

Case No. BZA 9-78 - Colby B. Sandlain, requests an exception to permit the establishment of a borrow pit on property generally located in an area west of Fountain on both the north and south sides of Applewood Parkway

*POSTED
3-13-78
[Signature]*

ACTION

BZA 9-78 COMMITTEE Approved DATE 3-28-78

M.A.P.C. _____

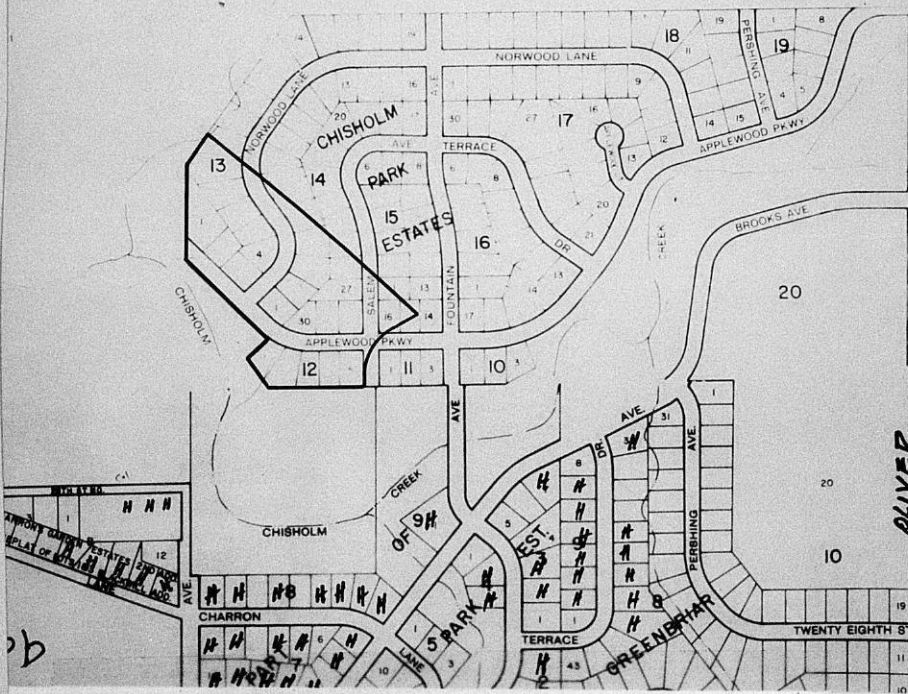
B.C.C./B. CO. C. _____

Map No. 5751
 Sec. 35
 Twp. 26
 Range 1E

BZA- 9-78 B7
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 1. Acres: 9.9 (347 (IRREGULAR) ft. by 991 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East UNDEVELOPED South UNDEVELOPED
 West UNDEVELOPED North UNDEVELOPED
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: UNDEVELOPED
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



4710 E 26th St. N. 67220

S. H. H. & S. H. H.
 No. 2153C
 HASTING, HUNTER & ASSOCIATES
 LOS ANGELES, CALIF.

RESOLUTION NO. BZA 9-78

WHEREAS, Colby B. Sandlian, 435 North Broadway, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the extraction of raw materials (fill dirt and soil) on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lots 1, 2, 3, 4, 5, 6, 7 and parts of Lots 8 and 9 in Block 13, and also Lots 1, 2, 3, 27, 28, 29, 30 and parts of Lots 4, 5, 6, 7, 25, and 26 in Block 14, and also Lots 1, 2, and 3 in Block 11 and also Lots 1 thru 5 inclusive, Block 12, parts of Lot 1 and 2, Block 10 and also parts of Lots 1, 2, 14, 15 and 16 in Block 15, all in Chisholm Park Estates, an Addition to Wichita, Sedgwick County, Kansas, together with that part of Applewood Parkway, Norwood Lane, Salem Avenue and Fountain Avenue, contiguous and adjacent to the above described lots as platted in said Chisholm Park Estates, the above being more particularly described as follows: Beginning at a point in the west line and 454.52' North of the Southwest Corner of the S 1/2 of the SE 1/4 of Sec. 35, T26S, R1E of the 6th P.M., Sedgwick County, Kansas; thence North along the West line of said SE 1/4 and bearing N.00°23'39"W., a distance of 346.37' thence N. 34° 41'11" E., a distance of 142.95'; thence S. 49° 00' 18" E., a distance of 991.20'; thence S 62° 16'43" W., a distance of 86.33' to the P.C. of a curve to the left having a radius of 220.0'; thence along said curve to the left and through a central angle of 62° 30'00", a distance of 239.98' to the P.T. of said curve, thence S. 00° 13'17" E., a distance of 30.0' to a point in the south line of said SE 1/4; thence S. 89° 46'43" W along the south line of said SE 1/4, a distance of 347.62'; thence N. 35° 25'31" W., a distance of 133.0'; thence North 48° 50'24" E., a distance of 100.0' to a point on a curve to the Right having a radius of 273.67'; thence Northwesterly along said curve to the Right and through a central angle of 12° 11'05", a distance of 58.20' to the P.T. of said curve; thence N. 44° 34'05" W., a distance of 340.25' to the point of beginning, containing 8.969 acres more or less. Generally located in an area between Fountain on the east and the Wichita City Limits on the west, on both the north and south sides of Applewood Parkway (as platted).

