

ACTION

DATE

COMMITTEE
Derby P.C.
M.A.P.C.

Approve
Agreed out to
conditions

8-7-86
8-21-86

R.C.C./B. CO. C. Approved out
to conditions
As Recommended.

7-17-86

closed

CU-298 Donnie Cook, Etux. request conditional use permit to extend the time permitted for a raw material extraction operation on the south side of Park Ave. S. between Clifton and the Arkansas River

POSTED 7-23-86
Map G KC

ACTION

COMMITTEE		DATE
Derby P.C.	<u>Approve</u>	8-7-86
M.A.P.C.	<u>Approved sub to conditions</u>	8-21-86
P.C.C./B. CO. C.	<u>Approved sub to conditions as recommended.</u>	9-17-86

Closed

CU-298 Donnie Cook, Furx, request
conditional use permit for a second
line permitted for a second
year. Request for operation on the
south side of the river. The
Clifton and the Adams River

DATA SHEET

Z- _____
SCZ- _____
CU- 298
DR- _____
DP- _____

Amend _____
Case Filed: 7-21-86
Associated Case: _____

APPLICATION DATA: Map No. 5739 D

1. General Location: On the south side of 63rd Street South between Clifton and the Arkansas River

2. From _____ to _____

3. Proposed Use: Conditional Use Permit to Extend the Time Permitted for a Raw Materials Extraction Operation on Property Zoned "R" Rural Residential District

4. DP Name: _____

5. Applicant: Donnie E. and Norma J. Cook
Address 6303 South Clifton, Derby, Kansas 67037 Phone 788-1604

6. Agent: SAVA
Address _____ Phone _____

AREA DATA:

1. Acres: 36.52 (irregular) ft. by 1320 ft.

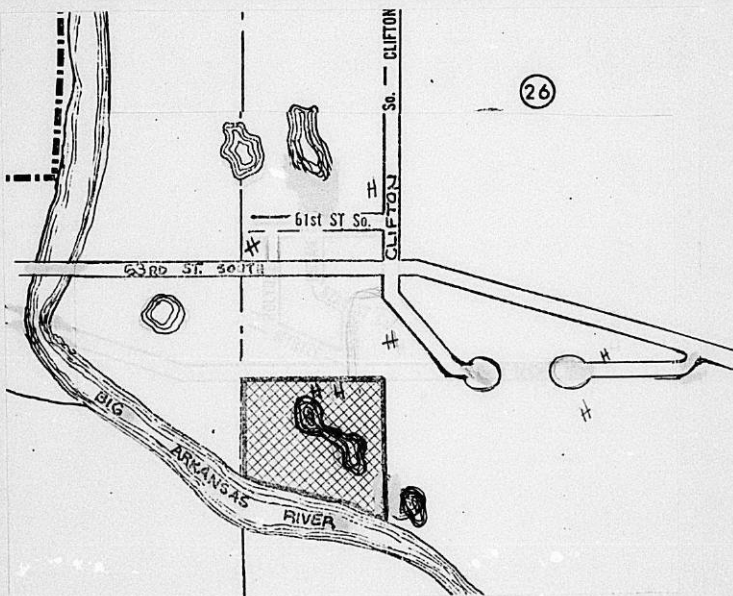
2. Adjoining Zoning: N "R-1" S "R" E "R" W "R"

3. Land Use: North _____ East _____
South _____ West _____

PICTURE SHEET

PHOTO DATA:

Taken by _____ Date _____ Time _____



NOTES:

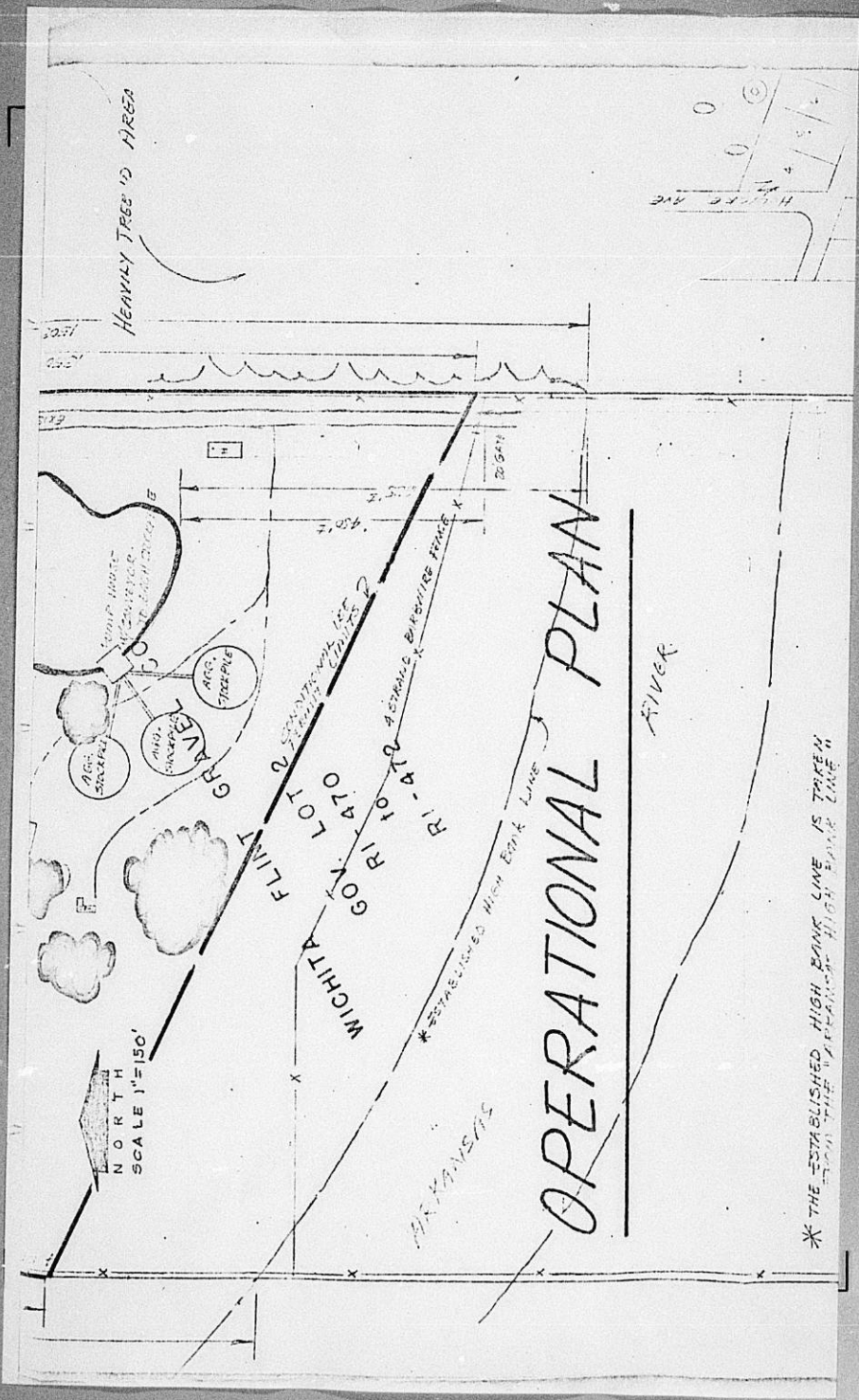
T9-214-2

Sheel
No. 2183C
HASTING, AN
LOS ANGELES, CHICAGO, LOS AN, OH
MORNING, N. Y. BRANCH, U.S.A.

10-10-88

I called Roy
Warley to remind him
of the 9-17-88 deadline
for completing this
extraction operation.
He will write Cook
and advise.

L.O.



HEAVILY TREE'D AREA

NORTH
SCALE 1"=150'

WICHTA FLINT GOV LOT
RI-470
RI-472

OPERATIONAL PLAN

RIVER

* THE ESTABLISHED HIGH BANK LINE IS TAKEN FROM THE ORIGINAL HIGH BANK LINE



ARIZONA

CU-298
file

Info from Health
Dept. re dumping
which is occurring
on this land

John Davis from
the Health Dept.
dropped off the sum
total of the Health
Dept's file".

Barb 3⁰⁰
8-7-86



H A N D D E L I V E R Y

July 21, 1986

Donnie E. Cook, ETUX
RR 2
6303 S. Clifton
Derby, KS 67037

RE: 63rd and South Clifton

Legal Description:

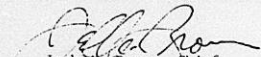
All Gov. Lot 2 Exc E 100 ft W 610.5 ft E 100 ft W 610.5 ft
Gov. Lot 2 NWk Sec 35-28-1E, RIVERSIDE TOWNSHIP, SEDGWICK
COUNTY KANSAS (Key #RI-00470, RI-471, RI-471-1, RI-472,
RI-00472-0001).

