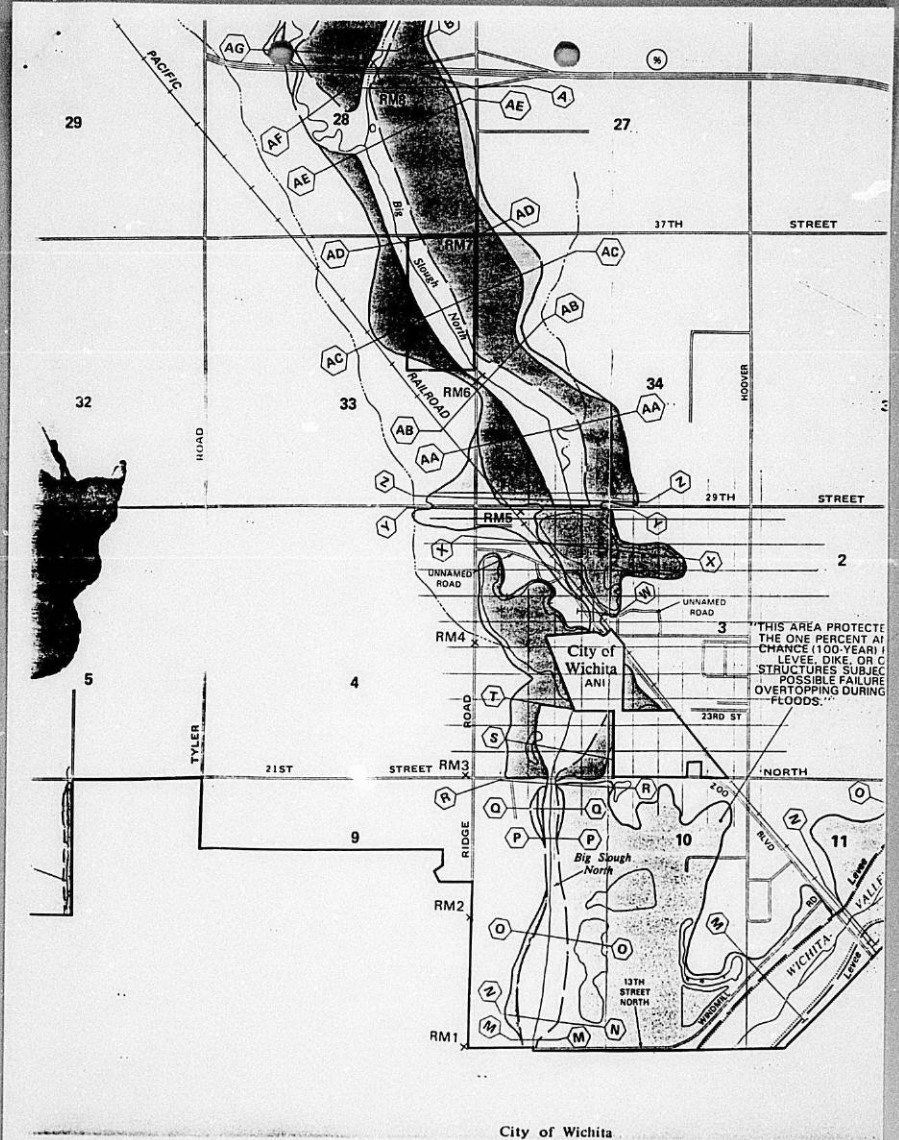
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AUG 11 1986

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

1440 EAST ENGLISH  
WICHITA, KANSAS 67211  
(316) 262-2891



Attachment 5



SEDGWICK COUNTY, KANSAS

DEPARTMENT OF PLANNING  
AND CODE ENFORCEMENT

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AUG 01 1986

Ron R. Worley  
DEPARTMENT DIRECTOR

METROPOLITAN PLANNING

ROUTE

WILMINGTON, KANSAS 67213-4455

TELEPHONE (316) 266-7951

DATE: July 30, 1986

TO: Board of County Commissioners

FROM: Ron R. Worley, Zoning Administrator *RW*  
 Jim Weber, Engineer *JW*  
 Sedgwick County Bureau of Public Services

REF: CU-293 - Fencing alternates for the Conditional Use Application at the southwest corner of Ridge Road and 37th Street North.

Attached please find a copy of the Operation Plan proposed for CU-293 showing the alternate fencing plans proposed by Mr. Gary Wiley of PEC. Also attached is a copy of Mr. Wiley's letter explaining the three (3) alternate plans they would find acceptable. In addition to the three (3) alternatives outlined by Mr. Wiley, we have attached a drawing of another alternate fencing plan.

In the event the County Commissioners desire to require this applicant to provide fencing of the same materials normally required on all sand extraction operations, our drawings show how we believe this can be accomplished in the floodway areas of this application. Essentially, it involves lowering the ground level in the floodway area so that the top of the chain-link fence would be at the level of the surrounding ground. This would allow any flood flow and accompanying debris to pass over the top of the fences in the flood area.

Mr. Weber has contacted the Division of Water Resources regarding the acceptability of all of the alternates. A copy of their letter responding to his inquiry is attached for your reference. They have indicated that they would approve any of the fencing plans presented above, as well as a break away fence.

July 30, 1986

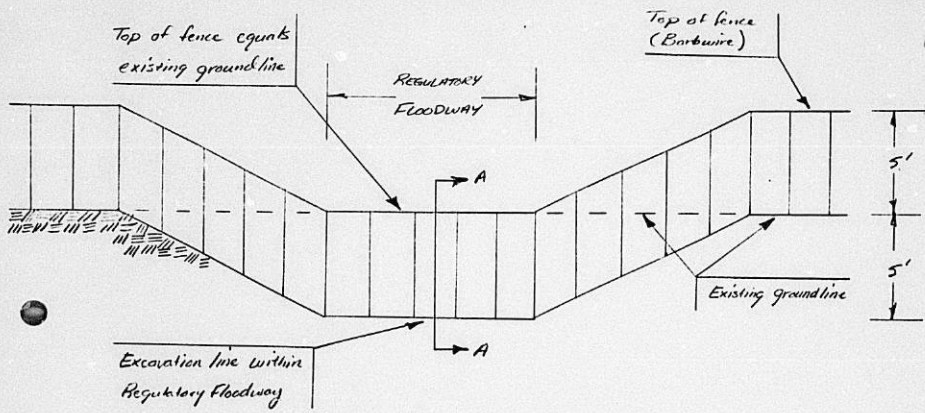
Page 2

CU-293 - Fencing alternates for the Conditional Use Application at the southwest corner of Ridge Road and 37th Street North.

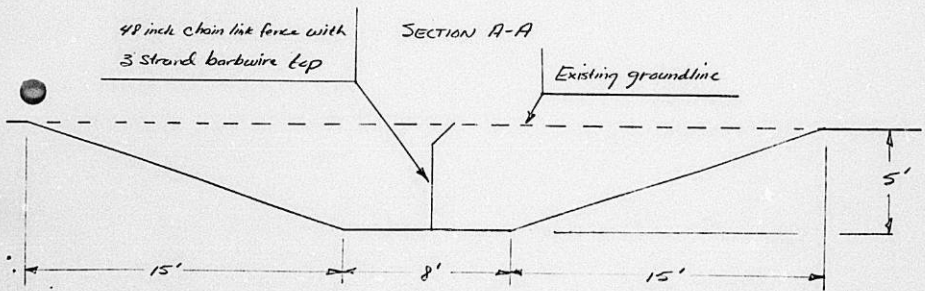
The Engineering Department supports the construction of sand pits within the Regulatory Floodway. Construction of this particular pit would provide detention storage capacity for the Big Slough and help to alleviate flooding problems downstream from the site.

am

cc: Jack Galbraith MAPD



Profile view of fence along property line



Cross section of fence in trench

July 30, 1986  
 CA-283  
 Fencing Plan (Sheet #4)

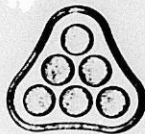
DIRECTORS .

C O KNOP P.E.  
R B PELUGH P.E.  
C J FREUND P.E.  
W H KELTNER P.E.  
R D PLETCHER P.E.  
F D MIDDLETON, JR. P.E.  
D E MALTBY P.E.  
M D SCHOMAKER P.E.  
G D SCHOCK P.E.  
J H BAILEY P.E., PH.D.

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BUREAU OF  
PUBLIC SERVICES



PROFESSIONAL  
ENGINEERING  
CONSULTANTS  
PROFESSIONAL ASSOCIATION

July 29, 1986

Mr. James Weber, Engineer  
Sedgwick County  
Bureau of Public Services  
1250 South Seneca  
Wichita, Kansas 67213-4498

Reference: CU-293 - Fencing alternates for the Conditional Use at  
the southwest corner of Ridge Road and 37th Street North.  
PEC File No. 36-86237-799

Dear Jim:

After our meeting on Friday, July 25, 1986, Mr. Hoskinson and I  
discussed several alternates to fencing the above referenced  
Conditional Use.

Keeping in mind the Division of Water Resources has indicated that they  
prefer cyclone fencing not be utilized within the regulatory floodway,  
Mr. Hoskinson has suggested the following fencing alternates in his  
order of preference.

1. Four strands of barbed wire, 48-inches high around the entire site.
2. 48-inch chainlink fence with three strands of barbed wire  
commencing at the regulatory floodway on Ridge Road, north to the  
south line of 37th Street North, and west along the south line of  
37th Street North to the regulatory floodway. The balance of the  
site to be fenced with four strands of barbed wire, 48-inches high.
3. Fence the regulatory floodway with four strands of barbed wire,  
48-inches high, and the balance of the application area with  
48-inch chainlink fence with three strands of barbed wire.

We would appreciate your favorable consideration for alternates one or  
two, but would be agreeable with alternate three.

We would request you schedule this before the Board of County  
Commissioners at their meeting of August 7, 1986.

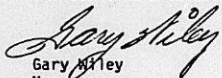
1440 EAST ENGLISH  
WICHITA, KANSAS 67211  
(316) 262-2691

James Weber  
Page 2 of 2

Should you have any questions, please call.

Very truly yours,

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.



Gary Wiley  
Manager  
Land Development

GW:sg

cc: Jack Galbraith MAPD

**DIRECTORS**

C. O. KNOP, P.E.  
R. B. PEUGH, P.E.  
C. J. FREUND, P.E.  
W. H. KELTSNER, P.E.  
R. D. PLETCHER, P.E.  
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M. D. SCHOMAKER, P.E.  
G. D. SCHOCK, P.E.  
J. H. BAILEY, P.E., PH.D.

*Attachment 4*



**PROFESSIONAL  
ENGINEERING  
CONSULTANTS**  
PROFESSIONAL ASSOCIATION

July 29, 1986

Mr. James Weber, Engineer  
Sedgwick County  
Bureau of Public Services  
1250 South Seneca  
Wichita, Kansas 67213-4498

Reference: CU-293 - Fencing alternates for the Conditional Use at  
the southwest corner of Ridge Road and 37th Street North.  
PEC File No. 36-86237-799

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We would appreciate your favorable consideration for alternates one or  
two, but would be agreeable with alternate three.

We would request you schedule this before the Board of County  
Commissioners at their meeting of August 7, 1986.

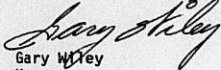
1440 EAST ENGLISH  
WICHITA, KANSAS 67211  
(316) 262-2691

James Weber  
Page 2 of 2

Should you have any questions, please call.

Very truly yours,

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.



Gary Wiley  
Manager  
Land Development

GW:sg

cc: Jack Galbraith MAPD

*Attachment 2*

July 28, 1986

Mr. Gary Wiley  
Professional Engineering  
Consultants, P. A.  
1440 East English  
Wichita, Kansas 67211

CU-293 - Sand Extraction Operation at the southwest corner of 37th  
Street North and Ridge Road.

