

DR 87-6: Carl M. Zeller, Etux., request special use permit to establish a concrete batch plant on property zoned "R-1" and located west of Meridian Avenue and north of MacArthur Road.

DATED 4-1-57 KZ

OK

ACTION

DATE

COMMITTEE \_\_\_\_\_

M.A.P.C. Revised \_\_\_\_\_ 4-1-57

B.C.C./B. CO. C. Leithy 5-13-87  
the applicant (Same Stamped)



Planning Agenda

Item #

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION  
TO BOARD OF COUNTY COMMISSIONERS

REQUEST FOR SPECIAL USE PERMIT

DR 87-6 REQUEST FOR SPECIAL USE PERMIT TO ESTABLISH A TEMPORARY  
CONCRETE BATCH PLANT ASSOCIATED WITH A GOVERNMENTAL PAVING PROJECT,  
GENERALLY LOCATED WEST OF MERIDIAN AND NORTH OF MACARTHUR.

The MAPC recommends that the application be denied.  
(see minutes for full motion)

Wilson moved, Banzer seconded and it carried unanimously. Miles was absent.

- ACTION:
1. Adopt the findings of fact of the Metropolitan Area Planning Commission and deny the special use request; or
  2. Take such action as the Commission deems appropriate, stating reasons.

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DATA AND MINUTES

MAPC Hearing Date: 4/16/87 Deny

BCoC Hearing Date: 5/13/87

COMMISSION DISTRICT #2

	<u>Land Use</u>	<u>Zoning</u>	<u>Size</u>
Application Area	Agriculture	"R-1"	8.3 acres
North	Church	"AA"	
South	Agriculture	"R-1"	
East	Agriculture	"R-1"	
West	Agriculture	"R-1"	

History: None.

Applicant: Carl M. Zeller, 3859 S. Meridian, Wichita, KS 67217 (owner)  
Stannard Construction Co., Inc., c/o David Stannard, 6015 N.  
Broadway, Wichita, KS 67219 (lessee)

Protestors: Rev. Kenneth Woods, Bethel Assembly of God Church, P.O. Box 1679,  
Wichita, KS; Richard Aldridge, District Lodge #70, International Assoc.  
of Machinists, 3830 S. Meridian, Wichita, KS; Jeff Mann, 3850 S. Meridian,  
Wichita, KS; Steve Gordon, 339 Clinton, Haysville, KS; Richard Peckham, 400 N.  
Woodlawn, Wichita, KS; Roy C. Hayden, 2501 W. MacArthur, Wichita, KS; Hansel  
Martin, 547 E. Grand, Haysville, KS; Art Morgan, 3850 S. Meridian, Wichita, KS;  
Gary Webb, 3936 Calvert Court, Wichita, KS; Velma Mayhill, 6721 W. MacArthur  
Road, Wichita, KS.

Planning Agenda

Item #

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION  
TO BOARD OF COUNTY COMMISSIONERS

REQUEST FOR CONDITIONAL USE PERMIT

*associated case*

CU-306 - REQUEST FOR CONDITIONAL USE PERMIT TO ESTABLISH A SAND  
EXTRACTION OPERATION ON PROPERTY ZONED THE "R-1" SUBURBAN RESI-  
DENTIAL DISTRICT, GENERALLY LOCATED WEST OF MERIDIAN AND NORTH OF  
MACARTHUR.

The MAPC recommends that the application be denied.  
(see minutes for full motion)

Wilson moved, Banzer seconded and it carried unanimously. Miles was absent.

- ACTION:
1. Adopt the findings of fact of the Metropolitan Area Planning Commission and deny the conditional use request; or
  2. Take such action as the Commission deems appropriate, stating reasons.

(NOTE: Due to the recommendation of denial by the MAPC, a unanimous vote of approval by the County Commission will be required to grant the conditional use request.)

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DATA AND MINUTES

MAPC Hearing Date: 4/16/87 Deny

BCoC Hearing Date: 5/13/87

COMMISSION DISTRICT #2

	<u>Land Use</u>	<u>Zoning</u>	<u>Size</u>
Application Area	Agriculture	"R-1"	60 acres
North	Church	"AA"	
South	Agriculture	"R-1"	
East	One-family dwelling & Mobile Home Park	"R-1" & "G"	
West	One-family dwelling	"R-1"	
History:	None		

Applicant: Carl M. Zeller, 3859 S. Meridian, Wichita, KS 67217 (owner)  
Stannard Construction Co., Inc., c/o David Stannard, 6015 N.  
Broadway, Wichita, KS 67219 (lessee)

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Woodlawn, Wichita, KS; Roy C. Hayden, 2501 W. MacArthur, Wichita, KS; Hansel  
Martin, 547 E. Grand, Haysville, KS; Art Morgan, 3859 S. Meridian, Wichita, KS;  
Gary Webb, 3936 Calvert Court, Wichita, KS; Velma Myhill, 6721 W. MacArthur  
Road, Wichita, KS.

NOTE: Protest petitions have been filed. The percentage of protest will be  
pointed out at the meeting.

