

CU-120 - Kessler Brothers, Inc. re-
quest Conditional Use Permit for
Temporary Sand Extraction Operation
at the northwest corner of Mac
Arthur and West Streets.

*POSTED
11/12/69*

ACTION

DATE

COMMITTEE	_____	_____
M.A.P.C.	<i>Express only</i>	<i>11-22-69</i>
	<i>to bottom</i>	
B.C.C. / B. CO. C.	<i>Express only</i>	<i>12-12-69</i>
	<i>recommended</i>	

Closed December 19, 1969

Map No. J-1-B ^{BL3} DATA SHEET Z- _____
 Sec. 11 SCZ- _____
 Twp. 28 S (ZONING & CONDITIONAL USE) CU- 120
 Range 1 W Filed 11-3-69

APPLICATION DATA: From _____ to _____
 1. Applicant: Kessler Brothers, Inc.
 Address 1905 Southwest Blvd. (13) Phone 943-4354
 2. Agent: Richard F. Mullins
 Address 330 R. H. Garvey Building (02) Phone AM 7-5267
 3. General Location: At the northwest corner of MacArthur Road and
West Street Address N/A
 4. Proposed Use: Temporary Sand Extraction Operation

AREA DATA:
 1. Acres: 6510 (1500 ft. by 1510 ft. by 540 ft. by 1100 ft.)
 2. Adjoining Zoning: E R-1 & LC S E W E N E
 3. Land Use: East UNDEVELOPED South UNDEVELOPED
 West VACANT North UNDEVELOPED
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use is for: UNDEVELOPED
 6. Area (x) (is not) platted.

PROCEDURE DATA:
 1. Zoning Committee _____ by _____, _____, _____
 2. MAPC Meeting:

Date	Action
<u>11-26-69</u>	<u>Approve</u>

3. Governing Body ~~XXXXXXXXXXXXXXXXXXXX~~ - Bd. County Commissioners)

Date	Action	Resolution
<u>12-12-69</u>	<u>Approve as recommended</u>	

NOTES:

() Published in The Wichita Beacon on December 17, 1969.

RESOLUTION

A RESOLUTION PERMITTING ESTABLISHMENT OF A TEMPORARY SAND EXTRACTION OPERATION ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF EITHER THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, OR THE CITY OF GODDARD, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 9.A.5.a) AND SECTION 11.E OF THE ZONING RESOLUTION ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON MARCH 3, 1958, AND SUBSEQUENT AMENDMENTS THERETO.

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

SECTION I. That after receiving a recommendation from Wichita-Sedgwick County Metropolitan Area Planning Commission and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section 9.A.5.a) and Section 11.E of the Zoning Resolution, as amended, a Conditional Use Permit to allow a temporary sand extraction operation is hereby approved on the lands legally described as follows:

All of the Southeast Quarter of Section 11, Township 28 South, Range 1 West, lying west of the 100-foot Missouri Pacific Railroad right of way therein located, EXCEPT the following tracts, to-wit:

- (a) The south 1133 feet of the west 933 feet of said Southeast Quarter;
- (b) Beginning at a point on the west line of said 100-foot Missouri Pacific Railroad right of way, which point is 50 feet north of the south line of said Southeast Quarter; thence in a northerly direction along said west railroad right-of-way line, a distance of 300 feet; thence west 140 feet; thence south and parallel with said west line of said railroad right of way 300 feet to a point 50 feet north of the south line of said Southeast Quarter; thence 140 feet east to the point of beginning; and
- (c) The right of way for MacArthur Road.

subject to the following conditions:

1. The applicant dedicating by separate instrument the necessary 60 feet of half-street right of way for MacArthur Road.
2. The applicant shall submit the "Operational Plan" to the Flood Control Office for determination as to whether or not it is necessary to guarantee the construction of a "loop levee". If such levee is requested, the appropriate guarantee shall be submitted to the Planning Department prior to the publication of the Resolution.
3. The applicant shall proceed in accordance with the Operational Plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the development plan.
4. A minimum 58-inch high fence shall be constructed and maintained along the perimeter of the site on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the 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:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or opening not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.

5. The earth shall be extracted to a minimum depth of two feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.

7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
8. The natural drainage flow shall be maintained and 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 Engineer, and shall be according to the specifications and standards of these authorities.
9. 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 Resolution and amendments thereto.
10. All slopes, excepting those slopes used for a beach or recreational purposes, 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.
11. Excavation shall not extend beyond those lines indicated on the Operational Plan as "limit of land available for excavation", approved by the Metropolitan Area Planning Commission.
12. The applicant complying with Conditions No. 1, 2 and 7 prior to the publication of the resolution effectuating the conditional use. In the event these conditions are not complied with within one year from the approval date by the Board of County Commissioners, this case shall be considered null and void.
13. The property shall be platted prior to the issuance of any zoning or building permits other than those necessary for the proposed sand extraction operation.
14. Any violation of conditions attached shall declare the conditional use permit null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use approval shall be entered and shown on the particular sectional zoning map contained in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official County paper.

PASSED AND ADOPTED at Sedgwick County, Kansas, this 12th day of December, 1967.

Carl E. Rush, Chairman
Almer Peters, Commissioner
Tom Lee, Commissioner

ATTEST:

Marie Uicker by Betty M. Doud Deputy
County Clerk

(SEAL)

RESTRICTIVE COVENANT

KESSLER BROS., INC., a Kansas corporation, fee owner of the following described real estate in Sedgwick County, Kansas, to-wit:

All of the Southeast Quarter of Section 11, Township 28 South, Range 1 West, lying west of the 100' Missouri Pacific Railroad right-of-way therein located; Except the following tracts, to-wit:

- (a) The south 1133 feet of the west 933 feet of said Southeast Quarter;
- (b) Beginning at a point on the west line of said 100' Missouri Pacific Railroad right-of-way, which point is 50 feet north of the south line of said Southeast Quarter; thence in a northerly direction along said west railroad right-of-way line, a distance of 300 feet; thence west 140 feet; thence south and parallel with said west line of said railroad right-of-way 300 feet to a point 50 feet north of the south line of said Southeast Quarter; thence 140 feet east to the point of beginning; and
- (c) The right-of-way for MacArthur Road;

hereby makes the following declaration as to restrictions, limitations and use of the above described land now owned by said Kessler Bros., Inc. and that said Declaration shall constitute covenants running with said land now owned by said Kessler Bros., Inc. and shall be binding upon all owners and their successors, assigns and heirs:

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

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

IN WITNESS WHEREOF this Restrictive Covenant has been executed on this the ____ day of _____, 19____, by Kessler Bros., Inc.

KESSLER BROS., INC.

ATTEST:

by _____
President

ACKNOWLEDGMENT

STATE OF KANSAS, SEDGWICK COUNTY, ss

BE IT REMEMBERED that on this ____ day of _____, 19____, before me a Notary Public in and for the said County and State came _____, President of Kessler Bros., Inc., to me personally known to be the same person who executed the within and foregoing instrument and duly acknowledged the execution of the same for and on behalf of and as the act and deed of said corporation.

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

My Commission Expires: _____

Notary Public

() Published in The Wichita Beacon on _____, 19____.

RESOLUTION

A RESOLUTION PERMITTING ESTABLISHMENT OF A TEMPORARY SAND EXTRACTION OPERATION ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF EITHER THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, OR THE CITY OF GODDARD, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 9.A.5.a) AND SECTION 11.E OF THE ZONING RESOLUTION ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON MARCH 3, 1958, AND SUBSEQUENT AMENDMENTS THERETO.