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of March 28, 1978, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the extraction of raw materials (fill dirt and soil) on property zoned the "AA" Single Family Dwelling District subject to the conditions outlined in Section 28.04.181.2, Code of the City of Wichita.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this application be approved to permit the extraction of raw materials (fill dirt and soil) on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lots 1, 2, 3, 4, 5, 6, 7 and parts of Lots 8 and 9 in Block 13, and also Lots 1, 2, 3, 27, 28, 29, 30 and parts of Lots 4, 5, 6, 7, 25, and 26 in Block 14, and also Lots 1, 2, and 3 in Block 11 and also Lots 1 thru 5 inclusive, Block 12, parts of Lot 1 and 2, Block 10 and also parts of Lots 1, 2, 14, 15 and 16

in Block 15, all in Chisholm Park Estates, an Addition to Wichita, Sedgwick County, Kansas, together with that part of Applewood Parkway, Norwood Lane, Salem Avenue and Fountain Avenue, contiguous and adjacent to the above described lots as platted in said Chisholm Park Estates, the above being more particularly described as follows: Beginning at a point in the west line and 454.52' North of the Southwest Corner of the S 1/2 of the SE 1/4 of Sec. 35, T26S, R1E of the 6th P.M., Sedgwick County, Kansas; thence North along the West line of said SE 1/4 and bearing N.00°23'39"W., a distance of 346.37' thence N. 34° 41'11" E., a distance of 142.95'; thence S. 49° 00' 18" E., a distance of 991.20'; thence S 62° 16'43" W., a distance of 86.33' to the P.C. of a curve to the left having a radius of 220.0'; thence along said curve to the left and through a central angle of 62° 30'00", a distance of 239.98' to the P.T. of said curve, thence S. 00° 13'17" E., a distance of 30.0' to a point in the south line of said SE 1/4; thence S. 89° 46'43" W along the south line of said SE 1/4, a distance of 347.62'; thence N. 35° 25'31" W., a distance of 133.0'; thence North 48° 50'24" E., a distance of 100.0' to a point on a curve to the Right having a radius of 273.67'; thence Northwesterly along said curve to the Right and through a central angle of 12° 11'05", a distance of 58.20' to the P.T. of said curve; thence N. 44° 34'05" W., a distance of 340.25' to the point of beginning, containing 8.969 acres more or less. Generally located in an area between Fountain on the east and the Wichita City Limits on the west, on both the north and south sides of Applewood Parkway (as platted).

subject to the following conditions:


1. No commercial recreation activities, such as boating, fishing, skiing, swimming, etc., shall be permitted.
2. The applicant and/or future owner shall comply with the provisions of Section 5.34 of the Code of the City of Wichita pertaining to the fencing requirements of ponded or trapped water.
3. Excavation shall not be nearer than fifty feet to any property line; nor nearer than 100 feet to the proposed right-of-way line of any public street.
4. The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control office of the department of Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.
5. The applicant shall submit a restrictive covenant, in a form satisfactory to the Board's legal counsel, to be recorded with the Register of Deeds and such covenant shall provide that no foreign matter, such as rubbish, car bodies, or other debris shall be deposited within the excavation. This covenant shall be submitted within one month of the date of approval or this Resolution shall become null and void.
6. The side slopes of the excavation shall not be steeper than three horizontal to one vertical.
7. Extraction of fill dirt from this site shall be from within the limits of excavation shown on the applicant's plan.

