

CU-113 - Ritchie Bros, et. al. re-  
quests permit for sand extraction  
operation on property zoned "R-1"  
and "LC" on the NW corner of 29th  
and West Street.

*POSTED*  
*8-2-68*

# ACTION

DATE

COMMITTEE

M.A.P.C.

~~W.B. CO. C.~~

\_\_\_\_\_

*Approved* *2-13-68*

*Approved* *9-25-68*  
*sub. to condition*

*Closed* *11-4-68*

Map No. B-1-B 182 DATA SHEET Z- \_\_\_\_\_  
 Sec. 35 (ZONING & CONDITIONAL USE) SCZ- \_\_\_\_\_  
 Twp. 26S CU- 113  
 Range 1W Filed 7-31-68

APPLICATION DATA: From n/a to \_\_\_\_\_  
 1. Applicant: Ritchie Bros. Construction Co. et. al.  
 Address 1820 N. Mosley Phone AM 77264  
 2. Agent: Don Bottenberg  
 Address 623 1st Nat'l Bank Bldg. Phone AM 45031  
 3. General Location: On the NW corner of 29th and West St.  
 Address \_\_\_\_\_  
 4. Proposed Use: Sand Extraction Operation

AREA DATA:  
 1. Acres: 151.7 ( 2640 ft. by 2640 <sup>E-AGENT 600-1603</sup> ft.)  
 2. Adjoining Zoning: E R-2 S R-1 W R-1 N R-1  
 3. Land Use: East FARM HOUSE South AGRICULTURE  
 West AGRICULTURE North AGRICULTURE  
 4. Sketch Plan Land Use is for: \_\_\_\_\_  
 5. Present Land Use is for: AGRICULTURE  
 6. Area (is) (is not) platted.

PROCEDURE DATA:  
 1. Zoning Committee \_\_\_\_\_ by \_\_\_\_\_  
 2. MAPC Meeting:

Date	Action
<u>9-12-68</u>	<u>Approved</u>

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

Date	Action	Resolution
<u>9-25-68</u>		<u>✓</u>

NOTES:

9-12-68

Map No. 5151  
Sec. 35  
Twp. 26S  
Range 1W

DATA SHEET  
(ZONING & CONDITIONAL USE)

Z- \_\_\_\_\_  
SCZ- \_\_\_\_\_  
CU- 113  
Filed 7-31-68

APPLICATION DATA: From n/a to \_\_\_\_\_

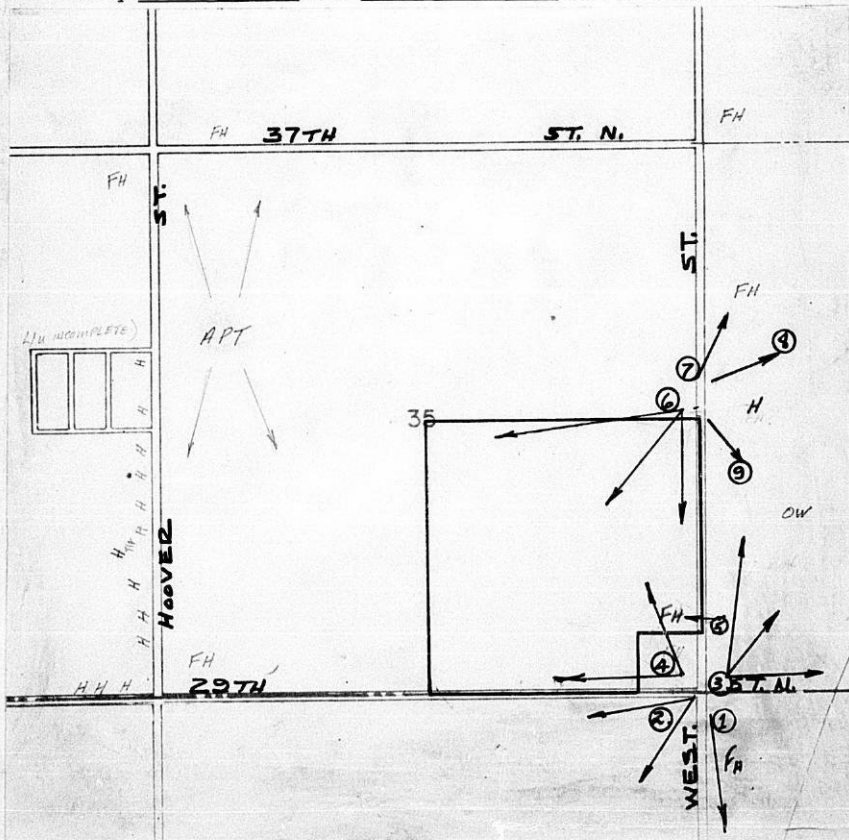
- Applicant: Ritchie Bros. Construction Co. et. al.  
Address 1820 N. Mosley Phone AM 77264
- Agent: Don Bottenberg  
Address 623 1st Nat'l Bank Bldg. Phone AM 45031
- General Location: On the NW corner of 29th and West St.  
Address \_\_\_\_\_
- Proposed Use: Sand Extraction Operation

AREA DATA:

- Acres: 151.7 ( 2500 ft. by 2670 ft.)
- Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
- Land Use: East FARM HOUSE South AGRICULTURE  
West AGRICULTURE North AGRICULTURE
- Sketch Plan Land Use is for: \_\_\_\_\_
- Present Land Use is for: AGRICULTURE
- Area (is) (is not) platted.

PHOTO DATA:

Taken by TG Date 9-4-68 Time 4:00 PM



(✓) (Published in The Wichita Beacon on 11-4, 1968)

R E S O L U T I O N

A RESOLUTION PERMITTING establishment of  
a 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, OR THE CITY OF MULVANE, ALL IN SEDGWICK COUNTY,  
KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION  
4.10f AND SECTION 11.E OF THE ZONING RESOLUTION  
ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDG-  
WICK COUNTY, KANSAS, ON MARCH 3, 1958, AND SUBSE-  
QUENT 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 4.10f and Section 11.E of the Zoning Resolu-  
tion, as amended, a Conditional Use Permit to allow a  
sand extraction operation  
is hereby approved on the lands legally described, subject to  
the following conditions:

CASE NO. CU-113  
Conditional Use Request  
for Sand Extraction Operation

Southeast Quarter of Section 35, Township 26 South, Range 1 West  
of the 6th P.M. except the South 600 feet of the East 600 feet.  
Generally located on the northwest corner of 29th Street and  
West Street.

