

BZA 5-60 W. L. MORRIS, 208 N.
BROADWAY, APPEAL FROM ORDER OF
B.I.S. (BORROW PIT)

Hearing - 2-23-60

APRIL 11, 1960

MR. KENNETH P. STEWART, ATTORNEY
BOYER HONDROS AND DONALDSON
340 SOUTH BROADWAY
WICHITA, KANSAS

DEAR MR. STEWART:

SUBJECT: BZA 2-60 AND BZA 5-60

ATTACHED TO THIS LETTER ARE ONE COPY OF A MEMORANDUM FROM MR. G. H. WILTON, SUPERINTENDENT OF PUBLIC WORKS MAINTENANCE, AND ONE COPY EACH OF FOUR EXHIBITS, SHOWING THE FOUR DIFFERENT WAYS IN WHICH A LOOP LEVEE OR LOOP LEVEES COULD BE CONSTRUCTED TO PROTECT THE LOCATION APPROVED FOR BORROW PITS IN SUBJECT APPLICATIONS.

WE TRUST THAT THIS INFORMATION WILL BE SUFFICIENT FOR YOU IN YOUR ATTEMPTS TO PREPARE APPROPRIATE RESTRICTIVE COVENANTS AS REQUIRED BY THE BOARD OF ZONING APPEALS IN ITS APPROVAL OF THESE APPLICATIONS.

VERY TRULY YOURS,

LELAND R. EDMONDS
SECRETARY

LRE:BER

ENCLOSURES

THE CITY OF WICHITA

OFFICE OF Department of Public Works DATE April 5, 1960

File

TO Leland R. Edmonds, Secretary

FROM G. H. Wilton, Supt. of Public Works Maintenance

SUBJECT : BZA 2-60 and
BZA 5-60

Reference is made to your memorandum of March 11, 1960, requesting sketches of loop levee requirements for subject borrow pit locations.

Attached to this memorandum are two copies each of exhibits marked Case I, II, III, and IV. These exhibits show the four different ways in which a loop levee or loop levees could be constructed to protect subject locations.

Case I - Independent loop levees for each location constructed around the perimeter of each location. Case I would require the greatest length of levee and would result in loop levees constructed side by side with a narrow strip of "no man's land" between them.

Case II - Independent loop levees for the combined locations eliminating the levee or levee between the two sites. This arrangement would be superior to Case I.

Case III - An independent loop levee around BZA 5-60 with an integrated loop around three sides of BZA 2-60 tying into Levee 'D' of the Floodway System. This case assumes that BZA 2-60 and 5-60 cannot be made a combined operation and has the same objectionable feature as Case I as far as BZA 5-60 is concerned. Tying the loop levee into Levee 'D' will require suitable agreements with this office for the construction of access ramps over the ties where they cross Floodway right-of-way and will require the leaving of a 50 foot strip parallel and adjacent to the Floodway right-of-way line for support protection. This office would maintain the sections of the tie levees located on Floodway right-of-way provided they were constructed to design levee elevation with a 14 foot top width and minimum 3 : 1 side slopes.

Case IV - Integrated loop levees around the combined perimeter of the two sites tying into Levee 'D' with special requirements as in Case III.

If we are to be of service to this matter, please advise.

GHW:msm:fb
Encls.
cc: M. S. Mitchell

G. H. Wilton
Supt. of Public Works Maintenance

BOARD OF ZONING APPEALS

MARCH 11, 1960

GEORGE WILTON, SUPERINTENDENT PUBLIC WORKS MAINTENANCE

LELAND R. EDMONDS, SECRETARY

BZA 2-60 AND 5-60

MR. KENNETH P. STEWART, ATTORNEY FOR THE APPLICANTS IN SUBJECT VARIANCE REQUESTS, HAS REQUESTED THAT A SKETCH BE PREPARED SHOWING THE LOCATION IN WHICH YOUR OFFICE WISHES THE REQUIRED LOOP LEVEES TO BE CONSTRUCTED. THIS INFORMATION IS DESIRED SO THAT IT MAY BE INCORPORATED INTO THE APPROPRIATE RESTRICTIVE COVENANTS REQUIRING THE CONSTRUCTION AND MAINTENANCE OF THE LOOP LEVEES.

LELAND R. EDMONDS
SECRETARY

LRE:BER

THE CITY OF WICHITA

OFFICE OF Board of Zoning Appeals **DATE** March 7, 1960

File

TO George Wilton, Superintendent of Public Works Maintenance
FROM Leland R. Edmonds, Secretary

SUBJECT BZA - 2-60 and BZA - 5-60

Attached is one thermofax copy of the resolution prepared for each of the above noted Board of Zoning Appeals actions. These are forwarded to you for your information and files because of your interest in the requirement for loop levees and restrictive covenants.

ml

Leland R. Edmonds
Secretary

MARCH 7, 1960

MR. KENNETH P. STEWART
BOVER HOWDROS & DONALDSON
340 SOUTH BROADWAY
WICHITA, KANSAS

DEAR MR. STEWART:

RE: BZA 2-60 AND BZA 5-60

NO APPEAL HAS BEEN TAKEN TO THE BOARD OF CITY COMMISSIONERS ON EITHER BZA 5-60 OR BZA 2-60, AS AMENDED. ACCORDINGLY, THE DECISION OF THE BOARD TO GRANT THE VARIANCE TO THE STRICT APPLICATION OF THE ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE TO ALLOW THE OPERATION AND MAINTENANCE OF A BORROW PIT ON BOTH OF THESE SITES, HAS BECOME FINAL. THE BUILDING INSPECTION SUPERINTENDENT HAS, THEREFORE, BE AUTHORIZED AND DIRECTED TO ISSUE A PERMIT FOR SUCH WORK ON THE DESCRIBED TRACTS OF LAND, SUBJECT TO THE NUMEROUS CONDITIONS ESTABLISHED BY THE RESOLUTION BZA-5-60 AND BZA 2-60 (AMENDED). RESOLUTION 2-60 AS ORIGINALLY ADOPTED WILL BECOME NULL AND VOID AS PROVIDED IN THE AMENDED RESOLUTION FOR THIS CASE.