8. The extraction of fill dirt shall be a temporary use of the land through July, 1983, after which time the property shall be redeveloped as a single family residence with pond privately owned and maintained.
9. The water level of the redeveloped pond shall be maintained at a depth of at least six feet so as to retard algae growth in the pond.
10. The applicant shall obtain an excavation and grading permit from the Office of Central Inspection prior to any extraction of fill dirt from this site.
11. Extraction of fill dirt from this site shall be contingent upon the approval and recording of the plats of Chisholm Park Estates Second Addition and Lost Acres Addition. No extraction shall occur prior to the recording of these two plats.
12. The extraction of fill dirt from this site shall be used only to provide fill dirt for the proposed development of Chisholm Park Estates Second Addition, Lost Acres Addition and Timberline Community Unit Plan. This shall not be construed to be a commercial operation offering fill dirt for sale.

ADOPTED AT WICHITA, KANSAS, this 28th day of March, 1978.


James Richardson, Chairman

ATTEST:


Larry Dobson, Assistant Secretary

44-78

28.04.181. 2

Extraction of Raw Material
Fill Dirt - Subject to the following
Conditions

2.5 Any extraction that creates a depression, where water will be ponded shall be subject to all the requirements of Chapter 5.34 of the code.

5.34 Fencing of Borrow Pits

5.34.070 Certain developed projects exempted

January 4, 1979

Don Gisick, City Clerk


Larry Dobson, Assistant Secretary, Board of Zoning Appeals

Restrictive Covenant Associated with Case No. BZA 9-78

On March 28, 1978, the Board of Zoning Appeals approved the request of Colby B. Sandlian, 435 N. Broadway, Wichita, Kansas, for an exception to permit the extraction of raw materials (fill dirt and soil) on property generally located in an area west of Oliver and north of 29th Street North. One of the conditions of approval required the applicant to submit a restrictive covenant providing that no foreign matter, such as rubbish, car bodies, or other debris shall be deposited within the excavation. Attached is the restrictive covenant submitted in accordance with this condition.

Would you please forward the restrictive covenant to the Register of Deeds to be recorded and bill the recording costs to the applicant?

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



Larry Dobson
Assistant Secretary

LD:bbc
Attachment

C O V E N A N T

This declaration made this 13 day of April, 1978, by the undersigned owner of real property hereinafter described and called Grantor.

WITNESSETH:

WHEREAS, Grantor is the owner of the following described real property, to-wit:

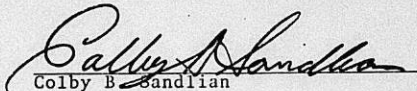
Chisholm Park Estates Second Addition,
Wichita, Sedgwick County, Kansas.

WHEREAS, for the purposes of satisfying a requirement as set forth by the Board of Zoning Appeals of the City of Wichita, Grantor is subjecting this covenant as hereinafter set forth which shall inure to the benefit of and pass with said property, and shall apply to and bind the successors in interest in any owner thereof.

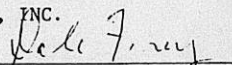
NOW, THEREFORE, the undersigned Grantor hereby acknowledges and agrees that in the subdivision of said real property, circumstances prevail which necessitates that the portion of the property to be known as Lot 1, Block C, shall be held, transferred, sold, conveyed, and occupied subject to the following restriction, to-wit:

No foreign matter, such as rubbish, car bodies, or other debris shall be deposited within the excavation.

IN WITNESS WHEREOF, the undersigned Grantor being the owner of the lot above described herein, has caused this instrument to be executed this 13 day of April, 1978.


Colby B. Sandlian

VIRDALE, INC.



Dale Frey, President

A C K N O W L E D G M E N T

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this 27 day of April, 1978, before me, a Notary Public within and for the County and State aforesaid, personally appeared Colby B. Sandlian and Dale Frey, President of Virdale, Inc., who are personally known to me to be the same persons who executed the foregoing instrument, and such person duly acknowledged the execution of the same, and at the same time and place, he subscribed and swore to the same before me.

