

COMMITTEE

M.P.C. App subject to 6-12-75  
condition

~~F.B.~~ B. CO. C. Approved on 2-2-75  
Reminded

closed 11-14-75

CU-176 - Associated Material &  
Supply Co. requests permit for  
sand extraction on north side of  
37th St. North  $\frac{1}{4}$  mi. west of  
Hoguen Rd. *see on file*

790 <sup>3/16</sup>

POSTED  
5-14-75  
[Signature]

# ACTION

COMMITTEE \_\_\_\_\_ DATE \_\_\_\_\_

M.P.C. App subject to 6-12-75  
conditions

~~B.C.~~/B. CO. C. Approved as 7-2-75  
Remedies

Closed 11-14-75

CU-176 - Associated Material &  
Supply Co. requests permit for  
sand extraction on north side of  
37th St. North, 1/4 mi. west of  
Division St.  
See also records

2/10/75



( ) Published in The Wichita Beacon on Nov 14 1975 1975

R E S O L U T I O N

CASE NO. CU-176

A RESOLUTION PERMITTING A SAND EXTRACTION  
OPERATION ON PROPERTY ZONED "R-1" SUBURBAN  
RESIDENTIAL

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, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 4.A.10.f 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 4.A.10.f and Section 11.E. of the Zoning Resolution, as amended, a Conditional Use Permit to allow a sand extraction operation on property zoned "R-1" Suburban Residential

is hereby approved on the lands legally described as follows:

The South half of the Southeast Quarter of Sec. 27, Twp. 26S, R1W of the 6th P.M., Sedgwick County, Kansas, except the east 600 feet thereof. Generally located on the north side of 37th Street North in an area west of Hoover Road.

SUBJECT TO THE FOLLOWING:

- a) The applicant dedicating by separate instrument the additional right-of-way necessary for 37th Street North.
- b) No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the south 50 feet except for ingress and egress to 37th Street North.
- c) 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 approved plan.
- d) The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
- e) To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
- f) All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- g) The sand plant operation shall commence operation no later than 1976 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.

- h) The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, 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.
- i) The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- j) 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.
  - 1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
  - 2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
  - 3) A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

- k) The nonconforming use auto salvage located on subject property shall cease operation and all junk cars, trash, and other debris shall be removed prior to commencing sand excavation.
  - l) Concrete and asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- m) All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- n) The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- o) The applicant shall comply with conditions a, h, and k prior to the publication of the resolution effectuating the conditional use.
- p) All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use approval shall be entered in the Official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning 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 July, 1975.

Carl E. Rush, Chairman  
John Hall, Commissioner  
Tom Scott, Commissioner

ATTEST:

George Pierce  
George Pierce, County Clerk

(SEAL)

Approved as to form:

Jack Turner  
Jack Turner, County Counselor



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, ASSOCIATED MATERIAL & SUPPLY CO., INC.

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

The south 50 feet of the south half of the southeast quarter of Sec. 27, Twp. 26S, R1W, of the 6th P.M., Sedgwick County, Kansas, except the east 600 feet thereof.

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

Executed this 20<sup>th</sup> day of OCTOBER 19 75.

ASSOCIATED MATERIAL & SUPPLY CO., INC.

By: D. L. Stannard  
D. L. Stannard, President

DLS

STATE OF KANSAS )  
SEDGWICK COUNTY )<sup>SS</sup>

BE IT REMEMBERED, that on this 20<sup>th</sup> day of OCTOBER, 1975,  
came D. L. Stannard, President of Associated Material & Supply Co., Inc.

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

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

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

this \_\_\_\_\_

City Clerk

Robert N. Stannard  
Notary Public

My Commission Expires: 23, 1978

RESTRICTIVE COVENANTS

ASSOCIATED MATERIAL & SUPPLY CO., INC. hereby makes the following Declaration as to restrictions, limitations and use of the following described real estate:

The South Half of the southeast Quarter of Section 27, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the East 600 feet thereof

which said Declaration shall constitute covenants running with said land 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 Restriction has been executed on this 20<sup>th</sup> day of October, 1975.

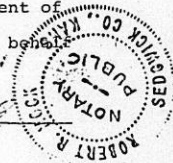
ASSOCIATED MATERIAL & SUPPLY CO., INC.

By D. L. Stannard  
President

STATE OF KANSAS     )  
                              )  
SEDGWICK COUNTY    ) SS:

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of October, 1975, by D. L. Stannard, President of Associated Material & Supply Co., Inc., a corporation, on behalf of the corporation.

R. L. R. M. H.  
Notary Public



My Commission Expires:

6/30 Commission Expires December 31, 1979

Do not process or publish resolution until a copy of transfer of title is received.

Both of these need to be redone with date after transfer of title

One Dollar (\$1.00) and pt of which is hereby

ASSOCIATED MATERIAL & SUPPLY CO., INC.

estate in Sedgwick

in the southeast 6th P.M.,

Sedgwick County, Kansas, except the east 600 feet thereof.

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

\_\_\_\_\_ street \_\_\_\_\_ purposes.

Executed this 20<sup>th</sup> day of June 1975.

ASSOCIATED MATERIAL & SUPPLY CO., INC.

By D. L. Stannard, President

STATE OF KANSAS )  
SEDGWICK COUNTY ) ss

BE IT REMEMBERED, that on this 20<sup>th</sup> day of June 1975,

came D. L. Stannard, President of Associated Material & Supply Co., Inc.

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

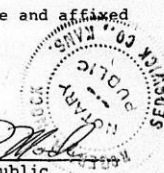
IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

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

this \_\_\_\_\_

City Clerk

[Signature]  
Notary Public



My Commission Expires December 29, 1978.  
My Commission Expires: \_\_\_\_\_

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, ASSOCIATED MATERIAL & SUPPLY CO., INC.

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

The south 50 feet of the south half of the southeast quarter of Sec. 27, Twp. 26S, R1W, of the 6th P.M., Sedgwick County, Kansas, except the east 600 feet thereof.

does hereby dedicate the above described real estate to the public for \_\_\_\_\_ street purposes.

Executed this 20<sup>th</sup> day of JUNE 19 75.

ASSOCIATED MATERIAL & SUPPLY CO., INC.

By D. L. Stannard  
D. L. Stannard, President

STATE OF KANSAS )  
SEDGWICK COUNTY )ss

BE IT REMEMBERED, that on this 20<sup>th</sup> day of JUNE 1975,  
came D. L. Stannard, President of Associated Material & Supply  
Co., Inc.

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

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

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

this \_\_\_\_\_, \_\_\_\_\_

City Clerk

[Signature]  
Notary Public

My Commission Expires December 29, 1978.  
My Commission Expires: \_\_\_\_\_

RESTRICTIVE COVENANTS

ASSOCIATED MATERIAL & SUPPLY CO., INC. hereby makes the following Declaration as to restrictions, limitations and use of the following described real estate:

The South Half of the southeast Quarter of Section 27, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the East 600 feet thereof

which said Declaration shall constitute covenants running with said land 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 Restriction has been executed on this 20<sup>th</sup> day of June, 1975.

