

CU-222 - Ken-Win Farms, Inc. re-
quest Conditional Use Permit to
Establish a Sand Extraction
Operation on property
zoned "R-1" Suburban Residential
District, generally located on the

*POSTED
7-16-79*

ACTION

DATE

COMMITTEE

8-2-79

*Approved back to
conditions*

8-23-79

*B.C.C./B. CO. C. Withdrawn by
Applicant*

Closed

5150

Book 2;
Map No. C-1-A&B
Sec. 2
Twp. 27
Range 1W

DATA SHEET
(ZONING & CONDITIONAL USE)

Z- _____
SCZ- _____
CU- 222
Filed 7-11-79

(ASSOCIATED CASE NO. SCZ-0436)

- APPLICATION DATA: From _____ to _____
- Applicant: Ken-Win Farms, Inc. % John L. Suter, et al
Address Box 1868 - Hutchinson, Ks. 67501 Phone 663-7131
 - Agent: Oblinger-Smith Corporation, et al
Address 625 1st National Bank Bldg. 67202 Phone 262-0451
 - General Location: West side of West Street, in an area between 21st and 29th Streets North. Address _____
 - Proposed Use: To establish a Sand Extraction Operation on property zoned R-1 Suburban Residential District.

- AREA DATA:
- Acres: 154.39 (IRREGULAR) 2640 ft. by 2610 ft.)
 - Adjoining Zoning: E "R" & R-1" S "R-1" W "R" N "AA"
 - Land Use: East BIG DITCH South SAND PIT
West SAND PIT, CATTLE PENS North UNDEVELOPED
 - Sketch Plan Land Use is for: _____
 - Present Land Use is for: UNDEVELOPED
 - Area (is) (is not) platted. _____

PROCEDURE DATA:

- Zoning Committee _____ by _____
- MAPC Meeting: _____

Date	Action
8-2-79	Approved sub to conditions

- Governing Body (Bd. City Commissioners - Bd. County Commissioners)

Date	Action	Resolution
8-29-79	Withdrawn by Applicant	closed

NOTES:

HASTINGS, MN. LOS ANGELES, CALIF. OH. MORGANTOWN, W. VA. U.S.A.

No. 2153C
Smead's

PROTEST PETITION
(COUNTY CASES)

SECTION I.

The undersigned, property owners in Sedgwick County, Kansas, hereby protest the proposed change of zoning (Conditional Use Application) for property described as Case No. CU 222, zone change from R-1 to E (for establishment of a SAND EXTRACTION in E zoning).

Case Withdrawn



SECTION II - Protestor(s)

Name	Property Owned
	<u>Lot(s)</u> <u>Block(s)</u> <u>Addition</u>
a) <u>Walter Henning</u> Signature	38 acres located on East side of West St. from 29th South to quarter mile line and East to Road Central.
<u>WALTER HENNING</u> Typed or Printed Name	
b) <u>Delphine Henning</u> Signature	
<u>DELPHINE HENNING</u> Typed or Printed Name	

ACKNOWLEDGMENT

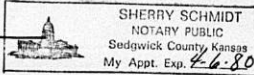
State of Kansas) ss
County of Sedgwick)

Be it remembered that on this 11th day of August, 1979, before me, a notary public in and for said County and State, came Walter Henning and Delphine Henning to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same.

In Testimony Whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

Sherry Schmidt
Notary Public

My Commission expires April 6, 1980



ALL SIGNATURES MUST BE ACKNOWLEDGED

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

PROTEST PETITION
(COUNTY CASES)

SECTION I.

The undersigned, property owners in Sedgwick County, Kansas, hereby protest the proposed change of zoning (Conditional Use Application) for property described as Case No. CU 222, zone change from R 1 to Conditional Use for establishment of a SAND PLANT OPERATION in R 1 zoning).

Case Withdrawn



SECTION II - Protestor(s)

Name	Lot(s)	Block(s)	Property Owned	Addition
a) <u>Donna Dee Crocker Boyd</u> Signature	S 50' of NW 1/4		and that portion of SW 1/4, all lying WEST of BIG SLOUGH - COWSKIN CREEK FLOODWAY	
<u>Donna Dee Crocker Boyd</u> Typed or Printed Name				
b) _____ Signature			Condemnation Case A-31849	

Typed or Printed Name				

ACKNOWLEDGMENT

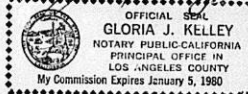
California)
State of ~~Kansas~~) ss
County of ~~Sedgwick~~)
Los Angeles

Be it remembered that on this 10th day of August, 1979, before me, a notary public in and for said County and State, came Donna Dee Crocker Boyd to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same.