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



Notary Public)

My term expires:
August 18, 1978

RESOLUTION NO. BZA 9-78

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WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of March 28, 1978, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the extraction of raw materials (fill dirt and soil) on property zoned the "AA" Single Family Dwelling District subject to the conditions outlined in Section 28.04.181.2, Code of the City of Wichita.

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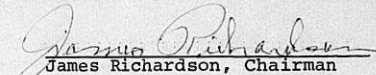
in Block 15, all in Chisholm Park Estates, an Addition to Wichita, Sedgwick County, Kansas, together with that part of Applewood Parkway, Norwood Lane, Salem Avenue and Fountain Avenue, contiguous and adjacent to the above described lots as platted in said Chisholm Park Estates, the above being more particularly described as follows: Beginning at a point in the west line and 454.52' North of the Southwest Corner of the S 1/2 of the SE 1/4 of Sec. 35, T26S, R1E of the 6th P.M., Sedgwick County, Kansas; thence North along the West line of said SE 1/4 and bearing N.00°23'39"W., a distance of 346.37' thence N. 34° 41'11" E., a distance of 142.95'; thence S. 49° 00' 18" E., a distance of 991.20'; thence S 62° 16'43" W., a distance of 86.33' to the P.C. of a curve to the left having a radius of 220.0'; thence along said curve to the left and through a central angle of 62° 30'00", a distance of 239.98' to the P.T. of said curve, thence S. 00° 13'17" E., a distance of 30.0' to a point in the south line of said SE 1/4; thence S. 89° 46'43" W along the south line of said SE 1/4, a distance of 347.62'; thence N. 35° 25'31" W., a distance of 133.0'; thence North 48° 50'24" E., a distance of 100.0' to a point on a curve to the Right having a radius of 273.67'; thence Northwesterly along said curve to the Right and through a central angle of 12° 11'05", a distance of 58.20' to the P.T. of said curve; thence N. 44° 34'05" W., a distance of 340.25' to the point of beginning, containing 8.969 acres more or less. Generally located in an area between Fountain on the east and the Wichita City Limits on the west, on both the north and south sides of Applewood Parkway (as platted).

subject to the following conditions:

1. No commercial recreation activities, such as boating, fishing, skiing, swimming, etc., shall be permitted.
2. The applicant and/or future owner shall comply with the provisions of Section 5.34 of the Code of the City of Wichita pertaining to the fencing requirements of ponded or trapped water.
3. Excavation shall not be nearer than fifty feet to any property line; nor nearer than 100 feet to the proposed right-of-way line of any public street.
4. The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control office of the department of Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.
5. The applicant shall submit a restrictive covenant, in a form satisfactory to the Board's legal counsel, to be recorded with the Register of Deeds and such covenant shall provide that no foreign matter, such as rubbish, car bodies, or other debris shall be deposited within the excavation. This covenant shall be submitted within one month of the date of approval or this Resolution shall become null and void.
6. The side slopes of the excavation shall not be steeper than three horizontal to one vertical.
7. Extraction of fill dirt from this site shall be from within the limits of excavation shown on the applicant's plan.

8. The extraction of fill dirt shall be a temporary use of the land through July, 1983, after which time the property shall be redeveloped as a single family residence with pond privately owned and maintained.
9. The water level of the redeveloped pond shall be maintained at a depth of at least six feet so as to retard algae growth in the pond.
10. The applicant shall obtain an excavation and grading permit from the Office of Central Inspection prior to any extraction of fill dirt from this site.
11. Extraction of fill dirt from this site shall be contingent upon the approval and recording of the plats of Chisholm Park Estates Second Addition and Lost Acres Addition. No extraction shall occur prior to the recording of these two plats.
12. The extraction of fill dirt from this site shall be used only to provide fill dirt for the proposed development of Chisholm Park Estates Second Addition, Lost Acres Addition and Timberline Community Unit Plan. This shall not be construed to be a commercial operation offering fill dirt for sale.

ADOPTED AT WICHITA, KANSAS, this 28th day of March, 1978.