IN BOTH OF THESE INSTANCES THE BORROW PIT SHOULD NOT BE ALLOWED TO BEGIN UNTIL THE APPROPRIATE RESTRICTIVE COVENANTS HAVE BEEN FILED OF RECORD. THESE SHOULD BE PREPARED IN ACCORDANCE WITH AND BEAR THE SIGNATURE OF APPROVAL OF MR. EUGENE PIRTLE, CITY COUNSEL FOR THE BOARD OF ZONING APPEALS.

ATTACHED ARE TWO COPIES OF BZA 2-60 (AMENDED) AND ONE COPY OF BZA 5-60.

VERY TRULY YOURS,

LELAND R. EDWARDS
SECRETARY

LRE:BER
ENCLOSURES

CC: S. B. MAPLE

FRED W. ALLY
City Attorney
THOMAS H. WOOD
City Auditor
LAWRENCE E. COLEMAN
City Clerk
PAUL H. DONALDSON
Robert F. Smith
EUGENE L. PIRTLE
Assistant City Attorney
CHARLES A. STARR
Assistant City Attorney



File

The City of Wichita, Kansas

DEPARTMENT OF LAW

OFFICE OF CITY ATTORNEY

March 1, 1960

Leland R. Edmonds
Department of Planning
City Annex
Wichita, Kansas

Re: Board of Zoning Appeals
BSA 2-6 and BZA 5-60

Dear Mr. Edmonds:

I have examined the enclosures contained in your letter of February 29, 1960, in the above matter. The proposed resolutions are approved as to form, and the content appears to coincide with the four principal conditions ordered by the Board of Zoning Appeals on February 23, 1960. The covenant running with the land submitted by Mr. Stewart in his letter of February 2, 1960, in behalf of the Graham's appears to be in order. A similar covenant should be furnished in behalf of W. L. Morris as regards BZA 5-60.

Very truly yours,

EUGENE L. PIRTLE
Assistant City Attorney

ELP/wcb

cc/ Kenneth Stewart

FEBRUARY 29, 1960

MR. KENNETH P. STEWART
ATTORNEY
BOYER HONDROS AND DONALDSON
340 SOUTH BROADWAY
WICHITA, KANSAS

DEAR MR. STEWART:

RE: BZA 2-60 AND BZA 5-60

AS YOU HAVE PREVIOUSLY BEEN INFORMALLY ADVISED, THE BOARD OF ZONING APPEALS TOOK ACTION ON FEBRUARY 23, 1960 TO APPROVE BZA 5-60, WHICH WAS A REQUEST FOR A VARIANCE TO OPERATE AND MAINTAIN A BORROW PIT ON PROPERTY IMMEDIATELY SOUTH OF THAT INCLUDED IN THE EARLIER APPLICATION, BZA 2-60. THE LATTER APPROVAL WAS SUBJECT TO CONDITIONS ESSENTIALLY THE SAME AS THOSE IMPOSED ON BZA 2-60. THE BOARD OF ZONING APPEALS ALSO AUTHORIZED THE AMENDMENT OF THE RESOLUTION FOR BZA 2-60 IN SUCH A WAY AS MIGHT BE NECESSARY TO PERMIT THE EFFICIENT OPERATION OF THE TWO TRACTS AS A SINGLE BORROW PIT.

ATTACHED IS ONE THERMOFAX COPY OF THE RESOLUTION WHICH HAS BEEN PREPARED FOR BZA 5-60 AND TWO THERMOFAX COPIES OF THE AMENDED RESOLUTION WHICH HAS BEEN PREPARED FOR BZA 2-60. THESE ARE IN ACCORDANCE WITH THE ROUGH DRAFTS WHICH WE EXAMINED TOGETHER ON FEBRUARY 26.

THE COPIES ARE SENT TO YOU AT THIS TIME SO THAT THEY MAY BE DISCUSSED WITH YOUR CLIENTS IF YOU FEEL THIS IS ADVISABLE. OFFICIAL COPIES WILL BE AVAILABLE AT THE EXPIRATION OF THE APPEAL PERIOD, OR IF BZA 5-60 SHOULD BE APPEALED, THEN AT SUCH TIME AS THE DECISION OF THE BOARD BECOMES FINAL.

WE WILL APPRECIATE YOUR EXAMINING THESE RESOLUTIONS AGAIN. IF YOU HAVE ANY COMMENTS CONCERNING THEM OR CHANGES WHICH YOU FEEL ARE ESSENTIAL, PLEASE ADVISE US PRIOR TO MARCH 4, 1960, WHICH DATE IS THE END OF THE APPEAL PERIOD FOR BZA 5-60.

VERY TRULY YOURS,

LELAND R. EDMONDS
SECRETARY

LRE:BER
ATTACHMENT

BOARD OF ZONING APPEALS

FEBRUARY 29, 1960

GENE PIRTLE, ASSISTANT CITY ATTORNEY

LELAND R. EDMONDS, SECRETARY, BOARD OF ZONING APPEALS

BZA 2-60 AND BZA 5-60

ATTACHED ARE RESOLUTIONS PREPARED FOR BZA 5-60
AND BZA 2-60 (AMENDED). I WORKED THESE OUT
WITH KEN STEWART AND HE IS HAPPY WITH THEM.
WILL YOU PLEASE LOOK THEM OVER IN THE NEXT DAY
OR TWO AND LET ME HAVE YOUR COMMENTS?