Chapter 10 of Health and Sanitation Code No. 7, for the County of Sedgwick, Kansas; reads in part, "It shall be unlawful for any person to process or dispose of solid waste other than in accordance with the laws of the State of Kansas and the provisions of this solid waste code", and "It shall be unlawful for any person or municipality to maintain and/or operate a solid waste disposal site...without having a current license issued by the Kansas Department of Health and Environment."

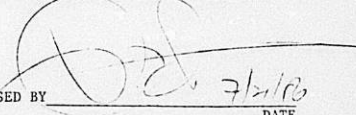
In addition, Chapter 12 of the said code states in part, "Any such solid waste which is dumped, deposited, or disposed of at any place other than at a licensed sanitary landfill or other licensed processing facility which can be identified in relation to a person or to an occupied premise shall be the responsibility of such person or the occupant of such premise and such person or occupant may be required by the enforcing agency to effect clean-up of such solid waste immediately. Failure to comply with an order of the enforcing agency for such clean-up shall be a violation of this code."

You have no permit to operate a facility of any kind at your address. Therefore you are immediately to cease operating the dump. Within 30 days all solid waste presently on the site is to be removed or compacted and covered with 2 feet of topsoil.

If you have any questions, please call me or Mr. John-Davis at 268-8351.


Jack A. Brown, Chief
Environmental Quality

Refused to
sign

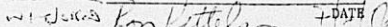
WITNESSED BY 

DATE

JAB/cb

cc: John Davis, Health Dept.

RECEIVED BY

 DATE

Nichita-Sedgwick County Department of Community Health
1900 East Ninth Street-Nichita, Kansas 67214-3198 (316)268-8401

Nichita-Sedgwick County Department of Community Health
1900 East Ninth Street - Nichita, Kansas 67214

730 317

6

HOLD
DATE

4

1ST NOTICE

17

2ND NOTICE

RETURN

Attached from
Form 3849-A
1980



DELIVER TO ADDRESSEE ONLY

Donnie E. Cook, ETUX
RR 2
6303 S. Clifton
Derby, KS 67037
Federal Department of Health
County Health
NICHITA, SEDGWICK COUNTY FIRE

Legal Description:



RETURN RECEIPT REQUESTED

Fold at line over top of envelope to the right of the return address

CERTIFIED
P 246 735 532
MAIL

RECEIVED
NICHITA, KS
JUN 1 1986



C E R T I F I E D

June 30, 1986

Donnie E. Cook, ETUX
RR 2
6303 S. Clifton
Derby, KS 67037

RE: 63rd and South Clifton

Legal Description:

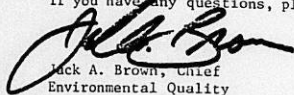
All Gov. Lot 2 Exc E 100 ft W 610.5 ft E 100 ft W 610.5 ft
Gov. Lot 2 NW $\frac{1}{4}$ Sec 35-28-1E, RIVERSIDE TOWNSHIP, SEDGWICK
COUNTY KANSAS (Key #RI-00470, RI-471, RI-471-1, RI-472,
RI-00472-0001).

Chapter 10 of Health and Sanitation Code No. 7, for the County of Sedgwick, Kansas; reads in part, "It shall be unlawful for any person to process or dispose of solid waste other than in accordance with the laws of the State of Kansas and the provisions of this solid waste code", and "It shall be unlawful for any person or municipality to maintain and/or operate a solid waste disposal site...without having a current license issued by the Kansas Department of Health and Environment."

In addition, Chapter 12 of the said code states in part, "Any such solid waste which is dumped, deposited, or disposed of at any place other than at a licensed sanitary landfill or other licensed processing facility which can be identified in relation to a person or to an occupied premise shall be the responsibility of such person or the occupant of such premise and such person or occupant may be required by the enforcing agency to effect clean up of such solid waste immediately. Failure to comply with an order of the enforcing agency for such clean up shall be a violation of this code."

You have no permit to operate a facility of any kind at your address. Therefore you are immediately to cease operating the dump. Within 30 days all solid waste presently on the site is to be removed or compacted and covered with 2 feet of topsoil.

If you have any questions, please call me or Mr John Davis at 266-8351.


Jack A. Brown, Chief
Environmental Quality

JAB/cb

cc: Richard Hunter, Health Department
John Davis, Health Department
Ed Haug, Health Department
Chuck Linn, Kansas Department of Health and Environment
Ron Worley, County Zoning
Gary Nichols, Sedgwick County Fire Department

Nichita-Sedgwick County Department of Community Health
1900 East Ninth Street-Nichita, Kansas 67214-3198 (316)268-8401



State of Kansas . . . ROBERT F. BENNETT, Governor

DEPARTMENT OF HEALTH AND ENVIRONMENT

DWIGHT F. METZLER, Secretary

Topeka, Kansas 66620



August 19, 1977

Cornejo and Sons
Wrecking and Excavating, Inc.
750 East Funston
Wichita, Kansas 67211

C
O
P
Y

Dear Mr. Cornejo:

Regarding your letter dated August 9, 1977, concerning disposal of construction debris on property owned by D. E. Cook in Sedgwick County, Kansas.

Enclosed is the application for approval to establish and operate an industrial or construction land disposal area.

K.S.A. Supp. 1976 65-3407 requires an annual \$50.00 permit fee from owners or operators of solid waste disposal sites. Make your check payable to the Kansas Department of Health and Environment and return it along with the completed application.

Sincerely yours,

Division of Environment

Robert E. Kinder, Engineering Technician
Solid Waste Management Section
Bureau of Environmental Sanitation

cc: Wichita Sedgwick Co. Health Dept. ✓



July 29, 1977

Mr. D.E. Cook
6303 S. Clifton
Wichita, Kansas

Dear Mr. Cook:

With reference to our recent conversation concerning the material that is being dumped along the river bank along your property, I would refer you to the Solid Waste Code for Sedgwick County, Kansas.

In particular, I would refer you to Chapter 10, Solid Waste Disposal in part which states:

"...It shall be unlawful for any person or municipality to maintain and/or operate a solid waste disposal site, facility and operation or a solid waste processing facility without having a current license issued by the Kansas Department of Health and Environment."

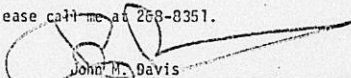
Solid Waste is defined in Chapter 1, Section 1(38) as...

"...useless, unwanted or discarded, solid or liquid (other than sewage) material relating to or produced by agricultural, commercial, domestic or industrial activities, including but not limited to garbage, paper, rocks, cans, bottles and other containers, packing material, household wares, leaves, grass, parts of trees, shrubs and other vegetation, ashes, lumber, masonry, concrete and other building materials, appliances, and furniture, pesticides, chemicals, pathological materials, radio-active materials, flammable and explosive materials, oils and solvents, manure, implements and machinery, street sweeping and mud trap accumulations provided that the term solid waste does not include any uncontaminated earth, stone or minerals or junk vehicles."

Therefore, in accordance with Section 3 of Chapter 1 of Health and Sanitation Code No. 7 of Sedgwick County, Kansas, I request that as soon as possible all material on your property be bulldozed into the ground and covered by an adequate cover of dirt.

Thereafter, if you wish to continue to run a disposal site, you should contact Mr. Charles H. Linn, Kansas Department of Health and Environment, Division of Environment, Topeka, Kansas 66620, to obtain the necessary licenses.

If you have any questions, please call me at 268-8351.


John M. Davis

Solid Waste Management Program Co-Ordinator
Wichita-Sedgwick County Department of Community Health
1900 East Ninth Street-Wichita, Kansas 67214 (316)268-8201



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*

DATE: October 16, 1986

SUBJ: CU-298

I have enclosed a copy of the revised Floodplain Development Permit covering the site for CU-298. All requirements for the conditional use permit imposed by the Bureau of Public Services have been met.

JW/sd

enclosure

RECEIVED

OCT 17 1986

METROPOLITAN PLANNING

ROUTE _____

SEDGWICK COUNTY KANSAS
FLOODPLAIN DEVELOPMENT PERMIT/APPLICATION

Application # _____ Date _____
Building Permit # _____ Date _____

1. Name of Applicant Donnie E. and Norman J. Cook
2. Address of Development Site 6303 S. Clifton, Derby, KS 67037

3. Type of Development:

Filling _____ Grading _____ Excavation X Routine Maintenance _____
Minor Improvement _____ Substantial Improvement _____ New Construction _____
(If Applicable)
Pre-improvement Value of Structure _____ Cost of Improvement _____

4. Description of Development Sand extraction operation to develop
pit type pond per CU-298

5. Property located in a designated Floodway? Yes _____ No X

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 X No _____

a) Elevation of the Base (100-year) Flood 1254 MSL/NGVD

b) Elevation/floodproofing requirement 1256 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 225

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

State Permit: Yes _____ No X

Local Levee District: Yes _____ No X

Local Drainage District: Yes _____ No X

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 23rd day of Sept. 1986.