James Richardson, Chairman

ATTEST:


Lacey Dobson, Assistant Secretary

44-78

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXX
Tenth Floor, City Hall
455 North Main

April 7, 1978

Mr. G. Don Shirkey
5711 E. 45th North
Wichita, Kansas 67220

Re: Request for Exception
Case No. BZA 9-78

Dear Mr. Shirkey:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on March 28, 1978, in connection with your request for an exception to permit the extraction of raw materials (fill dirt and soil) on property zoned the "AA" Single Family Dwelling District, and generally located in an area between Fountain on the east and the Wichita City Limits on the west, on both the north and south sides of Applewood Parkway.

This Resolution reflects the official action of the Board to grant your request, and sets forth the conditions of approval. It is forwarded to you for your information and files.

If you have any question pertaining to this matter, please call our office.

Sincerely yours,

Larry Dobson
Assistant Secretary

LD:bbh

cc: Solby B. Sandlian, 435 N. Broadway, 67202
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

Dobson

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE March 22, 1978

TO Larry Dobson, Secretariat, Board of Zoning Appeals

FROM Gail Williams, CPO Administrative Aide

SUBJECT BZA 9-78 (Extraction of dirt
at Fountain and Applewood)

At their meeting of March 21, 1978, CPO Council "I" considered the captioned case and voted 8-0 to recommend approval of the requested exception.

The Council's understanding is that the excavation would be a temporary activity, for the purpose of correcting undesirable drainage in the area, and that the property in question will then be developed with single-family residences.

Because the extraction activities appear to be designed to enhance the aesthetic and geographical qualities of the area and to benefit future single-family development, Council "I" recommends approval of the exception.

Please provide this recommendation to the Board of Zoning Appeals when they consider the case on March 28.

Gail Williams

Gail Williams
CPO Administrative Aide

GW:sm

Noted:

David Furnas

David Furnas
Citizen Participation Coordinator



XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Tenth Floor, City Hall
455 North Main Street

March 28, 1978

Mr. G. Don Shirkey
5711 E. 45th North
Wichita, Kansas 67220

Re: Request for Exception
Case No. BZA 9-78

Dear Mr. Shirkey:

At the regular meeting of the Board of Zoning Appeals on March 28, 1978, your request for an exception to permit the extraction of raw materials (fill dirt and soil) on property zoned the "AA" Single Family Dwelling District, and generally located in an area between Fountain on the east and the Wichita City Limits on the west, on both the north and south sides of Applewood Parkway was considered.

It was the action of the Board to approve the request subject to the following conditions:

1. No commercial recreation activities, such as boating, fishing, skiing, swimming, etc., shall be permitted.
2. The applicant and/or future owner shall comply with the provisions of Section 5.34 of the Code of the City of Wichita pertaining to the fencing requirements of ponded or trapped water.
3. Excavation shall not be nearer than fifty feet to any property line; nor nearer than 100 feet to the proposed right-of-way line of any public street.
4. The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control office of the department of Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.

Mr. G. Don Shirkey
March 28, 1978

5. The applicant shall submit a restrictive covenant, in a form satisfactory to the Board's legal counsel, to be recorded with the Register of Deeds and such covenant shall provide that no foreign matter, such as rubbish, car bodies, or other debris shall be deposited within the excavation. This covenant shall be submitted within one month of the date of approval or this Resolution shall become null and void.
6. The side slopes of the excavation shall not be steeper than three horizontal to one vertical.
7. Extraction of fill dirt from this site shall be from within the limits of excavation shown on the applicant's plan.
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9. The water level of the redeveloped pond shall be maintained at a depth of at least six feet so as to retard algae growth in the pond.
10. The applicant shall obtain an excavation and grading permit from the Office of Central Inspection prior to any extraction of fill dirt from this site.
11. Extraction of fill dirt from this site shall be contingent upon the approval and recording of the plats of Chisholm Park Estates Second Addition and Lost Acres Addition. No extraction shall occur prior to the recording of these two plats.
12. The extraction of dirt from this site shall be used only to provide fill dirt for the proposed development of Chisholm Park Estates Second Addition, Lost Acres Addition and Timberline Community Unit Plan. This shall not be construed to be a commercial operation offering fill dirt for sale.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

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

Yours very truly,

Larry Dobson
Assistant Secretary

Mr. G. Don Shirkey
March 28, 1978
Page 3

LD:bh

cc: Colby B. Sandlian, 435 N. Broadway, 67202
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

RE: AGENDA ITEM NO.