In Testimony Whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

Gloria J. Kelley
Notary Public

My Commission expires January 5, 1980



ALL SIGNATURES MUST BE ACKNOWLEDGED

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

August 20, 1979

Victor B. Eisenring
4900 W. 21st
Wichita, Kansas 67212

Re: CU-222 & SCZ-9436 "R-1" to "F"
west side of West Street in an
area between 21st and 29th
Streets North

Dear Mr. Eisenring:

This is to advise you that the above captioned cases have been withdrawn by the applicant and will not be considered by the Board of City Commissioners on August 29, 1979 as you were previously advised. These cases are now considered withdrawn and closed.

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:bbc
cc: Walter Henning, 2437 N. Hoover 67212

EXCERPT FROM PLANNING COMMISSION MINUTES OF AUGUST 2, 1979:

15. Case No. CU-222 - Ken-Win Farms, Inc. request Conditional Use Permit for the South Half of the Northeast Quarter and the North half of the Southeast Quarter of Section 2, Township 27 South, Range 1 West, Sedgwick County, Kansas, except 4.12 acres taken out of the North half of the Southeast Quarter for the floodway purposes in Case A-31849 in the District Court of Sedgwick County, Kansas, all of said property located in Sedgwick County, Kansas. Generally located on the west side of West Street, in an area between 21st and 29th Streets North.
16. Case No. SCZ-0436 - Ken-Win Farms, Inc. request zone change from "R-1" to "E" beginning at a point 700 ft. West of the Southeast corner of the South half of the Northeast Quarter of Section 2, Township 27 South, Range 1 West; thence North 450 ft.; thence West 450 ft.; thence South 450 ft.; thence East 450 ft. to the Pt. of beginning, all of said property located in Sedgwick County, Kansas. Generally located on the west side of West Street, in an area between 21st and 29th Streets North.

GALBRAITH pointed out adjacent land use, zoning, and showed slides of the general area. He reviewed the following staff reports:

Case No. CU-222:

COMMENTS:

1. The following items should be considered by the Planning Commission in making findings of fact:

The applicant's request for approval of a sand extraction operation on an approximate 154 acre site would appear to be compatible with the surrounding area uses consisting of sand and gravel operations to the south, the City lime sludge disposal site to the north, undeveloped farmland to the east, and a sand and gravel operation to the west.

The applicant has submitted an operational plan indicating the limits of the area to be excavated, and a redevelopment plan which proposes residential lots around the lake after the extraction operation ceases. In conjunction with this application, the applicant is requesting a change of zoning to "E" Light Industrial for a tract 450' by 450' in the east half of subject property (SCZ-0436) in order to construct an asphalt mixing plant in conjunction with the sand extraction operation.

Subject property is located on a Federal Aid Secondary road (West Street) which requires a minimum half street right-of-way of 60 feet. The property is also adjacent to the Wichita-Valley Center Flood Control project (Big Ditch) and will require construction of a loop levee around the site.

2. Should the Planning Commission determine the extraction use appropriate for the area, it should be approved subject to the following conditions:
 - A. The applicant shall dedicate, by separate instrument, sufficient half-street right-of-way to bring West Street up to the FAS 60 ft. half street right-of-way standard.

- B. The applicant shall submit a letter from the Flood Control Office stating that satisfactory arrangements have been made to construct a loop levee around subject property.
- C. The applicant shall submit a restrictive covenant approved as to form by the County Counselor, assuring the construction of the loop levee prior to commencing the extraction operation, and the continued maintenance of the levee at an elevation of 1328.
- D. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
- E. 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.
- F. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
- G. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five horizontal to one vertical.
- H. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- I. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
- J. 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.
- K. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- L. 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 in 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 material:
1. A 48" or higher chain link 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.

- M. 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.
- N. Concrete or 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 Resolution and amendments thereto.
- O. 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.
- P. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- Q. At such time as the property is platted for residential development, an application shall be submitted for rezoning the asphalt mixing plant area to a residential zoning classification.
- R. The applicant shall comply with conditions A, B, C and J, prior to the publication of the resolution effectuating the conditional use.
- S. Violation of conditions of approval shall render the conditional use permit null and void.

Case No. SCZ-0436:

COMMENTS:

1. The following items should be considered by the Planning Commission in making findings of fact:

The applicant is requesting a change of zoning from "R-1" Suburban Residential to "E" Light Industrial for a tract of land 450' x 450' lying approximately 700 feet west and 1/2 mile south of the intersection of West Street and 29th Street North.

Should this application be approved, the applicant proposes to construct an asphalt mixing plant to be utilized in conjunction with a sand extraction operation on adjacent property for which the applicant is requesting a conditional use permit for that purpose (CU-222).

2. Should the Planning Commission recommend approval of this application, it should be approved subject to approval of associated case CU-222 by the Board of County Commissioners or the case be considered denied and closed.