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

SECTION 1. That after receiving a recommendation from Wichita-Sedgwick County Metropolitan Area Planning Commission and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section 9.A.5.a) and Section 11.E of the Zoning Resolution, as amended, a Conditional Use Permit to allow a temporary sand extraction operation is hereby approved on the lands legally described as follows:

All of the Southeast Quarter of Section 11, Township 28 South, Range 1 West, lying west of the 100-foot Missouri Pacific Railroad right of way therein located, EXCEPT the following tracts, to-wit:

- (a) The south 1133 feet of the west 933 feet of said Southeast Quarter;
- (b) Beginning at a point on the west line of said 100-foot Missouri Pacific Railroad right of way, which point is 50 feet north of the south line of said Southeast Quarter; thence in a northerly direction along said west railroad right-of-way line, a distance of 300 feet; thence west 140 feet; thence south and parallel with said west line of said railroad right of way 300 feet to a point 50 feet north of the south line of said Southeast Quarter; thence 140 feet east to the point of beginning; and
- (c) The right of way for MacArthur Road,

subject to the following conditions:

1. The applicant dedicating by separate instrument the necessary 60 feet of half-street right of way for MacArthur Road.
2. The applicant shall submit the "Operational Plan" to the Flood Control Office for determination as to whether or not it is necessary to guarantee the construction of a loop levee. If such levee is requested, the appropriate guarantee shall be submitted to the Planning Department prior to the publication of the Resolution.
3. The applicant shall proceed in accordance with the Operational Plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the development plan.
4. A minimum 59-inch high fence shall be constructed and maintained along the perimeter of the site on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the 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 59 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or opening not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.
5. The earth shall be excavated to a minimum depth of two feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.

7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
8. The natural drainage flow shall be maintained and 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 Engineer, and shall be according to the specifications and standards of these authorities.
9. 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 Resolution and amendments thereto.
10. All slopes, excepting those slopes used for a beach or recreational purposes, 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.
11. Excavation shall not extend beyond those lines indicated on the Operational Plan as "limit of land available for excavation", approved by the Metropolitan Area Planning Commission.
12. The applicant complying with Conditions No. 1, 2 and 7 prior to the publication of the resolution effectuating the conditional use. In the event these conditions are not complied with within one year from the approval date by the Board of County Commissioners, this case shall be considered null and void.
13. The property shall be platted prior to the issuance of any zoning or building permits other than those necessary for the proposed sand extraction operation.
14. Any violation of conditions attached shall declare the conditional use permit null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use approval shall be entered and shown on the particular sectional zoning map contained in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

PASSED AND ADOPTED at Sedgwick County, Kansas, this 2nd day of December, 1917.

Carl E. Rush, Chairman
Edmer Peters, Commissioner
Wm. Lee, Commissioner

ATTEST:

Mavis Warden by Betty Anderson, Deputy
County Clerk

(SEAL)

12-16-69

Ralph C. Eberly, City Clerk
Jack H. Galbraith, Senior Planner

CU-120 - Conditional Use request for sand extraction operation

The Board of County Commissioners, at their regular meeting of December 12, 1969, approved the above captioned Conditional Use request. One of the conditions of approval required the submission of a restrictive covenant providing that no rubbish, car bodies or other foreign matter shall be deposited in the excavation area.

Please record the attached document with the Register of Deeds and bill the recording cost to our Department. If you have any questions concerning this matter, please call.

JHG:vjp

Attachment

RESTRICTIVE COVENANT

KESLER BROS., INC., a Kansas corporation, fee owner
of the following described real estate in Sedgewick County, Kansas,
to-wit:

All of the Southeast Quarter of Section 11,
Township 28 South, Range 1 West, lying west
of the 100' Missouri Pacific Railroad right-
of-way therein located; Except the following
tracts, to-wit:

- (a) The south 1133 feet or the west 933 feet
of said Southeast Quarter;
- (b) Beginning at a point on the west line of
said 100' Missouri Pacific Railroad right-
of-way, which point is 50 feet north of
the south line of said Southeast Quarter;
thence in a northerly direction along
said west railroad right-of-way line, a
distance of 300 feet; thence west 140 feet;
thence south and parallel with said west
line of said railroad right-of-way 300 feet
to a point 50 feet north of the south line
of said Southeast Quarter; thence 140 feet
east to the point of beginning; and
- (c) The right-of-way for MacArthur Road;

hereby makes the following declaration as to restrictions, limita-
tions and use of the above described land now owned by said Kessler
Bros., Inc. and that said Declaration shall constitute covenants
running with said land now owned by said Kessler Bros., Inc. and
shall be binding upon all owners and their successors, assigns and
heirs:

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

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

IN WITNESS WHEREOF this Restrictive Covenant has been
executed on this the 3rd day of December, 1969, by
Kessler Bros., Inc.

KESLER BROS., INC.

by _____
Frank M. Kessler President

ACKNOWLEDGMENT

STATE OF KANSAS, SEDGWICK COUNTY, ss

BE IT REMEMBERED that on this 3rd day of December, 1969
before me a Notary Public in and for the said County and State came
Frank M. Kessler, President of Kessler Bros., Inc.,
personally known to be the same person who executed the within and
forgoing instrument and duly acknowledged the execution of the same
behalf of and as the act and deed of said corporation.
IN WITNESS WHEREOF, I have hereunto subscribed my name and
official seal the day and year last above written.



Notary Public

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One (\$1.00) Dollar and other good and valuable consideration the receipt of which is hereby acknowledged, the undersigned Kessler Bros., Inc. does hereby dedicate all of its right, title and interest in and to the following described lands, to-wit:

see D-0420

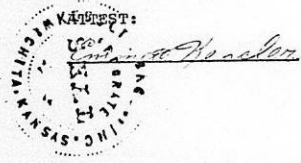
Beginning at a point on the south line of the Southeast Quarter of Section 11, Township 28 South, Range 1 West, Sedgwick County, Kansas, which point is 933' East of the southwest corner of said Southeast Quarter; thence north 60 feet; thence east and parallel with the south line of said Southeast Quarter a distance of 435.6 feet; thence south 10 feet; thence east and parallel with the south line of said Southeast Quarter a distance of 140 feet to the west line of the 100' Missouri Pacific Railroad right-of-way located in said Southeast Quarter; thence south 50 feet to the south line of said Southeast Quarter; thence west 575.6 feet to the point of beginning;

to the public for road purposes.

EXECUTED this 3rd day of December, 1969.

KESSLER BROS., INC.

by [Signature]
Frank M. Kessler President



ACKNOWLEDGMENT

STATE OF KANSAS, SEDGWICK COUNTY: ss

BE IT REMEMBERED that on this 3rd day of December, 1969, before me a Notary Public in and for the said County and State came Frank M. Kessler, President of Kessler Bros., Inc. to me personally known to be the same person who executed the within and foregoing instrument and duly acknowledged the execution of the same for and on behalf of and as the act and deed of said corporation.

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



[Signature]
Notary Public
LEONA F. GRIFFITH

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

this _____, 19____.

City Clerk

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION TO
BOARD OF COUNTY COMMISSIONERS

REQUEST FOR CONDITIONAL USE

CASE NO. CU-120

CONSIDERED BY MAPC: 11-26-69

REQUEST FOR: Conditional Use

REASON FOR REQUEST (AS PROVIDED BY APPLICANT):

"For temporary extraction of sand; to ultimately build a lake in said property and in the future to rehabilitate the area for private recreational purposes and to develop types of residential structures that would ultimately lend itself to the most practical, highest and best use of the (area.

GENERAL LOCATION:

Northwest corner of MacArthur Road and West Street

LEGAL DESCRIPTION:

All of the SE $\frac{1}{4}$, S11, T28S, R1W, Sedgwick County, Kansas, lying W of the Missouri Pacific Railroad right of way, except the S 1133 feet of the W 933 feet, except railroad right of way and except right of way for Mac Arthur Road and except beginning at the intersection of the SL of the said SE $\frac{1}{4}$ & the WL of the Missouri Pacific right of way, thence W 140 feet, thence N 300 feet, thence E 140 feet, thence S to beginning.