CONDITIONS OF APPROVAL

1. The applicant shall dedicate by separate instrument the 50 and 75 feet of half-street right of way necessary for all section line roads.
2. 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 development plan.
3. A minimum 58-inch high fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as 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 tops of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.

4. 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.
5. 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.
6. 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.

7. 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.
8. 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.
9. 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.
10. The applicant shall comply with conditions 1 and 6 prior to the publication of the Resolution effectuating the conditional use.
11. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
12. All drainage from subject property, as well as that portion of the quarter section to the north which drains into the application area, shall be discharged into the excavated pit and impounded therein. The retaining or impounding of said drainage shall begin at the time the initial sand excavation is opened and shall be the responsibility of the sand plant operator.
13. Any structures or construction (culverts, diversion ditches, rip-rap, etc.) which may be required to implement the drainage plan described in Condition #12 shall be the responsibility of the sand plant operator.
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 25<sup>th</sup>  
day of SEPTEMBER 1968.



ATTEST:

Maria Wardlaw  
By Shirley Mackay Clerk  
(SEAL)

Elmer Peters Chairman  
Earl E. Rush Commissioner  
Ann Scott Commissioner

October 30, 1968

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

CU-113 - Conditional Use to Permit Sand Extraction Operation

The Board of County Commissioners at its regular meeting on September 25, 1968 approved the above captioned conditional use request. One of the conditions of approval was the submission of restrictive covenants providing that no rubbish, car bodies or other foreign matter shall be deposited within the excavation area.

Please record the attached restrictive covenant and bill any recording cost to our department.

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

JHG:js

Attachment

STATE OF KANSAS  
SEDGWICK COUNTY  
FILED FOR RECORD AT  
\$1.00

NOV 8 1968

NO. 23440  
RUFUS E. DEERING  
REGISTER OF DEEDS

MISC BOOK 632 PAGE 126

NOV 5 1968

CU-113

*Bill Lynch*

*Paul E. Schellor  
Deputy*

RESTRICTIVE COVENANT

Original Compared  
with Record

SUPERIOR SAND CO., INC., a Kansas Corporation, fee owner

of the following described realty, to-wit:

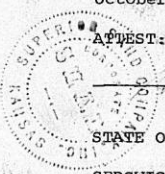
The Southeast Quarter (SE/4) of Section  
Thirty-five (35), Township Twenty-six (26),  
Range One (1) West of the Sixth (6th) P.M.,  
Sedgwick County, Kansas

hereby makes the following declaration as to restrictions, limitations,  
and use of said realty, and that said declaration shall constitute  
covenants running with the land and shall be binding upon all owners  
and their heirs, successors and assigns:

"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  
covenants running with the land and shall not be amended, deleted  
or changed.

IN WITNESS WHEREOF, E. D. RITCHIE, President of SUPERIOR  
SAND CO., INC., has executed this covenant on the 22nd day of  
October, 1968.



WITNESSETH:  
*H. D. Ritchie*  
Secretary  
H. D. Ritchie  
STATE OF KANSAS )  
                          ) ss  
SEDGWICK COUNTY )

SUPERIOR SAND CO., INC.  
By *E. D. Ritchie*  
President E. D. Ritchie

BE IT REMEMBERED, that on this 22nd day of October, 1968,  
before me, a Notary Public, in and for said County and State, came  
E. D. RITCHIE, President of SUPERIOR SAND CO., 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, and as the act and deed of said company.

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



MY Commission Expires:  
June 28, 1969

*R. K. Eshelman*  
Notary Public R. K. Eshelman

*City Clerk  
Room 104 - City Bldg*

302



DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, the SUPERIOR SAND CO., INC., a Kansas Corporation, being the owner of the following described real estate in Sedgwick County, Kansas, to-wit:

Beginning at the Southeast corner of the Southeast Quarter (SE/4) of Section Thirty-five (35), Township Twenty-six (26) South, Range One (1) West of the Sixth (6th) P. M., Sedgwick County, Kansas; thence North 75 feet; thence West 350 feet; thence South 25 feet; thence West to the West line of the Southeast Quarter (SE/4) of Section 35; thence South 50 feet; thence East to the point of beginning, except existing right-of-way,

does hereby dedicate the above described real estate to the public for street right of way purposes.

Executed this 22nd day of October, 1968.

ATTEST:

SUPERIOR SAND CO., INC.

E. D. Ritchie  
Secretary

E. D. Ritchie  
President

STATE OF KANSAS )  
                  ) ss  
SEDGWICK COUNTY )

BE IT REMEMBERED, that on this 22nd day of October, 1968, before me, a Notary Public, in and for said County and State, came E. D. RITCHIE, President of SUPERIOR SAND CO., 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, and as the act and deed of said company.

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

R. K. Edlman  
Notary Public

My Commission Expires:



October 28, 1969

RESTRICTIVE COVENANT

SUPERIOR SAND CO., INC., a Kansas Corporation, fee owner  
of the following described realty, to-wit:

The Southeast Quarter (SE/4) of Section  
Thirty-five (35), Township Twenty-six (26),  
Range One (1) West of the Sixth (6th) P.M.,  
Sedgwick County, Kansas

hereby makes the following declaration as to restrictions, limitations,  
and use of said realty, and that said declaration shall constitute  
covenants running with the land and shall be binding upon all owners  
and their heirs, successors and assigns:

"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  
covenants running with the land and shall not be amended, deleted  
or changed.

IN WITNESS WHEREOF, E. D. RITCHIE, President of SUPERIOR  
SAND CO., INC., has executed this covenant on the 22nd day of  
October, 1968.

ATTEST:

SUPERIOR SAND CO., INC.

E. D. Ritchie  
Secretary

By C. E. Retter  
President

STATE OF KANSAS )  
                  ) ss  
SEDGWICK COUNTY )

BE IT REMEMBERED, that on this 22nd day of October, 1968,  
before me, a Notary Public, in and for said County and State, came  
E. D. RITCHIE, President of SUPERIOR SAND CO., 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, and as the act and deed of said company.