12.6%

EXCERPT FROM PLANNING COMMISSION MINUTES OF APRIL 16, 1987

LEGAL:

4. Case No. CU-306 - Carl M. Zeller requests Conditional Use Permit for the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$ , and the W $\frac{1}{2}$  of the SE of the SE $\frac{1}{4}$ , and the north 60' of the E $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 12, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located west of Meridian and north of MacArthur Road.
5. Case No. DR 87-6 - Carl M. Zeller requests Special Use Permit for the North 600 feet of the East 600 feet of the W $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 12, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located west of Meridian Avenue and north of MacArthur Road.

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

Case No. CU-306:

Background: The applicant is requesting a conditional use permit for a sand extraction operation on 60 acres of land located west of Meridian and north of MacArthur. The site is in agricultural use. Another 20 acres is in the applicant's ownership just west of Meridian but only the north 60 feet is included in this request and would provide the only access to the site for the duration of the sand extraction operation.

Analysis: Property to the north is in the city, is zoned "AA" and developed with a church. To the east of Meridian is a mobile home park in the city's "C" zoning district. The applicant's home is on the 20 acres just west of Meridian between MacArthur and the 60-foot access easement being provided for the proposed sand operation. South of MacArthur is agricultural land in the "R-1" district. West of the site on both sides of MacArthur are single-family homes in the "R-1" district.

The lessee desires to construct a lake on this property for use by the owner in future residential development of the area. During construction of the lake, which is anticipated to take five years, the lessee will utilize the sand in his construction business. For the first two years (approximately) the sand will be used to make concrete for resurfacing the interstate. A related special use permit request for a concrete batch plant has also been submitted (see DR 87-6).

A recommendation of approval for this sand extraction operation should be subject to the following conditions:

- A. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, asphaltic concrete mix, and building rubble or other trash shall be deposited on the application area or within the excavation.
- B. A minimum 58-inch high fence shall be constructed prior to the beginning of any extraction operation (including topsoil, overburden, and/or sand), and shall be maintained along the perimeter of the extraction 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 extraction.

- 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 extraction shall be no more steep than five horizontal to one vertical.
- E. 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.
- F. 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.
- G. All of the area outside of the sand pit lake shall be graded so as to drain into the lake or to an approved drainage system.
- H. 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.
- I. 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 silt.
- J. 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.
- K. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan.
- L. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- M. The conditional use permit for the sand extraction operation shall expire five years from the date of approval by the Board of County Commissioners unless an extension is granted by the County Commission after a public hearing is held by the MAPC to review the application for extension.
- N. All materials and equipment associated with the extraction operation shall be removed from the site within 60 days after termination of the conditional use permit.
- O. The property owner shall dedicate, by separate instrument, sufficient right-of-way for Meridian and for MacArthur adjacent to his entire 80-acre ownership to bring the streets up to arterial right-of-way standards. This dedication shall be submitted prior to the conditional use case being scheduled for County Commission review.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.

Case No. DR 87-6:

Background: The applicant is requesting a special use permit for a concrete Batch plant to be utilized in conjunction with a project to resurface the interstate between Kellogg and the Turnpike. This project is expected to take two

construction seasons to complete. The equipment will be removed from the site upon completion of the project.

Analysis: Property to the north is in the city, is zoned "AA" and developed with a church. To the east, south and west is agricultural land in the applicant's ownership. A related conditional use permit request for a sand extraction operation has also been submitted (see CU-306). Access to the batch plant site will be from Meridian along the same access road used for the sand extraction operation. If the conditional use permit is not approved, the 60-foot-wide temporary access easement will need to be included in this special use permit.

A recommendation of approval should be subject to the following conditions:

1. Upon completion of this contractor's interstate resurfacing project, all materials and equipment associated with the batch plant shall be removed from the site. The site shall then be restored to its current agricultural condition unless CU-306 has been approved for a longer period of time.
2. Access to the site shall be from Meridian only.
3. The batch plant shall not be operated on Sundays.

DISCUSSION:

OLIVAREZ stated that these cases are related in that they cover some of the same area and are to be temporary uses associated with a paving project. The conditional use application includes 60 acres plus a 60-foot access easement out to Meridian. OLIVAREZ said that one of the major reasons for this request is that the applicant would like to lease some of this land to a contractor for constructing a lake, and in the process of extracting the sand, the contractor would like to use the sand in his contracting business. Specifically for a two-year time period he proposes to use the sand with his project for resurfacing the interstate all the way from Kellogg over to the Turnpike. OLIVAREZ mentioned that the lessee who would be digging the lake wants additional time, a total of five years, in which to fully extract the sand from this site. After the lake is dug, the property owner proposes at some future date to have residential development around the lake.

OLIVAREZ said that staff felt that with the hedgerow which exists between the properties, if a condition was added regarding retaining the hedgerow, it might help protect adjacent property from blowing sand. She recommended the following wording be added as condition "Q": "All uses of this site for sand extraction, including operational roads and material stockpiling, shall be far enough removed from the hedgerow along the north line of the site to assure that no damage to this hedgerow occurs as a result of this sand extraction operation." Regarding the special use request for a concrete batch plant, OLIVAREZ explained that its 8.3-acre site is part of the 60-acre sand extraction site. The batch plant is to be temporary and tied in with the interstate repaving project which is limited to two construction seasons. After discussing this case with the Health Department, staff is recommending two additional conditions of approval:

- "4. The installation and operation of this batch plant facility shall comply with all Kansas air pollution regulations. The applicant shall contact the local Environmental Health Division of the Health Department for the necessary permit application.
5. Any violation of conditions attached shall declare this special use permit null and void."

