

CU-258 - Foundation, Inc., et al
request Conditional Use Permit
to Establish a Sand & Gravel
Extraction Operation on property
zoned "R-1" - Suburban Residential
District. Generally located on
the north side of 21st St. North,
1/4 mile east of Hoover.

ACTION

POSTED
DATE 10-19-82

COMMITTEE

M.A.P.C. Defered Issues 11-4-82

M.A.P.C. Issues in General 12-30-82

B.C.C./B. C.O.C. Annual out to condition 3-10-83

M.A.P.C. referred to 2-10-83 1-13-83

M.A.P.C. referred to 3-10-83 2-10-83

B. Co. C. Deferd meet 4-6-83

B. Co. C. Defer for 30 days 4-13-83

to cleanup site

B. Co. C. Stems from 6-1-83

agenda

B. Co. C. 6-22-83

*Approved subject to the
conditions as recommended by
the P.C. Compliance must
be by March 18, 1984*

4. A. 10F Closed

Approved by P.C.

ACTION

POSTED
DATE 10-17-82

COMMITTEE

M.A.P.C. Deferred 8 weeks 11-4-82

M.A.P.C. Meeting cancelled 12-30-82

B.C.C./B. Co.C. Approval sub to condition 3-10-83

M.A.P.C. referred to 2-10-83 1-13-83

M.A.P.C. referred to 3-10-83 2-10-83

B. Co.C. Dupe 1 week 4-6-83

B. Co.C. Dupe for 90 days 4-13-83

to clean up site 7-13-83

B. Co.C. Stems from 6-1-83

agenda

B. Co.C. 6-22-83

Approved subject to the conditions as recommended by the P.C. Compliance must be by March 18, 1984

4. A. 10.F Closed

Superseded by CU-274

CU-258 - Foundation, Inc., et al request Conditional Use Permit to Establish a Sand & Gravel Extraction Operation on property zoned "R-1" - Suburban Residential District. Generally located on the north side of 21st St. North, 1/4 mile east of Hoover.

Map No. 5150C
Sec. _____
Twp. _____
Range _____

DATA SHEET
(ZONING & CONDITIONAL USE)

Z- _____
SCZ- _____
CU- 258
Filed 10-12-82

ASSOCIATED CASE: _____

- APPLICATION DATA: From _____ to _____
1. Applicant: Foundation, Inc. - Donald P. Cain, Sr. President, et al
Address: 8027 W. Kellogg, 67209 Phone: 722-6071
 2. Agent: Everett C. Fettis (Engineer: P.E.C., P.A. - Gary Wiley)
Address: 120 So. Market, 67202 Phone: 267-7251
 3. General Location: North side of 21st St. North, 1/4 mile east of Hoover.
 4. Proposed Use: _____
(FREE USE)

- AREA DATA:
1. Acres: 77.5 (1320 ft. by 2570 ft.)
 2. Adjoining Zoning: E "R-1" S "R-1" W "R-1" N "R-1"
 3. Land Use: East SAND PIT South SINGLE FAM
West SINGLE FAM MOBILE HOME North UNDEVELOPED
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use is for: SAND PIT
 6. Area (is) (is not) platted.

PROCEDURE DATA:

1. Zoning Committee _____ by _____
2. MAPC Meeting:

Date	Action
<u>11-4-82</u>	<u>Deferred & resub.</u>
<u>12-30-82</u>	<u>Meeting cancelled</u>
<u>1-13-83</u>	<u>Deferred to 2-10-83</u>
<u>2-10-83</u>	<u>Deferred to 3-10-83</u>

3-10-83 Approved sub to conditions

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

Date	Action	Resolution
<u>4-6-83</u>	<u>Refer for 90 day on zoning</u>	
<u>6-1-83</u>	<u>Strike from agenda</u>	

NOTES:

6-22-83 Approved sub to conditions as recommended by MAPC. Must be completed with by March 18, 1984

LOS ANGELES, CALIFORNIA, U.S.A.
MCGRAW-HILL
No. 2153C

Smith
No. 2153C

Map No. 5150C
Sec. _____
Twp. _____
Range _____

DATA SHEET
(ZONING & CONDITIONAL USE)

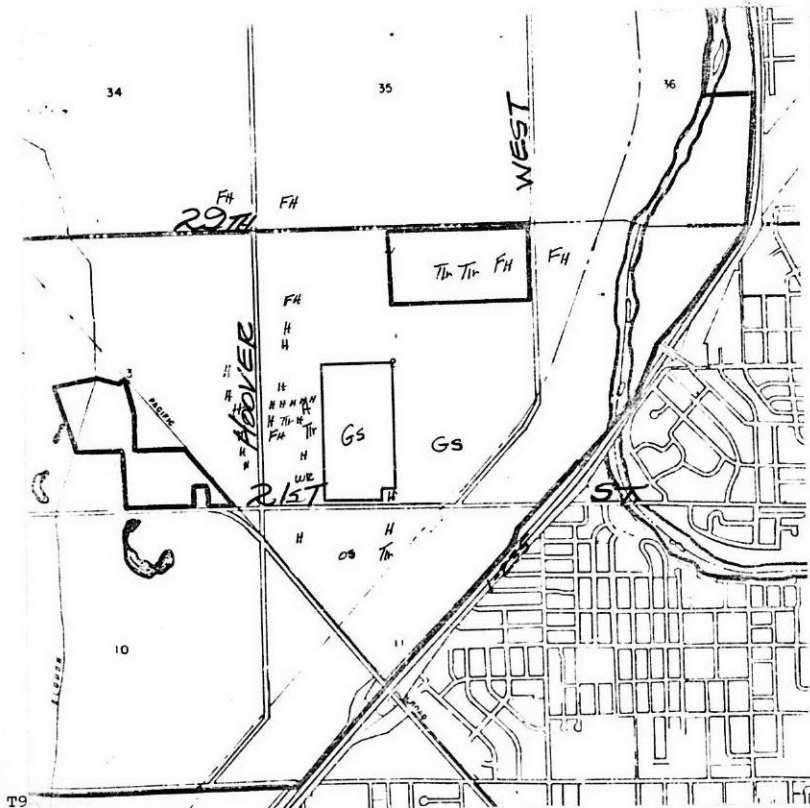
Z- _____
SCZ- _____
CU- 258
Filed 10-12-82

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- Applicant: Foundation, Inc. - Donald P. Cain, Sr. President, et al
Address 8027 W. Kellogg, 67209 Phone 722-6071
 - Agent: Everett C. Fettis (Engineer: P.E.C. P.A. - Gary Wiley)
Address 120 So. Market, 67202 Phone 67-7251
 - General Location: North side of 21st St. North, 1/4 mile east of Hoover.
 - Proposed Use: _____
(IRREGULAR)

- AREA DATA:
- Acres: 77.5 (1320 ft. by 2590 ft.)
 - Adjoining Zoning: E "R-1" S "R-1" W "R-1" N "R-1"
 - Land Use: East SAND PIT South SINGLE FAM
West SINGLE FAM North UNDEVELOPED
 - Sketch Plan Land Use is for: _____
 - Present Land Use is for: SAND PIT
 - Area (is) (is not) platted.

PHOTO DATA:
Taken by _____ Date _____ Time _____



3-7-83

Talked with Dave Johnson
who is Vic's attorney.
They have a commitment
with a bank issuing
title insurance for the
money to close. Still
don't have the money.
May close Wed. Still
don't know. They are
still going to trial on
Thursday.

Vic may still protest
the zone case as an
adversely affected property owner.

JH

Everett agrees to defer
another two weeks if
they haven't closed. ↓

The second suite is against
vii - They are suing him
for several things he hasn't
done.

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

February 24, 1983

NOTICE TO ADJOINING PROPERTY OWNERS:

This is a notice of a request for a Conditional Use 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. 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 March 10, 1983, 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-258

Conditional Use Permit to Establish a Sand and Gravel
Extraction Operation on Property zoned
"R-1" Suburban Residential District

The east 1/2 of the southwest 1/4, of Section 2, T27S,
R1W of the 6th P.M., except the south 50 ft., and except
the south 264 feet of the east 156 feet. Generally
located on the north side of 21st Street North, 1/4 mile
east of Hoover.

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

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET
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Robert A. Lakin
Secretary

R# 163-1983

() Published in The Daily Reporter on July 20, 1984

R E S O L U T I O N

CASE NO. CU-258

A RESOLUTION TO ALLOW EXPANSION OF SAND AND GRAVEL OPERATION IN THE "R-1" SUBURBAN RESIDENTIAL DISTRICT 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 expansion of sand and gravel operation in the "R-1" Suburban Residential District is hereby approved on the lands legally described as follows:

The east 1/2 of the southwest 1/4, of Section 2, T27S, R1W of the 6th P.M., except the south 50 ft., and except the south 264 feet of the east 156 feet. Generally located on the north side of 21st Street North, 1/4 mile east of Hoover.

SUBJECT TO THE FOLLOWING:

- I. No 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.
2. The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by County Counselor, providing for the construction and/or maintenance of a loop levee around the entire sandpit or portions thereof at such time as deemed necessary by the Flood Control office or their successors of office, and shall be constructed in accordance with construction specifications, Section 1 through 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance Division of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors and assigns.

3. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan.
4. A minimum 58-inch high fence shall be constructed and maintained along the perimeter of the excavation area and plant operation area on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.
5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.
7. All of the application area outside of the sandpit lake shall be graded so as to drain into the lake.
8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation be maintained.
 - b. That the grading of the area around the perimeter of the sandpit lake be maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
9. The applicant shall:
 - a. Clear the site of all materials such as rubbish, concrete, asphalt, junk and equipment, not associated with the excavation of sand.

- b. Submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation after approval of the conditional use by the Board of County Commissioners.
10. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
11. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
12. 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.
13. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
14. The applicant shall comply with Conditions 2, 4, 9a and 9b prior to the publication of the resolution establishing the conditional use, and within 270 days from the date of approval by the Board of County Commission or the conditional use shall be considered denied and closed.
15. Any violation of conditions attached shall declare the conditional use permit null and void.

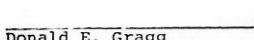
SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use approval shall be entered in the Official Zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

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 by the Board of County Commissioners at Wichita, Kansas, this 22nd day of June, 1982.


Jack Spratt, Chairman


Tom Scott, Commissioner


Donald E. Gragg, Commissioner

ATTEST:



Dorothy F. White
Dorothy F. White, County Clerk

Approved as to form by County Counselor

William D. Rustin
for William D. Rustin, County Counselor

ROUTING

MEMO

DATE: July 13, 1984
 TO: Jack Galbraith, MAPD
 FROM: Ron Worley, Zoning Administrator *RW*
 SUBJECT: CU-258



This date I toured the fence at this site, and found it satisfactory and in compliance with condition #4 in the MAPC recommendations.

Also condition #9a has been complied with and I believe that you could now proceed to publish resolution #CU-258.

RRW:ls

RECEIVED

JUL 18 1984

METROPOLITAN PLANNING

ROUTE _____

ROUTING

MEMO

DATE: May 4, 1984
 TO: CU-133 & CU-258 File
 FROM: Ron R. Worley *RRW*
 SUBJECT: Fence



Friday, May 4, 1984 - visited the sand pit site about 11:00 a.m.. Fence is under construction, about 1/2 finished.

Note: Need barbed wire on gates.

RRW:1s

RECEIVED
 MAY 8 1984
 METROPOLITAN PLANNING
 ROUTE _____

March 1989

Ron Worley had advised that this site has been cleared of the materials along the road, that the barrels have been removed and that he has a copy of the contract to construct the fence as soon as weather permits. He believes that the fence will be complete within 60 days and as soon as the fence is complete that he will furnish a memo advising that the resolution can be published. His call was received prior to the March 15th deadline and he felt that we should let them have the extra time to complete the fence.

JW.



COUNTY OF SEDGWICK
DIVISION OF BUILDING INSPECTIONS
PLANNING AND ZONING

Ron R. Worley
Division Director

1248 S. SENECA, WICHITA, KANSAS 67213-4498

TELEPHONE 268-7951

February 17, 1984

Everett C. Fettis, Attorney
120 South Market, Suite #504
Wichita, KS 67202

Re: CU-258 and Foundation, Inc.

Dear Mr. Fettis:

As County Zoning Administrator, I am writing to you with reference to the application for CU-258 (amendment to CU-133) filed by you as agent for Foundation, Inc.

Attached is a copy of a letter, dated June 22, 1983, from Jack Galbraith of MAPD. In his letter he sets out a date of March 18, 1984, at which time the sand pit operation is to be in total compliance with all of the terms of CU-258.

Please be advised that as of this date the operation is not in compliance with the terms of the CU and your client now has approximately 30 days remaining in which to bring the property into total compliance.

If this operation is not in compliance by March 18, 1984, I will be required to bring this matter to the County Commissioners for their consideration.

If you do not represent this client or are not authorized to accept this communication, please advise me accordingly.

If I may furnish any additional information, please feel free to contact me at 268-7951.

Sincerely yours,

Ron R. Worley
Ron R. Worley
Zoning Administrator

RRW:ls

cc: Donald P. Cain, President, Foundation, Inc.
8027 West Kellogg, Wichita, KS 67209
Jack Galbraith, Chief Planner, MAPD

RECEIVED

FEB 23 1984

METROPOLITAN PLANNING

ROUTE

DONALD E. LAMB DIN
WILLIAM F. KLUGE, III
JEFFREY C. STURM
ERIC C. SVORODA
DAVID N. JOHNSON
M. DAVID ZACHARIAS

LAW OFFICES OF
LAMB DIN & KLUGE

CHARTERED
830 NORTH MAIN
P. O. BOX 454
WICHITA, KANSAS 67201
316/255-3285

JOAN E. DAMMANN, PLS

September 16, 1983

Mr. Ron Worley
Metropolitan Area
Planning Commission
1248 South Seneca
Wichita, KS 67213

RECEIVED

SEP 20 1983

METROPOLITAN PLANNING

ROUTE

RE: CU-258 Conditional Use Permit

Dear Mr. Worley:

Reference is made to our letter of August 24, 1983 regarding the violations pertaining to the above Conditional Use Permit.

In addition to the violations cited in that letter, which continue, we have now been advised that the operator has excavated to a position well within the 75-foot setback required under CU-258 in complete violation of the law. We again advise you that this is endangering the residence located on Mr. Eisenring's property.

We again demand that you take immediate action to insure that the present operators comply with the law. If you do not take immediate action to insure said compliance, legal action will be filed without further notice to you. You should be governed accordingly.