Dear Mr. Wiley:

The above captioned case was considered by the Board of County  
Commissioners on July 23, 1986, subject to the conditions recommended by  
the Planning Commission, except that condition "j" on fencing was changed  
to read as follows:

"The sand extraction operation shall begin only after a fencing  
plan is formally approved by the Board of County Commissioners."

At such time that you complete the plan and want it scheduled for  
consideration, we would like a copy for our file. I would also expect  
that the County Bureau of Public Services would also appreciate a copy.

There are a number of conditions that must be complied with prior to the  
publication of the resolution. At such time as they are all complete, we  
will see that it is published and that Ron Worley is advised.

If you have any questions, please call.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:blw

cc: Lola B. Torkleson, 9632 W. 37th Street North, Wichita, KS. 67205  
Dave Adams, 200 W. Douglas, Fourth Floor, Wichita, KS. 67202  
Jim Weber, Sedgwick County Bureau of Public Services  
Ron Worley, Zoning Administrator, Sedgwick County Bureau  
of Public Services



KANSAS STATE BOARD OF AGRICULTURE

DIVISION OF WATER RESOURCES
DAVID L. POPE, Chief Engineer-Director
109 SW Ninth Street
TOPEKA, KANSAS 66612-1283
(913) 296-3717

HARLAND E. BRIDGEBLE
Secretary

DONALD L. JACKA, JR.
Acting Secretary

July 25, 1986

Mr. Jim Webber
Sedgwick County Public Services
1250 South Seneca Street
Wichita, Kansas 67213

Re: Fence in floodway

Dear Jim,

Questions have been raised about the thinking of this agency concerning the use of a chain-link fence across a regulatory floodway. If this situation arises, it may well be subject to variance procedures as a variation under K.S.A. 12-734 requiring approval of the Chief Engineer.

The concern is that any fence and most particularly a chain-link fence will trap flood debris, which, in fact, is a temporary obstruction to flow in a location causing an unreasonable effect on others. This is particularly true if the fence is a significant width across the floodway reducing opportunity for debris to float around the obstruction. Therefore, this agency discourages the use of such fencing.

However, there are at least two alternatives to avoid these flood concerns and still use chain-link fence in the regulatory floodway for security purposes. One system would place the fence in an excavated trench, which is both deep enough for the fence top to be at or below basic floodplain land elevation and wide enough for maintenance and security purposes. Another technique would involve a break away concept of using light weight twist wires to fasten the chain-link fence to the downstream side of the support posts. This works particularly well, if the regulatory floodway flow depth is a dimension nearly equal to the security height need.

Either of these alternatives would be recommended by the engineering staff for any approval by the Chief Engineer in the situation described above for which such approval was appropriately requested. Although attorneys may well disagree as to this agency's authority with respect to the chain-link fence, the concern is a legitimate concern.

Another fence alternative is a 3 or 4 wire fence, which does not trap debris as badly as does a chain-link fence. Although such fence might create some flood flow restriction, it should be quite small in relation to

Jim W - copy
Kron W - copy

Attachment 3

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BUREAU OF
PUBLIC SERVICES

Mr. Jim Webber

Page 2.

July 25, 1986

the potential effect of a chain-link fence and we have no objection to such fence.

If this raises further questions, please feel free to call or write.

Very truly yours,

*J. W. Funk*  
J.W. Funk, P.E.  
Engineer

JWF:cb

Published in The Daily Reporter on \_\_\_\_\_, 1986

RESOLUTION NO. \_\_\_\_\_

CASE NO. CJ-293

A RESOLUTION TO PERMIT A SAND EXTRACTION OPERATION ON PROPERTY ZONED "R-1" SUBURBAN RESIDENTIAL DISTRICT AND "LC" LIGHT COMMERCIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section 17.C of the Zoning Regulations, a Conditional Use Permit for a sand extraction operation on property zoned "R-1" Suburban Residential District and "LC" Light Commercial District is hereby approved on the lands legally described as follows:

The east half of the NE $\frac{1}{4}$  of Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located at the southwest corner of 37th Street North and Ridge Road.

SUBJECT TO THE FOLLOWING CONDITIONS:

- a. The applicant shall dedicate by separate instrument sufficient right-of-way to bring Ridge Road up to the FAS standard of 60 feet of half-street right-of-way, with enough additional right-of-way at its intersection with 37th Street (measured from the section line) to provide 75 feet in the north 250 feet, tapering to 60 feet at a point 350 feet south of the intersection. The applicant shall also dedicate sufficient right-of-way for 37th Street North to bring it up to the arterial standard of 50 feet of half-street right-of-way, with enough additional right-of-way at the intersection to provide 75 feet in the east 250 feet, tapering to 50 feet at a point 350 feet west of the intersection.
- b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, asphalt, building rubble, etc., shall be stockpiled on the application area or deposited within the excavation.
- c. The applicant shall submit a covenant and agreement satisfactory in form to the County Counselor and in content to the Sedgwick County Bureau of Public Services, which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.
- d. The applicant shall execute a Floodway Reserve agreement covering the area which is a designated floodway on the FEMA maps.
- e. The applicant shall submit to the Planning Department four (4) copies of the operational plan which have been revised to indicated "complete access control" to 37th Street and "access

*revised to reflect new condition "i" as per BCC action*

*OK'd by County 9-15-86*

control except two openings" to Ridge Road from this application area.

- f. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- g. In accordance with the County's Floodplain Management Resolution, the applicant shall provide the Bureau of Public Services an engineer's certification that the proposed site improvements will not increase the base flood elevation on the Big Slough during a 100-year flood.
- h. In accordance with the County's Floodplain Management Resolution, the applicant shall submit his operational and extraction plans to the State Division of Water Resources for review. Approval from the Division must be obtained prior to publication of the resolution authorizing the conditional use permit for sand extraction.
- i. The sand extraction operation shall begin only after a fencing plan is formally approved by the Board of County Commissioners.
- j. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- k. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
- l. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- m. 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.
- n. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
- o. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing dust.
- p. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- q. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- r. 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 to the approximate size as indicated on the approved plan.
- s. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- t. Within 60 days after completion of the sand extraction operation, the ground surrounding the lake shall be properly graded; all stockpiled materials and all equipment shall be removed

from the site; and the land shall be planted with a vegetative cover.

- u. The applicant shall comply with Conditions "a" and "e" prior to this case being scheduled for County Commission review and shall comply with conditions b, c, d, f, g and h prior to publication of the resolution establishing this conditional use.
- v. Any violation of conditions attached shall declare 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 Commission.

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  
Bernard A. Hentzen

\_\_\_\_\_, Commissioner  
Tom Scott

\_\_\_\_\_, Commissioner  
Donald E. Gragg

ATTEST:

\_\_\_\_\_  
Donnell L. Wright, County Clerk

(SEAL)

Approved as to form by County Counselor

\_\_\_\_\_  
William D. Rustin, County Counselor

Planning Agenda

Item #

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION  
TO BOARD OF COUNTY COMMISSIONERS

REQUEST FOR CONDITIONAL USE

CU-293 - CONDITIONAL USE PERMIT FOR A SAND EXTRACTION OPERATION  
ON PROPERTY ZONED "R-1" AND "LC". GENERALLY LOCATED AT THE SOUTHWEST  
CORNER OF RIDGE ROAD AND 37TH STREET NORTH.

The MAPC recommends that the application be approved subject to conditions.  
(see minutes for full motion)

Miles moved, Gardner seconded and it carried unanimously. Moore was not  
present. One vacancy.

ACTION:

1. Adopt the findings of fact of the Metropolitan Area Planning Commission and approve the conditional use permit subject to the recommended conditions; adopt a resolution authorizing the conditional use permit and instruct the Planning Department to withhold publication until the appropriate conditions have been complied with; or
2. Adopt findings and deny the application.

-----  
DATA AND MINUTES

MAPC Hearing Date: 6-12-86

BCoC Hearing Date: 7-~~15~~<sup>23</sup>-86

Commission District #1

	<u>Land Use</u>	<u>Zoning</u>	<u>Size</u>
Application Area	Agriculture	"R-1" & "LC"	80 acres
North	Agriculture	"R-1" & "LC"	
South	Agriculture	"E" w/CU for sand extraction	
East	Agriculture	"R-1" & "LC"	
West	Agriculture	"R-1"	

History: CU-282 Request for sand extraction 5/30/85 MAPC approved  
6/26/85 BCoC denied

Applicant: Lola Torkleson, et. al., 9632 W. 37th Street North, Wichita, KS 67205

Protestors: Mrs. Kenneth Ott, Maize, Kansas.

EXCERPT FROM PLANNING COMMISSION MINUTES OF JUNE 12, 1986

LEGAL:

2. Case No. CU-293 - Lola Torkleson, et al request Conditional Use Permit for the east half of the NE $\frac{1}{4}$  of Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located at the southwest corner of 37th Street North and Ridge Road.

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

**Background:** The applicant is requesting a conditional use permit to establish a sand extraction operation on 80 acres of unplatted land located south of 37th Street North and west of Ridge Road. The land is currently being farmed. One year ago the Planning Commission recommended approval of a similar request on this property subject to a number of conditions including the standard fencing requirement. The applicant was not agreeable to installing the fence and the County Commission denied the conditional use permit.

**Analysis:** The Big Slough bisects this property and creates a floodway and a floodplain over much of this site as specified on the FEMA maps. The recommended fencing requirements for the floodway portion of the site have been modified as noted in item "j". Due to the recent adoption of the County Floodplain Management Resolution, several new conditions of approval are required for this floodway/floodplain site as noted in items "f", "g" and "h".

The operational and redevelopment plans submitted with this application are different from the ones submitted last year. The limits of the lake have expanded to the northeast and the location of future residential development has changed.

Due to the unpaved condition of 37th Street North, the County Engineer's office has recommended that no access be permitted to or from 37th Street during the life of the sand extraction operation. All access should be on Ridge Road. It is further recommended that the number of driveways on Ridge Road be limited to two. The number and location of access points to serve this site upon its redevelopment would be determined at the time of platting for that redevelopment.

To preserve the natural drainage in this area, the applicant shall submit a covenant and agreement which allows the use of the extraction area as a detention storage facility for public drainage purposes. The applicant shall also execute a Floodway Reserve agreement covering the area which is a designated floodway on the FEMA maps.

Should the Planning Commission recommend approval of this request, it should be approved subject to the following conditions:

- a. The applicant shall dedicate by separate instrument sufficient right-of-way to bring Ridge Road up to the FAS standard of 60 feet of half-street right-of-way, with enough additional right-of-way at its intersection with 37th Street (measured from the section line) to provide 75 feet in the north 250 feet, tapering to 60 feet at a point 350 feet south of the intersection. The applicant shall also dedicate sufficient right-of-way for 37th Street North to bring it up to the arterial standard of 50 feet of half-street right-of-way, with enough additional right-of-way at the intersection to provide 75 feet in the east 250 feet, tapering to 50 feet at a point 350 feet west of the intersection.
- b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, asphalt, building rubble, etc., shall be stockpiled on the application area or deposited within the excavation.
- c. The applicant shall submit a covenant and agreement satisfactory in form to the County Counselor and in content to the Sedgwick County Bureau of Public Services, which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.
- d. The applicant shall execute a Floodway Reserve agreement covering the area which is a designated floodway on the FEMA maps.