Donnie E. Cook
Signature of Developer/Owner

Ken R. Worley
Sedgwick County Kansas
Building Official & Zoning Administrator

RESTRICTIVE COVENANT

DONNIE E. COOK AND NORMA J. COOK, husband and wife, hereby make the following declaration as to restrictions, limitations, and use of the following described real estate:

Government Lot 2 in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, Township 28 South, Range 1 East of the 6th P.M. Generally located on the South side of 63rd Street South between Clifton and the Arkansas River.

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

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 the excavation made in the removal of sand or gravel on said premises at any time.

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.

3. 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 above restrictions and agreement shall be deemed a covenant running with the land and shall not be amended, deleted, or changed. This covenant being more restrictive, as required by the MAPC and the Sedgwick County Commissioners, than the covenant recorded on Film 300 at Page 1199, hereby supersedes said previous covenant.

IN WITNESS WHEREOF, this Restriction has been executed on this 30 day of SEPTEMBER, 1986

STATE OF KANSAS
 SEDGWICK COUNTY
 FILED FOR RECORD AT
 1:00 P
 SEP 26 1986
 NO. 8 35228
 STATE OF KANSAS
 SEDGWICK COUNTY)
 RAT KETTLER
 REGISTER OF DEEDS
 SS.

Donnie E. Cook
 DONNIE E. COOK
Norma J. Cook
 NORMA J. COOK
 MICROFILMED
 OF RECORD

BE IT REMEMBERED, that on this 30 day of September, 1986, before me a Notary Public in and for said County and State, came Donnie E. Cook and Norma J. Cook to me personally known to be the same person(s) 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.

IRENE DARR
 NOTARY PUBLIC
 STATE OF KANSAS
 MY APPT. EXPIRES 8-29-87

Irene Darr
 NOTARY PUBLIC

My Appointment Expires:
August 29, 1987

500 City Clerk

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

September 25, 1986

TO: Ron Worley, Zoning Administrator,
Department of Planning and Code Enforcement

FROM: Louise Olivarez, Senior Planner, Current Plans

SUBJECT: CU-298 - South of 63rd Street South between
Clifton and the Arkansas River

Attached is one xerox copy of the approved operational plan for Donnie Cook's sand extraction operation. It is the same plan which was approved for his previous permits CU-203 and CU-260. County Engineering advised that this land is NOT in the Floodway and therefore his development plans do not have to be approved by the Division of Water Resources.

Also attached is a copy of the restrictive covenant prohibiting foreign matter and the resolution authorizing a two year extension of this conditional use. The new expiration date is September 17, 1988.

LO:blw
Attachments

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

September 17, 1986

TO: Donald C. Gisick, City Clerk
FROM: Louise Olivarez, Senior Planner, Current Plans
SUBJECT: Recording of covenant associated with CU-298

On September 17, 1986, the Board of County Commissioners approved a conditional use permit for a sand extraction operation on property located south of 63rd Street South between Clifton and the Arkansas River. One of the requirements of that permit was a restrictive covenant prohibiting placement of foreign matter within the excavation or on the site. Attached to this memo is the covenant which needs to be recorded with the Register of Deeds as soon as possible. You may bill the recording cost to account number 755-68-360-50000-295-000-000.

Thank you.

LO:blw
Attachment

RESTRICTIVE COVENANT

DONNIE E. COOK AND NORMA J. COOK, husband and wife, hereby make the following declaration as to restrictions, limitations, and use of the following described real estate:

Government Lot 2 in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, Township 28 South, Range 1 East of the 6th P.M. Generally located on the South side of 63rd Street South between Clifton and the Arkansas River.

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

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 the excavation made in the removal of sand or gravel on said premises at any time.

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.

3. 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 above restrictions and agreement shall be deemed a covenant running with the land and shall not be amended, deleted, or changed. This covenant being more restrictive, as required by the MAPC and the Sedgwick County Commissioners, than the covenant recorded on Film 300 at Page 1199, hereby supersedes said previous covenant.

IN WITNESS WHEREOF, this Restriction has been executed on this 30 day of SEPTEMBER, 1986

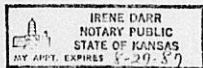
Donnie E. Cook
DONNIE E. COOK

Norma J. Cook
NORMA J. COOK

STATE OF KANSAS)
) ss.
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this 3rd day of September, 1986, before me a Notary Public in and for said County and State, came Donnie E. Cook and Norma J. Cook to me personally known to be the same person(s) 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.



Irene Darr
NOTARY PUBLIC

My Appointment Expires:
August 29, 1987

Published in The Daily Reporter on September 29, 1986

RESOLUTION NO. 212-1986

CASE NO. CU-298

A RESOLUTION TO EXTEND THE TIME PERMITTED FOR A RAW MATERIALS EXTRACTION OPERATION ON PROPERTY ZONED "R" RURAL RESIDENTIAL 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 to extend the time permitted for a raw materials extraction operation on property zoned "R" Rural Residential District is hereby approved on lands legally described as follows:

Government Lot 2 in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, Township 28 South, Range 1 East of the 6th P.M. Generally located on the south side of 63rd Street South between Clifton and the Arkansas River.

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. The applicant shall proceed in accordance with the operational plan approved for CU-203 and reapproved for CU-260 and shall excavate the lake and form the banks as indicated on the approved plan although minor modifications may be made in order to widen the narrow part of the lake.
- B. The applicant shall be responsible for maintaining the existing four strands of barbed wire fence along the east and west property lines and the existing five strand barbed wire fence and gate along the north property line and the gate shall be kept locked except when in use.
- C. 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.
- D. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than four horizontal to one vertical.
- E. The sand plant operator shall be responsible for maintaining all operational roads in a graveled condition.
- F. The applicant shall submit a new restrictive covenant which provides that no foreign matter shall be deposited on the site or in the excavation area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.
- G. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Bureau of Public Services and shall be according to the specifications of these authorities.

- H. Once the sand extraction operation has ceased, all sand extraction equipment and all piles of sand and gravel shall be removed from the property within six months.
- I. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area unless duly authorized under provisions of the County Zoning Regulations. No topsoil removal shall be permitted, except as necessary to properly grade the site, unless a revised conditional use permit is requested and approved.
- J. 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.
- K. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- L. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- M. The applicant shall comply with conditions "F" and "L" prior to this case being scheduled for County Commission review.
- N. Any violation of conditions attached shall declare the conditional use permit null and void.
- O. This conditional use permit shall expire at the end of two years from the date of approval by the Board of County Commissioners.

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 17th day of September, 1986.

Bernard A. Hentzen Chairman
Bernard A. Hentzen

Donald E. Glegg Commissioner
Donald E. Glegg

Absent Commissioner
Tom Scott



Donnell L. Wright
Donnell L. Wright, County Clerk

(SEAL)

APPROVED AS TO FORM:

William D. Rustin
William D. Rustin, County Counselor

RESOLUTION NO. _____

CASE NO. CU-298

A RESOLUTION TO EXTEND THE TIME PERMITTED FOR A RAW MATERIALS EXTRACTION OPERATION ON PROPERTY ZONED "R" RURAL RESIDENTIAL 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.

*revised as per Weber's letter 9-5-86.
Copies submitted to Co. Commissioner 9-10-86*

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 to extend the time permitted for a raw materials extraction operation on property zoned "R" Rural Residential District is hereby approved on lands legally described as follows:

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- B. The applicant shall be responsible for maintaining the existing four strands of barbed wire fence along the east and west property lines and the existing five strand barbed wire fence and gate along the north property line and the gate shall be kept locked except when in use.
- C. 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.
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- E. The sand plant operator shall be responsible for maintaining all operational roads in a graveled condition.
- F. The applicant shall submit a new restrictive covenant which provides that no foreign matter shall be deposited on the site or in the excavation area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.
- G. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Bureau of Public Services and shall be according to the specifications of these authorities.

- H. Once the sand extraction operation has ceased, all sand extraction equipment and all piles of sand and gravel shall be removed from the property within six months.
- I. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area unless duly authorized under provisions of the County Zoning Regulations. No topsoil removal shall be permitted, except as necessary to properly grade the site, unless a revised conditional use permit is requested and approved.
- J. 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.
- K. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- L. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- M. The applicant shall comply with conditions "F" and "L" prior to this case being scheduled for County Commission review.
- N. Any violation of conditions attached shall declare the conditional use permit null and void.
- O. This conditional use permit shall expire at the end of two years from the date of approval by the Board of County Commissioners.