Very truly yours,

LAMB DIN & KLUGE, CHARTERED

Donald E. Lambdin

DEL:jed

cc: Mr. Victor Eisenring
Mr. Jack H. Galbraith
Mr. Donald Gragg
Mr. Tom Scott
Mr. Jack Spratt

LAW OFFICES OF
LAMB DIN & KLUGE

DONALD E. LAMB DIN
WILLIAM F. KLUGE, III
JEFFREY C. STURM
ERIC C. SYBODA
DAVID N. JOHNSON
M. DAVID ZACHARIAS

CHARTERED
830 NORTH MAIN
P. O. BOX 454
WICHITA, KANSAS 67201
316/265-3285

RECEIVED

AUG 25 1983

METROPOLITAN PLANNING

ROUTE

JOAN E. DAMMANN, PLM

August 24, 1983

Mr. Ron Worley
Metropolitan Area
Planning Commission
1248 South Seneca
Wichita, KS 67213

RE: CU-258 Conditional Use Permit to Allow
Expansion of Sand and Gravel Operation

Dear Mr. Worley:

As you are aware, the undersigned represents Victor B. Eisenring, whose property butts the property described in the above referenced Conditional Use Permit.

As you are, or should be, aware, the above referenced Conditional Use Permit has not been legally adopted by the County Commission. (By way of example and not limitation, the Ordinance adopting the same has never been published, the conditions upon which the Permit is contingent have not been satisfied and the County Commission's scheduling of the public hearing on the same lacked any effective notice to Mr. Eisenring and is accordingly invalid.)

At best, only the prior Conditional Use Permit remains in effect. Under the terms of that Permit, the operator is prohibited from excavations within 200 feet of an adjoining property line. Nevertheless, the present owner, in complete violation of the law, has excavated to within 75 feet of Mr. Eisenring's property line, thus endangering the residence located thereon.

On the basis of the foregoing, we demand that you take immediate action to insure that the present operators comply with their existing Permit. We have advanced our calendar seven (7) days at which time a legal action will be filed in the United States District Court.

LAW OFFICES OF
LAMB DIN & KLUGE

CHARTERED
830 NORTH MAIN
P. O. BOX 454
WICHITA, KS 67201



Mr. Jack H. Galbraith
Chief Planner
Metropolitan Area
Planning Commission
454 North Main - 10th Floor
Wichita, KS 67202

Mr. Ron Worley
August 24, 1983
Page 2

Thank you for your assistance in this matter. If you have any questions or comments, please do not hesitate to call.

Very truly yours,

LAMB DIN & KLUGE, CHARTERED

David N. Johnson

DNJ:jed

cc: Mr. Victor B. Eisenberg
Mr. Jack H. Galbraith
Mr. Donald Gragg
Mr. Tom Scott
Mr. Jack Spratt

LAW OFFICES OF
LAMB DIN & KLUGE

CHARTERED
830 NORTH MAIN
P. O. BOX 454
WICHITA, KS 67201



HELP GOODWILL
HELP
THE HANDICAPPED

Mr. Jack H. Galbraith
Chief Planner
Metropolitan Area
Planning Commission
454 North Main - 10th Floor
Wichita, KS 67202

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING DEPARTMENT
COMMUNITY DEVELOPMENT DIVISION

Public Inquiry Slip

NAME Vic Eisenring DATE 8/10/83
PHONE 943-4372 PHONE X COUNTER _____
PROPERTY LOCATION 4900 W. 21st MAP # 2150 C
Case CV-258

NATURE OF REQUEST:

CITY ZONING _____ COUNTY ZONING _____ CONDITIONAL USE X
PLAT _____ LOT SPLIT _____ BZA _____
VACATION _____ DEDICATION _____ STREET NAME CHANGE _____

REMARKS:

Vic called to find out how Big River Sand/Gravelation Inc was able to excavate to within 75' of their east property line, because they have not cleaned up the site nor fenced it. He also complained that he was not notified of when the BLOC was to consider the case. He indicated that his attorney (Dave Johnson) was also looking into this matter.

I told him when the BLOC considered it and that they approved a 75' excavated line on the east.

over for Worley's comments

ROUTE TO:

GALBRAITH X SHIRKEY _____ NEWBY _____ RICHTER _____ DOBSON _____ MEEK _____
LAKIN X STOCKWELL _____ RETURN TO Chamberlain

COMMENTS:

T9-126

Worley said that the owners are beginning to clean up the site.

Barrels are still out there
nothing has been done about the fencing

The owners are excavating closer than 200 feet
in order to fill in bank to a minimum of 75 feet

Worley has explained situations to Spratt

On August 15, David Zacharous, attorney
for Vic Eisenring came to the office to inquire
about the case and to review the case file.
AK

755-68-260-5000-240-000-000

WICHITA-SEDGWICK COUNTY

DATE

June 22, 1983

METROPOLITAN AREA PLANNING DEPARTMENT

TO Donald C. Gisick, City Clerk *Donald C. Gisick*

FROM G. Lynn Shirkey, Junior Planner

SUBJECT CU-258 - Sand and Gravel Extraction Operation.
Generally located on the north side of 21st
Street North, 1/4 mile east of Hoover.

Attached are copies of two Covenants which were conditions of approval on the above captioned case, by the Board of County Commissioners at their meeting of June 22, 1983. These covenants should be filed directly with the Register of Deeds, with the cost being billed to the Planning Department.

G. Lynn Shirkey

G. Lynn Shirkey
Junior Planner

GLS:el

Attachments



RECEIVED

JUL 14 1983

METROPOLITAN PLANNING

ROUTE

STATE OF KANSAS } 55
SEDGWICK COUNTY }
FILED FOR RECORD AT
8-20-83 M

JUL 7 1983

NO. 6 40935

BETTE F. MCCART
REGISTER OF DEEDS

MICROFILMED
OF RECORD

RECEIVED
OFFICE OF CITY CLERK
JUL 11 1983

FILE 594-1526

COVENANT RUNNING WITH THE LAND

FOUNDATION, INC., owner of the following described

Att. Keller Deputy
realty, to-wit:

The east half of the Southwest Quarter of Section 2, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, except the east 165 feet of the south 264 feet thereof and except the south 50 feet thereof for road.

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

If the construction of a loop levee is deemed necessary by the County Department of Public Works, or its successors of office, in connection with conducting operations for the removal of sand and gravel from the premises, the fee owner agrees to construct and maintain a loop levee on the premises at such a location as the County Department of Public Works may direct, in accordance with construction specifications, Sections 1 through 4, inclusive, and maintenance specifications, Sections 1 and 2 of Construction and Maintenance Specifications as prepared by the County Department of Public Works.

The above restrictions and agreements shall be deemed covenants running with the land and shall not be amended, deleted or changed without written consent of the County Department of Public Works, or its successors of office.

In the event of the failure by the undersigned or any successors of title to fulfill the obligation set forth above within sixty (60) days after receipt of written notice from the County Department of Public Works, or its successors of office, then the appropriate governing body may order such work done and maintained and charge the entire cost of such construction and maintenance as a first lien against said realty to be collected and foreclosed in the same manner as a mortgage is foreclosed.

6.00 City Clerk

This instrument shall be recorded in the Office of the Register of Deeds in Sedgwick County, Kansas, so as to appear in the chain of title of said realty.

EXECUTED this 24 day of March, 1983.

FOUNDATION, INC.

By Wanda Cain
WANDA CAIN, Authorized Officer

ACKNOWLEDGMENT

STATE OF KANSAS, SEDGWICK COUNTY, ss:

BE IT REMEMBERED, that on this 24 day of March, 1983, the undersigned, a notary public, in and for the County and State aforesaid, came WANDA CAIN, who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

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

JOYCE N. SHRKEY
STATE NOTARY PUBLIC
SEDGWICK COUNTY, KANSAS
MY APPT. EXP. 3/28/85

Joyce N. Shirkey
Notary Public

My Appointment Expires:

March 28, 1985

RESTRICTIVE COVENANT

KNOW ALL MEN BY THESE PRESENTS: That

The undersigned, FOUNDATION, INC., does hereby impose upon the following described real property, to-wit:

The east half of the Southwest Quarter of Section 2, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, except the east 165 feet of the south 264 feet thereof and except the south 50 feet thereof for road.

covenant to run with the land as follows:

1. No foreign matter, including but without limitation to, rubbish, trees, car bodies or other trash shall be deposited on the above described real property or within any sand pit excavated thereon.

The covenant herein contained shall be binding upon the undersigned, his successors in interest and assigns. The said covenant may be enforced in any appropriate action in any Court having jurisdiction thereof by the City of Wichita, the County of Sedgwick or any member of the public in whose favor and for whose benefit this covenant is made.

IN WITNESS WHEREOF, we have hereunto set our hands this 24 day of March, 1983.

FOUNDATION, INC.

By Wanda Cain
WANDA CAIN
Authorized Officer

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this 24 day of March, 1983, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came WANDA CAIN, personally known to me to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her 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.

JOYCE N. SHIRKEY
STATE NOTARY PUBLIC
SEDGWICK COUNTY, KANSAS
MY APPT. EXT. 3/28/85

Joyce N. Shirkey
Notary Public

My Appointment Expires:

March 28, 1985

RECEIVED
OFFICE OF CITY CLERK
JUL 11 1983
 DG DR
 Agenda JE
 File

STATE OF KANSAS } SS
SEDGWICK COUNTY }
FILED FOR RECORD AT
8:00 AM
JUL 7 1983
NO. 6 40101
BETTE F. McCART
REGISTER OF DEEDS

MICROFILMED
OF RECORD

Pat Kattler
Deputy

5.00

City Clerk

June 22, 1983

Donald C. Gisick, City Clerk

G. Lynn Shirkey, Junior Planner

CU-258 - Sand and Gravel Extraction Operation.
Generally located on the north side of 21st
Street North, 1/4 mile east of Hoover.

Attached are copies of two Covenants which were conditions of approval on the above captioned case, by the Board of County Commissioners at their meeting of June 22, 1983. These covenants should be filed directly with the Register of Deeds, with the cost being billed to the Planning Department.

G. Lynn Shirkey
Junior Planner

GLS;el

Attachments

WICHITA-SEDGWICK COUNTY

DATE
June 22, 1983

METROPOLITAN AREA PLANNING DEPARTMENT

TO Ron Worley, County Zoning Officer
FROM Jack H. Galbraith, Chief Planner
SUBJECT CU-258 - Conditional Use to permit sand and gravel extraction operation. Generally located on the north side of 21st St. North, 1/4 mile east of Hoover.

The above captioned case was considered by the Board of County Commissioners on June 22, 1983. Their action was to recommend the approval of the request subject to conditions 1 - 15, as recommended by the Planning Commission and as indicated on the attached minutes of the Planning Commission. Please note that conditions 2 and 9b have been complied with. The conditions remaining are #4 "fencing", and #9a "Clearing the site of all materials such as rubbish, concrete, asphalt, junk, and equipment, not associated with the excavation of sand."

Condition #14 requires that all the above conditions shall be complied with prior to publication of the Resolution of approval; and that if they are not complied with in 270 days, this case is to be considered denied and closed. The date of compliance is March 18, 1984.

At such time as the applicant advises you that all conditions are in compliance, and you agree, please advise us and we will publish the resolution making this conditional use effective. Attached are two copies of their approved plans.

If you have any questions, please call.

Jack H. Galbraith
Chief Planner

JHG:el
Attachments

cc: Everett C. Fettis, Attorney, 120 S. Market, Wichita 67202
Donald P. Cain, President, Foundation, Inc.
8027 West Kellogg, Wichita 67209
Thomas E. Brown, Attorney, 3829 W. 13th, Wichita 67203

BOARD OF SEDGWICK COUNTY COMMISSIONERS
PROCEEDINGS

MEETING OF THE BOARD OF COUNTY COMMISSIONERS

SPECIAL MEETING

JUNE 22, 1983

AGENDA

- A. Call Meeting to Order at 10:00 a.m.
- B. Roll Call
- C. Metropolitan Area Planning Department. Presented by Robert A. Lakin, Director.

Request for Conditional Use Permit:

Case #CU-258. General Location: North side of 21st Street North in an area $\frac{1}{2}$ mile east of Hoover Road. Request by Foundation Inc. to amend CU-133 to permit the extraction of sand and gravel in a configuration different from that originally approved.

- ACTION:**
- 1. Approve the request; or
 - 2. Disapprove the request

COVENANT RUNNING WITH THE LAND

FOUNDATION, INC., owner of the following described
realty, to-wit:

The east half of the Southwest Quarter of
Section 2, Township 27 South, Range 1 West
of the 6th Principal Meridian, Sedgwick County,
Kansas, except the east 165 feet of the south
264 feet thereof and except the south 50 feet
thereof for road.

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

If the construction of a loop levee is deemed necessary by the County Department of Public Works, or its successors of office, in connection with conducting operations for the removal of sand and gravel from the premises, the fee owner agrees to construct and maintain a loop levee on the premises at such a location as the County Department of Public Works may direct, in accordance with construction specifications, Sections 1 through 4, inclusive, and maintenance specifications, Sections 1 and 2 of Construction and Maintenance Specifications as prepared by the County Department of Public Works.

The above restrictions and agreements shall be deemed covenants running with the land and shall not be amended, deleted or changed without written consent of the County Department of Public Works, or its successors of office.

In the event of the failure by the undersigned or any successors of title to fulfill the obligation set forth above within sixty (60) days after receipt of written notice from the County Department of Public Works, or its successors of office, then the appropriate governing body may order such work done and maintained and charge the entire cost of such construction and maintenance as a first lien against said realty to be collected and foreclosed in the same manner as a mortgage is foreclosed.

This instrument shall be recorded in the Office of the Register of Deeds in Sedgwick County, Kansas, so as to appear in the chain of title of said realty.

EXECUTED this 24 day of March, 1983.

FOUNDATION, INC.

By Wanda Cain
WANDA CAIN, Authorized Officer

ACKNOWLEDGMENT

STATE OF KANSAS, SEDGWICK COUNTY, ss:

BE IT REMEMBERED, that on this 24 day of March, 1983, the undersigned, a notary public, in and for the County and State aforesaid, came WANDA CAIN, who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

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

JOYCE N. SHIRKEY
STATE NOTARY PUBLIC
SEDGWICK COUNTY, KANSAS
MY APPT. EXP. 3/28/85

Joyce N. Shirkey
Notary Public

My Appointment Expires:

March 28, 1985

RESTRICTIVE COVENANT

KNOW ALL MEN BY THESE PRESENTS: That

The undersigned, FOUNDATION, INC., does hereby impose upon the following described real property, to-wit:

The east half of the Southwest Quarter of Section 2, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, except the east 165 feet of the south 264 feet thereof and except the south 50 feet thereof for road.

covenant to run with the land as follows:

1. No foreign matter, including but without limitation to, rubbish, trees, car bodies or other trash shall be deposited on the above described real property or within any sand pit excavated thereon.

The covenant herein contained shall be binding upon the undersigned, his successors in interest and assigns. The said covenant may be enforced in any appropriate action in any Court having jurisdiction thereof by the City of Wichita, the County of Sedgwick or any member of the public in whose favor and for whose benefit this covenant is made.

IN WITNESS WHEREOF, we have hereunto set our hands this 24 day of March, 1983.

FOUNDATION, INC.

By Wanda Cain
WANDA CAIN
Authorized Officer

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this 24 day of March, 1983, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came WANDA CAIN, personally known to me to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her 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.