LELAND R. EDMONDS
SECRETARY

LRE:BER
ATTACHMENTS

BOARD OF ZONING APPEALS

FEBRUARY 26, 1960

C. H. FUNK, CITY CLERK

LELAND R. EDMONDS, SECRETARY, BOARD OF ZONING APPEALS

BZA - 5-60

ATTACHED IS A COPY OF THE RESOLUTION PASSED BY THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA ON FEBRUARY 23, 1960, IN THE ABOVE SUBJECT CASE.

AS YOU KNOW, SECTION 21-27-F OF THE CODE OF THE CITY OF WICHITA PROVIDES THAT ALL DECISIONS OF THE BOARD OF ZONING APPEALS ARE SUBJECT TO APPEAL TO THE BOARD OF CITY COMMISSIONERS WITHIN A PERIOD OF TEN DAYS SUBSEQUENT TO THE DATE ON WHICH THE ACTION WAS TAKEN BY THE BOARD. ACCORDINGLY, THE DECISION OF THE BOARD IN THIS CASE WILL BECOME FINAL ON MARCH 4, 1960, PROVIDED THAT NO APPEAL OF THE DECISION HAS BEEN FILED AS PROVIDED BY ORDINANCE.

WE WILL INQUIRE AT THE END OF THE TEN DAYS TO DETERMINE IF ANY APPEALS HAVE BEEN FILED.

LELAND R. EDMONDS
SECRETARY

LRE:RAL:BER
ATTACHMENT

FEBRUARY 10, 1960

MR. KENNETH P. STEWART
BOYER, HENDRICK & DONALDSON
340 SOUTH BROADWAY
WICHITA, KANSAS

RE: BZA 2-60 AND
BZA 5-60

DEAR MR. STEWART:

WE HAVE RECEIVED APPROPRIATE APPLICATIONS, FEES AND CERTIFICATES OF OWNERSHIP FOR A REQUEST FOR VARIANCE TO PERMIT A BORROW PIT THROUGH BOARD OF ZONING APPEALS ACTION ON PROPERTY IMMEDIATELY SOUTH OF THAT CONTAINED IN BZA 2-60. YOU HAVE SUBMITTED THIS ON BEHALF OF MR. MORRIS, THE OWNER.

YOU WILL RECALL OUR SEVERAL CONVERSATIONS PRIOR TO YOUR SUBMISSION OF THIS APPLICATION. YOU WILL ALSO RECALL THAT WE SUGGESTED THAT THE OWNERS OF THESE TWO TRACTS OF LAND SHOULD WORK TOGETHER TO AVOID UNNECESSARY DUPLICATION OF SUCH FEATURES AS LOOP LEVES, SHELTER BELTS, FENCES, ETC.

THE APPEAL PERIOD FOR BZA 2-60 HAS ENDED WITHOUT ANY INDIVIDUAL OR AGENCY TAKING AN APPEAL TO THE BOARD OF CITY COMMISSIONERS. THUS, THE RULING OF THE BOARD OF ZONING APPEALS HAS BECOME FINAL AS WE INDICATED IN A LETTER DATED FEBRUARY 9, 1960. IT WOULD APPEAR THAT BZA 2-60 CAN BE NOW OPERATED AS A BORROW PIT AT SUCH TIME AS YOU WISH TO FILE THE APPROPRIATE RESTRICTIVE COVENANTS PROVIDING FOR THE CONSTRUCTION AND MAINTENANCE OF THE LOOP LEVEE. IF, HOWEVER, THE OWNERS OF THESE TWO TRACTS OF LAND CONTEMPLATE WORKING TOGETHER TO AVOID UNNECESSARY DUPLICATION OF THE LOOP LEVEE AND OTHER FEATURES, IT WOULD APPEAR IMPROPER FOR BZA 2-60 TO BE OPERATED UNTIL AFTER THE BOARD OF ZONING APPEALS HAS HAD AN OPPORTUNITY FORMALLY TO AMEND THE ESTABLISHED CONDITIONS AND TO ESTABLISH CONDITIONS FOR BZA 5-60, IF SUCH IS APPROVED.

MR. KENNETH P. STEWART

-2-

FEBRUARY 10, 1960

BZA 5-60 WILL BE CONSIDERED BY THE BOARD OF ZONING APPEALS ON FEBRUARY 23, 1960. WE PROPOSE TO PLACE BZA 2-60 ON THE SAME AGENDA FOR POSSIBLE AMENDMENT OF CONDITIONS, IF THE BOARD CONSIDERS THIS APPROPRIATE. PRIOR TO THAT TIME, WE WILL HAVE OBTAINED FROM THE MAINTENANCE DIVISION OF THE DEPARTMENT OF PUBLIC WORKS SUGGESTIONS FOR ELIMINATING THOSE FEATURES WHICH WOULD BE DUPLICATE FEATURES AND FOR RELOCATING THEM TO THE EXTREME SOUTHERN END OF THE COMBINED PROPERTY, IF THIS SHOULD BECOME DESIRABLE.

IF THE BOARD OF ZONING APPEALS APPROVES BZA 5-60 AT ITS MEETING ON FEBRUARY 23, THE TEN-DAY APPEAL PERIOD WILL END ON MARCH 4, AND THE BOARD OF ZONING APPEALS DECISION COULD BECOME FINAL ON THAT DATE. IF THE BOARD OF ZONING APPEALS APPROVES YOUR REQUEST ON FEBRUARY 23, THEN IT WOULD APPEAR PROPER TO FILE THE RESTRICTIVE COVENANTS FOR BZA 2-60 ONLY AT SUCH TIME AS THE DECISION ON BZA 5-60 BECOMES FINAL. THE APPROPRIATE RESTRICTIONS FOR BZA 5-60 SHOULD BE FILED AT THE SAME TIME.