DAVID STANNARD, lessee, stated that two of the members of Bethel Life Center Church had called him and asked about the batch plant. He said that the batch plant that they propose on this property would only produce concrete for this interstate project, and the project at Kellogg and West Street that they have half done. While they have the batch plant running, they will use the same batch plant for concrete there. He said that the reason he has requested two years for the operation is because the State and the City made the determination that this highway would be kept open while it is being

reconstructed. STANNARD said that the highway was being reconstructed in two phases. This year they would pave one side and return the highway back to its four lane use. Then next year in the spring, they will block the other side off and pave it. By doing this it will take two years in the application, but the batch plant would only run about 5 or 6 months of each year. He added that this is not a commercial batch plant.

KENNETH WOODS, pastor of Bethel Life Center, read a statement:

"Five years ago when Bethel Life Center began construction on a multi-phase complex to include a sanctuary, chapel, Christian school facility and retirement home, we accepted the judgment of the Planning Commission in their decision to zone this area the single family dwellings, churches and schools. After establishing the first phase of our program and currently anticipating the expansion of buildings to include a sanctuary and additional school rooms, we were dismayed to recently hear of plans to establish a heavy industrial project adjoining our property. We believe that this type of operation, even for a five-year period, would be extremely detrimental to the future of our church school and other family oriented activities for the following reasons:

1. The aesthetic value. It has been the vision of nearly 900 men, women and children who make up Bethel Life Center that our buildings and grounds would be constructed with an eye towards beauty thus providing an attractive and inviting atmosphere for the Wichita community. Our location adjacent to the bypass was selected for this purpose. It is our contention that these facilities would be a plus for Wichita as thousands of passersby travel in front of this location daily on I-235. A concrete batch plant and sandpit operation could only serve to detract from this vision.
2. Environmental health. Because of the positioning of the proposed project which is directly south of our grounds, the children who daily run and play on our grounds will be subjected to a serious environmental nuisance in the form of blowing sand, dust and smoke. Further, children who now suffer from asthma or allergies will more than likely be unable to continue attending our school as we have already been informed. Bethel Life school has made every effort to comply with all state, county and city guidelines regarding the children's health and well-being. We find it difficult then to understand how the city and county can now justify exposing these same children to obvious health hazards. In addition, we believe that our vehicles and facilities will be adversely affected by blowing sand and dust resulting from damage to heating and air conditioning units, paint on the vehicles and dust and dirt in our buildings. The noise of conveyers, equipment and constant truck traffic also would undoubtedly detract from our children's learning environment.
3. Safety hazards. Should the Commission fail to recognize the impact regarding blowing sand, silt and dirt, or not understand our concern with maintaining an aesthetically attractive campus, we urge each member of this Commission to consider carefully the potential hazards to life and limb which this project will present to motorists traveling Meridian, parents with carloads of children, employees of Bethel and the machinists union across the street, plus the 100+ families that live in the mobile home park. The entrance to the batch plant and sandpit is planned parallel to the entrance and drive of Bethel Life Center. Each morning and evening carloads of children will be entering the school drive at the same time that the sand and cement trucks will be converging on the same location. Within the same area, heavy commuter traffic flows each morning and evening with all the motorists from the mobile home park across the street and the employees of Bethel school and church entering and leaving within a one-half block location. Meetings of the machinist union involving hundreds more would add to this bottleneck. Lastly, we believe a

gang of adventurous or curious children attempting to reach the plant site makes this location a further hazard.

In summary, it is not our intention to hurt the Zellers or hinder their plans in any way. We in fact would welcome a residential development at this location. However, wisdom and good common sense says to us that even a minimum of five years of this type of project could harm or even destroy what hundreds of families are trying to build at this location."

RICHARD ALDRIDGE, Director of Machinists Union District #70 of the International Association of Machinists and Aerospace Workers, concurred with Rev. Woods. He said that Meridian narrows from four lanes to two lanes where the proposed entrance to the cement plant and the sandpit are proposed, which is where the church entrance is, and where they have an entrance into their facility. The traffic is already quite heavy, especially in the mornings and evenings. ALDRIDGE said that he has a lot of concern as well that the children, both at the school and in the trailer park, will be drawn to the sandpits. He felt that with this kind of development, while he hears what they are saying about the possibility of a residential area being developed there later, he did not hear anything about a guarantee of that. To dig a hole out there to make a sandpit and leave it will devalue the property. He said that the Machinists Union owns about 11 acres on the east side of the road, and it was valuable property to them, and to have a sandpit put into that area and not be developed, certainly would be a hindrance to the value of their property. ALDRIDGE said that he not only speaks as a representative of District 70, but as a representative of all 10,000 union members that they have in the Machinists Union. He urged the Commission not to approve this proposal.