GALBRAITH stated that these two items could be taken together because they are associated with the same piece of property. He showed a suggested redevelopment plan of the applicants' site as well as a proposed operational plan. GALBRAITH said that the applicants had advised that if the "E" Light Industrial zoning was granted, their intent, at a future time when residential development occurs, was to ask that it be zoned back to residential. They would have no intent of operating an industrial site there after their sand plant operation ceases.

SAVINA returned to the meeting after break.

GALBRAITH pointed out items B and C of the staff report relative to the applicants having to construct a loop levee. He related that Flood Control was fearful that once extraction occurs, that the pressures hydrologywise from the rise in the Big Ditch may raise the level of water within the sandpit, and if too high would spread out over the adjacent properties. He said that in every instance they have asked for the construction of a loop levee. Max Greene of Flood Control, however, contacted staff to relate that it was not their intent that the loop levee be constructed prior to extracting sand. He also advised that the rising water occurs so slow, and that there was such an abundance of material on the site, that if a rise occurs, the loop levee could be constructed almost immediately, and so instructed that item "B" be stricken from the conditions of approval. GALBRAITH read the rewording of item "C" to the Commission. He said that the staff had no objections to the change of wording, and recommended approval of both the conditional use permit and change of zoning.

BAYOUTH asked if the Commission had recently approved a plan similar to this a few weeks ago. GALBRAITH said yes, in the section west of this site light industrial zoning was approved, and he cited other approval of sandpit operations recently with a related request for industrial zoning.

JOHN GIST, Oblinger & Smith, representing the applicants, stated that this site was specifically selected and has been known in the County for producing a good quantity of sand. He said that in addition to the two adjacent sandpits, Galbraith pointed out, the City's lime sludge disposal site is to the north, and an existing hog farm is to the west, and the Big Ditch was ideally situated as a buffer to the southeast. GIST said that because of the framework within the districts that are available to the applicants within the text of the County zoning resolution, they have intentionally limited the size of the request for industrial to assure staff that a batch plant was what it was to be used for. He said that they have also discussed the rewording of item "C" and "B" with Flood Control and staff, and the applicants were agreeable to the adjustment.

VIC EISENRING, 4900 West 21st, speaking in opposition, stated that his house was built on his property line just north of 21st Street, and he built the house to get away from Ritchie's asphalt plant because of his asthma. He said that he did not want the asphalt plant at this site where he would have to live with it day in and day out. EISENRING mentioned another asphalt plant across from his house that had been ruled on in court as not being permitted.

SHOOK asked what was the basis of the Court's ruling on eliminating the asphalt plant on 21st Street.

GALBRAITH recalled the case to the south of 21st Street that Mr. Eisenring was speaking of. He said that instead of an asphalt plant, it was a roofing contractor. There were fumes from the roofing business. It was a use that went in there in place of a nonconforming use on the site. They sought light industrial zoning, and were denied. He said there were some court proceedings that they cease operating from the site because they were an illegal use. He said that he did remember the asthma discussion at that time.

WALT HENNING, 2437 North Hoover, speaking in opposition, stated that it seemed that their area had been designated as a trash dump or something of this sort. He mentioned the truck traffic in the area, and now there would be more. HENNING said

that he did not mind the sandpit operation as much as he did the asphalt plant. He said that if the truck traffic was going to be put on these roads, then something would have to be done so that people could at least stay in the car seat as they drive down the roads. ~~He felt that there should be a greater distance for~~ an asphalt plant because of the odor. It would not improve his property value anyway.

BAYOUTH asked how many months does an asphalt plant operate.

LARRY MARTIN, President, Mid-Kansas Construction Co., Inc., said that they generally operate the plant ten months out of a year. They are not operational in January and February.

GREIDER said that he assumed that there was more restriction now on taking care of the smoke and soot than there was a few years ago.

MARTIN said yes there was, and they would anticipate a new facility at this site, and the requirements were much more stringent on a new facility than on their existing facility.

MOTION: Having considered the factors as contained in Policy Statement No. 10; and as the character of the neighborhood is compatible with the proposed sand extraction operation, and taking into account the recommendation of approval by staff; I move that we recommend to the Governing Body that the application be approved subject to the following conditions; and that the resolutions effectuating the conditional use not be published until the conditions of approval have been complied with:

- A. The applicant shall dedicate, by separate instrument, sufficient half-street right-of-way to bring West Street up to the FAS 60 foot half-street right-of-way standard.
- B. The applicant shall submit a covenant approved as to form by the County Counselor, and as to content by the Flood Control Office, assuring the construction of the loop levee and the continued maintenance of the levee at an elevation of 1328.
- C. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
- D. 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.
- E. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
- F. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five horizontal to one vertical.
- G. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.