SECRETARY'S REPORT CASE NO. BZA 9-78

APPLICANT: Colby B. Sandlian, 435 North Broadway,
Wichita, Kansas.

AGENT: G. Don Shirkey, 5711 E. 45th North,
Wichita, Kansas.

REQUEST: Exception pursuant to Section 2.12.590.C,
Code of the City of Wichita to permit the
extraction of raw materials (fill dirt
and soil).

GENERAL LOCATION: As now platted, this property would be
in an area between Fountain on the east
and the Wichita City Limits on the west,
on both the north and south sides of
Applewood Parkway.

LAND USE: Subject property and all surrounding
properties are undeveloped.

ZONING: Subject property and all surrounding
properties are zoned the "AA" Single
Family Dwelling District.

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.181.2 can be complied with.

COMMENTS BY THE SECRETARY:

The zoning ordinance authorizes the Board of Zoning Appeals by special permit to grant exceptions and authorize the extraction of raw materials (fill dirt, soil, sand or gravel) as a temporary use in any zoning district where such use is not a permitted use, subject to certain conditions and requirements.

The applicant is requesting an exception to permit the removal of approximately 150,000 cubic yards of fill dirt from subject property over a five year time period. After which time the property would be developed as a single family dwelling with a pond, privately owned and maintained. The property is zoned the "AA" Single Family Dwelling District.

The fill dirt removed from this site is proposed to be used to establish minimum pad elevations on planned area developments known as Chisholm Park Estates Second Addition, Lost Acres Addition and a proposed Community Unit Plan known as Timberline, all of which are in this general area west of Oliver. Subject property is being replatted as Lot 1, Block C Chisholm Park Estates Second Addition.

SECRETARY'S REPORT

CASE NO. BZA 9-78

Page 2

The site plan submitted by the applicant shows that the limits of excavation maintain a minimum 50 foot setback from all property lines and a setback of 100 feet from the proposed right-of-way for Fountain. The plan indicates bank slopes of 3 foot horizontal to 1 foot vertical falling to a maximum depth of 16 feet. Flood Control right-of-way for Chisholm Creek is adjacent to subject property on the west. Flood Control representatives have said that direct drainage flow from Chisholm Creek to the proposed pond would not be permitted and the applicant has not indicated how a water level would be established and maintained.

The associated pending plat indicates that the adjacent property to the north is designed with single family home sites backing into subject property.

Although fencing required for commercial sand pit operation may not be appropriate in this instance, it is the opinion of the Secretary that the redevelopment of subject property into a privately owned pond would be an attractive nuisance in this future residential area and some type of security fencing should be suggested. The applicant should be prepared to respond to this question and the question concerning the method of filling and maintaining the water level in the pond. If drainage runoff from the proposed subdivisions to the north and east are to be the means of providing water for this pond then a drainage plan of the area needs to be submitted for approval.

The area surrounding subject property is undeveloped and Chisholm Creek separates this site from the nearest residential property which is approximately 500 feet to the south. Truck traffic involved with the proposed borrow operation would not be traveling through a residential area, but would rather be moving fill dirt from subject site to the surrounding proposed developments previously mentioned.

RECOMMENDATION:

If the Board of Zoning Appeals determines that the requested exception would be an appropriate use for this area, it should be approved subject to the following conditions:

1. No commercial recreation activities, such as boating, fishing, skiing, swimming, etc., shall be permitted.
2. The applicant and/or future owner shall comply with the provisions of Section 5.34 of the Code of the City of Wichita pertaining to the fencing requirements of ponded or trapped water.
3. Excavation shall not be nearer than fifty feet to any property line; nor nearer than 100 feet to the proposed right-of-way line of any public street.