JEFF MANN, 3850 South Meridian, stated that they had recently moved from 2728 North Hoover and that there was a sandpit at that location now. He said that the reason they moved was because in 1985 they had a son born with lung problems. Their house was between the lake and the sandpit and they had a lot of real fine dust in their home daily that they had to clean up. Speaking of the traffic that went up and down Hoover, MANN said that the trucks' speed limit usually ranged between 60 and 70 miles an hour, and the roads on Hoover are in terrible shape because of the large trucks. MANN said that the water had a real bad taste. He said that since they have moved to their present location, his wife and son are not as sick as often. MANN said that if the sandpit is allowed in this area, they would probably have to move because of his son's problems. They have spent \$25,000 of their own money to pay for the medical bills because he had lost his job in 1985. They have just about paid off the medical bills and really did not care to add any to them.

STEVE GORDON, 339 Clinton, Haysville, Kansas, stated that he and his family attend Bethel church, and his daughter attends Bethel school. He said that he takes his daughter and two other children to school every morning between 8 and 8:30 a.m., and as was mentioned earlier, coming from the south up Meridian, the road widens from a two lane to a four lane and invariably he has to sit as much as 5 minutes just to turn left into the school parking lot. He contended that this batch plant and sandpit operation would increase this traffic and would be a hazard to himself and his family, and to all of the children that are going and coming from Bethel school. He stated that he was strongly opposed to this proposal at this location.

RICHARD PECKHAM, attorney for Mobile Manor and a member of the family that owns and operates the mobile home park, stated that the traffic pattern was really difficult in this area. He said that it was very difficult to make the argument that this is not a residential area. There are 2,000 families represented up and down this road and there are two churches. PECKHAM remarked that some of the arguments in connection with the staff report simply do not wash. For example, the argument that the hedgerow will stop fine concrete dust. That does not wash. They would have to have a much more sophisticated barrier there especially since they want to put the batch plant directly in front of a church; a church that is located there for the express purpose of providing the kind of environment that a church would want which is a residential community. PECKHAM urged the Commission to recognize that the developments in that area have relied on the zoning requirements and the stipulations and conditions that this body has placed upon the area.

MOORE asked for a show of hands from the audience that were present for this case. About 45 people raised their hands. He asked that their comments be limited unless it was something new and different.

ROY HAYDEN, 2501 West MacArthur, said, "something new and different; two words: I'll sue." He said that this is the magic age of accountability. He said that if a sandpit is committed on that ground they will have what is known as an attractive nuisance. It has already been established that people drown in sandpits. HAYDEN asked if a child drowns as a result of the establishment of a sandpit there, who is responsible? The seller? Mr. Zeller? Stannard? You? HAYDEN continued that the church has a weakened east wall. It collapsed during construction. When you take a 15-ton or a 20-ton load of sand and rock right down next to the church and batch plant and you set up vibration, it is quite possible for the east wall of the church to collapse. He asked who would be responsible. You, the Zellers, or the batch plant? HAYDEN continued that concrete does not bend. It will stand so much stress and then it collapses. If the wall collapses while they are holding school or church services in that building, he would say that the Commission was opening themselves for tremendous lawsuits.

HANSEL MARTIN, 547 East Grand, Haysville, Kansas, a member of Bethel Life, stated that he could give a report of first-hand experience with batch plants and sandpits. He said that less than two years ago he was dealing with a piece of property immediately north of a batch plant with sand piles. He said that it did not make any difference whether they were going to operate on Sunday's or not. The sand pile is there and it is blowing. The regulations on the other pit required an earth berm and a setback with a minimum of 200 feet. He said that he walked across that property when the sand was blowing so hard that you could not look towards the sand piles on a windy day. Furthermore, his mother-in-law lived on that property. She developed health problems and they had no choice except to sell the property and move her out. Since moving out, her health problems cleared up considerably within a year's time. MARTIN suggested that the Commission consider this because it would be impossible to hold any outside activities around the church on a windy day with a sand operation there. He said that the hedgerow mentioned by staff was a row of elm trees, and he did not think an elm tree row was going to slow any blowing sand down. Even a privacy type fence would have to exceed the height of the sand piles to stop the sand blowing. Therefore, this will create a tremendous hazard to life and property, and probably the school would have to cease any outside activities during windy days if not close the school completely because of this type of nuisance. MARTIN continued that the Health Department was contacted and informed them that the applicants were meeting all regulations. MARTIN said that the regulations would not protect Bethel property from this hazard. He urged the Commission to reject these requests.

ART MORGAN, 3850 South Meridian, in Mobile Manor, stated that he was Administrator of Bethel Life school. He wanted to mention that this time of year his job is largely connected with interesting new parents and families in the school. He said that they have moved from two buildings to one and have experienced quite a drop in their school enrollment. They are facing a pretty trim budget and a lower school enrollment for next year. MORGAN said that he was seriously concerned the parents would reject the possibility of their children attending school in an unsightly and possibly dangerous and hazardous environment. He said that he was really concerned that their school would not weather two years of enrollment that would drop because of this problem.

