

ACTION

DATE

COMMITTEE

*approve as recommended
M.A.P.C. with revision of consent 4-18-85
restricting foreign matter*

*P.C.C. Approve 5-15-85
as recommended*

Closed

CU-278 - Ritchie Paving Inc. requests conditional use permit to establish a sand extraction operation on the east side of West St. between 29th & 37th Streets North.

POSTED 4-85 RC

District #1

ACTION

5231

DATE

COMMITTEE

M.A.P.C. approve as recommended
with revision of covenant 4-18-85
restricting foreign matter

CCC/B. CO. C. Approve 5-15-85
as recommended

Closed

CU-278 - Ritchie Paving Inc. re-
quests conditional use permit to
establish a sand extraction opera-
tion on the east side of West St.
between 29th & 37th Streets North.

DATA SHEET

Z- _____
 SCZ- _____
 CU- 278
 DR- _____
 DP- _____
 Case Filed: 3-20-85
 Associated Case: scz-0546

APPLICATION DATA: Map No. 5251D & C

1. General Location: On the east side of West Street between 29th Street North and 37th Street North
2. From _____ to _____
3. Proposed Use: Sand extraction operation on property zoned "R-1", "LC" & "R"
4. DP Name: _____
5. Applicant: Ritchie Paving, Inc. ATTN: H.T. Ritchie
 Address P. O. Box 4048 (67204) Phone 838-9301
6. Agent: Professional Engineering Consultants, P.A. ATTN: Gary Wiley
 Address 1440 East English (67211) Phone 262-2691
7. Proposed Use: _____

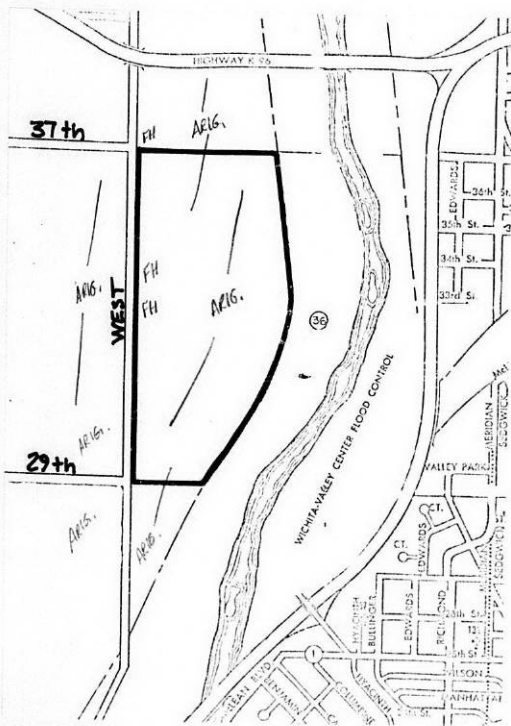
AREA DATA:

1. Acres: 214.5 (IRREGULAR) ft. by 5280' "r" by 2100' ft.)
2. Adjoining Zoning: N "R-1" & "LC" S "R-1" & "LC" E "R" W "R-1" & "LC"
3. Land Use: North AR16 / FARM HOUSE East BIG DITCH
 South AR16 West AR16

PICTURE SHEET

PHOTO DATA:

Taken by _____ Date _____ Time _____



NOTES:

T9-214-2

LOS ANGELES CIVIL AND LOGAN, OH
 WASHINGTON, TX, LEBURST GROVE, GA
 S.W.A.

S
 No. 2-153C

8-23-85 Chris said Corps wants
more info on my work on it.

2-11-86 Chris said Corps had
approved. He will send letter to me
and copy to Welton verifying
6-5-86 when to let me know re permit



SEDGWICK COUNTY, KANSAS
BUREAU OF PUBLIC SERVICES

1000 S. SENeca
WICHITA, KANSAS 67202
316-261-1111

July 18, 1986

Professional Engineering Consultants
1440 East English
Wichita, Kansas 67211

Attn: Gary Wiley

Dear Gary:

Re: CU-278 - Permit for Excavation

Please find enclosed the original copy of the permit for excavation for Ritchie Paving's sand pit located on West Street between 29th Street North and 37th Street North. Upon receipt of a copy of this permit, MAPD should be able to proceed with publication of the associated resolution.

Sincerely,

James Weber,
Engineer

JW/sd

cc: Louise Olivarez, MAPD
Ron Worley, Planning and Code Enforcement

enclosure

RECEIVED

JUL 22 1986

METROPOLITAN PLANNING

ROUTE

SEDGWICK COUNTY BUREAU OF PUBLIC SERVICES

PERMIT FOR EXCAVATION ADJACENT
TO FLOOD PROTECTION WORKS


Whereas, Ritchie Paving has requested a Conditional Use Permit to operate a raw materials extraction operation on the following described property:

That part of the Northwest Quarter and the Southwest Quarter of Section 36, Township 26 South, Range 1 West, lying west of the Wichita-Valley Center Flood Control, except the west 60 feet for road, all in Sedgwick County, Kansas (generally located on the east side of West Street, between 29th Street North and 37th Street North); 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 City-County Flood Control Office that under the conditions set forth in the applicants' Conditional Use Permit (CU-278), 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 subject to the conditions of CU-278.


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

Date July 18, 1986

cc: Applicant
M.A.P.D.
Project File CU-278

Published in The Daily Reporter on July 28, 1985

RESOLUTION NO. 158-1985

CASE NO. CU-278

A RESOLUTION TO ALLOW A SAND AND GRAVEL EXTRACTION OPERATION IN THE "R-1", "LC", AND "E" ZONING DISTRICTS 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 allow a sand and gravel extraction operation in the "R-1" Suburban Residential District, the "LC" Light Commercial District, and the "E" Light Industrial District is hereby approved on the lands legally described as follows:

Beginning at the northwest corner of Sec. 36, T26, R1W; thence east along the north line of northwest 1/4 of said section to the west line of the Wichita-Valley Center Flood Control R/W; thence southerly along the west R/W line of the Wichita-Sedgwick County Flood Control to the south line of the southwest 1/4 of said Sec. 36; thence west along the south line of the southwest 1/4 of said section to the southwest corner of said Sec.36; thence north along the west line of said Sec. 36 to the point of beginning; except the west 50 feet for road right-of-way. Generally located on the east side of West Street between 29th Street North and 37th Street North.

SUBJECT TO THE FOLLOWING:

- A. The applicant shall dedicate by separate instrument any additional half-street right-of-way necessary to bring West Street up to F.A.S. standards (60 feet half-street right-of-way).
- B. The applicant shall submit a new 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 submit a new restrictive covenant to the Planning Department, approved as to content by the City-County Flood Control Office and as to form by the County Counselor. 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 submit five copies of the revised redevelopment plan indicating a drainage route through the housing lots shown north of the Phillips pipeline easement and along the south line of the property. The applicant shall then proceed in accordance with the revised development and operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate size as indicated on the approved plan.
- F. 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.

- G. 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.
- H. 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.
- I. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- J. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- K. All of the area outside of the sandpit lake shall be graded so as to drain into the lake unless a loop levee is constructed, in which case only the area inside of the levee will be required to drain into the lake.
- L. 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 dust.

- M. 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.
- N. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- O. The applicant shall comply with Conditions a, b, c, d, and e prior to publication of the resolution establishing the conditional use.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.

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

SECTION III. That this Resolution supersedes and makes null and void the resolution for CU-114 adopted on September 25, 1968 and the resolution for CU-192 adopted on December 26, 1976.

SECTION IV. 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 15th day of May, 1985.

 Chairman
Donald E. Gragg

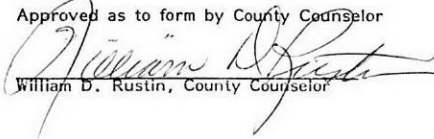
 Commissioner
Tom Scott

 Commissioner
Bernard A. Herten

ATTEST:

Bonhek L. Wright, County Clerk
(SEAL)

Approved as to form by County Counselor


William D. Rustin, County Counselor

THE CITY OF WICHITA

OFFICE OF MAPD-DESIGN

DATE February 14, 1986


TO Louise Olivarez, Senior Planner

FROM Chris Breitenstein, Civil Engineer III

SUBJECT Conditional Use Permit - Ritchie
Sand Extraction Operation at
37th Street North and West Street

The Corps of Engineers has approved the sand extraction
operation in Ponding Area "U" adjacent to Levee "C".

Please complete the Conditional Use Permit.


Chris Breitenstein
Civil Engineer III

CB:gr

cc: James Weber, Sedgwick County Bureau of Public Works

RECEIVED

FEB 17 1986

METROPOLITAN PLANNING
ROUTE _____

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: August 7, 1985

TO: Ron Worley, County Zoning Administrator

FROM: Louise Olivarez, Senior Planner

SUBJECT: CU-278

On May 15, 1985, the Board of County Commissioners reviewed and approved a conditional use permit for a sand extraction operation on the east side of West Street between 29th and 37th Streets North (CU-278). Attached are two prints of the proposed operational plan for your use and files. Prior to publication of the associated resolution, the applicant (Ritchie Paving, Inc.) must obtain a permit from the County Engineer as required by K.S.A. 19-3309.

Also attached are recorded copies of the restrictive covenants required by conditions "b" and "c". If you have any questions about this conditional use case, please contact our office.

Louise Olivarez
Senior Planner

LO/lw

Attachments

RESTRICTIVE COVENANT

The undersigned, Ritchie Paving, Inc., do hereby impose upon the following described real property, to-wit:

THAT PART OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 26 SOUTH, RANGE 1 WEST, LYING WEST OF THE WICHITAVALLEY CENTER FLOOD CONTROL, EXCEPT THE WEST 60 FEET FOR ROAD, ALL IN SEDGWICK COUNTY, KANSAS. GENERALLY LOCATED ON THE EAST SIDE OF WEST STREET, BETWEEN 29th STREET NORTH AND 37th STREET NORTH.

covenant to run with the land as follows;

1. No foreign matter, including but without limitation to, rubbish, trees, car bodies, new asphaltic concrete mix, and building rubble or other trash shall be deposited on the above described real property or within any sand pit excavation thereon.

2. Bank stabilizations and fill materials shall include sidewalk pavement, concrete pavement, concrete pavement with asphaltic concrete overlays, and asphaltic concrete pavement. All asphaltic concrete materials shall have aged sufficiently so that the water soluble pollutants have dissipated. In no instance will asphaltic concrete exceed 15% of the total materials used.

Reinforcing materials protruding in excess of 12 inches shall not be permitted. Materials used for final grade shall have reinforcing materials clipped as close to flush as possible.

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

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HAND THIS 11th day of JUNE, 1985.

STATE OF KANSAS }
SEDGWICK COUNTY }
FILED FOR RECORD AT
8:00 AM

JUL 15 1985

NO. 7 56286
PAT KETTLER
REGISTER OF DEEDS

STATE OF KANSAS }
SEDGWICK COUNTY }

H.T. Ritchie
Ritchie Paving, Inc.
H.T. Ritchie, President

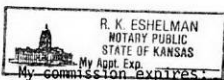
Ed. P. ...
Deputy

MICROFILMED
OF RECORD

BE IT REMEMBERED, that on this 11th day of JUNE, 1985, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Ritchie Paving, Inc., by its President, H.T. Ritchie, personally known to me to be the same person who executed the within and foregoing instrument on behalf of the Corporation and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

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

R.K. Eshelman
Notary Public



6-28-85

5.00 City clerk

AMENDED

COVENANT RUNNING WITH THE LAND

RITCHIE PAVING, INC. fee owners of the following described realty, to wit:

THAT PART OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 26 SOUTH, RANGE 1 WEST, LYING WEST OF THE WICHITA-VALLEY CENTER FLOOD CONTROL, EXCEPT THE WEST 60 FEET FOR ROAD, ALL IN SEDGWICK COUNTY, KANSAS. (GENERALLY LOCATED ON THE EAST SIDE OF WEST STREET, BETWEEN 29th STREET NORTH AND 37th STREET NORTH.)