4. The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control office of the department of Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.
 5. The applicant shall submit a restrictive covenant, in a form satisfactory to the Board's legal counsel, to be recorded with the Register of Deeds and such covenant shall provide that no foreign matter, such as rubbish, car bodies, or other debris shall be deposited within the excavation. This covenant shall be submitted within one month of the date of approval or this Resolution shall become null and void.
 6. The side slopes of the excavation shall not be steeper than three horizontal to one vertical.
 7. Extraction of fill dirt from this site shall be from within the limits of excavation shown on the applicant's plan.
 8. The extraction of fill dirt shall be a temporary use of the land through July, 1983, after which time the property shall be redeveloped as a single family residence with pond privately owned and maintained.
 9. The water level of the redeveloped pond shall be maintained at a depth of at least six feet so as to retard algae growth in the pond.
 10. The applicant shall obtain an excavation and grading permit from the Office of Central Inspection prior to any extraction of fill dirt from this site.
 11. Extraction of fill dirt from this site shall be contingent upon the approval and recording of the plats of Chisholm Park Estates Second Addition and Lost Acres Addition. No extraction shall occur prior to the recording of these two plats.
 12. The extraction of dirt from this site shall be used only to provide fill dirt for the proposed development of Chisholm Park Estates Second Addition, Lost Acres Addition and Timberline Community Unit Plan. This shall not be construed to be a commercial operation offering fill dirt for sale.
-

SPEED LETTER®

TO: M.S. Mitchell - P.W. Maint. (for your review and comments)
FROM: Larry Dobson - Planning

SUBJECT: Chisholm Park Estates Second Addition

MESSAGE

DATE 2-24 1978

Attached is a copy of a site plan submitted with a BZA application for a borrow pit. Dirt will be extracted for use in developing minimum pad elevations on surrounding sites. ~~The boundaries of~~ The property in question is defined being replatted as Lot 1, Block C, Chisholm Park Estates Second Addition. The property is proposed to be developed as a single family home with pond privately owned and maintained.

SIGNED

Larry Dobson

REPLY

DATE

19



No COMMENT

FOLD

Received

FEB 27 1978

SIGNED

M.S. Mitchell

3-2-78

6 notices sent to applicant, agent and adj. property owners
10 notices sent to MAPC
1 notice to CPO
17 total notices sent on 3-6-78, BZA 2-78

BOARD OF ZONING APPEALS
TENTH FLOOR - CITY HALL
455 North Main, Wichita, Kansas 67202

March 6, 1978

NOTICE TO ADJOINING PROPERTY OWNERS: Case No. BZA 9-78

An application has been filed by Colby B. Sandlian, 435 North Broadway, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the extraction of raw materials (fill dirt and soil) on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lots 1, 2, 3, 4, 5, 6, 7 and parts of Lots 8 and 9 in Block 13, and also Lots 1, 2, 3, 27, 28, 29, 30 and parts of Lots 4, 5, 6, 7, 25, and 26 in Block 14, and also Lots 1, 2, and 3 in Block 11 and also Lots 1 thru 5 inclusive, Block 12, parts of Lot 1 and 2, Block 10 and also parts of Lots 1, 2, 14, 15 and 16 in Block 15, all in Chisholm Park Estates, an Addition to Wichita, Sedgwick County, Kansas, together with that part of Applewood Parkway, Norwood Lane, Salem Avenue and Fountain Avenue, contiguous and adjacent to the above described lots as platted in said Chisholm Park Estates, the above being more particularly described as follows: Beginning at a point in the west line and 454.52' North of the Southwest Corner of the S 1/2 of the SE 1/4 of Sec. 35, T26S, R1E of the 6th P.M., Sedgwick County, Kansas; thence North along the West line of said SE 1/4 and bearing N.00°23'39"W., a distance of 346.37' thence N. 34° 41'11" E., a distance of 142.95'; thence S. 49° 00' 18" E., a distance of 991.20'; thence S 62° 16'43" W., a distance of 86.33' to the P.C. of a curve to the left having a radius of 220.0'; thence along said curve to the left and through a central angle of 62° 30'00", a distance of 239.98' to the P.T. of said curve, thence S. 00° 13'17" E., a distance of 30.0' to a point in the south line of said SE 1/4; thence S. 89° 46'43" W along the south line of said SE 1/4, a distance of 347.62'; thence N. 35° 25'31" W., a distance of 133.0'; thence North 48° 50'24" E., a distance of 100.0' to a point on a curve to the Right having a radius of 273.67'; thence Northwesterly along said curve to the Right and through a central angle of 12° 11'05", a distance of 58.20' to the P.T. of said curve; thence N. 44° 34'05" W., a distance of 340.25' to the point of beginning, containing 8.969 acres more or less. Generally located in an area between Fountain on the east and the Wichita City Limits on the west, on both the north and south sides of Applewood Parkway (as platted).