PETERS asked Morgan how many grades do they currently have.

MORGAN answered that they currently have 4-year-old kindergarten through 8th grade, and they have 127 students. Two years ago they had 450 students.

PETERS asked what was the reason for the drop in enrollment.

MORGAN stated that they sold the Seneca property and when they consolidated into one building, they had to eliminate the high school and condense. They had room for 200 students but only 127 elected to stay with them.

GARY WEBB, 3936 Calvert Court, stated that he was a member of the Bethel Life family. He said that he has lived in Houston, Dallas and St. Louis

and has been in Wichita since 1975. In the other cities he has seen things that he liked and did not like. In Wichita the one thing that he sees that they have plenty of, and is not necessarily a beautiful item, are sandpits. He suggested that the Commission oppose this basically on the fact that there are plenty of sandpits now and plenty of sand operations available to take care of the projects without creating an additional eyesore and an additional problem situation.

VELMA MAYHILL, 6721 West MacArthur, stated that she was the grandmother of one of the students who means a lot to her. MAYHILL said that her grandchild's mother is handicapped and she does not want her to develop health problems. Her granddaughter plays on the school ground until she can be brought home, and she felt this operation would be detrimental to the students.

WILSON commented that he did not know how essential the sandpit is to the road project. He mentioned that this project would go on without the sandpit. He said that by being a contractor for many years, he knew it would be very economical to do it this way, but did not feel that this sandpit was essential.

**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 unsuitability of subject property for the use proposed; and the recommendation of staff; I move that we recommend to the governing body that these applications be denied. Wilson moved, Banzer seconded and it carried unanimously. Miles was absent.

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**PROTEST PETITION**  
**(COUNTY CASES)**

*No provisions for  
protests on  
special permits*

**SECTION I: Zone Change or Conditional Use Being Protested.**

The undersigned, property owners in Sedgwick County, Kansas, hereby protest the proposed change of zoning OR conditional use permit for property described as Case No. SCZ-\_\_\_\_\_, zone change from \_\_\_\_\_ to \_\_\_\_\_ OR Case No. ~~XXX~~ DR 87-6, request for establishment of Special Use Permit to establish a \_\_\_\_\_ in the R-1 zoning district.  
Concrete Batch Plant

Legal description of property included in the above case:

The North 600 feet of the East 600 feet of the W $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 12, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas.  
Generally located west of Meridian Avenue and north of MacArthur Road.



**SECTION II: Protestor's Name and Property Description.**

A. Legal description of property owned by protestor:

The West 1290 feet as measured on the South line of the North one-half (N $\frac{1}{2}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of Section Seven (7) Township Twenty-eight (28) South, Range one (1) East, except that portion of land contained therein condemned for Interstate Highway No. 235, and that part North thereof.

B. Name(s) of protestor(s):

(a) *Richard M. Aldrich*  
Signature  
Richard M. Aldrich  
Typed or Printed Name  
Machinists Union

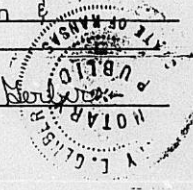
(b) *Pat Lehman*  
Signature  
Pat Lehman  
Typed or Printed Name  
Machinists Union

**ACKNOWLEDGEMENT**

State of Kansas )  
County of Sedgwick ) ss

The foregoing instrument was acknowledged before me this 21st day of April, 1987, by (a) Richard M. Aldrich & Pat Lehman

*Mary E. [Signature]*  
Notary Public



My Appointment expires July 17, 1988

**ALL SIGNATURES MUST BE ACKNOWLEDGED**

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

April 17, 1987

Stannard Construction Co., Inc.  
c/o David Stannard  
6015 N. Broadway  
Wichita, Ks 67219

Re: CU-306 - Conditional use permit to establish a sand extraction operation on property zoned the "R-1" Suburban Residential District west of Meridian and north of MacArthur; and

DR 87-6 - Special Use Permit to establish a temporary concrete batch plant associated with a governmental paving project west of Meridian and north of MacArthur.

Dear Mr. Stannard:

At its regular meeting on April 16, 1987, the Metropolitan Area Planning Commission considered the above-captioned requests. The action of the Planning Commission was to recommend that these applications be denied.

This matter will be forwarded to the Board of County Commissioners for consideration at their regular meeting on Wednesday, May 13, 1987. This meeting will be held in Room 320, Sedgwick County Courthouse, 525 North Main, Wichita, Kansas, beginning at 9:00 a.m.

