

POSTED 2-5-85 KX
open files #1 VII

601 LOTS 1-2 1/4 AC PM RV 4 B
CCA 33666 + 200 day
601 LOTS 1-2 1/4 AC RV 4 B 000Z
CC A-53666 + 200 day

CU-277 - Roy B. & Mildred L. Robertson
request conditional use permit to estab-
lish a sand and gravel extraction opera-
tion on the 6600' blk. of N. Ridge Road.
(west side of ridge)

ACTION

DATE

COMMITTEE

M.A.P.C. Approved sent to 2/21/85
conditional

~~B.C.C.~~ B. CO. C. Referred 3. sub 3-20-85

B. Co. C. Approved on 4-10-85
recommended grant term limit
was changed to 7 years.

0955A

Map No. 4955 A
Sec. _____
Twp. _____
Range _____

DATA SHEET
(ZONING & CONDITIONAL USE)

Z- _____
SCZ- _____
CU- 277
Filed 12-28-84

ASSOCIATED CASE: _____

APPLICATION DATA: From _____ to _____

1. Applicant: Roy B. and Mildred L. Robertson
Address 816 English Court, Derby KS. 67037 Phone 788-2593 or 722-0148
2. Agent: William L. Korber
Address 330 Laura, Wichita, KS. 67211 Phone 262-7271
3. General Location: In the 6600 block of North Ridge Road on the west side of Ridge Road
4. Proposed Use: _____

AREA DATA:

1. Acres: 66 (_____ ft. by _____ ft.)
2. Adjoining Zoning: E "R" S "R" W "R" N "R"
3. Land Use: East _____ South _____
West _____ North _____
4. Sketch Plan Land Use is for: _____
5. Present Land Use is for: _____
6. Area (is) (is not) platted.

PROCEDURE DATA:

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

Date	Action
2-21-85	Approved sub to conditions

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

Date	Action	Ordinance Resolution
3-20-85	Deferred 3 weeks	
4-10-85	Approved as requested except that term limited from 4 years to 2 years	

NOTES:

Map No. 4955 A
Sec. _____
Twp. _____
Range _____

DATA SHEET
(ZONING & CONDITIONAL USE)

Z- _____
SCZ- _____
CU- 277
Filed 12-28-84

ASSOCIATED CASE: _____

Wilson Lake 722-9939

APPLICATION DATA: From _____ to _____

1. Applicant: Roy B. and Mildred L. Robertson
Address 816 English Court, Derby, KS. 67037 Phone 788-2593 or 722-0148
2. Agent: William L. Korber
Address 350 Laura, Wichita, KS. 67211 Phone 262-7271
3. General Location: In the 6600 block of North Ridge Road on the west side of Ridge Road.
4. Proposed Use: _____

AREA DATA:

1. Acres: 66 (1220' (IRREGULAR) ft. by 2640' ft.)
2. Adjoining Zoning: E "RR" S "RR" W "RR" N "RR"
3. Land Use: East SANDPIT / RIVER South FARM OPERATIONS
West DRIVE, LANDING STRIP North RECREATIONAL LAKE / RIVER
4. Sketch Plan Land Use is for: _____
5. Present Land Use is for: _____
6. Area (is) (is not) platted. _____

PHOTO DATA:

Taken by (Signature) Date 2-13-85 Time 1:30



BCC
March 23

RE: AGENDA ITEM NO. 4

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

40

CU-277 - Conditional use for a sand and gravel extraction operation.
Generally located on the west side of Ridge Road approximately 1/2 mile north of 61st Street North.

56

MAPC HEARING DATE: 2-21-85

Acres: 66

Size: 1220' x 2640' (irregular)

Reason: To establish a sand and gravel extraction operation.

	Land Use	Zoning
Existing	Agriculture/undeveloped	"R-1"
North	Wilson's Lake/Arkansas River	"R-1"
East	Private recreational area (CU-268)	"R"
South	Farm houses and agriculture	"R"
West	Agriculture and drag strip	"R"

History: None

abck

Applicant: Roy B. & Mildred L. Robertson, 816 English Court, Derby 67037

Roy Robertson - 5 year adequate -

COMMENTS:

1. The applicant is requesting a conditional use permit to establish a sand and gravel extraction operation on approximately 66 acres of unplatted land zoned "R-1" Suburban Residential and located on the west side of Ridge Road approximately 1/2 mile north of 61st Street North. The Arkansas River borders the property to the north. The land to the south and west is in agricultural use with the land to the east containing a privately-owned outdoor recreational area (CU-268). Wilson's Lake Recreation area lies directly to the north.
2. The applicant has submitted an operational and redevelopment plan indicating limits of excavation, approximate shore line and lotting arrangements around the lake. The plan does not show access roads, plant operation area or the limits of stockpiling sand and gravel.
3. The County Department of Public Works has indicated that Ridge Road is a FAS route. They recommend that 20 feet of additional right-of-way be dedicated on the south 440± feet for the standard 60 feet of half-street right-of-way for FAS roads.
4. Should the Planning Commission recommend approval of this request, it should be approved subject to the following conditions:
 - a. The applicant shall dedicate by separate instrument 20 feet of half-street right-of-way for the south 440± feet of Ridge Road.
 - b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation.
 - c. The applicant shall provide one of the following:
 - 1) Submittal of appropriate soil studies performed by a qualified soil engineer that would determine the safe distance between the Arkansas River Levee and the proposed excavation, or



- 2) Construction of a loop levee around the sand pit to match the elevation of the existing river levee. In this case, the loop levee could be constructed with waste material on site as the sand pit operation progresses.

If a loop levee is utilized, the applicant shall submit a loop levee covenant guaranteeing construction of a loop levee to the height of the adjacent Arkansas River levee. Construction on this levee shall start as soon as the sand and gravel operation begins. The covenant shall provide for the construction and/or maintenance of a loop levee on the premises at such a location as the Flood Control Office 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 City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors, or assigns.

- d. As the excavation operation will be within 1000 feet of a flood control works, the applicant shall obtain a permit from the County Engineer as required by K.S.A. 19-3309.
- e. The applicant shall revise the operational plan identifying the location of the loop levee if proposed access roads, plant operation area and limits of stockpiling of sand and gravel. Five copies of the revised operational plan shall be submitted to the Planning Department.
- f. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or within 50 feet of any property line.
- g. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), 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:
 - (1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - (2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - (3) A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

- h. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- i. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.

- j. 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.
 - k. All slopes ^{including the bog level} 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.
 - l. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
 - m. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing soil.
 - n. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
 - o. The applicant shall be limited to two openings onto Ridge Road. This shall be labeled on the revised plan.
 - p. 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.
 - q. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand and gravel excavation operation.
 - r. The applicant shall comply with conditions a, b, c, d, and e prior to the publication of the resolution establishing the conditional use.
 - s. Any violation of conditions attached shall declare the conditional use permit null and void.
-
- t. The sand and gravel extraction operation shall cease operating by the date which is five years from County Commission approval of this conditional use permit, unless a new conditional use permit is applied for and granted.

Jim Nickerson - lives directly south

Clyde Nickerson - owns home on east side &
28 acres on the south.
Cattle lot last 14 years.
Has seen water 3' deep.
Dirt, dust, blowing and the
roadcut -
Dike around the entire site -

George ^{Boring} Boring. Vice President of the FO of P
- dust and the dirt wind.
- Noise and hours of operation -
-

Helen Simon - Farm home to the
south.

Protect Letter



SEDGWICK COUNTY, KANSAS
DEPARTMENT OF PUBLIC WORKS

1200 S. SENECA
WICHITA, KANSAS 67213-4496
(316) 268-1901

TO: Chris Breitenstein, P.E.
City Engineer's Office

FROM: Jim Weber, Engineer *JW*

DATE: September 30, 1985

SUBJ: Permit for Excavation Adjacent to
Flood Protection Works for CU-277

Enclosed please find one copy of Addendum #1 to the Study of Subsurface Water Inflow for Sand Pit in NE $\frac{1}{4}$, Section 9, T26S, R1W, Sedgwick County, Kansas. This addendum has been submitted by Mr. Roy Robertson as justification for issuance of a revised permit for excavation per K.S.A. 19-3309.

On August 12, 1985, this office issued a permit allowing excavation up to a point 500 feet from the landside toe of the levee. Mr. Robertson has requested a new permit to allow excavation up to a point 350 feet from the centerline of the levee. Please review the addendum and contact the Corps of Engineers if their approval is required.

Upon receipt in writing of your approval and/or Corps of Engineers approval, we will issue the new permit. If you require additional information or copies, please contact me at this office.

JW/sd

cc: Louise Olivarez, MAPD

enclosure





Addendum #1
Study of Subsurface Water Inflow
Sand Pit
NEE, Section 9, T26S, R1W
Sedwick County, Kansas
for
Mr. Roy D. Robertson
Derby, Kansas

ENGINEERING TESTING COMPANY
535 North Washington
Wichita, Kansas

RECEIVED

SEP 26 8 29 AM '05

BUREAU OF
PUBLIC SERVICES





Addendum #1
Study of Subsurface Water Inflow
Sand Pit
NE $\frac{1}{4}$, Section 9, T26S, R1W
Sedgwick County Kansas
for
Mr. Roy B. Robertson
Derby Kansas



ENGINEERING TESTING COMPANY

535 North Washington / (316) 265-8553
P. O. BOX 2391 / WICHITA, KANSAS 67201

ORVAL W. DANIELS
REGISTERED PROFESSIONAL ENGINEER

R. A. ROTHHAMMER
GEOLOGIST

September 5, 1985

Mr. Roy Robertson
816 English Court
Derby, Kansas 67037

Laboratory Number 171742

Dear Mr. Robertson:

I have prepared Addendum #1 to the Study of Subsurface Water Inflow for Sand Pit in the northeast quarter of Section 9, Township 26 South, Range 1 West, Sedgwick County, Kansas. The north limit of excavation was assumed to be 350 feet south of the centerline of the Flood Control Levee. My calculations for this condition are attached hereto:

Respectfully submitted,
ENGINEERING TESTING COMPANY


Orval W. Daniels, P.E.

OWD:1b



Addendum #1
Study of Subsurface Water Inflow
for
Sand Pit

NE $\frac{1}{4}$. Section 9, T26S, R1W
Sedgwick County Kansas

for
Mr. Roy B. Robertson
Derby Kansas

by
Orval W. Daniels, P.E.



Addendum #1 to the Study of Subsurface Water Inflow for the Sand Pit in the northeast quarter of Section 9, Township 26 South, Range 1 West, Sedgwick County, Kansas, has been prepared to calculate the water inflow if the north side of the sand pit excavation was 350 feet south of the centerline of the Flood Control Levee. This location is shown by Figure #1 as changed. The south side of the sand pit excavation was left as originally shown.

Changing the north boundary of the sand pit affects the area of the water surface of the sand pit and the length of flow lines #7 through 16A. The average area of the water surface at each elevation is shown by Table V. The lengths of the flow lines and the values for N_f/N_d are shown by Table IV. In the determination of the lengths of the flow lines, the distances from water to water at the ground

surface has been used for the flow line lengths without corrections for the slope of the sides of the sand pit or Wilson Lake and the Arkansas River. This results in shorter flow line lengths which is conservative.