MICROFILMED
OF RECORD

we wish to amend and incorporate additional land to a COVENANT RUNNING WITH THE LAND executed by JAMES O. SMITH AND RUBY J. SMITH on July 11, 1980, and recorded on Film 426 at Page 1555 in the Office of the Register of Deeds of Sedgwick County, Kansas, do hereby make the following declaration of restrictions, limitations and use of said realty, and that said declaration shall constitute covenants running with the land and shall be binding upon all owners and their heirs, successors and assigns:

If the construction of a loop levee is deemed necessary by the City-County Flood Control Office, or their successors of office, in connection with conducting operations for the removal of sand and gravel from the premises, the fee owners agree to construct and maintain 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.

STATE OF KANSAS }
SEDGWICK COUNTY } SS
FILED FOR RECORD AT
8:00 AM

JUL 15 1985

NO. 7 56287
PAT KETTLER
REGISTER OF DEEDS

Ed. B. Bandy
Deputy

The above restrictions and agreements shall be deemed covenants running with the land and shall not be amended, deleted or changed without written consent of the City-County Flood Control Office, or their successors of office.

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

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

Executed this 30th day of April, 1985.

H. T. Ritchie
Ritchie Paving, Inc.
H.T. Ritchie, President

STATE OF KANSAS }
SEDGWICK COUNTY } SS

BE IT REMEMBERED, that on this 30th day of April, 1985, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Ritchie Paving, Inc., by its President, H.T. Ritchie, personally known to me to be the same person who executed the within and foregoing instrument on behalf of the Corporation and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

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



Ada L. Banks
Notary Public
ADA L. BANKS

My commission expires May 25, 1987

city clerk

5.00

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: July 5, 1985

TO: Donald C. Gisick, City Clerk
FROM: Louise Olivarez, Senior Planner
SUBJECT: CU-278: Recording of Restrictive Covenants

On April 18, 1985, the MAPC recommended approval of CU-278 subject to several conditions, two of which regarded submission of restrictive covenants. These covenants have now been submitted and need to be recorded with the Register of Deeds.

Please record the two attached covenants and bill the Planning Department for the recording costs. Once the recorded documents have been returned to you, please send them to the Planning Department for our files.

Sincerely,

Louise Olivarez
Senior Planner

LO:blw
Attachments

RESTRICTIVE COVENANT

The undersigned, Ritchie Paving, Inc., do hereby impose upon the following described real property, to wit:

THAT PART OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 26 SOUTH, RANGE 1 WEST, LYING WEST OF THE WICHITAVALLEY CENTER FLOOD CONTROL, EXCEPT THE WEST 60 FEET FOR ROAD, ALL IN SEDGWICK COUNTY, KANSAS. GENERALLY LOCATED ON THE EAST SIDE OF WEST STREET, BETWEEN 29th STREET NORTH AND 37th STREET NORTH.

covenant to run with the land as follows;

1. No foreign matter, including but without limitation to, rubbish, trees, car bodies, new asphaltic concrete mix, and building rubble or other trash shall be deposited on the above described real property or within any sand pit excavation thereon.

2. Bank stabilizations and fill materials shall include sidewalk pavement, concrete pavement, concrete pavement with asphaltic concrete overlays, and asphaltic concrete pavement. All asphaltic concrete materials shall have aged sufficiently so that the water soluble pollutants have dissipated. In no instance will asphaltic concrete exceed 15% of the total materials used.

Reinforcing materials protruding in excess of 12 inches shall not be permitted. Materials used for final grade shall have reinforcing materials clipped as close to flush as possible.

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

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HAND THIS 11th day of JUNE, 1985.

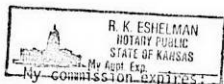
H.T. Ritchie
Ritchie Paving, Inc.
H.T. Ritchie, President

STATE OF KANSAS)
SEDGWICK COUNTY) SS

BE IT REMEMBERED, that on this 11th day of JUNE, 1985, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Ritchie Paving, Inc., by its President, H.T. Ritchie, personally known to me to be the same person who executed the within and foregoing instrument on behalf of the Corporation and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

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

R. K. Eshelman
Notary Public



6-28-85

RESTRICTIVE COVENANT

The undersigned, Ritchie Paving, Inc., do hereby impose upon the following described real property, to-wit:

THAT PART OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 26 SOUTH, RANGE 1 WEST, LYING WEST OF THE WICHITA-VALLEY CENTER FLOOD CONTROL, EXCEPT THE WEST 60 FEET FOR ROAD, ALL IN SEDGWICK COUNTY, KANSAS. GENERALLY LOCATED ON THE EAST SIDE OF WEST STREET, BETWEEN 29th STREET NORTH AND 37th STREET NORTH.

covenant to run with the land as follows:

1. No foreign matter, including but without limitation to, rubbish, trees, car bodies or other trash shall be deposited on the above described real property or within any sand pit excavated thereon.
2. Bank stabilization materials shall include concrete road and sidewalk pavement only. Reinforcing materials protruding from the concrete shall not be permitted. Asphalt and building rubble shall not be permitted.

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

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HAND THIS April day of April, 1985.

H. T. Ritchie
Ritchie Paving, Inc.
Ritchie, President
*As prepared by
Rex K. [unclear]
6-11-85*

STATE OF KANSAS
SEDGWICK COUNTY

BE IT REMEMBERED, that on the 30th day of April, 1985, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Ritchie Paving, Inc., by its President, H.T. Ritchie, personally known to me to be the same person who executed the within and foregoing instrument on behalf of the Corporation and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

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



Alta L. Banks
Notary Public

My Commission Expires:

May 25, 1987

*Applied for this [unclear] by H.T. Ritchie
for [unclear] Document*

CU-276
SCZ-0540

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, Ritchie Paving, Inc.

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

THE WEST 60 FEET OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 26 SOUTH, RANGE 1 WEST, EXCEPT THAT PART PREVIOUSLY DEDICATED AS ROADWAY.

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

Street purposes.

Executed this 30th day of April 1985.

H. T. Ritchie
Ritchie Paving, Inc.
H.T. Ritchie, President

STATE OF KANSAS)
SEDGWICK COUNTY) ss

BE IT REMEMBERED, that on this 30th day of April before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Ritchie Paving, Inc., by its President, H.T. Ritchie, personally known to me to be the same person who executed the foregoing instrument on behalf of the Corporation and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

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

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



Anna D. Parker
Notary Public

My Commission Expires: 5-25-87

AMENDED

COVENANT RUNNING WITH THE LAND

RITCHIE PAVING, INC. fee owners of the following described realty, to wit:

THAT PART OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 26 SOUTH, RANGE 1 WEST, LYING WEST OF THE WICHITA-VALLEY CENTER FLOOD CONTROL, EXCEPT THE WEST 60 FEET FOR ROAD, ALL IN SEDGWICK COUNTY, KANSAS. (GENERALLY LOCATED ON THE EAST SIDE OF WEST STREET, BETWEEN 29th STREET NORTH AND 37th STREET NORTH.)

we wish to amend and incorporate additional land to a COVENANT RUNNING WITH THE LAND executed by JAMES O. SMITH AND RUDY J. SMITH on July 11, 1980, and recorded on Film 426 at Page 1555 in the Office of the Register of Deeds of Sedgwick County, Kansas, do hereby make the following declaration of restrictions, limitations and use of said realty, and that said declaration shall constitute covenants running with the land and shall be binding upon all owners and their heirs, successors and assigns:

If the construction of a loop levee is deemed necessary by the City-County Flood Control Office, or their successors of office, in connection with conducting operations for the removal of sand and gravel from the premises, the fee owners agree to construct and maintain 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.

The above restrictions and agreements shall be deemed covenants running with the land and shall not be amended, deleted or changed without written consent of the City-County Flood Control Office, or their successors of office.

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

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

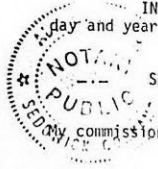
Executed this 30th day of April, 1985.

H.T. Ritchie
Ritchie Paving, Inc.
H.T. Ritchie, President

STATE OF KANSAS }
SEDGWICK COUNTY } SS

BE IT REMEMBERED, that on this 30th day of April, 1985, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Ritchie Paving, Inc., by its President, H.T. Ritchie, personally known to me to be the same person who executed the within and foregoing instrument on behalf of the Corporation and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

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



SEAL

Ada D. Banks
Notary Public

My commission expires May 25, 1987

Signature

RESOLUTION . NO. _____

CASE NO. CU-278

A RESOLUTION TO ALLOW A SAND AND GRAVEL EXTRACTION OPERATION IN THE "R-1", "LC", AND "E" ZONING DISTRICTS 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 allow a sand and gravel extraction operation in the "R-1" Suburban Residential District, the "LC" Light Commercial District, and the "E" Light Industrial District is hereby approved on the lands legally described as follows:

Beginning at the northwest corner of Sec. 36, T26, R1W; thence east along the north line of northwest 1/4 of said section to the west line of the Wichita-Valley Center Flood Control R/W; thence southerly along the west R/W line of the Wichita-Sedgwick County Flood Control to the south line of the southwest 1/4 of said Sec. 36; thence west along the south line of the southwest 1/4 of said section to the southwest corner of said Sec.36; thence north along the west line of said Sec. 36 to the point of beginning; except the west 50 feet for road right-of-way. Generally located on the east side of West Street between 29th Street North and 37th Street North.

SUBJECT TO THE FOLLOWING:

- ✓ A. The applicant shall dedicate by separate instrument any additional half-street right-of-way necessary to bring West Street up to F.A.S. standards (60 feet half-street right-of-way).
- ✓ B. The applicant shall submit a new 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 submit a new restrictive covenant to the Planning Department, approved as to content by the City-County Flood Control Office and as to form by the County Counselor. 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 submit five copies of the revised redevelopment plan indicating a drainage route through the housing lots shown north of the Phillips pipeline easement and along the south line of the property. The applicant shall then proceed in accordance with the revised development and operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate size as indicated on the approved plan.
- F. 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.
- G. 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.
- H. 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.
- I. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- J. 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.
- K. All of the area outside of the sandpit lake shall be graded so as to drain into the lake unless a loop levee is constructed, in which case only the area inside of the levee will be required to drain into the lake.
- L. 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 dust.

- M. 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.
- N. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- O. The applicant shall comply with Conditions a, b, c, d, and e prior to publication of the resolution establishing the conditional use.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.

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

SECTION III. That this Resolution supersedes and makes null and void the resolution for CU-114 adopted on September 25, 1968 and the resolution for CU-192 adopted on December 26, 1976.

SECTION IV. 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. Cragg

_____, Commissioner
Tom Scott

_____, Commissioner
Bernard A. Hentzen

ATTEST:

Donnell L. Wright, County Clerk

(SEAL)

Approved as to form by County Counselor

William D. Rustin, County Counselor

Planning Agenda

Item #

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION
TO BOARD OF COUNTY COMMISSIONERS

REQUEST FOR CONDITIONAL USE

CU-278 - CONDITIONAL USE PERMIT TO ALLOW A SAND EXTRACTION
OPERATION, GENERALLY LOCATED ON THE EAST SIDE OF WEST STREET
BETWEEN 29TH AND 37TH STREET NORTH.