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

Sincerely yours,

Jack H. Galbraith  
Chief Planner

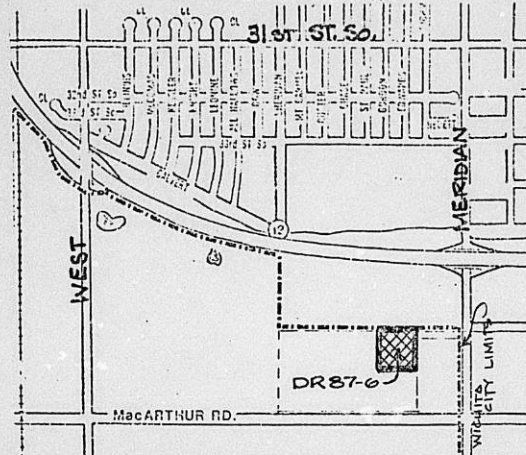
JHG/lw

cc: Carl M. Zeller, 3859 S. Meridian, Wichita, KS 67217  
Rev. Kenneth Woods, Bethel Assembly of God Church, P. O. Box  
1679, Wichita, KS 67201  
Richard Aldridge, District Lodge #70, Internat'l Assoc. of Machinists,  
3830 S. Meridian, Wichita, KS 67217  
Jeff Mann, 3850 S. Meridian, Wichita, KS 67217  
Steve Gordon, 339 Clinton, Haysville, KS 67060  
Richard Peckham, 400 N. Woodlawn, Wichita, KS 67208  
Roy C. Hayden, 2501 W. MacArthur, Wichita, Kansas 67217  
Hansel Martin, 547 E. Grand, Haysville, KS 67060  
Art Morgan, 3850 S. Meridian, Wichita, KS 67217  
Gary Webb, 3936 Calvert Court, Wichita, KS 67217  
Ron Worley, County Zoning Administrator

PL/0119/1

APRIL 16, 1987

STAFF REPORT



**DR 87-6 - REQUEST FOR SPECIAL USE PERMIT TO ESTABLISH A TEMPORARY CONCRETE BATCH PLANT ASSOCIATED WITH A GOVERNMENTAL PAVING PROJECT, GENERALLY LOCATED WEST OF MERIDIAN AND NORTH OF MACARTHUR.**

Applicant: Carl M. Zeller, 3859 S. Meridian, Wichita, KS 67217 (owner)  
Stannard Construction Co., Inc., c/o David Stannard, 6015 N. Broadway, Wichita, KS 67219 (lessee)

	<u>Land Use</u>	<u>Zoning</u>	<u>Size</u>
Application Area	Agriculture	"R-1"	8.3 acres
North	Church	"AA"	
South	Agriculture	"R-1"	
East	Agriculture	"R-1"	
West	Agriculture	"R-1"	

History: None.

**Background:** The applicant is requesting a special use permit for a concrete batch plant to be utilized in conjunction with a project to resurface the interstate between Kellogg and the Turnpike. This project is expected to take two construction seasons to complete. The equipment will be removed from the site upon completion of the project.

**Analysis:** Property to the north is in the city, is zoned "AA" and developed with a church. To the east, south and west is agricultural land in the applicant's ownership. A related conditional use permit request for a sand extraction operation has also been submitted (see CU-306). Access to the batch plant site will be from Meridian along the same access road used for the sand extraction operation. If the conditional use permit is not approved, the 60-foot-wide temporary access easement will need to be included in this special use permit.

A recommendation of approval should be subject to the following conditions:

1. Upon completion of this contractor's interstate resurfacing project, all materials and equipment associated with the batch plant shall be removed from the site. The site shall then be restored to its current agricultural condition unless CU-306 has been approved for a longer period of time.
2. Access to the site shall be from Meridian only.
3. The batch plant shall not be operated on Sundays.

**IMPORTANT MESSAGE**

FOR James  
DATE 4-7 TIME 10:39 (A.M.)

**WHILE YOU WERE AWAY**

Rev. Godbetts  
OR Westside Episcopal Saptist Church  
PHONE No. 524-8283 or 942-6385

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RETURNED YOUR CALL	

MESSAGE A.S.H.P.  
No: CU-306 & DR 87-6

Opposes

SIGNED Frenda

CASE NO. DR-87 and CU-306

24	Notices to adjoining property owners mailed on 4-2-87 for MAPC meeting on 4-16-87.
2	One each to Applicant and Agent.
3	One each to Ron Worley, David Spears and Karen Crook.
3	One each to Louise, Barbara and Glen.
<hr/>	
32	TOTAL

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

April 2, 1987

NOTICE OF PUBLIC HEARING

Case No.: CU-306 and DR 87-6.

Location: North of MacArthur Road in an area west of Meridian Avenue.

Address: 3859 South Meridian.

Request: Conditional Use Permit (CU-306) to Establish a Sand Pit and Concrete Batch Plant; AND a Special Use Permit (DR 87-6) to Establish a Concrete Batch Plant on Property Zoned the "R-1" Suburban Residential District.

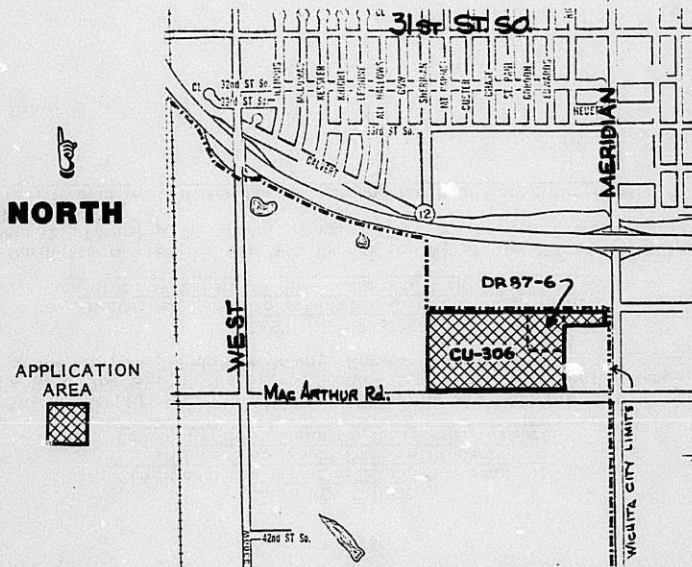
A public hearing to consider the above noted request has been scheduled before the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) on Thursday,