The quantity of water flowing into the sand pit may be calculated by the expression $Q = 200 h k N_f/N_d$; where:

h = the differential water head in feet

$k = 10.91 \times 10^{-2}$, the average coefficient of permeability

$N_f = 36.8$ feet, the depth to the day or clayey sand stratum

N_d = the length of the flow line

200 feet = the distance between the flow lines.

The values for N_f/N_d are calculated for each flow line, are totaled in Table IV and the sum equals .8289. The rate of flow at any head equals $Q = 18.08 h$.

The quantity of water flowing into the sand pit, the volume of the sand pit between each foot of elevation, the time for the water to rise each one foot interval and the total time for the water to rise to elevation 1,350 feet are shown by Table VI. The surface of the water will rise to elevation 1344 feet after a time interval of 7.393 days which is 6 feet below the existing ground surface. The water would not overflow the sand pit for 32.654 days.

Because of the increase in the volume of the sand pit is greater in proportion than the increased flow due to the shortening of the flow lines on the north side of the sand pit, the proposed sand pit with the north side 350 feet

south of the centerline of the flood control levee will fill slower than a sand pit as originally proposed. To maintain a condition of inflow during excavation that will not materially exceed the conditions that exist for the completed excavation, the excavation should be started near the south side of the sand pit. The excavation should be continued as a round or nearly square excavation until the excavation is the full width of the sand pit. At that point, the sand pit excavation may be extended east west to the indicated size. To reduce the inflow, it is necessary to excavate a sand pit with the largest area possible with smallest perimeter. This area to perimeter ratio is greatest for a circle and is good for a square.



The completed sand pit extending to within 350 feet of the centerline of the Flood Control Levee and extending south to the original line will not overfill during a design flood of 7 day duration.

Respectfully submitted,
ENGINEERING TESTING COMPANY

Orval W. Daniels
Orval W. Daniels, P.E.



Sand Pit Extending to Within 350 feet of Centerline of Flood Control Levee

Flow Line	Straight Section (Feet)	Circular Radius (Feet)	Section Circumference (Feet)	Degrees	Circular Length (Feet)	Total Length, N_d (Feet)	N_f/N_d
1	1570	1000	3142	153	1335	2905	.0127
2	1440	800	2513	151	1054	2494	.0147
3	1300	600	1884	157	822	2122	.0172
4	1160	400	1257	157	548	1708	.0215
5	1050	200	628	158	276	1326	.0277
6	900					900	.0408
7	570					570	.0646
8	640					640	.0575
9	750					750	.0491
10	950					950	.0387
11A	1140					1140	(.0322)
						Average	.0366
11B	900					900	(.0409)
12	510					510	.0722
13	510					510	.0722
14	610					610	.0603
15	480					480	.0767
16A	500					500	(.0736)
						Average	.0498
16B	1410					1410	(.0261)
17	1750					1750	.0210
18A	1850					1850	(.0199)
						Average	.0200
18B	1800	50	157	95	41	1841	(.0200)
19	1840	200	628	105	183	2023	.0182
20	1900	400	1257	95	332	2232	.0165
21	1970	600	1884	94	492	2462	.0149
22	2050	800	2513	96	670	2720	.0135
23	2120	1000	3142	93	812	2932	.0125

Total $N_f/N_d = .8289$

Table IV

Sand Pit Extending to Within 350 feet of Centerline of Flood Control Levee

Average Area of Sand Pit

Elevation (Feet)	Length (Feet)	Width (Feet)	Area (Square Feet)	Average Area (Square Feet)
1350	1900	566	1,076,400	
1349	1890	556	1,050,840	1,063,620
1348	1880	546	1,026,480	1,038,660
1347	1870	536	1,002,320	1,014,400
1346	1860	526	978,360	990,340
1345	1850	516	954,600	966,480
1344	1840	506	931,040	942,820
1343	1830	496	907,680	919,360
1342	1820	486	884,520	896,100
1341	1810	476	861,560	873,040
1340	1800	466	838,800	850,180

Table V

Sand Pit Extending to Within 350 feet of Centerline of Flood Control Levee

Quantity and Time Calculations

Final Water Elevation in Pond (Feet)	Average Head Differential (h) (Feet)	Volume of Water cubic feet/minute $Q_t = 18.08h$	Average Area of Pond (Square Feet)	Time for 1 Foot Rise (Minutes)	Time for 1 Foot Rise (Days)	Cumulative Time For Water Rise (Days)
1341						
		Initial Water Elevation				
1342	15.03	271.7	873,040	3213	2.231	2.231
1343	14.03	253.7	896,100	3532	2.453	4.684
1344	13.03	235.6	919,360	3902	2.709	7.393
1345	12.03	217.5	942,820	4335	3.010	10.403
1346	11.03	199.4	966,480	4847	3.366	13.769
1347	10.03	181.3	990,340	5462	3.793	17.562
1348	9.03	163.3	1,014,400	6212	4.314	21.876
1349	8.03	145.2	1,038,660	7153	4.967	26.843
1350	7.03	127.1	1,063,620	8368	5.811	32.654

Table VI



SEDGWICK COUNTY, KANSAS
DEPARTMENT OF PUBLIC WORKS

CLERK: RENEE DA
WILSON, KANSAS REGISTERED
1070 1/2 9TH ST.

October 25, 1985

Roy B. Robertson
Wilson Lake, Inc.
RR #3 - Box 110
Valley Center, KS 67147

Dear Mr. Robertson:

Re: Permit for Excavation Adjacent
to Flood Protection Works for CU-277

Enclosed please find a copy of the above referenced permit. As noted in the permit, you are authorized to excavate up to a point 350 feet from the centerline of the Arkansas River Levee. This is a revised version of the permit issued to you on August 12, 1985, and is intended to allow full development of your sandpit as outlined in CU-277.

Sincerely,

James Weber
Engineer

JW/sd

cc: Louise Olivarez, NADP/
Chris Breitenstein, P.E., City Engineer's Office

enclosure

RECEIVED

OCT 28 1985

METROPOLITAN PLANNING

ROUTE

SEDGWICK COUNTY BUREAU OF PUBLIC SERVICES
PERMIT FOR EXCAVATION ADJACENT
TO FLOOD PROTECTION WORKS

Whereas, Roy B. and Mildred L. Robertson have requested a Conditional Use Permit to operate a raw materials extraction operation on the following described property:

That part of Government Lots 1 and 2 that lie South of the Arkansas River Flood Control tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the Northeast Quarter of Section 9, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas; and

Whereas, the above referenced raw materials extraction operation will be located within 1,000 feet of the centerline of a flood control works constructed under the provisions of Chapter 19, Article 33 of the Kansas Statutes Annotated; and

Whereas, the County Engineer of Sedgwick County, Kansas, concurs with the findings of the Wichita - Sedgwick County Flood Control Office that under the conditions outlined below, the proposed excavation will not be detrimental to nor will it impair or endanger the function of the Wichita/Valley Center Flood Control Project;

Now, Therefore, under authority of K.S.A. 19-3309, I hereby issue a permit for said extraction operation provided that no excavation will be permitted within 350 feet of the centerline of the Arkansas River Levee.


David C. Spears, P.E., Director,
Bureau of Public Services/County Engineer

Date October 25, 1985

cc: Applicant
MAPD
CU-277

October 23, 1985

Mr. Jim Weber
Bureau of Public Services
Sedgwick County
1250 South Seneca
Wichita, Kansas 67213-4498

Dear Jim:

The Corps of Engineers does not desire to review Mr. Robertson's proposal for excavation adjacent to Levee "C".

Therefore, please consider this letter approval for excavation adjacent to Flood Protection Works for Conditional Use-277.

Yours truly,



Chris J. Breitenstein, P.E.
Civil Engineer III

CJB:gr

cc: Louise Olivarez, Senior Planner, MAPD ✓

RECEIVED

OCT 24 1985

METROPOLITAN PLANNING
ROUTE _____



SEDGWICK COUNTY, KANSAS
DEPARTMENT OF PUBLIC WORKS

SEDGWICK COUNTY
DEPARTMENT OF PUBLIC WORKS
1000 WEST 10TH AVENUE, SUITE 100
WICHITA, KANSAS 67202

TO: Chris Breitenstein, P.E.
City Engineer's Office

FROM: Jim Weber, Engineer *JW*

DATE: October 15, 1985

SUBJ: Permit for excavation Adjacent to
Flood Protection Works for CU-277

Enclosed please find four (4) copies of the Addendum #1 to the Study of Subsurface Water Inflow for Sand Pit in NE $\frac{1}{4}$, Section 9, T26S, R1W, Sedgwick County, Kansas. These copies have been submitted by Mr. Roy Robertson for submittal to the Corps of Engineers per your request on October 2, 1985.

JW/sd

cc: Louise Olivarez, MAPD

enclosures

RECEIVED

OCT 16 1985

METROPOLITAN PLANNING

ROUTE _____



SEDGWICK COUNTY, KANSAS
DEPARTMENT OF PUBLIC WORKS

RECEIVED

OCT 02 1985

METROPOLITAN
ROUTE UNDERSTATE
 061040002

TO: Chris Breitenstein, P.E.
City Engineer's Office

FROM: Jim Weber, Engineer *JW*

DATE: September 30, 1985

SUBJ: Permit for Excavation Adjacent to
Flood Protection Works for CU-277

Enclosed please find one copy of Addendum #1 to the Study of Subsurface Water Inflow for Sand Pit in NE $\frac{1}{4}$, Section 9, T26S, R1W, Sedgwick County, Kansas. This addendum has been submitted by Mr. Roy Robertson as justification for issuance of a revised permit for excavation per K.S.A. 19-3309.

On August 12, 1985, this office issued a permit allowing excavation up to a point 500 feet from the landside toe of the levee. Mr. Robertson has requested a new permit to allow excavation up to a point 350 feet from the centerline of the levee. Please review the addendum and contact the Corps of Engineers if their approval is required.

Upon receipt in writing of your approval and/or Corps of Engineers approval, we will issue the new permit. If you require additional information or copies, please contact me at this office.

JW/sd

cc: Louise Olivarez, MAPD/

enclosure

September 10, 1985

Mr. Roy B. Robertson
816 English Court
Derby, Kansas 67037

RE: CU-277

Dear Mr. Robertson:

Please find enclosed a copy of the recorded restrictive covenant and a copy of the signed resolution for your sand pit conditional use case on north Ridge Road. These are for your information and files as you requested.

Sincerely,

Louise Olivarez
Senior Planner

LO:blw

Enclosures

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: September 4, 1985

TO: CU-277 File
FROM: Louise Olivarez
SUBJECT: Publication of resolution

On August 14, 1985, we received a copy of the permit issued by the County Engineer authorizing Roy Robertson's sand pit. The cover memo referenced a possible "revised soil study" which made me wonder if the original soil study had been completed. I asked Jim Weber about this and he said that yes, a soil study had been submitted. I asked him if it was now ok to publish the resolution. He said ~~he would like to review the wording of the resolution~~ and let me know. I sent a copy of the resolution to him on August 15th when he came to the Subdivision Committee meeting.

On August 21st I called to ask Jim if he thought item "c" of the resolution had been completed so I could publish the resolution. He said that based on the way it was worded, he would have to say it was ok to publish but he really would like for Robertson to turn in a loop levee covenant which states that a levee will be constructed if determined necessary. Weber said he was going to be talking with Robertson in a few days and he would try to get him to submit the covenant. I told Jim I would check back with him in a few days to see what he and Robertson were able to agree on.