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
Donald E. Gragg

_____, Commissioner
Tom Scott

ATTEST:

Donnell L. Wright, County Clerk

(SEAL)

APPROVED AS TO FORM:

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*

DATE: September 5, 1986

SUBJ: CU-298 for Sand Extraction
at 63rd St. South and Clifton

Thank you for sending over a copy of the Operational Plan for the above referenced conditional use case. I have enclosed a copy of the FEMA Floodway Map with the application site outlined. My initial analysis of the site was incorrect. The sand pit is not located within the Regulatory Floodway of the Arkansas River, therefore, the applicant should not be required to contact the Division of Water Resources as a condition of approval.

The applicant has already obtained an engineer's certification that the development will not increase the 100 year water surface elevation. As the site is outside of the Regulatory Floodway, this certification should not have been required. I recommend that this requirement also be removed from the resolution so that it will not show up in a future time extension of the conditional use permit.

The Floodplain Development Permit should remain as a requirement of this case. We issued a permit on September 9, 1986, based on the site being located within the Regulatory Floodway. We will revise the permit to reflect the correct location within the floodplain.

JW/sd

cc: Ron Worley

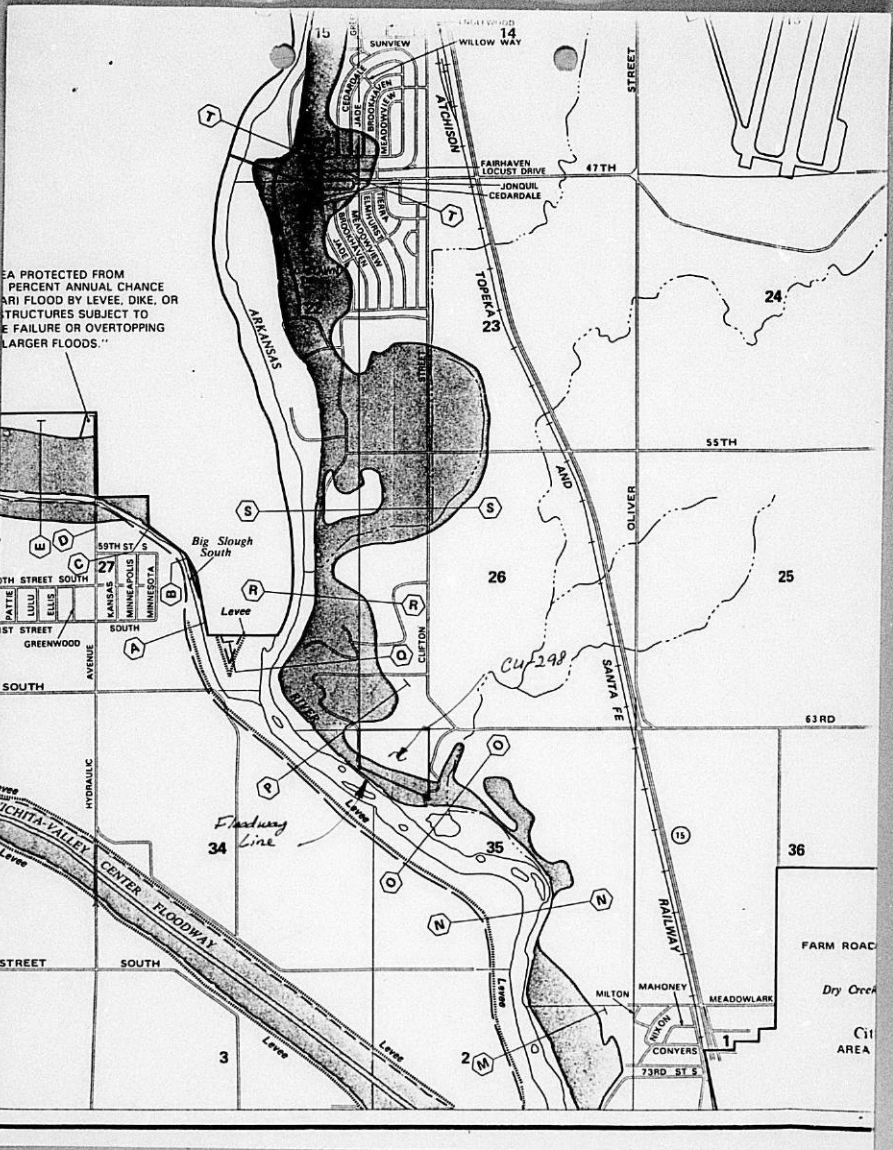
enclosure

RECEIVED

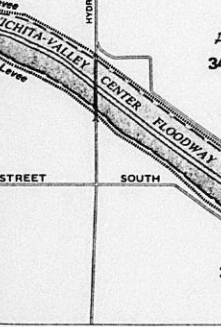
SEP 09 1986

METROPOLITAN PLANNING

ROUTE



AREA PROTECTED FROM
 1 PERCENT ANNUAL CHANCE
 FLOOD BY LEVEE, DIKE, OR
 STRUCTURES SUBJECT TO
 FAILURE OR OVERTOPPING
 DURING LARGER FLOODS."



FARM ROAD
 Dry Creek
 City
 AREA

Planning Agenda

Item #

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION
TO BOARD OF COUNTY COMMISSIONERS

REQUEST FOR CONDITIONAL USE

CU-298 - CONDITIONAL USE PERMIT TO EXTEND THE TIME PERMITTED
FOR A RAW MATERIALS EXTRACTION OPERATION, LOCATED SOUTH OF 63RD
STREET SOUTH BETWEEN CLIFTON AND THE ARKANSAS RIVER.

The MAPC recommends that the application be approved subject to conditions.
(see minutes for full motion)
Wilson moved, Parsons seconded and it carried unanimously. Conlee was absent.

- 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

DCPC Hearing Date: 8-07-86
MAPC Hearing Date: 8-21-86

BCoC Hearing Date: 9-17-86

Commission District #2

	<u>Land Use</u>	<u>Zoning</u>	<u>Size</u>
Application Area	Mobile homes, sand extraction	"R"	36± acres
North	Undeveloped	"R-1"	
South	River	"R"	
East	Undeveloped	"R"	
West	Undeveloped and river	"R"	
History:	CU-203		
	3/9/78	DCPC	approved
	3/23/78	HCPC	approved
	3/30/78	MAPC	approved
	4/19/78	BCoC	approved
	CU-260		
	4/14/83	DCPC	approved
	4/21/83	HCPC	approved
	5/5/83	MAPC	approved
	6/1/83	BCoC	approved

Applicant: Donnie E. & Norma J. Cook, 6303 S. Clifton, Derby, KS 67037.

Protestors: None.

EXCERPT FROM PLANNING COMMISSION MINUTES OF AUGUST 21, 1986

LEGAL:

4. Case No. CU-298 - Donnie E. & Norma J. Cook request conditional use permit for a raw materials extraction operation for Government Lot 2 in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, Township 28 South, Range 1 East of the 6th P.M. Generally located on the south side of 63rd Street South between Clifton and the Arkansas River.

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

Background: In 1978, a conditional use permit (CU-203) was granted for a raw materials extraction operation on this site. The land owner had made arrangements for a contractor to create a 4.5-acre lake in return for the sand which could be extracted during formation of the lake and work was substantially underway. The permit was granted for a five-year period. At the end of that time, the owner requested, and received, a three-year extension (CU-260), stating that additional time was needed to excavate a minimum of six feet below the water table. That time expired June 1, 1986. The owner now desires an additional two years to finish the lake and regrade the property. A slight expansion of the lake at its narrowest dimension is also proposed.

Analysis: Conditional Use Permits #203 and #260 were approved with side slopes of 4:1 on the excavation area and with the existing barbed wire fence being accepted in lieu of the standard chain link fence. A 4:1 slope was standard in 1978. The barbed wire fence was acceptable because of the remote location of the site and because several people already lived on the premises which was considered a deterrent to trespassers. These same requirements are incorporated into staff's recommended conditions of approval which are listed below. A new restrictive covenant regarding foreign matter is being requested so that the new wording about acceptable bank stabilization materials can be included. Items L, M & N are also new conditions, but are now required by the County's Floodplain Management Resolution which was adopted in June.

If the Planning Commission determines that an extension of time for this raw materials extraction operation is appropriate, the following are recommended conditions of approval:

- A. The applicant shall proceed in accordance with the operational plan approved for CU-203 and reapproved for CU-260 and shall excavate the lake and form the banks as indicated on the approved plan although minor modifications may be made in order to widen the narrow part of the lake.
- B. The applicant shall be responsible for maintaining the existing four strands of barbed wire fence along the east and west property lines and the existing five strand barbed wire fence and gate along the north property line and the gate shall be kept locked except when in use.
- C. 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.
- D. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than four horizontal to one vertical.
- E. The sand plant operator shall be responsible for maintaining all operational roads in a graveled condition.
- F. The applicant shall submit a new restrictive covenant which provides that no foreign matter shall be deposited on the site or in the excavation area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.
- G. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Bureau of Public Services and shall be according to the specifications of these authorities.