APRIL 16, 1987

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-306**  
**Conditional Use Permit to Establish a Sand Pit**  
**and Concrete Batch Plant on Property**  
**Zoned the "R-1" Suburban Residential District**

The SW $\frac{1}{4}$  of the SE $\frac{1}{4}$ ; and the W $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , and the north 60 feet of the E $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 12, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; AND

**CASE NO. DR 87-6**  
**Special Use Permit to Establish a Concrete Batch Plant**  
**on Property Zoned the "R-1 Suburban Residential District**

The North 600 feet of the East 600 feet of the W $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 12, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas.  
Generally located west of Meridian Avenue and north of MacArthur 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 Conditional Uses***

\*\*\*Mobile home parks and trailer camps are not permitted.

( ) Published in The Daily Reporter on March 24, 1987 (One Time)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN THAT ON THURSDAY, April 16, 1987, 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-305  
Conditional Use Permit to Establish a Horse Boarding Facility  
and Riding Academy on Property Zoned the "R-1"  
Suburban Residential District

A tract of land in the SW $\frac{1}{4}$  of Section 16, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, being more particularly described as follows:

Commencing at the southeast corner of said SW $\frac{1}{4}$ ; thence westerly along the south line of said SW $\frac{1}{4}$ , with an assumed bearing of S90°00'00"W, a distance of 1563.64 feet for a point of beginning; thence north 02°58'51"E a distance of 323.47 feet; thence N51°02'28"E a distance of 310.42 feet; thence east parallel to the south line of said Section 16 a distance of 235 feet; thence south to the south line of said Section 16; thence west along the south line of Section 16, to the point of beginning. Generally located on the north side of 47th Street South in an area east of Webb Road.

CASE NO. CU-306  
Conditional Use Permit to Establish a Sand Pit  
and Concrete Batch Plant on Property  
Zoned the "R-1" Suburban Residential District

The SW $\frac{1}{4}$  of the SE $\frac{1}{4}$ , and the W $\frac{1}{2}$  of the SE $\frac{1}{4}$  and the north 60' of the E $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 12, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; AND

CASE NO. DR 87-6  
Special Use Permit to Establish a Concrete Batch Plant  
on Property Zoned the "R-1 Suburban Residential District

The North 600 feet of the East 600 feet of the W $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 12, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

Generally located west of Meridian Avenue and north of MacArthur 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(s) 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(s) will be considered by the MAPC as by law provided.

WITNESS MY HAND this 24th day of March, 1987.

Marvin S. Krout, Secretary  
Wichita-Sedgwick County  
Metropolitan Area Planning Commission