- e. The applicant shall submit to the Planning Department four (4) copies of the operational plan which have been revised to indicated "complete access control" to 37th Street and "access control except two openings" to Ridge Road from this application area.
- f. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- g. In accordance with the County's Floodplain Management Resolution, the applicant shall provide the Bureau of Public Services an engineer's certification that the proposed site improvements will not increase the base flood elevation on the Big Slough during a 100-year flood.
- h. In accordance with the County's Floodplain Management Resolution, the applicant shall submit his operational and extraction plans to the State Division of Water Resources for review. Approval from the Division must be obtained prior to publication of the resolution authorizing the conditional use permit for sand extraction.
- i. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), and shall be maintained along the perimeter of the excavation area and plant operation area 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 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 construction:
  - (1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
  - (2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
  - (3) A 48" 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.

NOTE: Due to the floodway on a portion of this property, the above-listed fencing requirements will have to be modified for the area within the floodway. Prior to fence construction within the floodway, the plant operator shall obtain approval from the County Bureau of Services for the type of fence.

- j. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- k. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
- l. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- m. 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.
- n. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
- o. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing dust.

- p. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- q. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- r. 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 to the approximate size as indicated on the approved plan.
- s. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- t. Within 60 days after completion of the sand extraction operation, the ground surrounding the lake shall be properly graded; all stockpiled materials and all equipment shall be removed from the site; and the land shall be planted with a vegetative cover.
- u. The applicant shall comply with Conditions "a" thru "g" prior to this case being scheduled for County Commission review and shall comply with condition "h" prior to publication of the resolution establishing this conditional use.
- v. Any violation of conditions attached shall declare the conditional use permit null and void.

DISCUSSION:

OLIVAREZ stated that about one year ago a request was made on this property by the same applicants for a sand extraction operation. It was recommended for approval by the Planning Commission subject to the usual conditions for approval, but the applicant was unwilling to fence in accordance with the requirements and the County Commission denied the request. OLIVAREZ mentioned that the Big Slough bisects this property and quite a bit of it is in the flood plain, and even more of it is in the floodway. She said that the site plan indicates the extent of the lake which the applicants propose to dig as a part of the extraction operation, and the redevelopment plan indicates possibly how the property around the lake could be developed at such time as the sand extraction operation has finished. She said that because of the recent adoption of the County flood plain management resolution, there are several new conditions of this sandpit case. One of them involves a flood plain development permit which needs to be obtained from the County, and the second one is an engineer's certification that the proposed improvements would not increase the base flood in a 100-year flood. The third requirement is that they are required to submit their plans to the State Division of Water Resources for review. OLIVAREZ said that staff had modified the requirement for fencing and has suggested that for the portion of the fence which is in the floodway, they modify somewhat the usual standards for the fencing, and prior to constructing this portion of a fence within the floodway, they should get with the County Engineer's office to discuss the type of fence that would be suitable for the floodway without blocking any of the flow of waters through the floodway.

OLIVAREZ stated that staff recommended approval of the conditional use permit.

GARY WILEY, Professional Engineering Consultants, representing the applicants, stated that they were in agreement with all of the staff comments. He said that he had a copy of the FEMA flood maps that were adopted recently with the property outlined.

WILSON asked if the property could ever be developed for home sites, and would it still be in the flood plain.

WILEY said that the property would have to be elevated to such an elevation that it probably would be unfeasible to do so.

MRS. KENNETH OTT, Ken-Win Farms, Inc, Maize, Kansas, stated that this was the second sandpit that she was having to fight. There is one on 37th Street just east of her. She said that she had a chance to sell her ground to a sandpit company and rejected it because she was thinking of the

people involved in the area. MRS. OTT said that the applicants were taking the best bottom ground that there was in this area; West Street was all in sandpit. She said that they farmed this ground for over 40 years and their ground is very productive right across from the sandpit. She felt that some consideration should be given to the people who own land in the area.

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood; the zoning and uses of properties nearby; the suitability of subject property for the uses proposed; and the recommendation of staff; I move that we recommend to the governing body that this application be approved subject to the following conditions:

- a. The applicant shall dedicate by separate instrument sufficient right-of-way to bring Ridge Road up to the FAS standard of 60 feet of half-street right-of-way, with enough additional right-of-way at its intersection with 37th Street (measured from the section line) to provide 75 feet in the north 250 feet, tapering to 60 feet at a point 350 feet south of the intersection. The applicant shall also dedicate sufficient right-of-way for 37th Street North to bring it up to the arterial standard of 50 feet of half-street right-of-way, with enough additional right-of-way at the intersection to provide 75 feet in the east 250 feet, tapering to 50 feet at a point 350 feet west of the intersection.
- b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, asphalt, building rubble, etc., shall be stockpiled on the application area or deposited within the excavation.
- c. The applicant shall submit a covenant and agreement satisfactory in form to the County Counselor and in content to the Sedgwick County Bureau of Public Services, which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.
- d. The applicant shall execute a Floodway Reserve agreement covering the area which is a designated floodway on the FEMA maps.
- e. The applicant shall submit to the Planning Department four (4) copies of the operational plan which have been revised to indicated "complete access control" to 37th Street and "access control except two openings" to Ridge Road from this application area.
- f. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- g. In accordance with the County's Floodplain Management Resolution, the applicant shall provide the Bureau of Public Services an engineer's certification that the proposed site improvements will not increase the base flood elevation on the Big Slough during a 100-year flood.
- h. In accordance with the County's Floodplain Management Resolution, the applicant shall submit his operational and extraction plans to the State Division of Water Resources for review. Approval from the Division must be obtained prior to publication of the resolution authorizing the conditional use permit for sand extraction.
- i. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), and shall be maintained along the perimeter of the excavation area and plant operation area 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 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 construction:

- (1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
- (2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
- (3) A 48" 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.

NOTE: Due to the floodway on a portion of this property, the above-listed fencing requirements will have to be modified for the area within the floodway. Prior to fence construction within the floodway, the plant operator shall obtain approval from the County Bureau of Public Services for the type of fence.

- j. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- k. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
- l. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- m. 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.
- n. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
- o. The sand plan operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing dust.
- p. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- q. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- r. 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 to the approximate size as indicated on the approved plan.
- s. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- t. Within 60 days after completion of the sand extraction operation, the ground surrounding the lake shall be properly graded; all stockpiled materials and all equipment shall be removed from the site; and the land shall be planted with a vegetative cover.
- u. The applicant shall comply with Conditions "a" thru "g" prior to this case being scheduled for County Commission review and shall

comply with condition "h" prior to publication of the resolution establishing this conditional use.

- v. Any violation of conditions attached shall declare the conditional use permit null and void.

Miles moved, Garlner seconded and it carried unanimously. Moore was not present. One vacancy.

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Published in The Daily Reporter on \_\_\_\_\_, 1986

RESOLUTION NO. \_\_\_\_\_

CASE NO. CU-293

A RESOLUTION TO PERMIT A SAND EXTRACTION OPERATION ON PROPERTY ZONED "R-1" SUBURBAN RESIDENTIAL DISTRICT AND "LC" LIGHT COMMERCIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section 17.C of the Zoning Regulations, a Conditional Use Permit for a sand extraction operation on property zoned "R-1" Suburban Residential District and "LC" Light Commercial District is hereby approved on the lands legally described as follows:

The east half of the NE $\frac{1}{4}$  of Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located at the southwest corner of 37th Street North and Ridge Road.

SUBJECT TO THE FOLLOWING CONDITIONS:

- a. The applicant shall dedicate by separate instrument sufficient right-of-way to bring Ridge Road up to the FAS standard of 60 feet of half-street right-of-way, with enough additional right-of-way at its intersection with 37th Street (measured from the section line) to provide 75 feet in the north 250 feet, tapering to 60 feet at a point 350 feet south of the intersection. The applicant shall also dedicate sufficient right-of-way for 37th Street North to bring it up to the arterial standard of 50 feet of half-street right-of-way, with enough additional right-of-way at the intersection to provide 75 feet in the east 250 feet, tapering to 50 feet at a point 350 feet west of the intersection.
- b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, asphalt, building rubble, etc., shall be stockpiled on the application area or deposited within the excavation.
- c. The applicant shall submit a covenant and agreement satisfactory in form to the County Counselor and in content to the Sedgwick County Bureau of Public Services, which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.
- d. The applicant shall execute a Floodway Reserve agreement covering the area which is a designated floodway on the FEMA maps.
- e. The applicant shall submit to the Planning Department four (4) copies of the operational plan which have been revised to indicated "complete access control" to 37th Street and "access

control except two openings" to Ridge Road from this application area.

- f. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- g. In accordance with the County's Floodplain Management Resolution, the applicant shall provide the Bureau of Public Services an engineer's certification that the proposed site improvements will not increase the base flood elevation on the Big Slough during a 100-year flood.
- h. In accordance with the County's Floodplain Management Resolution, the applicant shall submit his operational and extraction plans to the State Division of Water Resources for review. Approval from the Division must be obtained prior to publication of the resolution authorizing the conditional use permit for sand extraction.
- i. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), and shall be maintained along the perimeter of the excavation area and plant operation area 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 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 construction:
  - (1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
  - (2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
  - (3) A 48" 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.

NOTE: Due to the floodway on a portion of this property, the above-listed fencing requirements will have to be modified for the area within the floodway. Prior to fence construction within the floodway, the plant operator shall obtain approval from the County Bureau of Public Services for the type of fence.

- j. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- k. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
- l. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- m. 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.

- n. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
- o. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing dust.
- p. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- q. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- r. 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 to the approximate size as indicated on the approved plan.
- s. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- t. Within 60 days after completion of the sand extraction operation, the ground surrounding the lake shall be properly graded; all stockpiled materials and all equipment shall be removed from the site; and the land shall be planted with a vegetative cover.
- u. The applicant shall comply with Conditions "a" and "e" prior to this case being scheduled for County Commission review and shall comply with conditions b, c, d, f, g and h prior to publication of the resolution establishing this conditional use.
- v. Any violation of conditions attached shall declare 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 Commission.

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  
Bernard A. Hentzen

\_\_\_\_\_, Commissioner  
Tom Scott

\_\_\_\_\_, Commissioner  
Donald E. Gragg

ATTEST:

Donnell L. Wright, County Clerk

(SEAL)

Approved as to form by County Counselor

William D. Rustin, County Counselor

July 15, 1986

Mrs. Kenneth Ott  
Ken-Winn Farms, Inc.  
Maize, Kansas 67101

RE: CU-293

Dear Mrs. Ott:

The above-referenced request for a conditional use permit for sand extraction southwest of 37th Street North and Ridge Road is now scheduled for County Commission review on Wednesday, July 23, 1986, beginning at 9:00 a.m. in Room 320 of the Sedgwick County Courthouse, 525 North Main.

If you have any questions about this case or wish to discuss it prior to the meeting, you may call the Planning Department office at 268-4421.

Sincerely,

Louise Olivarez  
Senior Planner

LO:blw

cc: S. Bruce Nicholson, 4500 North Ridge Road, Wichita, KS. 67205

July 2, 1986

Gary Wiley said Hasbinger's purchase contract was subject to BCC approval of CU-293. He doesn't want to go thru all the procedures required in conditions "a" thru "h" unless he knows CU-293 will be approved.

Jim Weber, County Engineering, agreed to let case go to BCC without having "a" thru "g" completed (it was his recommendation originally that these all be completed prior to BCC review). It is going to take Jim some time to prepare item "c" apparently. Wiley is to complete "a" and "e", then we will schedule.

To	Gary Wiley P.F.C.	From	Louise Alvarez M.A.P.D.	
Subject	CU-293		Date	6-17-86
Message	<p>Enclosed are several blank dedication forms, a sample restrictive covenant regarding foreign matter in the sand pit, and a sample agreement for detention storage. This detention storage sample is quite specific so I think you should contact County Engineering to see what wording they want on the CU-293 agreement. The Floodway Reserve agreement forms and the flood plain development permit will also have to come from the County Engineer's office.</p>			
Reply	<p>SIGNED <u>Louise</u> DATE _____</p>			
-	-			
-	-			
-	-			

 47-223  
Made in U.S.A.