IF THE BOARD OF ZONING APPEALS SHOULD DENY THE REQUEST FOR VARIANCE FOR BZA 5-60, THEN YOU WOULD HAVE THE OPTION OF APPEALING TO THE BOARD OF CITY COMMISSIONERS AND TO THE COURTS, IF NECESSARY, AND IF CONSIDERED APPROPRIATE. IT WOULD, OF COURSE, BE IMPOSSIBLE TO SUGGEST WHEN SUCH APPEALS MIGHT BE CONSIDERED IN THE EVENT THIS WERE TO OCCUR.

IN SUMMATION, THEN WE WOULD RECOMMEND THAT THE RESTRICTIONS FOR BZA 2-60 NOT BE FILED (AND THE LAND NOT BE USED FOR A BORROW PIT) UNTIL AFTER THE OUTCOME OF BZA 5-60 IS DETERMINED. IF THE TWO TRACTS OF LAND ARE BOTH APPROVED FOR A BORROW PIT AND ARE TO BE WORKED AS A SINGLE TRACT, THEN RESTRICTIVE COVENANTS AND OTHER CONDITIONS SHOULD BE SO DESIGNED AS TO PERMIT TREATMENT OF THE TWO TRACTS AS A SINGLE TRACT, INsofar AS POSSIBLE.

IF YOU HAVE ANY QUESTIONS CONCERNING THIS MATTER, OR ANY SUGGESTIONS FOR A DIFFERENT MANNER OF HANDLING THESE TWO CASES, PLEASE LET US HEAR FROM YOU.

VERY TRULY YOURS,

L.R.E.
LELAND R. EDMONDS
SECRETARY

LRE:EB

BZA 5-60

THIS CORRECTED NOTICE MAILED TO THE FOLLOWING ON FEBRUARY 10, 1960:

MORRIS BLDG. Co. INC.
208 NORTH BROADWAY

TWENTY-FIRST STREET BLDG. Co. IN.
208 NORTH BROADWAY

ELOISE MORRIS McMURTRY
208 N. BROADWAY

RAYMOND J. ALLEN & NEVA M. ALLEN
1013 N. HOOVER

LESLIE D. HARTLEY & MARGARET L. HARTLEY
939 GILDA

NO NOTICE MAILED TO HARRY B. POLLAK, WHOSE ADDRESS IS SHOWN ON THE ABSTRACT CERTIFICATE AS 104 S. MAIN. THE FIRST NOTICE MAILED TO HIM AT THAT ADDRESS WAS NOT DELIVERED TO HIM, INASMUCH AS HE COULD NOT BE FOUND AT THAT ADDRESS. A CHECK WITH THE PERSONNEL DEPARTMENT OF THE CITY OF WICHITA DID NOT INDICATE THAT ANY SUCH PERSON IS EMPLOYED BY THE CITY. HE IS NOT LISTED IN THE CITY DIRECTORY, SUBURBAN DIRECTORY OR TELEPHONE DIRECTORY.

CITY OF WICHITA
BOARD OF ZONING APPEALS
Room 402, City Building Annex
104 South Main
WICHITA, KANSAS

CORRECTED NOTICE

NOTICE TO ADJOINING PROPERTY OWNERS

AN APPLICATION FOR AN APPEAL FROM ORDER OF THE BUILDING INSPECTION SUPERINTENDENT HAS BEEN FILED BY W. L. MORRIS OF 208 NORTH BROADWAY, WICHITA, KANSAS, AS PROVIDED BY SECTION 21-27 OF THE CODE OF THE CITY OF WICHITA. THE APPLICANT DESIRES TO ESTABLISH AND MAINTAIN A BORROW PIT ON PROPERTY LOCATED BETWEEN 9TH AND 13TH STREETS AND BETWEEN THE BIG DITCH AND 81 BY-PASS, ROUTE HIGHWAY 235, WICHITA, KANSAS AND LEGALLY DESCRIBED AS:

ALL THAT PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE/4 SE/4) SECTION 15-27S-1W, OF THE 6TH P.M., LYING EAST OF THE BIG DITCH AND WEST OF THE 81 BY-PASS, ROUTE HIGHWAY 235, DESCRIBED AS FOLLOWS, TO-WIT:

NINE (9) ACRES OFF THE NORTH SIDE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE/4 SE/4) OF SECTION 15, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 15, THENCE WEST 80 RODS; THENCE SOUTH 297 FEET; THENCE EAST 80 RODS; THENCE NORTH 297 FEET TO THE PLACE OF BEGINNING; EXCEPT THAT PORTION THEREOF CONDEMNED FOR THE BIG DITCH AND U. S. HIGHWAY 81 BY-PASS, ROUTE HIGHWAY 235, BEING APPROXIMATELY 5.56 ACRES, MORE OR LESS,

AND WHICH IS LOCATED IN A "AA" ZONING DISTRICT.

THIS APPLICATION HAS BEEN ASSIGNED CASE No. 5-60. A HEARING WILL BE HELD BY THE BOARD OF ZONING APPEALS ON TUESDAY, FEBRUARY 23, 1960 AT 1:30 P.M., IN ROOM 401, CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT WHICH TIME YOU MAY APPEAR, IF YOU SO DESIRE, EITHER IN PERSON OR BY AGENT OR ATTORNEY.