JOYCE N. SHIRLEY
STATE NOTARY PUBLIC
SEDGWICK COUNTY, KANSAS
MY APT. EXP. 3/28/85

Joyce N. Shirley
Notary Public

My Appointment Expires:

March 28, 1985

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION TO
BOARD OF COUNTY COMMISSIONERS

17

77a

REQUEST FOR CONDITIONAL USE PERMIT

CASE NO. CU-258

CONSIDERED BY MAPC: 3-10-83

REQUEST FOR: Conditional Use Permit

REASON FOR REQUEST (AS PROVIDED BY APPLICANT):

"To amend CU-133 to permit the extraction of sand and gravel in a configuration different from that originally approved."

GENERAL LOCATION: North side of 21st Street North in an area 1/4 mile east of Hoover Road.

LEGAL DESCRIPTION:

(See excerpt from Planning Commission minutes of March 10, 1983)

APPLICANT: Foundation, Inc., et al, 8027 W. Kellogg

AGENT FOR APPLICANT: Everett Pettis, attorney, 120 South Market.

PROTESTORS (LIST AGENT) IF ANY: Victor B. Eisenring, 4620 W. 21st Street South.

SURROUNDING ZONING: North, East, South and West, "R-1".

LAND USE: Existing, Sandpit, oil well & storage tanks; North, Undeveloped; East, Sandpit & undeveloped; South, Single-family; West, Single-family and wrecking yard.

PLANNING COMMISSION RECOMMENDATION:

That this application be approved subject to the following conditions: (See excerpt from Planning Commission minutes of March 10, 1983). Gardner moved, Hansen seconded and it carried unanimously. One vacancy.

*April 13, 83
Defer for 90 days
at order of board
before sand concrete and
equipment are removed.*

*Approval subject to the
conditions as 3-0
recommended*

ACTION: 1. Concur with the findings of fact of the Metropolitan Area Planning Commission, approve the application subject to the recommended conditions and adopt a resolution establishing the conditional use; or
2. Take such action as the County Commission deems appropriate.

Document Name:
CU-258 REF 3-10-83

Requestor's ID:
OP2PLAN

Author's Name:

Document Comments:

EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 10, 1983

5. Case No. CU-258 - Foundation, Inc., et al request Conditional Use Permit for the east 1/2 of the southwest 1/4, of Section 2, T27S, R1W of the 6th P.M., except the south 50 ft., and except the south 264 feet of the east 156 feet. Generally located on the north side of 21st Street North, 1/4 mile east of Hoover.

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

COMMENTS:

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

The applicant is requesting a Conditional Use Permit to permit the extraction of sand and gravel in a configuration different from that originally approved by the Board of County Commissioners on August 4, 1971, (CU-133) for a tract of land zoned "R-1" Suburban Residential and located on the north side of 21st Street North, 1/4 mile east of Hoover.

On November 4, 1982, the Planning Commission considered this application. After considerable discussion as to whether the applicant as an equitable owner and contract purchaser was authorized to file the application, action of the Commission was to defer the case until a pending lawsuit was settled by the court.

By letter, dated August 25, 1982, the applicant was advised by the County Zoning Administrator that a number of the conditions of approval of CU-133 were not being complied with. Among the violations cited was the storage of a considerable number of barrels on the site. As of this date the Health Department advises that the illegal deposit of paint barrels has not been resolved on this property. The barrels have not been removed and the new owner should be prepared to advise the Planning Commission of the schedule for having this property comply with all County regulations.

An Operational Plan and a "sketch" Redevelopment Plan has been submitted with the application. Although the operational plan appears to be acceptable, the proposed sketch for residential redevelopment fails to take into account lot area requirements of the "R-1" zoning district. It should be pointed out that the area in which subject property is located is not projected for urban development due to the existing high water table and therefore any determination of actual lot size and area would have to be reserved until such time in the future the actual redevelopment and platting of the property occurs.

2. A recommendation of approval by the Planning Commission should be subject to the following recommended conditions:
 1. No 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.
 2. The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by County Counselor, providing for the construction and/or maintenance of a loop levee around the entire sandpit or portions thereof at such time as deemed necessary by the Flood Control office or their successors of office, and shall be constructed in accordance with construction specifications, Section 1 through 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance

Division of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors and assigns.

3. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan.
4. 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 excavation area and plant operation area on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction.
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.
7. All of the application area outside of the sandpit lake shall be graded so as to drain into the lake.
8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation be maintained.
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

9. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish,

trees, car bodies, etc., shall be deposited on the application area or within the excavation after approval of the conditional use by the Board of County Commissioners.

10. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
11. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
12. All slopes shall have vegetative covering consisting of a perennial drowth resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
13. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
14. The applicant shall comply with Conditions 2 and 9 prior to the publication of the resolution establishing the conditional use.
15. Any violation of conditions attached shall declare the conditional use permit null and void.

GALBRAITH stated that in 1971 the Planning Commission and County Commission considered a conditional use request to extract sand from this site. In November 1982 an application was filed that requested approval of an expanded excavation area. The action of the Planning Commission was to defer the case pending some litigation between the previous owner and the applicant. He said that the litigation had to be completed so that it could be decided if the contract purchaser had the right to file an application. He said that he was advised that part of the litigation had been settled out of court. As late as yesterday, he was advised that a closing had occurred and that the contract purchaser is now the title owner. GALBRAITH said that it was his impression that the case was ready to be heard today, however before he presented the case, he wanted to see if that was the case.

BAYOUTH asked the applicants' attorney to step to the podium. He asked Everett Fettis, attorney representing the applicants, if they have the right to file this case.

GARDNER arrived.

FETTIS said that he was advised by Security Abstract at noon today that the deeds had been recorded and that his client is now fee title owner of both sandpits that are scheduled for consideration today and they were ready to proceed.

WILSON asked if the owner was satisfied that this has been settled.

VICTOR B. EISENRING, previous owner said he was not satisfied. He said he was supposed to have the money and there were court orders where this would be sent. He stated that he did not want a thing done on this case until it is all signed and he gets his hands on the money.

BAYOUTH asked how did the abstract company get involved.

FETTIS said he was told by the abstract company that the deal had been closed yesterday afternoon. It was too late to get to the bank but they sent the money to the bank this morning. He was told today that the deeds were recorded at 12:20 p.m. today. He said his client now was the fee title owner of this land. Mr. Eisenring's money, as far as he knew, was at the bank.

BAYOUTH suggested that the case be heard.

WILSON commented that the reason this case had been deferred was because the Planning Commission did not want to assume any liability for making a decision on a piece of property that they might not have the right to do. He asked if the City Attorney or anyone else has said that the Commission has the right to proceed even if not the fee holder or title holder of this property.

GALBRAITH explained that staff was apprised after the last consideration of this case by legal counsel that the case should not be considered as long as it was in litigation and there was a dispute of ownership. If the deed has now been registered in Mr. Fettis' client's name, that should resolve that problem.

LOFTON asked Mr. Eisenring if, since he was the owner of the land, he had an attorney representing him on this case.

EISENRING said yes.

FETTIS said that he had been advised that Mr. Eisenring had signed his deeds a long time ago and that they have been in escrow at the United American Bank. The bank turned them over to Security this morning and they have been recorded. Mr. Eisenring's attorney called Mrs. Wassil at Security and said that he had paid the bank off they have the deeds.

LAKIN commented that at one time staff had been advised by the attorneys that the case was complete and that the money was being paid over, but somehow the word has never been transmitted clearly to Mr. Eisenring. LAKIN said his first inclination, since it is in dispute and that is the way it was last time, is that it be passed over until it is completed and ask Mr. Eisenring to have his counsel present at the next meeting.

MOTION: That the Planning Commission defer this matter for two weeks. Wilson moved, Lofton seconded.

TOM BROWN, attorney representing Foundation, Inc., stated the District Court made an order in this case clearing the title. He said that the court also made an order that Mr. Eisenring was not to make any legal objection as a legal owner of this property. The money was ordered to be paid in a certain way, and it has been paid. He said he suspected that where Mr. Eisenring has a failure of communication is with his bank. He owes some money at the bank and before Security Abstract got the deeds, they had to pay the full amount of money due on the escrow contract. Mr. Eisenring owed more money on the property than he received from Foundation, Inc. He had to do some manipulation with his own bank in order to clear title. BROWN explained that may be why Eisenring was not receiving dollars in his pocket. He said that he did know, as a matter of Court record, that the judges ordered that this title be cleared, and also ordered that Mr. Eisenring make no legal objection at this hearing as a legal owner. He said that does not keep him from making an objection as a surrounding landowner.

MOORE asked when did the court rule.

BROWN said February 23.

EISENRING explained why he owed money at the bank. He further stated that he had not seen any court orders where he had to sign or what judge issued the order or anything.

VOTE ON THE MOTION: It failed by a vote of 4 in favor (Wilson, Lofton, Hansen and Chisholm), and 5 opposed (Bayouth, Gardner, Moore, Parsons and Goebel). One vacancy.

GALBRAITH continued with the presentation of the case. He said that some months ago when staff was first contacted by the new fee title owner, it was pointed out that there was some excavation occurring outside of a previous approved excavation line. They simply inquired how they might remedy that and his answer at time was either fill to get into conformance, or file a new application. That prompted their filing a new application as a contract purchaser because they have the right to file an application to amend a previous action of the County Commission. He said that was essentially what they have done. They have filed a new site plan. The plan now proposes to excavate as close as 75 feet to the east property line where it was some 200 feet before. The previously approved site plan did not show some oil wells on the west side of the lake, so they obviously had difficulty in excavating to the west as the original plan proposed. GALBRAITH pointed out that the staff report states that the size of lots will have to be determined when the property is platted for residential uses. He said staff saw nothing wrong with the proposed expansion and the modified conditional use application. The staff has recommended approval subject to a number of conditions.

EVERETT FETTIS, attorney representing the applicant, stated there were two points he wanted to address. One is the fence, and they ask that that requirement be waived at this point until such time as there is a need. The other point, mentioned in the staff comments, concerns the barrels that should be removed. He said there was a court order which has been in effect now for several months. It was signed last summer directing Mr. Eisenring to remove the barrels. There is, on deposit with the Clerk of the District Court \$72,000, which has been previously stated by Mr. Eisenring as a possible cost of removing the barrels. They have been told by Mr. Eisenring's attorney that he is trying to work out a deal with the Health Department for a better method of removing barrels which would cost him less money. That problem has been addressed and the money is deposited as a guarantee that Mr. Eisenring will do what the court has previously ordered him to do.

MIKE EVERHART, Environmental Health Director, Sedgwick County Health Department, stated they were concerned with the approximately 1800 barrels of various kinds of solvents that are currently on the property. He said he would hope that nothing is done today that would interfere with the eventual clean up of that site. Since the court order for removal of the barrels was issued, the State Department of Health and Environment has become involved in the case, and has ordered that they be removed to a proper disposal area. There have been some empties removed, but the majority of them are still on the property and some resolution is needed in the near future.

EISENRING stated that he has a letter from the State saying they have no place to go with the barrels. He said that Everhart knows that it is not all hazardous waste in there. Some of the waste has been taken to the Brooks Landfill. He was notified to hold up until it was decided how much of this was hazardous waste that had to be hauled out of the state. EISENRING said he would move the barrels when he finds out where to go with them.

EISENRING stated that he came before the Commission and got a 200 foot area to build houses on approved. He said the applicants excavated to within 30 feet of the pipelines even though he asked them not to, when he owned the land. He said he had aerial photos showing how

much land they had destroyed before they shut down. They tried to compensate for it by asking for a 75 foot setback. He did not feel that 75 feet was enough for them to build on.

BAYOUTH asked if there was a court order for all of the barrels to be removed.

EVERHART said that was separate from the State's action. That was brought by the buyer of the property. The Secretary of Health and Environment has ordered that the barrels are to be removed to a designated land fill or hazardous waste fill area. The State has to, in the process of testing the barrels, determine which ones are hazardous. They have designated certain numbers of them that are hazardous and some of them are questionable. Some of the empty barrels have already been hauled to the Brooks Landfill and others are just sitting there waiting on a decision.

BAYOUTH asked Fettis about the barrels and the new owner.

FETTIS said there was a court order signed last summer directing Mr. Eisenring to move the barrels.

WILSON asked if they should proceed with this hearing without having the barrels removed.

GARDNER commented that from the perspective of having heard this on a couple of occasions and being aware of the scope of the problems, if they are seeking a conditional use permit to rectify a number of serious deviations from the previous conditional use permit, that they should hear the case. He said that, going through the requirements that have been submitted, that the applicant shall comply with conditions 2 and 9 prior to the publication of the resolution establishing the conditional use. GARDNER said it would seem to him that the inclusion of item 9, which provides that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area could be expanded and that the clearance of the concrete, rubbish and everything else from the site could be required prior to the issuance of a permit so that it could be cleaned up. He said he was mildly incensed by the request to waive the fence, and felt the requirement that other sandpits have put up with for years on a basis of the safety factor and on the basis of the liabilities and requirements that they have debated enough other times should be required. It is certainly an expensive operation, but it is an expense that is concomitant with the scope of the liability and the hazard that is created, and particularly when it is in an area close to town. GARDNER said he personally felt that the fencing requirement under condition number 4 should be included in item 14 and that the erection of a fence should be required prior to the issuance of an operational permit. He asked Ron Worley if he had any thoughts regarding anything else that needed to be implemented in this to effectively deal with the problem he was confronted with.

RON WORLEY, County Zoning Administrator, stated that a few of the problems that had been addressed exist in the area and unfortunately have existed for a long time. Any recommendations that the Planning Commission has to get a handle on them and bring them to an effective conclusion, would be more than appreciated.

GARDNER asked if Worley had any suggestions about anything else that needs to be done to rectify the problems that are there.

WORLEY felt that the problems had been covered fairly completely by the Commission.

FETTIS mentioned for the record that his clients have operated this property for three years, not eleven years, and these problems were created not by his clients, but by Mr. Eisenring. He said this property

was supposed to have been fenced by Mr. Eisenring some years ago, but he did not do it, and there will probably be some litigation on that before this is over. He said that he understood that there have been examples where fences have been waived. He inquired about that before he made the request. They felt that since this condition has been allowed to exist for a number of years, long before his clients bought the property that it could be waived.

GARDNER said he appreciated Mr. Fettis' candor in addressing that item. The ability, however, to cure the problem that is at hand probably would rest on his clients' back in terms of responsibility and the desire to operate the pit in the future. The one area that he was aware of where the County Commission chose to waive the fencing requirement; was where the MAPC recommended that fencing not be placed on the property was the Hoskins pit at the northwest corner of 29th and Ridge Road. He said from his perspective that might have been a little further out and perhaps a little bit different situation, but he was still in disagreement with the County Commission's judgment on waiving that requirement.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the undeveloped and residential character of the general area; the sandpit to the east; the wrecking yard to the west; the suitability of the subject property for development with a sandpit and the recommendation of approval by staff; I move that we recommend to the governing body that this application be approved subject to the following conditions:

1. No 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.
2. The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by County Counselor, providing for the construction and/or maintenance of a loop levee around the entire sandpit or portions thereof at such time as deemed necessary by the Flood Control office or their successors of office, and shall be constructed in accordance with construction specifications, Section 1 through 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Division of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors and assigns.
3. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan.
4. A minimum 58-inch high fence shall be constructed and maintained along the perimeter of the excavation area and plant operation area on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or

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

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

- 5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
- 6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.
- 7. All of the application area outside of the sandpit lake shall be graded so as to drain into the lake.
- 8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation be maintained.
 - b. That the grading of the area around the perimeter of the sandpit lake be maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
- 9. The applicant shall:
 - a. Clear the site of all materials such as rubbish, concrete, asphalt, junk and equipment, not associated with the excavation of sand.
 - b. Submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation after approval of the conditional use by the Board of County Commissioners.
- 10. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
- 11. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
- 12. 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.

13. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
14. The applicant shall comply with Conditions 2, 4, 9a and 9b prior to the publication of the resolution establishing the conditional use, and within 270 days from the date of approval by the Board of County Commission or the conditional use shall be considered denied and closed.
15. Any violation of conditions attached shall declare the conditional use permit null and void.

Gardner moved, Hansen seconded.

GOEBEL had questions for Don Cain, President, Foundation, Inc. He asked if this was something under his control to clean up. GOEBEL said in his opinion when the special permit was given years ago, the junk should not have been put there.

CAIN felt that he did not have enough employees to clean the area up in 180 days. He felt a reasonable time period would be 8 to 10 months.

EISENRING added that to relieve the Commissioners mind there was \$72,000 in District Court to clean the barrels up. He said he would clean up the barrels.

VOTE ON THE MOTION: It carried unanimously.
One vacancy.

May 26, 1983

Everett C. Fettis
120 South Market
Wichita, KS 67202

RE: CU-258 - Conditional Use Permit to
allow expansion of sand and gravel
operation

Dear Everett:

The Board of County Commissioners, at its regular meeting of April 13, 1983, considered the above referenced case. Their action was to defer this case for 90-days, or sooner if possible, to allow time for the site to be cleaned up.

This letter is to advise you that this matter has been scheduled for reconsideration by the Board of County Commissioners at 9:00 a.m., on Wednesday, June 1, 1983, in Room 320 of the Sedgwick County Courthouse.

Please contact me if you have any questions in this matter.

Sincerely,

Jack H. Galbraith
Chief Planner
Current Plans Division

JHG:GLS:vn

cc: Donald P. Cain, Sr., President, Foundation, Inc.,
8027 W. Kellogg, 67209
Gary Wiley, Professional Engineering Consultants, P.A.,
1440 E. English, 67211
Thomas E. Brown, Attorney, Century Plaza Building,
111 W. Douglas, 67202
David N. Johnson, Attorney, 830 N. Main, 67203
Victor B. Eisenring, 4620 W. 21st St. N., 67212
Ron Worley, County Zoning Officer

April 13, 1983

Everett C. Fettis
120 South Market
Wichita, Kansas 67202

Re: CU-258 - Conditional Use Permit
to allow expansion of sand and
gravel operation

Dear Mr. Fettis:

The Board of County Commission at its regular meeting of April 13, 1983, considered the above captioned case. Their action was to defer this case for 90 days, or sooner if possible, to allow time for the site to be cleaned up. Specifically, this refers to the removal of the barrels, concrete, asphalt, and any other debris and accumulation of materials not associated with the sand pit operation.

This case will be scheduled for reconsideration by the County Commission on July 13, 1983. In the event that the site is cleared prior to that time and has been approved by the County Administrator Ron Worley, we will schedule this at an earlier date upon your request.

Please contact me if you have any questions in this matter.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:el

cc: Donald P. Cain, Sr., President, Foundation, Inc.,
8027 W. Kellogg, Wichita 67209
Gary Wiley, Professional Engineering Consultants, P.A.
1440 E. English, Wichita 67211
Thomas E. Brown, Attorney, Century Plaza Bldg.
111 West Douglas, Wichita 67202
David N. Johnson, Attorney, 830 N. Main, Wichita 67203
Victor B. Eisenring, 4620 West 21st St. North, Wichita 67212
Ron Worley, County Zoning Officer

COVENANT RUNNING WITH THE LAND

FOUNDATION, INC., owner of the following described
realty, to-wit:

The east half of the Southwest Quarter of
Section 2, Township 27 South, Range 1 West
of the 6th Principal Meridian, Sedgwick County,
Kansas, except the east 165 feet of the south
264 feet thereof and except the south 50 feet
thereof for road.

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

If the construction of a loop levee is deemed necessary by the County Department of Public Works, or its successors of office, in connection with conducting operations for the removal of sand and gravel from the premises, the fee owner agrees to construct and maintain a loop levee on the premises at such a location as the County Department of Public Works may direct, in accordance with construction specifications, Sections 1 through 4, inclusive, and maintenance specifications, Sections 1 and 2 of Construction and Maintenance Specifications as prepared by the County Department of Public Works.

The above restrictions and agreements shall be deemed covenants running with the land and shall not be amended, deleted or changed without written consent of the County Department of Public Works, or its successors of office.

In the event of the failure by the undersigned or any successors of title to fulfill the obligation set forth above within sixty (60) days after receipt of written notice from the County Department of Public Works, or its successors of office, then the appropriate governing body may order such work done and maintained and charge the entire cost of such construction and maintenance as a first lien against said realty to be collected and foreclosed in the same manner as a mortgage is foreclosed.

This instrument shall be recorded in the Office of the Register of Deeds in Sedgwick County, Kansas, so as to appear in the chain of title of said realty.

EXECUTED this 24 day of March, 1983.

FOUNDATION, INC.

By Wanda Cain
WANDA CAIN, Authorized Officer

ACKNOWLEDGMENT

STATE OF KANSAS, SEDGWICK COUNTY, ss:

BE IT REMEMBERED, that on this 24 day of March, 1983, the undersigned, a notary public, in and for the County and State aforesaid, came WANDA CAIN, who is personally known to me to be the same person who executed the foregoing instrument of writing, and such person duly acknowledged the execution of the same.

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

JOYCE N. SHIRKEY
STATE NOTARY PUBLIC
SEDGWICK COUNTY, KANSAS
MY APPT. EXP. 3/28/85

Joyce N. Shirkey
Notary Public

My Appointment Expires:

March 28, 1985

RESTRICTIVE COVENANT

KNOW ALL MEN BY THESE PRESENTS: That

The undersigned, FOUNDATION, INC., does hereby impose upon the following described real property, to-wit:

The east half of the Southwest Quarter of Section 2, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, except the east 165 feet of the south 264 feet thereof and except the south 50 feet thereof for road.

covenant to run with the land as follows:

1. No foreign matter, including but without limitation to, rubbish, trees, car bodies or other trash shall be deposited on the above described real property or within any sand pit excavated thereon.

The covenant herein contained shall be binding upon the undersigned, his successors in interest and assigns. The said covenant may be enforced in any appropriate action in any Court having jurisdiction thereof by the City of Wichita, the County of Sedgwick or any member of the public in whose favor and for whose benefit this covenant is made.

IN WITNESS WHEREOF, we have hereunto set our hands this 24 day of March, 1983.

FOUNDATION, INC.

By Wanda Cain
WANDA CAIN
Authorized Officer

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this 24 day of March, 1983, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came WANDA CAIN, personally known to me to be the identical person who executed the within and foregoing instrument and acknowledged to me that she executed the same as her 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.

JOYCE N. SHIRVEY
STATE NOTARY PUBLIC
SEDGWICK COUNTY, KANSAS
MY APPL. EXP. 3/28/85

Joyce N. Shirvey
Notary Public

My Appointment Expires:

March 28, 1985

R E S O L U T I O N

CASE NO. CU-258

A RESOLUTION TO ALLOW EXPANSION OF SAND AND GRAVEL OPERATION IN THE "R-1" SUBURBAN RESIDENTIAL DISTRICT 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 expansion of sand and gravel operation in the "R-1" Suburban Residential District is hereby approved on the lands legally described as follows:

The east 1/2 of the southwest 1/4, of Section 2, T27S, R1W of the 6th P.M., except the south 50 ft., and except the south 264 feet of the east 156 feet. Generally located on the north side of 21st Street North, 1/4 mile east of Hoover.

SUBJECT TO THE FOLLOWING:

- 1.. No 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.
2. The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by County Counselor, providing for the construction and/or maintenance of a loop levee around the entire sandpit or portions thereof at such time as deemed necessary by the Flood Control office or their successors of office, and shall be constructed in accordance with construction specifications, Section 1 through 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance Division of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors and assigns.

3. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan.
4. A minimum 58-inch high fence shall be constructed and maintained along the perimeter of the excavation area and plant operation area on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.
7. All of the application area outside of the sandpit lake shall be graded so as to drain into the lake.
8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation be maintained.
 - b. That the grading of the area around the perimeter of the sandpit lake be maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
9. The applicant shall:
 - a. Clear the site of all materials such as rubbish, concrete, asphalt, junk and equipment, not associated with the excavation of sand.

- b. Submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation after approval of the conditional use by the Board of County Commissioners.
10. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
11. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
12. 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.
13. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
14. The applicant shall comply with Conditions 2, 4, 9a and 9b prior to the publication of the resolution establishing the conditional use, and within 270 days from the date of approval by the Board of County Commission or the conditional use shall be considered denied and closed.
15. Any violation of conditions attached shall declare the conditional use permit null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use approval shall be entered 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 by the Board of County Commissioners at Wichita, Kansas, this ____ day of _____, 19 ____.

_____, Chairman
Jack Spratt

_____, Commissioner
Tom Scott

_____, Commissioner
Donald E. Gragg

ATTEST:

Dorothy K. White, County Clerk

(SEAL)

Approved as to form by County Counselor

William D. Rustin, County Counselor

March 14, 1983

Victor B. Eisenring
4620 West 21st Street North
Wichita, Ka. 67212

Re: CU-258 - Conditional Use Permit
to allow expansion of sand &
gravel operation

Dear Mr. Eisenring:

The Planning Commission at its regular meeting of March 10, 1983, considered the above-captioned Conditional Use Permit 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, March 21, 1983. Enclosed are six 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:ead
Encl. (6)

cc: David N. Johnson, Attorney, 830 North Main, Wichita 67203

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
COMMISSION

CITY HALL - TENTH FLOOR
425 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4561

March 14, 1983

Everett C. Fettis
120 South Market
Wichita, Ks. 67202

Re: CU-258 - Conditional Use Permit to
allow expansion of sand & gravel
operation

Dear Mr. Fettis:

At its regular meeting of March 10, 1983, the Metropolitan Area Planning Commission considered the above-captioned request for a Conditional Use Permit to allow expansion of a sand and gravel operation. The action of the Planning Commission was to recommend that this application be approved subject to the following conditions:

1. No 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.
2. The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by County Counselor, providing for the construction and/or maintenance of a loop levee around the entire sandpit or portions thereof at such time as deemed necessary by the Flood Control office or their successors of office, and shall be constructed in accordance with construction specifications, Section 1 through 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance Division of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors and assigns.

3. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan.
4. A minimum 58-inch high fence shall be constructed and maintained along the perimeter of the excavation area and plant operation area on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.
7. All of the application area outside of the sandpit lake shall be graded so as to drain into the lake.
8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation be maintained.
 - b. That the grading of the area around the perimeter of the sandpit lake be maintained so as to direct drainage toward the lake.

- c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
9. The applicant shall:
- a. Clear the site of all materials such as rubbish, concrete, asphalt, junk and equipment, not associated with the excavation of sand.
 - b. Submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation after approval of the conditional use by the Board of County Commissioners.
10. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
11. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
12. 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.
13. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
14. The applicant shall comply with Conditions 2, 4, 9a and 9b prior to the publication of the resolution establishing the conditional use, and within 270 days from the date of approval by the Board of County Commission or the conditional use shall be considered denied and closed.
15. Any violation of conditions attached shall declare the conditional use permit null and void.

Regarding conditions 2 and 9b, enclosed are sample covenants that need to be revised for your clients use and signatures. These covenants along with 7 copies of the proposed plans should be submitted to our office no later than March 25, 1983 so that subject case can be

WICHITA -- SEDGWICK COUNTY --4

scheduled for consideration by the Board of County Commissioners at 9:00 a.m., on Wednesday, April 6, 1983, in Room 320, Sedgwick County Courthouse.

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

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:sad

Encls.

cc: Donald P. Cain, Sr., President, Foundation, Inc., 8027 West Kellogg, Wichita 67209
Gary Wiley, Professional Engineering Consultants, P.A., 1440 East English, Wichita 67211
Thomas E. Brown, Attorney, Century Plaza Bldg., 111 West Douglas, Wichita 67202
David N. Johnson, Attorney, 830 North Main, Wichita 67203
Victor B. Eisenring, 4620 West 21st Street North, Wichita 67212
Ron Worley, County Zoning Officer

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT
REVISED STAFF REPORT

MAPC HEARING DATE: 3-10-83

Case No. CU-258 Request: Conditional Use Permit to
allow expansion of sand &
gravel operation

Location: North side of 21st Street North in an area 1/4 mile east
of Hoover Road.

Reason: To amend CU-133 to permit the extraction of sand & gravel
in a configuration different from that originally approved.

Acres: 77.5 Size: 1320' x 2590'

	<u>Land Use</u>	<u>Zoning</u>
Existing	Sant pit, oil well & storage tanks	"R-1"
North	Undeveloped	"R-1"
East	Sand pit & undeveloped	"R-1"
South	Single-family	"R-1"
West	Single-family & wrecking yard	"R-1"

Street right-of-way is adequate.

Platted: No

History: CU-133 Sand and Gravel Extraction 7-22-71 MAPC approve
8-04-71 BCOC approve

COMMENTS:

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

The applicant is requesting a Conditional Use Permit to permit the extraction of sand and gravel in a configuration different from that originally approved by the Board of County Commissioners on August 4, 1971, (CU-133) for a tract of land zoned "R-1" Suburban Residential and located on the north side of 21st Street North, 1/4 mile east of Hoover.

On November 4, 1982, the Planning Commission considered this application. After considerable discussion as to whether the applicant as an equitable owner and contract purchaser was authorized to file the application, action of the Commission was to defer the case until a pending lawsuit was settled by the court.

By letter dated August 25, 1982, the applicant was advised by the County Zoning Administrator that a number of the conditions of approval of CU-133 were not being complied with. Among the violations cited was the storage of a considerable number of barrels on the site. As of this date the Health Department advises that the illegal deposit of paint barrels has not been resolved on this property. The barrels have not been removed and the new owner should be prepared to advise the Planning Commission of the schedule for having this property comply with all County regulations.

An Operational Plan and a "sketch" Redevelopment Plan has been submitted with the application. Although the operational plan appears to be acceptable, the proposed sketch for residential redevelopment fails to take into

account lot area requirements of the "R-1" zoning district. It should be pointed out that the area in which subject property is located is not projected for urban development due to the existing high water table and therefore any determination of actual lot size and area would have to be reserved until such time in the future the actual redevelopment and platting of the property occurs.