- H. Once the sand extraction operation has ceased, all sand extraction equipment and all piles of sand and gravel shall be removed from the property within six months.
- I. No commercial recreational activities, such as boating fishing, skiing, etc., shall be permitted in the area unless duly authorized under provisions of the County Zoning Regulations. No topsoil removal shall be permitted, except as necessary to properly grade the site, unless a revised conditional use permit is requested and approved.
- J. 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.
- K. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- L. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- M. 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 Arkansas River during a 100-year flood.
- N. 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.
- O. The applicant shall comply with conditions "F", "L" and "M" prior to this case being scheduled for County Commission review and shall comply with condition "N" within three months after County Commission approval and prior to publication of the resolution establishing this conditional use permit.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.
- Q. This conditional use permit shall expire at the end of two years from the date of approval by the Board of County Commissioners.

DISCUSSION:

OLIVAREZ stated that this property was first approved for a conditional use permit for sand extraction in 1978. At that time it had a five-year time limit. When that expired in 1983, a request was made for a three-year extension. That expired in June 1986, and the applicant is now requesting a two-year extension during which time he wants to complete the regrading of the property and perhaps expand the lake a little at its narrowest point.

OLIVAREZ stated that it was pointed out in the staff report that when this was first approved in 1978 the slopes which were acceptable at that time were 4:1. She pointed out that 5:1 is the current recommended slope on finished lakes, but since the 4:1 was what was approved when this lake was begun, staff felt that it should be kept as one of the conditions of approval. Also when this was first approved in 1978, there was a discussion about the existing barbed wire fence that surrounds the site, and that was considered as being acceptable because of the location of this site, and because of the number of people who lived around the area which was viewed to be a deterrent for trespassers. Staff has also recommended continuation of that type of fence for this additional two-year permit.

OLIVAREZ further pointed out that there were a few requirements that are different now than the last two times of the applicants' request. The conditions are required now because the County has adopted a floodplain management resolution. The other condition asked for is a restrictive covenant. Because of the condition regarding the acceptable bank stabilization materials, staff would like for a new restrictive covenant to be submitted which would specify those types of materials that are acceptable for bank stabilization. Staff recommended approval of the two-year extension of this conditional use permit.

OLIVAREZ stated that the Derby Planning Commission reviewed this application two weeks ago and recommended approval subject to the conditions in the staff report.

DONNIE COOK, applicant, was present.

There was no one present in opposition to the application.

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 proceed in accordance with the operational plan approved for CU-203 and reapproved for CU-260 and shall excavate the lake and form the banks as indicated on the approved plan although minor modifications may be made in order to widen the narrow part of the lake.
- B. The applicant shall be responsible for maintaining the existing four strands of barbed wire fence along the east and west property lines and the existing five strand barbed wire fence and gate along the north property line and the gate shall be kept locked except when in use.
- C. 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.
- D. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than four horizontal to one vertical.
- E. The sand plant operator shall be responsible for maintaining all operational roads in a graveled condition.
- F. The applicant shall submit a new restrictive covenant which provides that no foreign matter shall be deposited on the site or in the excavation area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.
- G. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Bureau of Public Services and shall be according to the specifications of these authorities.
- H. Once the sand extraction operation has ceased, all sand extraction equipment and all piles of sand and gravel shall be removed from the property within six months.
- I. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area unless duly authorized under provisions of the County Zoning Regulations. No topsoil removal shall be permitted, except as necessary to properly grade the site, unless a revised conditional use permit is requested and approved.
- J. 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.
- K. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.

- L. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- M. 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 Arkansas River during a 100-year flood.
- N. 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.
- O. The applicant shall comply with conditions "F", "L" and "M" prior to this case being scheduled for County Commission review and shall comply with condition "N" within three months after County Commission approval and prior to publication of the resolution establishing this conditional use permit.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.
- Q. This conditional use permit shall expire at the end of two years from the date of approval by the Board of County Commissioners.

Wilson moved, Parsons seconded.

MILES commented that if more than two years is needed, the usual chainlink fence should be required.

PARSONS asked why was the applicant being given an additional six months to remove the sand and gravel from the property. Why would that not be part of finishing the property up within the initial two years?

GALBRAITH said that it could be that way. Staff has just tried to give people a reasonable period of time after the excavation supposedly is to cease to finish grading, clean up the site, and remove any sand or gravel that might still be there.

VOTE ON THE MOTION: It carried unanimously. Conlec was absent.

FLOODPLAIN DEVELOPMENT PERMIT/APPLICATION

Application # _____ Date _____
 Building Permit # _____ Date _____

1. Name of Applicant Debbie E. and Norma J. Cook
 2. Address of Development Site 6303 S. Cushman, Derby, KS 67837

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 Sand extraction operation to develop
pit type pond

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 1254 MSL/NGVD
 b) Elevation/floodproofing requirement (No structures permitted) 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 225

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: _____

to be revised. See letter from Welter 9-15-86

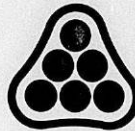
All Provisions of the Sedgwick County Kansas, Flood Damage Prevention Resolution (Resolution Number 122-86) shall be complied with.

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 3rd Day of Sept 1986
 Signature of Developer/Owner Norma J. Cook
 Signature of Building Official & Zoning Administrator [Signature]

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. MALTBY, P.E.
M. D. SCHOMAKER, P.E.
G. D. SCHOCK, P.E.
J. H. BAILEY, P.E., PH.D.



PROFESSIONAL
ENGINEERING
CONSULTANTS
PROFESSIONAL ASSOCIATION

September 3, 1986

*MAPD received
9-3-86*

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

Reference: Don Cook Property (NW 1/4, Sec 35, T28S, R1E)
Excavation in Floodplain.

Gentlemen:

This is to certify that the proposed site improvements (excavation) on the subject property will not increase the base flood elevation on the Arkansas River 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

CSB/mkm



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

August 21, 1986

Donnie Cook
6303 South Clifton
Derby, Kansas 67037

Re: CU-298 Conditional Use Permit for a Raw Materials Extraction Operation. On the south side of 63rd Street South between Clifton and the Arkansas River.

Mr. Cook:

At its regular meeting of August 21, 1986, the Metropolitan Area Planning Commission considered the above-captioned conditional use request. The action of the Commission was to recommend approval, subject to the following conditions:

- A. The applicant shall proceed in accordance with the operational plan approved for CU-203 and reapproved for CU-260 and shall excavate the lake and form the banks as indicated on the approved plan although minor modifications may be made in order to widen the narrow part of the lake.
- B. The applicant shall be responsible for maintaining the existing four strands of barbed wire fence along the east and west property lines and the existing five strand barbed wire fence and gate along the north property line and the gate shall be kept locked except when in use.
- C. 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.
- D. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than four horizontal to one vertical.
- E. The sand plant operator shall be responsible for maintaining all operational roads in a graveled condition.
- F. The applicant shall submit a new restrictive covenant which provides that no foreign matter shall be deposited on the site or in the

*sample
sent to Mrs.
Cook 8-13-86*

excavation area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.

- G. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Bureau of Public Services and shall be according to the specifications of these authorities.
- H. Once the sand extraction operation has ceased, all sand extraction equipment and all piles of sand and gravel shall be removed from the property within six months.
- I. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area unless duly authorized under provisions of the County Zoning Regulations. No topsoil removal shall be permitted, except as necessary to properly grade the site, unless a revised conditional use permit is requested and approved.
- J. 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.
- K. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- L. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- M. 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 Arkansas River during a 100-year flood.
- N. 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.
- O. The applicant shall comply with conditions "F", "L" and "M" prior to this case being scheduled for County Commission review and shall comply with condition "N" within three months after County Commission approval and prior to publication of the resolution establishing this conditional use permit.

*Copy submitted
Wichita Co. Planning
J*

CU-298
August 21, 1986
Page 3

- P. Any violation of conditions attached shall declare the conditional use permit null and void.
- Q. This conditional use permit shall expire at the end of two years from the date of approval by the Board of County Commissioners.

This matter will be forwarded to the Board of County Commissioners for their consideration at 9:00 a.m., on Wednesday, September 17, 1986 in Room 320, Sedgwick County Courthouse, provided conditions F, L and M have been complied with by September 3. I would also call your attention to condition N which requires compliance prior to publication of the resolution authorizing the conditional use permit and within three months from the date of County Commission approval.

If you have any questions in complying with these conditions by September 3, please contact our office.