On August 26th, Weber said he was still working with Robertson to get a levee covenant but that I could go ahead and publish the resolution. I called the Daily Reporter on August 26th to pick up the resolution for publishing.

Robertson called twice during this time I was working with Weber to ask if he had done everything he needed to do in order for the resolution to be published. He asked for a copy of the published resolution and of the recorded restrictive covenant which he submitted prior to BCOC.


Louise Olivarez
Senior Planner

LO:blw

Published in The Daily Reporter on August 29, 1985

RESOLUTION NO. 116-1985

CASE NO. CU-277

A RESOLUTION TO ESTABLISH A SAND AND GRAVEL EXTRACTION OPERATION IN THE "R-1" SUBURBAN RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION 1. That after receiving a recommendation from the 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 17.C of the Zoning Regulations, a Conditional Use Permit to establish a sand and gravel extraction operation in the "R-1" Suburban Residential District is hereby approved on the lands legally described as follows:

That part of Lots 1 and 2 that lie South of the Arkansas River Flood Control tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the Northeast Quarter of Section 9, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, Generally located in the 6600 block of North Ridge Road on the west side of Ridge Road.

SUBJECT TO THE FOLLOWING:

- ✓ a. The applicant shall dedicate by separate instrument 20 feet of half-street right-of-way for the south 440+ feet of Ridge Road.
- ✓ b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation.
- c. The applicant shall provide one of the following:
 - 1) Submittal of appropriate soil studies performed by a qualified soil engineer that would determine the safe distance between the Arkansas River Levee and the proposed excavation, or
 - 2) Construction of a loop levee around the sand pit to match the elevation of the existing river levee. In this case, the loop levee could be constructed with waste material on site as the sand pit operation progresses.

If a loop levee is utilized, the applicant shall submit a loop levee covenant guaranteeing construction of a loop levee to the height of the adjacent Arkansas River levee. Construction on this levee shall start as soon as the sand and gravel operation begins. The covenant shall provide for the construction and/or maintenance of a loop levee on the premises at such a location as the Flood Control Office 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 City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors, or assigns.

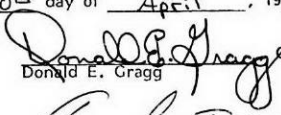
- ✓ d. As the excavation operation will be within 1000 feet of a flood control works, the applicant shall obtain a permit from the County Engineer as required by K.S.A. 19-3309.
 - ✓ e. The applicant shall revise the operational plan identifying the location of the loop levee if proposed access roads, plant operation area and limits of stockpiling of sand and gravel. Five copies of the revised operational plan shall be submitted to the Planning Department.
 - f. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or within 50 feet of any property line.
 - g. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), 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:
 - 1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - 2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - 3) A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.
- The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.
- h. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
 - i. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
 - j. 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.
 - k. All slopes including the loop levee 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.

- l. All of the area outside of the sandpit lake shall be graded so as to drain into the lake unless the loop levee is constructed, in which case only the area inside of the levee will be required to drain into the lake.
- m. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing soil.
- n. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- o. The applicant shall be limited to two openings onto Ridge Road. This shall be labeled on the revised plan.
- p. 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.
- q. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand and gravel excavation operation.
- r. The applicant shall comply with conditions a, b, c, d, and e prior to the publication of the resolution establishing the conditional use.
- s. Any violation of conditions attached shall declare the conditional use permit null and void.
- t. The sand and gravel extraction operation shall cease operating by the date which is seven years from County Commission approval of this conditional use permit unless a new conditional use permit is applied for and granted.

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 Commission.

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 10th day of April, 19 85.


Donald E. Cragg

Chairman


Lom Scott

Commissioner


Bernard A. Heinzen

Commissioner

002693



Donna M. Wright
Donna M. Wright, County Clerk

Approved as to form by County Counselor

William D. Rustin
William D. Rustin, County Counselor



SEDEWICK COUNTY, KANSAS
DEPARTMENT OF PUBLIC WORKS

August 13, 1985

Roy B. Robertson
Wilson Lake, Inc.
RR #3 - Box 110
Valley Center, Ks 67147

Dear Mr. Robertson:

Re: Permit for Excavation Adjacent
to Flood Protection Works for CU-277

Enclosed please find a copy of the above referenced permit. As noted in the permit, you are authorized to excavate up to a point 500 feet from the landside toe of the Arkansas River Levee. As discussed in our phone conversation last week, a new permit may be issued for a lesser distance based on a revised soil study, approval by the City of Wichita, and approval by the Corps of Engineers.

If you have any questions concerning this permit or issuance of a revised permit please, call me.

Sincerely,

James Weber
Engineer

JW/sd

cc: Louise Olivarez, MAPD
Chris Breitenstein, P.E., City Engineer's Office

enclosure

RECEIVED

AUG 14 1985
METROPOLITAN PLANNING
ROUTE _____

SE~~W~~ICK COUNTY BUREAU OF PUBLIC SERVICES

PERMIT FOR EXCAVATION ADJACENT

TO FLOOD PROTECTION WORKS

Whereas, Roy B. and Mildred L. Robertson have requested a Conditional Use Permit to operate a raw materials extraction operation on the following described property:

That part of Government Lots 1 and 2 that lie South of the Arkansas River Flood Control Tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the Northeast Quarter of Section 9, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas; and

Whereas, the above referenced raw materials extraction operation will be located within 1,000 feet of the centerline of a flood control works constructed under the provisions of Chapter 19, Article 33 of the Kansas Statutes Annotated; and

Whereas, the County Engineer of Sedgwick County, Kansas, concurs with the findings of the Wichita - Sedgwick County Flood Control Office that under the conditions outlined below, the proposed excavation will not be detrimental nor will it impair or endanger the function of the Wichita/Valley Center Flood Control Project;

Now, Therefore, under authority of K.S.A. 19-3309, I hereby issue a permit for said extraction operation provided that no excavation will be permitted within 500 feet of the landside toe of the Arkansas River Levee.


David C. Spears, P.E., Director,
Bureau of Public Services/County Engineer

Date August 12, 1985

cc: Applicant
MAPD
CU-277

RECEIVED

AUG 03 1985

METROPOLITAN PLANNING

ROUTE

August 7, 1985

Mr. David C. Spears, P.E., Director
Bureau of Public Services/County Engineer
Sedgwick County
1250 South Seneca
Wichita, Kansas 67213

Attention: Jim Weber

Subject: Wilson Lake Property

Dear David:

Please consider this approval for excavation on the Wilson Lake Property at 69th Street North and Ridge Road.

This approval is only for excavation in an area beyond 500 feet from the landside toe of the levee. Approval for excavation within 500 feet of the levee will require Corps of Engineers' approval.

If you have any further questions, please feel free to contact me at 268-4235.

Yours truly,



Chris J. Breitenstein, P.E.
Civil Engineer III

CJB:gr

cc: Louise Olivarez, Senior Planner, MAPD ✓

RESTRICTIVE COVENANTS

ROY B. ROBERTSON & MILDRED L. ROBERTSON do hereby make the following declaration as to restrictions, limitations and use of the following described real estate:

That part of Lots 1 and 2 that lie South of the Arkansas River Flood Control tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the Northeast Quarter of Section 9, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas.

which said Declaration shall constitute covenants running with said land and shall be binding upon all owners and their successors, assigns and heirs;

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

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

IN WITNESS WHEREOF, this Restriction has been executed on the 5 day of March, 1985.

STATE OF KANSAS } SS
SEDGWICK COUNTY }
FILED FOR RECORD AT
1:00 PM

MICROFILMED
OF RECORD

Roy B. Robertson
Roy B. Robertson

APR 17 1985
NO. 7 41455
PAT KETTLER
REGISTER OF DEEDS

Ed Brown
Register

Mildred L. Robertson
Mildred L. Robertson

STATE OF KANSAS)
SEDGWICK COUNTY } SS

The foregoing instrument was acknowledged before me this 5 day of March, 1985, by Roy B. Robertson and Mildred L. Robertson.

ROBERT L. WHITE
NOTARY PUBLIC
State of Kansas

Robert L. White
Notary Public.

My Appointment Expires July 17, 1987

cc to file building 7-10-85

5.00

City Clerk

4-11-85

Conditions a, b, & e
have been complied
with. Need to obtain
9-12-85 ✓ permit from County
Engineer and provide
info on soils (or submit loop
levee covenant) prior to
publication of resolution.

April 12, 1985

Ron Worley, County Zoning Administrator

Louise Olivarez, Senior Planner

CU-277: Conditional Use Permit for sand pit in the 6600 block of North Ridge Road.

On April 10, 1985, the Board of County Commissioners approved a conditional use permit to establish a sand and gravel extraction operation in the "R-1" suburban residential district on North Ridge Road. The operation is not to begin until a permit is obtained from the County Engineer as required by K.S.A. 19-3309 and until the applicant either provides information from a qualified soils engineer that would determine the safe distance between the Arkansas River Levee and the proposed excavation or submits a loop levee covenant guaranteeing construction of a loop levee to the height of the adjacent levee. The excavation operation is to cease by April 10, 1992, unless a new conditional use permit is applied for and granted.

Attached for your files are two copies of the proposed operational and redevelopment plan for this site. If you have any questions about the provisions of this conditional use permit, please call.

Louise Olivarez
Senior Planner

LO:blw

Attachments

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

April 11, 1985

TO: Donald C. Gisick, City Clerk
FROM: Louise Olivarez, Senior Planner
SUBJECT: CU-277: Recording of Restrictive Covenant

The Metropolitan Area Planning Commission has processed a conditional use permit for a sand pit at a site in the county on north Ridge Road. One of the requirements of approval was submission of a restrictive covenant prohibiting the deposit of foreign matter in the sand pit. Such a covenant has been submitted and needs to be recorded.

Attached is the restrictive covenant. Please record it with the Register Deeds and charge the recording cost to the Planning Department account.

Sincerely,

Louise Olivarez
Senior Planner

LO:blw

Attachment

March 21, 1985

Roy B. Robertson
816 English Court
Derby, Kansas 67037

Re: CU-277 - Permit to Establish sand
and gravel extraction operation

Dear Mr. Robertson:

At its meeting of March 20, 1985, the Board of County Commissioners considered the above-captioned case. Their action was to defer this request for reconsideration in three weeks.

Based on this action, subject case will be scheduled for consideration by the Board of County Commissioners at its regular meeting of April 10, 1985, at 9:00 a.m., in Room 320, Sedgwick County Courthouse, 525 North Main, Wichita, Kansas.

If you have any questions, please call.

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:blw

cc: William L. Korber, Baughman Co., P.A., 330 Laura, Wichita, KS. 67211
Jim Nicholson, 6501 North Ridge Road, Wichita, KS. 67205
Clyde Nicholson, #1 North Tyler Road, Wichita, KS. 67212
George Bloesing, Vice President, Fraternal Order of Police Lodge #5,
3143 West Maple, Wichita, KS. 67213
Helen Simon, Rural Route 7, Wichita, KS. 67205

Z -

Total Area 13,051,856.8 SQ. FT.