LELAND R. EDMONDS, SECRETARY
BOARD OF ZONING APPEALS

CITY OF WICHITA
BOARD OF ZONING APPEALS
ROOM 402, CITY BUILDING ANNEX
104 SOUTH MAIN
WICHITA, KANSAS

CORRECTED NOTICE

NOTICE TO ADJOINING PROPERTY OWNERS

AN APPLICATION FOR AN APPEAL FROM ORDER OF THE BUILDING INSPECTION SUPERINTENDENT HAS BEEN FILED BY W. L. MORRIS OF 208 NORTH BROADWAY, WICHITA, KANSAS, AS PROVIDED BY SECTION 21-27 OF THE CODE OF THE CITY OF WICHITA. THE APPLICANT DESIRES TO ESTABLISH AND MAINTAIN A BORROW PIT ON PROPERTY LOCATED BETWEEN 9TH AND 13TH STREETS AND BETWEEN THE BIG DITCH AND 81 BY-PASS, ROUTE HIGHWAY 235, WICHITA, KANSAS AND LEGALLY DESCRIBED AS:

ALL THAT PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE/4 SE/4) SECTION 15-27S-1W, OF THE 6TH P.M., LYING EAST OF THE BIG DITCH AND WEST OF THE 81 BY-PASS, ROUTE HIGHWAY 235, DESCRIBED AS FOLLOWS, TO-WIT:

NINE (9) ACRES OFF THE NORTH SIDE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE/4 SE/4) OF SECTION 15, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 15, THENCE WEST 80 RODS; THENCE SOUTH 297 FEET; THENCE EAST 80 RODS; THENCE NORTH 297 FEET TO THE PLACE OF BEGINNING; EXCEPT THAT PORTION THEREOF CONDEMNED FOR THE BIG DITCH AND U. S. HIGHWAY 81 BY-PASS, ROUTE HIGHWAY 235, BEING APPROXIMATELY 5.53 ACRES, MORE OR LESS.

AND WHICH IS LOCATED IN A "AA" ZONING DISTRICT.

THIS APPLICATION HAS BEEN ASSIGNED CASE No. 5-60. A HEARING WILL BE HELD BY THE BOARD OF ZONING APPEALS ON TUESDAY, FEBRUARY 23, 1960 AT 1:30 P.M., IN ROOM 401, CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT WHICH TIME YOU MAY APPEAR, IF YOU SO DESIRE, EITHER IN PERSON OR BY AGENT OR ATTORNEY.


LELAND R. EDMONDS, SECRETARY
BOARD OF ZONING APPEALS

1-INSTRUCTIONS TO DELIVERING EMPLOYEE

Deliver **ONLY** to addressee Show address where delivered
(Additional charges required for these services)

RETURN RECEIPT
 Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)
Mr. W. L. Morris

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY
D. Hutchinson

DATE DELIVERED *2-9-60* ADDRESS WHERE DELIVERED (only if requested in item #1)

CS3-18-71848-4 GPO

RECEIPT FOR CERTIFIED MAIL—15¢

NO 1386383

SENT TO <i>W. L. Morris</i>	POSTMARK OR DATE
STREET AND NO. <i>208 N. Broadway</i>	
CITY AND STATE <i>Wichita, Kansas</i>	

If you want a return receipt, check which:

<input type="checkbox"/> It shows to whom and when delivered	<input type="checkbox"/> It shows to whom, when, and address where delivered	<input type="checkbox"/> 20¢ fee
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PD Form 3800 July 1955 Replaces previous editions of this form which MAY be used.

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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FINALITY FOR RETURN TO AVOID
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KANS.

INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moistize gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.

REGISTERED NO. _____ NAME OF SENDER *City of Wichita*

CERTIFIED NO. *6386383* STREET AND NO. OFF. BOX *Board of zoning Appeals*

INSURED NO. _____ CITY, ZONE AND STATE *Wichita, Kansas*

POD Form 3811 Jan. 1958

CS-18-71584-4

RECEIPT FOR CERTIFIED MAIL—15¢

SENT TO *W. L. Morris*

STREET AND NO. *208 N. Broadway*

CITY AND STATE *Wichita, Kansas*

POSTMARK OR DATE

It shows to whom and when delivered

It shows to whom, when, and address where delivered

If you want restricted delivery, check here

20¢ fee

No. **6386383**

POD Form 3800 July 1955

Replaces previous editions of this form which MAY be used.

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

NOTICE OF HEARING OF APPEAL

FEBRUARY 8, 19 60

DEAR MR. MORRIS:

YOUR APPLICATION FOR A (AN) APPEAL (APPEAL, VARIANCE, EXCEPTION) UNDER PROVISIONS OF PARAGRAPH _____, SECTION 21-27, CODE OF THE CITY OF WICHITA, AND RELATING TO PREMISES LOCATED AT: _____

~~BETWEEN 9TH AND 13TH STREETS, AND BETWEEN THE BIG DITCH AND 81 BY-PASS ROUTE HIGHWAY 235, WICHITA, KANSAS~~

HAS BEEN GIVEN BOARD OF ZONING APPEALS CASE No. 5-60.

ALL INQUIRIES AND REFERENCES SHOULD ALWAYS BE MADE TO THAT CASE NUMBER WHEN YOU SEEK INFORMATION FROM THE SECRETARY.

FURTHER, YOU ARE NOTIFIED THAT YOU MAY APPEAR BEFORE THE BOARD OF ZONING APPEALS EITHER IN PERSON, OR BY AGENT OR ATTORNEY, FOR A HEARING OF YOUR CASE ON FEBRUARY 23, 19 60, AT 1:30 P.M. IN ROOM 401, CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS.