APPLICANT: Kessler Brothers, Inc., 1905 Southwest Boulevard

COUNSEL FOR APPLICANT: Milo Unruh, Attorney, 330 R. H. Garvey Building

PROTESTORS (LIST COUNSEL) IF ANY: None

SURROUNDING ZONING: To the north, east, south and west is "E" zoning

LAND USE: Subject property and that to the north is undeveloped; east is railroad; south and west is single-family and undeveloped.

PLANNING COMMISSION RECOMMENDATION:

BLED SOE moved and TROUT seconded that the Planning Commission recommend to the County Commission that this application be approved, subject to the following conditions:

(See excerpt of Planning Commission minutes attached for conditions of approval.)

VOTE OF PLANNING COMMISSION: Unanimous

- ACTION: 1. Approve the recommendation of the Metropolitan Area Planning Commission, adopt the Resolution effectuating the Conditional Use and instruct the Planning Department to withhold publication until such time as the conditions of approval have been complied with; or
2. Deny the application.

mailed 12-3-69

EXCERPT FROM PLANNING COMMISSION MINUTES OF NOVEMBER 26, 1969:

- "14. Case No. CU-120 - Kessler Brothers, Inc. request a Conditional Use Permit to establish a temporary sand extraction operation on property zoned "E" and legally described as follows: All of the SE¼, S11, T28S, RLW, Sedgwick County, Kansas, lying west of the Missouri Pacific Railroad right of way, except the south 1133 feet of the west 933 feet, except railroad right of way and except right of way for MacArthur Road and except beginning at the intersection of the south line of the said SE¼ and the west line of the Missouri Pacific right of way thence west 140 feet; thence north 300 feet, thence east 140 feet, thence south to beginning. Generally located at the northwest corner of MacArthur Road and West Street.

LAKIN pointed out the area on the map and reviewed the following staff report:

Comments

1. The applicant is requesting a Conditional Use to establish a sand extraction operation on approximately 67 acres of land in an area west of West Street lying north of MacArthur Road and west of the Missouri Pacific Railroad.
2. The applicant has submitted an Operational Plan and a Redevelopment Plan in conjunction with the application. Although the operational plan is acceptable, the proposed future use of the area for single-family dwellings and apartments is questionable since it is adjacent to a railroad, is in an area zoned industrial, and is not in conformance with the Land Use Plan or School Plan.
3. It should be recognized that the Sketch Plan for redevelopment does not pre-judge the use of the land or future zoning changes. It should also be recognized that redevelopment will not take place for many years and the demand and uses in this area may change during the intervening time.
4. It should be noted that several sandpit operations are presently in existence to the north of subject application and west of I-235. It is the opinion of the Planning Department that since this area is zoned for industrial uses, the proposed use is proper for the area.

Recommendation

Based on the foregoing review and comments, it is the recommendation of the Planning Department that this Conditional Use request to permit a sand extraction operation, be approved, subject to the following conditions:

1. The applicant dedicating by separate instrument the necessary 60 feet of half-street right of way for MacArthur Road.
2. The applicant shall submit the "Operational Plan" to the Flood Control Office for determination as to whether or not it is necessary to guarantee the construction of a "loop levee". If such levee is requested, the appropriate guarantee shall be submitted to the Planning Department prior to the publication of the Resolution.
3. The applicant shall proceed in accordance with the Operational Plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the development plan.

4. A minimum 58-inch high fence shall be constructed and maintained along the perimeter of the site on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as 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.
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.

5. The earth shall be extracted to a minimum depth of two feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.
7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the Conditional Use by the Board of County Commissioners.
8. The natural drainage flow shall be maintained and 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 Engineer, and shall be according to the specifications and standards of these authorities.
9. 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 Resolution and amendments thereto.
10. All slopes, excepting those slopes used for a beach or recreational purposes, 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.
11. Excavation shall not extend beyond those lines indicated on the Operational Plan as "limit of land available for excavation", approved by the Metropolitan Area Planning Commission.
12. The applicant complying with Conditions No. 1, 2 and 7 prior to the publication of the resolution effectuating the conditional use.

13. The property shall be platted prior to the issuance of any zoning or building permits other than those necessary for the proposed sand extraction operation.
14. Any violation of conditions attached shall declare the conditional use permit null and void.

LAKIN said that the following should be added to suggested condition #12: "In the event these conditions are not complied with within one year from the approval date by the Board of County Commissioners, this case shall be considered null and void".

GOEBEL asked if this area was in the Oatville School District and was informed that it is now in Unified School District #259. There was brief discussion of the possibility of adding a requirement that there could be no residential development within the next 10 years, but it was agreed that it would be a long, long time before there was any possibility of residential development. BLEDSOE referred to the desirable Twin Lakes Shopping Center which was developed on what was at one time a sand pit.

MILO UNRUH, attorney for the applicants, spoke in support of the request and said they were prepared to comply with the conditions as suggested by the staff.

No one spoke in opposition.

MOTION: BLEDSOE moved, TROUT seconded and it carried unanimously that the Planning Commission recommend to the County Commission that this application be approved, subject to the following:

1. The applicant dedicating by separate instrument the necessary 60 feet of half-street right of way for MacArthur Road.
- ✓ 2. The applicant shall submit the "Operational Plan" to the Flood Control Office for determination as to whether or not it is necessary to guarantee the construction of a "loop levee". If such levee is requested, the appropriate guarantee shall be submitted to the Planning Department prior to the publication of the Resolution.
3. The applicant shall proceed in accordance with the Operational Plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the development plan.
4. A minimum 58-inch high fence shall be constructed and maintained along the perimeter of the site on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the 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:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or

- c. A 48" or higher wood fence which may have cracks or opening not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.

5. The earth shall be extracted to a minimum depth of two feet below the normal water table as determined by the City-County Health Department.
 6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.
 7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
 8. The natural drainage flow shall be maintained and 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 Engineer, and shall be according to the specifications and standards of these authorities.
 9. 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 Resolution and amendments thereto.
 10. All slopes, excepting those slopes used for a beach or recreational purposes, 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.
 11. Excavation shall not extend beyond those lines indicated on the Operational Plan as "limit of land available for excavation", approved by the Metropolitan Area Planning Commission.
 12. The applicant complying with Conditions No. 1, 2 and 7 prior to the publication of the resolution effectuating the conditional use. In the event these conditions are not complied with within one year from the approval date by the Board of county Commissioners, this case shall be considered null and void.
 13. The property shall be platted prior to the issuance of any zoning or building permits other than those necessary for the proposed sand extraction operation.
 14. Any violation of conditions attached shall declare the conditional use permit null and void".
-

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One (\$1.00) Dollar and other good and valuable consideration the receipt of which is hereby acknowledged, the undersigned Kessler Bros., Inc. does hereby dedicate all of its right, title and interest in and to the following described lands, to-wit:

Beginning at a point on the south line of the Southeast Quarter of Section 11, Township 28 South, Range 1 West, Sedgwick County, Kansas, which point is 933' East of the southwest corner of said Southeast Quarter; thence north 60 feet; thence east and parallel with the south line of said Southeast Quarter a distance of 435.6 feet; thence south 10 feet; thence east and parallel with the south line of said Southeast Quarter a distance of 140 feet to the west line of the 100' Missouri Pacific Railroad right-of-way located in said Southeast Quarter; thence south 50 feet to the south line of said Southeast Quarter; thence west 575.6 feet to the point of beginning;

to the public for road purposes.