ASSOCIATED MATERIAL & SUPPLY CO., INC.

By D. L. Stannard  
President

STATE OF KANSAS     )  
                              )  
SEDGWICK COUNTY    ) SS:

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of June, 1975, by D. L. Stannard, President of Associated Material & Supply Co., Inc., a corporation, on behalf of the corporation.

Robert N. Stannard  
Notary Public



My Commission Expires:

December 28, 1978

Map No. A-o-B  
 Sec. 27  
 Twp. 26S  
 Range 1W

DATA SHEET  
 (ZONING & CONDITIONAL USE)

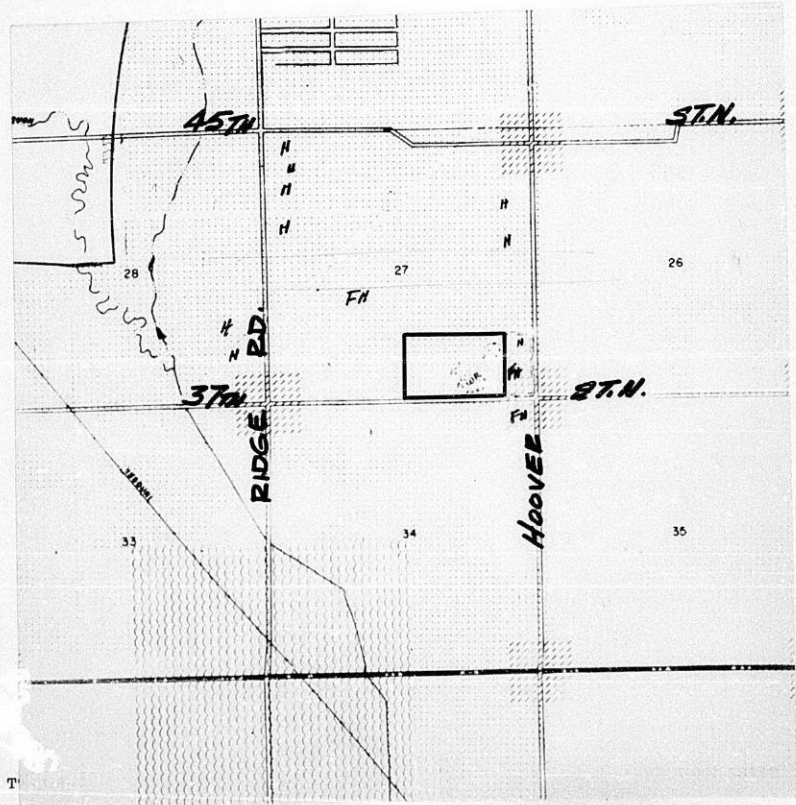
6-12-75  
 Z- \_\_\_\_\_  
 SCZ- \_\_\_\_\_  
 CU- 176  
 Filed 5-9-75

Request for Sand Extraction

- APPLICATION DATA: ~~XXXXXX~~ ~~XXXX~~
- Applicant: Associated Material and Supply Co. Inc. et al  
 Address P.O. Box 4064 - N. Wichita Sta. Phone 744-0433
  - Agent: Dolan Welsh  
 Address 4000 E. Kinkaid Phone 265-1167
  - General Location: north side of 37th St. north, 1/2 mile west of Hoover Rd.  
 Address on 37th
  - Proposed Use: sand extraction

- AREA DATA:
- Acres: 60.41 ( 1270 ft. by 2040 ft.)
  - Adjoining Zoning: E R-1+LC S R-1 W R-1 N R-1
  - Land Use: East Single family South FARM HOUSE  
 West UNDEVELOPED North UNDEVELOPED
  - Sketch Plan Land Use is for: \_\_\_\_\_
  - Present Land Use is for: WEECKING YARD
  - Area ~~(xxx)~~ (is not) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



Form T9-221A

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION TO  
BOARD OF COUNTY COMMISSIONERS

REQUEST FOR CONDITIONAL USE

CASE NO. CU-176

CONSIDERED BY MAPC: 6-12-75

REQUEST FOR: Approval of Conditional Use

REASON FOR REQUEST (AS PROVIDED BY APPLICANT):

"Extraction of Commercial Grade Sand."

GENERAL LOCATION: North side of 37th Street North  
in an area west of Hoover Road

LEGAL DESCRIPTION:

The south half of the southeast quarter of Sec. 27, Twp.  
26S, R1W, of the 6th P.M., Sedgwick County, Kansas, except  
the east 600 feet thereof.

APPLICANT: Associated Material and Supply Co., Inc.  
P. O. Box 4064 67204

COUNSEL FOR APPLICANT: Dolan Welsh, agent

PROTESTORS (LIST COUNSEL) IF ANY: None

SURROUNDING ZONING: To the north, south, and west is "R-1";  
east is "LC"

LAND USE: Subject property is agricultural and auto wrecking yard; north  
and west is agricultural; east is single-family; south is  
farm house

PLANNING COMMISSION RECOMMENDATION:

P. That this application be approved subject to the conditions a. through  
d. as shown in the staff report (see excerpt of Planning Commission  
minutes attached for conditions), and with the understanding that the  
residential development plan is not being approved at this time.  
Rising moved, Savina seconded and it carried unanimously. Gardenhire,  
Hopper and Bayouth were absent.

ACTION: 1. Approve the application as recommended by the Metropolitan  
Area Planning Commission, subject to the recommended conditions of ap-  
proval and adopt a resolution effectuating the conditional use; or  
2. Deny the application.

EXCERPT FROM PLANNING COMMISSION MINUTES OF JUNE 12, 1975:

16. Case No. CU-176 - Associated Material and Supply Co., Inc. requests approval of a conditional use for sand extraction operation on property legally described as the south half of the southeast quarter of Sec. 27, Twp. 26S, R1W, of the 6th P.M., except the east 600 feet thereof. Generally located on the north side of 37th Street North in an area west of Hoover Road.

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

Comments

1. The applicant is requesting a conditional use permit to establish a sand extraction operation on approximately 61 acres of land zoned "R-1" Suburban Residential and located on the north side of 37th Street North in an area west of Hoover Road. Subject property presently contains a nonconforming use auto salvage operation which should be removed prior to sand extraction.
2. The applicant has submitted an Operational Plan and a proposed Redevelopment Plan in conjunction with the application. Although certain information items, such as minimum water depth, have been omitted, the operational plan appears to be generally acceptable, however, the proposed redevelopment plan omits any information on proposed lot arrangements or housing types.
3. Subject property is not contained within an area projected for development before 1985 in the Basis and Plan for the Pattern of Residential Growth, and several other sand extraction operations have been approved in the general vicinity.
4. Should the Planning Commission determine this use appropriate for the area, it should be approved subject to the following conditions:
  - a) The applicant dedicating by separate instrument the additional right-of-way necessary for 37th Street North.
  - b) No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the south 50 feet except for ingress and egress to 37th Street North.
  - c) 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 approved plan.
  - d) The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
  - e) To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
  - f) All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
  - g) The sand plant operation shall commence operation no later than 1976 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.
  - h) The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, 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.