2. A recommendation of approval by the Planning Commission should be subject to the following recommended conditions:
 1. No 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.
 2. The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by County Counselor, providing for the construction and/or maintenance of a loop levee around the entire sandpit or portions thereof at such time as deemed necessary by the Flood Control office or their successors of office, and shall be constructed in accordance with construction specifications, Section 1 through 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance Division of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors and assigns.
 3. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan.
 4. 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 excavation area and plant operation area on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.
- The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.
5. The earth shall be extracted to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
 6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.

7. All of the application area outside of the sandpit lake shall be graded so as to drain into the lake.
8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation be maintained.
 - b. That the grading of the area around the perimeter of the sandpit lake be maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
9. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation after approval of the conditional use by the Board of County Commissioners.
10. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
11. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
12. 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.
13. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
14. The applicant shall comply with Conditions 2 and 9 prior to the publication of the resolution establishing the conditional use.
15. Any violation of conditions attached shall declare the conditional use permit null and void.

LAW OFFICES
FETTIS & MCCLURE
120 SOUTH MARKET
SUITE 504
WICHITA, KANSAS 67202
316-267-7251

EVERETT C. FETTIS
DAVID R. MCCLURE

KEITH M. CURFMAN
OF COUNSEL

25 February 1983


Jack H. Galbraith
Metropolitan Area Planning Department
City of Wichita
455 North Main
Wichita, Kansas 67203

RE: Foundation, Inc.
CU-258 & CU-259

Dear Jack:

We have settled a portion of the lawsuit with Mr. Eisenring and anticipate that he will withdraw any objections he has as to any proceeding we are involved in as to the conditional use permit. We, therefore, intend to proceed on March 10th as I told you.

Very truly yours,


EVERETT C. FETTIS

ECF/dbs
cc: Thomas E. Brown
Donald E. Lambdin

RECEIVED

MAR 1 1983
METROPOLITAN PLANNING
ROUTE _____

THE CITY OF WICHITA
OFFICE OF Department of Law

DATE Dec. 1, 1982

RECEIVED

DEC 3 1982

METROPOLITAN PLANNING
ROUTE _____

TO Robert A. Lakin, Director of Planning

FROM H. R. Kuhn, Ass't City Attorney

SUBJECT Authorized Signatures on
Conditional Use Applications

This is in response to your memo of November 22, 1982 concerning certain conditional use applications signed by an "equitable" owner of the real property involved to which the "legal" owner has taken vigorous exception. Because of the unusual features of the case I felt it advisable to check out and review the two Sedgwick County District Court cases that are pending between the "owners" and which, to some extent, involve the authorized use of the property in question.

Absent a contractual dispute between an "equitable" and "legal" owner over the use of the subject property, the general and prevailing view would seem to confirm your understanding that the possessor of an equitable title should be treated as an "owner" of property under the planning and zoning statutes and regulations. This is assuming, of course, that a more definitive provision of "owner" is not set forth in the statutes or the regulations. Kansas and other courts have taken this position as to an "owner" in other types of statutes and I believe the courts would apply the same reasoning in zoning and planning matters if called upon. I have been unable to find any case law addressing the specific questions presented in the matter at hand.

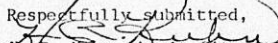
A review of the pending litigation between the "legal" and "equitable" owners of the subject property reveals that the owner of the fee title (legal) is seeking to foreclose and terminate the purchase agreement and, thus, eliminate any and all ownership claims of the present "equitable" owner. This being the case, it is my opinion that no further action should be taken by MAPC in connection with the conditional use applications until the ownership and/or permitted property uses have been judicially determined. These questions flow directly from the purchase agreement which is the subject matter of the litigation.

As to the two specific questions posed by you in your memo I would respond:

(a) Because of the direct challenge to the ownership of Foundation, Inc. and its use (depletion) of the property involved by the record title holder (legal owner) in the pending court proceedings, the applications for conditional use permits should be held in abeyance until the matter has been judicially resolved.

(b) It is my opinion that the Order of June 30, 1982 is sufficient to prohibit Foundation, Inc. from seeking a conditional use permit if the permit sought would permit excavating beyond the two hundred (200) feet area as defined in Permit No. Cu-133.

HRK/mb

Respectfully submitted,

H. R. Kuhn, Ass't City Attorney

MEMO

DATE: Nov 3, 1987

TO: File, Dietrich, Wierley

FROM: MITCHELL

SUBJECT: CU-258 Loop levee
Covenant

It was the policy of the City-County Flood Control Office to request that approval of all CU applications for sand pits within a distance of $\frac{1}{4}$ to $\frac{1}{2}$ mile of the Flood Control Project levee be contingent on filing of a "Covenant Running with The Land" which guaranteed that the operator of the sand pit will construct a loop levee around the excavation.

It was also Flood Control policy to NOT REQUIRE construction of the loop levee until a need was demonstrated by flood events or engineering soils studies. The probability that such events or studies would show the need at subject pit is extremely small and I have suggested that the Covenant be rewritten to clarify the conditions which would require its construction.

6.29-82

Friday April 30 4:00 p.m.
Mr. Cain - Tom Brown Sand Pit
Case Uci Evising -

Friday May 28 3:00 p.m.
Dave Johnson called as to the Uci
Evising Sand Pit Case -

CU133 Bchof Co Com Approved in Aug 4, 1971
200' setback from E, S, W for
excavation purposes.

10. No foreign matter such as rubbish,
trees, car bodies, etc., shall be
deposited on the application area or
within the excavation.

Comments: No foreign matter,
including but without limitation to,
rubbish, trees, car bodies or other trash
shall be deposited on the above described
real property.

CU-258 24 "Notice to adjoining property owners" mailed 2-24-83 for
the MAPC meeting for 3-10-83

1 to Ron Worley, County zoning officer

—
25 TOTAL

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

February 24, 1983

NOTICE TO ADJOINING PROPERTY OWNERS:

This is a notice of a request for a Conditional Use 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. 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 March 10, 1983, 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-258

Conditional Use Permit to Establish a Sand and Gravel
Extraction Operation on Property zoned
"R-1" Suburban Residential District

The east 1/2 of the southwest 1/4, of Section 2, T27S,
R1W of the 6th P.M., except the south 50 ft., and except
the south 264 feet of the east 156 feet. Generally
located on the north side of 21st Street North, 1/4 mile
east of Hoover.

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

CU-258

Dave Johnson called
Jack this date and advised
case would not be considered
by the court until January 17, 1983.

12/13/82

WJZ

December 8, 1982

Donald C. Cain, Sr., President
Foundation, Inc.
8027 West Kellogg
Wichita, Kansas 67209

Re: CU-258 and CU-259 - Requests
Conditional Use Permits to
Establish Land and Gravel
Extraction Operation.

Dear Mr. Cain:

This is to confirm my telephone conversation with George Lee of your firm on December 8, 1982 regarding the status of the above referenced conditional use applications. As I stated, our legal counsel has advised us that based upon the nature of the pending litigation between the "legal" and "equitable" owners of the two sandpits, no further action should be taken by the Metropolitan Area Planning Commission until the litigation has been completed. Therefore, unless the litigation is resolved by December 16, 1982, the cases will need to be deferred at the December 30, MAPC meeting. We need to know the status of the litigation by December 16 so we can properly notify all interested parties and nearby property owners.

If you have any questions regarding this matter, please call me or Jack Galbraith at 268-4421.

Sincerely,

ADC
Arthur D. Chambers, AICP
Senior Planner

ADC:el

cc: Everett Fattis, 120 S. Market, Wichita 67202
Professional Engineering Consultants, Gary Wiley,
1440 E. English, Wichita 67211
Victor B. Eisenring, 4620 W. 21st St. North, Wichita 67212
David N. Johnson, Attorney, 830 N. Main, Wichita 67203

THE CITY OF WICHITA
OFFICE OF Department of Law

DATE Dec. 1, 1982

RECEIVED

DEC 3 1982

METROPOLITAN PLANNING

ROUTE

TO Robert A. Lakin, Director of Planning
FROM H. R. Kuhn, Ass't City Attorney

SUBJECT Authorized Signatures on
Conditional Use Applications

This is in response to your memo of November 22, 1982 concerning certain conditional use applications signed by an "equitable" owner of the real property involved to which the "legal" owner has taken vigorous exception. Because of the unusual features of the case I felt it advisable to check out and review the two Sedgwick County District Court cases that are pending between the "owners" and which, to some extent, involve the authorized use of the property in question.

Absent a contractual dispute between an "equitable" and "legal" owner over the use of the subject property, the general and prevailing view would seem to confirm your understanding that the possessor of an equitable title should be treated as an "owner" of property under the planning and zoning statutes and regulations. This is assuming, of course, that a more definitive provision of "owner" is not set forth in the statutes or the regulations. Kansas and other courts have taken this position as to an "owner" in other types of statutes and I believe the courts would apply the same reasoning in zoning and planning matters if called upon. I have been unable to find any case law addressing the specific questions presented in the matter at hand.

A review of the pending litigation between the "legal" and "equitable" owners of the subject property reveals that the owner of the fee title (legal) is seeking to foreclose and terminate the purchase agreement and, thus, eliminate any and all ownership claims of the present "equitable" owner. This being the case, it is my opinion that no further action should be taken by MAPC in connection with the conditional use applications until the ownership and/or permitted property uses have been judicially determined. These questions flow directly from the purchase agreement which is the subject matter of the litigation.

As to the two specific questions posed by you in your memo I would respond:

(a) Because of the direct challenge to the ownership of Foundation, Inc. and its use (depletion) of the property involved by the record title holder (legal owner) in the pending court proceedings, the applications for conditional use permits should be held in abeyance until the matter has been judicially resolved.

(b) It is my opinion that the Order of June 30, 1982 is sufficient to prohibit Foundation, Inc. from seeking a conditional use permit if the permit sought would permit excavating beyond the two hundred (200) feet area as defined in Permit No. Cu-133.

HRK/mb

Respectfully submitted,
H. R. Kuhn
H. R. Kuhn, Ass't City Attorney

November 22, 1982

H. R. Kuhn, Assistant City Attorney
Robert A. Lakin, Director of Planning

Authorized signatures on CU-258 and CU-259.

On November 4, 1982, the MAPC considered a conditional use application (CU-258) that would, if approved, amend an existing conditional use. During the discussion, a question was raised of whether or not the application was properly signed because the fee title owner did not sign the application. The MAPC requested that we seek an opinion from our legal counsel about this question. The question would also relate to a second conditional use application (CU-259) that has been filed. The second application, scheduled for the November 18 MAPC meeting will be deferred until December 30, 1982, at which time it will be considered along with CU-258.

The fee title owner of the property in the two conditional uses, Victor Eisenring, sold the two sandpits to Foundation, Inc. on December 7, 1978. Under the purchase agreement (copy attached) the titles for the properties would be transferred to Foundation, Inc., the day that the last payment was made in 1988. Total purchase price of the two sandpits was \$545,000. Foundation, Inc. made a \$150,000 down payment, leaving a \$395,000 balance that would be reduced by quarterly payments of \$19,000. The quarterly payments were to be made to an escrow agent, whose records (attached) show that on May 5, 1982, there was a \$207,378 unpaid balance. In October 1982, Foundation, Inc. submitted a payment to the District Court. Thus, Foundation, Inc. has paid 62% of the purchase price which would seem to make them an equitable owner having a substantial interest in the properties.

It has been our understanding from discussions with City and County legal staff that an equitable owner has the right, to sign applications as an owner, for zone changes and conditional uses. However, we do not have any written opinions to that effect. Thus, when the application was submitted with a letter from their agent stating that Foundation Inc. was purchasing the property from Eisenring, had made several payments and was not delinquent, we felt that the application was valid and in turn accepted it and have processed it to the point of a public hearing.

*Copy of this + legal
opinion needs to go
in "Legal Opinions
Files"*

Page Two
H. R. Kuhn
November 22, 1982

The State statutes that we are operating under (K.S.A. 19-2927, et. seq.) do not specifically state who may request a change of zoning. Section 11-E-3 Conditional Uses, of the County Zoning Resolution, states that applications for conditional uses shall be on forms approved by the Commission. Years ago the MAPC did approve the form. Section 14-C, application for a change in zoning does require that an "owner of the property must sign the application".

It would seem that once a purchase contract has been entered into and is held by an escrow agent, that the buyer (Foundation, Inc.) depending on the amounts involved, acquires an interest and ownership in the property. Assuming that the terms of the contract were being met, it would seem that the ownership of the property would be held by both parties and either could sign an application for a zone change or a conditional use. If one party did not want the proposed change or conditional use approved they would have two options. The first would be to file sufficient protest petitions provided for in the County Zoning Resolution for Conditional Use cases and for zoning under KSA 19-2932 and the County Zoning Resolution, that would require a unanimous vote of the County Commission. Secondly, they could file an action in district court against the other party.

Another issue that was brought out at our hearing is that Foundation, Inc. and Victor Eisenring are currently in litigation over the validity of the purchase contract. On June 30, 1982, a journal entry (copy attached) was made that temporarily restrained Foundation, Inc. from violating the term of the existing conditional use (CU-133). In addition Foundation, Inc. was to fill the area that had been excavated in violation of CU-133 and required to remove some debris. Eisenring was required to remove all paint barrels. CU-133 established a line beyond which excavation was prohibited, however, some excavation was done beyond that line. The new conditional use, if approved, would move the excavation limit line and make the existing excavation legal. The attorney for Eisenring (who contends the application is improperly brought) argues that the court order prohibits the filing of the case.

Based upon the above, it seems that there are two questions relating to the ability of Foundation, Inc. to sign an application for a conditional use. First, is Foundation, Inc. considered an owner of the property under the State statutes and the County Zoning Resolution? Secondly, does the June 30,

Page Three
H. R. Kuhn
November 22, 1982

journal entry prohibit Foundation, Inc. from seeking approval
of a new conditional use?

Please furnish me an opinion so we can advise the NAPC. If
you have any questions, need additional information, or wish
to discuss this matter, please call.

Robert A. Lakin
Director of Planning

RAL:ADC:e1

Attachments

cc: John Dekker, Director, Law Department
William D. Rustin, County Counselor

November 10, 1982

Ron Worley, County Zoning Administrator
Jack H. Galbraith, Chief Planner

CU-258 - Conditional Use Permit to Establish a
Sand and Gravel Extraction Operation.

At last Thursday's Planning Commission Meeting, during the discussion of CU-258, the Conditional Use request for a sand pit, a number of questions were raised concerning possible violations of a previous case. Enclosed is a xerox copy of the Resolution for CU-133, which is the one currently applying to subject property. Also, enclosed is a xerox copy of the restrictive covenant satisfying conditions 4 and 10 of the resolution. I have not enclosed copies of the pertinent maps believing that you already have them in your files. If not, please let me know and I will xerox those as well.

Specifically, the question raised at the Planning Commission meeting was whether or not this resolution has been declared null and void (Condition 16). I know you have cited them for certain violations; one of which I believe has been excavating a substantial distance beyond the 200 foot line along the east property line. Other questions raised were: was the fence constructed (Condition 5); had the loop levee been constructed; had any of the other conditions of approval been violated; and has this case been declared null and void.

You advised that you would send me a copy of your letter to them citing the violations. Specifically, the question being raised by the Planning Commission is that, if violations are existing, doesn't that make the case null and void as Condition 16 states; and if that is the case why has not all the work stopped until they have filed a new application and it has been approved.