EXECUTED this ____ day of _____, 19____.

KESSLER BROS., INC.

ATTEST:

by _____
President

ACKNOWLEDGMENT

STATE OF KANSAS, SEDGWICK COUNTY: ss

BE IT REMEMBERED that on this ____ day of _____, 19____, before me a Notary Public in and for the said County and State came _____, President of Kessler Bros., Inc. to me personally known to be the same person who executed the within and foregoing instrument and duly acknowledged the execution of the same for and on behalf of and as the act and deed of said corporation.

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

My Commission Expires: _____

Notary Public

November 28, 1969

Mr. Milo Unruh
Attorney at Law
330 R. H. Garvey Building
Wichita, Kansas 67202

Re: CU-120 - Conditional Use to
establish a temporary sand
extraction operation - North-
west corner of MacArthur Road
and West Street

Dear Mr. Unruh:

At its regular meeting of November 26, 1969, the Metropolitan Area Planning Commission considered the above-captioned conditional use application. The action of the Planning Commission was to recommend that this application be approved, subject to the following conditions:

1. The applicant dedicating by separate instrument the necessary 60 feet of half-street right of way for MacArthur Road.
2. The applicant shall submit the "Operational Plan" to the Flood Control Office for determination as to whether or not it is necessary to guarantee the construction of a "loop levee". If such levee is requested, the appropriate guarantee shall be submitted to the Planning Department prior to the publication of the Resolution.
3. The applicant shall proceed in accordance with the Operational Plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the development plan.
4. A minimum 58-inch high fence shall be constructed and maintained along the perimeter of the site on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the 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.

- a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
- b. A 48" or higher wood fence which may have cracks or opening not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.

5. The earth shall be excavated to a minimum depth of two feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.
7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to County, legal counsel, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
8. The natural drainage flow shall be maintained and 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 Engineer, and shall be according to the specifications and standards of these authorities.
9. 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 Resolution and amendments thereto.
10. All slopes, excepting those slopes used for a beach or recreational purposes, 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.

000548

Page 3 - Unruh - November 28, 1969

11. Excavation shall not extend beyond those lines indicated on the Operational Plan as "limit of land available for excavation", approved by the Metropolitan Area Planning Commission.
12. The applicant complying with Conditions No. 1, 2 and 7 prior to the publication of the resolution effectuating the conditional use. In the event these conditions are not complied with within one year from the approval date by the Board of County Commissioners, this case shall be considered null and void.
13. The property shall be platted prior to the issuance of any zoning or building permits other than those necessary for the proposed sand extraction operation.
14. Any violation of conditions attached shall declare the conditional use permit null and void.

We are enclosing a sample copy of a restrictive covenant which was prepared in connection with a similar case, thinking that it might be helpful in your preparation of the covenant required in condition #7 above. Also enclosed is dedication form for the dedication of additional right of way for MacArthur Road.

Sept. 2, 1970
 If the restrictive covenants and executed dedication are submitted to our office by 5:00 p.m. on Wednesday, December 3, 1969, this matter will be forwarded to the Board of County Commissioners for consideration at their meeting on Wednesday, December 10, 1969, at 9:00 a.m. in Room 320 Sedgwick County Courthouse.

Sept. 9, 1970
 If you should have any questions concerning this matter, please call our office.

Sincerely,

Robert A. Lakin
Secretary

RAL:bh

cc: Tom Craig, County Zoning Administrator
 Kessler Brothers, Inc., 1906 Southwest Boulevard
 Wichita, Kansas 67213

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

MAPC HEARING DATE: November 26, 1969

Case No. CU-120	Request: Conditional Use Permit for sand extraction operation	
Location: North of MacArthur Road and west of Missouri Pacific Railroad west of West Street		
Reason: "For temporary extraction of sand; to ultimately build a lake in said property and in the future to rehabilitate the area for private recreational purposes and to develop types of residential structures that would ultimately lend itself practical, highest and best use of the area".		
Acres: 67	Size: N/A	
	<u>Land Use</u>	<u>Zoning</u>
Existing	Undeveloped	"E"
North	Undeveloped	"E"
East	Railroad	"E"
South	Single-family & undeveloped	"E"
West	Single-family & undeveloped	"E"
Unplatted <u>X</u>		
Existing R/W - McArthur Road (half) 30 ft.		
Proposed R/W - McArthur Road (half) 60 ft.		History: None

COMMENTS

1. The applicant is requesting a Conditional Use to establish a sand extraction operation on approximately 67 acres of land in an area west of West Street lying north of MacArthur Road and west of the Missouri Pacific Railroad.
2. The applicant has submitted an Operational Plan and a Redevelopment Plan in conjunction with the application. Although the operational plan is acceptable, the proposed future use of the area for single-family dwellings and apartments is questionable since it is adjacent to a railroad, is in an area zoned industrial, and is not in conformance with the Land Use Plan or School Plan.
3. It should be recognized that the Sketch Plan for redevelopment does not pre-judge the use of the land or future zoning changes. It should also be recognized that redevelopment will not take place for many years and the demand and uses in this area may change during the intervening time.

4. It should be noted that several sand pit operations are presently in existence to the north of subject application and west of I-235. It is the opinion of the Planning Department that since this area is zoned for industrial uses, the proposed use is proper for the area.

RECOMMENDATION

Based on the foregoing review and comments, it is the recommendation of the Planning Department that this Conditional Use request to permit a sand extraction operation, be approved, subject to the following conditions:

1. The applicant dedicating by separate instrument the necessary 60 feet of half-street right of way for MacArthur Road.
2. The applicant shall submit the "Operational Plan" to the Flood Control Office for determination as to whether or not it is necessary to guarantee the construction of a "loop levee". If such levee is requested, the appropriate guarantee shall be submitted to the Planning Department prior to the publication of the Resolution.
3. The applicant shall proceed in accordance with the Operational Plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the development plan.
4. A minimum 58-inch high fence shall be constructed and maintained along the perimeter of the site on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as 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.
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.

5. The earth shall be extracted to a minimum depth of two feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.
7. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation after approval of the conditional use by the Board of County Commissioners.
8. The natural drainage flow shall be maintained and 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 Engineer, and shall be according to the specifications and standards of these authorities.
9. 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 Resolution and amendments thereto.
10. All slopes, excepting those slopes used for a beach or recreational purposes, 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.
11. Excavation shall not extend beyond those lines indicated on the Operational Plan as "limit of land available for excavation", approved by the Metropolitan Area Planning Commission.
12. The applicant complying with Conditions No. 1, 2 and 7 prior to the publication of the resolution effectuating the conditional use.
13. The property shall be platted prior to the issuance of any zoning or building permits other than those necessary for the proposed sand extraction operation.
14. Any violation of conditions attached shall declare the conditional use permit null and void.

November 17, 1969

Mr. Richard F. Mullins
330 R. H. Garvey Building
Wichita, Kansas 67202

Dear Mr. Mullins:

Re: CU-120 - Kessler Brothers, Inc.
request Conditional Use Permit
for Temporary Sand Extraction
Operation at the N.W. corner
of MacArthur and West Streets

We have briefly reviewed your application for extraction of sand with M. S. Mitchell of the Flood Control Office. He particularly requested that the applicant review his plans with him to determine whether or not the construction of a "loop levy" will be necessary.

In our early discussion of filing an exception application with Mr. Kuhn of your office, we stressed the necessity of filing two types of plans. One, an "operational plan", indicates existing features, the relation of the site to adjacent lands, street, railroad right-of-way, etc., and the location of the plant operation and the limits of the excavation area. This plan is the one that the Planning Commission approves the application subject to, and excavation then proceeds according to the approved plan. This type of plan has not been submitted with this application.