- i) The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- j) 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.
  - 1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
  - 2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
  - 3) A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

- k) ~~The nonconforming use auto salvage located on subject property shall cease operation and all junk cars, trash, and other debris shall be removed prior to commencing sand excavation.~~
- l) Concrete and asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- m) All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- n) The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- o) The applicant shall comply with conditions a, h, and k prior to the publication of the resolution effectuating the conditional use.
- p) All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.

GALBRAITH called attention to the fact that Condition g) as suggested in the staff report had not been required previously in similar cases in this area, but that in the most recent case, the County Commission had been interested in when an operation of this nature would begin and when it was expected to cease. GALBRAITH also reported that information on this request had been forwarded to the Chairman of the Sandpit Committee appointed by the County Commission last year, but that he had had no response from the Chairman. He said the conditions suggested have been developed and expanded on over the years.

LAKIN said the Sandpit Committee appears to be deadlocked to some degree as related to protection or screening of such a use. However, subject request is beyond the immediate growth pattern envisioned for the community and he did not believe that the matter of screening was involved. LAKIN also commented that because this area is not projected for residential growth, that the proposed development plan should not be considered for approval.

DOLAN WELSH, 4000 East Kinkaid, spoke in support as a representative of the applicant. He pointed out that 15 or 20 years ago when the Flood Control Project was being undertaken, in the appraisal of land west of the Flood Control and between 13th and 21st Streets, it had been found and established a line of demarcation between what land was considered as potentially providing a good grade of commercial sand as opposed to sand which was not of a commercial grade, and payments had been allowed based on such findings. It was found at that time that subject tract was considered for future extraction of commercial grade sand, and has been further substantiated by the existence now of several sandpits in the same general area.

WELSH maintained that water is always an appealing ingredient to development, and the plans for eventual development of residential units around the lake area will be carried out by the applicant, as the people involved are substantial and reliable individuals. He also pointed out that water in sandpits is always clear and clean. The applicant, WELSH stated, is not adverse to any of the suggested conditions contained in the staff report.

No one appeared in opposition.

MOTION: That the Planning Commission recommend to the County Commission that this application be approved subject to the conditions a. through p. as suggested in the staff report shown previously in these minutes, and with the understanding that the residential development plan is not being approved at this time. Rising moved, Savina seconded and it carried unanimously. Hopper, Gardenhire and Bayouth were absent.

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( ) Published in The Wichita Beacon on \_\_\_\_\_, 1975

R E S O L U T I O N

CASE NO. CU-176

A RESOLUTION PERMITTING A SAND EXTRACTION  
OPERATION ON PROPERTY ZONED "R-1" SUBURBAN  
RESIDENTIAL

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, THE CITY OF GODDARD, AND THAT PORTION  
OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY  
AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS  
ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS,  
UNDER THE AUTHORITY GRANTED BY SECTION 4.A.10.f)  
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  
THERE TO.

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.A.10.f) and Section 11.E. of the Zoning  
Resolution, as amended, a Conditional Use Permit to allow  
a sand extraction operation on property zoned "R-1" Suburban  
Residential

is hereby approved on the lands legally described as follows:

The South half of the Southeast Quarter of Sec.  
27, Twp. 26S, RW of the 6th P.M., Sedgwick  
County, Kansas, except the east 600 feet thereof.  
Generally located on the north side of 37th Street  
North in an area west of Hoover Road.

SUBJECT TO THE FOLLOWING:

- a) The applicant dedicating by separate instrument the additional right-of-way necessary for 37th Street North.
- b) No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the south 50 feet except for ingress and egress to 37th Street North.
- c) 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 approved plan.
- d) The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
- e) To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
- f) All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- g) The sand plant operation shall commence operation no later than 1976 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.

- h) The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, 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.
- i) The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- j) 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.
  - 1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
  - 2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
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- m) All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- n) The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- o) The applicant shall comply with conditions a, h, and k prior to the publication of the resolution effectuating the conditional use.
- p) All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use approval shall be entered in the Official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning 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 \_\_\_\_\_ day of \_\_\_\_\_, 1975.

\_\_\_\_\_, Chairman

\_\_\_\_\_, Commissioner

\_\_\_\_\_, Commissioner

ATTEST:

\_\_\_\_\_  
George Pierce, County Clerk

(SEAL)

Approved as to form:

\_\_\_\_\_  
Jack Turner, County Counselor

June 25, 1975

Jack Turner, County Counselor

Jack H. Galbraith, Chief Planner

CU-176 - Conditional Use for sand extraction -  
North side of 37th Street North in an area  
west of Hoover Road

Attached for your information and files is a copy of the referral sheet and minutes of the Metropolitan Area Planning Commission meeting of June 12, 1975 on the above-captioned case, which is scheduled to appear on the agenda of the Board of County Commissioners at their meeting of July 2, 1975.

Enclosed for your review and approval is a copy of the resolution effectuating the Conditional Use, which has been prepared on our standard form.

Also enclosed for your review and approval is a copy of a restrictive covenant which was required as a condition of approval of this sand excavation case.

If you have any comments in regard to the resolution, we would appreciate hearing from you by July 1, 1975, so that any corrections or additions may be made prior to being submitted to the Commissioners for their signatures. Please advise if the covenant is not satisfactory.

Jack H. Galbraith  
Chief Planner

JHG:ber

Attachment

( ) Published in The Wichita Beacon on \_\_\_\_\_, 1975

RESOLUTION

CASE NO. CU-176

A RESOLUTION PERMITTING A SAND EXTRACTION  
OPERATION ON PROPERTY ZONED "R-1" SUBURBAN  
RESIDENTIAL

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, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 4.A.10.f) 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 4.A.10.f) and Section 11.E. of the Zoning Resolution, as amended, a Conditional Use Permit to allow a sand extraction operation on property zoned "R-1" Suburban Residential

is hereby approved on the lands legally described as follows:

The South half of the Southeast Quarter of Sec. 27, Twp. 26S, RLW of the 6th P.M., Sedgwick County, Kansas, except the east 600 feet thereof. Generally located on the north side of 37th Street North in an area west of Hoover Road.

SUBJECT TO THE FOLLOWING:

- a) The applicant dedicating by separate instrument the additional right-of-way necessary for 37th Street North.
- b) No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the south 50 feet except for ingress and egress to 37th Street North.
- c) 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 approved plan.
- d) The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
- e) To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
- f) All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- g) The sand plant operation shall commence operation no later than 1976 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.

- h) The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, 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.
- i) The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- j) 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.
  - 1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
  - 2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
  - 3) A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

- k) The nonconforming use auto salvage located on subject property shall cease operation and all junk cars, trash, and other debris shall be removed prior to commencing sand excavation.
- l) Concrete and asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- m) All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- n) The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- o) The applicant shall comply with conditions a, h, and k prior to the publication of the resolution effectuating the conditional use.
- p) All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use approval shall be entered in the Official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning 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 \_\_\_\_\_ day of \_\_\_\_\_, 1975.