Application Area 2,674,668.36

Street R/W 2,937,300.52"

Net Area 7,439,887.32"

20% of Net Area 1,487,977.5"

Net Protest Area 4,939,200"

Total % Protesting 66.4 %

Planning Agenda

Item #

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION
TO BOARD OF COUNTY COMMISSIONERS

REQUEST FOR CONDITIONAL USE PERMIT

CU-277 - CONDITIONAL USE PERMIT TO ESTABLISH A SAND AND GRAVEL
EXTRACTION OPERATION, GENERALLY LOCATED ON THE WEST SIDE OF
RIDGE ROAD APPROXIMATELY 1/2 MILE NORTH OF 61ST STREET NORTH.

The MAPC recommends that the application be approved.
(see minutes for full motion)

Gardner moved, Moore seconded and it carried unanimously. Chisholm
and Hansen were absent.

NOTE: Protest petitions have been submitted on this case and the
percentage will be announced at the County Commission meeting.

- ACTION:
1. Approve the recommendation of the Metropolitan Area Planning Commission and adopt a resolution establishing the conditional use; or
 2. Deny the application.

DATA AND MINUTES

MAPC Hearing Date: 2-21-85

BCoC Hearing Date: 3-20-85

AREA DATA:

Acres: 66

Size: 1220' x 2640' (irregular)

Reason: To establish a sand and gravel extraction operation.

	<u>Land Use</u>	<u>Zoning</u>
Existing	Agriculture/undeveloped	"R-1"
North	Wilson's Lake/Arkansas River	"R-1"
East	Private recreational area (CU-268)	"R"
South	Farm houses and agriculture	"R"
West	Agriculture and drag strip	"R"

History: None

Applicant: Roy B. & Mildred L. Robertson, 816 English Court, Derby 67037

Protestors: Jim Nicholson, 6501 N. Ridge Road; Clyde Nicholson, #1 North
Tyler Road; George Bloesing, Vice-President, Fraternal Order of Police
Lodge No. 5, 3143 W. Maple; Helen Simon, Rural Route 7, Wichita, Ks.

*4/10 BloC
Robertson asks for
change from 5 to 7 years.
Jim Nicholson*

EXCERPT FROM PLANNING COMMISSION MINUTES OF FEBRUARY 21, 1985

LEGAL:

4. Case No. CU-277 - Roy B. and Mildred L. Robertson request a Conditional Use Permit for a sand and gravel operation on that part of Lots 1 and 2 that lie South of the Arkansas River Flood Control tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the Northeast Quarter of Section 9, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas. Generally located in the 6600 block of North Ridge Road on the west side of Ridge Road.

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

COMMENTS:

1. The applicant is requesting a conditional use permit to establish a sand and gravel extraction operation on approximately 66 acres of unplatted land zoned "R-1" Suburban Residential and located on the west side of Ridge Road approximately $\frac{1}{2}$ mile north of 61st Street North. The Arkansas River borders the property to the north. The land to the south and west is in agricultural use with the land to the east containing a privately-owned outdoor recreational area (CU-268). Wilson's Lake Recreation area lies directly to the north.
2. The applicant has submitted an operational and redevelopment plan indicating limits of excavation, approximate shore line and lotting arrangements around the lake. The plan does not show access roads, plant operation area or the limits of stockpiling sand and gravel.
3. The County Department of Public Works has indicated that Ridge Road is a FAS route. They recommend that 20 feet of additional right-of-way be dedicated on the south 440+ feet for the standard 60 feet of half-street right-of-way for FAS roads.
4. Should the Planning Commission recommend approval of this request, it should be approved subject to the following conditions:
 - a. The applicant shall dedicate by separate instrument 20 feet of half-street right-of-way for the south 440+ feet of Ridge Road.
 - b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation.
 - c. The applicant shall provide one of the following:
 - 1) Submittal of appropriate soil studies performed by a qualified soil engineer that would determine the safe distance between the Arkansas River Levee and the proposed excavation, or
 - 2) Construction of a loop levee around the sand pit to match the elevation of the existing river levee. In this case, the loop levee could be constructed with waste material on site as the sand pit operation progresses.

If a loop levee is utilized, the applicant shall submit a loop levee covenant guaranteeing construction of a loop levee to the height of the adjacent Arkansas River levee. Construction on this levee shall start as soon as the sand and gravel operation begins. The covenant shall provide for the construction and/or maintenance of a loop levee on the premises at such a location as the Flood Control Office 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 City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors, or assigns.

- d. As the excavation operation will be within 1000 feet of a flood control works, the applicant shall obtain a permit from the County Engineer as required by K.S.A. 19-3309.
 - e. The applicant shall revise the operational plan identifying the location of the loop levee if proposed, access roads, plant operation area and limits of stockpiling of sand and gravel. Five copies of the revised operational plan shall be submitted to the Planning Department.
 - f. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or within 50 feet of any property line.
 - g. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), 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:
 - (1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - (2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - (3) A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.
- The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.
- h. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
 - i. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
 - j. 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.
 - k. 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.
 - l. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.

- m. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing soil.
- n. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- o. The applicant shall be limited to two openings onto Ridge Road. This shall be labeled on the revised plan.
- p. 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.
- q. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand and gravel excavation operation.
- r. The applicant shall comply with conditions a, b, c, d, and e prior to the publication of the resolution establishing the conditional use.
- s. Any violation of conditions attached shall declare the conditional use permit null and void.

DISCUSSION:

SMYTHE stated that the applicant has submitted an operational and redevelopment plan which indicates the limits of excavation, approximate shoreline and lotting arrangements around the lake. He said that staff has talked to the County Department of Public Works and they have indicated that Ridge Road was an FAS road and recommended that an additional 20 feet be dedicated essentially for the south 440 feet of this application area. SYMTHE said that should the Planning Commission recommend approval of the request, there were a large number of conditions, many of which are standard now on all sand plant conditional uses.

ROY ROBERTSON, applicant, stated that he was owner and operator of Wilson Lake and will have owned it for 30 years this summer. He said that they have the land south that was divided by the levee. He mentioned that the property has not changed since the last time he was before the Commission. There are sandhills there and he has lost a lot of elm trees and he needed to do something with the area to make it more attractive. He wanted to put in housing. He said that his main purpose was not to excavate sand but to develop housing. ROBERTSON said that he did not have a time limit set on finishing the project, but would certainly not want to drag it along.

ROBERTSON stated that he had worked with M. S. Mitchell and the County Engineer on the two conditions mentioned by Smythe. There were two ways they could go. They have talked with soils engineers to get a distance back from the present levee or make some kind of levee that would be feasible around the water itself. However, that has been shelved for the present time until they get additional information from engineers and it looks as though something would be worked out on that.

ROBERTSON mentioned the Fraternal Order of Police was on the east side of his property and it would enhance their property having some housing there. He added that he had been working with the Flood Control because having lived on the river for 30 years, he did not want to create any kind of a flood hazard for anyone else.

GARDNER asked Robertson how long did he think he would need to have a conditional use permit to accomplish the amount of excavation that he was hoping for.

ROBERTSON said not over five years.

JIM NICHOLSON, 6501 North Ridge Road, in opposition, pointed out that they have 5 to 6 sandpits within three to four miles of this site now. He did not feel that they needed another one in that area. He did not feel that Ridge Road could stand the torture from another sandpit because now it was hard to drive up and down the road due to the sand and gravel traffic that's on it. He said that they might have a situation like the previous case, a rock crusher moving in later on.

CLYDE NICHOLSON, #1 North Tyler Road, stated that he owns the house across Ridge Road to the east and also 70 acres to the south where he has had a cattle lot for about 12 to 14 years. Where the applicant has proposed to build houses, he has seen water three feet deep in there and the only thing sticking out were the sandpits to the east. He said that he was opposed to this request because of the dirt, dust and noise. He said that the way he understood it, there was supposed to be a four-foot dike around the whole place. If there isn't, when the river comes up, the seep water will raise about 4 to 5 feet. He mentioned also that the right side of Ridge Road was worn out because of the heavy truck traffic.

GEORGE BLOESING, Vice-president of the Fraternal Order of Police, stated that the two sandpits that they purchased directly east of the proposed site, they bought for the recreation of their membership. One of their concerns was the dust and dirt which would be stirred up by this operation, and also the noise and hours of operation of this sandpit. He said that they would like to know what were the hours of the operation. Was this going to be on weekends also? BLOESING said that with the actual membership they have, they cannot say it is a weekend type use of their lake. The Police Department works on a 24-hour shift and a lot of their members get off at 7:00 a.m. and that is when they go to the lake that they have purchased to relax, fish and camp.

GARDNER asked Bloesing if he ever spent much time in the country.

BLOESING said that he did.

GARDNER asked if Bloesing had noticed when crops are planted certain times of the year they are green and growing and other times the fields are fallow, and when the winds blow in Kansas and they dry out you get dust. He said that he was puzzled at people who locate in the country and make a stink about other people proposing a sand operation having blowing dirt when the dirt has been there since God was a child. He said that he could understand Bloesing's concern about noise, but there is a lot of distance up there to move a dredge back in. He asked Bloesing how much time had he spent around a sandpit.

BLOESING said that he had not spent much time at all around sandpits.

GARDNER said that if he did not know much about them, then it was kind of a difficult position to come in and be critical of them.

BLOESING said not really. He was looking at the aspect of their membership.

GARDNER pointed out that there were not many sand operations that shift sand after 5:00 p.m., and there were not many that shifted sand before 8:00 a.m. He doubted that for those hours in the day there would be much traffic in the area. GARDNER felt that there would be more traffic from people using Wilson Lake during the summer as recreation than the sandpit projects generally.

BLOESING said that one of the problems was the weekend usage. That was probably the time when their membership uses their lake the most, and he did know that sandpits operated on weekends.

GARDNER mentioned to Bloesing that the Planning Commission went to bat for the FOP when they wanted a conditional use and they had a lot

of static from a variety of groups, and it almost looks like that they are in pitching rocks having forgotten where they were a week or two before.

BLOESING said that he was sorry Gardner felt that way.

HELEN SIMON, Rural Route 7, in opposition, stated that if anything was removed from the soil it really does blow. She asked who was going to maintain the dike? She said that they have seen this with the Wichita-Valley Center Flood Control. They put the risers on the south side of the river and her 307-acre farm gets the water. It is completely covered with water. She said that she has lived in the area since 1948, and the insurance on their machinery cost over \$3,000, and if houses come in after the sandpit was done, God only knows what they would have to pay for just the insurance on the machinery because kids would come over in the hay sheds and smoke and destroy their farm. SIMON said that she did not care to have houses built within 600 feet of where their farm was.

CLYDE NICHOLSON, speaking again, pointed out that when the FOP bought their land, there had never been any cover planted and the dust has blown, and if the cover was removed that the applicant was suggesting, the sand would blow. No grass would hold it for 5 to 6 years. He felt the police had done a good job there.

GARDNER said that Mr. Nicholson was absolutely right and he had no difficulty with what he was saying, but from the few years that he spent around a farm, the silt and the fine top soil was a lot smaller and blew a lot farther than sand which was a larger particle and heavier.

NICHOLSON was also concerned about the flooding.

GARDNER said that by the time the County was through looking at whether a levee system was required on this site or not, and gets through studying it, he was confident they would have a good answer and they would end up with a situation where there was not a flooding hazard.

NICHOLSON was adamant that having lived around blowing sand like they have in the area that the water comes up under it so much faster than it does heavy ground, and it gets to be a river on the south side of the Flood Control dike, and he was concerned what they would do with the water.