The "sketch plan for proposed development" indicates how the area might be redeveloped in the future when the excavation operation ceases. This plan, too, should be related to existing features and should take into consideration existing zoning. This plan does not pre-judge the use of the land or future zoning change requests; however, it has given a strong indication that the developer is giving consideration to redeveloping the land after the excavation ceases. In this particular area, and since the area is zoned for industrial uses, the proposed use for residences would be questionable at this time.

Page 2 - November 17, 1969
Richard F. Mullins

Since we did not receive an "operational plan" showing the limits of the proposed excavation, etc., we cannot make a favorable recommendation to the Planning Commission at this time. We feel that the excavation operation is a logical use, however, the future use of apartments and single family homes would not be in conformance to the land use or school plans.

We would recommend that you submit the "operational plan" as outlined above. It should be pointed out that the submitted plan proposes a commercial use on land that your legal description has excluded as railroad right-of-way. We would be happy to discuss the type of plans that we feel the Planning Commission is desirous of reviewing. Until appropriate plans are submitted, we feel that our recommendation to the Planning Commission would have to be for a deferral until the plans are provided.

Enclosed is a plan indicating adjacent streets. If we can be of assistance, please call.

Sincerely,

Jack H. Galbraith
Senior Planner

JHG:ls
Enclosure
cc Messler Brothers, Inc.
1905 Southwest Blvd.

CASE NO. CU-120

16 NOTICES TO ADJOINING PROPERTY OWNERS MAILED 11-13-69 FOR MPC 11-26-69

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION
CITY BUILDING ANNEX, 104 South Main
WICHITA, KANSAS 67202

NOTICE TO ADJOINING PROPERTY OWNERS

NOV 13 1969 ¹⁶

The Wichita-Sedgwick County Metropolitan Area Planning Commission will consider the following item in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at its meeting at 1:30 p.m., on NOV 26 1969, at which time you may appear either in person or by agent or attorney, if you so desire.

CASE NO. CU-120
Conditional Use Request for Establishment
of a Temporary Sand Extraction Operation
on Property Zoned "E" Light Industrial

All of the SE $\frac{1}{4}$, S11, T28S, R1W, Sedgwick County, Kansas, lying west of the Missouri Pacific Railroad right of way, except the south 1133 feet of the west 933 feet, except railroad right of way and except right of way for MacArthur Road and except beginning at the intersection of the south line of the said SE $\frac{1}{4}$ and the west line of the Missouri Pacific right of way thence west 140 feet, thence north 300 feet, thence east 140 feet, thence south to beginning. Generally located at the northwest corner of MacArthur Road and West Street.

NOTE: It is the policy of the Planning Commission that any request for a deferral of the hearing of this case shall be submitted to the Secretary, Robert A. Lakin, 104 South Main, 7 days prior to the meeting. The Chairman and Secretary may grant such a request for deferral. Persons requesting deferrals will be charged with the cost of preparing and mailing new notices.

Robert A. Lakin
Secretary

T9-216

SEDGWICK COUNTY ZONING RESOLUTION

Summary Description of Zoning Districts

- "R" - Rural Residential District
Permits one single-family dwelling for each lot of two acres with a minimum frontage of 200 feet.
- "R-1" - Suburban Residential District
Permits one and two-family dwellings on a minimum of 15,000 square feet of land area per family with each lot having a minimum frontage of 100 feet.
- "AA" - One-Family Dwelling District
One-family dwellings require a minimum of 7,500 square feet with each lot having a minimum frontage of 60 feet.
- "BB" - Office District
Permits agriculture, one-family dwellings and all business and professional offices. All commercial activities are prohibited.
- "LC" - Light Commercial District
Permits any retail commercial uses conducted within an enclosed building. Permits residential uses.
- "C" - General Commercial District
Permits all commercial activities; outdoor displays and sales; selected light manufacturing and light commercial uses.
- "E" - Light Industrial District
Permits most manufacturing uses and uses permitted in "C".
- "F" - Heavy Industrial District
Permits any use except those objectionable uses such as slaughter houses, salvage yards and fertilizer plants which require special permits.
- "CU" - Any of the above districts
Allows certain uses listed in the County Zoning Resolution by permit rather than as a use by right.

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

THIS IS AN APPLICATION FOR A CONDITIONAL USE PERMIT. THE FORM MUST BE COMPLETED AND FILED AT THE PLANNING DEPARTMENT, ROOM 402, CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, IN ACCORDANCE WITH DIRECTIONS ON THE ACCOMPANYING INSTRUCTION SHEET. AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.

- I. NAME OF APPLICANT OR APPLICANTS AND/OR THEIR AGENT OR AGENTS. ALL OWNERS OF ALL PROPERTY REQUESTED TO BE CONSIDERED IN THIS APPLICATION MUST BE LISTED IN THIS ITEM.

A. APPLICANT Kessler Brothers, Inc.

ADDRESS 1905 South Main Blvd. PHONE 943-4254

AGENT % Richard F. Mullins

330 R. H. Garvey Building
ADDRESS Wichita, Kansas 67202 PHONE AM7-5267

B. APPLICANT _____

ADDRESS _____ PHONE _____

AGENT _____

ADDRESS _____ PHONE _____

C. APPLICANT _____

ADDRESS _____ PHONE _____

AGENT _____

ADDRESS _____ PHONE _____

(USE SEPARATE SHEET IF NECESSARY FOR NAMES OF ADDITIONAL APPLICANTS).

- II. THE APPLICANT PROPOSES TO ESTABLISH A Temporary Sand Extraction Operation on _____ (USE)

ON PROPERTY LEGALLY DESCRIBED AS LOT(S) (See Below)

_____, Block(s) _____ OF THE

_____ ADDITION.

(IF APPROPRIATE, METES AND BOUNDS DESCRIPTION MAY BE PROVIDED IN THE SPACE BELOW OR ON AN ATTACHED SHEET).

All of the SE $\frac{1}{4}$ of Sec. 11-28S-1W, Sedgwick County, Kansas, lying West of the Missouri Pacific Railroad ROW, except the S 1133' of the W 933', Exc RR ROW, and Exc ROW for McArthur Road & Exc Beg at the intersection of the South line of the said SE $\frac{1}{4}$ and the West line of the Mo Pac ROW thence West 140', thence North 300', thence East 140', thence South to Beg.

OK for legal

III. THIS PROPERTY IS LOCATED AT (ADDRESS) _____.

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

A. AT THE Northwest CORNER OF McArthur Road AND
West Street - West of M.D. 1st OR RR

B. ON THE _____ SIDE OF _____ (AVENUE)
STREET BETWEEN _____ (AVENUE) STREET AND
_____ (AVENUE) STREET.

IV. THE PROPERTY INCLUDED IN THIS APPLICATION IS ZONED "E. Light
Industrial"
(ZONING DISTRICT CLASSIFICATION).

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

For temporary extraction of sand; to ultimately build a lake in said property and in the future to rehabilitate the area for private recreational purposes and to develop types of residential structures that would ultimately lend itself to the most practical, highest and best use of the area.

VI. I (WE), THE APPLICANT(S), ACKNOWLEDGE RECEIPT OF THE INSTRUCTION SHEET EXPLAINING THE METHOD OF SUBMITTING THIS APPLICATION.

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

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



AUTHORIZED AGENT (IF ANY)

By _____
AUTHORIZED AGENT (IF ANY)

By _____
AUTHORIZED AGENT (IF ANY)

KESSEK BROTHERS, INC.
By Richard F. Mullins
AUTHORIZED AGENT (IF ANY)
Richard F. Mullins

By _____
AUTHORIZED AGENT (IF ANY)

By _____
AUTHORIZED AGENT (IF ANY)

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

THIS IS AN APPLICATION FOR A CONDITIONAL USE PERMIT. THE FORM MUST BE COMPLETED AND FILED AT THE PLANNING DEPARTMENT, ROOM 402, CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, IN ACCORDANCE WITH DIRECTIONS ON THE ACCOMPANYING INSTRUCTION SHEET. AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.