Sincerely yours,

Jack H. Galbraith
Chief Planner

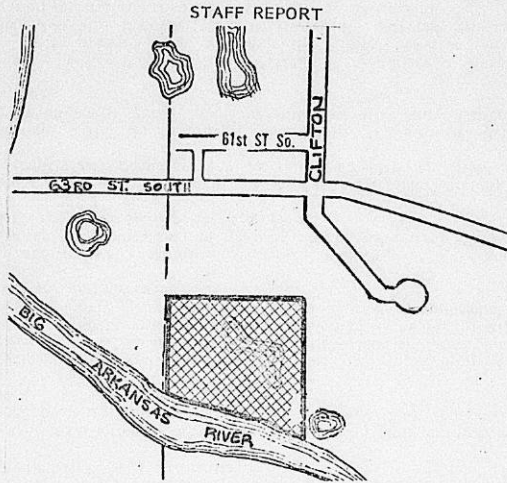
JHG/lw

cc: Ron Worley, County Zoning Administrator

WICHITA-SEDCWICK COUNTY
METROPOLITAN AREA PLANNING
COMMISSION

AGENDA ITEM # _____

DCPC AUGUST 7, 1986
MAPC AUGUST 21, 1986



CU-298 - REQUEST FOR CONDITIONAL USE PERMIT TO EXTEND THE TIME PERMITTED FOR A RAW MATERIALS EXTRACTION OPERATION ON PROPERTY ZONED "R" RURAL RESIDENTIAL, LOCATED SOUTH OF 63RD STREET SOUTH BETWEEN CLIFTON AND THE ARKANSAS RIVER.

Applicant: Donnie E. & Norma J. Cook, 6303 S. Clifton, Derby, KS 67037.

		Land Use	Zoning	Size
Application Area		Mobile homes, sand extraction	"R"	36± acres
North		Undeveloped	"R-1"	
South		River	"R"	
East		Undeveloped	"R"	
West		Undeveloped and river	"R"	
History:	CU-203	3/9/78	DCPC	approved
		3/23/78	HCPC	approved
		3/30/78	MAPC	approved
		4/19/78	BCoC	approved
	CU-260	4/14/83	DCPC	approved
		4/21/83	HCPC	approved
		5/5/83	MAPC	approved
		6/1/83	BCoC	approved

Background: In 1978, a conditional use permit (CU-203) was granted for a raw materials extraction operation on this site. The land owner had made arrangements for a contractor to create a 4.5-acre lake in return for the sand which could be extracted during formation of the lake and work was substantially underway. The permit was granted for a five-year period. At the end of that time, the owner requested, and received, a three-year extension (CU-260), stating that additional time was needed to excavate a minimum of six feet below the water table. That time expired June 1, 1986. The owner now desires an additional two years to finish the lake and regrade the property. A slight expansion of the lake at its narrowest dimension is also proposed.

Analysis: Conditional Use Permits #203 and #260 were approved with side slopes of 4:1 on the excavation area and with the existing barbed wire fence being accepted in lieu of the standard chain link fence. A 4:1 slope was standard in 1978. The

barbed wire fence was acceptable because of the remote location of the site and because several people already lived on the premises which was considered a deterrent to trespassers. These same requirements are incorporated into staff's recommended conditions of approval which are listed below. A new restrictive covenant regarding foreign matter is being requested so that the new wording about acceptable bank stabilization materials can be included. Items L, M & N are also new conditions, but are now required by the County's Floodplain Management Resolution which was adopted in June.

If the Planning Commission determines that an extension of time for this raw materials extraction operation is appropriate, the following are recommended conditions of approval:

- A. The applicant shall proceed in accordance with the operational plan approved for CU-203 and reapproved for CU-260 and shall excavate the lake and form the banks as indicated on the approved plan although minor modifications may be made in order to widen the narrow part of the lake.
- B. The applicant shall be responsible for maintaining the existing four strands of barbed wire fence along the east and west property lines and the existing five strand barbed wire fence and gate along the north property line and the gate shall be kept locked except when in use.
- C. 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.
- D. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than four horizontal to one vertical.
- E. The sand plant operator shall be responsible for maintaining all operational roads in a graveled condition.
- F. The applicant shall submit a new restrictive covenant which provides that no foreign matter shall be deposited on the site or in the excavation area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.
- G. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Bureau of Public Services and shall be according to the specifications of these authorities.
- H. Once the sand extraction operation has ceased, all sand extraction equipment and all piles of sand and gravel shall be removed from the property within six months.
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- J. 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.
- K. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- L. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- M. 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 Arkansas River during a 100-year flood.
- N. 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.

- O. The applicant shall comply with conditions "F", "L" and "M" prior to this case being scheduled for County Commission review and shall comply with condition "N" within three months after County Commission approval and prior to publication of the resolution establishing this conditional use permit.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.
- Q. This conditional use permit shall expire at the end of two years from the date of approval by the Board of County Commissioners.

CASE NO. CU-298

11	"Notices to adjoining property owners mailed on 7-24-86 for Derby Planning Commission meeting on 8-7-86 and MAPC meeting on 8-21-86.
1	One to Applicant.
13	Notices and Staff Reports to Derby Planning Commissioners, City Clerk, City Administrator and City Secretary. <i>mailed 8-1-86</i>
3	One each to Ron Worley, David Spears and Karen Crook.
3	One each to Louise, Barbara and Glen.
<hr/>	
31	TOTAL

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

July 24, 1986

NOTICE OF PUBLIC HEARING

Case No.: CU-298.

Location: On the south side of 63rd Street South between Clifton and the Arkansas River.

Address: 6303 South Clifton.

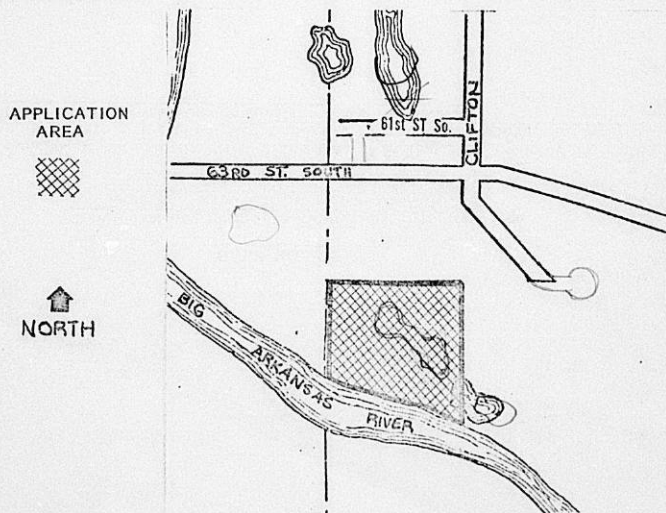
Request: Conditional Use Permit to Extend the Time Permitted for a Raw Materials Extraction Operation on Property Zoned "R" Rural Residential District.

NOTICE IS HEREBY GIVEN that on Thursday, August 7, 1986, at 7:00 p.m., the Derby City Planning Commission, meeting at the Derby Municipal Building, 229 North Baltimore Street, Derby, Kansas, will consider the above mentioned item for purposes of making a recommendation to the Metropolitan Area Planning Commission and Board of County Commissioners.

If this matter is not deferred for further hearings by the Derby City Planning Commission, it will appear on the agenda for the regular meeting of the WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION which begins at 1:30 p.m., Thursday, August 21, 1986, in the City Commission Meeting Room, First Floor, City Hall, 455 North Main Street, Wichita, Kansas.

As an owner or occupant of property in the area, you have the right to appear at the Planning Commission meetings, 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 hearings.

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



SEE REVERSE SIDE

CASE NO. CU-298

Conditional Use Permit to Extend the Time Permitted
for a Raw Materials Extraction Operation on
Property Zoned "R" Rural Residential District

Government Lot 2 in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, Township 28 South,
Range 1 East of the 6th P.M., Generally located on the south side of 63rd
Street South between Clifton and the Arkansas River.

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 Conditional Uses***

***Mobile home parks and trailers are not permitted.

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: July 21, 1986

TO: Jack Brown, Chief, Environmental Quality Services
FROM: Louise Olivarez, Senior Planner, Current Plans
SUBJECT: CU-298

Donnie Cook has filed a request for a two-year extension of time for his raw materials extraction operation south of 63rd Street South and east of the Arkansas River. Since Ron Worley told us that you also had issued him a citation for illegal land use activities in this area, we wanted you to be aware of this application. The property covered by this conditional use application is described as Government Lot 2 in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, Township 28 South, Range 1 East.

The Derby City Planning Commission is scheduled to review the request on August 7th and the MAPC on August 21st. If you have any questions or comments on this matter, please call.