GARDNER pointed out that in many ways had the parcel Nicholson sold to the FOP been undertaken with the same consideration and requirements as are being discussed today, some of the problems that they saw in there would not have occurred.

NICHOLSON said that had been taken care of. It was taken care of when they built the Flood Control dike.

GARDNER said his point was, if there had been a dike system for that extraction, as will be required if necessary on this site, they would not have had that problem.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood; the zoning and uses of nearby properties; the suitability of subject property for the proposed use; 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:

- 3-4-95 ✓ a. The applicant shall dedicate by separate instrument 20 feet of half-street right-of-way for the south 440+ feet of Ridge Road.

3-5-85 ✓
b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation.

c. The applicant shall provide one of the following:

- 1) Submittal of appropriate soil studies performed by a qualified soil engineer that would determine the safe distance between the Arkansas River Levee and the proposed excavation, or
- 2) Construction of a loop levee around the sand pit to match the elevation of the existing river levee. In this case, the loop levee could be constructed with waste material on site as the sand pit operation progresses.

If a loop levee is utilized, the applicant shall submit a loop levee covenant guaranteeing construction of a loop levee to the height of the adjacent Arkansas River levee. Construction on this levee shall start as soon as the sand and gravel operation begins. The covenant shall provide for the construction and/or maintenance of a loop levee on the premises at such a location as the Flood Control Office 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 City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors, or assigns.

d. As the excavation operation will be within 1000 feet of a flood control works, the applicant shall obtain a permit from the County Engineer as required by K.S.A. 19-3309.

3-5-85 ✓
e. The applicant shall revise the operational plan identifying the location of the loop levee if proposed, access roads, plant operation area and limits of stockpiling of sand and gravel. Five copies of the revised operational plan shall be submitted to the Planning Department.

f. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or within 50 feet of any property line.

g. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), 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:

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

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of

the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.

- h. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- i. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
- j. 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.
- k. All slopes including the loop levee 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.
- l. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- m. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing soil.
- n. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- o. The applicant shall be limited to two openings onto Ridge Road. This shall be labeled on the revised plan.
- p. 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.
- q. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand and gravel excavation operation.
- r. The applicant shall comply with conditions a, b, c, d, and e prior to the publication of the resolution establishing the conditional use.
- s. Any violation of conditions attached shall declare the conditional use permit null and void.
- t. The sand and gravel extraction operation shall cease operating by the date which is five years from County Commission approval of this conditional use permit unless a new conditional use permit is applied for and granted.

Gardner moved, Moore seconded and it carried unanimously. Chisholm and Hansen were absent.

Published in The Daily Reporter on _____, 1985

RESOLUTION NO. _____

CASE NO. CU-277

A RESOLUTION TO ESTABLISH A SAND AND GRAVEL EXTRACTION OPERATION IN THE "R-1" SUBURBAN RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION 1. That after receiving a recommendation from the 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 17.C of the Zoning Regulations, a Conditional Use Permit to establish a sand and gravel extraction operation in the "R-1" Suburban Residential District is hereby approved on the lands legally described as follows:

That part of Lots 1 and 2 that lie South of the Arkansas River Flood Control tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the Northeast Quarter of Section 9, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas. Generally located in the 6600 block of North Ridge Road on the west side of Ridge Road.

SUBJECT TO THE FOLLOWING:

- a. The applicant shall dedicate by separate instrument 20 feet of half-street right-of-way for the south 440+ feet of Ridge Road.
- b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation.
- c. The applicant shall provide one of the following:
 - 1) Submittal of appropriate soil studies performed by a qualified soil engineer that would determine the safe distance between the Arkansas River Levee and the proposed excavation, or
 - 2) Construction of a loop levee around the sand pit to match the elevation of the existing river levee. In this case, the loop levee could be constructed with waste material on site as the sand pit operation progresses.

If a loop levee is utilized, the applicant shall submit a loop levee covenant guaranteeing construction of a loop levee to the height of the adjacent Arkansas River levee. Construction on this levee shall start as soon as the sand and gravel operation begins. The covenant shall provide for the construction and/or maintenance of a loop levee on the premises at such a location as the Flood Control Office 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 City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors, or assigns.

- d. As the excavation operation will be within 1000 feet of a flood control works, the applicant shall obtain a permit from the County Engineer as required by K.S.A. 19-3309.
- e. The applicant shall revise the operational plan identifying the location of the loop levee if proposed access roads, plant operation area and limits of stockpiling of sand and gravel. Five copies of the revised operational plan shall be submitted to the Planning Department.
- f. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or within 50 feet of any property line.
- g. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), 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:
 - 1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - 2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - 3) A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

- h. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- i. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
- j. 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.
- k. All slopes including the loop levee 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.

- l. All of the area outside of the sandpit lake shall be graded so as to drain into the lake unless the loop levee is constructed, in which case only the area inside of the levee will be required to drain into the lake.
- m. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing soil.
- n. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- o. The applicant shall be limited to two openings onto Ridge Road. This shall be labeled on the revised plan.
- p. 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.
- q. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand and gravel excavation operation.
- r. The applicant shall comply with conditions a, b, c, d, and e prior to the publication of the resolution establishing the conditional use.
- s. Any violation of conditions attached shall declare the conditional use permit null and void.
- t. The sand and gravel extraction operation shall cease operating by the date which is five years from County Commission approval of this conditional use permit unless a new conditional use permit is applied for and granted.

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 Commission.

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
Donald E. Gragg

_____, Commissioner
Tom Scott

_____, Commissioner
Bernard A. Hentzen

*This page
Superseded.
See next sheet.*

- l. All of the area outside of the sandpit lake shall be graded so as to drain into the lake unless the loop levee is constructed, in which case only the area inside of the levee will be required to drain into the lake.
- m. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing soil.
- n. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- o. The applicant shall be limited to two openings onto Ridge Road. This shall be labeled on the revised plan.
- p. 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.
- q. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand and gravel excavation operation.
- r. The applicant shall comply with conditions a, b, c, d, and e prior to the publication of the resolution establishing the conditional use.
- s. Any violation of conditions attached shall declare the conditional use permit null and void.
- t. The sand and gravel extraction operation shall cease operating by the date which is seven years from County Commission approval of this conditional use permit unless a new conditional use permit is applied for and granted.

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 Commission.

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
Donald E. Gragg

_____, Commissioner
Tom Scott

_____, Commissioner
Bernard A. Hentzen

*Revised page
approved 4-10-85
BCC action*

ATTEST:

Donnell L. Wright, County Clerk

(SEAL)

Approved as to form by County Counselor

William D. Rustin, County Counselor

RESTRICTIVE COVENANTS

ROY B. ROBERTSON & MILDRED L. ROBERTSON do hereby make the following declaration as to restrictions, limitations and use of the following described real estate:

That part of Lots 1 and 2 that lie South of the Arkansas River Flood Control tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the Northeast Quarter of Section 9, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas.

which said Declaration shall constitute covenants running with said land and shall be binding upon all owners and their successors, assigns and heirs;

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

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

IN WITNESS WHEREOF, this Restriction has been executed on the

5 day of March, 1985.

Roy B. Robertson
Roy B. Robertson

Mildred L. Robertson
Mildred L. Robertson

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

The foregoing instrument was acknowledged before me this 5 day of March, 1985, by Roy B. Robertson and Mildred L. Robertson.

ROBERT L. WHITE
NOTARY PUBLIC
State of Kansas

Robert L. White
Notary Public.

My Appointment Expires July 17, 1987

(Original covenant will
be recorded by City Clerk
if CO is approved by P.C.C.)

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Roy B. Robertson & Mildred L. Robertson

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

Beginning 2199.35 feet south and forty (40) feet west of the northeast corner of the NE 1/4 of Section 9, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence west twenty (20) feet; thence south to the south line of said NE 1/4; thence east along the south line of said NE 1/4 Twenty (20) feet; thence north to beginning.

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

Executed this 5 day of March 1985.

Roy B. Robertson
Roy B. Robertson

Mildred L. Robertson
Mildred L. Robertson

STATE OF KANSAS)
SEDGWICK COUNTY) ss

BE IT REMEMBERED, that on this 5 day of March 1985,
came Roy B. Robertson and Mildred L. Robertson

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

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

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

City Clerk

Robert L. White
Notary Public

My Appointment Expires July 17, 1988
My Commission Expires: _____

ROBERT L. WHITE
NOTARY PUBLIC
State of Kansas

Commission file for setup for processing thru SID, MAPC, and RCC of CU is approved by RLC

D-1295

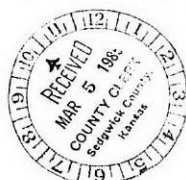
PROTEST PETITION
(COUNTY CASES)

SECTION I.

The undersigned, property owners in Sedgwick County, Kansas, hereby protest the proposed change of zoning (Conditional Use Application) for property described as Case No. CU 227, zone change from _____ to _____ (for establishment of a sand and gravel operation in _____ zoning).

CU 227

copy not available



SECTION II - Protestor(s)

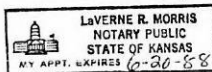
Name	Property Owned
	Lot(s) Block(s) Addition
a) <u>Helen M. Simon</u> Signature Helen M. Simon	W $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 9, Township 26, Range 1 West in Sedgwick County, Kansas, Owner is Helen M. Simon.
<u>M. C. Simon Estate</u> Typed or Printed Name M. C. SIMON ESTATE	The SW $\frac{1}{4}$ of Section 9, Township 26, Range 1 West in Sedgwick County, Kansas, Owner is 1/2 interest Helen M. Simon and 1/2 interest M. C. Simon Estate.
b) <u>Helen M. Simon, Exec.</u> Signature Helen M. Simon	Lots 3 and 5 lying South of South Line of Wichita, Valley Center Flood Control project in the NW $\frac{1}{4}$ of Section 9, Township 26, Range 1 West in Sedgwick County, Kansas, Owners Helen M. Simon and M. C. Simon Estate.
_____ Typed or Printed Name	

ACKNOWLEDGMENT

State of Kansas) ss
County of Sedgwick)

Be it remembered that on this 4th day of March, 1985, before me, a notary public in and for said County and State, came Helen M. Simon, individually and as Executrix of the Estate of M. C. Simon, deceased, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same.

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



LaVerne R. Morris
Notary Public LaVerne R. Morris

My Commission expires 6/20/88

ALL SIGNATURES MUST BE ACKNOWLEDGED

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

PROTEST PETITION
(COUNTY CASES)

SECTION I.

The undersigned, property owners in Sedgwick County, Kansas, hereby protest the proposed change of zoning (Conditional Use Application) for property described as Case No. CU-277, zone change from residential to commercial (for establishment of a GRAND AND GRUPEL extraction operation in residential zoning).

N 300' of E 300' of E 1/2 of SE 1/4



SECTION II - Protestor(s)

Name	Property Owned		
	Lot(s)	Block(s)	Addition
a) <u>James E. Nicholson</u> Signature	PK49-28 E300 FEN 300 FE SE 1/4	SEC 9-26-1W	
James E. Nicholson Typed or Printed Name	005313		
b) <u>Wanda L. Nicholson</u> Signature	84-0-PK - 00049 - 002A - 1505		
Wanda L. Nicholson Typed or Printed Name			

ACKNOWLEDGMENT

State of Kansas) ss
County of Sedgwick)

Be it remembered that on this 1st day of March, 1985, before me, a notary public in and for said County and State, came James E. Nicholson and Wanda L. Nicholson to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of same.