- I. NAME OF APPLICANT OR APPLICANTS AND/OR THEIR AGENT OR AGENTS. ALL OWNERS OF ALL PROPERTY REQUESTED TO BE CONSIDERED IN THIS APPLICATION MUST BE LISTED IN THIS ITEM.

A. APPLICANT Kessler Brothers, Inc.
ADDRESS 1905 Northwest Blvd PHONE 943-4254
AGENT % Richard F. Mullins
330 R. H. Garvey Building
ADDRESS Wichita, Kansas 67202 PHONE AM7-5267

B. APPLICANT _____
ADDRESS _____ PHONE _____
AGENT _____
ADDRESS _____ PHONE _____

C. APPLICANT _____
ADDRESS _____ PHONE _____
AGENT _____
ADDRESS _____ PHONE _____

(USE SEPARATE SHEET IF NECESSARY FOR NAMES OF ADDITIONAL APPLICANTS).

- II. THE APPLICANT PROPOSES TO ESTABLISH A Temporary Sand Extraction
Operation on _____ (USE)

ON PROPERTY LEGALLY DESCRIBED AS LOT(S) (See Below)
_____, Block(s) _____ OF THE
_____ ADDITION.

(IF APPROPRIATE, METES AND BOUNDS DESCRIPTION MAY BE PROVIDED IN THE SPACE BELOW OR ON AN ATTACHED SHEET).

All of the SE $\frac{1}{4}$ of Sec. 11-28S-1W, Sedgwick County, Kansas, lying West of the Missouri Pacific Railroad ROW, Except the S 1133' of the W 933', Exc RR ROW, and Exc ROW for McArthur Road & Exc Beg at the intersection of the South line of the said SE $\frac{1}{4}$ and the West line of the Mo Pac ROW thence West 140', thence North 300', thence East 140', thence South to Beg.

III. THIS PROPERTY IS LOCATED AT (ADDRESS) _____.

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

A. AT THE Northwest CORNER OF McArthur Road AND
West Street west of S.A.P. RR.

B. ON THE _____ SIDE OF _____ (AVENUE)
STREET BETWEEN _____ (AVENUE) STREET AND
_____ (AVENUE) STREET.

IV. THE PROPERTY INCLUDED IN THIS APPLICATION IS ZONED "E. Light
Industrial"
(ZONING DISTRICT CLASSIFICATION).

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

For temporary extraction of sand; to ultimately build a lake in said property and in the future to rehabilitate the area for private recreational purposes and to develop types of residential structures that would ultimately lend itself to the most practical, highest and best use of the area.

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

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

By _____
AUTHORIZED AGENT (IF ANY)

KESSLER BROTHERS, INC.
By Richard F. Mullins
AUTHORIZED AGENT (IF ANY)
Richard F. Mullins

By _____
AUTHORIZED AGENT (IF ANY)

By _____
AUTHORIZED AGENT (IF ANY)

By _____
AUTHORIZED AGENT (IF ANY)

By _____
AUTHORIZED AGENT (IF ANY)



STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
 SEDGWICK COUNTY)

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

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

Property within a 1000' Radius of the following property:

All of the SE $\frac{1}{4}$ of Sec. 11-28S-1W, Sedgwick County, Kansas, lying West of the Missouri Pacific Railroad ROW, Except the S 1133' of the W 933', Exc RR ROW, and Exc ROW for McArthur Road & Exc Beg at the intersection of the South line of the said SE $\frac{1}{4}$ and the West line of the Mo Pac ROW thence West 140', thence North 300', thence East 140', thence South to Beg.


 Fidelity
 Title
 Company,
 inc.

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

LOTS	BLOCK	ADDITION	OWNER
1-2-3	1	Town of Oatville	Harry C. & Lera E. Chambers Route 8, Box 235, Wichita, Ks. 67217
4-5-6-7-8	1	" " "	Donald E. & Merline R. Thompson 4600 W 39th St So., Wichita, Ks. 67215
9-10-11-12-13	1	" " "	W. A. Emerson 4701 W. McArthur Road 67215
14-15-16-17-18-19-20	1	" " "	Harry R. & Mabel F. Bomhoff 2274 S. Kansas 67211
21-22	1	" " "	Oatville Rural Telephone Co. c/o W. A. Emerson 4701 W McArthur Road 67215
23-24	1	" " "	Clarence D. Hastings 1926 S. Waco 67213
25	1	" " "	D. E. & Merline Thompson 4600 W 39th St. So. 67215
26-27-28	1	" " "	Harry C. & Lera E. Chambers Route 8, Box 235, Wichita, Ks. 67217



LOTS	BLOCK	ADDITION	OWNER
1-2-3-4-5-6-7-8	2	Town of Oatville	D Harry C. & Lena E. Chambers Rte 8 Box 235, Wichita, Ks. 67217
8	2	" " "	Township Hall, Oatville, Ks. 67217
9-10-11	2	" " "	Trustees Cartwright M.E. Church Oatville, Kansas. 67217
12-13	2	" " "	Mina Tess Royal 115½ S Neosho, Council Grove, Ks. 66846
1-2-3-4-5-6-7-8 9-10-11-12-13	3	" " "	D Mina Tess Royal 115½ S Neosho, Council Grove, Ks 66846
1-2-3-4-5-6-7-8 9-10-11-21-22-23 24-25-26-27-28	4	" " "	D Mina Tess Royal 115½ S Neosho, Council Grove, Ks 66846
1-2-3-4-5-6-7-8 9-10-11-12	7	" " "	D Walter A. Emerson 4701 W. McArthur Road 67215
1-2-3-4-5-6-7-8-9 10-11-12-13-14-15-16 17-18-19-20-21-22-23 24-25-26	8	" " "	D Walter A. Emerson 4701 W. McArthur Road 67215
1-2-3-4-5-6-7-8	9	Diamond Add to Oatville	D Mina Tess Royal 115½ S Neosho, Council Grove, Ks 66846
1-2-3-4-5-6-7-8-10 11-12-13-14-15-16	10	" " " "	D Mina Tess Royal 115½ S Neosho, Council Grove, Ks 66846
1-2-3-4-5-6-7-8-9-10	18	" " " "	D Walter A. Emerson 4701 W McArthur Road 67215
1-2-3-4-5-6-7-8-9-10	19	" " " "	D Walter A. Emerson 4701 W McArthur Road 67215
1-2-3-4-5-6-7-8-9-10 11-12-13-14-15-16-17-18 19-20-21-22-23-24-25-26	20	" " " "	D Walter A. Emerson 4701 W McArthur Road 67215
1-2-3-4-5-6-7-8-9-10 11-12-13-14-15-16-17 18-19-20-21-22-23-24 25-26-27-28	21	" " " "	D Harry C. & Lena E. Chambers Rte 8, Box 235, Wichita, Ks. 67217
1-2-3-4-5-6-7-8-9 10-11-12-13-14-15-16	22	" " " "	D Harry C. & Lena E. Chambers Rte 8, Box 235, Wichita, Ks. 67217
1-2-3-4-5-6-7-8-9 10-11-12-13-14-15-16	23	" " " "	D Harry C. & Lena E. Chambers Rte 8, Box 235, Wichita, Ks. 67217
1-2-3-4-5-6-7-8-9	24	" " " "	D Harry C. & Lena E. Chambers Rte 8, Box 235, Wichita, Ks. 67217


Fidelity
Title
Company,
inc.