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

Bayouth moved, Crockett seconded and it carried with a vote of 9 in
favor (Bayouth, Crockett, Banzer, Gardner, Goebel, Hansen, Moore,
Peters and Wilson) and 1 opposed (Chisholm).

ACTION:

1. Approve the recommendation of the Metro-
politan Area Planning Commission and adopt
a resolution establishing the conditional
use, or
2. Deny the application.

DATA AND MINUTES

MAPC Hearing Date: 4-18-85

BCoC Hearing Date: 5-15-85

AREA DATA:

Acres: 214

Size: 5280' x 2100' (irregular)

Reason: To combine two existing conditional use permits and change
limits of excavation.

	<u>Land Use</u>	<u>Zoning</u>
Existing North	Agriculture & farm houses	"R-1", "LC" & "E"
South	Agriculture & farm houses	"LC" & "R-1"
East	Agriculture	"LC" & "R-1"
West	Wichita-Valley Center	"R"
	Flood Control	
	Agriculture	"R-1" & "LC" with conditional use permits.

History: CU-114	9-12-68	MAPC	Approved subject to conditions.
	9-25-68	BCoC	Approved subject to conditions.
CU-192	11-24-76	MAPC	Approved subject to conditions.
	12-22-76	BCoC	Approved as recommended with time limitation.

Applicant: Ritchie Paving, Inc., Attn. H. T. Ritchie, P. O. Box 4048,
Wichita 67204

Protestors: Walt Henning, 2437 N. Hoover; Vic Eisenring, 4620 West 21st
Street North.

EXCERPT FROM PLANNING COMMISSION MINUTES OF APRIL 18, 1985

LEGAL:

5. Case No. CU-278 - Ritchie Paving, Inc. requests a Conditional Use Permit to establish a sand extraction operation beginning at the northwest corner of Sec. 36, T26, R1W; thence east along the north line of northwest 1/4 of said section to the west line of the Wichita-Valley Center Flood Control R/W; thence southerly along the west R/W line of the Wichita-Sedgwick County Flood Control to the south line of the southwest 1/4 of said Sec. 36; thence west along the south line of the southwest 1/4 of said section to the southwest corner of said Sec.36; thence north along the west line of said Sec. 36 to the point of beginning; except the west 50 feet for road right-of-way. Generally located on the east side of West Street between 29th Street North and 37th Street North.

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 consolidate two previous conditional use permits which established raw material extraction operations and to modify the limits of extraction on approximately 214 acres of land zoned "R-1" Suburban Residential, "LC" Light Commercial, and "E" Light Industrial, in an area on the east side of West Street between 29th and 37th Street North.
2. The applicant has submitted an operational plan indicating the limits of the area to be excavated as well as a redevelopment plan which proposes residential development around the perimeter of the lakes. The sand plant operation will be located on this site with plans to pump sand from property to the west (CU-113) and the northwest (CU-115).
3. The Sedgwick County Department of Public Works advises that a new loop levee covenant that covers the entire site should be required and that the drainage from the area north of the proposed sandpits must be allowed to drain into and through the sandpits. The redevelopment plan should be revised to indicate a route through the lots shown north of the Phillips pipeline easement and along the south line of the property.
4. The applicant should be advised that a new permit for excavation near a flood protection structure under K.S.A. 19-3309 will be required. West Street is a Federal Aid Secondary road, therefore additional half-street rights-of-way varying from 10 feet to 30 feet will need to be dedicated.
5. Should the Planning Commission recommend approval of this request, it should be subject to the following conditions:
 - A. The applicant shall dedicate by separate instrument any additional half-street right-of-way necessary to bring West Street up to F.A.S. standards (60 feet half-street right-of-way).
 - B. The applicant shall submit a new 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 submit a new restrictive covenant to the Planning Department, approved as to content by the City-County Flood Control Office and to form by County Counselor. 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,

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5-1-85

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received
5-1-85

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
5-1-85*
- 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 submit five copies of the revised redevelopment plan indicating a drainage route through the housing lots shown north of the Phillips pipeline easement and along the south line of the property. The applicant shall then proceed in accordance with the revised development and operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate size as indicated on the approved plan.
- F. 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.
- G. To further 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.
- H. 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.
- I. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- J. 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.
- K. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.

- L. 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 dust.
- M. 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.
- N. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- O. The applicant shall comply with Conditions a, b, c, d, and e prior to publication of the resolution establishing the conditional use.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.

DISCUSSION:

SMYTHE stated that the Sedgwick County Department of Public Works advised that a new loop levee covenant should be put together for this site because it is combining two existing conditional uses and it would be better handled that way. He said that the redevelopment plan should be revised to indicate a route for the drainage to occur through the lots on the redevelopment plan. As it exists now, it does not show any type of drainage to go from the northern part of the site to the southern part of the site.

GARDNER asked if item "B" (restrictive covenant prohibiting foreign matter in sandpits) had been addressed or expanded at all to include any other materials.

GALBRAITH stated that it had not. This has been the way it has been written and has not been interpreted in the past to permit demolition building materials to go in the site. He thought that they permit bank stabilization by concrete, but that has been pretty inclusive to exclude all type of materials being dumped back into the lake.

GARDNER continued that as a result of recent complaints that have been made on other operations in the vicinity, and because that question had been raised, he was under the impression that that comment had been expanded or had been a little bit more definitive towards prohibiting demolition rubbish.

GALBRAITH felt that it should be expanded because recently staff contacted the County Health Department relative to the issue of dumping broken asphalt that is put on some of the sandpits for stabilization. He said that they have found that this was a material that should not be used in bank stabilization. He felt if that this was being construed as somewhat permitting that, it ought to be expanded to exclude asphalt materials completely.

GARDNER stated that the other part of his reference was towards that kind of demolition rubbish that was full of reinforcing rods and things of that nature sticking out in a pretty indiscriminate and random fashion. He felt it abuses the term "bank stabilization" and it was something he thought they had addressed before and it had been included. He said that perhaps it needed to be further expanded.

GALBRAITH said they could add a condition that, "bank stabilization material shall not include asphalt and concrete with reinforcing", to help clarify the type of materials found acceptable for bank stabilization.

GARDNER did not think that in either case it adversely affects the applicant because they have not been a party to that kind of activity in the past, but was the sort of thing he felt needed to be expanded.

GALBRAITH suggested a statement that, "bank stabilization shall not include broken asphalt, concrete with rebar", and perhaps elaborate that way.

GARDNER felt that might be appropriate.

GALBRAITH felt that the Commission needed to recognize that with this particular contractor it was different than some of the sandpit cases they sometimes have where people just extract sand and move quickly on. This particular applicant has two other conditional use applications within close proximity of this where, once they establish their plant, they expect to dredge underneath the road or at some distance to extract sand in other areas. So they perhaps could expand on how many years they anticipate to be here, but he expected it would be upwards of 30 years operating from this site. GALBRAITH said that they need the light industrial zoning, apparently in the amounts that they have asked for, because they not only extract sand, they have an asphalt plant, a concrete plant, and much of their contractor storage yard materials are stored on a site like this, and that was the reason they advised staff that they needed so much light industrial zoning.

PETERS asked if item "B" has been, in the past, agreements on asphalt and cement plants.

GALBRAITH said that it had been, and that was one that was violated the most.

GARY WILEY, Professional Engineering Consultants, appearing on behalf of the applicant, stated that this operation would probably last for 15 to 20 years at this location. He said that the applicants had no objections to expanding the covenant to prohibit the asphalt because any asphalt that would be hauled onto this site would be recycled and reused. The one concern of the applicants was the rebar and the concrete. WILEY said that he assumed that any concrete that was rebarred that was below the water table would not be as objectionable as a bank stabilization item. WILEY said he gathered that they were talking generally about the unsightliness of the rebar.

GARDNER said no, the problem being talked about was that there had been use of the pits for demolition rubble disposal, and they were talking not of just the broken concrete, they were talking about concrete with a lot of random rebar in it and a rough condition that just piled back in. He felt there was a significant difference between demolition rubble and broken concrete used for bank stabilization, and felt that it was too fine a line to draw whether it was below the water table or 6 feet above. As much as anything if they utilize concrete with random steel protruding from it, you end up with a hazard that exists for years yet to come in terms of stabilization drift.

WILEY related that they were in agreement with the rest of the staff comments.

TOM RITCHIE, President of Ritchie Paving, Inc., stated that they did not allow building demolition rubble. He said that when they use the words "demolition rubble", they could also mean pavement demolition rubble, and they do have a lot of concrete paving removed that makes terrific bank stabilization material, and it does have some steel in it.

Considerable discussion followed on demolition rubble, with CROCKETT asking if there was a difference in the length of steel that one would find in demolition rubble from a building as opposed to rubble from broken up pavement?

RITCHIE said generally not, however, there is a considerable difference in the shape. Concrete paving is flat and thin; in a

building there are coils and coils of rebar, and there is considerably more of it per cubic foot.

BAYOUTH commented that his primary concern would be the storage and letting it accumulate over the years, thus becoming a hazard. He further stated that you can guarantee about three things with concrete. It gets hard, cracks and has rebar in it, and if you cannot afford any other stabilization material other than that, then the cost becomes prohibitive. He said that Ritchie has a very good track record on stabilizing banks and covering up. He felt if it was restricted too far, it would become a problem.

RITCHIE remarked that the relatively clean concrete that is seen along the river, that stabilization material generally comes from concrete pavement. There is rebar in it. The material with tangled masses, that comes from building rubble. He felt it could be solved very reasonably by saying, "pavement concrete material is suitable, and building rubble is not". He said that they have a problem with building rubble. He did not want to get into a situation where one piece of steel sticking up in 200 acres causes a violation of these covenants, and he fears that because it was not very clear.

GARDNER said that they did not want to create that either, but thought that there was a sincere concern that with the accumulation of rubble that they have seen occurring that there have been some abuses there and this is an area that they have had to talk about before.

RITCHIE stated that they were not wanting to do any abusing. They just want to comply and have a clear understanding.

CROCKETT asked if there would be a problem of setting a dimension on rebar in the concrete and saying, "not more than an "X" number of inches, or a foot and half of rebar, could protrude from any given piece of concrete". He asked if that would be a problem.

RITCHIE said that it could be done. He felt they could generally live with paving rubble and the other requirements concerning how it was piled and placed.

HANSEN asked Galbraith to read back the proposed statement that he suggested.

GALBRAITH read "bank stabilization material shall not include broken asphalt and concrete with reinforcing mesh."

WILSON felt that Ritchie's suggestion on the type of material was a good suggestion. He felt that it would be a good idea if the staff got with the industry and established some ground rules to be used for bank stabilization.

GALBRAITH suggested other wording: "Bank stabilization material shall include paving material only, excluding asphalt, and protruding reinforcing materials shall not be permitted."

GARDNER said that he was sensitive to Ritchie's concern about there being some material in there, and he did not want to adopt something in a rush that was unlivable either. He said that the Commission has been confronted with this in the past. They have an accumulation of acres of material on Stannard's deal to be recycled, and they have had other situations where it was going to be used for bank stabilization. He felt that clearly where there was accumulation of rubble or that kind of thing which is contrary to the intent here, whether it was put upon or not, they should have some wording that addresses that, that the industry was comfortable with, that would not handicap them, but it does police the situation. GARDNER suggested a two week deferral to make sure there was wording on the matter that Ritchie would be comfortable with and which would be advantageous.