\_\_\_\_\_, Chairman

\_\_\_\_\_, Commissioner

\_\_\_\_\_, Commissioner

ATTEST:

\_\_\_\_\_  
George Pierce, County Clerk

(SEAL)

Approved as to form:

\_\_\_\_\_  
Jack Turner, County Counselor



Form T9-221A

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION TO  
BOARD OF COUNTY COMMISSIONERS

REQUEST FOR CONDITIONAL USE

CASE NO. CU-176                      CONSIDERED BY MAPC: 6-12-75

REQUEST FOR: Approval of Conditional Use

REASON FOR REQUEST (AS PROVIDED BY APPLICANT):

"Extraction of Commercial Grade Sand."

GENERAL LOCATION: North side of 37th Street North  
in an area west of Hoover Road

LEGAL DESCRIPTION:

The south half of the southeast quarter of Sec. 27, Twp.  
26S, RLW, of the 6th P.M., Sedgwick County, Kansas, except  
the east 600 feet thereof.

APPLICANT: Associated Material and Supply Co., Inc.  
P. O. Box 4064 67204

COUNSEL FOR APPLICANT: Dolan Welsh, agent

PROTESTORS (LIST COUNSEL) IF ANY: None

SURROUNDING ZONING: To the north, south, and west is "R-1";  
east is "LC"

LAND USE: Subject property is agricultural and auto wrecking yard; north  
and west is agricultural; east is single-family; south is  
farm house

PLANNING COMMISSION RECOMMENDATION:

P. That this application be approved subject to the conditions a. through  
d. as shown in the staff report (see excerpt of Planning Commission  
minutes attached for conditions), and with the understanding that the  
residential development plan is not being approved at this time.  
Rising moved, Savina seconded and it carried unanimously. Gardenhire,  
Hopper and Bayouth were absent.

ACTION: 1. Approve the application as recommended by the Metropolitan  
Area Planning Commission, subject to the recommended conditions of ap-  
proval and adopt a resolution effectuating the conditional use; or  
2. Deny the application.

EXCERPT FROM PLANNING COMMISSION MINUTES OF JUNE 12, 1975:

16. Case No. CU-176 - Associated Material and Supply Co., Inc. requests approval of a conditional use for sand extraction operation on property legally described as the south half of the southeast quarter of Sec. 27, Twp. 26S, R1W, of the 6th P.M., except the east 600 feet thereof. Generally located on the north side of 37th Street North in an area west of Hoover Road.

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

Comments

1. The applicant is requesting a conditional use permit to establish a sand extraction operation on approximately 61 acres of land zoned "R-1" Suburban Residential and located on the north side of 37th Street North in an area west of Hoover Road. Subject property presently contains a nonconforming use auto salvage operation which should be removed prior to sand extraction.
2. The applicant has submitted an Operational Plan and a proposed Redevelopment Plan in conjunction with the application. Although certain information items, such as minimum water depth, have been omitted, the operational plan appears to be generally acceptable, however, the proposed redevelopment plan omits any information on proposed lot arrangements or housing types.
3. Subject property is not contained within an area projected for development before 1985 in the Basis and Plan for the Pattern of Residential Growth, and several other sand extraction operations have been approved in the general vicinity.
4. Should the Planning Commission determine this use appropriate for the area, it should be approved subject to the following conditions:
  - a) The applicant dedicating by separate instrument the additional right-of-way necessary for 37th Street North.
  - b) No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the south 50 feet except for ingress and egress to 37th Street North.
  - c) 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 approved plan.
  - d) The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
  - e) To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
  - f) All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
  - g) The sand plant operation shall commence operation no later than 1976 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.
  - h) The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, 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.

- i) The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- j) 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.
  - 1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
  - 2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
  - 3) A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

- k) The nonconforming use auto salvage located on subject property shall cease operation and all junk cars, trash, and other debris shall be removed prior to commencing sand excavation.
- l) Concrete and asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- m) All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- n) The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- o) The applicant shall comply with conditions a, h, and k prior to the publication of the resolution effectuating the conditional use.
- p) All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.

GALBRAITH called attention to the fact that Condition g) as suggested in the staff report had not been required previously in similar cases in this area, but that in the most recent case, the County Commission had been interested in when an operation of this nature would begin and when it was expected to cease. GALBRAITH also reported that information on this request had been forwarded to the Chairman of the Sandpit Committee appointed by the County Commission last year, but that he had had no response from the Chairman. He said the conditions suggested have been developed and expanded on over the years.

LAKIN said the Sandpit Committee appears to be deadlocked to some degree as related to protection or screening of such a use. However, subject request is beyond the immediate growth pattern envisioned for the community and he did not believe that the matter of screening was involved. LAKIN also commented that because this area is not projected for residential growth, that the proposed development plan should not be considered for approval.

DOLAN WELSH, 4000 East Kinkaid, spoke in support as a representative of the applicant. He pointed out that 15 or 20 years ago when the Flood Control Project was being undertaken, in the appraisal of land west of the Flood Control and between 13th and 21st Streets, it had been found and established a line of demarcation between what land was considered as potentially providing a good grade of commercial sand as opposed to sand which was not of a commercial grade, and payments had been allowed based on such findings. It was found at that time that subject tract was considered for future extraction of commercial grade sand, and has been further substantiated by the existence now of several sandpits in the same general area.

WELSH maintained that water is always an appealing ingredient to development, and the plans for eventual development of residential units around the lake area will be carried out by the applicant, as the people involved are substantial and reliable individuals. He also pointed out that water in sandpits is always clear and clean. The applicant, WELSH stated, is not adverse to any of the suggested conditions contained in the staff report.

No one appeared in opposition.

MOTION: That the Planning Commission recommend to the County Commission that this application be approved subject to the conditions a. through p. as suggested in the staff report shown previously in these minutes, and with the understanding that the residential development plan is not being approved at this time. Rising moved, Savina seconded and it carried unanimously. Hopper, Gardenhire and Bayouth were absent.

-----

June 13, 1975

Mr. Dolan Welsh  
4000 East Kinkaid  
Wichita, Kansas 67218

Re: CU-176 - Conditional Use  
for Sand Extraction - North  
side of 37th Street North  
in an area west of Hoover

Dear Mr. Welsh:

At the regular meeting of the Metropolitan Area Planning Commission on June 12, 1975, the above-captioned application was considered. The action of the Planning Commission was to recommend the approval of the conditional use request subject to conditions a. through p. in the Planning Department report. It is necessary that, prior to this case being forwarded on to the Board of County Commissioners, conditions a. and h. be complied with. Enclosed is a street dedication form that should be executed and returned to our office. Also enclosed is a sample restrictive covenant that will assist you in preparation and execution of the covenant required in condition h.

Upon receipt of these documents, we will forward this matter on to the Board of County Commissioners for consideration. If we receive them by 5:00 p.m. on Tuesday, June 24, 1975, it will be sent forward for consideration by the County Commission on July 2, 1975, the meeting to start at 9:00 a.m. in Room 320 of the Sedgwick County Courthouse.