Louise Olivarez
Senior Planner

LO:blw

Published in the Daily Reporter on July 23, 1986 (One Time)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on Thursday, August 7, 1986 at 7:00 p.m., the DERBY CITY PLANNING COMMISSION, meeting at the Derby Municipal building, 229 North Baltimore Street, Derby, Kansas, will consider the following item for purposes of making a recommendation to the Metropolitan Area Planning Commission and Board of County Commissioners:

CASE NO. CU-298

Conditional Use Permit to Extend the Time Permitted
for a Raw Materials Extraction Operation
on Property Zoned "R" Rural Residential District

Government Lot 2 in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, Township 28 South,
Range 1 East of the 6th P.M. Generally located on the south side of 63rd
Street South between Clifton and the Arkansas River.

If this matter is not deferred for further hearings by the Derby City Planning Commission, it will appear on the agenda for the regular meeting of the WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION which begins at 1:30 p.m., Thursday, August 21, 1986, in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear either in person or by agent or attorney, if you so desire.

As provided in Section 17-C 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 proposed application will be considered as by law provided.

WITNESS MY HAND AND SEAL this 21st day of July, 1986.

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

(SEAL)

CASE NO. CU-298

Conditional Use Permit to Extend the Time Permitted
for a Raw Materials Extraction Operation on
Property Zoned "R" Rural Residential District

Government Lot 2 in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, Township 28 South,
Range 1 East of the 6th P.M. Generally located on the south side of 63rd
Street South between Clifton and the Arkansas River.

111+1+3+3+1=19

APPLICATION FOR CONDITIONAL USE PERMIT

CU-298

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.

- 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 DONNIE E. & NORMA J. COOK JR
 ADDRESS 6303 So. Clifton Derby, Ks. Zip Code 67037 PHONE 788-1604
 AGENT _____
 ADDRESS _____ Zip Code _____ PHONE _____

B. APPLICANT _____
 ADDRESS _____ Zip Code _____ PHONE _____
 AGENT _____
 ADDRESS _____ Zip Code _____ PHONE _____

C. APPLICANT _____
 ADDRESS _____ Zip Code _____ PHONE _____
 AGENT _____
 ADDRESS _____ Zip Code _____ PHONE _____

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

- The applicant proposes to establish a POND (SAND PIT LAKE)
 _____ (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).

OK for Dept
GOVERNMENT LOT 2 IN THE NW 1/4 OF THE NW 1/4 OF SECTION 35, TOWNSHIP 28 SOUTH, RANGE 1 EAST OF THE 6th P.M.

- There are 40 Acres acres (round to nearest tenth) in the above described property. 36.52 according to CU-260

FOR OFFICE USE ONLY

Map No. 5739D Zoning (N) R1 (S) R (E) R (W) R

DPC 8-7-86
 MAPC 8-21-86

T9-333-2

Revised 1/85

*Advertisement in Daily Reporter 7-22-86
 mail out notices 7-24-86*

3. This property is located at (address) 6303 So. Clifton.
DERBY, Ks. 67037

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

A. At the _____ corner of _____ and _____, OR

B. On the SO. side of 63RD. So. (Ave.) Street between Clifton (Ave.) Street and RIVER (Ave.) Street:

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

TO FINISH LAKE (2 yr. extension)

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 ABTRACTOR'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.

Donnie E. Cook
APPLICANT'S SIGNATURE

BY _____
AUTHORIZED AGENT (IF ANY)

Norma Jean Cook
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 4 (AM, PM) on 7-18-86 (day, month, year). It has been checked and found to be complete and accompanied by required documents and the appropriate fee of \$ 500.00.

Louise Oliver Name
Sr. Planner Title

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 1	Block B	Woodvale Addition	Charles W. Hawthorne Vinita M. Hawthorne 6209 S. Holyoke Derby, KS 67037
Lots 4 & 5	Block B	"	Marion W. Wood Olive Louise Wood 2267 S. Hydraulic Wichita, KS 67211 AND Barbara J. Fry, Trustee 3946 S. Broadway Wichita, KS 67216
Lot 1	Block C	"	Charles W. Hawthorne Vinita M. Hawthorne 6209 S. Holyoke Derby, KS 67037
Lots 2, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 17 & 19 and Lots 3, 7, 15 & 16, exc. part taken for road, Block C	"	"	Marion W. Wood Olive Louise Wood 2267 S. Hydraulic Wichita, KS 67211 AND Barbara J. Fry, Trustee 3946 S. Broadway Wichita, KS 67216
Lots 1, 2, 3, 4 & 5	Block D	"	Same As Above
Lots 1-11, inclusive	Block E	"	Marion W. Wood Olive Louise Wood 2267 S. Hydraulic Wichita, KS 67211 AND Barbara J. Fry, Trustee 3946 S. Broadway Wichita, KS 67216
<u>Tract Description</u>			
<i>application</i>	Government Lot 2 in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, Township 28 South, Range 1 East of the 6th P.M.		Donnie E. Cook Norma J. Cook 6303 S. Clifton Derby, KS 67037
	Government Lot 4 in the SE $\frac{1}{4}$ of Section 27, Township 28 South, Range 1 East of the 6th P.M., EXCEPT that part lying North of 63rd Street.		Marion W. Wood Olive Louise Wood 2267 S. Hydraulic Wichita, KS 67211 AND Barbara J. Fry, Trustee 3946 S. Broadway Wichita, KS 67216
	That part of Government Lot 4 in the SE $\frac{1}{4}$ of Section 27, Township 28, Range 1 East lying North of 63rd Street.		C. W. Hawthorne Vinita M. Hawthorne 6209 S. Holyoke Derby, KS 67037

Tract Description

Property Owner

Government Lot 1 in the NE $\frac{1}{4}$ of Section 34,
Township 28 South, Range 1 East of the 6th P.M.

dup
Marion W. Wood
Olive Louise Wood
2267 S. Hydraulic
Wichita, KS 67211
AND
dup
Barbara J. Fry, Trustee
3946 S. Broadway
Wichita, KS 67216

The S $\frac{1}{2}$ of the NE $\frac{1}{4}$, and the N $\frac{1}{2}$ of the SE $\frac{1}{4}$
of Section 34, Township 28 South, Range
1 East of the 6th P.M.

X
Lafe Forrey
Daisy Forrey (Dec'd)
c/o Ruth C. Crowl
848 Gilman
Wichita, KS 67203

A tract beginning 1029 feet East of
the SW/c of the SW $\frac{1}{4}$ of Section 35,
Township 28 South, Range 1 East of the
6th P.M.; th. East to the Arkansas River;
th. NE and NW along meanderings of said
river to a point 1029 feet East of the
West line of Lot 6; th. South to beginning.

X
Harry D. Elgin (Dec'd)
Dora I. Elgin
3520 E. 71st St. South
Wichita, KS 67236

That part of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 35,
Township 28, Range 1 East described as:
Beginning at the SW/c of said Qtr. Section;
th. East 1029 feet; th. North parallel with
the West line of said quarter section to the
right bank of the Arkansas River; th. NW'ly
along the right bank of said river to the West
line of said Qtr. Section; th. South to the
p.o.b.

X
A. W. Poundstone
Eloise B. Poundstone
3410 E. 71st St. South
Wichita, KS 67236

That part of Government Lot 1 in the NW $\frac{1}{4}$ of
Section 35, Township 28 South, Range 1 East,
beginning at the NE/c of Government Lot 1; th.
West along the North line of said Government
Lot 1, 45 feet; th. South with a deflection
angle to the left of 91°53', 771 feet; th.
West with a deflection angle to the right of
91°53', 897.3 feet; th. South with a deflection
angle to the left of 91°53' to the North line
of the Arkansas River; th. E'ly along the
North line of the Arkansas River to a point
942.3 feet East of the last described line as
measured parallel with the North line of
said Government Lot 1; th. N'ly to the p.o.b.

X
Harold L. Reece
Nancy E. Reece
3941 E. 63rd St. South
Derby, KS 67037

Beginning at a point 45 feet West of the NE/c
of said Government Lot 1; th. West along the
North line of said Government Lot 1, a distance
of 565 feet; th. with an angle to the left of
91°53' a distance of 771 feet; th. East parallel
with the North line of said Government Lot 1,
a distance of 565 feet; th. North 771 feet to
the point of beginning, being in the NW $\frac{1}{4}$ of
Section 35, Township 28 South, Range 1 East.

Same As Above

Tract DescriptionProperty Owner

That part of Government Lot 1 in the NW $\frac{1}{4}$ of Section 35, Township 28 South, Range 1 East, lying West of the following described line; commencing at the NE/c of said NW $\frac{1}{4}$; th. West along the North line of said NW $\frac{1}{4}$, 610 feet for a place of beginning; th. with an angle to the left of 91°53' a distance of 771 feet; th. with an angle to the right of 91°53', a distance of 332.3 feet; th. with an angle to the left of 91°53' to the North line of the Arkansas River.