SIGNED \_\_\_\_\_

SENDER RETAIN THIS COPY

June 16, 1986

Mrs. Kenneth Ott  
Ken-Winn Farms, Inc.  
Maize, Kansas 67101

Re: CU-293

Dear Mrs. Ott:

The Planning Commission at its regular meeting of June 12, 1986, considered the above-captioned conditional use request, and their action was as indicated on the attached letter.

This is to advise you that if property owners 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., Thursday, June 26, 1986. Enclosed are six (6) 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/lw

Enclosures (6)

6-30-86

*I called Mrs. Ott (722-0344) and S. Bruce Nicholson (721-2384) (who had been up to the office inquiring about this case) to advise that case was not ready to be heard on 7-9-86. I will notify them when it is to be scheduled.*

June 16, 1986

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

Re: CU-293 Conditional Use Permit. At the southwest corner of Ridge Road and 37th Street North.

Dear Mr. Wiley:

At its regular meeting on June 12, 1986, the Metropolitan Area Planning Commission considered the above-captioned conditional use request. The action of the Planning Commission was to recommend that the application be approved subject to the following conditions:

- a. The applicant shall dedicate by separate instrument sufficient right-of-way to bring Ridge Road up to the FAS standard of 60 feet of half-street right-of-way, with enough additional right-of-way at its intersection with 37th Street (measured from the section line) to provide 75 feet in the north 250 feet, tapering to 60 feet at a point 350 feet south of the intersection. The applicant shall also dedicate sufficient right-of-way for 37th Street North to bring it up to the arterial standard of 50 feet of half-street right-of-way, with enough additional right-of-way at the intersection to provide 75 feet in the east 250 feet, tapering to 50 feet at a point 350 feet west of the intersection.
- b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, asphalt, building rubble, etc., shall be stockpiled on the application area or deposited within the excavation.
- c. The applicant shall submit a covenant and agreement satisfactory in form to the County Counselor and in content to the Sedgwick County Bureau of Public Services, which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.
- d. The applicant shall execute a Floodway Reserve agreement covering the area which is a designated floodway on the FEMA maps.

- e. The applicant shall submit to the Planning Department four (4) copies of the operational plan which have been revised to indicate "complete access control" to 37th Street and "access control except two openings" to Ridge Road from this application area.
- f. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- g. In accordance with the County's Floodplain Management Resolution, the applicant shall provide the Bureau of Public Services an engineer's certification that the proposed site improvements will not increase the base flood elevation on the Big Slough during a 100-year flood.
- h. In accordance with the County's Floodplain Management Resolution, the applicant shall submit his operational and extraction plans to the State Division of Water Resources for review. Approval from the Division must be obtained prior to publication of the resolution authorizing the conditional use permit for sand extraction.
- i. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), and shall be maintained along the perimeter of the excavation area and plant operation area 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 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 construction:
  - (1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
  - (2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
  - (3) A 48" 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.

NOTE: Due to the floodway on a portion of this property, the above-listed fencing requirements will have to be modified for the area within the floodway. Prior to fence construction within the floodway, the plant operator shall obtain approval from the County Bureau of Services for the type of fence.

- j. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- k. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
- l. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- m. 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.
- n. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
- o. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing dust.
- p. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- q. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- r. 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 to the approximate size as indicated on the approved plan.
- s. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- t. Within 60 days after completion of the sand extraction operation, the ground surrounding the lake shall be properly graded; all stockpiled materials and all equipment shall be removed from the site; and the land shall be planted with a vegetative cover.
- u. The applicant shall comply with Conditions "a" thru "g" prior to this case being scheduled for County Commission review and shall comply

Gary Wiley CU-293  
June 16, 1986  
Page 4

with condition "h" prior to publication of the resolution establishing this conditional use.

- v. Any violation of conditions attached shall declare the conditional use permit null and void.

It is necessary that conditions a thru g be complied with by June 27 if this case is to be scheduled for consideration by the Board of County Commissioners on July 9, 1986. If additional time is needed, please advise. ~~We would remind you that Planning items are considered after all other matters of business.~~

If you have any questions concerning this matter, please contact our office.

Sincerely yours,

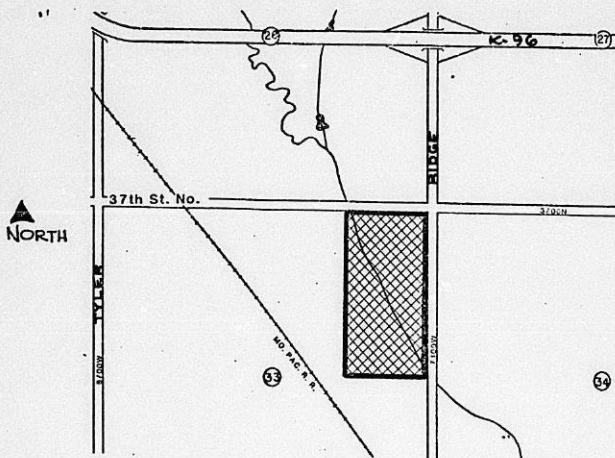
Jack H. Galbraith  
Chief Planner

JHG/lw

cc: Lola Torkleson, 9632 W. 37th St. N, Wichita, KS 67205  
Richard D. Hoskinson, 990 N. Westlink, Wichita, KS 67212  
Dave Adams, 200 W. Douglas, Wichita, KS 67202  
Mrs. Kenneth Ott, Ken-Win Farms, Inc., Maize, KS 67101  
Ron Worley, County Zoning Administrator  
Jim Weber, County Engineer's Office

JUNE 12, 1986

STAFF REPORT



**CU-293 - REQUEST FOR CONDITIONAL USE PERMIT FOR A SAND EXTRACTION OPERATION ON PROPERTY ZONED "R-1" AND "LC", LOCATED AT THE SOUTHWEST CORNER OF RIDGE ROAD AND 37TH STREET NORTH.**

Applicant: Lola Torkleson, et. al., 9632 W. 37th Street North, Wichita, KS 67205

	Land Use	Zoning	Size
Application Area	Agriculture	"R-1" & "LC"	80 acres
North	Agriculture	"R-1" & "LC"	
South	Agriculture	"E" w/ CU for sand extraction	
East	Agriculture	"R-1" & "LC"	
West	Agriculture	"R-1"	

History: CU-282 Request for sand extraction 5/30/85 MAPC approved  
6/26/85 BCoC denied

**Background:** The applicant is requesting a conditional use permit to establish a sand extraction operation on 80 acres of unplatted land located south of 37th Street North and west of Ridge Road. The land is currently being farmed. One year ago the Planning Commission recommended approval of a similar request on this property subject to a number of conditions including the standard fencing requirement. The applicant was not agreeable to installing the fence and the County Commission denied the conditional use permit.

**Analysis:** The Big Slough bisects this property and creates a floodway and a floodplain over much of this site as specified on the FEMA maps. The recommended fencing requirements for the floodway portion of the site have been modified as noted in item "i". Due to the recent adoption of the County Floodplain Management Resolution, several new conditions of approval are required for this floodway/floodplain site as noted in items "f", "g" and "h".

The operational and redevelopment plans submitted with this application are different from the ones submitted last year. The limits of the lake have expanded to the northeast and the location of future residential development has changed.

Due to the unpaved condition of 37th Street North, the County Engineer's office has recommended that no access be permitted to or from 37th Street during the life of the sand extraction operation. All access should be on Ridge Road. It is further recommended that the number of driveways on Ridge Road be limited to

two. The number and location of access points to serve this site upon its redevelopment would be determined at the time of platting for that redevelopment.

To preserve the natural drainage in this area, the applicant shall submit a covenant and agreement which allows the use of the extraction area as a detention storage facility for public drainage purposes. The applicant shall also execute a Floodway Reserve agreement covering the area which is a designated floodway on the FEMA maps.

Should the Planning Commission recommend approval of this request, it should be approved subject to the following conditions:

- a. The applicant shall dedicate by separate instrument sufficient right-of-way to bring Ridge Road up to the FAS standard of 60 feet of half-street right-of-way, with enough additional right-of-way at its intersection with 37th Street (measured from the section line) to provide 75 feet in the north 250 feet, tapering to 60 feet at a point 350 feet south of the intersection. The applicant shall also dedicate sufficient right-of-way for 37th Street North to bring it up to the arterial standard of 50 feet of half-street right-of-way, with enough additional right-of-way at the intersection to provide 75 feet in the east 250 feet, tapering to 50 feet at a point 350 feet west of the intersection.
- b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, asphalt, building rubble, etc., shall be stockpiled on the application area or deposited within the excavation.
- c. The applicant shall submit a covenant and agreement satisfactory in form to the County Counselor and in content to the Sedgwick County Bureau of Public Services, which authorizes the use of the extraction area as a detention storage facility for public drainage purposes.
- d. The applicant shall execute a Floodway Reserve agreement covering the area which is a designated floodway on the FEMA maps.
- e. The applicant shall submit to the Planning Department four (4) copies of the operational plan which have been revised to indicate "complete access control" to 37th Street and "access control except two openings" to Ridge Road from this application area.
- f. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- g. In accordance with the County's Floodplain Management Resolution, the applicant shall provide the Bureau of Public Services an engineer's certification that the proposed site improvements will not increase the base flood elevation on the Big Slough during a 100-year flood.
- h. In accordance with the County's Floodplain Management Resolution, the applicant shall submit his operational and extraction plans to the State Division of Water Resources for review. Approval from the Division must be obtained prior to publication of the resolution authorizing the conditional use permit for sand extraction.
- i. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), and shall be maintained along the perimeter of the excavation area and plant operation area 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 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 construction:
  - (1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
  - (2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or

- (3) A 48" 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.

NOTE: Due to the floodway on a portion of this property, the above-listed fencing requirements will have to be modified for the area within the floodway. Prior to fence construction within the floodway, the plant operator shall obtain approval from the County Bureau of Services for the type of fence.

- j. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- k. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
- l. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- m. 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.
- n. All of the area included in the sand extraction operation shall be graded so as to drain into the lake or to an approved drainage system.
- o. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing dust.
- p. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- q. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- r. 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 to the approximate size as indicated on the approved plan.
- s. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- t. Within 60 days after completion of the sand extraction operation, the ground surrounding the lake shall be properly graded; all stockpiled materials and all equipment shall be removed from the site; and the land shall be planted with a vegetative cover.
- u. The applicant shall comply with Conditions "a" thru "g" prior to this case being scheduled for County Commission review and shall comply with condition "h" prior to publication of the resolution establishing this conditional use.
- v. Any violation of conditions attached shall declare the conditional use permit null and void.

CASE NO. CU-293

6	Notices to adjoining property owners mailed on 5-29-86 for MAPC meeting on 6-12-86.
4	One each to Applicants and Agents.
3	One each to Ron Worley, David Spears and Karen Crook.
2	One each to Louise and Glen.
<hr/>	
14	TOTAL

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688

May 29, 1986

NOTICE OF PUBLIC HEARING

Case No.: CU-293.

Location: At the southwest corner of 37th Street North and Ridge Road.

Address: N/A.

Request: Conditional Use Permit to Establish a Sand Extraction Operation on Property Zoned "R-1" Suburban Residential District and "LC" Light Commercial District.