The storage of the barrels and the storage of the asphalt and concrete may not be a violation of the Conditional Use case, but they are certainly a violation of zoning and probably have to be dealt with separately.

I realize these apparent violations occurred long before your employment with the County and that it takes time to sort out violations that may have been existing. You may want to seek advice from the County Counselor as to what action, if any,

Page Two
Ron Worley
November 10, 1982

you should take to declare the case null and void. We are writing Bill Rustin on another issue pertaining to this case and that is whether or not we have a valid application since only an equitable owner signed the application.

As this latest case was deferred to December 30, 1982, perhaps we can have some answers to these questions by that time. Would be happy to discuss this matter with you or review any materials we have in the files. Appreciate your help on this.

Jack H. Galbraith
Chief Planner

JHG:el

Enclosure

November 5, 1982

Everett Pettis
120 South Market
Wichita, Ks. 67202

Re: CU-258 - Conditional Use Permit -
North side of 21st St. North,
1/4 mile east of Hoover

Dear Mr. Pettis:

At its regular meeting on November 4, 1982, the Metropolitan Area Planning Commission considered the above-captioned request. As requested by the attorney for the opposition and concurred in by your client, the action of the Planning Commission was to defer this case for 8 weeks in hopes that pending litigation would be completed.

Subject case will be rescheduled for consideration by the Planning Commission at their regular meeting on December 30, 1982. This meeting will be held in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, beginning at 1:30 p.m.

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

Sincerely yours,

Jack E. Galbraith
Chief Planner

JHG:sad

cc: Foundation, Inc., Donald P. Cain, Sr., President, 8027 West
Kellogg, Wichita 67209
Professional Engineering Consultants, P.A., Gary Wiley, 1440
East English, Wichita 67211
Victor B. Eisinger, 4620 West 21st Street North, Wichita 67212
David E. Johnson, Attorney, 830 North Main, Wichita 67203

THE CITY OF WICHITA

OFFICE OF Ass't. Supt. of Public
Works Maintenance

DATE June 29, 1971



TO Jack Galbraith, Chief Planner

FROM M. S. Mitchell

SUBJECT - Request for Conditional Use
Application for Southwestern
College, east half of Southwest
Quarter, Section 2-27-1W

Reference is made to your memorandum of June 25th, and the attached operational and redevelopment sketch plans for subject area. You are advised that this 80 acres is bordered on the east by a sand pit for which a Conditional Use permit was granted in 1959 as CU 16. CU 16 in turn is bordered on the east by an area which was the subject of a Conditional Use permit No. CU 24 granted in late 1959 or early 1960. Both areas are being used as one site by Globe Construction Company and we expect that most of the area will eventually be excavated within the limits of both sites. This would place one large body of water immediately adjacent to right bank levee 'C' which would form the eastern border of subject tract. For these reasons, we recommend that a "Covenant Running with the Land" to guarantee the construction of a levee completely encircling the excavated area be required. Without the benefit of topography, we cannot be sure of the height of the proposed loop levee, however, it is our opinion that the single family lots shown on the redevelopment sketch plan, or the limit of the land available for excavation shown on the operational sketch plan, will have to be revised to accommodate the levee.

If further information or discussion is desired, please advise.

M. S. Mitchell,
Ass't. Superintendent of
Public Works Maintenance

MSM/glm

cc: G. H. Wilton, Supt. of Public Works Maint.
Southwestern College Plat File





SEDGWICK COUNTY COURTHOUSE

COUNTY OF SEDGWICK
DEPARTMENT OF PUBLIC WORKS

1250 S. SENECA
WICHITA, KANSAS 67213-4498

PHONE 265-7901

Claud S. Shelor, P.E.
Director of Public Works / County Engineer

August 25, 1982

Mr. Don Cain
Foundation, Inc.
4900 West 21st. Street
Wichita, Kansas 67212

RE: CU-133

Dear Mr. Cain:

On a recent visit to the sand pit at 4900 West 21st. Street, I observed that extraction of sand and/or overburden has taken place beyond the two-hundred (200) feet required setback of condition, #4 of CU-133.

In addition to the above violation, a fence, as required in condition #5 of CU-133, has not been constructed.

The bank slope of the excavation area appears to be in violation of condition #7 of CU-133.

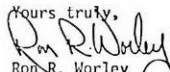
The requirements of conditions #8 and #9 of CU-133 do not appear to have been met.

Violations of condition #10 of CU-133 are very evident, in that, a considerable number of barrels are stored on the site, along with large mounds of broken concrete and asphalt.

Your attention is directed to condition #16 of CU-133.

As operator of the sand pit at the above mentioned location, you are given notice that these and any other violations of the requirements of CU-133, are to cease immediately and remaining violations are to be expediently corrected.

Please notify this office in writing within ten (10) days of your plans to correct these violations. A copy of CU-133 is enclosed.

Yours truly,

Ron R. Worley
Zoning Administrator

RRW:jy

Enclosure

RECEIVED

NOV 17 1982

METROPOLITAN PLANNING
ROUTE 1

Lee
2-7471
River Sand Co. George Lee
722-7471
B.C. River Sand Co.

DE-52

REV 302 .1076

SEDGWICK COUNTY, KANSAS

EASEMENT FOR CONSTRUCTION
AND MAINTENANCE MATERIAL STORAGE

THIS AGREEMENT made and entered into this 20 day of March, 1978,
by and between VICTOR H. EISENKRING
of Sedgwick County, State of Kansas, party of the first part, and the Board
of County Commissioners of Sedgwick County, Kansas, acting for said County, party
of the second part.

A tract of land in the E₂ of the SW₄ of Section 2, Township 27 South, Range 1 West
of the 6th P.M., Sedgwick County, Kansas, described as the south 224.5 feet of the
west 554.6 feet of the said E₂ of the SW₄; except the west 63.5 feet and except the
south 50 feet thereof.

STATE OF KANSAS
SEDGWICK COUNTY
FILED FOR RECORD AT
MAY 1 1978

Amelia F. McCarty
County Clerk
3 82168
LETTE F. MCCARTY
CLERK OF COURT

NOW THEREFORE, in consideration of the payment of One Dollars and
No/100 Cents, (\$ 1.00) and other valuable considerations as
follows:

To party of the first part, by party of the second part, party of the first part
hereby grants and conveys to party of the second part a Temporary
easement upon the above described premises for the purpose of Material Storage

PARTY OF THE FIRST PART
Victor H. Eisenkring
VICTOR H. EISENKRING

THE BOARD OF COUNTY COMMISSIONERS
PARTY OF THE SECOND PART
Everett Patterson
EVERETT PATTERSON
John Scott
JOHN SCOTT
Tom Scott
TOM SCOTT

REC'D BY:
Wm. C. Miller, Jr.
COUNTY ENGINEER W. C. MILLER, JR., P. E.

Dorothy K. White
DOROTHY K. WHITE
Dorothy Smith, Deputy Clerk
Dorothy Smith, Deputy Clerk

STATE OF KANSAS SEDGWICK COUNTY, ss.

On this 20 day of March, 1978, before me, a notary public in and
for Sedgwick County, State of Kansas, personally appeared
Victor H. Eisenkring to me known to be the person
named in and who executed the foregoing instrument, and acknowledged that
he executed the same as voluntary act and deed.

My commission expires 7 1978.

Wm. C. Miller, Jr.
COUNTY ENGINEER

Wm. C. Miller, Jr.
COUNTY ENGINEER

FOUNDATION, INC.

8027 West Kellogg
Wichita, Kansas 67209

(316) 722-6071
(316) 722-6072

November 1, 1982

Jack Galbraith
Metropolitan Area Planning Commission
Wichita-Sedgwick County
455 N. Main
Wichita, Ks 67202

Mr. Galbraith:

Enclosed you will find copies of documents pertaining to our position of equity ownership on the amendment of conditional use permits #CU-133 and CU-33.

The items enclosed are as follows:

1. Warranty deeds being held in escrow
2. Ledger cards of escrow agent reflecting unpaid balance
3. Contract agreement which reflects:
 - (A) Real estate price of \$545,000.
 - (B) United American Bank and Trust to act as escrow agent - Para. 8
 - (C) Provision for payment of \$150,000. to be credited against purchase price of \$545,000.
4. Supplemental agreement reflecting payment of \$150,000- see 3 (c)

To recap the above and the indebtedness to Mr. Eisenring, the current unpaid balance can be arrived at as follows:

	<i>29</i>		<i>56</i>
Price of real estate	545,000.00	<i>316,726</i>	<i>224,074</i>
Payment on October 2, 1982 <i>1978 JLB</i>	150,000.00	<i>87,778</i>	<i>62,222</i>
	395,000.00	<i>228,948</i>	<i>161,852</i>
Installment payments-principal credited	187,622.00	<i>122,727</i>	<i>64,895</i>
January 1979 thru May 1982	207,378.00	<i>121,300</i>	<i>86,073</i>
Unpaid balance		<i>8,000</i>	<i>38,796</i>

This balance does not include an installment payment being held by the Clerk of the District Court, Sedgwick County.

If you have any questions, please call me at 722-6071.

Sincerely,

George Lee

George Lee

*As per
Wichita 115,000 81,874
22,226 36,236*

*% figures reflect
the % of equity held
assuming price*

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT made and entered into as of this 2nd day of October, 1978, by and between

VICTOR B. EISENRING,
hereafter called "Eisenring",

and

FOUNDATION, INC.
hereafter called "Foundation".

WHEREAS, under even date herewith, the parties have entered into a Lease and various Agreements, whereby Eisenring has sold and leased land and equipment to Foundation; and

WHEREAS, the parties desire to supplement the Agreements between them.

NOW, THEREFORE, the following Supplemental Agreement is made:

1. The real estate that Eisenring has agreed to sell to Foundation is encumbered by mortgages recorded in Mortgage Book 1725 at Page 352 and Film 197 at Page 1441. Foundation shall not be required to make any payments on the purchase of said real estate that reduces the balance that it owes Eisenring below the remaining unpaid balance of said mortgages. Eisenring will, from time to time, upon the request of Foundation, cause United American State Bank and Trust Company to furnish Foundation a written document certifying the remaining unpaid balance of said mortgages.

2. Paragraph No. 7 of the Agreement whereby Eisenring has sold certain equipment to Foundation and Paragraph No. 21 of the Agreement whereby Eisenring has


sold Foundation real estate are cancelled.

3. Contemporaneously with the execution hereof, Foundation will pay Eisenring Two Hundred Thousand Dollars (\$200,000.00), One Hundred Fifty Thousand Dollars (\$150,000.00) of which will be applied on the purchase price in the Agreement whereby Eisenring has sold real estate to Foundation and Fifty Thousand Dollars (\$50,000.00) of which will be applied on the purchase price in the Agreement whereby Eisenring has sold Foundation equipment.

4. Eisenring agrees to subordinate his security interest in the equipment listed in Exhibit "A" hereto, in favor of a Security Agreement between Foundation and the First National Bank in Wichita, which shall secure the principal amount of not to exceed Two Hundred Thousand Dollars (\$200,000.00).

5. Except as expressly modified to the contrary herein, said Lease and Agreements are ratified and affirmed.

IN WITNESS WHEREOF, the parties have caused this Supplemental Agreement to be executed as of the day and year first above written.



Victor B. Eisenring

"Eisenring"

FOUNDATION, INC.

By 

"Foundation"

A G R E E M E N T

THIS AGREEMENT made and entered into as of this
2nd day of October, 1978, by and between

VICTOR B. EISENRING,
hereafter called "Seller",

and

FOUNDATION, INC.,
hereafter called "Buyer".

WHEREAS, Seller is the owner of the real estate
described in Exhibit "A" hereto and the improvements located
thereon, hereafter called said Real Estate; and

WHEREAS, Seller desires to sell and Buyer desires to
purchase said Real Estate;

NOW, THEREFORE, the following Agreement is made:

1. Seller represents that he is the owner of said
Real Estate, subject to a Mortgage in favor of the United
American Bank and Trust Company. Seller will make all pay-
ments required by said Mortgage and covenants and warrants
that, when Buyer has fully paid the hereinafter mentioned
purchase price, said Mortgage will be fully paid and re-
leased.

2. Seller agrees to sell and Buyer agrees to
purchase said Real Estate, for a purchase price of Five
Hundred Forty-five Thousand Dollars (\$545,000.00),
payable as follows:

- a) On the 10th days of January, April, July and October of 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986 and 1987, and on the same days of January, April and July of 1988, Buyer shall pay Seller Nineteen Thousand Dollars (\$19,000.00), which shall be applied first to interest and the balance to principal; and
- b) On the 10th day of October, 1988, Buyer will pay Seller the remaining unpaid balance of said purchase price and the interest due thereon.

3. Seller shall convey said Real Estate to Buyer by General Warranty Deeds, free and clear of any and all liens and encumbrances, except as provided in the immediately following paragraph. Said General Warranty Deeds and the hereafter mentioned Abstracts and Title Insurance Policy shall be deposited with the hereafter named Escrow Agent.

4. Seller has heretofore furnished Buyer Abstracts of Title or Title Binders covering said Real Estate. Buyer has examined the same and agrees to accept title to said Real Estate in its present condition, excepting only the above-mentioned Mortgage. As to any part of said Real Estate not covered by Abstracts of Title heretofore furnished to Buyer, a policy of Title Insurance shall be obtained thereon and the cost thereof shall be divided equally between the parties.

5. Buyer shall be given possession of said Real Estate as of the date hereof.

6. Seller shall be responsible for the immediate payment of any Real Estate Taxes due for 1977 and prior years. The 1978 taxes on said Real Estate shall be prorated between the parties as of the date hereof. Taxes on said Real Estate for 1979 and subsequent years shall be timely paid by Buyer.

7. This transaction shall be closed on the 7th day of December, 1978, at the offices of the

Escrow Agent.

8. The United American Bank and Trust Company of Wichita, Kansas, shall act as Escrow Agent hereunder. It shall hold the above-described General Warranty Deeds, Abstracts of Title and Title Insurance Policies and a copy of this Agreement. The above-mentioned annual payments shall be made by Buyer to said Escrow Agent. The Escrow Agent shall promptly disburse such payments to Seller, in such manner as Seller directs.

Upon payment in full of all payments due hereunder, the documents held by the Escrow Agent shall be delivered to Buyer. Upon termination of this Agreement in any manner other than complete performance by Buyer, Escrow Agent shall deliver said documents to Seller.

9. The initial charges of the Escrow Agent shall be divided equally between the parties. Any other charges made by the Escrow Agent shall be paid by Buyer.

10. No assignment or transfer by Buyer of this Agreement or any interest hereunder shall be valid unless and until such assignment or transfer shall first be submitted to and approved in writing by Seller. Seller agrees that such approval shall not be unreasonably or arbitrarily withheld. Notwithstanding any such assignment with Seller's consent, Buyer shall none the less remain responsible to Seller hereunder.