X
Carl D. Sanders
Angela G. Sanders
3411 E. 63rd South
Derby, KS 67037

A tract in the SW $\frac{1}{4}$ of Section 26, Township 28 South, Range 1 East described as beginning at the SE/c of said SW $\frac{1}{4}$; th. West along the South line of said SW $\frac{1}{4}$ 455 feet; th. with an angle to the right of 91°00' a distance of 415 feet; th. with an angle to the right of 39°30' a distance of 340 feet; th. with an angle to the left of 120°30' a distance of 170 feet; th. with an angle to the right of 54°00' a distance of 105 feet; th. with an angle to the right of 60°00' a distance of 80 feet; th. with an angle to the right of 51°00' a distance of 115 feet; th. with an angle to the left of 90°00' a distance of 60 feet; th. with an angle to the right of 31°30' a distance of 275 feet; th. with an angle to the right of 63°30' a distance of 171.5 feet more or less to the East line of said SW $\frac{1}{4}$; th. South 1179.6 feet more or less to beginning.

X
Joe N. Baxter
Karen L. Baxter
3930 E. 63rd St. South
Derby, KS 67037

A tract beginning at the SW/c of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 26, Township 28 South, Range 1 East; th. North along the West line of the SE $\frac{1}{4}$ of said SW $\frac{1}{4}$, 644.2 feet; th. SE'ly 845.1 feet more or less to a point on the South line of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ 550.74 feet East of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said SW $\frac{1}{4}$; th. West 550.74 feet to beginning, subject to road easement on the NE'ly 60 feet thereof.

Richard W. Lewis
Address Unknown

X
Interest in Property
filed 6-4-85:
Steve Winters
Janet Winters
6359 S. Clifton
Derby, KS 67037

The E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 26, Township 28 South, Range 1 East of the 6th P.M., EXCEPT the above 2 described tracts (Baxter & Lewis-Winters)

X
Millard F. Swaney (Dec'd)
Doris L. Swaney
1324 N. Westview
Derby, KS 67037

Page 4

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots and tracts within a 1000 foot radius of:

Government Lot 2, in the Northwest Quarter of the Northwest Quarter of Section 35, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas.

as shown by the last deed of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 18th day July, 1986, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

Mary Gable

By
Sr. Vice-President

Order No: 364742
nj

RI-138 NW 1/4 35-28S-1E

RI-470

471

472

Donna Cook

RI-104 SW 1/4 26-28S-1E

Woodvale Add (Chg RI-5208)

Charles W. Hawthorne et al
6209 S. Holyoke
Berby 67037

Blk A

Lots 1, 2, 3, 4

Blk B

Lot 1

Blk C

Lot 1

Marion W. Wood et al
c/o Barbara Fry
3946 S. Berby 67216

Blk A

Lots 5, 6, 7, 8, 9, 10, 12

Blk B

lots 4, 5

Blk C

lots 3 (partial), 4-14,
15-17 (partial), 19

Blk D

lots 1-5,

Blk F

lots 1-5

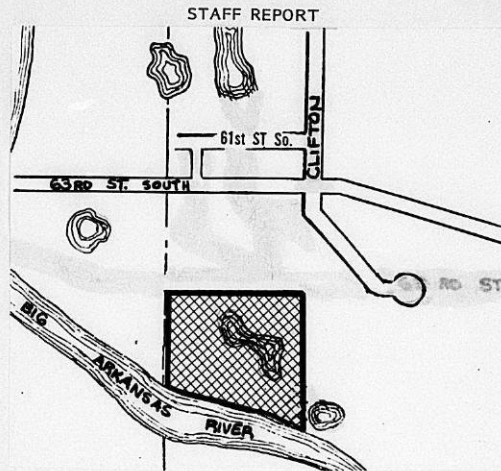
Blk E

lots 6-11

Lot 11 Blk A Woodvale Add
Kenneth C. Richards et al
6145 S. Clifton
Derby 67037

R1-470
471
471-1 Scout Lot 2
472
472-1

DCPC AUGUST 7, 1986
MAPC AUGUST 21, 1986



CU-298 - REQUEST FOR CONDITIONAL USE PERMIT TO EXTEND THE TIME PERMITTED FOR A RAW MATERIALS EXTRACTION OPERATION ON PROPERTY ZONED "R" RURAL RESIDENTIAL, LOCATED SOUTH OF 63RD STREET SOUTH BETWEEN CLIFTON AND THE ARKANSAS RIVER.

Applicant: Donnie E. & Norma J. Cook, 6303 S. Clifton, Derby, KS 67037.

	Land Use		Zoning	Size
Application Area	Mobile homes, sand extraction		"R"	36± acres
North	Undeveloped		"R-1"	
South	River		"R"	
East	Undeveloped		"R"	
West	Undeveloped and river		"R"	
History:	CU-203	3/9/78	DCPC	approved
		3/23/78	HCPC	approved
		3/30/78	MAPC	approved
		4/19/78	BCoC	approved
	CU-260	4/14/83	DCPC	approved
		4/21/83	HCPC	approved
		5/5/83	MAPC	approved
		6/1/83	BCoC	approved

Background: In 1978, a conditional use permit (CU-203) was granted for a raw materials extraction operation on this site. The land owner had made arrangements for a contractor to create a 4.5-acre lake in return for the sand which could be extracted during formation of the lake and work was substantially underway. The permit was granted for a five-year period. At the end of that time, the owner requested, and received, a three-year extension (CU-260), stating that additional time was needed to excavate a minimum of six feet below the water table. That time expired June 1, 1986. The owner now desires an additional two years to finish the lake and regrade the property. A slight expansion of the lake at its narrowest dimension is also proposed.

Analysis: Conditional Use Permits #203 and #260 were approved with side slopes of 4:1 on the excavation area and with the existing barbed wire fence being accepted in lieu of the standard chain link fence. A 4:1 slope was standard in 1978. The

barbed wire fence was acceptable because of the remote location of the site and because several people already lived on the premises which was considered a deterrent to trespassers. These same requirements are incorporated into staff's recommended conditions of approval which are listed below. A new restrictive covenant regarding foreign matter is being requested so that the new wording about acceptable bank stabilization materials can be included. Items L, M & N are also new conditions, but are now required by the County's Floodplain Management Resolution which was adopted in June.

If the Planning Commission determines that an extension of time for this raw materials extraction operation is appropriate, the following are recommended conditions of approval:

- A. The applicant shall proceed in accordance with the operational plan approved for CU-203 and reapproved for CU-260 and shall excavate the lake and form the banks as indicated on the approved plan although minor modifications may be made in order to widen the narrow part of the lake.
- B. The applicant shall be responsible for maintaining the existing four strands of barbed wire fence along the east and west property lines and the existing five strand barbed wire fence and gate along the north property line and the gate shall be kept locked except when in use.
- C. 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.
- D. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than four horizontal to one vertical.
- E. The sand plant operator shall be responsible for maintaining all operational roads in a graveled condition.
- F. The applicant shall submit a new restrictive covenant which provides that no foreign matter shall be deposited on the site or in the excavation area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.
- G. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Bureau of Public Services and shall be according to the specifications of these authorities.
- H. Once the sand extraction operation has ceased, all sand extraction equipment and all piles of sand and gravel shall be removed from the property within six months.
- I. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area unless duly authorized under provisions of the County Zoning Regulations. No topsoil removal shall be permitted, except as necessary to properly grade the site, unless a revised conditional use permit is requested and approved.
- J. 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.
- K. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- L. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- M. 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 Arkansas River during a 100-year flood.
- N. 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.

- O. The applicant shall comply with conditions "F", "L" and "M" prior to this case being scheduled for County Commission review and shall comply with condition "N" within three months after County Commission approval and prior to publication of the resolution establishing this conditional use permit.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.
- Q. This conditional use permit shall expire at the end of two years from the date of approval by the Board of County Commissioners.

Donnie E. Cook, atx
request conditional use
permit to extend the
time permitted for
~~operation of~~ a raw
materials extraction
operation on property
zoned "R" Rural Residential
and located on the
south side of 63rd Street
South between Clifton
and the Arkansas River.

FORM 29-021

PAYMENT NOTICE
City of Wichita

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

DESCRIPTION	AMOUNT
<i>Construction of new water tower</i>	<i>500.00</i>
NAME _____	
ADDRESS _____	
FUND <i>7-11-96</i>	DUE DATE <i>7-11-96</i>
COMMENTS _____	
DATE <i>7-11-96</i>	BY <i>SL</i>

*

This CU file

Has a Large Drawing

On 35mm Microfilm.

Roll # 1

*