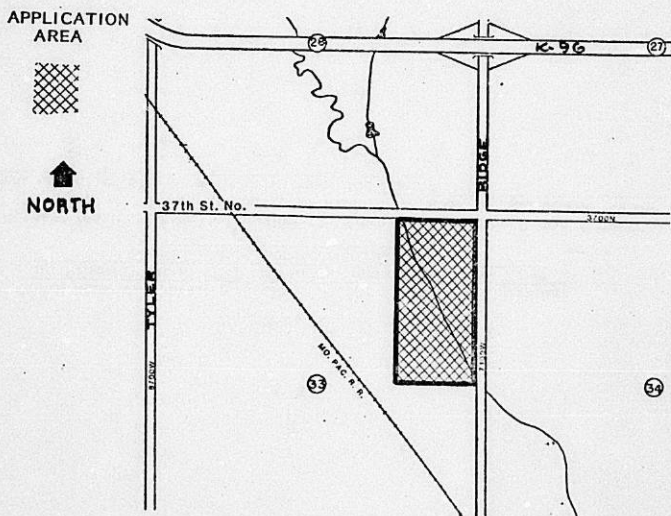
A public hearing to consider the above noted request has been scheduled before the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) on Thursday,

JUNE 12, 1986

The meeting will begin at 1:30 p.m. in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas.

As an owner or occupant of property in the area, you have the right to appear at the MAPC meeting, either in person or by agent or attorney, to support or oppose this request. If you have no interest in or objection to the request, you have no obligation to appear at the public hearing.

If you have any questions or wish additional information, please call 268-4421.



SEE REVERSE SIDE

LEGAL DESCRIPTION OF THE AREA PROPOSED TO BE CHANGED

CASE NO. CU-293

Conditional Use Permit to Establish a Sand Extraction Operation  
on Property Zoned "R-1" Suburban Residential District and  
"LC" Light Commercial District

The east half of the NE $\frac{1}{4}$  of Section 33, Township 26 South, Range 1 West  
of the 6th P.M., Sedgwick County, Kansas. Generally located at the south-  
west corner of 37th Street North and Ridge Road.

Most Restrictive



Least Restrictive

DISTRICT	NAME OF DISTRICT AND USES PERMITTED
R	RURAL RESIDENTIAL Agriculture and One Family Dwellings
R-1	SUBURBAN RESIDENTIAL Agriculture, One Family Dwellings, Schools and Churches
AA	ONE FAMILY DWELLING Agriculture, One Family Dwellings, Schools and Churches
BB	OFFICE All Uses Permitted in More Restrictive Zones and Business and Professional Offices
OC	OFFICE COMMERCIAL Offices, Limited Retail and Service Uses Operated Within a Building.
LC	LIGHT COMMERCIAL All Uses Permitted in More Restrictive Zones and Purely Retail Businesses Operated Within a Building
C	GENERAL COMMERCIAL All Uses Permitted in More Restrictive Zones Plus All Commercial Uses
E	LIGHT INDUSTRIAL All Uses Permitted in More Restrictive Zones Plus Industrial Uses Which Do Not Create Hazards or Nuisance From Fire, Dust, Odor or Smoke***
F	HEAVY INDUSTRIAL Any Use, Some as Additional Uses***

\*\*\*Mobile home parks, etc. are not permitted.

( ) Published in The Eagle Beacon on May 21, 1986 (One Time)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN THAT ON THURSDAY, June 12, 1986, the WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, in the City Commission Meeting Room, City Hall, First Floor, 455 North Main Street, Wichita, Kansas, beginning at 1:30 p.m., will consider the following applications:

CASE NO. CU-293

Conditional Use Permit to Establish a Sand Extraction Operation on Property Zoned "R-1" Suburban Residential District and "LC" Light Commercial District

The east half of the NE $\frac{1}{4}$  of Section 33, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located at the southwest corner of 37th Street North and Ridge Road.

As provided in Section 17C of the Sedgwick County Zoning Regulations, the same will then and there be discussed and considered by the said MAPC and all persons interested in said matter will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the the proposed application will be considered by the MAPC as by law provided.

WITNESS MY HAND AND SEAL this 19th day of May, 1986.

Michael E. Lindebak, Secretary  
Wichita-Sedgwick County  
Metropolitan Area Planning  
Commission

(SEAL)

CASE NO. CU-293

Conditional Use Permit to Establish a Sand Extraction Operation  
on Property Zoned "R-1" Suburban Residential District and  
"LC" Light Commercial District

The east half of the NE $\frac{1}{4}$  of Section 33, Township 26 South, Range 1 West  
of the 6th P.M., Sedgwick County, Kansas. Generally located at the south-  
west corner of 37th Street North and Ridge Road.

**APPLICATION FOR CONDITIONAL USE PERMIT**

CU-293

**WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION**

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. The names of the owners of all property included in this application must be listed as applicants. Contract purchasers, leasees or others directly associated with the property may also be listed if they desire to be advised of the proceedings.

A. APPLICANT Lola B. Turkleson ✓  
 ADDRESS 9632 W. 37th North Zip Code 67205 PHONE 722-0156  
 AGENT PEC (Gary Wiley) ✓  
 ADDRESS 1440 E. Englosh Zip Code 67211 PHONE 262-2691

B. APPLICANT Richard D. Hoskinson (Contract Purchase) ✓  
 ADDRESS 990 North Westlink Zip Code 67212 PHONE 722-1865  
 AGENT Dave Adams ✓  
 ADDRESS 200 West Douglas, 4th. Floor Zip Code 67202 PHONE 262-2671

C. APPLICANT \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ Zip Code \_\_\_\_\_ PHONE \_\_\_\_\_  
 AGENT \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ Zip Code \_\_\_\_\_ PHONE \_\_\_\_\_

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

2. A. The applicant proposes to establish a Sand Extraction Operation  
 \_\_\_\_\_ (use)  
 on property legally described as Lot(s) \_\_\_\_\_  
 \_\_\_\_\_, Block(s) \_\_\_\_\_  
 of the \_\_\_\_\_ Addition.

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

THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 33, T26S, R1W of the 6TH P.M.

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

**FOR OFFICE USE ONLY**

Map No. 4951A Zoning (~~NR-14C(S)~~E) (~~ER-14C(W)~~R-1) MAPC 6-12-86  
 T9-333-2 <sup>w/CO</sup> (CU-245) Revised 1/85

*Application area zoned R-1 & LC*

3. This property is located at (address) N/A

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

A. At the Southwest corner of 37th. St. North and Ridge Road, OR

B. On the \_\_\_\_\_ side of \_\_\_\_\_ (Ave.) Street between \_\_\_\_\_ (Ave.) Street and \_\_\_\_\_ (Ave.) Street.

4. We request this Conditional Use Permit for the following reasons:

To construct a sand extraction operation on a tract of land that is almost entirely encompassed by floodway and flood plain, as defined by FEMA.

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

LOLA B. TOBKLESON  
APPLICANT'S SIGNATURE

BY [Signature]  
AUTHORIZED AGENT (IF ANY)

Richard D. Hoshinson  
APPLICANT'S SIGNATURE

BY \_\_\_\_\_  
AUTHORIZED AGENT (IF ANY)

\_\_\_\_\_  
APPLICANT'S SIGNATURE

BY \_\_\_\_\_  
AUTHORIZED AGENT (IF ANY)

OFFICE USE ONLY

This application was received at the Planning Department at \_\_\_\_\_ (AM, PM) on 5-6-86 (day, month, year). It has been checked and found to be complete and accompanied by required documents and the appropriate fee of \$ 600<sup>00</sup>.

(? why 600? Should have been \$500 since predominant zoning is R-1)

[Signature] Name  
Senior Planner Title

STATEMENT OF OWNERSHIP

STATE OF KANSAS )  
                  ) SS  
SEDGWICK COUNTY )

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas viz:

Record Owners within 1000 feet of:  
The East Half of the Northeast  
Quarter of Section 33, Township  
26 South, Range 1 West of the Sixth  
Principal Meridian, Sedgwick  
County, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

Descriptions

East Half of the Northeast  
Quarter of Section 33, T26S,  
R1W,  
AND  
West Half of the Northeast  
Quarter of Section 33, T26S,  
R1W,

The W $\frac{1}{2}$  of the SE $\frac{1}{4}$  lying N & E of  
the Missouri-Pacific RR R-O-W  
Sec. 33, T26S, R1W AND a Tract  
of land in the SE $\frac{1}{4}$  of Sec. 33,  
T26S, R1W, described as: Beginning  
at the Southeast corner and going  
Northerly on the East line of said  
Section a distance of 2665.6 feet  
to the East Quarter corner of  
said Section; thence turning left  
deflecting 90° 43' and going  
Westerly a distance of 1354.11 feet;  
thence turning left deflecting 89°  
17' and going Southerly a distance of  
2664.4 feet to the South line of the  
Section; thence turning left and  
going Easterly a distance of  
1354.1 feet to the point  
of beginning.

Record Owners

Lola B. Tokleson  
9632 W. 37th Street North  
Wichita, Kansas 67205

dup

Ritchie Enterprises  
1900 Amidon  
Wichita, Kansas 67203

**Fidelity**  **Title**  
COMPANY, INC.

Descriptions

Record Owners

North Half of the Southeast Quarter, Gail I. Woodard  
 EXCEPT the West Half of the South- 4320 Maize Road  
 east Quarter lying North and East Maize, Kansas 67101  
 of the Missouri-Pacific Railroad Right  
 of Way Section 33, Township 26  
 South, Range 1 West; and a tract of  
 land in the Southeast Quarter of  
 Section 33, described as: Beginning  
 at the Southeast corner of Section 33,  
 and going Northerly on the East line  
 of said Section a distance of 2665.6  
 feet to the East Quarter corner of  
 said Section; thence turning left  
 deflecting 90° 43' and going Westerly  
 a distance of 1354.11 feet; thence  
 turning left deflecting 89° 17' and  
 going Southerly a distance of 2664.4  
 feet to the South line of the Section;  
 thence turning left and going Easterly  
 a distance of 1354.1 feet to the point  
 of beginning.



Northwest Quarter of the Southwest  
 Quarter of Section 34, T26S, R1W,

Leo R. Wetta, Trustee, pursuant  
 to a certain trust agreement  
 executed by the grantor and the  
 said trustee on the 6th day of  
 June, 1979  
 6000 N. 119th Street West  
 Maize, Kansas 67101

Northwest Quarter of Section 34,  
 T26S, R1W, EXCEPT a tract beginning  
 at a point 2,282 feet East of the  
 Northwest corner of the Northwest  
 Quarter of said Section 34; thence  
 South 915.126 feet; thence West  
 2,282 feet, more or less, to the  
 West line of said Quarter Section;  
 thence North along the West line  
 of said Quarter section 915.126  
 feet to the Northwest corner of the  
 Northwest Quarter of said Section  
 34; thence East 2,282 feet to point  
 of beginning;

Ken-Win Farms, Inc.  
 ADDRESS UNKNOWN

✓ c/o Kenneth Ott  
 Maize, Ks 67101

(from ownership list  
 in cv-292)

AND  
 Beginning 1,904 feet East of the  
 Northwest corner of Section 34, T26S,  
 R1W; thence South 915.126 feet;  
 thence West 1,904 feet; thence North  
 915.126 feet; thence East 1,904  
 feet, to the place of beginning.

Southwest Quarter of the South-  
 west Quarter of Section 27, T26S,  
 R1W,

Dean W. & Pauline Nicholson  
 4106 W. 71st Street North  
 Wichita, Kansas 67205

South Half of the Southeast Quarter  
 of Section 28, T26S, R1W,

Edythe E. Haywood and LaVonna J.  
 & Robert C. Moldenhauer, Co-  
 Trustees of the LaVonna J.

Moldenhauer Trust Dated the  
 19 day of July, 1984  
 (See page 3)

Fidelity  Title

COMPANY, INC.

Descriptions

Record Owners

(Cont'd from page 2)

✓ 4103 W. 10th  
Wichita, Kansas 67212

Dated at Wichita, Kansas, this 25th day of April, 1986 at 7:00 AM.

FIDELITY TITLE COMPANY, INC.