WILEY responded that before this case goes to the County Commission this was one of the items that has to be presented to the Planning staff. WILEY felt that the Commission could act on the matter, and he still would have time to work the covenant out.

RITCHIE reminded the Commission that they have already stated what would work for them, and that they were interested in doing it in a suitable way.

HANSEN again asked Galbraith to read back the last statement that he read to see how Ritchie felt about it, and then maybe they could resolve the situation.

GALBRAITH read the statement.

CROCKETT said the protruding part was the part he asked Ritchie about a minute ago, and asked if it was now acceptable as far as the applicant was concerned.

RITCHIE shook his head, with HANSEN voicing his meaning as "not really".

WALT HENNING, 2437 North Hoover, stated that he did not have any conflict on the operation or anything other than the traffic and somebody taking care of the roads.

GALBRAITH suggested Mr. Henning contact the County Engineering Department on maintenance of the road, and any complaints on road conditions be made in that direction, or as a last resort, he could contact the County Commissioner in his district.

VIC EISENRING, 4620 West 21st Street North, stated that he was not opposing the sand operation, but would oppose item four, the zone change.

WILSON advised Mr. Eisenring that they were discussing number five and not four. He asked if Eisenring wanted to address number five.

EISENRING said that he did. He would like, before this request was approved, to force the applicants to fence every piece of land that they have already zoned for sand plants. He mentioned that none of the sand plants had been fenced. He mentioned that when he came along and took dirt out of his place and he got an injunction against him by Ron Worley, County Zoning Administrator, for taking dirt out, and Ritchie has operated all these years and never fenced their property. He felt that Ritchie should be made to be legal the same as he had to.

It was pointed out to Mr. Eisenring that fencing was in the staff recommendations.

GALBRAITH stated that he was advised that this site was entirely fenced and meets the regulations. There has been some dispute about two of Ritchie's conditional use applications across the street and northwest of this site. He said that one of the sites they bought after someone else removed some overburden. The site that is directly across the street from this, to the west, has had some overburden removed without fencing. He said that Mr. Worley has been in contact with them. GALBRAITH said that he looked at the sites two weeks ago and did not find it a comparable site with Mr. Eisenring's site where a substantial amount of overburden had been removed actually creating a hole. It was his understanding that Worley stopped Eisenring and required the site to be fenced. GALBRAITH said that he has talked to Worley about Ritchie's site across the street, and he apparently has been working with him to get it graded so that vegetative covering could be replanted on this until they are actually ready to move into this area. GALBRAITH did not feel that the two cases really related. He felt that Worley still had his function to see that past conditional use applications were complied with, and any complaint that Mr. Eisenring

has on one of the Ritchie sites should be addressed to Worley and proceed to try and get compliance. GALBRAITH did not think that right across the street to the west where something that was unused now and not proposed to be used by Ritchie should be fenced at this time. He said that others had not been required to do that. GALBRAITH asked Worley, who was in the audience, if the proposed site was in compliance. Worley said that it was.

WILSON commented that the Commission was only interested in this site and was sorry that they had to hear complaints about other things; taking up everybody's time and energy and getting them upset with an applicant that was in compliance, he felt was a little out of place, and would appreciate it if it did not happen again.

GARDNER commented that he could recall when Mr. Eisenring was here on another sandpit and he had to crawl through all of the small hoops and dot all the "l's" and cross all the "t's" on that one and it was a tough one. He said that as far as he was concerned if Mr. Eisenring wanted to come in and address somebody else's if they were not in compliance, it was completely within bounds. He said that Mr. Eisenring's comments were welcomed and appreciated.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the largely undeveloped character of the neighborhood; the zoning and uses of adjacent properties plus the numerous previously approved conditional use permits for sand extraction operations; 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:

- A. The applicant shall dedicate by separate instrument any additional half-street right-of-way necessary to bring West Street up to F.A.S. standards (60 feet half-street right-of-way).
- B. The applicant shall submit a new 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 submit a new restrictive covenant to the Planning Department, approved as to content by the City-County Flood Control Office and as to form by the County Counselor. 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 submit five copies of the revised redevelopment plan indicating a drainage route through the housing lots shown north of the Phillips pipeline easement and along the south line of the property. The applicant shall then proceed in accordance with the revised development and operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate size as indicated on the approved plan.

- F. 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.
- K. All of the area outside of the sandpit lake shall be graded so as to drain into the lake unless a loop levee is constructed, in which case only the area inside of the levee will be required to drain into the lake.
- L. 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 dust.
- M. 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.
- N. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- O. The applicant shall comply with Conditions a, b, c, d, and e prior to publication of the resolution establishing the conditional use.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.

Bayouth moved, Crockett seconded and
it carried with a vote of 9 in favor
(Bayouth, Crockett, Banzer, Gardner,
Goebel, Hansen, Moore, Peters and
Wilson) and 1 opposed (Chisholm).

Planning Agenda

Item #

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION
TO BOARD OF COUNTY COMMISSIONERS

REQUEST FOR ZONING

SCZ-0546 - ZONE CHANGE FROM THE "R-1" SUBURBAN RESIDENTIAL DISTRICT TO THE "E" LIGHT INDUSTRIAL DISTRICT, GENERALLY LOCATED ON THE EAST SIDE OF HOOVER, 850 FEET SOUTH OF 37TH STREET NORTH.

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

Bayouth moved, Chisholm seconded and it carried unanimously.

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

DATA AND MINUTES

MAPC Hearing Date: 4-18-85

BCoC Hearing Date: 5-15-85

AREA DATA:

Acres: 8.3

Size: 450' x 800'

Reason: To establish a site for an asphalt batch plant in association with a proposed sand extraction operation.

	<u>Land Use</u>	<u>Zoning</u>
Existing	Single-family dwelling/agriculture	"R-1"
North	Agriculture	"R-1"
South	Agriculture	"E"
East	Agriculture	"R-1"
West	Agriculture	"R-1"

History: CU-192 Raw materials extraction 11-24-76 MAPC Approved subject to conditions.

12-22-76 BCoC Approved as recommended & time limitation.

Applicant: Ritchie Paving, Inc., Attn: H. T. Ritchie, P. O. Box 4048, Wichita 67204

Protestors: Walter Henning, 2437 North Hoover.

Associated case

EXCERPT FROM PLANNING COMMISSION MINUTES OF APRIL 18, 1985

LEGAL:

4. Case No. SCZ-0546 - Ritchie Paving, Inc. requests zone change from "R-1" to "E" commencing at the northwest corner of Section 36, T-26-S, R-1-W; thence south along the west line of said section 855 feet; thence east 50 feet to the point of beginning; thence south, parallel to and 50 feet east of the west line of said section, 450 feet; thence east 800 feet; thence north, parallel to the west line of said section, 450 feet; thence west 800 feet to the point of beginning. Generally located on the east side of West Street 850 feet south of 37th Street North.

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

COMMENTS:

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

1. The applicant is requesting a change of zoning from the "R-1" Suburban Residential District to the "E" Light Industrial District for a tract of land containing 8.3 acres generally located on the east side of West Street 850 feet south of 37th Street North.
2. Suburban residential zoning is found to the north, east and west with a large tract of light industrial zoning to the south. Subject property is located within Conditional Use #192 which permits the extraction of sand and gravel (raw materials).
3. The applicant, if granted light industrial zoning, wants to establish a site for an asphalt batch plant and the retail of sand and gravel in association with a proposed sand plant operation (CU-278). The proposed amendment to the text would allow concrete and asphalt mixing plants as a temporary use when operated in conjunction with an approved extraction of raw materials operation.
4. The applicant desires not to use the existing light industrial zoning to the south of the application area because of their plans to locate the proposed sand extraction plant in a location that will enable them to pump sand from the property on the west side of West Street (CU-113 permit for sand extraction) and from property north of 37th Street North (CU-115).
5. A recommendation of approval by the Planning Commission should be subject to the applicant dedicating by separate instrument an additional 30 feet of half-street right-of-way for West Street to bring it up to the standards of federal aid secondary roads (60' feet half-street right-of-way).

DISCUSSION:

SMYTHE stated that the applicant proposes to put in an asphalt batch plant in association with the sand and gravel extraction operation adjacent to this site. He said that the current proposed amendment to the text would allow concrete and asphalt batch plants in residential districts as long as they are a temporary use associated with a sand and gravel operation. SMYTHE said that the applicant desires not to use the existing light industrial zoning that is currently south of this site because they want to locate the main sand extraction plant there in order to be able to pump sand from two different conditional uses. Therefore, they are requesting an additional 8.3 acres of light industrial zoning for the batch plant. SMYTHE added that staff was recommending approval subject to the dedication of an additional 30 feet of half-street right-of-way for West Street.

GARY WILEY, Professional Engineering Consultants, appearing on behalf of the applicants, pointed out that there were two existing conditional uses presently owned by the same applicant. It was just combining the two into one conditional use that better works for the applicant. He said that they were in complete agreement with all of the staff comments. WILEY stated that the applicants plan to pump the area called CU-113, the area west of West Street, along with the conditional uses that are now existing on the east side of West Street. They would also be able to pump CU-115 from the same location, so there would only be one plant location in this whole area. By putting the total plant at the proposed location, they needed to expand the "E" Light Industrial to the north for a batch plant.

WILSON asked if the "E" Light Industrial would revert back to residential use.

WILEY mentioned that on the redevelopment plan for the associated case, single family residential use is proposed for this whole area.

WALTER HENNING, 2437 North Hoover, asked what the applicants plan to do with the road. At the present time they are hauling dirt in that area down to the main plant on Hoover which is south, then west on 29th Street to Hoover. He said that 29th Street at this time was practically impassable because of the heavy trucks. The center of the road was lower than the ditches. He said that he did not see how they were going to handle all of the heavy truck traffic without it doing something to the roads.

WILEY commented that once this plant is established, they would not be hauling any top soil on the road. The plant at Hoover would be closed, and that was the reason for the zone change. This would be the main Ritchie plant.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the largely undeveloped neighborhood; the zoning and uses of adjacent properties plus the numerous previously approved conditional use permits for sand extraction operations; 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 owner dedicating the necessary right-of-way for West Street to bring it up to the standard of Federal Aid Secondary roads (60 feet half-street right-of-way). Bayouth moved, Chisholm seconded and it carried unanimously.

Published in The Daily Reporter on _____, 1985

RESOLUTION NO. _____

A RESOLUTION CHANGING THE ZONING CLASSIFICATIONS FOR 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 I. 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, the zoning districts of lands legally described are hereby changed as follows:

CASE NO. SCZ-0546

Zone Change from the "R-1" Suburban Residential District to the "E" Light Industrial District

Commencing at the northwest corner of Section 36, T-26-S, R-1-W; thence south along the west line of said, section 855 feet; thence east 50 feet to the point of beginning; thence south, parallel to and 50 feet east of the west line of said section, 450 feet; thence east 800 feet; thence north, parallel to the west line of said section, 450 feet; thence west 800 feet to the point of beginning. Generally located on the east side of West Street 850 feet south of 37th Street North.

SECTION II. That upon the taking effect of this Resolution, the above zoning change shall be entered and shown on the particular sectional zoning map contained in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force and after its adoption and publication once in the official County paper.

PASSED AND ADOPTED by the Board of County Commissioners at Wichita, Kansas, this _____ day of _____, 19____.