11. IF Buyer fails to perform any obligation or act required of it hereunder for a period of ten (10) days, Seller may give Buyer written notice demanding that Buyer cure such default. If said default is not cured within fifty (50) days after the date of such written notice,

Seller shall have the option of (1) declaring the then unpaid balance of the purchase price due and payable immediately, with interest thereon at the rate of ten percent (10%) per annum, from the time of such declaration until paid, or (2) declaring this Agreement to be terminated, in which event the Escrow Agent shall deliver the documents escrowed with it to Seller, and all payments theretofore made by Buyer to Seller shall be retained by Seller, as liquidated damages and not as a penalty. In such event, Seller shall give Buyer written notice of which option he elects.

12. All notices required or permitted hereunder shall be in writing and shall be sent by Certified Mail, Return Receipt Requested, to Seller at 4900 West 21st Street North, Wichita, Kansas 67212, and to Buyer at 8027 West Kellogg, Wichita, Kansas 67209.

13. In the event that said Real Estate or any part thereof is condemned under the power of eminent domain, the net sum ultimately received for such condemnation shall be paid to the Escrow Agent, who shall credit such amount to the balance due hereunder, and pay the remaining balance, if any, to Buyer.

14. If Seller receives an offer to purchase the one (1) acre of land described in paragraph No. 1 of Exhibit "A" hereto, which Seller desires to accept, he shall give Buyer written notice of such offer and the terms and provisions thereof. For a period of 30 days after the receipt of such notice, Buyer shall have the option of purchasing said one (1) acre on the same terms and conditions contained in said offer.

15. Seller represents that he has the right to operate a sand plant on that portion of the real estate hereby sold to Buyer that is located in Section 2, and, if requested by Buyer, agrees that he will take all reasonable acts necessary to aid and assist Buyer in any undertakings to permit or authorize Buyer to continue to operate a sand plant on said Real Estate.

16. Buyer shall pay any Mortgage Registration Tax arising out of this transaction.

17. Within 20 days from the date hereof, Seller will, at his expense, cause the one (1) acre described in paragraph No. 1 of Exhibit "A" hereto to be surveyed and staked by a reputable Sedgwick County surveyor. A copy of such survey will be furnished to Buyer.

18. At any time after January 1, 1979, Buyer shall have the right to prepay all or any portion of the balance of the unpaid purchase price, but partial payments shall be in amounts of at least One Thousand Dollars (\$1,000.00).

19. Buyer shall not construct any improvements on said Real Estate without Seller's prior written approval, which shall not be unreasonably or arbitrarily withheld.

20. Seller grants Buyer the right to dredge, pump, excavate, and otherwise conduct operations upon said Real Estate, for the stockpiling and removal of sand, gravel and dirt, but all of such operations will be conducted in a careful, prudent and workmanlike manner, and in accordance with all applicable Laws, Resolutions and Ordinances.

21. Contemporaneously with the execution hereof, Buyer will cause the First National Bank in Wichita, Kansas, to deliver to Seller an unconditional Letter of Credit, in

the amount of One Hundred Fifty Thousand Dollars (\$150,000.00). Said Letter of Credit will obligate said Bank, upon the written request of Seller, to pay Seller, from time to time, for a period of _____ months after the date hereof, such amount of money specified in such written request, which shall not, in total, exceed One Hundred Fifty Thousand Dollars (\$150,000.00). Any sums so paid by said Bank to Seller shall be credited against the above-mentioned purchase price, in accordance with the terms and provisions hereof. Notwithstanding anything to the contrary contained in this paragraph, Seller shall not be authorized to request said Bank to pay him more than the then remaining unpaid balance of the purchase price.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

Victor B. Eisenring

"Seller"

FOUNDATION, INC.

By Donald P. Klein

"Buyer"

EXHIBIT "A"

1. The East Half of the Southwest Quarter (E/2 SW/4) of Section 2, Township 27 South, Range 1 West, Sedgwick County, Kansas, excepting one (1) acre located in the Southeast Corner thereof being one hundred sixty-five feet (165') in width (East to West) and two hundred sixty-four feet (264') in depth (South to North).

2. That portion of the Northwest Quarter (NW/4) of Section 11, Township 28 South, Range 1 West, Sedgwick County, Kansas, lying East of the Big Ditch, Cowskin Floodway (Sedgwick County District Court Condemnation Case No. A-30410).

POST

78 121

Escrow Account With **UNITED AMERICAN STATE BANK & TRUST COMPANY** Wichita, Kansas NO. _____

TOTAL PAYMENT 19,002.00 BUYER: FEE SELLER BUYER
 1ST MORTGAGE 2.00
 TO ESCROW 19,000.00 SELLER
 FIRST PAYMENT 1/10/79 INTEREST 7.00%
 Int. Begins 10/2/78

BIG RIVER SAND CO. 722-6071
 FOUNDATION, INC.
 8027 W. Kellogg
 Wichita, Kansas 67209
 EISENRING, Victor B.
 4620 W. 21st St.
 Wichita, Kansas 67212
 SSN# 450-04-5268

Quarterly payments on the 10th of Jan., Apr., July, and Oct. of 1979 thru 1988.
Last payment due of total balance on 10/10/88.

Deposit to Sellers Acct. #31-0055-3 \$395,000.00

ESCROW NO.	PAYMENT	1ST MORTGAGE	FEE	TO ESCROW	INTEREST	PRINCIPAL PAYMENT	DATE	BALANCE
------------	---------	--------------	-----	-----------	----------	-------------------	------	---------

See Posting Schedule in Packet for previous payments.

Last payment made was 4/20/81								Balance: \$265,671.00
	19,002.00			2,000,000.00	381.75	618.25	JUL 15 81	251,052.75
	19,000.00			2,000,998.00	718.42	279.58	OCT 21 81	236,773.17
	19,000.00			2,000,998.00	132.18	665.82	JAN 20 82	221,907.35
	19,000.00			2,000,998.00	468.55	529.45	MAY 5 82	207,377.90

*Another \$19,000 was paid to the
 Clerk of the District Court in Oct.
 4 payments are due each year*

1979 Int. \$27,148.71
 1980 Int. \$23,510.88
 1981 " 19,110.58

Escrow Account With **UNITED AMERICAN STATE BANK & TRUST COMPANY** Wichita, Kansas NO. _____

TOTAL PAYMENT \$ 19,002.00 BUYER FEE SELLER BUYER *Buyer Lester Seiffle*
 BY MORTGAGE 2.00 FOUNDATION, INC. *727 732 607*
 8027 West Kellogg
 Wichita, Kansas 67209

TO ESCROW 19,000.00 SELLER
 Victor B. Eisenring
 4620 West 21st Street
 Wichita, Kansas 67212
450-04-5268

FIRST PAYMENT January 10th, 1979 INTEREST 7.0%
 Interest begins Oct. 2, 1978

Quarterly payments on the 10th of January, April, July and October of 1979 thru 1987 and on the same days of January, April and July of 1988. Last payment of balance due October 10, 1988 plus interest due.

Deposit to 31-0055-3 \$395,000.00

ESCROW NO.	PAYMENT	BY MORTGAGE	FEE	TO ESCROW	INTEREST	PRINCIPAL PAYMENT	DATE	BALANCE
	19,002.00		2.00	000.00	726.85	77.15	JAN 12 79	383,726.85
	19,002.00		2.00	000.00	540.32	459.68	APR 11 79	371,267.21
	19,002.00		2.00	000.00	550.52	449.48	JUL 12 79	358,817.79
	19,002.00		2.00	000.00	330.92	669.08	OCT 12 79	346,148.71
	19,002.00		2.00	000.00	77.15	122.85	JAN 12 80	332,100.00
	19,002.00		2.00	000.00	571.43	428.57	APR 10 80	320,491.38
	19,002.00		2.00	000.00	269.34	730.66	JUL 29 80	307,760.72
	19,002.00		2.00	000.00	898.87	101.13	OCT 20	293,659.59
	19,002.00		2.00	000.00	181.28	818.72	JAN 20 81	279,840.87
	19,002.00		2.00	000.00	830.13	169.87	APR 20 81	265,671.00

1979 Int 27,148.71
1980 Int 23,510.58

WARRANTY DEED (Kansas Statutory Form)

Entered in Transfer Record in my office this _____ day of _____, A. D., 19____ County Clerk.

VICTOR B. EISENRING, a single person,

COPY

CONVEY S AND WARRANTS TO

FOUNDATION, INC.

all the following described REAL ESTATE in the County of Sedgwick and the State of Kansas, to-wit:

The East Half of ~~the~~ Northwest Quarter (E/2 NW/4) of Section 11, Township 28 South, Range 1 West, Sedgwick County, Kansas, lying East of the Wichita - Valley Center Flood Control (Sedgwick County District Court Condemnation Case No. A-30410).

for the sum of One Dollar

EXCEPT AND SUBJECT TO: Easements and restrictions of record, including Right-of-Way granted to Derby Refining Co., Right-of-Way granted to The City Service Gas Company, Easement recorded in Miscellaneous Book 438 at Page 420, Permit recorded in Miscellaneous Book 559 at Page 268, Easement recorded in Miscellaneous Book 559 at Page 276, Indenture of Conveyance to Kansas Gas and Electric Company, Indenture of Conveyance recorded in Miscellaneous Book 581 at Page 452, and Rights, if any are still existing, arising out of conveyance recorded in Miscellaneous Book 79 at Page 10.

Dated December 7th, 1978

[Signature]
Victor B. Eisenring

STATE OF KANSAS, Sedgwick COUNTY, ss

BE IT REMEMBERED, That on this 7th day of December, A. D. 1978, before me, the undersigned, a Notary Public

in and for the County and State aforesaid, came

VICTOR B. EISENRING, a single person,

STATE OF _____ ss.
County, _____
This instrument was filed for record on the _____ day of _____, A. D., 19____, at _____ o'clock _____ M., and duly recorded in book _____ of _____ at page _____
Register of Deeds.
Deputy.
Fees, \$ _____

who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

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

[Signature]
Notary Public.
Term expires December 7, 1980

WARRANTY DEED (Kansas Statutory Form)

Entered in Transfer Record in my office this

day of _____, A. D., 19__

County Clerk.

VICTOR B. EISENRING, a single person,

COPY

CONVEY S AND WARRANTS TO

FOUNDATION, INC.,

all the following described REAL ESTATE in the County of Sedgwick and the State of Kansas, to-wit:

The East Half of the Southwest Quarter (E/2 SW/2) of Section 2, Township 27 South, Range 1 West, Sedgwick County, Kansas, excepting one (1) acre located in the Southeast Corner thereof being one hundred sixty-five feet (165') in width (East to West) and two hundred sixty-four feet (264') in depth (South to North).

for the sum of One Dollar

EXCEPT AND SUBJECT TO: Easements and restrictions of record, including Oil and Gas Lease recorded in Miscellaneous Book 225 at Page 242, Restrictive Covenants recorded in Miscellaneous Book 701 at Page 517, Easement recorded in Film 160 at Page 565, Easement granted to the Board of County Commissioners, Right-of-Way recorded in Miscellaneous Book 98 at Page 226, Right-of-Way recorded in Miscellaneous Book 267 at Page 129 and Lease recorded in Miscellaneous Book 560 at Page 126

Dated December 7th, 1978

Victor B. Eisenring

STATE OF KANSAS, Sedgwick COUNTY, ss

BE IT REMEMBERED, That on this 7th day of December

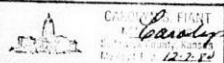
A. D. 1978, before me, the undersigned, a Notary Public

in and for the County and State aforesaid, came

Victor B. Eisenring, a single person,

who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

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



Carolyn S. Grant Notary Public

Term expires December 7, 1980

STATE OF _____ County, ss

This instrument was filed for record on the

_____ day of _____, A. D., 19__

at _____ o'clock _____ M., and duly recorded

in book _____ of _____

at page _____

Register of Deeds.

Deputy.

Fees \$ _____

LAW OFFICES OF
LAMB DIN & KLUGE

DONALD E. LAMB DIN
WILLIAM F. KLUGE, III
JEFFREY C. STURM
ERIC C. SVOBODA
DAVID N. JOHNSON
M. DAVID ZACHARIAS

CHARTERED
836 NORTH MAIN
P. O. BOX 454
WICHITA, KANSAS 67201
316/265-3285

JOAN E. DAMMANN, PLS

November 8, 1982

Mr. Robert Lakin
Director of Planning
W-SCMAPC
City Hall, Tenth Floor
455 North Main Street
Wichita, Kansas 67202

Dear Mr. Lakin:

Please find enclosed a certified copy of the Journal
Entry entered by Judge Anderson on June 30, 1982, in the lawsuit
between Foundation Inc. and Mr. Eisenring.

Please let me know if I can be of further assistance to
you or your office.

Very truly yours,

LAMB DIN & KLUGE, Chartered

David N. Johnson

David N. Johnson

DNJ/jc

Enclosure

RECEIVED

NOV 10 1982

METROPOLITAN PLANNING

REC. _____
L. _____

4. The Defendant, Victor B. Eisenring, shall forthwith remove all barrels containing paint that are presently on the premises.

5. The granting of this temporary restraining order shall not serve to prejudice either party to this action at the time of trial.

IT IS BY THE COURT SO ORDERED.

D. KEITH ANDERSON
KEITH D. ANDERSON
District Court Judge

APPROVED BY:

1st Thomas E. Brown
THOMAS E. BROWN
Attorney for Plaintiff

LAMBDM & KLUGE, Chartered

By: SIGNED BY DONALD E. LAMBDM
DONALD E. LAMBDM
Attorneys for Defendant

Certificate of Clerk of the District Court. The above is a true and correct copy of the original instrument filed on the 26 day of July, 1982 and recorded in this Court of the Eighteenth Judicial District, Sedgewick County, Kansas. Dated this 5 day of Nov, 1982.
Clerk of the District Court
By: Shirley C. Gutierrez



Certificate of Clerk of the District Court. The above is a true and correct copy of the original instrument filed on the 26 day of July, 1982 and recorded in this Court of the Eighteenth Judicial District, Sedgewick County, Kansas. Dated this 5 day of Nov, 1982.
Clerk of the District Court
By: Shirley C. Gutierrez

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

MAFC HEARING DATE: 11-04-82

Case No. CU-258 Request: Conditional Use Permit to allow expansion of sand and gravel operation

Location: North side of 21st Street North in an area 1/4 mile east of Hoover Road.

Reason: To amend CU-133 to permit the extraction of sand and gravel in a configuration different from that originally approved.

Acres: 77.5 Size: 1320' x 2590'

	<u>Land Use</u>	<u>Zoning</u>
Existing	Sand pit, oil well & storage tanks	"R-1"
North	Undeveloped	"R-1"
East	Sand pit and undeveloped	"R-1"
South	Single-family	"R-1"
West	Single-family & wrecking yard	"R-1"

Street right-of-way is adequate.

Platted: No

History: CU-133 Sand and Gravel Extraction 7-22-71 MAPC Approve
8-04-71 BCoC Approve

COMMENTS:

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

The applicant is requesting a Conditional Use Permit to permit the extraction of sand and gravel in a configuration different from that originally approved by the Board of County Commissioners on August 4, 1971, (CU-133) for a tract of land zoned "R-1" Suburban Residential and located on the north side of 21st Street North, 1/4 mile east of Hoover.