*Medina L. Sutter*

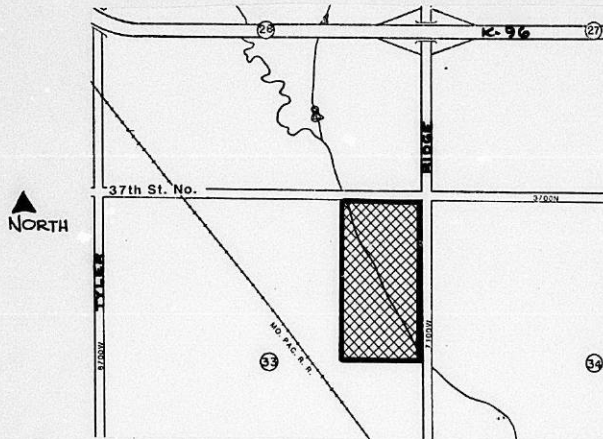
By Assistant Secretary

Tracer No. 73394



JUNE 12, 1986

STAFF REPORT



CU-293 - REQUEST FOR CONDITIONAL USE PERMIT FOR A SAND EXTRACTION OPERATION ON PROPERTY ZONED "R-1" AND "LC", LOCATED AT THE SOUTHWEST CORNER OF RIDGE ROAD AND 37TH STREET NORTH.

Applicant: Lola Torkleson, et. al., 9632 W. 37th Street North, Wichita, KS 67205

	Land Use	Zoning	Size
Application Area	Agriculture	"R-1" & "LC"	80 acres
North	Agriculture	"R-1" & "LC"	
South	Agriculture	"E" w/ CU for sand extraction	
East	Agriculture	"R-1" & "LC"	
West	Agriculture	"R-1"	

History: CU-282 Request for sand extraction 5/30/85 MAPC approved  
6/26/85 BCoC denied

**Background:** The applicant is requesting a conditional use permit to establish a sand extraction operation on 80 acres of unplatted land located south of 37th Street North and west of Ridge Road. The land is currently being farmed. One year ago the Planning Commission recommended approval of a similar request on this property subject to a number of conditions including the standard fencing requirement. The applicant was not agreeable to installing the fence and the County Commission denied the conditional use permit.

**Analysis:** The Big Slough bisects this property and creates a floodway and a floodplain over much of this site as specified on the FEMA maps. The recommended fencing requirements for the floodway portion of the site have been modified as noted in item "i". Due to the recent adoption of the County Floodplain Management Resolution, several new conditions of approval are required for this floodway/floodplain site as noted in items "f", "g" and "h".

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- h. In accordance with the County's Floodplain Management Resolution, the applicant shall submit his operational and extraction plans to the State Division of Water Resources for review. Approval from the Division must be obtained prior to publication of the resolution authorizing the conditional use permit for sand extraction.
- i. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), and shall be maintained along the perimeter of the excavation area and plant operation area 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 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 construction:
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  - (2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or

- (3) A 48" 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.

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- j. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
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- l. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- m. 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.
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- o. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing dust.
- p. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- q. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or closer than 50 feet to any property line.
- r. 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 to the approximate size as indicated on the approved plan.
- s. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
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- v. Any violation of conditions attached shall declare the conditional use permit null and void.

FORM 29-21

PAYMENT NOTICE  
City of Wichita

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

Planning

DESCRIPTION *1000* AMOUNT

NAME *PEC*

ADDRESS *1400 2nd St*

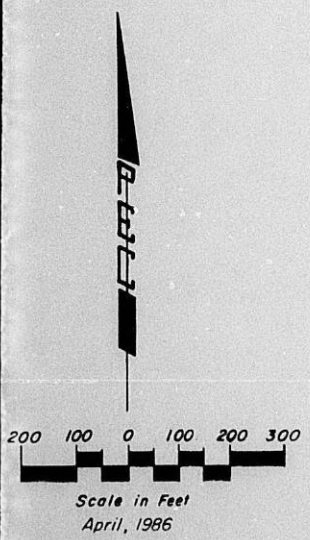
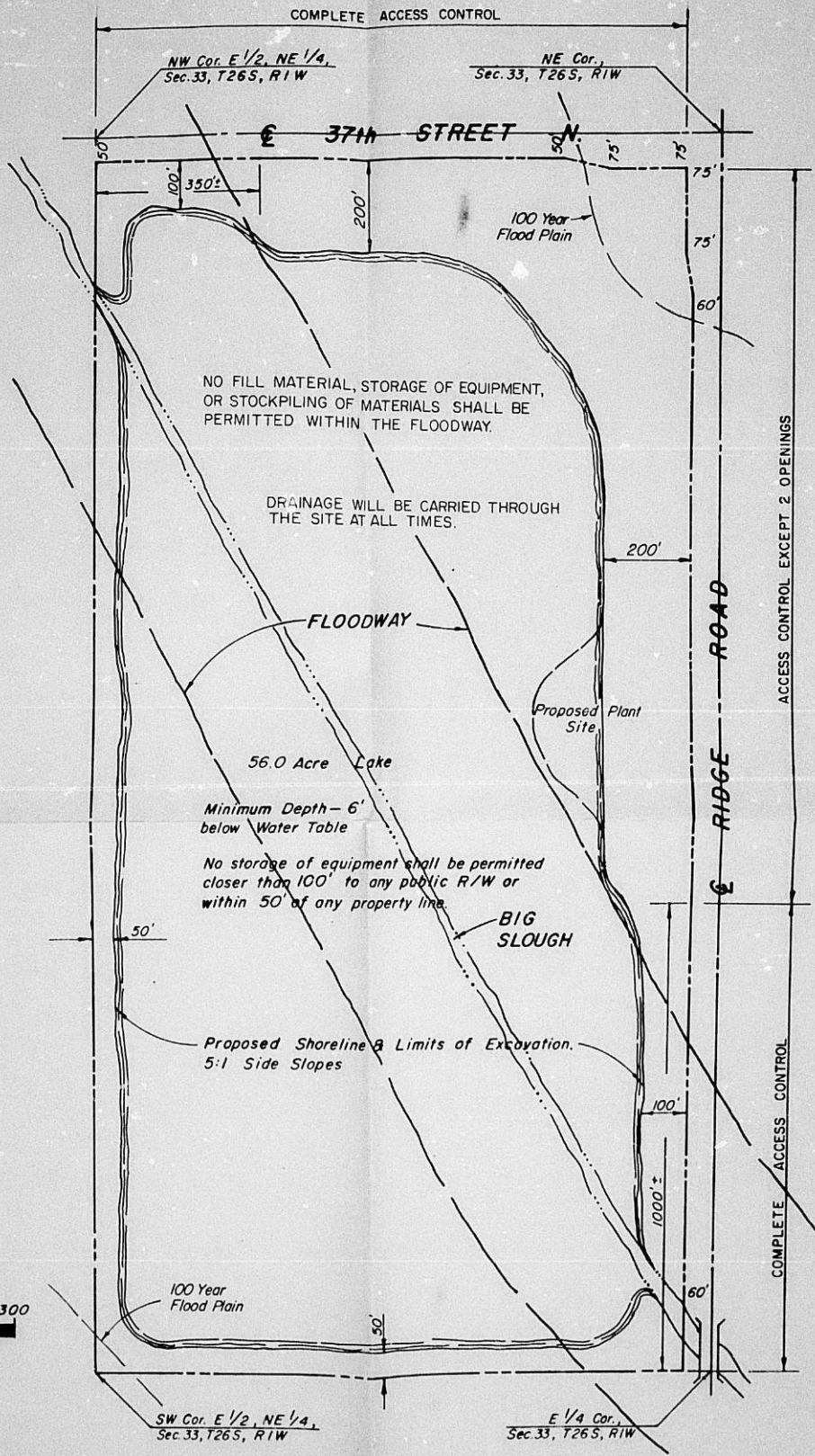
FUND *22-4000-100*