If you have any questions, please call.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:ber

cc: Associated Material and Supply Co., Inc.  
P.O. Box 4064, North Wichita Station 67204  
Minnis Eugene & Malinda P. Alexander,  
3845 N. 55th Street North 67204  
Noble C. and Harriet E. Gifford, 1235 Sullivan Circle 67204  
County Zoning Office, 1015 Stillwell 67213

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, \_\_\_\_\_

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

The south 50 feet of the south half of the southeast quarter of Sec. 27, Twp. 26S, R1W, of the 6th P.M., Sedgwick County, Kansas, except the east 600 feet thereof.

do \_\_\_\_\_ hereby dedicate the above described real estate to the public for \_\_\_\_\_ street purposes.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

STATE OF KANSAS )  
SEDGWICK COUNTY )<sup>SS</sup>

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, came \_\_\_\_\_

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

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

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

this \_\_\_\_\_,

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

RESTRICTIVE COVENANT

RICHARD D. HOSKINSON and VERDA M. HOSKINSON, fee owners of the following described real estate in Sedgwick County, Kansas, to-wit:

The North Fifty (50) acres of the East Half of the Southeast Quarter, Section 16, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas,

hereby make the following declaration as to restrictions, limitations and use of the above described land now owned by said Richard D. Hoskinson and Verda M. Hoskinson, and that said Declaration shall constitute covenants running with said land now owned by said Richard D. Hoskinson and Verda M. Hoskinson, 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 2 day of September, 1970, by Richard D. Hoskinson and Verda M. Hoskinson.

*Sample*

Richard D. Hoskinson  
RICHARD D. HOSKINSON  
Verda M. Hoskinson  
VERDA M. HOSKINSON

STATE OF KANSAS )  
SEDGWICK COUNTY ) SS

Before me, the undersigned, a notary public, within and for said County and State, on this \_\_\_ day of September, 1970, personally appeared RICHARD D. HOSKINSON and VERDA M. HOSKINSON, to me personally known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

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



Commission Expires:

SEP 18 1973

Marie Adams  
MARIE ADAMS Notary Public

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

May 16, 1975

TO M. S. Mitchell, Asst. Supt. Public Works Maint.

FROM G. Lynn Shirkey, Jr. Planner

SUBJECT Sand Excavation Proposal - CU-176

Attached are copies of a proposed operation plan and development plan for a sand extraction operation proposed for the north side of 37th St. North in an area west of Hoover. These plans are associated with a conditional use application (CU-176) which is scheduled for consideration by the Metropolitan Area Planning Commission on June 12, 1975. If you have any comments relative to this proposal, please have them to us by June 2.

*G. Lynn Shirkey*  
G. Lynn Shirkey  
Jr. Planner

GLS:js  
Attachment

June 4, 1975



TO: G. Lynn Shirkey, Jr. - MAPD

FROM: M. S. Mitchell

Subject: See above

Attached find print which states "No Flood Control Comment".

*M. S. Mitchell*  
M. S. Mitchell,  
Ass't. Supt. of Public Works Maint.

MSM/glm

Attach.

Received MAY 19 1975

June 10, 1975

Dr. Kathleen Camin  
Assoc. Professor - Economics  
Department  
Wichita State University  
Wichita, KS 67208

Re: CU-176 Associated Material  
& Supply Company requests  
permit for sand extraction  
on north side of 37th Street  
North, in an area west of  
Hoover Road.

Dear Dr. Camin:

Enclosed you will find a copy of an operational and redevelopment plan for a proposed sandpit operation on the north side of 37th Street North in an area west of Hoover Road. You will also find attached a copy of the staff report to the Planning Commission upon which we would appreciate your review and comment. This request is to be considered by the MAPC on June 12, 1975, for recommendation to the Board of Sedgwick County Commissioners.

Although I realize that it is rather short notice, we would appreciate any comments which you may have on this matter. If you have any questions, please do not hesitate to call.

Sincerely,

Mike Meek  
Junior Planner

MM:VH  
Enclosures

WICHITA-SEDSWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

MAPC HEARING DATE: June 12, 1975

Case No. CU-176	Request: Conditional Use permit for sand extraction
-----------------	--

Location: North side of 37th Street North in an  
area west of Hoover Road

Reason: "Extraction of Commercial Grade Sand."

Acres: 60.41	Size: 1,290 ft. by 2,040 ft.
--------------	------------------------------

	Land Use	Zoning
Existing North	Agriculture & auto wrecking yard	"R-1"
East	Agriculture	"R-1"
South	Single-family	"LC"
West	Farm House	"R-1"
	Agriculture	"R-1"

Existing R/W - 37th St. No. (half) 30 ft.	Platted: No
Proposed R/W - 37th St. No. (half) 50 ft.	History: None

Comments

1. The applicant is requesting a conditional use permit to establish a sand extraction operation on approximately 61 acres of land zoned "R-1" Suburban Residential and located on the north side of 37th Street North in an area west of Hoover Road. Subject property presently contains a nonconforming use auto salvage operation which should be removed prior to sand extraction.
2. The applicant has submitted an Operational Plan and a proposed Redevelopment Plan in conjunction with the application. Although certain information items, such as minimum water depth, have been omitted, the operational plan appears to be generally acceptable, however, the proposed redevelopment plan omits any information on proposed lot arrangements or housing types.
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  - b) No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur in the south 50 feet except for ingress and egress to 37th Street North.
  - c) 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 approved plan.
  - d) The earth shall be extracted to at least a minimum depth of six (6) feet below the flow line of the floodway.
  - e) To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
  - f) All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
  - g) The sand plant operation shall commence operation no later than 1976 and shall cease operating after 10 years unless a new permit is authorized by the appropriate governing body.
  - h) The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County Counselor, 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.
  - i) The applicant shall be responsible for maintaining all operational roads in a graveled condition.
  - j) 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.
    - 1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
    - 2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or

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

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

- k) The nonconforming use auto salvage located on subject property shall cease operation and all junk cars, trash, and other debris shall be removed prior to commencing sand excavation.
- l) Concrete and asphalt mixing plants, and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- m) All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- n) The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- o) The applicant shall comply with conditions a, h, and k prior to the publication of the resolution effectuating the conditional use.
- p) All conditions of approval shall be complied with within one year from the date of approval by the Board of County Commissioners; or the conditional use permit shall be null and void.
-

CU-176 - 13 NOTICES TO ADJACENT PROPERTY OWNERS MAILED 5-29-75 for MAPC 6-12-75

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

NOTICE TO ADJOINING PROPERTY OWNERS

MAY 29 1975

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 JUN 12 1975, at which time you may appear either in person or by agent or attorney, if you so desire.

CASE NO. CU-176

Conditional Use Request to Permit a Sand Extraction  
Operation on Property Zoned "R-1" Suburban Residential

The South half of the Southeast Quarter of Sec. 27, Twp. 26S, R1W, of the 6th P.M., Sedgwick County, Kansas, except the east 600 feet thereof. Generally located on the north side of 37th St. North, in an area west of Hoover Road.

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 special permit rather than as a use by right.