- H. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
- I. 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.
- J. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- K. 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 in 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 material:
1. A 48" or higher chain link 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.
- L. 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.
- M. Concrete or 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 Resolution and amendments thereto.
- N. 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.
- O. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- P. At such time as the property is platted for residential development, an application shall be submitted for rezoning the asphalt mixing plant area to a residential zoning classification.
- Q. The applicant shall comply with conditions A, B, and I, prior to the publication of the resolution effectuating the conditional use.
- R. Violation of conditions of approval shall render the conditional use permit null and void.

Bell moved, Bayouth seconded and it carried unanimously. Taylor was absent.

MOTION: Having considered the factors as contained in Policy Statement No. 10, and duly noting that the prevailing southwest winds will be blowing away from the opposition to the south, and inasmuch as the location of the plant will be remote from any residential areas, and taking into consideration the recommendation of approval by staff; I move that we recommend to the Governing Body that the application be approved subject to the approval of the associated Conditional Use case. Bell moved, Bayouth seconded and it carried unanimously. Taylor was absent.

5150
 Book 2;
 C-1-A&B
 Map No. 2
 Sec. 2
 Twp. 27
 Range 1W

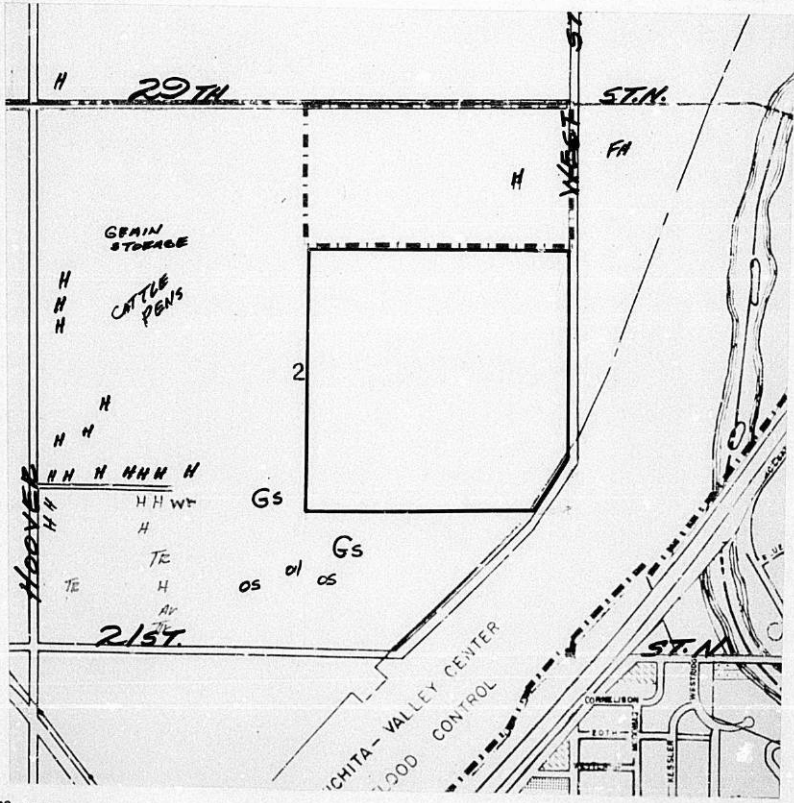
DATA SHEET
 (ZONING & CONDITIONAL USE)

Z- _____
 SCZ- _____
 CU- 222
 Filed 7-11-79

(ASSOCIATED CASE NO. SCZ-0436)

- APPLICATION DATA: From _____ to _____
- Applicant: Ken-Win Farms, Inc. % John L. Suter, et al
 Address: Box 1868 - Hutchinson, Ks. 67501 Phone: 663-7131
 - Agent: Oblinger-Smith Corporation, et al
 Address: 625 1st National Bank Bldg., 67202 Phone: 262-0451
 - General Location: West side of West Street, in an area between 21st and 29th Streets North
 - Proposed Use: To establish a Sand Extraction Operation on property zoned Suburban Residential District.
- AREA DATA:
 1. Acres: 154.39 (IRREGULAR) (2640 ft. by 2610 ft.)
 2. Adjoining Zoning: E "R1" & "R-1" S "R-1" W "R" N "AA"
 3. Land Use: East BIG DITCH South SAND PIT
 West SAND PIT CATTLE PENS North UNDEVELOPED
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use is for: _____
 6. Area (is) (is not) platted: UNDEVELOPED

PHOTO DATA:
 Taken by _____ Date _____ Time _____



T9-214-2

PICTURE SHEET

PROTEST PETITION
(COUNTY CASES)

Shirley

SECTION I.

The undersigned, property owners in Sedgwick County, Kansas, hereby protest the proposed change of zoning (Conditional Use Application) for property described as Case No. CU 222, zone change from R-1 to F (for establishment of a CHILD EXTERIOR in F zoning).