RESPECTFULLY,

SECRETARY, BOARD OF ZONING APPEALS

C. C. KENNETH P. STEWART

CITY OF WICHITA
BOARD OF ZONING APPEALS
Room 402, CITY BUILDING ANNEX
104 SOUTH MAIN
WICHITA, KANSAS

NOTICE TO ADJOINING PROPERTY OWNERS

AN APPLICATION FOR AN APPEAL FROM ORDER OF THE BUILDING INSPECTION SUPERINTENDENT HAS BEEN FILED BY W. L. MORRIS OF 208 N. BROADWAY, WICHITA, KANSAS, AS PROVIDED BY SECTION 21-27 OF THE CODE OF THE CITY OF WICHITA. THE APPLICANT DESIRES TO ESTABLISH AND MAINTAIN A BORROW PIT ON PROPERTY LOCATED BETWEEN 9TH AND 13TH STREETS AND BETWEEN THE BIG DITCH AND 81 BY-PASS, ROUTE HIGHWAY 235, WICHITA, KANSAS AND LEGALLY DESCRIBED AS:

ALL THAT PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE/4 SE/4) SECTION 15-27S-1W, OF THE 6TH P.M., LYING EAST OF THE BIG DITCH AND WEST OF THE 81 BY-PASS, ROUTE HIGHWAY 235, DESCRIBED AS FOLLOWS, TO-WIT:

NINE (9) ACRES OFF THE NORTH SIDE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE/4 SE/4) OF SECTION 15, TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 15, THENCE WEST 80 RODS; THENCE NORTH 297 FEET TO THE PLACE OF BEGINNING; EXCEPT THAT PORTION THEREOF CONDEMNED FOR THE BIG DITCH AND U. S. HIGHWAY 81 BY-PASS, ROUTE HIGHWAY 235, BEING APPROXIMATELY 5.53 ACRES MORE OR LESS.

AND WHICH IS LOCATED IN A "AA" ZONING DISTRICT.

THIS APPLICATION HAS BEEN ASSIGNED CASE No. 5-60. A HEARING WILL BE HELD BY THE BOARD OF ZONING APPEALS ON TUESDAY, FEBRUARY 23, 1960 AT 1:30 P.M., IN ROOM 401, CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT WHICH TIME YOU MAY APPEAR, IF YOU SO DESIRE, EITHER IN PERSON OR BY AGENT OR ATTORNEY.



LELAND R. EDMONDS, SECRETARY
BOARD OF ZONING APPEALS

LAW OFFICES OF
BOYER, HONDROS & DONALDSON

WICHITA FEDERAL SAVINGS BUILDING

340 SOUTH BROADWAY
WICHITA 2, KANSAS

JOHN E. BOYER
GEORGE J. HONDROS
PAUL J. DONALDSON
BERNARD T. BECHT
KENNETH P. STEWART
JAMES R. HANSON

February 4, 1960

Mr. S. B. Maple
Building Inspection Superintendent
City Building Annex
Wichita, Kansas

Re: Application for conditional use
APPROVAL to establish a borrow pit

APPLICANT: Walter Morris

AGENT: Kenneth P. Stewart
340 South Broadway
Wichita, Kansas

Dear Mr. Maple:

On behalf of Mr. Walter Morris, the owner of the following described real estate, to-wit:

All that part of the Northeast Quarter of the Southeast Quarter (NE/4 SE/4) Section 15-27S-1W, of the 6th P.M., lying East of the Big Ditch and West of the S1 By-pass, Route Highway 235, described as follows, to-wit:

Nine (9) acres off the North side of the Northeast Quarter of the Southeast Quarter (NE/4 SE/4) of Section 15, Township 27 South, Range 1 West of the 6th P.M., described as follows: Beginning at the Northeast corner of the Southeast Quarter of said Section 15, thence West 80 rods; thence South 297 feet; thence East 80 rods; thence North 297 feet to the place of beginning; EXCEPT that portion thereof condemned for the Big Ditch and

Over

BOYER, HENDERSON & DONALDSON

Mr. S. B. Maple
Building Inspection Superintendent
Wichita, Kansas

Page 2

February 4, 1960

U. S. Highway 81 By-pass, Route Highway 215, being
approximately 5.53 acres more or less.

I wish to request approval from the office of Building Inspection Superintendent to establish conditional use for borrow pit under the applicable provisions of the city ordinances of Wichita, Sedgewick County, Kansas, and, particularly, the Planning Code.

The applicant proposes to establish a borrow pit use on the above described property located generally South of 13th Street and North of 9th Street just East of the Big Ditch, Wichita, Kansas.

On behalf of the applicant, I wish to further state that we are prepared to pay all necessary use or permit fees and to perform any and all conditions or restrictions relative to the use and maintenance of said land for borrow pit purposes.

If any other information or any fees are required at this time, please advise me.

Yours very truly,

BOYER, HENDERSON & DONALDSON

By

KPS:rd
cc: Mr. Walter Morris
308 North Broadway
Wichita, Kansas

February 5, 1960

Re: Borrow Pit - All that part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ Sec. 15-27S-1W of the 6th P. M. lying east of the Big Ditch and west of the 81 By-pass, Route Highway 235, described as follows, to-wit:

Nine acres off the north side of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 15, Twp. 27S, R. 1W of the 6th P. M., described as follows: Beginning at the northeast corner of the southeast quarter of said section 15, thence west 80 rods; thence south 297 feet; thence east 80 rods; thence north 297 feet to the point of beginning; EXCEPT that portion thereof condemned for the Big Ditch and U. S. Highway 81 By-pass, Route Highway 235, being approximately 5.53 acres more or less.

Mr. Kenneth P. Stewart
Attorney at Law
340 South Broadway
Wichita, Kansas

Dear Mr. Stewart:

I have your letter of February 4, 1960 relative to the placing of a borrow pit on the subject property.

This office will not be in a position to approve this use of the property, since it lies in the "AA" residential district as defined by the Zoning Ordinance of the City of Wichita.

After searching through the ordinance I can find nothing therein where it makes provision for any kind of special use which could be granted by either this office, the Planning Commission or the Governing Body of the City.

I find it necessary, therefore, that your request be denied.