DUE DATE *1/15/60*

COMMENTS

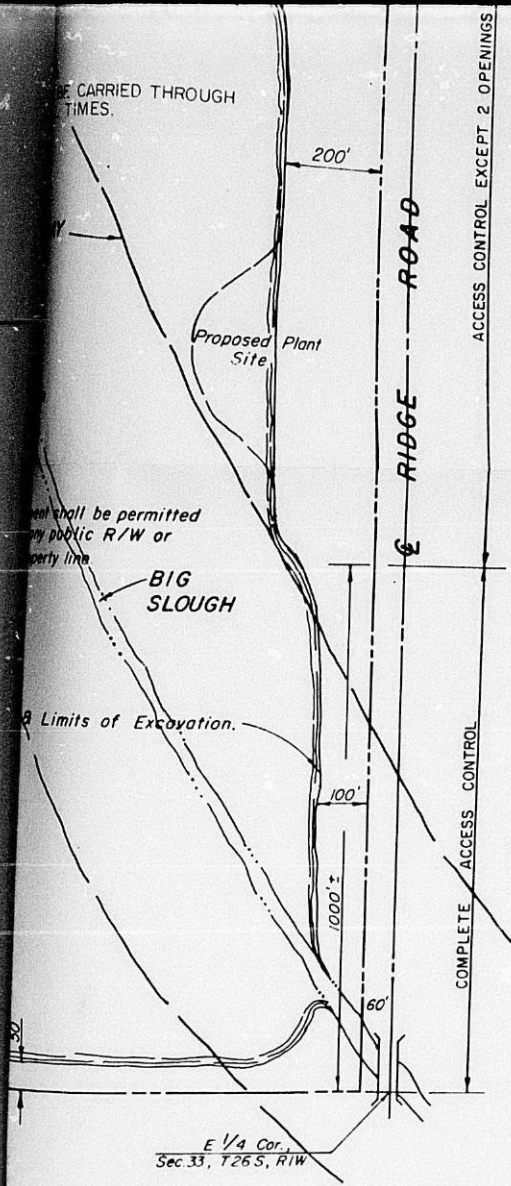
DATE *1/15/60*

BY *EC*



OPERATIONAL PLAN

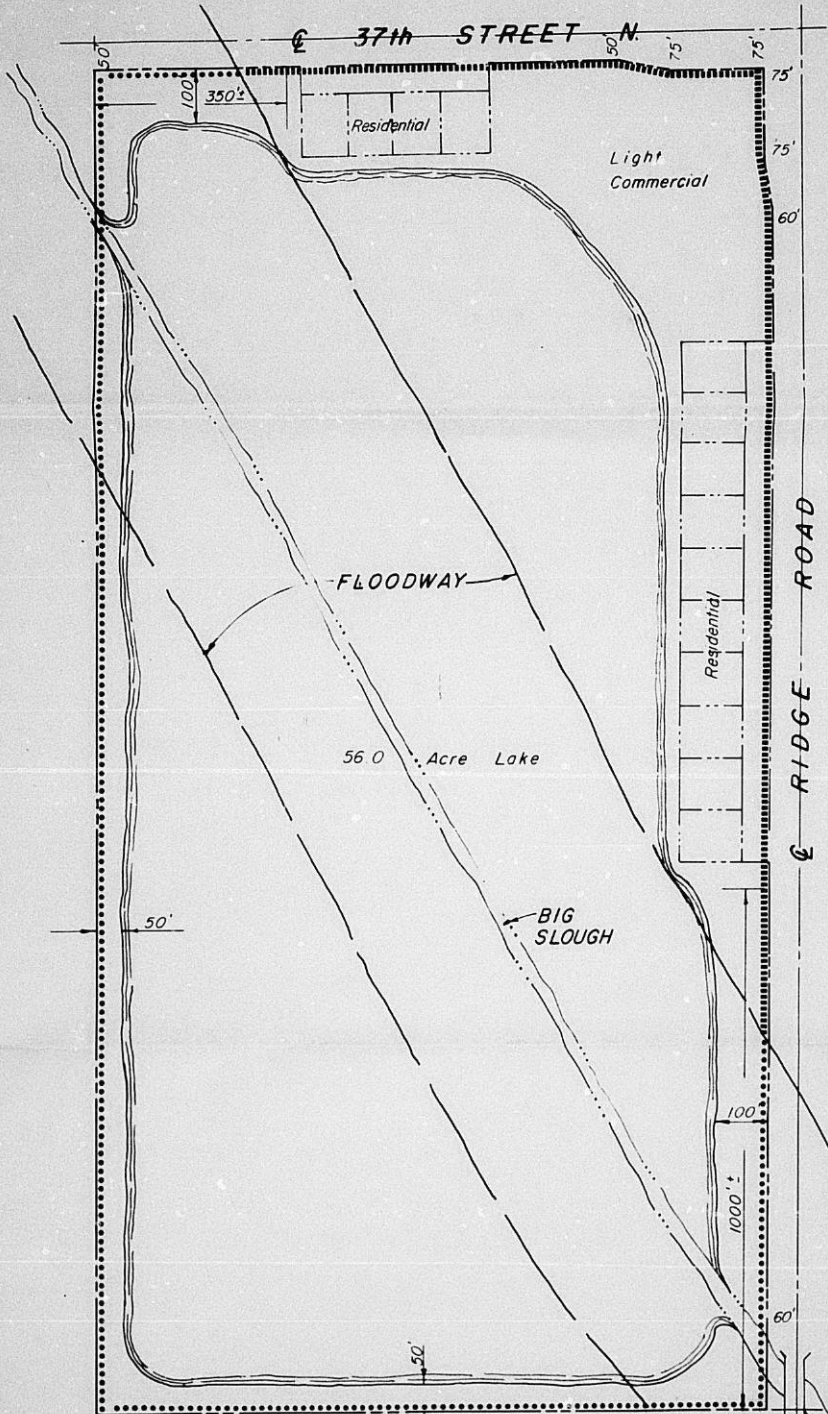
**CENTRAL SAND CONDITIONAL USE**



AL PLAN



CONDITIONAL USE

*As submitted to State Division of Water Resources*



**FENCING PLAN**

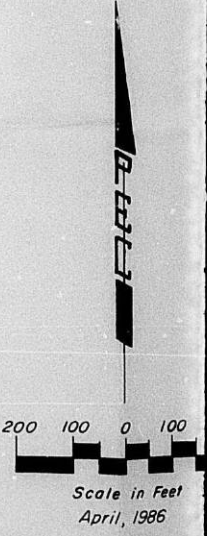
**LEGEND**

- 
 48 INCH HIGH CHAIN LINK FENCE WITH THREE STRANDS OF BARS
- 
 FOUR STRANDS OF WIRE, 48 INCHES

**ALTERNATE - 2**

**REDEVELOPMENT PLAN**



**CENTRAL SAND**

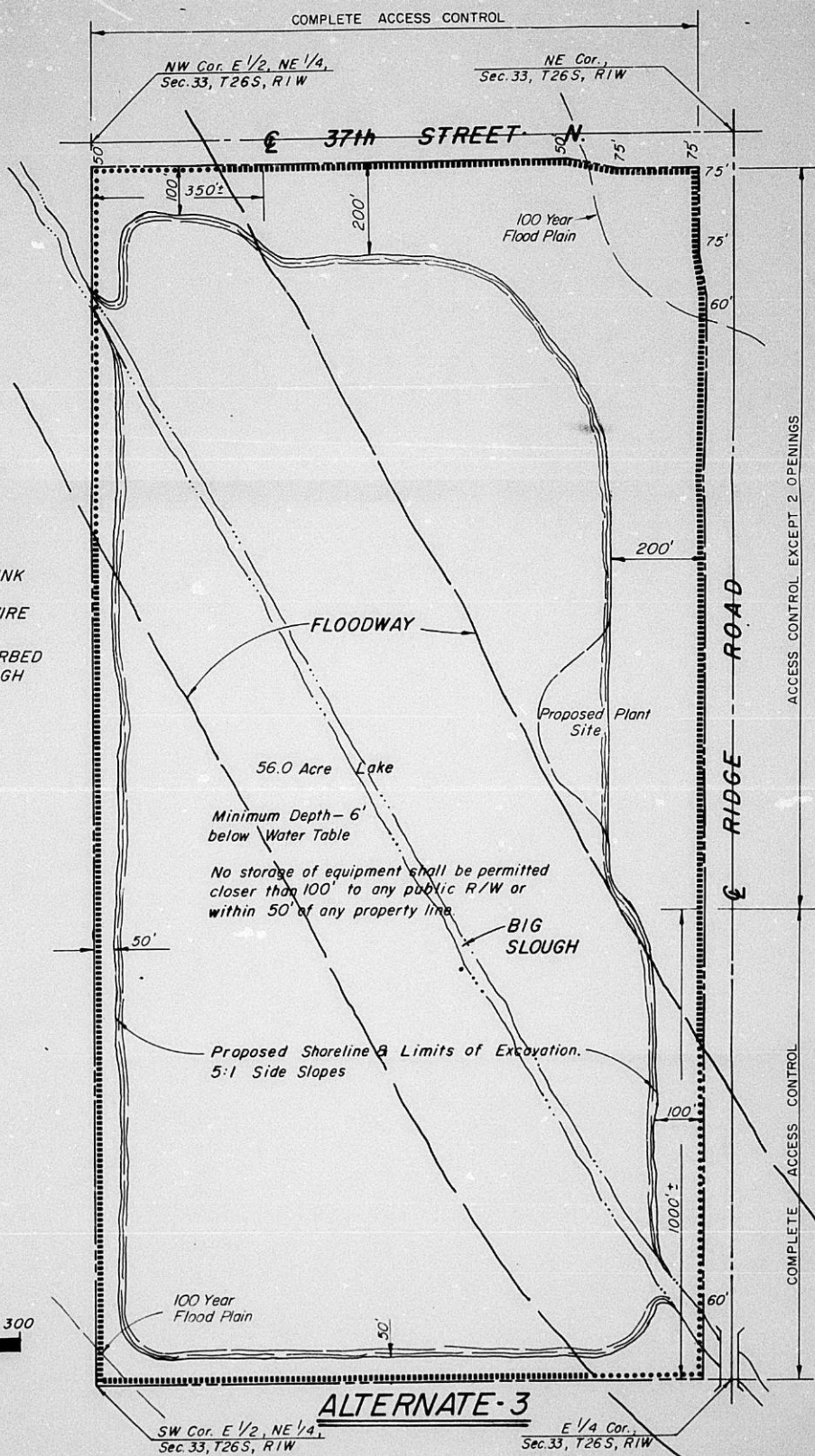


*Fencing alternates 2+3 proposed by applicant*

# FENCING PLAN

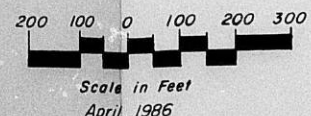