SECTION II - Protestor(s)

Name	Property Owned		
	Lot(s)	Block(s)	Addition
a) <u><i>Walter Henning</i></u> Signature	38 acres located on East side of 22nd St. from 29th South to quarter mile line and East to 7th and Central.		
<u>WALTER HENNING</u> Typed or Printed Name			
b) <u><i>Delphine Henning</i></u> Signature			
<u>DELPHINE HENNING</u> Typed or Printed Name			

ACKNOWLEDGMENT

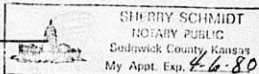
State of Kansas) ss
County of Sedgwick)

Be it remembered that on this 11th day of August, 1979, before me, a notary public in and for said County and State, came Walter Henning and Delphine Henning to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same.

In Testimony Whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

Shirley Schmidt
Notary Public

My Commission expires April 6, 1980



ALL SIGNATURES MUST BE ACKNOWLEDGED

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

PROTEST PETITION
(COUNTY CASES)

SECTION I.

The undersigned, property owners in Sedgwick County, Kansas, hereby protest the proposed change of zoning (Conditional Use Application) for property described as Case No. CU 222, zone change from R 1 to CONDITIONAL USE for establishment of a SAND PLANT OPERATION in R 1 zoning).



SECTION II - Protestor(s)

Name	Property Owned	
Lot(s)	Block(s)	Addition
a) <u>Donna Dee Crocker Boyd</u> Signature	S 50' of NW 1/4 and that portion of SW 1/4, all lying WEST of BIG SLOUGH - COWSKIN CREEK FLOODWAY	
<u>Donna Dee Crocker Boyd</u> Typed or Printed Name	Condemnation Case A-31849	
b) _____ Signature		

Typed or Printed Name		

ACKNOWLEDGMENT

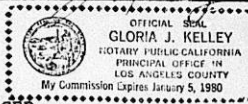
California
State of ~~Kansas~~) as
County of ~~Sedgwick~~) ss
Los Angeles

Be it remembered that on this 10th day of August, 1979,
before me, a notary public in and for said County and State, came
Donna Dee Crocker Boyd
to me personally known to be the same person who executed the foregoing
instrument of writing and duly acknowledged the execution of same.

In Testimony Whereof, I have hereunto set my hand and affixed my
notarial seal the day and year above written.

Gloria J. Kelley
Notary Public

My Commission expires January 5, 1980



ALL SIGNATURES MUST BE ACKNOWLEDGED

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

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:

East 60 feet of the South Half of the Northeast Quarter and the North half of the Southeast Quarter of Section 2, Township 27 South, Range 1 West, Sedgwick County, Kansas, except 4.12 acres taken out of the North half of the Southeast Quarter for the floodway purposes in Case A-31849 in the District Court of Sedgwick County, Kansas.

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

Executed this _____ day of _____ 19 ____.

STATE OF KANSAS)
SEDGWICK COUNTY)^{SS}

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 herunto 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: _____

August 3, 1979

Victor B. Eisenring
4900 W. 21st
Wichita, Kansas 67212

Re: CU-222 & SCZ-9436 "R-1" to "E"
west side of West Street in an
area between 21st and 29th
Streets North

Dear Mr. Eisenring:

The Planning Commission at its regular meeting of August 2, 1979, considered the above-captioned zone change request, and their action was as indicated on the attached letter.

This is to advise you that if you and others owning property within 1000 feet of the application area desire to submit legal protest petitions, they must be submitted to the Office of the County Clerk no later than 5:00 p.m., Monday, August 13, 1979.

Please note that separate protest petitions must be submitted for each case. You cannot combine cases CU-222 and SCZ-9436 one one petition.

Enclosed are six (6) copies of the protest petition form, and if you have need for more forms, they may be obtained at this office.

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

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:bbc
Encl.

cc: Walter Henning, 2437 N. Hoover 67212

August 3, 1979

John Gist
Oblinger-Smith Corporation
625 First National Bank Bldg.
Wichita, Kansas 67202

Re: CU-222 Conditional Use Permit
SCZ-9436 "R-1" to "E" - west
side of West Street in an area
between 21st and 29th Streets
North

Dear Mr. Gist:

At its regular meeting of August 2, 1979, the Metropolitan Area Planning Commission considered the above-captioned cases. The action of the Planning Commission was to recommend approval of the Conditional Use request to permit the extraction of sand subject to the following conditions:

- A. The applicant shall dedicate, by separate instrument, sufficient half-street right-of-way to bring West Street up to the FAS 60 ft. half street right-of-way standard.
- B. The applicant shall submit a covenant approved as to form by the County Counselor, and as to content by the Flood Control Office, assuring the construction of the loop levee and the continued maintenance of the levee at an elevation of 1328.
- C. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
- D. 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.