Yours very truly,

S. B. Maple
Superintendent of Building Inspection

SLM MG

Cc Planning Commission

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bld'g & Elev. _____ Elec. _____ Elev. Insp. _____
 Exam Fees _____ Hse. Mvr. _____ Hse. Moving _____
 Licse. _____ Mech. _____ Oil Well _____ Pav. Cuts _____
 Plan. X _____ Plb'g. _____ Plb'g. Cert. _____
 Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
 Street _____ Trailers _____

DESCRIPTION	AMOUNT
<i>Application</i>	<i>20.00</i>

Name *K. Stewart*

Address *540 S Broadway*

Type _____ Due Date *2-5-60*

Comments: _____

Date _____ By *A. Heck*

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

APPEAL FROM ORDER OF THE BUILDING INSPECTION SUPERINTENDENT

I. Name of Appellant Walter Morris
Mailing Address 208 North Broadway Phone FO 3-8221
Name of Agent Kenneth P. Stewart
Mailing Address 340 South Broadway Phone HO 4-7321
Relationship of Appellant to property is that of Owner
(Owner, tenant, lessee, other).

II. The appellant herein appeals from a decision, determination, or an order of the Building Inspection Superintendent, as follows: _____
Application for conditional use (borrow pit) denied for property zoned "AA" residential because ordinance makes no provision for any kind of special use. Decision was rendered on Feb. 1960.

_____The decision was rendered on Feb. 1960 (date) and refers to Section _____
None of the Code of the City of Wichita (Zoning Ordinance).

III. The appellant hereby declares that he believes the order, decision or determination of the Building Inspection Superintendent in enforcing Section None of the Code of the City of Wichita (Zoning Ordinance) is incorrect for the following reasons:

SEE STATEMENT ATTACHED

- IV. The appellant herein, or his authorized agent, hereby acknowledges:
- That he has received an instruction sheet pertaining to the filing of this appeal.
 - That he has been advised of his rights of appeal of the decision of the Board of Zoning Appeals to the Board of City Commissioners within ten (10) days of the date of that decision.

Walter Morris
Applicant
Kenneth P. Stewart
Authorized Agent
By: Kenneth P. Stewart of
BOYER, HONDROS & DONALDSON

OFFICE USE ONLY

This appeal was received in the office of the Secretary, Board of Zoning Appeals, at _____ a.m., p.m. _____ (date).

S T A T E M E N T
(Under III)

Captioned property is located generally South of 13th Street and North of 9th Street just East of the Big Ditch and is described as follows:

All that part of the Northeast Quarter of the Southeast Quarter (NE/4 SE/4) Section 15-27S-1W, of the 6th P.M., lying East of the Big Ditch and West of the 81 By-pass, Route Highway 235, described as follows, to-wit:

Nine (9) acres off the North side of the Northeast Quarter of the Southeast Quarter (NE/4 SE/4) of Section 15, Township 27 South, Range 1 West of the 6th P.M., described as follows: Beginning at the Northeast corner of the Southeast Quarter of said Section 15, thence West 80 rods; thence South 297 feet; thence East 80 rods; thence North 297 feet to the place of beginning; EXCEPT that portion thereof condemned for the Big Ditch and U. S. Highway 81 By-pass, Route Highway 235, being approximately 5.53 acres more or less.

Appeal has been made to the Board of Zoning Appeals, City of Wichita, Kansas, in accordance with Section 21-27, D-1, as amended and is based upon the following:

1. No procedure is set up for a conditional use permit for borrow pit within the city limits.

2. Existing zoning classifications do not clearly indicate that borrow pit use could be permitted in any zoning classification.

(a.) The "F" heavy industrial classification, as a matter of fact, permits use "for any lawful purpose" and "for any purpose not in conflict with any ordinance of the city regulating nuisances or special fire hazards;....."

(b.) Sec. 21-131 interpreted broadly would appear to make the operation of a borrow pit a nuisance and, consequently, a borrow pit would be in conflict with the ordinance and prohibited.

3. By virtue of past action of the Metropolitan Area Planning Commission, the Board of City Commissioners and the Board of County Commissioners, a policy has been adopted whereby borrow pit uses will no longer be permitted without the imposition of certain conditions and limitations to operation and use. Consequently, even if heavy industrial classification would accommodate a borrow pit, the Metropolitan Area Planning Commission would not permit an "F" zoning since they cannot condition a heavy industrial use except those mentioned specifically in Section 21-18, A. This authority lies only with the Board of Zoning Appeals under present planning procedures.

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

Case No. _____
Filed _____

APPLICATION FOR VARIANCE

I. Name of Applicant Walter Morris
Mailing Address 208 North Broadway Phone FO 3-8221
Name of Authorized Agent Kenneth P. Stewart
Mailing Address 340 South Broadway Phone HO 4-7321
Relationship of Applicant to Property is that of Owner
(Owner, tenant, lessee, other.)

II. The variance requested is conditional use for borrow pit

_____ generally South of 13th Street and North of
for property located at 9th Street just East of the Big Ditch
and legally described as Lot(s) _____ Block(s) _____
_____ Addition to the City of Wichita; and which is
presently zoned _____.

(Give metes and bounds description below if appropriate):

(SEE ATTACHED EXHIBIT "A")

III. The applicant herein, or his authorized agent, hereby acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 21-27 of the Code of the City of Wichita (Ordinance 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right of appeal of the decision of the Board of City Commissioners within ten (10) days of that decision;
- d. That a statement is attached hereto justifying this request as noted in paragraph 2.C of the instructions and in Section 21-27-D.2 of the Code of the City of Wichita.