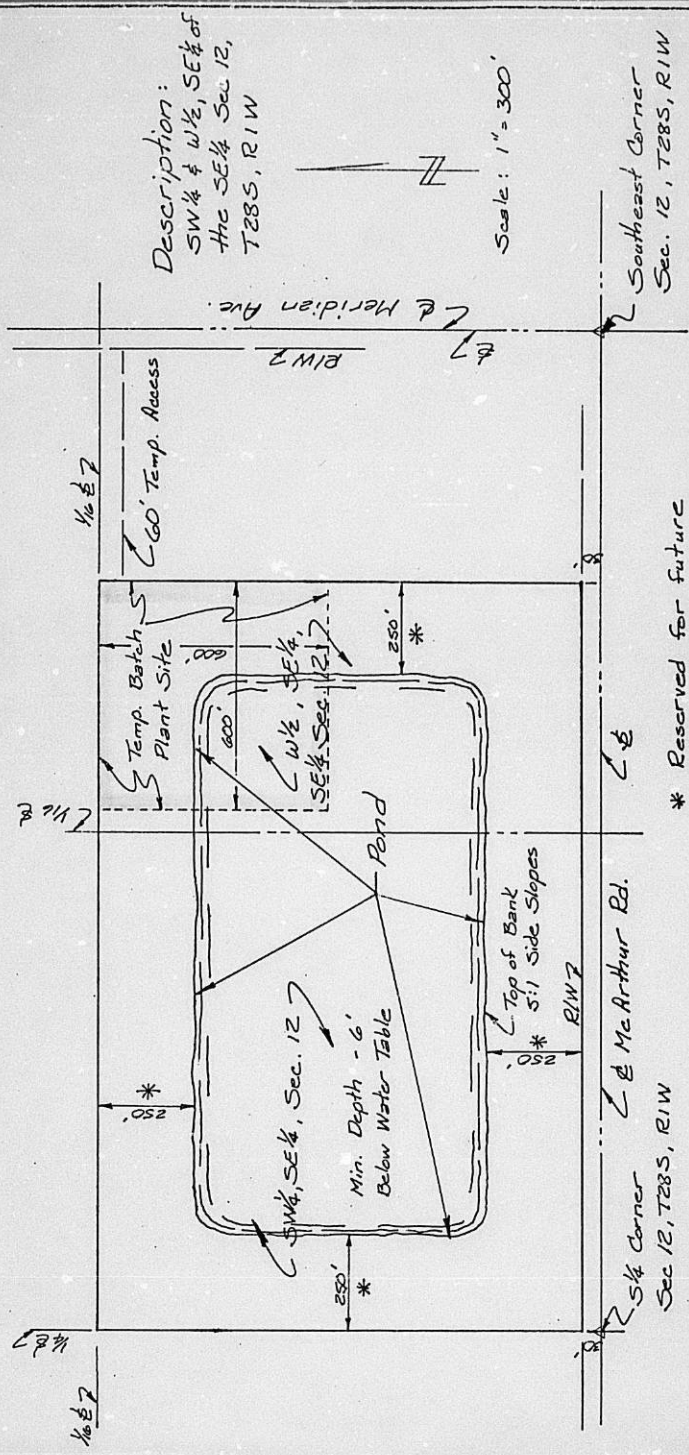
ok

CASE NO. DR 87-6

Special Use Permit to Establish a Concrete Batch Plant  
on Property Zoned the "R-1 Suburban Residential District"

The North 600 feet of the East 600 feet of the  $W\frac{1}{2}$  of the  $SE\frac{1}{4}$  of the  $SE\frac{1}{4}$  of Section 12, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located west of Meridian Avenue and north of Mac-Arthur Road.

PL/0164/4



Description:  
 SW 1/4 & W 1/2, SE 1/4 of  
 the SE 1/4 Sec 12,  
 T28S, R1W

Scale: 1" = 300'

Southeast Corner  
 Sec. 12, T28S, R1W

\* Reserved for future  
 residential development.

No Access will be required to  
 McArthur Rd. during Excavation.

APPLICATION FOR SPECIAL PERMIT

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION

This is an application for a Special 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.

DR 87-6

A. APPLICANT Carl M. & Loretta Zeller
ADDRESS 3859 S. Meridian Zip Code 67217 PHONE 524-6588

AGENT

ADDRESS Zip Code PHONE

B. APPLICANT Stannard Construction Co., Inc.
ADDRESS 6015 N. Broadway Zip Code 67204 PHONE 744-0433

AGENT David Stannard

ADDRESS 6015 N. Broadway Zip Code 67204 PHONE 744-0433

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

Concrete Batch Plant (use)

on property zoned R-1 Sub Res and 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).

N 600 ft. of E 600 ft. of W 1/2 SE 1/4 of the SE 1/4 of Sec. 12 Twp. 28S, Rg 1W

use for legal

- B. There are 8.26 acres (round to nearest tenth) in the above described property.

FOR OFFICE USE ONLY

Map No. 5243B Zoning (N) AA (S) R-1 (E) R-1 (W) R-1 MAPC 4-16-87

(City) & G

3. This property is located at (address) 3859 S. Meridian.

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

A. At the NW corner of Meridian Ave. and

Macarthur Rd., OR

B. On the west of Meridian in an area north of Macarthur side of (Ave.) Street between (Ave.) Street and (Ave.) Street.

The property included in this application is zoned \_\_\_\_\_ (ZONING DISTRICT CLASSIFICATION).

4. We request this special permit for the following reasons:

To supply concrete for the resurfacing of the South portion of I-235 & I-135

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 FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE. WE ACKNOWLEDGE THAT THE BOARD OF CITY OR COUNTY COMMISSIONERS SHALL HAVE AUTHORITY TO IMPOSE SUCH CONDITIONS AS IT DEEMS NECESSARY IN ORDER TO SERVE THE PUBLIC INTEREST AND WELFARE.

Carl M. Zeller  
APPLICANT'S SIGNATURE

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

Janetta Zeller  
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 11<sup>30</sup>  
(AM) PM on 3-17-87 (day, month, year). It has been checked and found to be complete and accompanied by required documents and the appropriate fee of \$ 150.00.

Ownership list coming.

Frank B. Harris Name  
Senior Planner Title



March 16, 1987

LETTER OF INTENT

Jack Galbraith  
Wichita Zoning Commission  
Wichita, Kansas

Stannard Construction Co., Inc. has a contract with the Kansas Department of Transportation to reconstruct I-135 and I-235. This will require the furnishing of Portland Cement Concrete to the project. Sand would be pumped at this location as one of the aggregates for the Portland Cement Concrete. This sand will be furnished to the concrete batch plant which is to be located on this same property.

Upon completion of these projects Stannard Construction Co., Inc. will continue to produce sand for approximately three (3) more years.

i/766A

**MICROFILMED**  
**FROM THE BEST**  
**AVAILABLE COPY**

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
NAME		
ADDRESS		
FUND	DUE DATE	
COMMENTS		
DATE	BY	