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



Brenda McGuire
Notary Public

My Commission expires May 11, 1988

ALL SIGNATURES MUST BE ACKNOWLEDGED

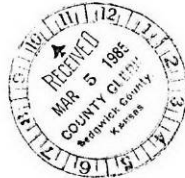
Additional statements of acknowledgment may be attached and made a part of this petition as necessary.

PROTEST PETITION
(COUNTY CASES)

SECTION I.

The undersigned, property owners in Sedgwick County, Kansas, hereby protest the proposed change of zoning (Conditional Use Application) for property described as Case No. CU-277, zone change from residential to Commercial (for establishment of a sand & gravel extraction operation in residential zoning).

notify with ownership list!



SECTION II - Protestor(s)

Name	Property Owned
	Lot(s) Block(s) Addition
a) <u>Clyde E. Nicholson</u> Signature <u>Clyde E. Nicholson</u> Typed or Printed Name	① <u>E 1/2 SE 1/4 EXC. E 300 FT N 300 FT</u> <u>SEC 9-26-1W 84-0-PK-00049-0002-1805</u> <u>& PK 57</u> <u>BEG 2594 FT N SW COR. SW 1/4 N 46.37</u> <u>FT S 90 FT TO PT 2594 FT N OF S LI</u> <u>SEC 10-26-1W</u> <u>FT TO NW COR SW 1/4 N 43.63 FT E 325</u> <u>SW 1/4 W 325 FT TO BEG NW 1/4 E SW 1/4</u> <u>84-0-PK-00056 1805</u> <u>JOHNSON Ene east across the road</u>
b) _____ Signature _____ Typed or Printed Name	

ACKNOWLEDGMENT

State of Kansas) ss
County of Sedgwick)

Be it remembered that on this 28th day of February, 1985
before me, a notary public in and for said County and State, came
Clyde E. Nicholson
to me personally known to be the same person who executed the foregoing
instrument of writing and duly acknowledged the execution of same.

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



Dorothea M. Lader
Notary Public

My Commission expires 12-8-85

ALL SIGNATURES MUST BE ACKNOWLEDGED

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

February 25, 1985

Jim Nicholson
6501 North Ridge Road
Wichita, Ks. 67205

Re: CU-277 - Permit to establish sand
and gravel extraction operation

Dear Mr. Nicholson:

The Planning Commission at its regular meeting of February 21, 1985, considered the above-captioned 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., Thursday, March 7, 1985. 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:sad
Encl. (6)

cc: Clyde Nicholson, #1 N. Tyler Road, Wichita 67212 (1)
George Bloesing, Vice President, Fraternal Order of Police Lodge No. 5,
3143 West Maple, Wichita 67213 (1)
Helen Simon, Rural Route 7, Wichita 67205 (1)

February 25, 1985

Roy B. Robertson
816 English Court
Derby, Ks. 67037

Re: CU-277 - Permit to establish sand
and gravel extraction operation

✓
Dear Mr. Robertson:

At its regular meeting on February 21, 1985, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the Planning Commission was to recommend that this application be approved subject to the following conditions:

*received
3-5-85*

*received
3-5-85*

- a. The applicant shall dedicate by separate instrument 20 feet of half-street right-of-way for the south 440+ feet of Ridge Road.
- b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation.
- c. The applicant shall provide one of the following:
 - 1) Submittal of appropriate soil studies performed by a qualified soil engineer that would determine the safe distance between the Arkansas River Levee and the proposed excavation, or
 - 2) Construction of a loop levee around the sand pit to match the elevation of the existing river levee. In this case, the loop levee could be constructed with waste material on site as the sand pit operation progresses.

If a loop levee is utilized, the applicant shall submit a loop levee covenant guaranteeing construction of a loop levee to the height of the adjacent Arkansas River levee. Construction on this levee shall start as soon as the sand and gravel operation begins. The covenant shall provide for the construction and/or maintenance of a loop levee on the premises at such a location as the Flood Control Office 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 City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors, or assigns.

- received
3-5-85*
- d. As the excavation operation will be within 1000 feet of a flood control works, the applicant shall obtain a permit from the County Engineer as required by K.S.A. 19-3309.
 - e. The applicant shall revise the operational plan identifying the location of the loop levee, if proposed, access roads, plant operation area and limits of stockpiling of sand and gravel. Five copies of the revised operational plan shall be submitted to the Planning Department.
 - f. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or within 50 feet of any property line.
 - g. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), 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:
 - 1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - 2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - 3) A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

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

- h. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- i. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.
- j. 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.
- k. All slopes including the loop levee 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.
- l. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- m. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing soil.
- n. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- o. The applicant shall be limited to two openings onto Ridge Road. This shall be labeled on the revised plan.
- p. 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.
- q. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand and gravel excavation operation.
- r. The applicant shall comply with conditions a, b, c, d, and e prior to the publication of the resolution establishing the conditional use.

- s. Any violation of conditions attached shall declare the conditional use permit null and void.
- t. The sand and gravel extraction operation shall cease operating by the date which is five years from County Commission approval of this conditional use permit unless a new conditional use permit is applied for and granted.

As to conditions a and b, enclosed is the dedication form and also a sample covenant that should be retyped, signed and returned to our office. Regarding conditions c and d, they along with conditions a and b must be complied with prior to the publication of the resolution.

Condition e must be complied with by March 6th so that subject case can be scheduled for consideration by the Board of County Commissioners on March 20, 1985 at 9:00 a.m., in Room 320, Sedgwick County Courthouse.

If you have any questions, please call.

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:sd

Encl.

cc: William L. Korber, Baughman Company, P.A., 330 Laura, Wichita 67211
Jim Nicholson, 6501 North Ridge Road, Wichita 67205
Clyde Nicholson, #1 N. Tyler Road, Wichita 67212
George Bloesing, Vice President, Fraternal Order of Police Lodge No. 5,
3143 West Maple, Wichita 67213
Helen Simon, Rural Route 7, Wichita 67205

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Roy B. Robertson & Mildred L. Robertson

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

Beginning 2199.35 feet south and forty (40) feet west of the northeast corner of the NE 1/4 of Section 9, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence west twenty (20) feet; thence south to the south line of said NE 1/4; thence east along the south line of said NE 1/4 Twenty (20) feet; thence north to beginning.

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

Executed this _____ day of _____ 19 ____.

Roy B. Robertson

Mildred L. Robertson

STATE OF KANSAS)
SEDGWICK COUNTY) ss

BE IT REMEMBERED, that on this _____ day of _____, came _____

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

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

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

City Clerk

Notary Public

My Commission Expires: _____

SAMPLE

RESTRICTIVE COVENANTS

DeWitt Land Company Inc., does hereby make the following declaration as to restrictions, limitations and use of the following described real estate:

That part of the West Half of the Northwest Quarter of Section 33, Township 28 South, Range 1 East, Sedgwick County, Kansas, lying North of the North line of land condemned in Case No. 29,459, in the District Court of Sedgwick County, Kansas, for flood control purposes, except a tract of land conveyed to The Secretary of Transportation, State of Kansas, by Warranty Deed recorded in Film "488", page 956, in the Office of the Register of Deeds of Sedgwick County, Kansas. Generally located at the southeast corner of 63rd Street South and Broadway.

which said Declaration shall constitute covenants running with said land and shall be binding upon all owners and their successors, assigns and heirs;

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

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

IN WITNESS WHEREOF, this Restriction has been executed on the

23rd day of November, 1983.

STATE OF KANSAS }
SEDGWICK COUNTY }
FILED FOR RECORD AT }
3:30 P.M. }
DEC 16 1983 }
6 67283 }
NO. }
BETTE F. MCCREIGHT }
REGISTER OF DEEDS }
Let Kettles Deputy

MICROFILMED
OF RECORD

DeWitt Land Company Inc.

Dean DeWitt
Dean DeWitt, President

STATE OF KANSAS)
SEDGWICK COUNTY) SS

The foregoing instrument was acknowledged before me this 23rd day of November, 1983, by Dean DeWitt, President of DeWitt Land Co., Inc. a state corporation, on behalf of said corporation.

Karen Cunningham
Notary Public

My Appointment Expires:
KAREN L. CUNNINGHAM
NOTARY PUBLIC
Sedgwick County, Kansas

Barclaymen Co.
336 Laura

510

RE: AGENDA ITEM NO. 4

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

CU-277 - Conditional use for a sand and gravel extraction operation.
Generally located on the west side of Ridge Road approxi-
mately $\frac{1}{2}$ mile north of 61st Street North.

MAPC HEARING DATE: 2-21-85

Acres: 66

Size: 1220' x 2640' (irregular)

Reason: To establish a sand and gravel extraction operation.

	<u>Land Use</u>	<u>Zoning</u>
Existing	Agriculture/undeveloped	"R-1"
North	Wilson's Lake/Arkansas River	"R-1"
East	Private recreational area (CU-268)	"R"
South	Farm houses and agriculture	"R"
West	Agriculture and drag strip	"R"

History: None

Applicant: Roy B. & Mildred L. Robertson, 816 English Court, Derby 67037

COMMENTS:

1. The applicant is requesting a conditional use permit to establish a sand and gravel extraction operation on approximately 66 acres of unplatted land zoned "R-1" Suburban Residential and located on the west side of Ridge Road approximately $\frac{1}{2}$ mile north of 61st Street North. The Arkansas River borders the property to the north. The land to the south and west is in agricultural use with the land to the east containing a privately-owned outdoor recreational area (CU-268). Wilson's Lake Recreation area lies directly to the north.
2. The applicant has submitted an operational and redevelopment plan indicating limits of excavation, approximate shore line and lotting arrangements around the lake. The plan does not show access roads, plant operation area or the limits of stockpiling sand and gravel.
3. The County Department of Public Works has indicated that Ridge Road is a FAS route. They recommend that 20 feet of additional right-of-way be dedicated on the south 440+ feet for the standard 60 feet of half-street right-of-way for FAS roads.
4. Should the Planning Commission recommend approval of this request, it should be approved subject to the following conditions:
 - a. The applicant shall dedicate by separate instrument 20 feet of half-street right-of-way for the south 440+ feet of Ridge Road.
 - b. The applicant shall submit a restrictive covenant providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the excavation.
 - c. The applicant shall provide one of the following:
 - 1) Submittal of appropriate soil studies performed by a qualified soil engineer that would determine the safe distance between the Arkansas River Levee and the proposed excavation, or

- 2) Construction of a loop levee around the sand pit to match the elevation of the existing river levee. In this case, the loop levee could be constructed with waste material on site as the sand pit operation progresses.

If a loop levee is utilized, the applicant shall submit a loop levee covenant guaranteeing construction of a loop levee to the height of the adjacent Arkansas River levee. Construction on this levee shall start as soon as the sand and gravel operation begins. The covenant shall provide for the construction and/or maintenance of a loop levee on the premises at such a location as the Flood Control Office 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 City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors, or assigns.