_____, Chairman
Donald E. Cragg

_____, Commissioner
Tom Scott

_____, Commissioner
Bernard A. Hentzen

ATTEST:

Donnell L. Wright, County Clerk

(SEAL)

APPROVED AS TO FORM:

William D. Rustin, County Counselor

MELANIE GARETSON
Loan Services

UA United American Bank & Trust Company
Member FDIC Equal Housing Lender

OUTSIDE
PROTEST PETITION
 (COUNTY CASES)

*Outside of book
 SCZ 0546
 and
 CU-278
 yes!
 way out!*

SECTION I: Zone Change or Conditional Use Being Protested.

The undersigned, property owners in Sedgwick County, Kansas, hereby protest the proposed change of zoning OR conditional use permit for property described as Case No. SCZ-0546, zone change from R-1 to R-2 OR Case No. CU-278, request for establishment of _____ in the _____ zoning district.

Legal description of property included in the above case:

*east side of West Street
 between 29th + 37th Streets North*

SECTION II: Protestor's Name and Property Description.

A. Legal description of property owned by protestor:

*1/2 SE 1/4 Etc Floodway
 SEC 2-27-1W*



B. Name(s) of protestor(s):

(a) *Victor B. Eisenring* (b) _____
 Signature Signature
 VICTOR B. EISENRING _____
 Typed or Printed Name Typed or Printed Name

ACKNOWLEDGEMENT

State of Kansas)
 County of Sedgwick) ss

The foregoing instrument was acknowledged before me this 26th day of April, 1985, by Victor B. Eisenring



Melanie Garetson
 Notary Public Melanie Garetson

My Appointment expires May 10, 1986

ALL SIGNATURES MUST BE ACKNOWLEDGED

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

April 22, 1985

Walter Henning
2437 North Hoover
Wichita, Ks. 67205

Re: SCZ-0546 & CU-278

Dear Mr. Henning:

The Planning Commission at its regular meeting of April 18, 1985, considered the above-captioned cases, and their action was as indicated on the attached letters.

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, May 2, 1985. Enclosed is a copy of a 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,

Louise Olivarez
Senior Planner

JHG:sad
Encl.(1)

cc: Victor Eisenring, 4620 West 21st Street North, Wichita 67212 (1)

April 22, 1985

Gary Wiley
Professional Engineering Consultants, P.A.
1440 East English
Wichita, Ks. 67211

Re: CU-278 - Sand extraction operation
- east side of West Street
between 29th & 37th Streets No.

Dear Mr. Wiley:

At its regular meeting of April 18, 1985, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the Commission was to recommend approval of the CUP subject to the following conditions:

- A. The applicant shall dedicate by separate instrument any additional half-street right-of-way necessary to bring West Street up to F.A.S. standards (60 feet half-street right-of-way).
- B. The applicant shall submit a new 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 submit a new restrictive covenant to the Planning Department, approved as to content by the City-County Flood Control Office and as to form by the County Counselor. 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 submit five copies of the revised redevelopment plan indicating a drainage route through the housing lots shown north of the Phillips pipeline easement and along the south line of the property. The applicant shall then proceed in accordance with the revised development and operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate size as indicated on the approved plan.
- F. 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.
- G. 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.
- H. 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.

- I. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
- J. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- K. All of the area outside of the sandpit lake shall be graded so as to drain into the lake unless a loop levee is constructed, in which case only the area inside of the levee will be required to drain into the lake.
- L. 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 dust.
- M. 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.
- N. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
- O. The applicant shall comply with Conditions a, b, c, d, and e prior to publication of the resolution establishing the conditional use.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.

As to condition "A", enclosed is a form which may be used for dedicating the necessary right-of-way for West Street. Regarding item "B", the restrictive covenant which has been used in previous years needs to be expanded. We recommend that the following additional paragraph be included:

2. Bank stabilization materials shall include concrete road and sidewalk pavement only. Reinforcing materials protruding from the concrete shall not be permitted. Asphalt and building rubble shall not be permitted.

Enclosed is a copy of the restrictive covenant which was submitted with CU-192.

Assistance in preparing the loop levee covenant required in condition "C" may be obtained from the County Engineer's office if necessary.

Gary Wiley - CU 78 - April 22, 1985 - Page 4

Conditions A, B, C and D must be complied with prior to publication of the resolution authorizing the conditional use and we prefer that items A and B be submitted prior to the County Commission reviewing this case. Condition E regarding revised prints of the redevelopment plan must be submitted to our office prior to County Commission review. Please submit the prints as soon as possible but no later than May 2, 1985.

This conditional use request will be scheduled for consideration by the Board of County Commissioners on May 15, 1985 at 9:00 a.m. in Room 320 of the Sedgwick County Courthouse.

If you have any questions or if we can assist you in this matter, please contact our office.

Sincerely yours,

Louise Olivarez
Senior Planner

JHG:sad

cc: Ritchie Paving Inc., Attn: H. T. Ritchie, P. O. Box 4048,
Wichita 67204
Walter Henning, 2437 North Hoover, Wichita 67205
Victor Eisenring, 4620 West 21st Street North, Wichita 67212
Ron Worley, County Zoning Administrator

THE WICHITA-SEDGWICK COUNTY DEPARTMENT OF COMMUNITY HEALTH

OFFICE OF Environmental Health DATE April 9, 1985

TO Jack Galbraith, Chief Planner

FROM Michael J. Everhart, Environmental Health Director

SUBJECT Use of Asphalt as a Fill in Sand Pits

The use of asphalt as a fill for the redevelopment of sand pit shore lines is not considered to be an environmentally sound practice or approvable by this Department under the Sedgwick County Health and Sanitation Code #7. Asphalt could be defined as "Demolition and Construction Waste" if it is removed from areas surfaced with asphalt or as an "Industrial Solid Waste" if it is the result of a "bad batch" or over-run at an asphalt plant. In both cases, the waste asphalt is to be disposed of "at a licensed sanitary landfill and/or a licensed processing facility."

There are currently no "licensed landfills" approved in Sedgwick County for dumping construction demolition waste or industrial waste directly into a water bearing strata. There are, as you are aware, some sand pits which have used concrete demolition waste as bank stabilization to some extent but those areas have usually been fairly limited in size. Technically, any site which is filled with any type of solid waste should require approval of the local zoning authority and a State permit. Obviously some discretion should be used on limited fill sites; but in this case, I believe that the practice should be stopped.

Asphalt contains parafinic and heterocyclic petroleum oils as well as other solvents and emulsifiers. Asphalt which has "cured" in place over several years' exposure to the elements is reasonably stable. Once it is broken up and dumped into the lake, unweathered surfaces are exposed and some of the materials may be leached out into the water. I am not aware of any studies that have been done on this process, but I would suggest that the applicant should be required to provide testing by a certified laboratory as part of any consideration of landfill permit to dump asphalt into a sand pit.

Please contact me if you have any questions.


Michael J. Everhart
Environmental Health Director

MJE/jk

RECEIVED

APR 10 1985

METROPOLITAN PLANNING

ROUTE

RE: AGENDA ITEM NO. 5

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

CU-278 - Conditional use for sand extraction
Generally located on the east side of West Street between
29th and 37th Street North.

MAPC HEARING DATE: 4-18-85

Acres: 214

Size: 5200' x 2100' (irregular)

Reason: To combine two existing conditional use permits and change
limits of excavation.

	Land Use	Zoning
Existing North	Agriculture & farm houses	"R-1", "LC" & "E"
South	Agriculture & farm houses	"LC" & "R-1"
East	Agriculture	"LC" & "R-1"
West	Wichita-Valley Center Flood Control Agriculture	"R" "R-1" & "LC" with conditional use permits.

History:	CU-114	9-12-68	MAPC	Approved subject to conditions.
		9-25-68	BCoC	Approved subject to conditions.
	CU-192	11-24-76	MAPC	Approved subject to conditions.
		12-22-76	BCoC	Approved as recommended with time limitation.

Applicant: Ritchie Paving, Inc., Attn. H. T. Ritchie, P. O. Box 4048,
Wichita 67204

COMMENTS:

1. The applicant is requesting a Conditional Use Permit to consolidate two previous conditional use permits which established raw material extraction operations and to modify the limits of extraction on approximately 214 acres of land zoned "R-1" Suburban Residential, "LC" Light Commercial, and "E" Light Industrial, in an area on the east side of West Street between 29th and 37th Street North.
2. The applicant has submitted an operational plan indicating the limits of the area to be excavated as well as a redevelopment plan which proposes residential development around the perimeter of the lakes. The sand plant operation will be located on this site with plans to pump sand from property to the west (CU-113) and the northwest (CU-115).
3. The Sedgwick County Department of Public Works advises that a new loop levee covenant that covers the entire site should be required and that the drainage from the area north of the proposed sandpits must be allowed to drain into and through the sandpits. The redevelopment plan should be revised to indicate a route through the lots shown north of the Phillips pipeline easement and along the south line of the property.

4. The applicant should be advised that a new permit for excavation near a flood protection structure under K.S.A. 19-3309 will be required. West Street is a Federal Aid Secondary road, therefore additional half-street rights-of-way varying from 10 feet to 30 feet will need to be dedicated.
5. Should the Planning Commission recommend approval of this request, it should be subject to the following conditions:
 - A. The applicant shall dedicate by separate instrument any additional half-street right-of-way necessary to bring West Street up to F.A.S. standards (60 feet half-street right-of-way).
 - B. The applicant shall submit a new 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 submit a new restrictive covenant to the Planning Department, approved as to content by the City-County Flood Control Office and to form by County Counselor. 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 submit five copies of the revised redevelopment plan indicating a drainage route through the housing lots shown north of the Phillips pipeline easement and along the south line of the property. The applicant shall then proceed in accordance with the revised development and operational sketch plan approved by the Metropolitan Area Planning Commission, and shall excavate the lake and form the banks to the approximate size as indicated on the approved plan.
 - F. 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.

- G. To further 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 drowth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
 - H. 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.
 - I. To provide for bank stabilization and safety of future uses, the final side slope of the excavation shall be no more steep than five horizontal to one vertical.
 - J. 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.
 - K. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
 - L. 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 dust.
 - M. 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.
 - N. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand excavation operation.
 - O. The applicant shall comply with Conditions a, b, c, d, and e prior to publication of the resolution establishing the conditional use.
 - P. Any violation of conditions attached shall declare the conditional use permit null and void.
-

CASE NO. SCZ-0546 and CU-278

10	"Notices to Adjoining Property Owners" mailed on 4-4-85 for MAPC meeting on 4-19-85.
2	One each to Applicant and Agent.
3	One each to Karen Crook, David Spears, and Ron Worley.
<hr/>	
15	TOTAL

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

April 4, 1985

NOTICE OF PUBLIC HEARING

Case No.: CU-278.

Location: On the east side of West Street between 29th Street North and 37th Street North.

Address: N/A.

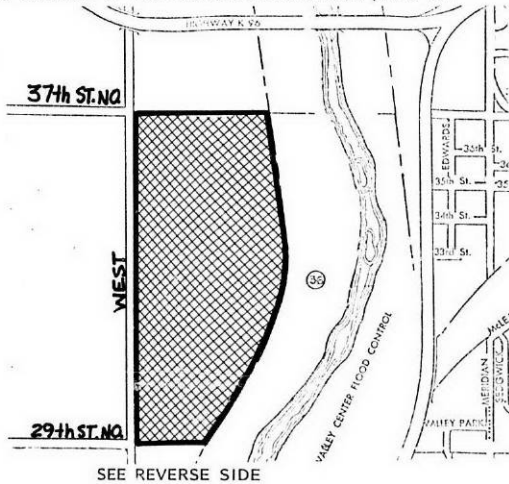
Request: Conditional Use Permit to Establish a Sand Extraction Operation on Property Zoned "R-1", "LC", & "E".