## LEGEND

-  48 INCH HIGH CHAINLINK FENCE WITH THREE STRANDS OF BARBED WIRE
-  FOUR STRANDS OF BARBED WIRE, 48 INCHES HIGH



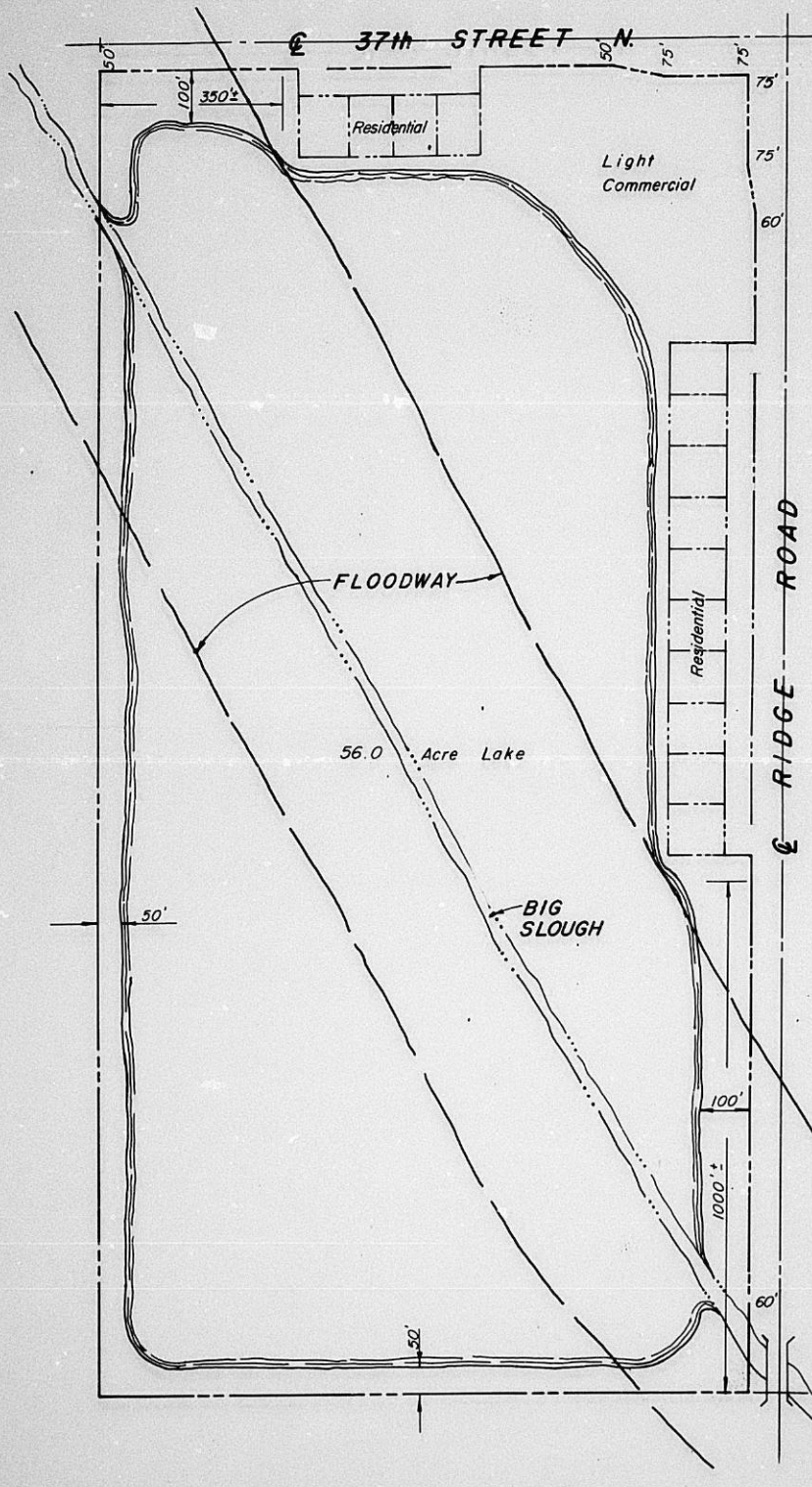
**ALTERNATE-3**

OPERATIONAL PLAN



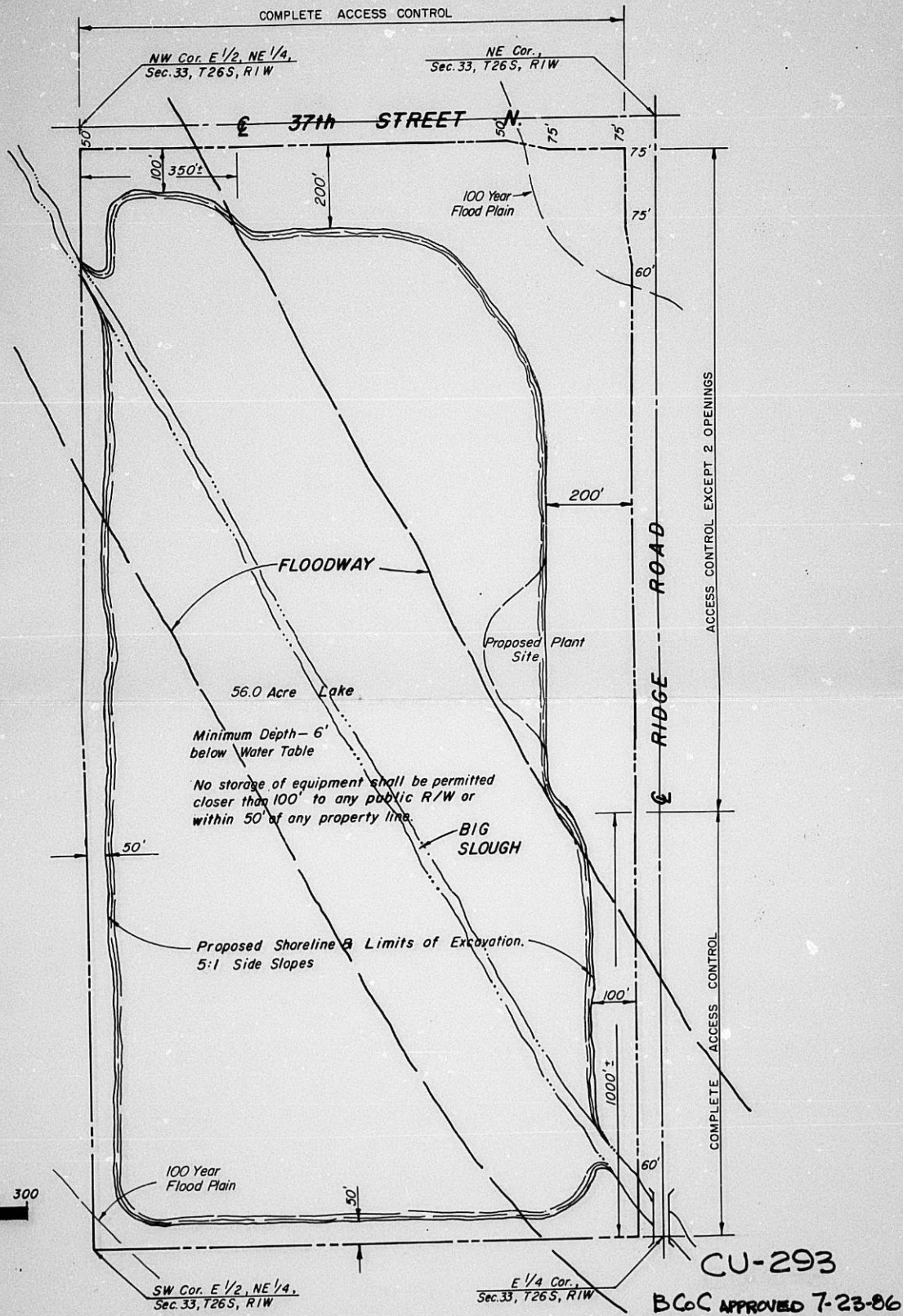
**SAND CONDITIONAL USE**

received 7-31-86



**REDEVELOPMENT PLAN**

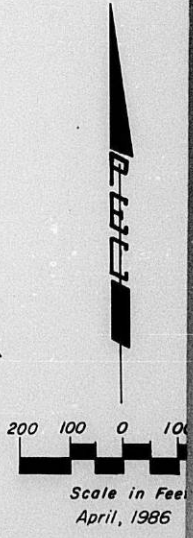
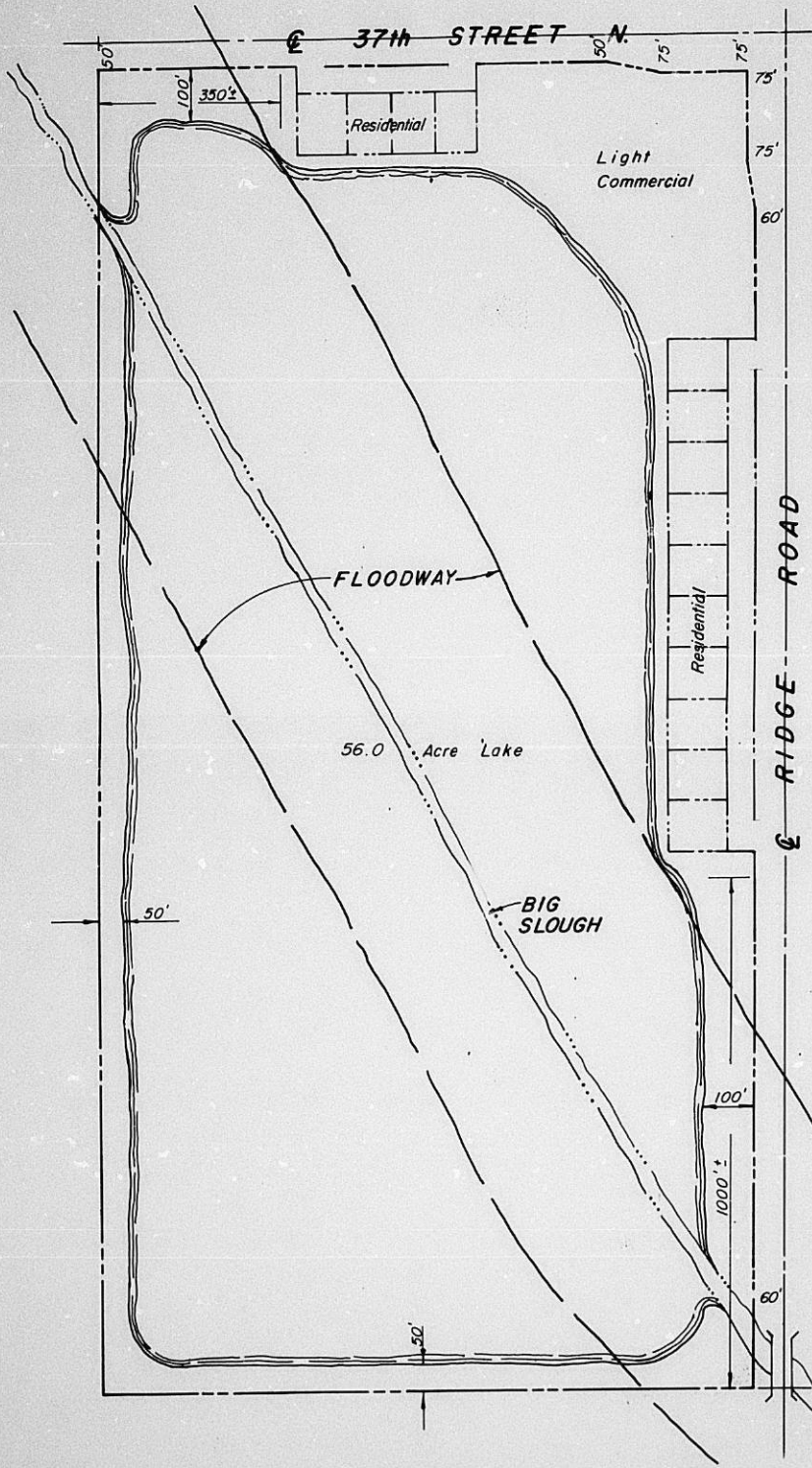
**CENTRAL SAND**



OPERATIONAL PLAN

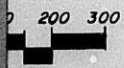
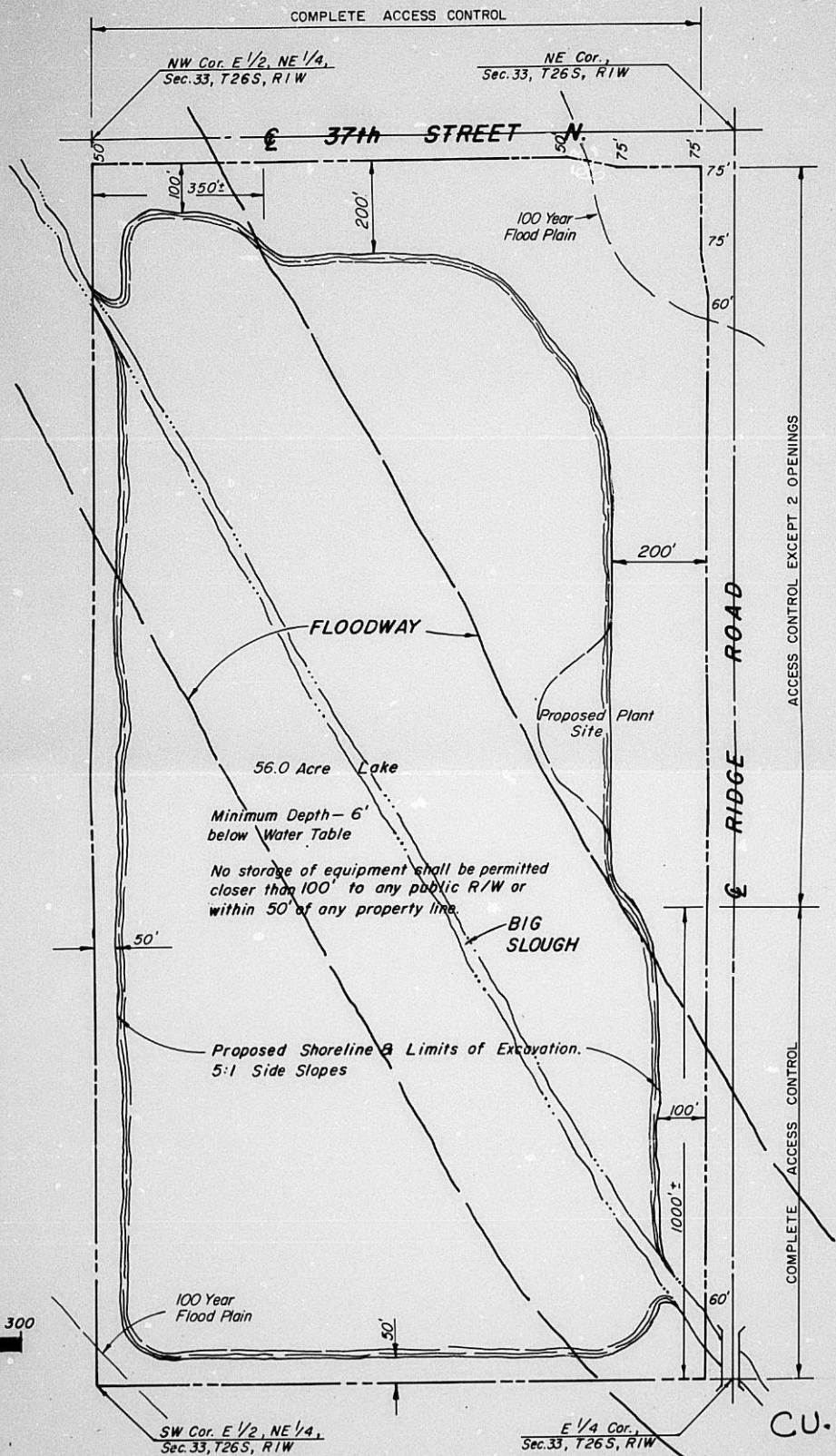
CONDITIONAL USE

(BGC WAIVED ALL FENCE REQUIREMENTS 8-8-86)



REDEVELOPMENT PLAN

CENTRAL SAND



CU-293

BGC APPROVED 7-23-86

OPERATIONAL PLAN

(BGC WAIVED ALL FENCE REQUIREMENTS 8-8-86)

CONDITIONAL USE