All of the South Half of the Northeast Quarter lying West of the Missouri Pacific Railroad Right of Way in Sec. 11-28-1W.

J. M. Leendertse
4001 West 39th St So.
Wichita, 13, Kansas.
67215

That part of the Northeast Quarter of Sec. 11-28-1W, lying South of Interstate 235 and East of Missouri Pacific RR ROW

Earle M. Jorgensen Co., Inc.
2049 Wassall
Wichita, 16, Kansas.
67216

East Half of the Northwest Quarter of Sec. 11-28-1W, lying East of the Wichita Valley Center Flood Control

Victor B. Eisenring
6600 West 21st St. North
67203

The Southeast Quarter of Sec. 11-28-1W, Except S 1133' of W 933' and Except ROW of Mo Pac RR and Except ROW for McArthur Road and Except Beg at intersection of S line of SE 1/4 & W line of RR ROW, W 140', N 300', E 140', S 300' to Beg.

Kessler Bros., Inc.
1905 Southwest Blvd
67213

The South Half of the Southwest Quarter of Sec. 11-28-1W, Except 24 Acres for Oatville Townsite, & Except Floodway and part West of Floodway

Mina Tess Royal
115 1/2 S. Neosho, Council Grove, Ke
66846

The North Half of the Southwest Quarter of Sec. 11-28-1W, Exc 36.71 Acres for Floodway

Winifred Royal Fisher
1400 N. Woodlawn
Wichita, Kansas. 67208

The Northeast Quarter of Sec. 14-28-1W, Exc 20 Acres in NW 1/4 NE 1/4 in Oatville, and Exc ROW for Railroad & McArthur Road

J. M. Leendertse
4001 W 39th St. So.
Wichita, 13, Kansas.
67215

Beg at Intersection of the S line of SEP of Sec. 11-28-1W and the W line of the ROW of Mo Pac RR, W 140', N 300', E 140' S 300' to Beg.

Missouri Pacific Railroad Co.

Dated this 23rd day of October, 1969.

No. 3114.

FIDELITY TITLE COMPANY, INC.
By *Mark R. Hester*
Vice-Pres. FH


Fidelity
Title
Company,
inc.



FORM 230-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
<i>Cell Installation</i>	<i>\$400.00</i>

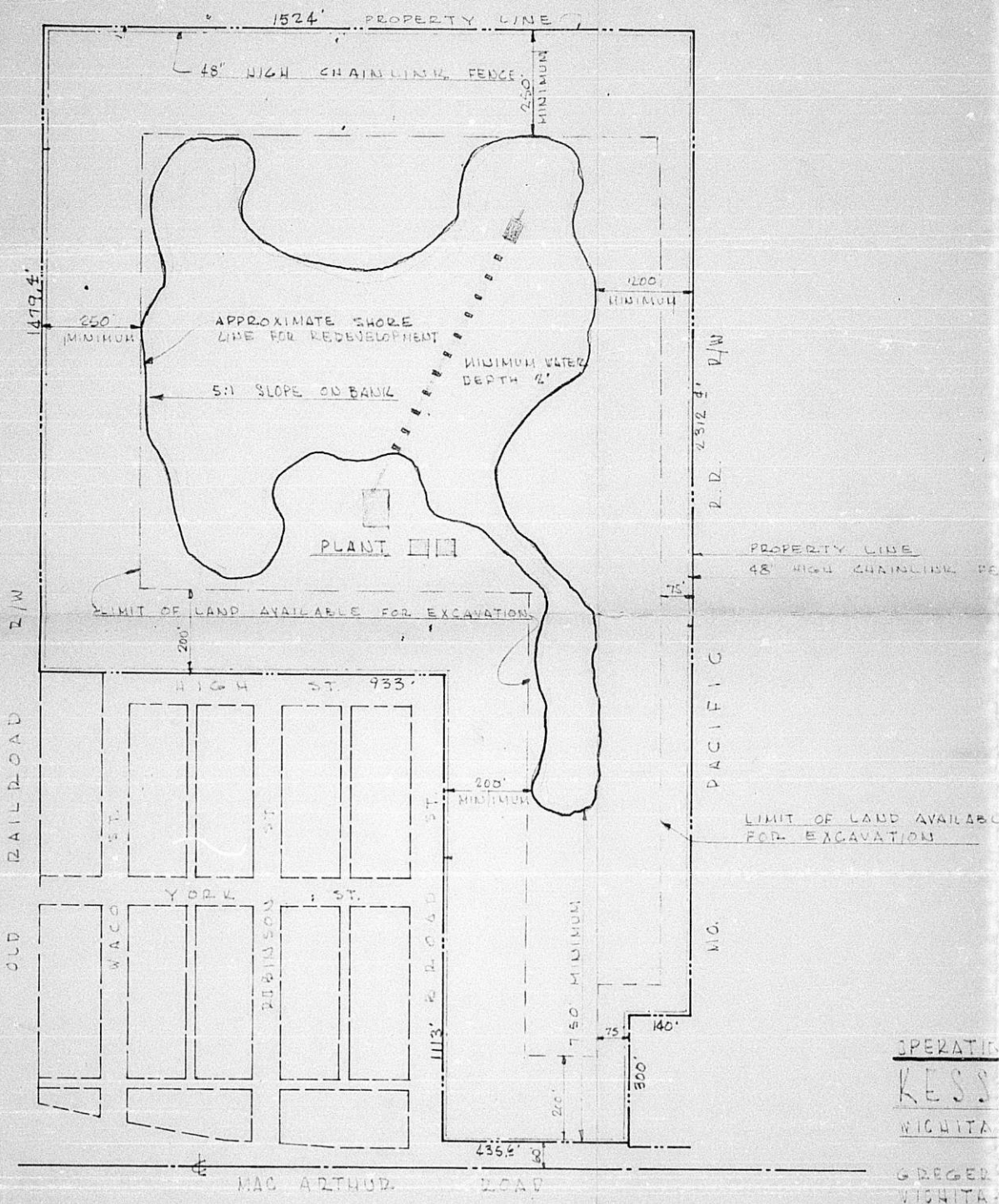
Name *Richard Mueller*

Address *City Bldg*

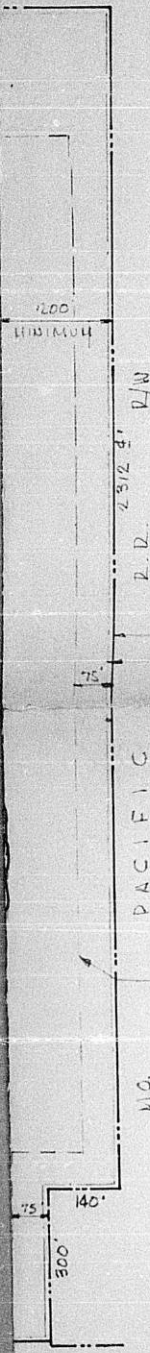
Type *H-H-C* Due Date

Comments:

Date *Nov. 3, 1969* BY *LEW*



OPERATIVE
 KESS
 WICHITA
 GREGG
 WICHITA



LEGAL

THE S.E. 1/4 OF SECTION 11, T28S, R10W OF 6TH P.M., EXCEPT THE SOUTH 1133 FEET OF THE WEST 193 FEET OF SAID S.E. 1/4, AND EXCEPT THE RIGHT OF WAY OF THE MISSOURI PACIFIC RAILROAD AND EXCEPT THE RIGHT OF WAY FOR MAC AURTHUR ROAD.

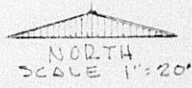
OFFICE COPY

DO NOT REMOVE

Approved Operational Plan

MAPC 11-26-69

J.H.S.