Walter Morris
Applicant
Kenneth P. Stewart
Authorized Agent
By: Kenneth P. Stewart of
BOYER, HONDROS & DONALDSON

OFFICE USE ONLY

Received in office of Secretary, Board of Zoning Appeals, 11/10
(a.m., p.m.) 2-5, 1960, together with appropriate fee
of \$30.00.

Dolores Heck
Signed

S T A T E M E N T

(Under III d.)

It is represented by the applicant:

- A) That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district;
- B) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- C) That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal;
- D) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

The statement under this application for variance supplements statement previously filed under Paragraph III of appeal from order of the Building Inspection Superintendent duly filed on or about February _____, 1960.

EXHIBIT "A"

All that part of the Northeast Quarter of the Southeast Quarter (NE/4 SE/4) Section 15-27S-1W, of the 6th P.M., lying East of the Big Ditch and West of the 81 By-pass, Route Highway 235, described as follows, to-wit:

Nine (9) acres off the North side of the Northeast Quarter of the Southeast Quarter (NE/4 SE/4) of Section 15, Township 27 South, Range 1 West of the 6th P.M., described as follows: Beginning at the Northeast corner of the Southeast Quarter of said Section 15, thence West 80 rods; thence South 297 feet; thence East 80 rods; thence North 297 feet to the place of beginning; EXCEPT that portion thereof condemned for the Big Ditch and U. S. Highway 81 By-pass, Route Highway 235, being approximately 5.53 acres more or less.



File

The City of Wichita, Kansas

DEPARTMENT OF LAW

OFFICE OF CITY ATTORNEY

August 27, 1962



Grosshans & Petersen, Inc.
P. O. Box 167
Marysville, Kansas

Re: Borrow Pit Near Hoover Street
BZA 2-60 Amended
BZA 5-60

Gentlemen:

In reply to the letter from C. L. McCaig, Construction and Inspection Supervisor, concerning the landscaping of the borrow pit near Hoover Street, you advised in your letter of April 27, 1962, that the landscaping would be completed within the next two weeks. This office is now advised by Glen E. Lytle, Superintendent of Central Inspection, that an inspection of the property was made July 23, 1962; that the borrow pit has not been maintained as per agreement.

Please advise immediately as to your intentions to bring this into compliance. Otherwise, the Department of Law has been instructed to take action.

Very truly yours,

Fred W. Aley,
City Attorney

FWA:ka

cc: Ralph Wulz, Director of Public Works
Russell E. McClure, City Manager
Robert L. Lakin, Senior Planner
Kenneth P. Stewart, Attorney at Law

THE CITY OF WICHITA

OFFICE OF CENTRAL INSPECTION DIVISION

DATE July 30, 1962

File

TO Fred Aley, City Attorney

FROM Glen E. Lytle, Superintendent of Central Inspection

SUBJECT Borrow Pit
BZA 2-60 Amended
BZA 5-60

I am enclosing copies of correspondence with Groshans and Peterson, Inc. pertaining to compliance with the provisions set forth in the resolutions 2-60 and 5-60 of the Board of Zoning Appeals.

An inspection of this property was made on July 23, 1962. The shelter belt as called for in condition number 4 has not been planted. The vegetative cover as called for in condition number 8 either has not been planted or is entirely hidden by extremely high weeds. In any event the borrow pit has not been maintained.

I think that appropriate steps should be taken at this time to assure planting this fall.

Please advise if further information is necessary.

Glen E. Lytle
Superintendent of Central Inspection

GEL:uml

cc: Ralph Wuls, Director of Public Works
Robert Lakin, Planning Department



OWNERSHIP LIST

Lot	Block	Addition	Owner
1	1	Avery Addition	Morris Bldg. Co. Inc. 208 N. Broadway
2	1	" "	" "
3	1	" "	" "
4	1	" "	" "
24	A	West Central Gardens Third Add.	Twenty-First Street Bldg. Co. In. 208 N. Broadway
25	A	" "	" "
26	A	" "	" "
2	E	" "	Eloise Morris McMurtry 208 N. Broadway
S 10 acres of SE $\frac{1}{4}$ NE $\frac{1}{4}$ sec 15-27-1W			Raymond J. Allen & Neva M. Allen 1013 N. Hoover
Beg 18 rds South NE cor SE $\frac{1}{4}$ 15-27-1W S. 10 rds West to West line E $\frac{1}{2}$ SE $\frac{1}{4}$ North 10 rds to pt 18 rds South of NW cor NE $\frac{1}{4}$ SE $\frac{1}{4}$ East to beg.			Leslie D. Hartley & Margaret L. Hartley 939 Gilda
Beg 28 rds South NE cor SE $\frac{1}{4}$ sec 15-27-1W South 12 rds, W. 53 1/3 rds, North 12 rds to beginning.			Harry B. Pollak 104 S. Main
North 9 A off N. side of NE $\frac{1}{4}$ SE $\frac{1}{4}$ sec 15-27-1W, described as Beg NE cor of SE $\frac{1}{4}$ Sec 15 - West 80 rds, S. 297', East 80 N. 297' to beg. exc that part condemned in Case A-77197 for Highway purposes.			Morris Bldg. Co. Inc. 208 N. Broadway
All that part of the W $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec 15-27-1E, lying E. of the Wichita Valley Flood Control Right of Way and West of West Central Gardens 3rd Add.			Eloise Morris McMurtry

We hereby certify the foregoing to be a true and correct list of property owners within a 200 foot radius of the following described property, Beginning at the Northeast corner of the Southeast $\frac{1}{4}$ of Section 15, township 27 South, Range 1 West, thence West 80 rods, thence South 297 feet, thence East 80 rods, thence North 297 feet to the place of beginning, except that part lying East of the West right of Way line of the Highway as condemned in case No. A 77197, as shown on the records in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 5th day of February, 1960 at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

Kenneth C. Brown
Vice President

Order No. 70479