NOTICE IS HEREBY GIVEN THAT on Thursday, April 18, 1985, at 1:30 P.M., in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, the WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION will consider the above-mentioned item for purposes of making a recommendation to the Board of County Commissioners.

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 these requests. If you have no interest in or objection to the requests, you have no obligation to appear at the public hearing.

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

APPLICATION
AREA



LEGAL DESCRIPTION OF THE AREA PROPOSED TO BE CHANGED

CASE NO. CU-278

Conditional Use Permit to Establish a Sand Extraction Operation
on Property Zoned "R-1", "LC", & "E"

Beginning at the northwest corner of Sec. 36, T26, R1W; thence east along the north line of northwest $\frac{1}{4}$ of said section to the west line of the Wichita-Valley Center Flood Control R/W; thence southerly along the west R/W line of the Wichita-Sedgwick County Flood Control to the south line of the southwest $\frac{1}{4}$ of said Sec. 36; thence west along the south line of the southwest $\frac{1}{4}$ of said section to the southwest corner of said Sec.36; thence north along the west line of said Sec. 36 to the point of beginning; except the west 50 feet for road right-of-way. Generally located on the east side of West Street between 29th Street North and 37th Street North.

Most Restrictive



Least Restrictive

DISTRICT	NAME OF DISTRICT AND USES PERMITTED
R	RURAL RESIDENTIAL Agriculture and One Family Dwellings
R-1	SUBURBAN RESIDENTIAL Agriculture, One Family Dwellings, Schools and Churches
AA	ONE FAMILY DWELLING Agriculture, One Family Dwellings, Schools and Churches
BB	OFFICE All Uses Permitted in More Restrictive Zones and Business and Professional Offices
OC	OFFICE COMMERCIAL Offices, Limited Retail and Service Uses Operated Within a Building.
LC	LIGHT COMMERCIAL All Uses Permitted in More Restrictive Zones and Purely Retail Businesses Operated Within a Building
C	GENERAL COMMERCIAL All Uses Permitted in More Restrictive Zones Plus All Commercial Uses
E	LIGHT INDUSTRIAL All Uses Permitted in More Restrictive Zones Plus Industrial Uses Which Do Not Create Hazards of Nuisance From Fire, Dust, Odor or Smoke* **
F	HEAVY INDUSTRIAL Any Use, Some as Conditional Uses***

***Mobile home parks and travel centers are not permitted

CASE NO. CU-278

Conditional Use Permit to Establish a Sand Extraction Operation
on Property Zoned "R-1", "LC", & "E"

Beginning at the northwest corner of Sec. 36, T26, R1W; thence east along the north line of northwest $\frac{1}{4}$ of said section to the west line of the Wichita-Valley Center Flood Control R/W; thence southerly along the west R/W line of the Wichita-Sedgwick County Flood Control to the south line of the southwest $\frac{1}{4}$ of said Sec. 36; thence west along the south line of the southwest $\frac{1}{4}$ of said section to the southwest corner of said Sec.36; thence north along the west line of said Sec. 36 to the point of beginning; except the west 50 feet for road right-of-way. Generally located on the east side of West Street between 29th Street North and 37th Street North.

672 + 341 = 12



SEDGWICK COUNTY, KANSAS
DEPARTMENT OF PUBLIC WORKS

1250 S. SENECA
WICHITA, KANSAS 67213-4498
316/266-7901

TO: Louise Olivarez, Senior Planner
Metropolitan Area Planning Commission

FROM: Jim Weber, Engineer *JW*

DATE: April 3, 1985

SUBJ: Conditional Use Permit #278

We have reviewed the above referenced request for a conditional use permit in the west half of Section 36, of Park Township. We have the following comments concerning this case.

1. The applicant should file a new loop levee covenant to cover the entire site.
2. Drainage from the area north of the proposed sandpits must be allowed to drain into and through the sandpits. The re-development plan should be revised to indicate a route through the lots shown north of the Phillips Pipeline Easements and along the south line of the property.
3. The applicant should be advised that a new permit for excavation near a flood protection structure under K.S.A. 19-3309 will be required.

JW/yls

RECEIVED

APR 08 1985

METROPOLITAN PLANNING
ROUTE *any*

March 22, 1985

David Spears, Sedgwick County Public Works
Ron Worley, Sedgwick County Zoning Administrator

Louise Olivarez, Senior Planner

CU-278 and SCZ-0546 - Request for conditional use permit for ~~both~~ a sandpit and "E" zoning for an asphalt batch plant.

Attached is a print of a proposed operational plan and redevelopment plan for a sandpit on the east side of West Street between 29th and 37th Streets North. If approved, this conditional use permit would supersede two previous permits: CU-114 and CU-192. Although the previous cases were approved in 1968 and 1976, no excavation of sand has begun. The new operational plan changes the limits of excavation and incorporates two small tracts of ground in the NW $\frac{1}{4}$ which were exceptions to CU-192.

The request for 8.3 acres of "E" zoning is just north of the existing 24.5 acres of "E" zoning which was granted in 1978 for purposes of a ready-mix concrete and asphalt plant in conjunction with the sandpit operation. The applicant's agent advises that the original "E" zoning is no longer needed, however, no "down-zoning" request has been filed. Staff advised the applicant's agent of the proposed amendment to the zoning text which, if approved, would permit asphalt and concrete mixing plants in the "R-1" district as part of a conditional use permit for raw material extraction. The applicant did not wish to wait until this amendment was processed but said he would withdraw the request for "E" zoning if the text is amended prior to completion of his rezoning request.

I would appreciate your comments on this proposed sandpit operation and related industrial zoning by April 3rd so that we can prepare our staff report for the April 18th MAPC hearing. If you have any questions, please call.

Louise Olivarez
Senior Planner

LO:blw

APPLICATION FOR CONDITIONAL USE PERMIT

CU-278
#3

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION

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. The names of the owners of all property included in this application must be listed as applicants. Contract purchasers, leasees or others directly associated with the property may also be listed if they desire to be advised of the proceedings.

- A. APPLICANT Ritchie Paving, Inc., Attn. H.T. Ritchie
 ADDRESS P. O. Box 4048 Zip Code 67204 PHONE 838-9301
 AGENT Professional Engineering Consultants, P.A., Attn: Gary Wiley
 ADDRESS 1440 East English Zip Code 67211 PHONE 262-2691
- B. APPLICANT _____
 ADDRESS _____ Zip Code _____ PHONE _____
 AGENT _____
 ADDRESS _____ Zip Code _____ PHONE _____
- C. APPLICANT _____
 ADDRESS _____ Zip Code _____ PHONE _____
 AGENT _____
 ADDRESS _____ Zip Code _____ PHONE _____

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

2. A. The applicant proposes to establish a sand extraction operation
 _____ (use)
 on property legally described as Lot(s) _____
 _____, Block(s) _____
 of the _____ Addition.

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

for Dept
 Beginning at the northwest corner of Sec. 36, T26, R1W; thence east along the north line of northwest 1/4 of said section to the west line of the Wichita-Valley Center Flood Control R/W; thence southerly along the west R/W line of the Wichita-Valley Center Flood Control to the south line of the southwest 1/4 of said Sec. 36; thence west along the south line of the southwest 1/4 of said section to the southwest corner of said Sec. 36; thence north along the west line of said Sec. 36 to the point of beginning, except the west 50 feet for road right-of-way.

- B. There are 214.5 acres (round to nearest tenth) in the above described property.

FOR OFFICE USE ONLY

Map No. 5251C:D Zoning (N) R-1(L)(S)R-1(L)(E)R (W) R-1(L) MAPC 4-18-85

T9-333-2

Revised 1/85

Subject property zoned R-1, LC, E, superseded CU-114 & CU-192

3. This property is located at (address) n/a.

THE GENERAL LOCATION IS (USE APPROPRIATE SECTION)

A. At the southeast corner of 37th Street North and West Street, OR

B. On the east side of West (Ave.) Street between 29th (Ave.) Street ^{West} and 37th (Ave.) Street ^{North}.

4. We request this Conditional Use Permit for the following reasons:

To combine two existing conditional uses into one and change the limits of excavation.

5. WE 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 ABTRACTOR'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 OUR KNOWLEDGE. WE ACKNOWLEDGE THAT THE BOARD OF COUNTY COMMISSIONERS SHALL HAVE AUTHORITY TO IMPOSE SUCH CONDITIONS THAT IT DEEMS NECESSARY IN ORDER TO SERVE THE PUBLIC INTEREST AND WELFARE.

N.T. Riddle
APPLICANT'S SIGNATURE

BY _____
AUTHORIZED AGENT (IF ANY)

APPLICANT'S SIGNATURE

BY _____
AUTHORIZED AGENT (IF ANY)

APPLICANT'S SIGNATURE

BY _____
AUTHORIZED AGENT (IF ANY)

OFFICE USE ONLY

This application was received at the Planning Department at 3:30 (AM,

PM) on 3-20-85 (day, month, year). It has been checked and

found to be complete and accompanied by required documents and the appropriate

fee of \$ ~~1500~~ 700⁰⁰.

(combined with associated re-zoning fee)

Louise Olivas Name

Sr. Planner Title

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas viz:

Record Owners within 1000 feet of:
That part of the Northwest Quarter and the Southwest Quarter of Section 36, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, lying West of the Wichita-Valley Center Flood Control, EXCEPT the West 50 feet for Road.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

DESCRIPTIONS

RECORD OWNERS

*Application
for C.O.
(includes
application
and fee E.)*

That part of the Northwest Quarter and the Southwest Quarter of Section 36, Township 26 South, Range 1 West, lying West of the Wichita-Valley Center Flood Control, EXCEPT the West 50 feet for road.

Ritchie Paving, Inc.
1900 Amidon
Wichita, Kansas 67203

Lot 8 and the Southwest Quarter of the Southwest Quarter of Section 25, Township 26 South, Range 1 West, EXCEPT that part taken for Highway and that part taken for Wichita-Valley Center Flood Control,

Lillian Marie Miller
~~ADDRESS UNKNOWN~~
3814 N. West St 67204

All of the Southeast Quarter lying South and West of K-96 Highway Right of Way, EXCEPT the West 660 feet, Section 26, Township 26 South, Range 1 West,

Asphalt Paving, Inc.
1900 Amidon
Wichita, Kansas 67203



DESCRIPTIONS

Northeast Quarter of Section 35,
Township 26 South, Range 1 West,

Southeast Quarter of Section 35,
Township 26 South, Range 1 West,

Government Lot 1 in the Northeast
Quarter of Section 2, Township 27
South, Range 1 West,

The North 26 7/8 Acres of Lot 5, in
Section 1, Township 27 South, Range
1 West; EXCEPT that portion condemned
for Flood Control purposes by District
Court Case #A-31849.