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

R. K. Johnson  
Notary Public

My Commission Expires:

June 28, 1969

RESTRICTIVE COVENANT

SUPERIOR SAND CO., INC., a Kansas Corporation, fee owner  
of the following described realty, to-wit:

The Southeast Quarter (SE/4) of Section  
Thirty-five (35), Township Twenty-six (26),  
Range One (1) West of the Sixth (6th) P.M.,  
Sedgwick County, Kansas

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or changed.

IN WITNESS WHEREOF, E. D. RITCHIE, President of SUPERIOR  
SAND CO., INC., has executed this covenant on the \_\_\_\_ day of  
October, 1968.

ATTEST:

SUPERIOR SAND CO., INC.

E. D. Ritchie  
Secretary

By E. D. Ritchie  
President

STATE OF KANSAS )  
                  ) ss  
SEDGWICK COUNTY )

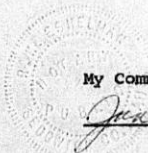
BE IT REMEMBERED, that on this 22nd day of October, 1968,  
before me, a Notary Public, in and for said County and State, came  
E. D. RITCHIE, President of SUPERIOR SAND CO., INC., to me personally  
known to be the same person who executed the within and foregoing  
instrument, and duly acknowledged the execution of the same, for and  
on behalf, and as the act and deed of said company.

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

R. K. Edlman  
Notary Public

My Commission Expires:

June 28, 1969



Report from the MAPC to the Board of County Commissioners

Case No. CU-113

Considered by M. A. P. C. 9-12-68

Request for: Conditional Use permit

Reason for request (as provided by petitioner):

"To establish a temporary sand extraction operation."

Location of property: Generally located on the northwest corner of 29th Street and West Street

Legal description of property:

Southeast Quarter of Section 35, Township 26 South, Range 1 West of the 6th P.M., except the south 600 feet of the east 600 feet, in Sedgwick County, Kansas

Petitioner: Charles Judson Petrie, Trust and Ritchie Bros. Construction Co.  
Address: Brown Bldg. 1820 N. Mosley

Counsel for petitioner: John J. Darrah, Attorney and Don Bottenberg, Realtor

Protesters (list counsel, if any): None

Surrounding zoning: To the north, south and west is "R-1"; east is "R"

Land use: Subject property is vacant; north, south and west is agricultural; east is farm house and agricultural

Planning Commission recommendation:

BLEDSE moved and BRANSON seconded that the Planning Commission recommend to the Board of County Commissioners that this application be approved, subject to the following: (See Excerpt from Planning Commission minutes of September 12, 1968, 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 9-18-68

EXCERPT FROM PLANNING COMMISSION MINUTES OF SEPTEMBER 12, 1968:

- "15. Case No. CU-113 - Charles Judson Petrie, Trust, and Ritchie Bros. Construction Co. request approval of a Conditional Use Permit to establish a temporary sand extraction operation on property zoned "R-1" and legally described as the South-east quarter of Section 35, Township 26 South, Range 1 West of the 6th P.M., except the south 600 feet of the east 600 feet. Generally located on the northwest corner of 29th Street and West Street.

GALBRAITH 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 pumping operation on approximately 152 acres of land located at the northwest corner of 29th and West Streets.
2. The applicant has met with representatives of the Flood Control Division and the Planning Department and a sketch plan for re-development, in addition to an operational sketch plan, has been submitted and reviewed by the staff. The plans as submitted, for the most part, appear to resolve any drainage problems and provide for an adequate future street system when redevelopment occurs.
3. Inasmuch as the Basis and Plan for the Pattern of Residential Growth does not predict any development in this area thru the year 1985, it is the opinion of the Planning Department that the sand pumping operation is a logical and proper interim use.
4. It should be pointed out that under the present County Zoning Resolution, and due to the lot area requirements, it is almost impossible to develop multi-family apartments in the County as proposed on the sketch plan for redevelopment. However, it is conceivable that by the time redevelopment occurs, the property will have been annexed by the City.

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 pumping operation be approved, subject to the following conditions:

1. The applicant shall dedicate by separate instrument the 50 and 75 feet of half-street right-of-way necessary for all section line roads.
2. 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 development plan.
3. A minimum 58-inch high fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as 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.

4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. The applicant shall comply with conditions 1 and 6 prior to the publication of the Resolution effectuating the conditional use.
11. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
12. All drainage from subject property, as well as that portion of the quarter section to the north which drains into the application area, shall be discharged into the excavated pit and impounded therein. The retaining or impounding of said drainage shall begin at the time the initial sand excavation is opened and shall be the responsibility of the sand plant operator.
13. Any structures or construction (culverts, diversion ditches, rip-rap, etc.) which may be required to implement the drainage plan described in condition #12 shall be the responsibility of the sand plant operator.

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

GALBRAITH said that the above conditions are agreeable to the attorney for the applicant. JOHN J. DARRAH, Attorney for the applicant, was present and indicated his approval.

No one appeared in opposition.

BLEDSE inquired as to the length of time a Conditional Use can be approved for and was informed that it was indefinite unless a time is established in the approval. BLEDSE was fearful that Conditional Use approval would extend for sometime and surrounding areas would develop residentially and he did not consider that the two uses would be compatible. GALBRAITH said that the Residential Land Use Plan does not indicate any residential projected for this area thru 1985. BRANSON felt that any possible surrounding development would be far in the future and that if and when it was developed, this extraction operation would no doubt be useful in such development to provide fill.

**MOTION:** BLEDSE moved, BRANSON seconded and it carried unanimously that the Planning Commission recommend to the Board of County Commissioners that this application be approved, subject to:

1. The applicant shall dedicate by separate instrument the 50 and 75 feet of half-street right-of-way necessary for all section line roads.
2. 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 development plan.
3. A minimum 58-inch high fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as 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.

4. 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.