An Operational Plan and a "sketch" Redevelopment Plan has been submitted with the application. Although the operational plan appears to be acceptable, the proposed sketch for residential redevelopment fails to take into account lot area requirements of the "R-1" zoning district. It should be pointed out that the area in which subject property is located is not projected for urban development due to the existing high water table and therefore any determination of actual lot size and area would have to be reserved until such time in the future the actual redevelopment and platting of the property occurs.

2. A recommendation of approval by the Planning Commission should be subject to the following recommended conditions:
 1. No 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.
 2. The applicant shall submit a restrictive covenant to the Planning Department, approved as to content by the Flood Control Division and to form by County Counselor, providing for the construction and/or

maintenance of a loop levee around the entire sand-pit, and shall be constructed in accordance with construction specifications, Section 1 through 4 inclusive, and maintenance specifications Sections 1 and 2, of Construction and Maintenance Specifications as prepared by the Maintenance Division of the Department of Public Works of the City of Wichita, Kansas; said covenant shall run with the land and be binding on all owners, successors or assigns.

3. The applicant shall proceed in accordance with the operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks as indicated on the approved plan.
 4. 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 excavation area and plant operation area on no less than 7-foot steel posts, with posts set not more than 16 feet apart. The fence may provide for reasonable access gates installed at the same height and of the same construction as the fence, which gates shall be kept locked except when in use. Such fence and gates shall be a minimum height of 58 inches and shall be of the following types of construction:
 - a. A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - b. A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - c. A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.
- The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.
5. The earth shall be excavated to a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
 6. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than five horizontal to one vertical.
 7. All of the application area outside of the sandpit lake shall be graded so as to drain into the lake.
 8. The sand plant operator shall be responsible for:
 - a. Insuring that the loop levee elevation be maintained.
 - b. That the grading of the area around the perimeter the sandpit lake be maintained so as to direct drainage toward the lake.
 - c. Construction of any structure such as culverts, ditches, ditch checks, riprap, etc., necessary to carry out this plan.
 9. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to County legal counsel, providing that no foreign matter, such as rubbish, trees, car bodies, etc.,

shall be deposited on the application area or within the excavation after approval of the conditional use by the Board of County Commissioners.

10. The natural drainage flow shall be protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office and the County Engineer and shall be according to the specifications and standards of these authorities.
11. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendments thereto.
12. 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.
13. The applicant shall submit 4 revised copies of the operational plan reflecting that excavation shall not occur any closer than 50 feet to the centerline of the 40 foot Phillip's Pipe Line Easement.
14. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
15. The applicant shall comply with Conditions 2, 9 and 13 prior to the publication of the resolution establishing the conditional use.
16. Any violation of conditions attached shall declare the conditional use permit null and void.

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

4100 Maple
Wichita, KS 67209
942-8422

SUBJECT: CU-258 - Request to permit a sand and gravel
extraction on the north side of 21st North,
1/4 mile east of Hoover


DATE: October 25, 1982

TO:
Jack Galbraith, Chief Planner
Metropolitan Area Planning Department

I see no problems with the proposed sand and gravel pit. This is in an area that supports pits.

However, I do hope they have an environmental planting plan for the redevelopment plan. Tree plantings should be started now for screening and improvement of housing sites. Also, the area needs a vegetative cover at all times.

If you have any questions, feel free to contact me.


Larry L. Henry
District Conservationist

RECEIVED
OCT 26 1982
METROPOLITAN PLANNING
ROUTE _____



CU-258 - 25 "Notice to Adjoining Property Owners" mailed 10-21-82 for
the MAPC meeting for -1-4-82.

1 to Ron Worley, Director, County Dept. of Bldg, Plng, & Codes.

26 Total

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1686

October 21, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

This is a notice of a request for a Conditional Use 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. 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 November 4, 1982, 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-258

Conditional Use Permit to Establish a Sand and Gravel
Extraction Operation on Property zoned
"R-1" Suburban Residential District

The east 1/2 of the southwest 1/4, of Section 2, T27S, R1W of the 6th P.M., except the south 50 ft., and except the south 264 feet of the east 156 feet. Generally located on the north side of 21st Street North, 1/4 mile east of Hoover.

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

LAW OFFICES
FETTIS & McCLURE
120 SOUTH MARKET
SUITE 504
WICHITA, KANSAS 67202
316-267-7251

EVERETT C. FETTIS
DAVID R. McCLURE

KEITH M. CURFMAN
OF COUNSEL

October 15, 1982

Mr. Jack Galbraith
Metropolitan Area Planning Commission
City Hall
Wichita, Kansas 67203

Dear Jack:

As you and I discussed yesterday, Foundation, Inc. has filed its application for a conditional use permit to expand its sandpit operation. I think they operate under Big River Sand. They are purchasing this property under a contract from Mr. Eisenring and they are having some disputes. The contract price for the purchase of the property was \$545,000.00. My clients, Foundation, Inc., have paid in sufficient funds to reduce the balance to \$193,377.00. To my knowledge, they are not late or delinquent on any of the payments. I feel that this creates a substantial equity interest for the purchasers.

If I can furnish you with any additional information, please let me know.

Very truly yours,


EVERETT C. FETTIS

ECF/tcp

October 15, 1982

Claud S. Shelor, Director, County Dep't. of Public Works
Larry Henry, {USDA Soil Conservation Service.
 {4100 W. Maple, 67209

Jack H. Galbraith, Chief Planner

CU-258 - Request to permit a sand and gravel extraction
operation on the north side of 21st St. North,
1/4 mile east of Hoover.

A conditional use application has been submitted to our office
requesting approval of a sand and gravel extraction operation
at the above referenced location.

I have enclosed a copy of the operational plan and redevelopment
plan for your information and review. We have scheduled
this case for MAPC consideration on November 4, 1982. We
would appreciate any comments you might have by Monday,
October 25, 1982, so that they can be included in our staff
report.

If you have any questions, please call.

Jack H. Galbraith
Chief Planner

JHG:GLS:el

Enclosure

CU-258

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

map
No. 4
map 5150C

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.

1. 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 Victor B. Eisenring
ADDRESS 4620 W. 21st. St. North 67212 PHONE 943-4372
AGENT _____
ADDRESS _____ PHONE _____

B. APPLICANT Foundation, Inc. - Donald P. Cain, Sr. President *Equity Owner*
Contract Purchaser
ADDRESS 8027 W. Kellogg 67209 PHONE 722-6071

AGENT Everett C. Fettis
ADDRESS 120 So Market One Twenty Building 67202 PHONE 267-7251

C. APPLICANT _____
ADDRESS _____ PHONE _____
ENGINEER Professional Engineering Consultants, P.A. (Gary Wiley)
ADDRESS 1440 E. English 67211 PHONE 262-2691

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

2. a. The applicant proposes to establish a Sand Extraction Operation
(C.U.-133 Amended) (use)
on property legally described as Lot(s) _____
_____, Block(s) _____
of the _____ Addition.

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

OK for
Byrd
S
W R-1
S R-1
E W R-1

The east 1/2 of the southwest 1/4, of Section 2, T27S, R1W of the 6th P.M., except the south 50 ft., and except the south 264 feet of the east 156 feet.

2. b. There are 77.5 acres (round to nearest tenth) in the above described property.

3. THIS PROPERTY IS LOCATED AT (ADDRESS) 4900 W. 21st Street North.
THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

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

OK
B. ON THE North SIDE OF 21st St. North (~~AVE.~~) STREET BETWEEN
1/4 mile ^{east} West of Hoover (~~AVE.~~) STREET AND _____ (~~AVE.~~) STREET.

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

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

To amend CU-133 to permit the extraction of sand and gravel in a configuration different from that originally approved.

6. 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 AT 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.

Foundation, Inc.

BY *Richard D. Chamber* BY _____
AUTHORIZED AGENT (IF ANY) AUTHORIZED AGENT (IF ANY)
President

BY _____ BY _____
AUTHORIZED AGENT (IF ANY) AUTHORIZED AGENT (IF ANY)

BY _____ BY _____
AUTHORIZED AGENT (IF ANY) AUTHORIZED AGENT (IF ANY)

7. OFFICE USE ONLY

This application was received at the Planning Department at 345
(AM, PM) on Oct 12, 1982 (day, month, year). It has been checked and found to be complete and accompanied by required documents and the appropriate fee of \$ 500⁰⁰.

Richard D. Chamber Name
SR Planner Title

OWNERSHIP LIST

<u>Tract</u>	<u>Property Owner</u>
The South $\frac{1}{2}$ of the NW $\frac{1}{4}$ of 2-27-1W exc. a tract beg. 1568 ft. south of the NW corner of the NW $\frac{1}{4}$; then south 531.9 ft.; then east 245.7 ft.; then north 531.9 ft.; then west 245.7 ft. to beg.	E.C. Carp (Deceased) AND ✓ Charles N. Carp, 2700 N. Hoover Rd., 67205 AND ✓ Wallace F. Carp, 2714 N. Hoover, 67205
South $\frac{1}{2}$ of the NE $\frac{1}{4}$ of 2-27-1W	✓ Ken-Win Farms, Inc., c/o Kenneth Ott, Maize, 67101
North $\frac{1}{2}$ of the SE $\frac{1}{4}$ of 2-27-1W	"
That part of the South $\frac{1}{2}$ of the SE $\frac{1}{4}$ of 2-27-1W lying west of the westerly r/o/w line of the Wichita-Valley Center Floodway	D ✓ Victor B. Eisenring, 4700 W. 21st St., 67212
That part of the NE $\frac{1}{4}$ of 11-27-1W lying north & west of the Wichita-Valley Center Floodway	✓ ✓ Drillers Production Co. Inc., 110 N. Market, 67202
That part of the North $\frac{1}{2}$ of the NW $\frac{1}{4}$ of 11-27-1W lying north & east of the Missouri Pacific Railroad r/o/w and lying north & west of the Wichita-Valley Center Floodway, except the West 500 ft. thereof	D ✓ Victor B. Eisenring, 4700 W. 21st St., 67212
The West 500 ft. of the North $\frac{1}{2}$ of the NW $\frac{1}{4}$ of 11-27-1W lying north & east of the Missouri Pacific Railroad r/o/w	X Lloyd B. Stewart, Address Unknown (as trustee) AND ✓ Emily M. Stewart, 2 Parkwood Dr., 67208 (as trustee) AND ✓ ✓ Jack C. Stewart, 2 Parkwood Dr., 67208 (as trustee) AND ✓ ✓ James M. Stewart, 700 Preston Trail, 67230 (as trustee)
South 314 ft. of the East 156 ft. of the East $\frac{1}{2}$ of the SW $\frac{1}{4}$ of 2-27-1W	D ✓ Victor B. Eisenring, 4700 W. 21st St., 67212
East $\frac{1}{2}$ of the SW $\frac{1}{4}$ of 2-27-1W exc. the south 314 ft. of the east 156 ft.	"
East 10 acres of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W exc. the north 440 ft. and except the east 165 ft. thereof	✓ ✓ John F. Petersen, 5228 W. 21st St., 67212
Tract in the SW $\frac{1}{4}$ of 2-27-1W beg. 880 ft. north of the SE corner of said SW $\frac{1}{4}$ of the SW $\frac{1}{4}$; then north 440 ft.; then west 330 ft.; then south 440 ft.; then east 330 ft. to beg.	"

Tract

Property Owner

West 10 acres of the SW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W

✓✓ Elgin M. Gupton & Odessa M. Gupton, 2815 George Washington Blvd., 67210

West 20 acres of the East 30 acres of the SW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W

D Victor B. Eisenring, 4700 W. 21st St., 67212

Tract in the SW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W beg. at the SE corner of said SW $\frac{1}{2}$ of the SW $\frac{1}{2}$; then north 880 ft.; then west 165 ft.; then South 880 ft.; then east 165 ft. to beg.

X Helen M. Peterson, Address Unknown

The East 56.2 ft. of the South 420 ft. of the NW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W exc. the north 40 ft. of the south 230 ft.

✓✓ Richard D. Cook & Peggy L. Cook, 2452 N. Hoover, 67205

East 210 ft. of the West 840 ft. of the south 210 ft. of the NW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W, exc. the north 20 ft. thereof

✓✓ Bruce M. Shepherd & Deborah K. Shepherd, 5333 W. 23rd St. North, 67205

East 105 ft. of the west 525 ft. of the north 210 ft. of the south 420 ft. of the NW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W, exc. the south 20 ft. thereof

✓✓ Gregory Leigh Jamis & Tammy Jo Jamis, 5410 W. 23rd St. North, 67205

East 210 ft. of the west 420 ft. of the south 210 ft. of the NW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W

✓✓ Marvin Kralicek, 5539 W. 23rd St. North, 67205

South 225 ft. of the north 450 ft. of the south 870 ft. of the NW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W

✓✓ Laurence R. Fast & Sherry E. Fast, 2446 N. Hoover, 67205

East 210 ft. of the west 630 ft. of the south 210 ft. of the NW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W

✓✓ Steven J. Grochowsky, 5335 W. 23rd St. North, 67205

South 210 ft. of the west 420 ft. of the East 476.2 ft. of the south 420 ft. of the NW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W, subj. to road on the north 20 ft.

✓✓ Kenny L. Davis & Elaine F. Davis, 5311 W. 23rd St. North, 67205

North 225 ft. of the North 450 ft. of the South 870 ft. of the NW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W

D ✓✓ Richard D. Cook & Peggy L. Cook, 2452 N. Hoover, 67205

North 220.5 ft. of the NW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W

✓✓ Teall Construction Co. Inc., 719 N. St. Francis, 67214

South 225 ft. of the North 445 ft. of the NW $\frac{1}{2}$ of the SW $\frac{1}{2}$ of 2-27-1W

"

Tract

Property Owner

East 210 ft. of the west 840 ft. of the north 210 ft. of the South 420 ft. of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W

✓✓ Ben Otis Parkhurst & Dorothy L. Parkhurst, 5354 W. 23rd St. North, 67205

East 210 ft. of the west 420 ft. of the north 210 ft. of the south 420 ft. of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W

✓✓ Kelley Cast Stone Co. Inc., 7080 W. 29th St. North, 67205

East 105 ft. of the West 630 ft. of the north 210 ft. of the south 420 ft. of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W

✓✓ D.N. Myers & Lanelda Myers, 5400 W. 23rd St. North, 67205

North 210 ft. of the West 420 ft. of the east 476.2 ft. of the South 420 ft. of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of 2-27-1W

Ida Heck (Deceased)

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We hereby certify the foregoing to be a true and correct list of the property owners within a 1,000 foot radius of

The East half of the Southwest Quarter of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the South 314 feet of the East 156 feet thereof

as shown by the last deed of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 7th day of October, 1982 at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Stalle
Vice-President

Order No. 313285
GE

FORM 29-C

PAYMENT NOTICE
City of Wichita

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

DESCRIPTION		AMOUNT
NAME		
ADDRESS		
FUND	DUE DATE	
COMMENTS		
DATE	BY	

*

This CU File

Has a Large Drawing

On 35mm Microfilm.

Roll # 1

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