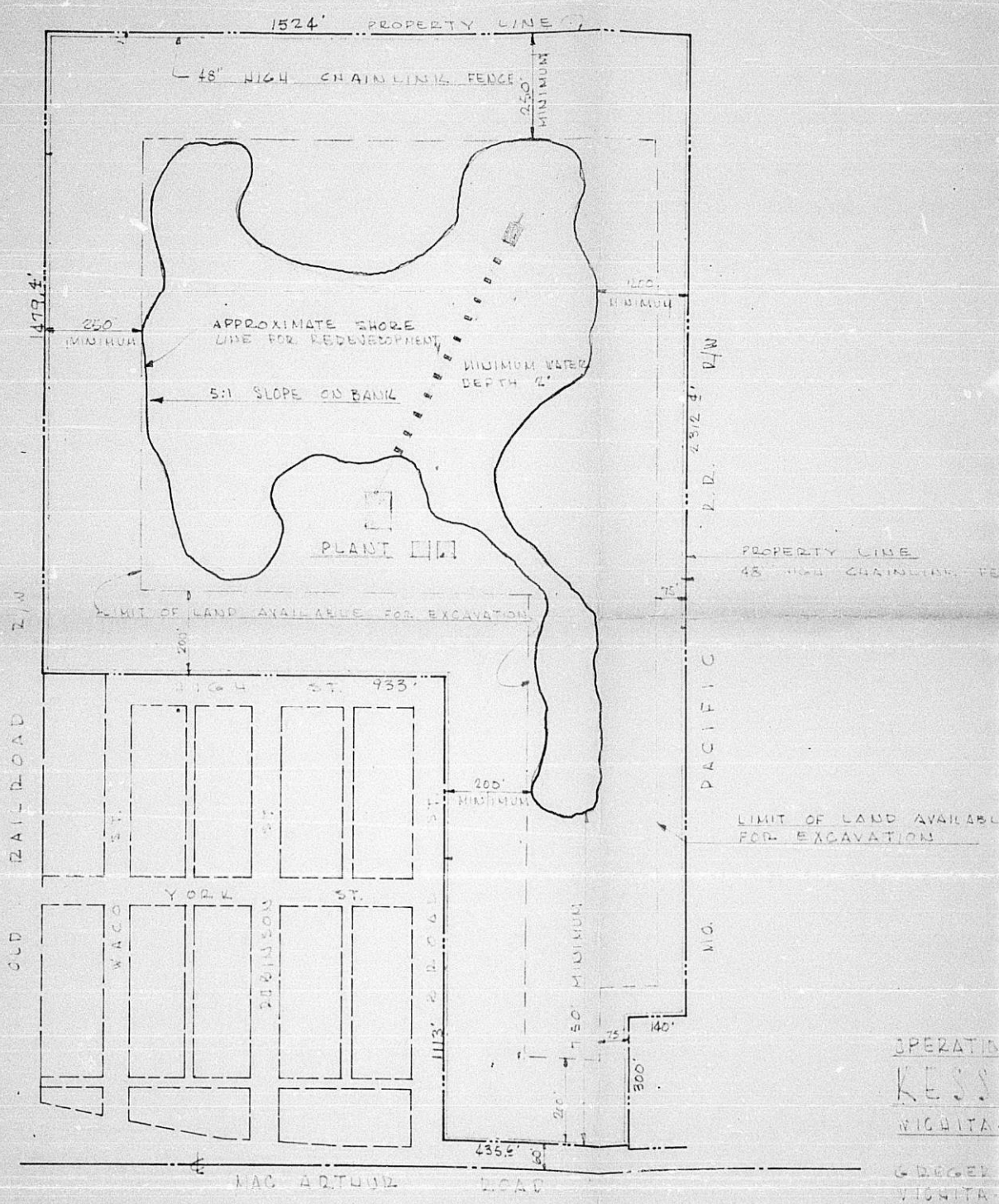
OPERATIONAL SKETCH PLAN FOR

KESSLER BROTHERS, INC.

WICHITA, KANSAS

GIEGER & WELLS - ARCHITECTS
WICHITA, KANSAS.

11/17/69



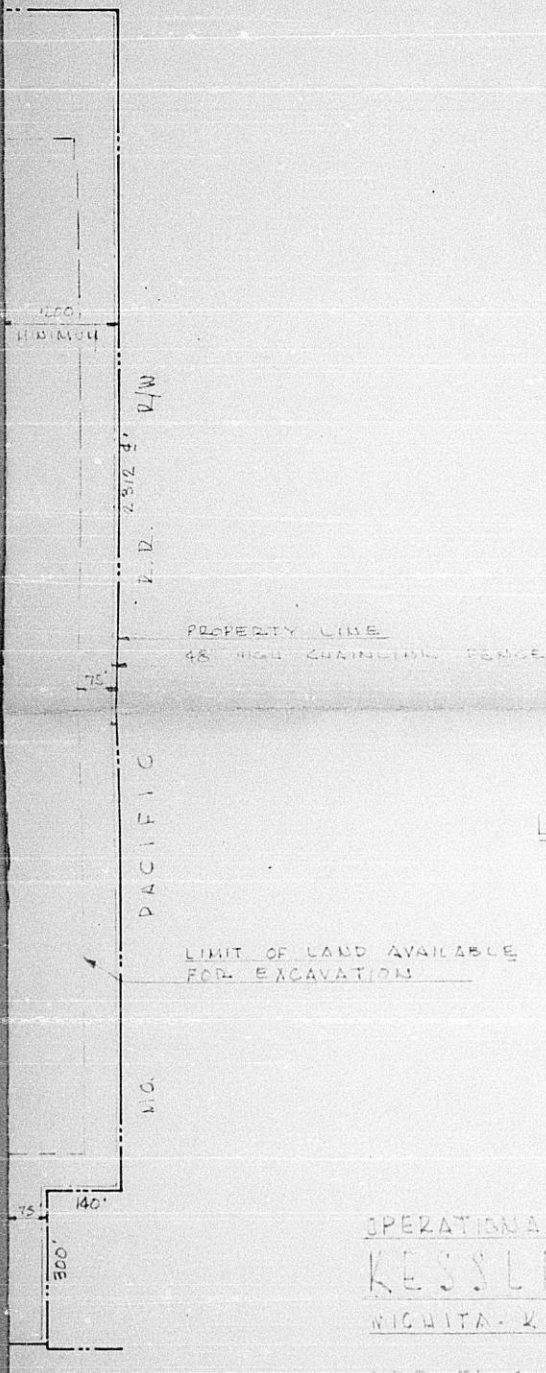
OPERATION
 KESS
 WICHITA.
 G. DEGER
 WICHITA

Aug 7

Logs of Auger Holes show no sandy soils at channel bottom, therefore, seepage should not be great enough to require loop levee since nearest edge of pit is 1000' from levee and 1/4 mile from channel. Additional protection east of pit by RR embankment makes loop possible w/very little work,

M.S.M

12-9-69



LEGAL

THE S.E. 1/4 OF SECTION 11, T28S, R1W OF 6TH P.M., EXCEPT THE SOUTH 1133 FEET OF THE WEST 133 FEET OF SAID S.E. 1/4, AND EXCEPT THE RIGHT OF WAY OF THE MISSOURI PACIFIC RAILROAD AND EXCEPT THE RIGHT OF WAY FOR MAC AURTHUR ROAD.



OPERATIONAL SKETCH PLAN FOR
KESSLER BROTHERS, INC.
 WICHITA - KANSAS

G. DECKER & WELLS, ARCHITECTS
 WICHITA - KANSAS.

11/17/69

Approved Operational
 Plan
 M.A.P.C.
 11-26-69
 J.H.D.

OFFICE COPY
 DO NOT REMOVE