May 16, 1975

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

G. Lynn Shirkey, Jr. Planner

**Sand Excavation Proposal - CU-176**

Attached are copies of a proposed operation plan and development plan for a sand extraction operation proposed for the north side of 37th St. North in an area west of Hoover. These plans are associated with a conditional use application (CU-176) which is scheduled for consideration by the Metropolitan Area Planning Commission on June 12, 1975. If you have any comments relative to this proposal, please have them to us by June 2.

G. Lynn Shirkey  
Jr. Planner

GLS:js  
Attachment

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.

*Buyer*  
*See in excess purchase*  
*See title holder*

- A. APPLICANT Associated Material and Supply Co. Inc  
 ADDRESS P.O. Box 4064 - 11 Thicket Sta 04 PHONE 744-0433  
 AGENT Solan Theloh Realty - Solan Theloh  
 ADDRESS 4900 E. Kenikaid 18 PHONE 265-1167 - Day 684-7897 - Nite.
- B. APPLICANT Mimis Eugene Alexander - Melinda P Alexander  
 ADDRESS 3845 N. 55th St. 76. 04 PHONE 942-5498  
 AGENT \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ PHONE \_\_\_\_\_
- C. APPLICANT Noble C Sifford and Harriet E. Sifford  
 ADDRESS 1835 Sullivan Circle 61204 PHONE 938-6703  
 AGENT \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ PHONE \_\_\_\_\_

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

II. The applicant proposes to establish a sand Extraction  
Pit. (use)

on property legally described as Lot(s) The West 80% (approx) 1/4  
of the S 1/2 Sec 27, Block (s) Sec 27-26-1W of the  
See attached drawing Addition.

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

The S 1/2 & E 1/4 Sec 27-26-1W except the E. 600 ft.

*use legal from ownership list*

1. THIS PROPERTY IS LOCATED AT (ADDRESS) 3845 W. 55th St W.

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

- A. AT THE NW CORNER OF 37th N AND 55th W, OR
- B. ON THE North SIDE OF 37th (AVENUE) STREET BETWEEN 55th N (AVENUE) STREET AND 1/2 mile West of 55th (AVENUE) STREET.

I V. THE PROPERTY INCLUDED IN THIS APPLICATION IS ZONED R-1 (ZONING DISTRICT CLASSIFICATION).

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

*Extraction of commercial grade sand.*

V I. 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.

Morris Eugene Alexander Melinda P. Alexander

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

Melinda P. Alexander Harriet E. Shifford  
*owner of Earth contract with Alexander on this property*

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

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

V I I. OFFICE USE ONLY  
This application was received at the Planning Department at 3:30 (AM, PM) on May 9, 1975 (day, month, year). It has been checked and found to be complete and accompanied by required documents and the appropriate fee of \$ 70.00.

E. Lynn Shirkley Name  
Jr. Planner Title

O W N E R S H I P   L I S T

Tract	Property Owner
The North Half of the Southeast Quarter of Section 27-26-1W except that portion deeded for Highway	✓ Achfola B. Zimmerman 907 Faulkner 67203
The South Half of the Southeast Quarter of Section 27-26-1W except the North 295 feet of the East 295 feet	✓ Noble C. Gifford & Harriet E. 1235 Sullivan Circle 67204
The East Half of the Southwest Quarter of Section 27-26-1W	✓ Dean W. Nicholson & Pauline 4106 N. Ridge Road 67205
The Northwest Quarter of Section 34-26-1W except: Beginning 2282 feet East of the Northwest corner said Section, thence South 915.26 feet, West 2282 feet more or less to the West line said Quarter Section, North 915.26 feet to the Northwest corner said Section, East 2282 feet to point of beg.	✓ Kenneth W. Ott & Winifred Maize, Kansas 67101
The Northwest Quarter of the Southwest Quarter of Section 26-26-1W	✗ Laura M. Bunyan Address Unknown
	✓ Arlene L. Johnson 1013 Ida 67211
The Southwest Quarter of the Southwest Quarter of Section 26-26-1W	✗ John W. Woodman, deceased
The North 295 feet of the East 295 feet of the South Half of the Southeast Quarter of Section 27-26-1W	✓ C. James Beach Jr. & Bernice Route 2 Augusta, Kansas 67010
Beginning at a point in the Section line 1904 feet East of the Northwest corner of the Northwest Quarter of Section 34-26-1W, thence South parallel with the West line said Northwest Quarter 915.126 feet, thence East parallel with the North line said Northwest Quarter, 378 feet, thence North 915.216 feet, thence West 378 feet to beginning	✓ Earl J. Smith & Betty L. Smith 6515 West 37th North 67226
Beginning 1904 feet East of the Northwest corner of the Northwest Quarter of Section 34-26-1W, thence South 915.126 feet, West 1904 feet, North 915.126 feet, East 1904 feet to beginning	✓ Dorothy Gsell Canary 6418 East 11th Street 67206

Tract

Property Owner

The North Half of the North Half of the Northeast Quarter of the Northeast Quarter of Section 34-26-1W

✓ Harvey L. Mills & Coleen F.  
3751 N. Hoover 67205

The Northwest Quarter of the Northeast Quarter of Section 34-26-1W

✓ Jane M. Woodman  
X Address Unknown

The South Half of the North Half of the Northeast Quarter of the Northeast Quarter and the South Half of the Northeast Quarter of the Northeast Quarter of Section 34-26-1W except: Commencing at the Southeast corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section 34; thence North 300 feet along the East line of said NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  300 feet; thence West 871 feet; thence South 300 feet to the South line of said NE $\frac{1}{4}$  of NE $\frac{1}{4}$  said section 34; thence East 871 feet to pob.

✓ Mills and Clemson Trucking Inc.  
3751 N. Hoover 67205

The Security Abstract & Title Company, Inc., hereby certifies the foregoing to be a true and correct list of property owners of:

*see for legal*

A 1000 foot radius of: [The South Half of the Southeast Quarter of Section 27, Township 26 South, Range 1 West, of the 6th P.M., Sedgwick County, Kansas, *except the east 600 feet thereof.*

as shown by the records on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 29th day of April, 1975 at 7:00 A.M.