- d. As the excavation operation will be within 1000 feet of a flood control works, the applicant shall obtain a permit from the County Engineer as required by K.S.A. 19-3309.
- e. The applicant shall revise the operational plan identifying the location of the loop levee if proposed access roads, plant operation area and limits of stockpiling of sand and gravel. Five copies of the revised operational plan shall be submitted to the Planning Department.
- f. No storage of equipment or stockpiling of sand and gravel shall be permitted closer than 100 feet to any public right-of-way or within 50 feet of any property line.
- g. A minimum 58-inch high fence shall be constructed prior to the beginning of any excavation operation (including topsoil, overburden, and/or sand), 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:
 - (1) A 48" or higher chainlink fence with three or more strands of barbed wire; or
 - (2) A 48" or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - (3) A 48" or higher wood fence which may have cracks or openings not in excess of five percent of the area of such fence, with three or more strands of barbed wire.

The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gates at an angle not to exceed 160 degrees facing away from the excavation.
- h. To minimize blowing soil in this area, no overburden shall be removed more than one year in advance of the lake being expanded into an area unless the ground is covered, within the next planting season, with a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- i. The earth shall be extracted to at least a minimum depth of six feet below the water table as determined by the City-County Health Department.

- j. 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.
- k. 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.
- l. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
- m. The sand plant operator shall be responsible for seeing that all operational roads on the site are maintained in a graveled or sanded condition to minimize blowing soil.
- n. Concrete and asphalt mixing plants and commercial recreational activities, such as boating, fishing, skiing, etc., shall not be permitted in the area, unless duly authorized under provisions of the County Zoning Regulations.
- o. The applicant shall be limited to two openings onto Ridge Road. This shall be labeled on the revised plan.
- p. 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.
- q. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand and gravel excavation operation.
- r. The applicant shall comply with conditions a, b, c, d, and e prior to the publication of the resolution establishing the conditional use.
- s. Any violation of conditions attached shall declare the conditional use permit null and void.

February 14, 1985

James E. Nicholson
6341 North Ridge Road
Wichita, Kansas 67205

Dear Mr. Nicholson:

As per our conversation, I am enclosing a xerox copy of the proposed sand and gravel extraction operation to be located on the west side of Ridge Road just south of the Big Arkansas River Levee. I have sent these copies to you by way of your address as listed on the ownership list and by the address that you gave me over the phone - 6501 North Ridge Road. Let me know which one reaches you. The last map that I sent to you and apparently didn't reach you was sent to this revised address. I apologize for the delay. If you have any further questions, please contact me at 268-4421.

Sincerely,

Terrence T. Smythe
Junior Planner

TTS:blw

Enclosure



SEDGWICK COUNTY, KANSAS
DEPARTMENT OF PUBLIC WORKS

1250 S. SENECA
WICHITA, KANSAS 67213-4598
(316) 268-7901

TO: Terry Smythe, Junior Planner
Metropolitan Area Planning Department

FROM: Jim Weber, Engineer *JW*

DATE: February 13, 1985

SUBJ: CU-277: West of Ridge Road,
South of Arkansas River Levee

Per your request dated February 1, 1985, we have reviewed the above referenced request for a conditioned use permit. We have the following comments.

- 1) As outlined in K.S.A. 19-3109, the applicant must obtain a permit for excavation within 1,000 feet of a flood control structure from the County Engineer.
- 2) As discussed with Mr. Robertson in a meeting on October 5, 1984, a permit would be issued by the County Engineer under one of the following conditions:
 - a) Submittal of appropriate soil studies performed by a qualified soil engineer that would determine the safe distance between the levee and the proposed excavation, or
 - b) Construction of a loop levee around the sand pit to match the elevation of the existing river levee. In this case, the loop levee could be constructed with waste material on site as the sand pit operation progresses.
- 3) The standard loop levee covenant should be required.

If you have any questions concerning these comments please call me at 7901.

JW/ps

CASE NO. CU-277

- 5 "Notices to Adjoining Property Owners" mailed on 2-7-85
for MAPC meeting on 2-21-85.
- 2 One each to Applicant and Agent.
- 3 One each to Karen Crook, Ron Worley, and David Spear (Acting
Director of County Public Works.

10 TOTAL

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

NOTICE OF PUBLIC HEARING

Case No.: CU-277
Location: In the 6600 block of North Ridge Road on the west side of Ridge Road.
Address: N/A.
Request: Conditional Use Permit to Establish a Sand and Gravel Operation on Property Zoned "R-1" Suburban Residential District.

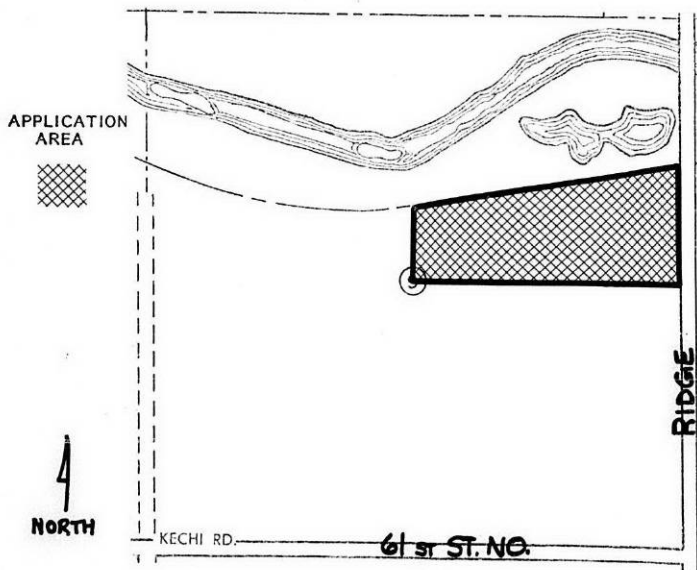
A public hearing to consider the above noted request has been scheduled before the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) on

FEBRUARY 21, 1985

The meeting will begin at 1:30 p.m. in the City of Wichita City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas.

As an owner or occupant of property in the area, you have the right to appear at the MAPC meeting, either in person or by agent or attorney, to support or oppose this request. If you have no interest in or objection to the request, you have no obligation to appear at the public hearing.

If you have any questions or wish additional information, please call 268-4421.



SEE REVERSE SIDE

LEGAL DESCRIPTION OF THE AREA PROPOSED TO BE CHANGED

CASE NO. CU-277

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

That part of Lots 1 and 2 that lie South of the Arkansas River Flood Control tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the Northeast Quarter of Section 9, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas. Generally located in the 6600 block of North Ridge Road on the west side of Ridge Road.

DISTRICT	NAME OF DISTRICT AND USES PERMITTED (FOR COMPLETE REGULATIONS AND EXCEPTIONS - SEE TEXT OF ORDINANCE)	
AA	ONE FAMILY DWELLINGS	One family dwellings, parks, schools, libraries, golf courses, nurseries, churches
A	TWO FAMILY DWELLINGS	Uses permitted in "AA" district and two family dwellings, care homes (5 or less)
RB	FOUR FAMILY DWELLINGS	Any use permitted in "AA" or "A" districts and four family dwellings
R-5	GENERAL RESIDENCE DISTRICT	Any use permitted in more restrictive districts and multiple family dwellings Density: 17.5 dwelling units per acre
R-4	GENERAL RESIDENCE DISTRICT	Any use permitted in more restrictive districts and multiple family dwellings Density: 23 dwelling units per acre
B	MULTIPLE FAMILY DWELLING	Any use permitted in more restrictive districts and multiple family dwellings, boarding houses, medical offices, hospitals, greenhouses, parking lots. Density: 75 dwelling units per acre
BB	OFFICE DISTRICT	Any uses permitted in more restrictive districts any general offices, medical laboratories
OC	OFFICE COMMERCIAL DISTRICT	Offices, limited retail and service uses operated within a building, and residential uses as permitted in the "R-5" district
LC	LIGHT COMMERCIAL DISTRICT	Any use permitted in more restrictive districts and purely retail business operated in a building
C	COMMERCIAL DISTRICT	Uses permitted in more restrictive districts and other uses not offensive because of dust, noise, odor or smoke
E	LIGHT INDUSTRIAL DISTRICT	All industrial and commercial uses except those most offensive because of noise, dust, odors and smoke; and except residential uses
F	HEAVY INDUSTRIAL DISTRICT	Any use, some conditional upon specific approval of City Commission, except residential uses
Special Districts		
D	CENTRAL BUSINESS DISTRICT	Those uses permitted in the "C" district and more restrictive districts and other uses not offensive because of dust, noise, odor or smoke
G	MOBILE HOME	Mobile home park when complying with Title 26 of the City Code, schools, churches, parks, day nurseries, home occupations
U	UNIVERSITY	Universities, colleges, seminaries and other institutions of learning and related uses
CUP	COMMUNITY UNIT PLAN	Commercial/residential. Permits those uses approved as part of a total development plan

February 1, 1985

David Spears, Acting Director, County Public Works

Louise Olivarez. Senior Planner, Current Plans

CU-277: Request for conditional use permit for sand extraction.
West side of Ridge Road, south of Big Arkansas River Levee.

Attached is a proposed operational and redevelopment plan submitted for Roy Robertson on land he owns south of the Arkansas River just west of Ridge Rd. I believe Mr. Robertson has discussed his proposal with M. S. Mitchell and others on your staff in recent months. Would you please have someone review this plan and provide us with comments by February 8th. This conditional use request is scheduled for MAPC review on February 21, 1985.

Louise Olivarez
Senior Planner

LO:blw

CASE NO. CU-277

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

That part of Lots 1 and 2 that lie South of the Arkansas River Flood Control tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the Northeast Quarter of Section 9, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas. Generally located in the 6600 block of North Ridge Road on the west side of Ridge Road.

CU-277

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

This is an application for a Conditional Use Permit. The form must be completed and filed at the Planning Department, 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 Roy B. Robertson and Mildred L. Robertson

ADDRESS 816 English Court, Derby, Kansas 67037 PHONE 788-2593
Summer ADDRESS Rural Route #3, Box #110, Valley Center, Ks. Ph. 722-0148
AGENT William L. Korber 67147

ADDRESS 330 Laura Wich., KS 67211 PHONE 262-7271

B. APPLICANT _____

ADDRESS _____ PHONE _____

AGENT _____

ADDRESS _____ PHONE _____

C. APPLICANT _____

ADDRESS _____ PHONE _____

AGENT _____

ADDRESS _____ PHONE _____

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

2. a. The applicant proposes to establish a sand and gravel operation
_____ (use)

on property legally described as Lot(s) N/A see below

N/A, Block(s) N/A

of the N/A Addition.

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

That part of Lots 1 and 2 that lie South of the Arkansas River Flood Control tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the Northeast Quarter of Section 9, Township 26 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas.

2. b. There are 66 acres (round to nearest tenth) in the above described property.

T9-333-2

Revised 8/80

Map No. 4955A (N) R-1 (S) R (E) R (W) R MAPC 2-21-85

3. ✓ THIS PROPERTY IS LOCATED AT (ADDRESS) 6600^{1/2} North Ridge Road (West side Ridge Rd.)

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

✓ A. AT THE Southeast CORNER OF NE $\frac{1}{4}$ of Section 9, Twp 26 S, N4W
Range 1 W of 6th P.M., Sedgewick County, Kansas, OR

✓ B. ON THE West SIDE OF Ridge Road (AVE.) STREET BETWEEN
N/A (AVE.) STREET AND N/A (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 establish a sand and gravel operation, thereby improving our property
for future development.