Beginning at a point 742 feet South of
the Northwest Corner of Section 1,
Township 27 South, Range 1 West;
thence South to Section line, 931 feet;
thence East parallel with the North
line of said Section 1, 1426 feet
more or less to the right bank of the
Arkansas River; thence North and
Easterly along said right bank to a
point 742 feet South of the North
line of said Section 1; thence West 1532
feet more or less to place of beginning,



RECORD OWNERS

Dolese Bros. Co.
826 E. Central
Wichita, Kansas 67202

Ritchie Construction Co., Inc.
6500 W. 21st Street
Wichita, Kansas 67212

City of Wichita, Kansas
455 N. Main
Wichita, Kansas 67202

Walter N. & Delphina Ann Henning
2437 N. Hoover
Wichita, Kansas 67205

W. N. & Delphina A. Henning
2437 N. Hoover
Wichita, Kansas 67205

Dated at Wichita, Kansas, this 19th day of March, 1985 at 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

By *William K. Sutter*
Assistant Secretary

Tracer No. 68376



NW Cor., Sec. 36,
T26S, R1W
37th ST. 50'

37th ST.

WEST STREET

WICHITA - VALLEY CENTER FLOOD CONTROL

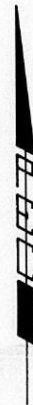
82.4 Ac. ± Lake

800'

23.7 Ac. ± Lake

Phillips Pipeline Easement

100' Drainage Easement



Scale in Feet
January 3, 1985

REDEVELOPMENT PLAN

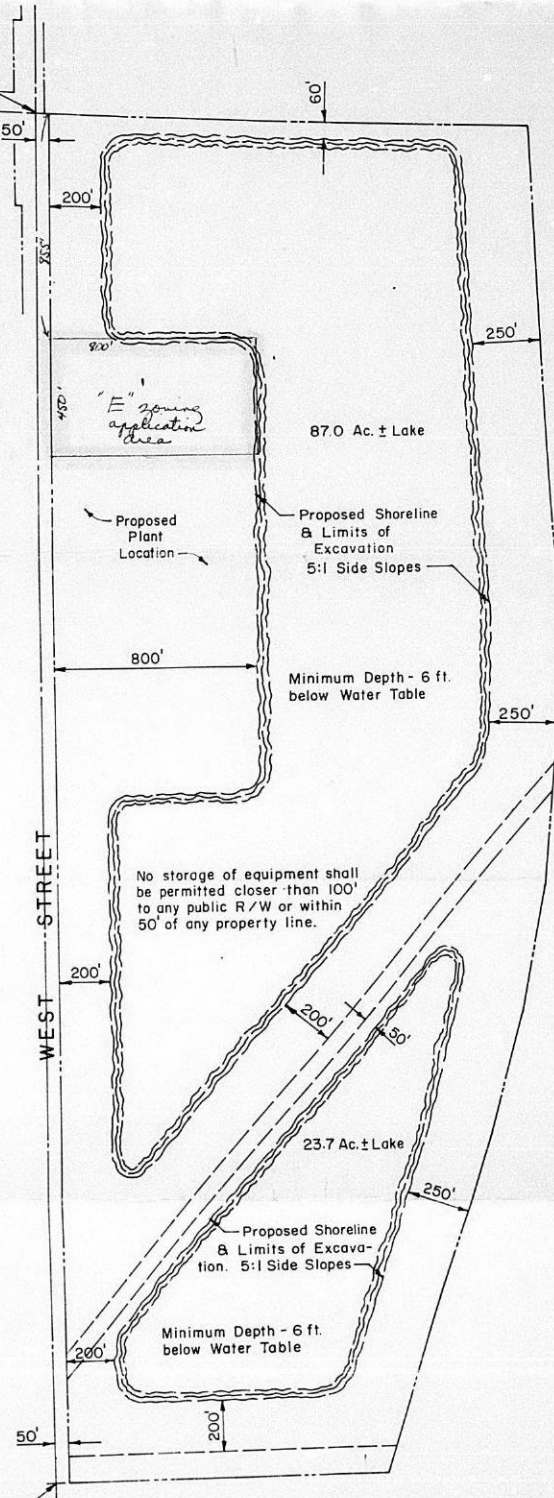
SW Cor., Sec. 36,
T26S, R1W

RITCHIE PAVING, INC.

CONDITIO

NW Cor., Sec. 36,
T26S, R1W

37th ST.



WICHITA-VALLEY CENTER FLOOD CONTROL

OPERATIONAL PLAN

ING, INC.

CONDITIONAL USE

CU-278 As submitted for
MAPC review 4-18-85

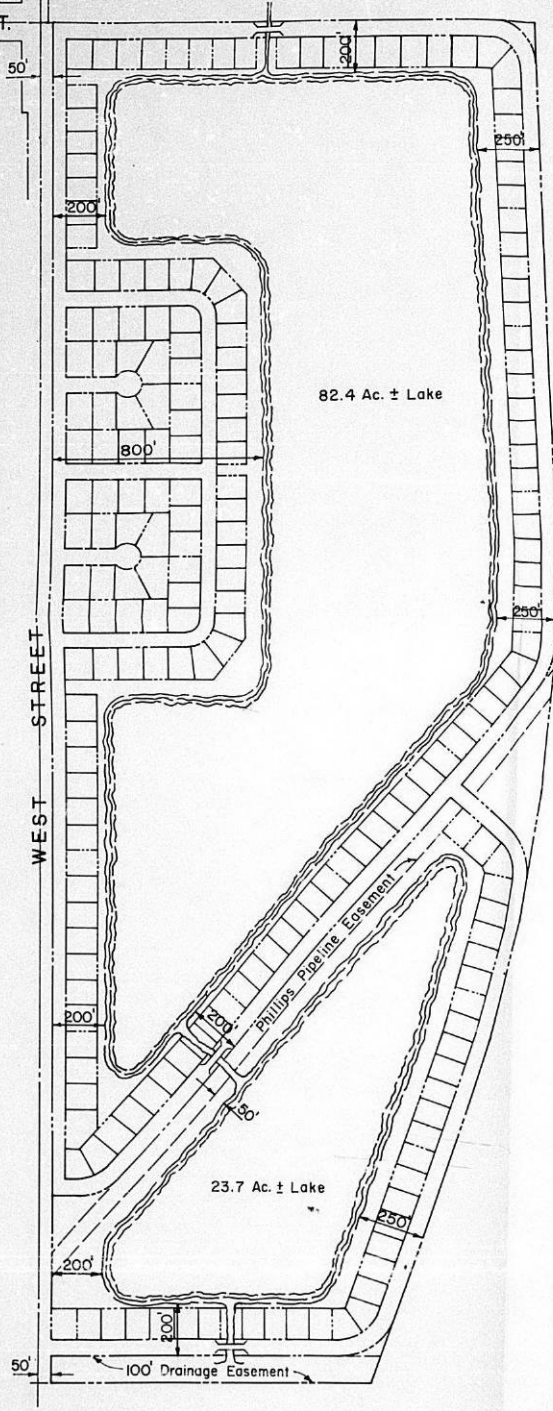
FORM 25-1

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
<i>conditional use permit and re-zoning^(cc)</i>	<i>1300⁰⁰</i>
NAME	<i>Ritchie Land Co.</i>
ADDRESS	<i>Box 4048</i>
FUND	<i>755-40710-003</i>
COMMENTS	DUE DATE <i>3-21-85</i>
DATE	BY <i>FU</i>
<i>3-20-85</i>	

37th ST.



WICHITA - VALLEY CENTER FLOOD CONTROL



Scale in Feet
January 3, 1985
Rev. April 29, 1985

REDEVELOPMENT PLAN

CU-278

MAPC APPROVED 4-18-85

BLC APPROVED 5-15-85

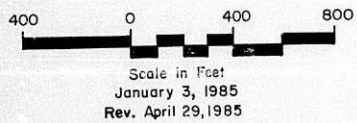
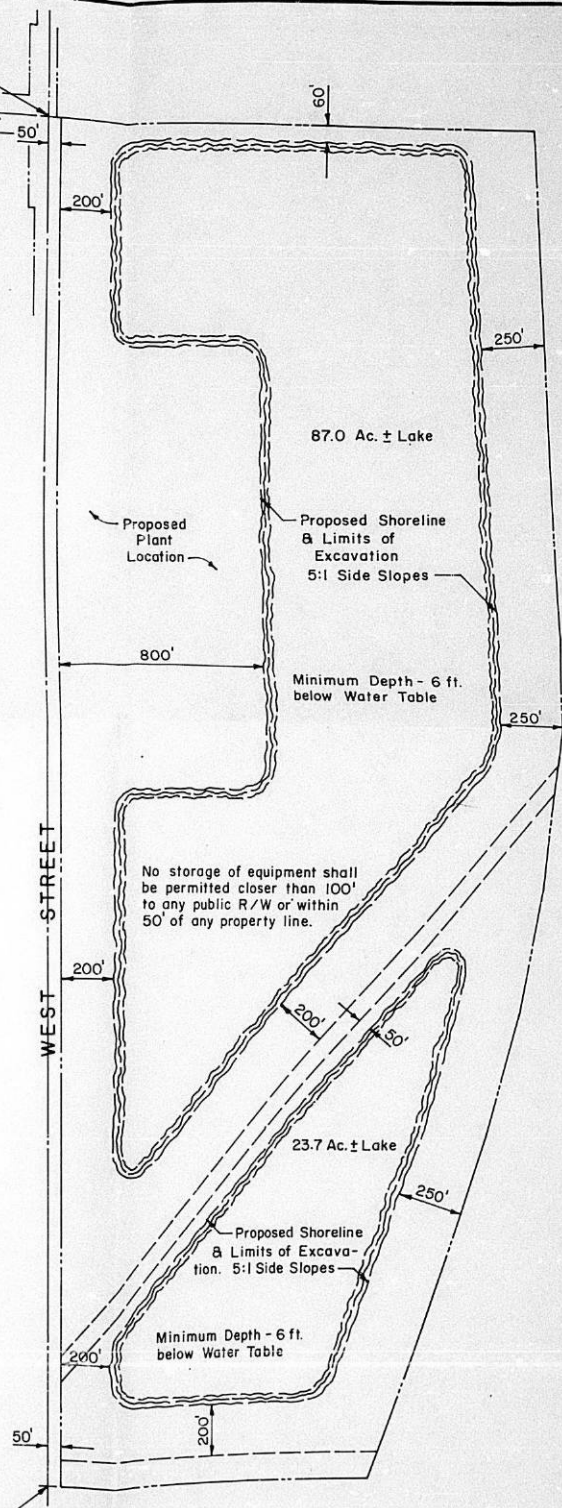
RITCHIE PAVING, INC.

COND

WICHITA - VALLEY CENTER FLOOD CONTROL

WICHITA-VALLEY CENTER FLOOD CONTROL

NW Cor., Sec. 36,
T26S, R1W,
37th ST.