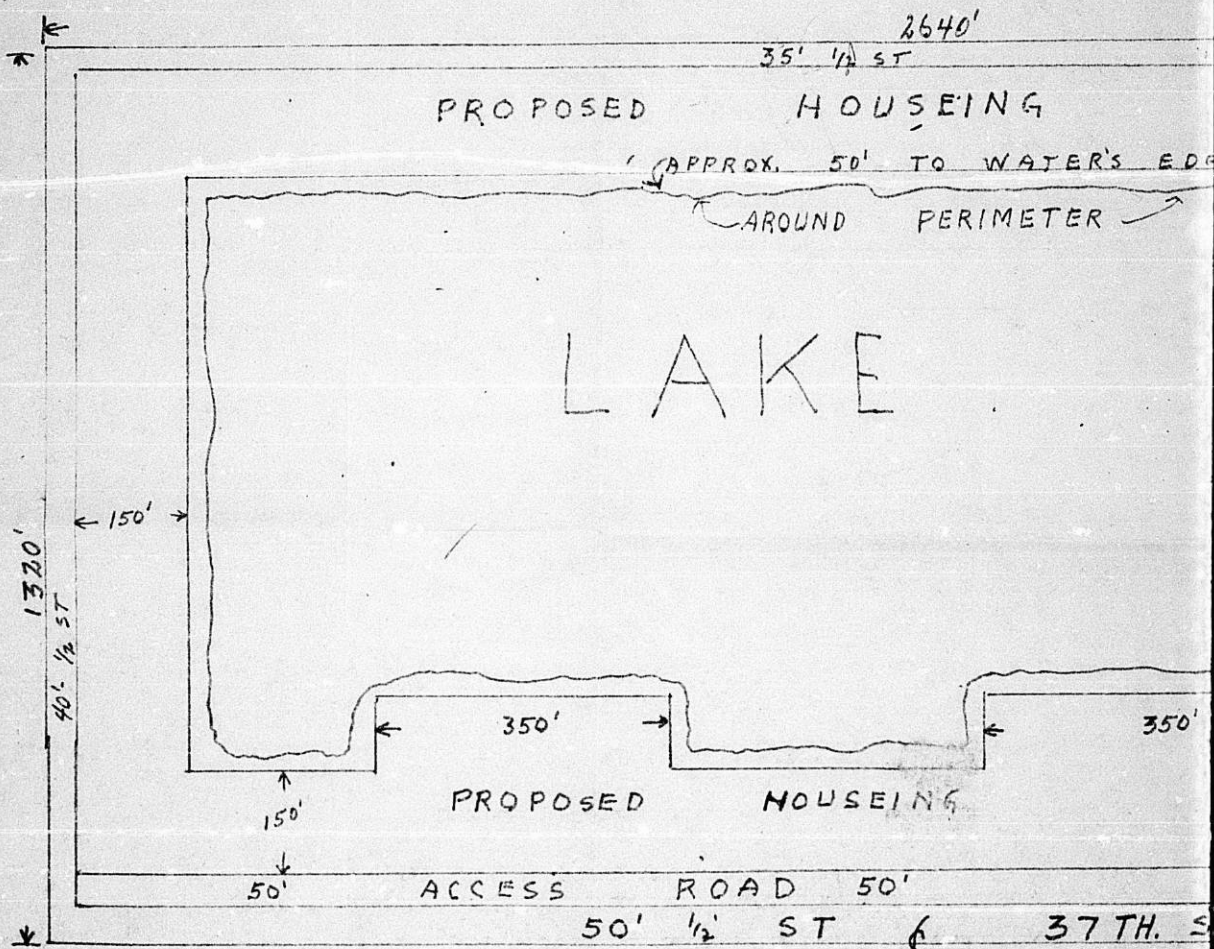
THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

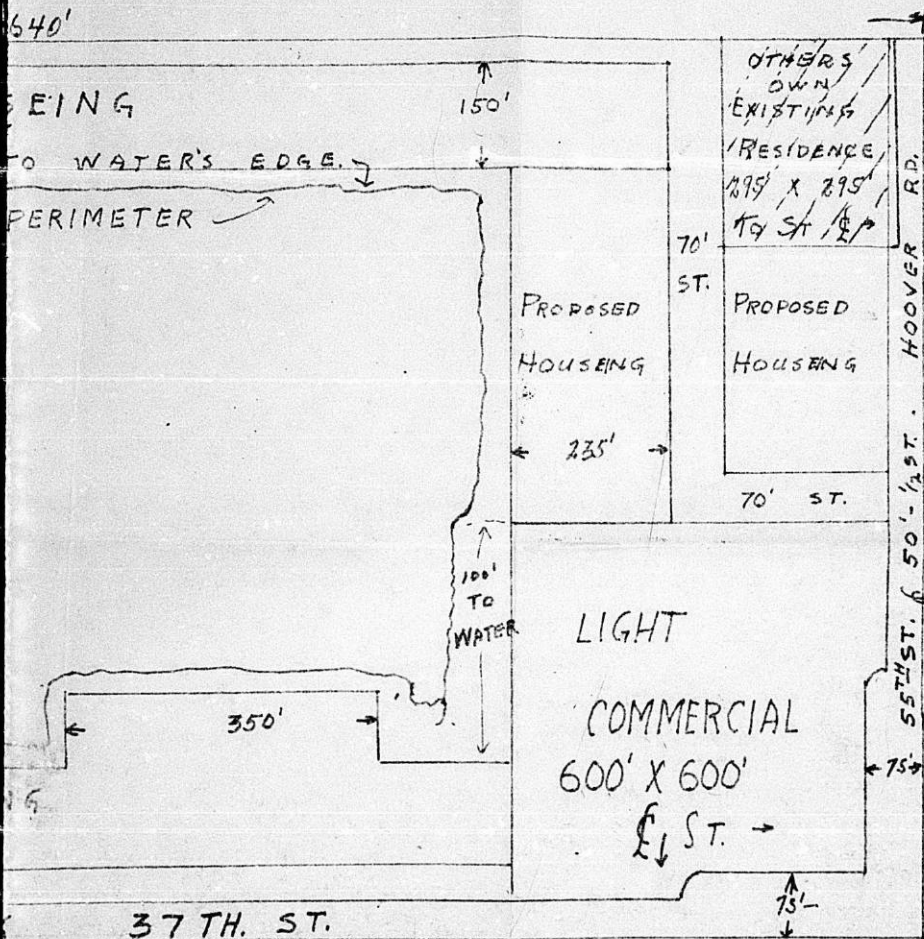
*Asst. John Pyron*  
Asst. Vice President

Order No. 224094  
wh





S 1/2 SE 1/4 Sec 27-26-1W 6TH PM  
 SEDGWICK COUNTY KANSAS  
 ASSOCIATED MATERIAL & SUPPLY CO. INC.