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August 3, 1979
CU-222 & SCZ-9436

- E. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
- F. To provide for bank tabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five horizontal to one vertical.
- G. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- H. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
- I. 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.
- J. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- K. 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 in 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 material:
 - 1. A 48" or higher chain link 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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CU-222 & SCZ-9436

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.
- L. 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.
- M. Concrete or 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 Resolution and amendments thereto.
- N. 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.
- O. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- P. At such time as the property is platted for residential development, an application shall be submitted for rezoning the asphalt mixing plant area to a residential zoning classification.
- Q. The applicant shall comply with conditions A, B, and I, prior to the publication of the resolution effectuating the conditional use.
- R. Violation of conditions of approval shall render the conditional use permit null and void.

Prior to the case being forwarded to the Board of County Commissioners, it is necessary that you comply with conditions A, B and I. Enclosed is the necessary dedication form which should be executed and returned to our office. It is my understanding that you have already obtained a sample covenant regarding conditions B and I, which should be executed and also returned to our office prior to the case going to the Board of County Commissioners.

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CU-222 & SC2-9436

Regarding SC2-0436, it was the action of the Planning Commission to recommend that this application be approved.

If the dedication and covenant referred to above on the Conditional Use case are submitted to our office by August 17, 1979, these cases will be scheduled for consideration by the Board of County Commissioners on August 29, 1979, at 9:00 a.m., in Room 320, Sedgwick County Courthouse.

If you have any questions, please contact our office.

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:bbc
Encl.

cc: Syd Werbin, County Zoning Officer
John L. Suter, Ken-Win Farms, Inc., Box 1868,
Hutchinson 67501
John T. Arnold Associates, Inc., Sutton Place Bldg. 67202
Mid-Kansas Construction Co., Inc., 1245 S. Santa Fe 67211
Attn: Larry Martin, President
Victor B. Eisenring, 4900 W. 21st 67212
Walter Henning, 2437 N. Hoover 67212

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

MAPC HEARING DATE: 8-2-79

Case No. CU-222 Request: Conditional Use Permit for Sand Extraction

Location: West side of West Street in an area between 21st and 29th Streets North

Reason: "To establish a sand extraction operation."

Acres: 154.3 Size: 2640' x 2610'

	<u>Land Use</u>	<u>Zoning</u>
Existing North	Undeveloped City Water Dept. Lime Sludge Disposal Site	"R-1" "AA"
East	Undeveloped	"R" & "R-1"
South	Sand Pit	"R-1"
West	Sand Pit	"R"

Existing R/W - West St.-30 ft.-half Platted: No.
Proposed R/W - West St.-60 ft.-half History: None.

COMMENTS:

1. The following items should be considered by the Planning Commission in making findings of fact:

The applicant's request for approval of a sand extraction operation on an approximate 154 acre site would appear to be compatible with the surrounding area uses consisting of sand and gravel operations to the south, the City lime sludge disposal site to the north, undeveloped farmland to the east, and a sand and gravel operation to the west.

The applicant has submitted an operational plan indicating the limits of the area to be excavated, and a redevelopment plan which proposes residential lots around the lake after the extraction operation ceases. In conjunction with this application, the applicant is requesting a change of zoning to "E" Light Industrial for a tract 450' by 450' in the east half of subject property (SCZ-0436) in order to construct an asphalt mixing plant in conjunction with the sand extraction operation.

Case No. CU-222
MAPC AGENDA
3-2-79
Page 2

Subject property is located on a Federal Aid Secondary road (West Street) which requires a minimum half street right-of-way of 60 feet. The property is also adjacent to the Wichita-Valley Center Flood Control project (Big Ditch) and will require construction of a loop levee around the site.

2. Should the Planning Commission determine the extraction use appropriate for the area, it should be approved subject to the following conditions:
 - A. The applicant shall dedicate, by separate instrument, sufficient half-street right-of-way to bring West Street up to the FAS 60 ft. half street right-of-way standard.
 - B. The applicant shall submit a letter from the Flood Control Office stating that satisfactory arrangements have been made to construct a loop levee around subject property.
 - C. The applicant shall submit a restrictive covenant approved as to form by the County Counselor, assuring the construction of the loop levee prior to commencing the extraction operation, and the continued maintenance of the levee at an elevation of 1323.
 - D. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
 - E. 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.
 - F. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
 - G. To provide for bank tabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five horizontal to one vertical.
 - H. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
 - I. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.

- J. 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.
- K. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
- L. 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 in 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 material:
 - 1. A 43" or higher chain link 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.
- M. 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.
- N. Concrete or 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 Resolution and amendments thereto.
- O. 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.

Case No. CU-222
MAPC AGENDA
8-2-79
Page 4

- P. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- Q. At such time as the property is platted for residential development, an application shall be submitted for rezoning the asphalt mixing plant area to a residential zoning classification.
- R. The applicant shall comply with conditions A, B, C and J, prior to the publication of the resolution effectuating the conditional use.
- S. Violation of conditions of approval shall render the conditional use permit null and void.