5. 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.
  6. 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.
  7. 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.
  8. 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.
  9. 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.
  10. The applicant shall comply with conditions 1 and 6 prior to the publication of the Resolution effectuating the conditional use.
  11. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
  12. All drainage from subject property, as well as that portion of the quarter section to the north which drains into the application area, shall be discharged into the excavated pit and impounded therein. The retaining or impounding of said drainage shall begin at the time the initial sand excavation is opened and shall be the responsibility of the sand plant operator.
  13. Any structures or construction (culverts, diversion ditches, rip-rap, etc.) which may be required to implement the drainage plan described in condition #12 shall be the responsibility of the sand plant operator.
  14. Any violation of conditions attached shall declare the conditional use permit null and void."
-

September 13, 1968

Mr. John Darrah  
Brown Building  
Wichita, Kansas 67202

Subject: CU-113 - Conditional Use  
Permit for sand pumping operations

Dear Mr. Darrah:

At its regular meeting on September 12, 1968, the Metropolitan Area Planning Commission considered the above captioned case. The action of the Planning Commission was to recommend that this conditional use be approved subject to the fourteen conditions recommended in the attached Planning Department report.

This matter will be forwarded to the Board of County Commissioners for its consideration at its regular meeting at 9:00 a.m., Wednesday, September 25, 1968, in Room 320, Sedgwick County Courthouse.

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

Sincerely,

Jack H. Galbraith  
Senior Planner

JHG:js

cc: Ritchie Bros. Const. Co., 1820 N. Mosley, Wichita, Kansas 67214  
Don Bottenberg, 623 1st Nat'l Bank Bldg, Wichita, Kansas 67202  
Tom Craig, County Zoning Administrator, Sedgwick Co. Courthouse  
Lowell Richardson, Oblinger & Smith, 1st Nat'l Bank Bldg.  
M. E. Mitchell, Asst. Supt. of Public Works Maint.

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: September 12, 1968

Case No. CU-113	Request: Conditional Use Permit for sand pumping operations
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Location: Northwest corner of 29th and West Streets

Acres: 151.7	Size: 2640 ft. by 2640 ft.
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	<u>Land Use</u>	<u>Zoning</u>
Existing	Vacant	"R-1"
North	Agriculture	"R-1"
East	Farm house - Agriculture	"R"
South	Agriculture	"R-1"
West	Agriculture	"R-1"

Unplatted <u>X</u>	
Existing R/W - West Street (half) 30 ft.	
Proposed R/W - West Street (half) 50 & 75 ft.	History: None
Existing R/W - 29th Street (half) 30 ft.	
Proposed R/W - 29th Street (half) 50 & 75 ft.	

Comments

1. The applicant is requesting a Conditional Use to establish a sand pumping operation on approximately 152 acres of land located at the northwest corner of 29th and West Streets.
2. The applicant has met with representatives of the Flood Control Division and the Planning Department and a sketch plan for re-development, in addition to an operational sketch plan, has been submitted and reviewed by the staff. The plans as submitted, for the most part, appear to resolve any drainage problems and provide for an adequate future street system when redevelopment occurs.
3. Inasmuch as the Basis and Plan for the Pattern of Residential Growth does not predict any development in this area thru the year 1985, it is the opinion of the planning Department that the sand pumping operation is a logical and proper interim use.
4. It should be pointed out that under the present County Zoning Resolution, and due to the lot area requirements, it is almost

impossible to develop multi-family apartments in the County as proposed on the sketch plan for redevelopment. However, it is conceivable that by the time redevelopment occurs, the property will have been annexed by the City.

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 pumping operation be approved, subject to the following conditions:

1. The applicant shall dedicate by separate instrument the 50 and 75 feet of half-street right-of-way necessary for all section line roads.
2. 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 development plan.
3. A minimum 58-inch high fence shall be constructed prior to the beginning of the excavation operation and shall be maintained along the perimeter of the site on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as 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.

4. 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.

5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. The applicant shall comply with conditions 1 and 6 prior to the publication of the Resolution effectuating the conditional use.
11. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
12. All drainage from subject property, as well as that portion of the quarter section to the north which drains into the application area, shall be discharged into the excavated pit and impounded therein. The retaining or impounding of said drainage shall begin at the time the initial sand excavation is opened and shall be the responsibility of the sand plant operator.
13. Any structures or construction (culverts, diversion ditches, riprap, etc.) which may be required to implement the drainage plan described in condition #12 shall be the responsibility of the sand plant operator.
14. Any violation of conditions attached shall declare the conditional use permit null and void.

**THE CITY OF WICHITA**

OFFICE OF Asst. Supt. of  
Public Works Maint.

DATE September 6, 1968



TO Jack Galbraith, Senior Planner

FROM M. S. Mitchell, Asst. Supt. of Public Works Maint.

SUBJECT CU-113  
(Sand Pit--S.E. 1/4  
Sec. 35, T-26-S,  
R-1-W)

Your request for comments regarding subject matter has been reviewed and the following recommendations are made:

1. All drainage from the S.E. 1/4, as well as that portion of the N.E. 1/4 which now drains into the S.E. 1/4, should be discharged into the excavated pit and impounded therein. Note that some 80 acres of the N.E. 1/4 now drains into the S.E. 1/4, part of which may someday be diverted by sand pit operation in the N.E. 1/4.
2. Responsibility for insuring that the above described plan is carried out should be that of the sand plant operator.
3. Responsibility for retaining or impounding all drainage described above should begin at the time the initial sand excavation is opened and not await a percent of complete use of the land before acceptance.
4. Any structures or construction which may be required to implement the drainage plan described above should be the responsibility of the plant operator. (Culverts under plant roads, diversion ditches, ditch checks, rip-rap, etc.)

I trust this information is sufficient for you to formulate conditions for subject permit. If further information is desired, please advise.

A handwritten signature in cursive script that reads "M. S. Mitchell".

M. S. Mitchell  
Asst. Supt. of Public Works Maint.

CC: G. H. Wilton, Supt. of Public Works Maint.  
CU-113 File  
Arkansas River Training Levee. Streams File.

CU-113 - 13 NOTICES TO ADJOINING PROPERTY OWNERS MAILED 8-29-68 for MAPC 9-12-68.

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION  
CITY BUILDING ANNEX, 104 South Main  
Wichita, Kansas

NOTICE TO ADJOINING PROPERTY OWNERS

AUG 29 1968

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 1:45 p.m. on SEP 12 1968 at which time you may appear either in person or by agent or attorney, if you so desire.

CASE NO. CU-113  
Conditional Use Request  
for Sand Extraction Operation

Southeast Quarter of Section 35, Township 26 South, Range 1 West of the 6th P.M. except the South 600 feet of the East 600 feet. Generally located on the northwest corner of 29th Street 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, C. Bickley Foster, 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.