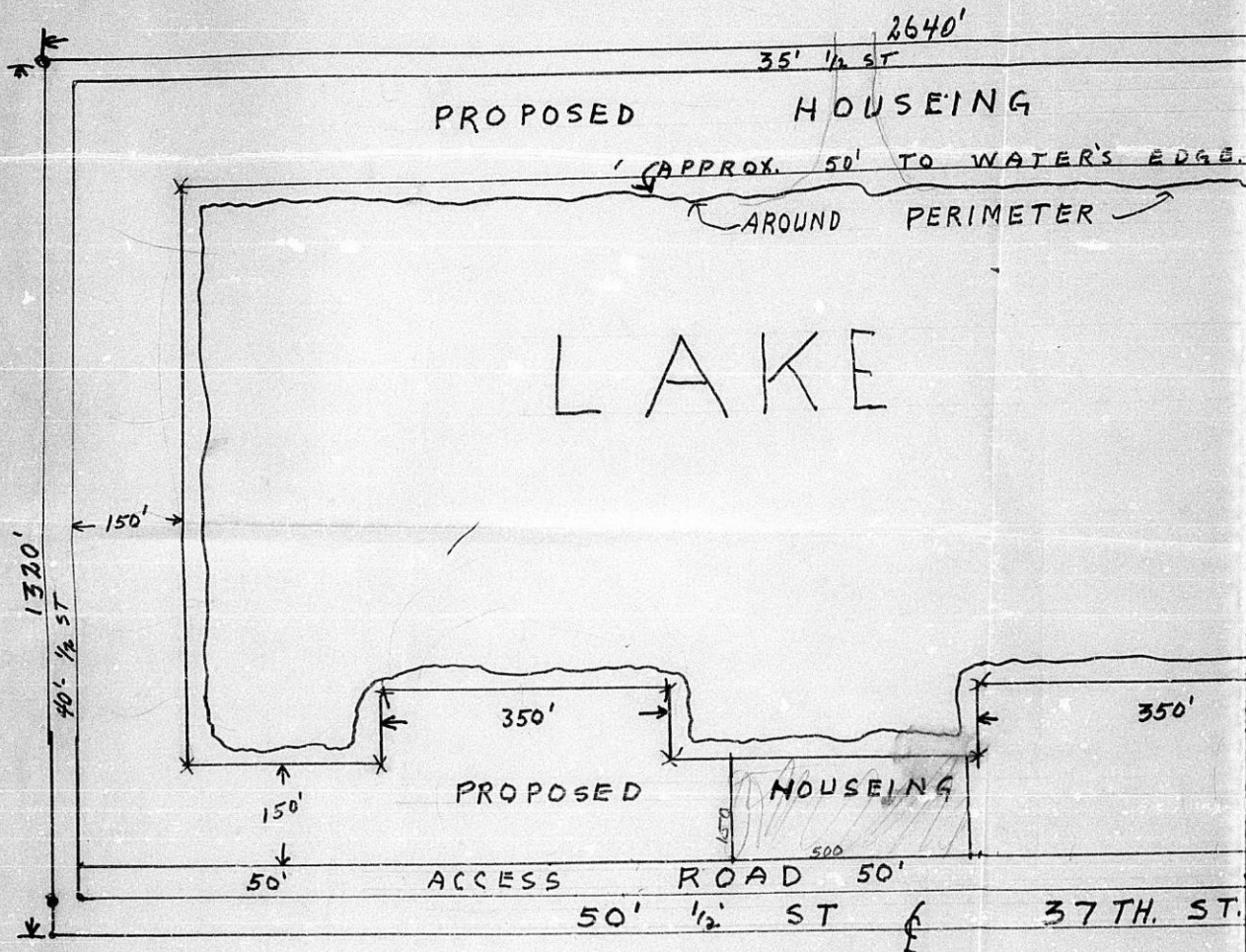


DO NOT REMOVE  
**GRAB COPY**

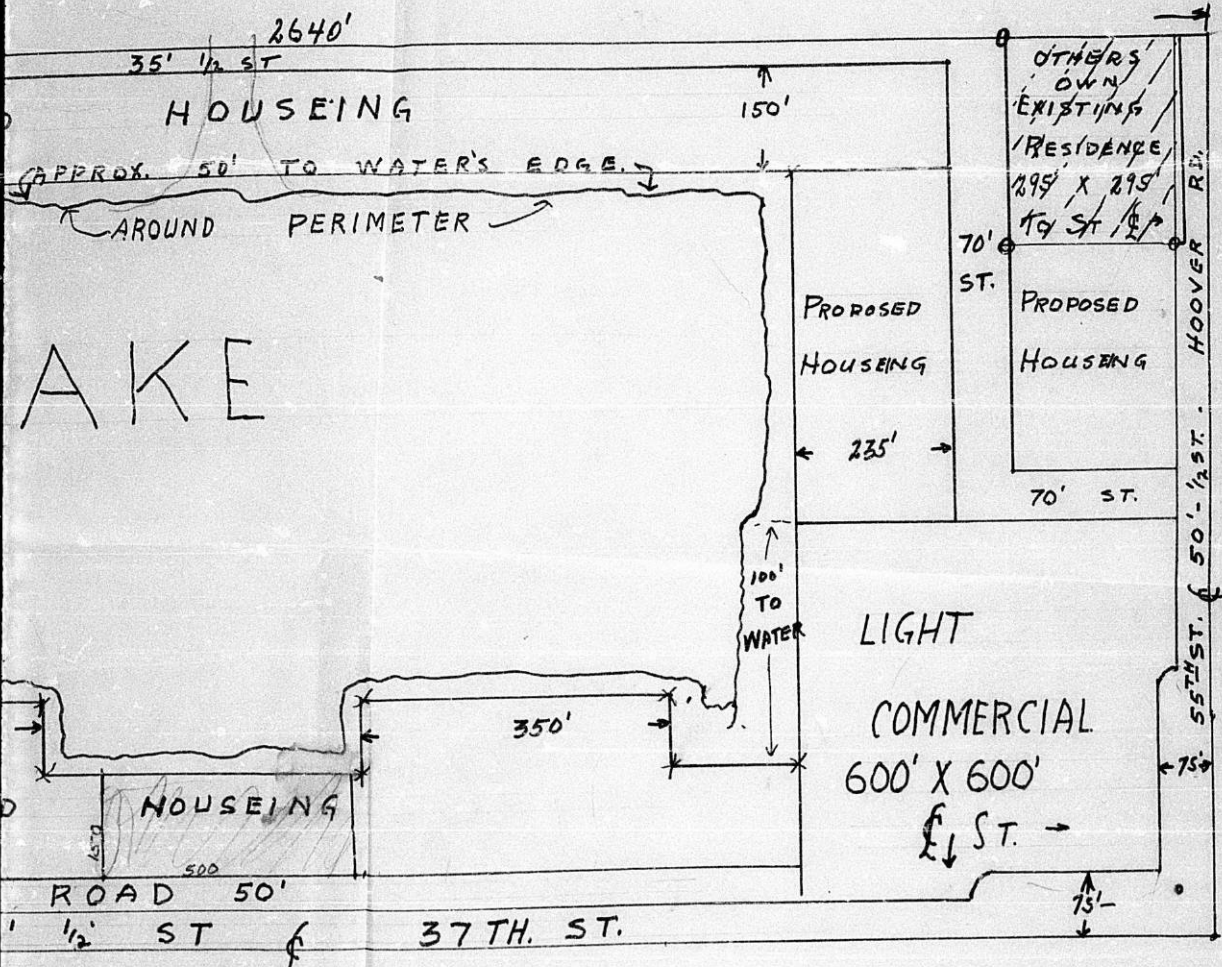
No Flood Control  
 Comment  
 MOM 6-4-75

27-26-1W 6<sup>TH</sup> PM  
 Y KANSAS  
 & SUPPLY CO. INC.

Received MAY 19 1975  
 CU. - 176  
 Assoc. Material & Supply



S 1/2 SE 1/4 Sec 27-26-1W 6TH PM  
 SEDGWICK COUNTY KANSAS  
 ASSOCIATED MATERIAL & SUPPLY CO. INC.



S 1/2 SE 1/4 Sec 27-26-1W 6<sup>TH</sup> PM  
 SEDGWICK COUNTY KANSAS  
 ATED MATERIAL & SUPPLY CO. INC.