CU-222 - 8 "Notice to Adjoining Property Owners" mailed 7-19-79 for
the MAPC meeting for 8-2-79

1 to Grover C. McLure, Jr., County Director of Dept. of
Public Works

-
9 TOTAL

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION
CITY HALL, TENTH FLOOR, 455 North Main Street
Wichita, Kansas 67202

NOTICE TO ADJOINING PROPERTY OWNERS:

JUL 19 1979

This is a notice of a request for a zoning change in your area. As an area property owner, you have the right to appear before the Metropolitan Area Planning Commission (MAPC) meeting in support or in opposition to this request for a zoning change. The MAPC will consider the following case in the City Commission Meeting Room, City Hall, First Floor, 455 North Main, Wichita, Kansas, at its meeting on AUG 2 1979, which will commence at 1:30 p.m. You may appear either in person or by agent or attorney if you so desire.

CASE NO. CU-222

Conditional Use Request to Permit Establishment of
a Sand Extraction Operation on property
Zoned the "R-1" Suburban Residential District

The South Half of the Northeast Quarter and the North half of the Southeast Quarter of Section 2, Township 27 South, Range 1 West, Sedgwick County, Kansas, except 4.12 acres taken out of the North half of the Southeast Quarter for the floodway purposes in Case A-31849 in the District Court of Sedgwick County, Kansas, all of said property located in Sedgwick County, Kansas. Generally located on the west side of West Street, in an area between 21st and 29th Streets North.

Additional information concerning this case and official protest procedures may be obtained from the Planning Department, 10th Floor, City Hall, or by calling 268-4421.

Robert A. Lakin
Secretary

T9-216

Summary Description of County Zoning Districts

- "R" - Rural Residential District
Permits one single-family dwelling for each lot of two acres.
- "R-1" - Suburban Residential District
Permits one single-family dwelling for each lot of 20,000 square feet of land area if served by a public water supply, or 40,000 square feet if served by a private domestic water supply source.
- "AA" - One-Family Dwelling District
One-family dwellings require a minimum of 6,500 square 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 one-family dwellings and any retail commercial uses conducted within an enclosed building.
- "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". Mobile home parks and trailer camps are not permitted.
- "F" - Heavy Industrial District
Permits any use except those objectionable uses such as slaughter houses, salvage yards and fertilizer plants which require special permits. Mobile home parks and trailer camps are not permitted.
- "CU" - Conditional Use in any of the above districts
Allows certain uses listed in the County Zoning Resolution by special permit rather than as a use by right.
- NOTE: - The above list is not intended to be all inclusive. For complete regulations see the Sedgwick County Zoning Resolution.

July 17, 1979

Max Greene, Flood Control and Landfill Director

Curtis L. Newby, Junior Planner

CU-222 - Conditional Use Request for Sand Extraction Operation. Generally located on the west side of West Street, in an area just south of the City lime sludge disposal site.

Attached for your information and comment is a copy of the operational plan and redevelopment plan for the above referent case. We have advised the applicant that a loop levee will be required due to the site being near the dike for the flood control project.

This matter will be heard by the Metropolitan Area Planning Commission on August 2, 1979. If you have any questions, please call.

Curtis L. Newby
Junior Planner

CLN:el
Attachment

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

MAPD
(cond. use)
C0222

Book 2
C-1-A and B
2-27-1W

This is an application for a Conditional Use Permit. The form must be completed and filed at the Planning Department, Tenth Floor, City Hall, 455 North Main Street, Wichita, Kansas, in accordance with directions on the accompanying instruction sheet. AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.

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 Ken-Win Farms, Inc. (Owner)
c/o John L. Suter
ADDRESS Box 1868 - Hutchinson, Kansas 67501 PHONE 663-7131
AGENT Oblinger-Smith Corporation

ADDRESS 625 1st National Bank Building, 67202 PHONE 262-0451

B. APPLICANT Ken-Win Farms, Inc.
c/o Kenneth Ott
ADDRESS Rt. One, Maize, Kansas 67101 PHONE 722-0344

AGENT John T. Arnold Associates, Inc.
ADDRESS Sutton Place Bulding 67202 PHONE 263-7242

C. APPLICANT Mid-Kansas Construction Co., Inc.
ADDRESS 1245 S. Santa Fe - 67211 PHONE 264-2831

AGENT Oblinger-Smith Corporation
ADDRESS 625 1st National Bank Building 67202 PHONE 262-0451

N-AA
S-R-1
E R+R-1
W-R

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

II. The applicant proposes to establish a operation for extraction of
raw materials _____ (use)

on property legally described as Lot(s) * (See below)

_____, Block(s) _____ of the _____

_____ Addition.

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

OK for
legal

Form PR-3

The South half of the Northeast Quarter and the North half of the Southeast Quarter of Section 2, Township 27 South, Range 1 West, Sedgwick County, Kansas, except 4.12 acres taken out of the North half of the Southeast Quarter for the floodway purposes in Case A-31849 in the District Court of Sedgwick County, Kansas, all of said property located in Sedgwick County, Kansas, and said tract containing ~~156 acres more or less~~

I I. THIS PROPERTY IS LOCATED AT (ADDRESS) N.A.