6. (WE), THE APPLICANT(S), ACKNOWLEDGE RECEIPT OF THE INSTRUCTION SHEET
EXPLAINING THE METHOD OF SUBMITTING THIS APPLICATION. (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. (WE)
FURTHER CERTIFY THAT THE ABOVE AND FOREGOING INFORMATION IS TRUE AND
CORRECT TO THE BEST OF MY (OUR) KNOWLEDGE. (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.

Ray B. Robertson BY Mildred L. Robertson
AUTHORIZED AGENT (IF ANY) AUTHORIZED AGENT (IF ANY)

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 _____
(AM, PM) on _____ (day, month, year). It has been checked and
found to be complete and accompanied by required documents and the appropriate
fee of \$ 500⁰⁰.

fee application received 12-28-84
ownership list received 1-15-85
development plan received _____

Louise Oliver Name
L. Planner Title

OWNERSHIP LIST

<u>Tract Description</u>	<u>Property Owner</u>
<p>All that portion in the N$\frac{1}{4}$ of Sec. 9, Twp. 26 S, Rge. 1W of the 6th P.M., Sedg. Co., KS between the S mean high bank of the Arkansas River and the N boundary of a portion of land condemned by the City of Wichita; said N boundary being legally desc. as:</p> <p>Beg. at a pt. 114.50' S of the NE/c of said Sec. 9; th. S0°34' E 306.58'; th. alg. a 5°21.1' curve desc. by the following chord bearings and distances: N79°38' W 198.13', S 84°01' W 143.33' to the point of tangency of said curve; th. S 80°11' W 2517.42' to the point of curvature of a 1°28.28' curve; th. along said curve desc. by the following chord bearings and distances; S82°39'W 335.49', S88°52'W 509.41', N83°38'W 509.41', N76°08'W 509.41', N68°38'W 509.41', N64°30'W 51.10' to the point of tangency of the said curve; thence N 64°08'W 73.40'; N0°18'E 416.08' to the South mean high bank of the Arkansas River, all in Sedg. Co, KS (cont. 44 ac., m/l)</p>	<p>Roy B. Robertson Mildred L. Robertson 816 English Court Derby, KS 67037</p>
<p>Lots 1 and 2 that lie S of Arkansas River flood control tract (Condemnation Case A-33666) cont. 66 ac. m/l in the NE$\frac{1}{4}$ of Sec. 9-26-1W, together with all rights of reversion in that part of Govt. Lots 1 and 2 in the NE$\frac{1}{4}$ as condemned in Case A-33666</p> <p style="margin-left: 200px;"><i>application area</i></p>	<p>Same As Above</p>
<p>N$\frac{1}{2}$ of the SW$\frac{1}{4}$ of Sec. 9-26-1W and that part of Lots 3 and 5 lying S of the S line of the Wichita and Valley Center Flood Control Project in the NW$\frac{1}{4}$ Sec. 9-26-1W</p>	<p>Marcellus C. Simon Helen Marie Simon Rural Route #7 Wichita, KS 67205</p>
<p>W$\frac{1}{2}$ Lot 4 Sec. 9-26-1W</p>	<p>Meredith D. Cromer Mabel Cromer 135 S. Emporia Valley Center, KS 67147</p>

WICHITA - SEDGWICK COUNTY

W.S.C.

METROPOLITAN AREA PLANNING DEPARTMENT

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
RETURN TO SENDER

Clyde Nicholson
#1 North Tyler Road
Wichita, Kansas 67212



CU-277



NSW #1214

WICHITA - SEDGWICK COUNTY

W.S.C.

METROPOLITAN AREA PLANNING COMMISSION

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

RECEIVED

MAR 01 1985

METROPOLITAN PLANNING

ROUTE *M*

Insufficient Address

Clyde Nicholson
#1 North Tyler Road
Wichita, Ks. 67212

*1214
CHS*

*Can't possibly be
67205. Tried to
call C.M. at
722-0510 to ask
address but never
got response.
L.P.*



Tract DescriptionProperty Owner ✓

Part of the SW $\frac{1}{4}$ and NW $\frac{1}{4}$ of Sec. 10-26S-1W of the 6th P.M., Sedg. Co., KS desc. as follows:

Fraternal Order of
Police Lodge No. 5
3143 W. Maple
Wichita, KS 67213

Beg. 2594' N of the SW/c of sd. SW $\frac{1}{4}$; th. N alg. the W line of said SW $\frac{1}{4}$ and said NW $\frac{1}{4}$ to the S r/o/w line of the Arkansas River Levee Condemnation Case A-33666; th. E and SE'ly on the S and W'ly line of sd. r/o/w to a point 2594' N of the S line of said SW $\frac{1}{4}$; th. W parallel to the S line of said SW $\frac{1}{4}$, 1102', m/l, to the p.o.b., exc. a tract desc. as follows: A tract of land in the SW $\frac{1}{4}$ and NW $\frac{1}{4}$ of Sec. 10-26S-1W of the 6th P.M., Sedg. Co., KS, desc. as follows: Beg. 2594' N of the SW/c of sd. SW $\frac{1}{4}$; th. N 00°34'W alg. the W line of said SW $\frac{1}{4}$, 46.37' to the NW/c of said SW $\frac{1}{4}$ and being the SW/c of said NW $\frac{1}{4}$; th. N00°34'W along the W line of said NW $\frac{1}{4}$, 43.63'; th. N88°48'50" E parallel to the S line of said SW $\frac{1}{4}$, 325'; th. S00°34'E parallel to the W line of said NW $\frac{1}{4}$ and SW $\frac{1}{4}$, 90' to a point 2594' N of the S line of said SW $\frac{1}{4}$; th. S88°48'50"W parallel to the S line of said SW $\frac{1}{4}$, 325' to the p.o.b., and exc. r/o/w for Ridge Road, cont. 23.20 ac., m/l, together with all reversions and accretions thereto, and to the use of said Floodway Easement; and reserving to the grantor, Clyde E. Nicholson, his heirs, devisees, legatees and assigns, whomsoever, three-fourths of the landowners one-eighth mineral rights in all of the above described real property, for a period of 20 years, from date hereof; and reserving to Maize Unified School District #266 "turn around ingress and egress" by virtue of a driveway into the tract last above described, said excepted tract being 90 feet in width by 325 feet in length.

All that part of the W $\frac{1}{2}$ of Sec. 10-26-1W lying W of the Arkansas River exc. Beg. 2594' N of the SW/c of the SW $\frac{1}{4}$ Sec. 10-26S-1W; th. N alg. the W line of said SW $\frac{1}{4}$ and said NW $\frac{1}{4}$ Sec. 10-26S-1W to the S r/o/w line of the Arkansas River Levee Condemnation Case A-33666; th. E and SE'ly on the S and W'ly line of sd. r/o/w to a point 2594' N of the S line of said SW $\frac{1}{4}$; th. W parallel to the S line of said SW $\frac{1}{4}$, 1102', m/l, to the p.o.b.

Harry Nicholson (Dec'd)
c/o Clyde E. Nicholson
#1 N Tyler Rd.
Wichita, KS 67212

Tract Description	Property Owner
N. 300' of the E. 300' of the E $\frac{1}{4}$ of the SE $\frac{1}{4}$ Sec. 9, Twp. 26S, Rge. 1W	James E. Nicholson ✓ Wanda Nicholson 650 634 N. Ridge Rd. Wichita, KS 67205
Beg. at the NW/c of the SE $\frac{1}{4}$ Sec. 9-26-1W; th. E on N line of said SE $\frac{1}{4}$ a distance of 666'; th. S parallel to the W line of the SE $\frac{1}{4}$ a distance of 591'; th. W parallel to N line of SE $\frac{1}{4}$ a distance of 666' to the W line of the SE $\frac{1}{4}$; th. N on W line of said SE $\frac{1}{4}$ to p.o.b.	Helen Marie Simon ✓ Rural Route 7 Wichita, KS 67205
SE $\frac{1}{4}$ of Sec. 9, Twp. 26, Rge. 1 W except the N. 300' of the E 300' of the E' of the SE $\frac{1}{4}$ of said Sec. 9-26-1W.	Harry Nicholson (Dec'd) ✓ c/o Clyde E. Nicholson #1 N Tyler Rd. Wichita, KS 67212

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described tracts within a 1000 foot radius of:

That part of Lots 1 and 2 that lie South of the Arkansas River Flood Control Tract as defined by Condemnation Case #A-33666 in the District Court of Sedgwick County, Kansas, and located in the NE $\frac{1}{4}$ of Sec. 9, Twp. 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 15th day of January, 1985, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND
TITLE COMPANY, INC.

By

Mary Gable

Sr. Vice-President

Set up Conditional Use case
for MAPC 2-21-85.

Ray B. Robertson, et al., request
a conditional use permit to
establish a sand and gravel
extraction operation on land
zoned the "R-1" suburban
residential district. Generally
located in the 6000 block of
71. Ridge Road (west side of Ridge Rd)

Received 1-15-85

FORM 29-

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

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING DEPARTMENT

Current Plans Division

Public Inquiry Slip

NAME Roy Robertson etus DATE 9-20-84
 PHONE 788-2593 PHONE COUNTER
 PROPERTY LOCATION South of Wilson Lake MAP # 4955 A
 (West of Ridge south of Arkansas River (67254 No.))

NATURE OF REQUEST:

City Zoning County Zoning Conditional Use
 Plat Lot Split Vacation Dedication
 BZA Street Name Change Other

REMARKS:

wants to have a sand pit. Had talked with Art at length some time ago. Recently zoned R-1. In Valley Center's 3-mile zoning map. They now meet the 4th Tuesday at 7:30pm. 116 S. Park.

- 10-10-84 closing
- 10-23-84 MC PC
- 11-1-84 MAPC
- 11-28-84 ± BCoC

- 11-7-84 closing
- 11-27-84 VCPC
- 11-29-84 MAPC
- 12-26-84 ± BCoC (meeting)

I gave him copies of resolutions from CV-258 and CV-265 as samples of what would likely be the requirements. Showed him those development plans. Said we would need probably 25 copies (for VCPC, MAPC, Co. Eng., etc.) Advised him to check with Co. Eng. and possibly Flood Control for their requirements on drainage.

ROUTE TO: LAKIN GALBRAITH YOUNG LYTLE OLIVAREZ CHAMBERS
 NAGLEY FLECK SHIRKEY RETURN TO _____

COMMENTS:

Over

10-5-84

ASA 19-3309

Discussed this site with M.S. Sutchell this date and he advised me again of the 1977 change in State Statute that require a permit from Co. Engineer for projects within 1000 of a City of Seymour project. Problem with this site is that owner wants to create lake within 100-50' of bridge. That site has some of the best road gravel in the Co. That because of the coarse material, the Co. suggested he hire a soil engineer to determine the danger of water from river traveling thru material and raising lake elevation to flow water out on adjacent land. DeWitt and Ritches have both obtain reort permits from Co. Both are, however, different situations. Owner has right to file case. County will make its recommendations which we will support.

Probably that loop levee will have to be constructed during the excavation of the lake. Plans for construction and timing would be determined by Co.

12/19/84 Trying to meet 1-23-85^{illeg} deadline. With the adoption of Co. wide zoning, this case no longer needs to go to Valley Center P.C. Not in their Area of Influence.

*

This CU File

Has a Large Drawing

On 35mm Microfilm.

Roll # 1

*