T9-216

C. Bickley Foster, Secretary

SEDGWICK COUNTY ZONING RESOLUTION

Summary Description of Zoning Districts

- "R" - Rural Residential District  
Permits one single-family dwelling for each lot of 2 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.

CU  
113

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  Charles Judson Petrie, Trust  
 ADDRESS Brown Bldg., Wichita, Kansas PHONE AM 2-4403  
 AGENT Co-Trustee: John J. Darrah, Attorney  
 ADDRESS Brown Bldg., Wichita, Kansas PHONE AM 2-4403
- B. APPLICANT  Ritchie Bros. Construction Co.  
 ADDRESS 1820 N. Mosley, Wichita, Kans PHONE AM 77264  
 AGENT  Don Bottenberg, Realtor  
 ADDRESS 623 1st Nat'l Bank Bldg PHONE AM 45031
- 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 (USE)  
 \_\_\_\_\_  
 ON PROPERTY LEGALLY DESCRIBED AS LOT(S) \_\_\_\_\_  
 \_\_\_\_\_, Block(s) \_\_\_\_\_ OF THE  
Southeast Quarter (SQ1) of Section 35, Township 26 South ADDITION.  
Range 1 West of the 6th P. M., except the South 600' of the East 600'.  
 (IF APPROPRIATE, METES AND BOUNDS DESCRIPTION MAY BE PROVIDED  
 IN THE SPACE BELOW OR ON AN ATTACHED SHEET).

*OK for legal*

III. THIS PROPERTY IS LOCATED AT (ADDRESS) \_\_\_\_\_.

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

A. AT THE Northwest CORNER OF 29th Street North AND  
West Street, OR

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

IV. THE PROPERTY INCLUDED IN THIS APPLICATION IS ZONED R-1 exo South  
600' of East 600' which is zoned LC  
(ZONING DISTRICT CLASSIFICATION).

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

For temporary sand extraction to build lake and in the future to rehabilitate  
for private recreation and a type of construction that would lend to the  
highest and best use of the land.

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

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

Charles Judson Petrie, Trust

By John Jay Darrab, Trustee  
AUTHORIZED AGENT (IF ANY)

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

Ritchie Bros, Construction Co.

By Wm. G. Galt  
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 )  
 )  
 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 lying within a radius of 1,000 ft of:  
 SE $\frac{1}{4}$  Sec 35, Twp 26, R 1 West.

  
 Fidelity  
 Title  
 Company,  
 inc.

And from such examination find that the owners thereof are as set opposite the description of the property below, viz:

SE $\frac{1}{4}$ Sec 35, Twp 26, R 1 West.	✓ Paula Vickers Petrie } Trustees John Jay Darrah } Brown Bldg. 67202
NE $\frac{1}{4}$ Sec 35, Twp 26, R 1 West.	✓ Dolese Bros. Co., a Corporation 218 W. 2nd St. 67202
E $\frac{1}{2}$ of NW $\frac{1}{4}$ Sec 35, Twp 26, R 1 West.	✓ Richard Bruce Petrie & Ann Valerius Petrie, ux 601 $\frac{1}{2}$ E. 8th St. 67206
SW $\frac{1}{4}$ Sec 35, Twp 26, R 1 West.	✓ Sanders, Inc. Res Agt: Willia, R. Sanders <del>300 E. Willow</del> <del>67202</del> 67218 3816 E. Skinner
A tr in W $\frac{1}{2}$ of NW $\frac{1}{4}$ Sec 36-26-1W desc as fol: Beg at SW cor sd NW $\frac{1}{4}$ th N 120'; E 360'; S 120'; W 360' to beg.	X James E. & Mary M. Williams, ux No Address Available
NW $\frac{1}{4}$ Sec 36, Twp 26, R 1 W., exc above tract.	✓ James O. & Ruby J. Smith, ux 3624 N. West St. 67204



NW $\frac{1}{4}$  & Gov. Lot 7 & 8, in SW $\frac{1}{4}$  Sec 36-26-1W., exc prt taken for Fld Control Dyke. Paula Vickers Petrie & ) Trs.  
John Jay Darrah )  
Brown Bldg. 67202

N $\frac{1}{2}$  of NW $\frac{1}{4}$  Sec 2, Twp 27, R 1 West. E. C. Carp,  
Charles N. Carp,  
Wallace F. Carp.  
2728 N. Hoover 67205

N $\frac{1}{2}$  of NE $\frac{1}{4}$  Sec 2, Twp 27, R 1 West. Wichita Hog Co., Inc. 7/10 int.  
Kansas Cold Storage Int. 2/10  
W. A. Kahrs 1/10  
21st & N. Terrace 67219  
Junior Center Bldg

N 26 7/8 Acres of Gov Lot 5, Sec 1-27-1W, exc Fldway. Walter N. & Delphine Ann Henning  
2437 N. Hoover 67205 ux

Beg 742' S of NW cor Sec 1-27-1W; th S 931'; th E to rt bank of Arkansas River; th N & Ely 2437 N. Hoover 67205  
to a pt 742' S of N line Sec 1; th W 1532' to place of Beg.

Dated at Wichita, Kansas this 25th day  
of July, 1968 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Edna M. Fawcett Sec. OEM

Tracer # 89885

Form 223-021

**PAYMENT NOTICE**

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hoc. Mvr.	Hoc. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		26.00

DESCRIPTION	AMOUNT
Conditional Use Request	

Name *Ritchie Bros.*

Address *1820 N. Maple*

Type *R71 C* Due Date

Comments:

Date *7-31-68* BY *James Smith*



**Fidelity Title Company, Inc. No. 89885**

221 NORTH MARKET • WICHITA, KANSAS 67202  
PHONE AM-2-8261 AREA CODE 316

DATE: July 26, 1968

CHARGE TO: **Ritchie Bros.  
P.O. Box 4026  
Wichita, Kansas**

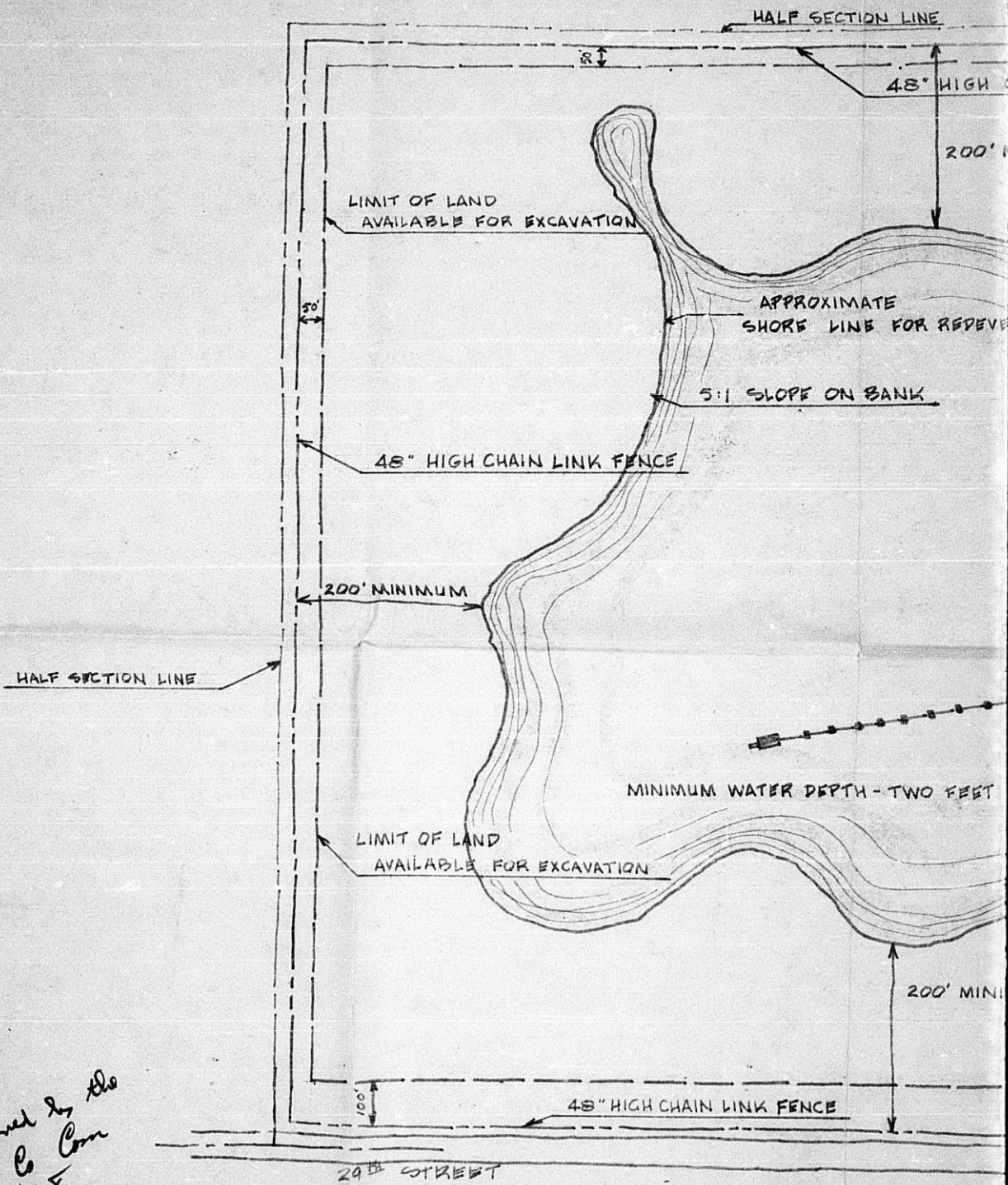
ORDERED BY: **Bottenberg**  
DELIVERED TO: **picked up by Don Bottenberg**

ACCOUNTS DUE FIRST OF MONTH FOLLOWING INVOICE  
DESCRIPTION: **Prop. within 1000' radius of SE 1/4 Sec. 35-26-1 W**

Received of *Fidelity Title Company, Inc.*, as described above:

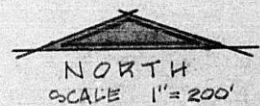
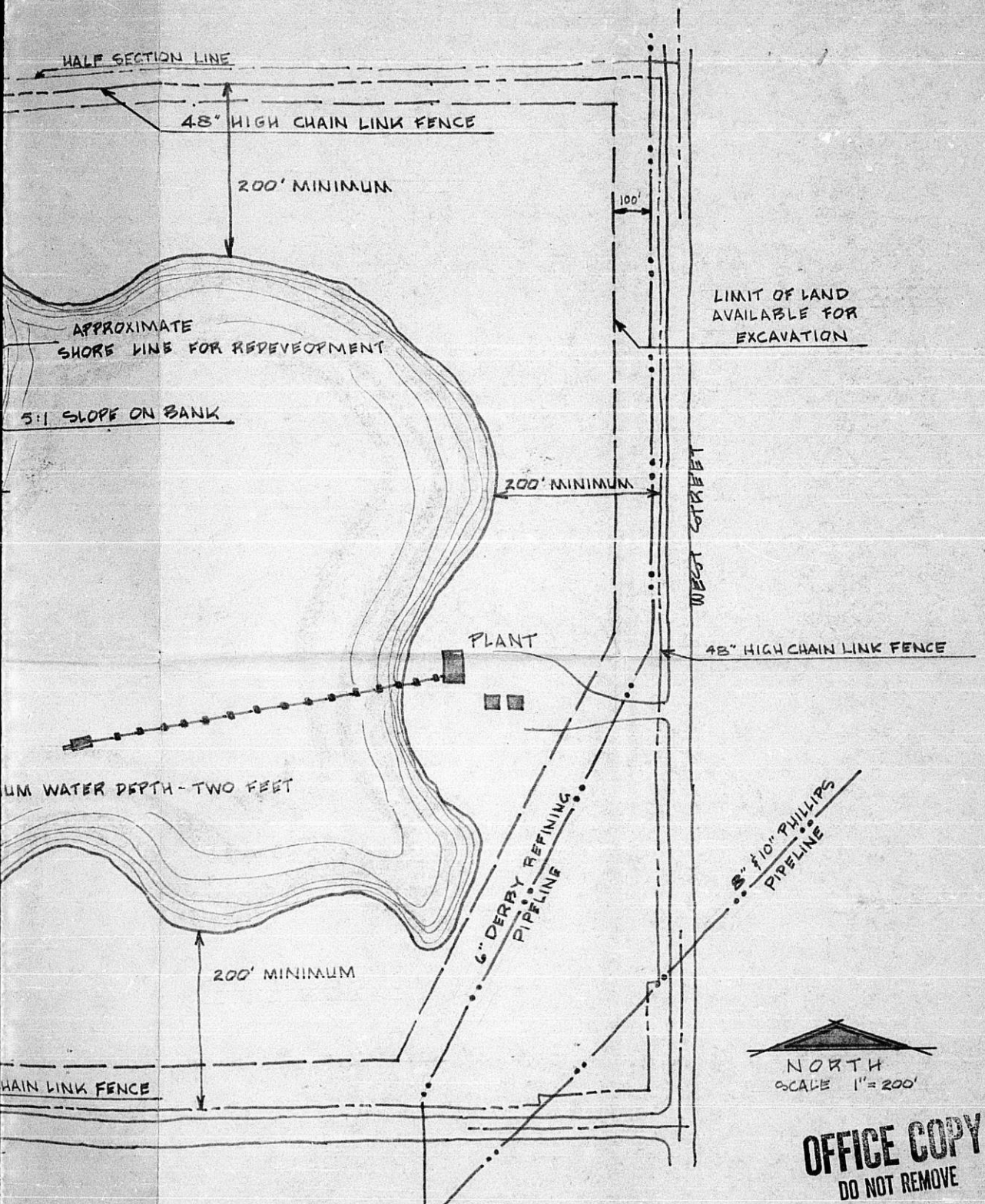
Date \_\_\_\_\_