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

A. AT THE _____ CORNER OF _____ AND _____, OR

B. ON THE West SIDE OF West St. ~~(XXXXXXXX)~~

in an area
~~STREET~~ BETWEEN 21 st. ~~(XXXXXXXX)~~ STREET AND
29 th ~~(XXXXXXXX)~~ STREETS NORTH.

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

V. I REQUEST THIS CONDITIONAL USE PERMIT FOR THE FOLLOWING REASONS:
To establish a sand extraction operation.

VI. I (WE), THE APPLICANT(S), ACKNOWLEDGE RECEIPT OF THE INSTRUCTION SHEET EXPLAINING THE METHOD OF SUBMITTING THIS APPLICATION. I (WE) REALIZE THAT THIS APPLICATION CANNOT BE PROCESSED UNLESS IT IS COMPLETELY FILLED IN; IS ACCOMPANIED BY A CURRENT 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.

Ken-Win Farms, Inc.

X BY Bernard D. P... BY _____
AUTHORIZED AGENT (IF ANY) AUTHORIZED AGENT (IF ANY)

Mid-Kansas Construction Co., Inc.

BY Lawrence C. Martin 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 4:55
(AM, PM) on July 11, 1979 (day, month, year). It has been checked
and found to be complete and accompanied by required documents and
the appropriate fee of \$ 70.00

J. Lynn Shirley Name
Jr. Planner Title

O W N E R S H I P L I S T

Tract	Property Owner
The south half of the NE $\frac{1}{4}$ and the north half of the SE $\frac{1}{4}$ of Section 2-27-1W	D Ken-Win Farms Inc. c/o John L. Suter, Box 1868 Hutchinson, Kansas 67501
The East half of the SW $\frac{1}{4}$ of Section 2-27-1W	✓ Victor B. Eisenring 4900 West 21st Street 67212
Govt. Lot 3 in the NW $\frac{1}{4}$ of Section 2-27-1W and the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 2-27-1W	✓ E. C. Carp, Charles N. Carp Wallace F. Carp 2800 North Hoover 67212
The north half of the NE $\frac{1}{4}$ of Section 2-27-1W	X City of Wichita 455 North Main 67202
That part of the south half of the SE $\frac{1}{4}$ of Section 2-27-1W lying west of the westerly row line of W.V.C.F.C.	D Victor B. Eisenring 4900 West 21st 67212
The North 26 $\frac{7}{8}$ acres of lot 5 in Section 1-27-1W, except that portion condemned for flood control, Case A-31849	✓ Walter N. Henning & Delphina A. 2437 North Hoover 67212
Beginning at a point 742 feet south of the NW corner of Section 1-27-1W, thence south to section line 931 feet; thence east parallel with the north line of said Section 1, 1426 feet more or less to the right bank of the Arkansas River, thence north and easterly along said right bank to a point 742 feet south of the north line of said Section 1, thence west 1532 feet more or less to pob.	D W. N. Henning & Delphina A. 2437 North Hoover 67212
Beginning at a point 1673 feet south of the NW corner of Section 1-27-1W, thence south on section line 927.25 feet, thence east parallel with the north line of said Section 1, 1350 feet more or less to the right bank of the Arkansas River, thence northerly along said right bank to a point east of beginning, thence west 1426 feet more or less to pob., except condemnation case A-31849	X Orill M. Parkinson, Redding H. Parkinson, & Melvin D. Parkinson Address <u>Unknown</u>
All of Section 1-27-1W lying west of the Arkansas River except the north 2600.25 feet and except the south 1875.55 feet thereof and except that portion condemned for flood control	X Ida L. Woods, Address <u>Unknown</u>

We hereby certify the foregoing to be a true and correct list of the property owners of:

A 1000 foot radius of:
The south half of the NE $\frac{1}{4}$ and the north
half of the SE $\frac{1}{4}$ of Section 2-27-1W,
except that portion of the north half
of the SE $\frac{1}{4}$ taken for floodway, Case
A-31849

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 3rd day of July, 1979 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Gable

Vice President

Order No. 278609
wh

FORM 321

PAYMENT NOTICE
City of Wichita

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

DESCRIPTION	AMOUNT
-------------	--------

NAME

ADDRESS

FUND

DUE DATE

COMMENTS

DATE

BY

*

This CU File

Has a Large Drawing

On 35mm Microfilm.

Roll # 1

*