CU-278

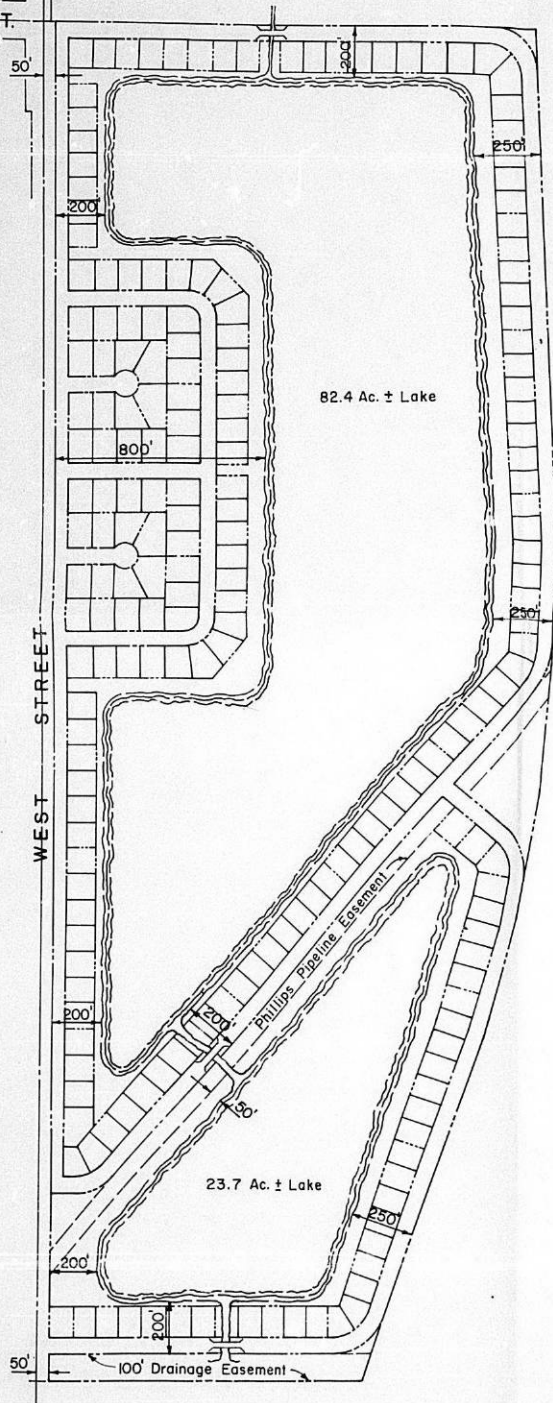
MAPC APPROVED 4-18-85
BGC APPROVED 5-15-85

OPERATIONAL PLAN

PAVING, INC.

CONDITIONAL USE

37th ST.



WICHITA - VALLEY CENTER FLOOD CONTROL



Scale in Feet
January 3, 1985
Rev. April 29, 1985

CU-278

M.A.P.C. APPROVED 4-18-85
B.C.C. APPROVED 5-15-85

REDEVELOPMENT PLAN

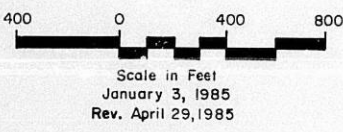
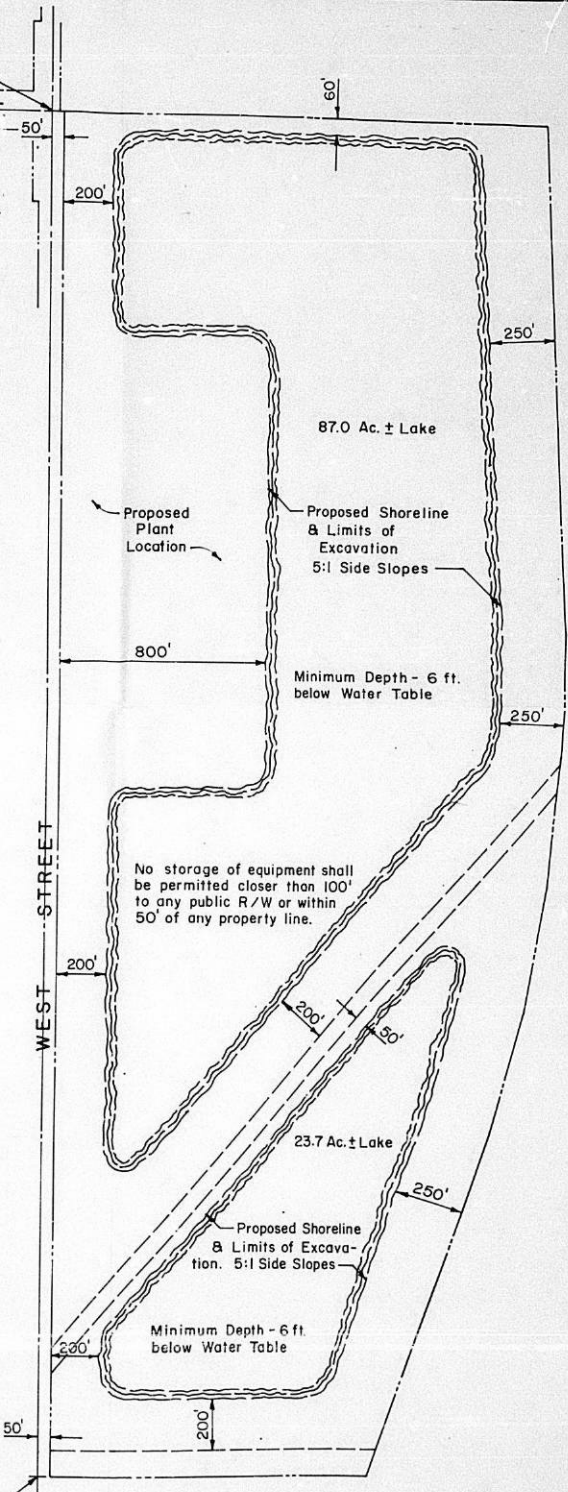
RITCHIE PAVING, INC.

COND

WICHITA - VALLEY CENTER FLOOD CONTROL

WICHITA - VALLEY CENTER FLOOD CONTROL

NW Cor., Sec. 36,
T26S, R1W,
37th ST.



CU-278

M.A.P.C. APPROVED 4-18-85
B.C.C. APPROVED 6-15-85

SW Cor., Sec. 36,
T26S, R1W

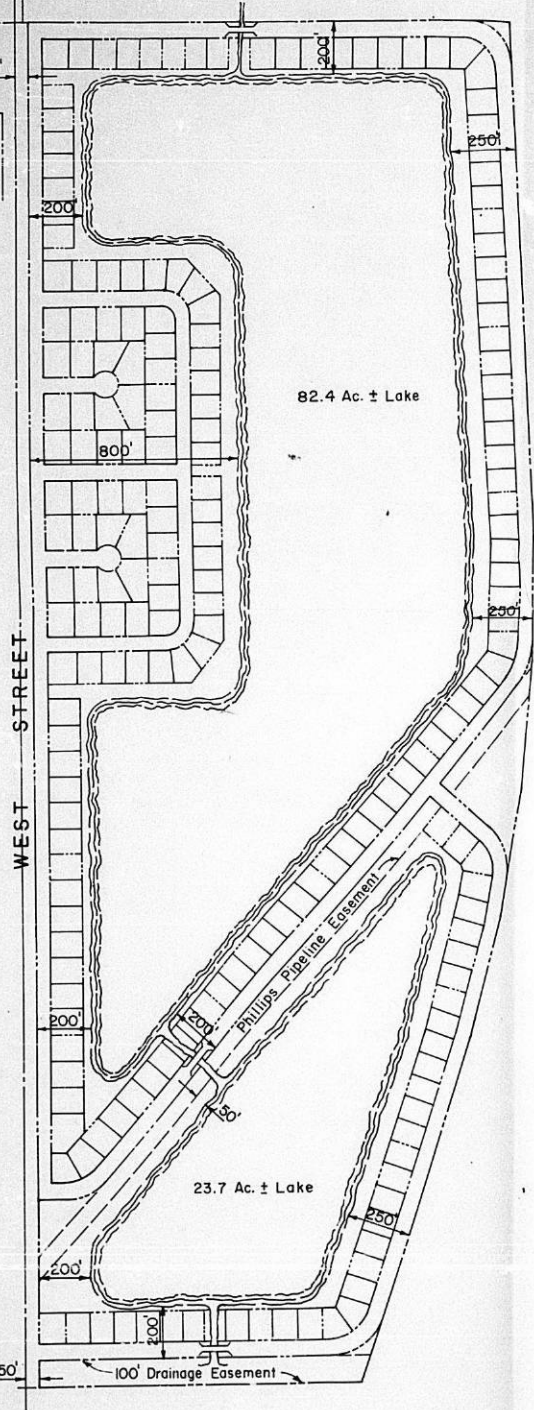
OPERATIONAL PLAN

PAVING, INC.

CONDITIONAL USE

NW Cor., Sec. 36,
T26S, R1W,
37th ST. 50'

37th ST. 50'



WICHITA - VALLEY CENTER FLOOD CONTROL



Scale in Feet
January 3, 1985
Rev. April 29, 1985

REDEVELOPMENT PLAN

CU-278

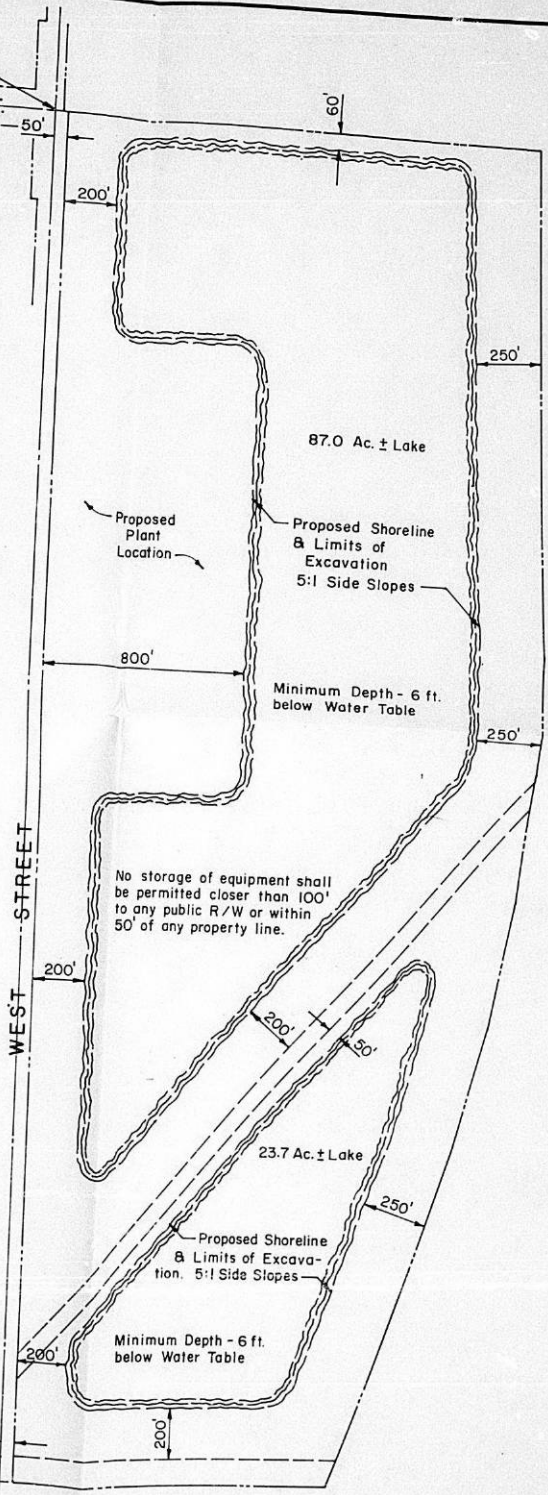
MAPC APPROVED 4-18-85
BOC APPROVED 5-15-85

SW Cor., Sec. 36,
T26S, R1W

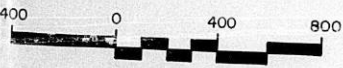
RITCHIE PAVING, INC.

CONDITIO

NW Cor., Sec. 36,
T26S, R1W,
37th ST.



WICHITA-VALLEY CENTER FLOOD CONTROL



Scale in Feet
January 3, 1985
Rev. April 29, 1985

0-278

APPROVED 4-18-85
APPROVED 5-15-85

SW Cor., Sec. 36,
T26S, R1W

OPERATIONAL PLAN

ING, INC.

CONDITIONAL USE