DELIVERY INVOICE



Approved by the  
 Bd of C. Com  
 9/23/65  
 J.H. 92

OPERATIONAL SKETCH PLAN for  
**RITCHIE BROTHERS**  
 Developer - RITCHIE BROTHERS CONST. CO.  
 Land Planner - OBLINGER & SMITH



**OFFICE COPY**  
 DO NOT REMOVE

**ROTHERS CONST. CO.**

7/29/63

POSSIBLE CONNECTION  
TO PROPOSED LAKE IN  
DEVELOPMENT TO NORTH

PATIO HOMES

RECREATION AREA

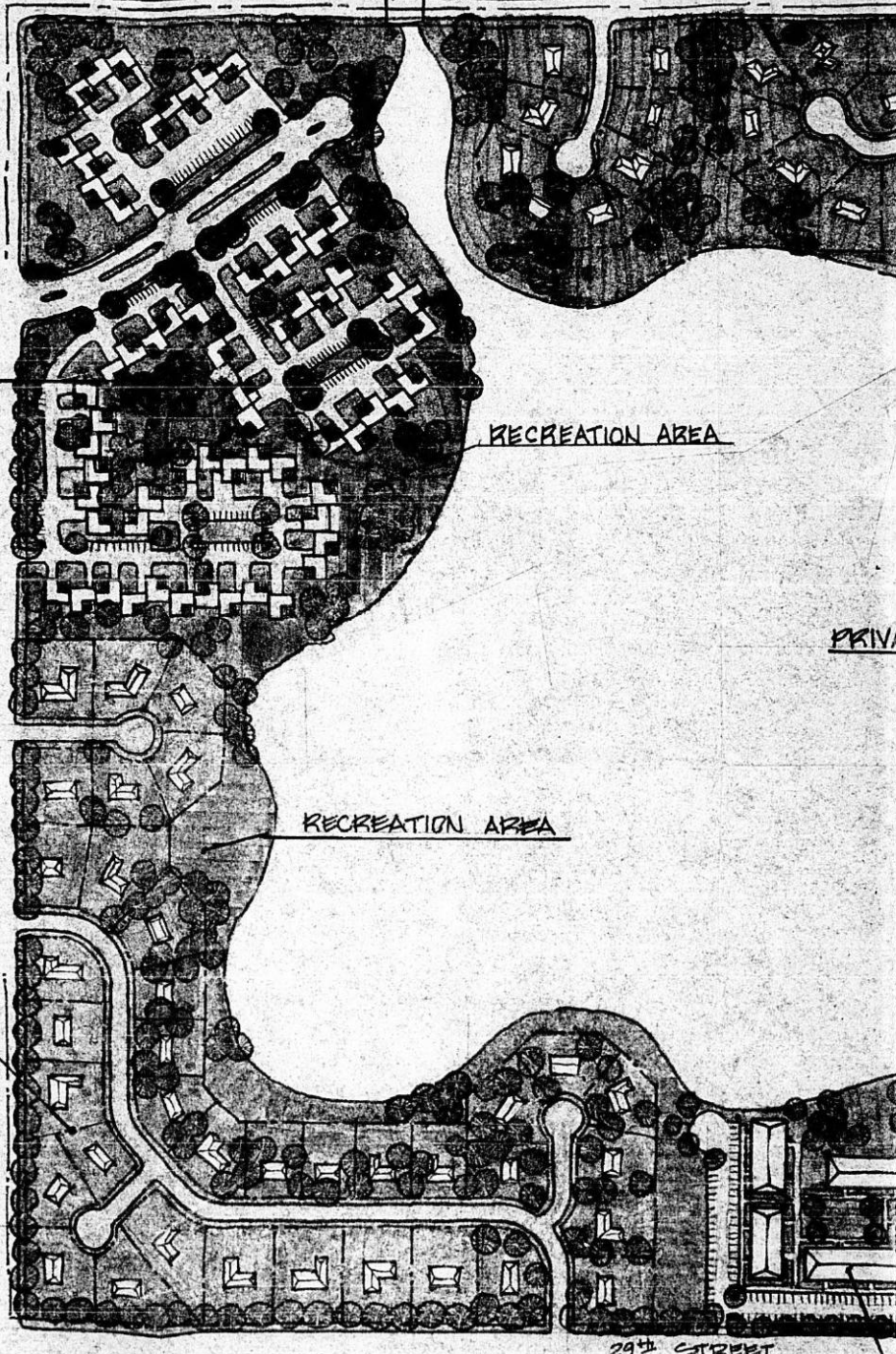
RECREATION AREA

RESIDENTIAL

PRIV

29th STREET

APARTMENTS



Approved by Bd of Com  
9/25/68 J.M. 92

OFFICE COPY  
DO NOT REMOVE

Approved Plans

SKETCH PLAN for

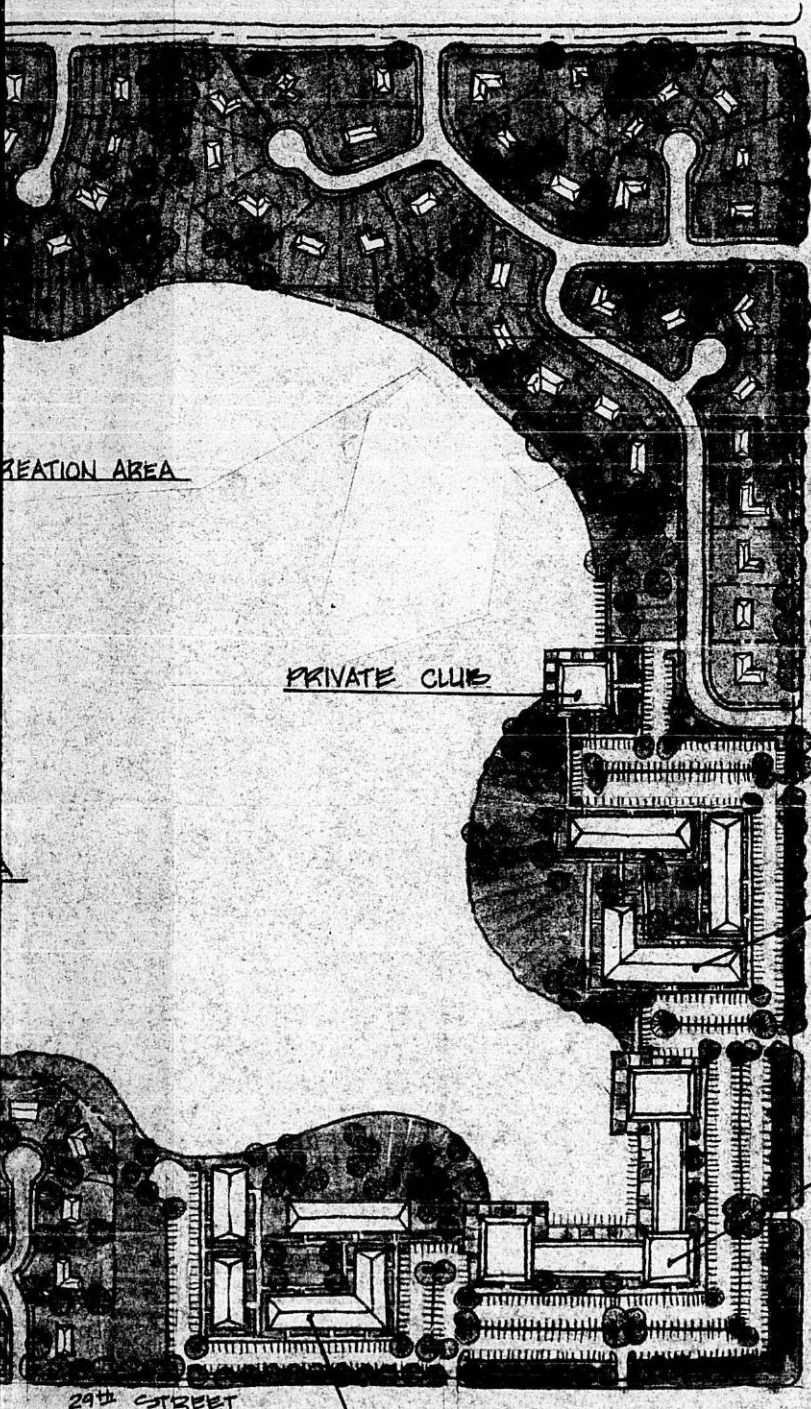
# RITCHIE BROTHERS

DEVELOPER - Ritchie Brothers Constr. Co.

LAND PLANNER - Oblinger & Smith

C.U.-113

CONNECTION  
SED LAKE IN  
MENT TO NORTH



RESIDENTIAL

RECREATION AREA

PRIVATE CLUB

WEST STREET

APARTMENTS

DWELLING UNITS  
76-SINGLE FAMILY RESIDENCES  
53-PATIO HOMES  
150-APARTMENTS

COMMERCIAL

NORTH  
SCALE 1" = 200'

29th STREET

APARTMENTS

OTHERS CONST CO.

7/26/68

PROPOSED SINGLE  
(CONDITIONAL USE)

POSSIBLE CONNECTION  
TO PROPOSED LAKE  
IN DEVELOPMENT  
TO NORTH.

COLLECTOR

COLLECTOR

LIMIT OF EXCAVATION

OPEN  
SPACE

MULTI-FAMILY  
HOUSING

AGRICULTURAL LAND

EXCAVATED LAKE

COLLECTOR

APPROXIMATE SHORE  
LINE OF LAKE

SINGLE FAMILY  
RESIDENCES

OFFICE COPY  
DO NOT REMOVE

LIMIT OF EXCAVATION

29<sup>th</sup> STREET

MULTI-FAMILY  
HOUSING

CONDITIONAL USE for AGRICULTURAL LAND

# RITCHIE BROTHERS

Developer - RITCHIE BROTHERS CONST. CO.  
Land Planner - ORLINGER & SMITH

PROPOSED SINGLE FAMILY RESIDENTIAL  
(CONDITIONAL USE FOR SAND PIT)

COLLECTOR

SINGLE FAMILY RESIDENCES

LIMIT OF EXCAVATION

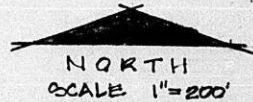
EXCAVATED LAKE

AGRICULTURAL LAND

MULTI-FAMILY HOUSING

COMMERCIAL

MULTI-FAMILY HOUSING



S.E. CORNER of  
S.E.  $\frac{1}{4}$  SEC. 35  
TWP. 26 S R. 1 W.

WEST STREET

8" & 10" Phillips  
Pipe Line

**THERS CONST. CO.**

7/29/68

CA 113