This application has been assigned Case No. BZA 9-78 and will be considered by the Board of Zoning Appeals at its meeting

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 9-78

Page 2

on Tuesday, March 28, 1978, at 1 30 p.m. in the Board Room,
First Floor, City Hall, 455 North Main, Wichita, Kansas, at which
time you may appear if you so desire, either by agent or attorney.

It should be noted that the Citizen Participation Organization
Area Council may consider this case at its next meeting. Additional
information about such a meeting may be obtained by calling the CPO
Office, 268-4516.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR EXCEPTION

I. Name of Applicant Colby B. Sandlian
 Mailing Address 263-0118 ^{435 N. Broadway} ₀₂ Phone 263-0118
 Name of Authorized Agent G. Don Shirkey
 Mailing Address 5711 E. 45th North ₂₀ Phone 744-1989
 Relationship of applicant to property is that of Developer
 (Owner, Tenant, Lessee, Other).

II. Application is made for an exception as provided in Section 2.12.590.C, Code of the City of Wichita, Kansas, to permit the establishment of Barrow Pit _____ on property zoned AA, located 2900 Block North Fountain _____ and legally described as: See attached MOEning letter being replatted as Lot 1, Block "C" Chisholm Park Estates Second Addition _____, in the City of Wichita.

- III. The applicant herein, or his authorized agent, 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 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
 - c. That all documents are attached hereto as noted in paragraphs 2, 3, and 4 of the instructions.
 - d. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.

Applicant Colby B. Sandlian
 Authorized Agent _____

Maps 5751

OFFICE USE ONLY: Received in the office of the Secretary, Board of Zoning Appeals, 2:30 (a.m. - (p.m.)), 2-23, 19 78, together with appropriate fee of \$50.00

Subj. to receiving revised legal description Signed Larry Dobson

T9-403

Generally located in an area west of Fountain and on both the N. & S. sides of Applewood Parkway (as platted)

24 February 1978

Mr. Don Shirkey
5711 E. 45th St. N.
Wichita, Kansas 67220

Dear Don:

Following is the legal description for land under consideration as BZA Case by the Wichita-Sedgwick County Metropolitan Area Planning Commission.

Lots 1, 2, 3, 4, 5, 6, 7 and parts of Lots 8 and 9 in Block 13 and also Lots 1, 2, 3, 27, 28, 29, 30 and parts of Lots 4, 5, 6, 7, 25 and 26 in Block 14 and also Lots 1, 2, and 3 in Block 11 and also Lots 1 thru 5 inclusive, Block 12, parts of Lot 1 and 2, Block 10 and also parts of Lots 1, 2, 14, 15 and 16 in Block 15, all in Chisholm Park Estates, an Addition to Wichita, Sedgwick County, Kansas, together with that part of Applewood Parkway, Norwood Lane, Salem Avenue and Fountain Avenue, contiguous and adjacent to the above described lots as platted in said Chisholm Park Estates, the above being more particularly described as follows:

Beginning at a point in the West line and 454.52' North of the Southwest Corner of the S 1/2 of the SE 1/4 of Sec. 35, T26S, R1E of the 6th P.M., Sedgwick County, Kansas; thence North along the West line of said SE 1/4 and bearing N. 00°23'39" W., a distance of 346.37'; thence N. 34°41'11" E., a distance of 142.95'; thence S. 49°00'18" E., a distance of 991.20'; thence S. 62°16'43" W., a distance of 86.33' to the P.C. of a curve to the left having a radius of 220.0'; thence along said curve to the left and through a central angle of 62°30'00", a distance of 239.98' to the P.T. of said curve; thence S. 00°13'17" E., a distance of 30.0' to a point in the South line of said SE 1/4; thence S. 89°46'43" W. along the South line of said SE 1/4, a distance of 347.62'; thence N. 35°25'31" W., a distance of 133.0'; thence North 48°50'24" E., a distance of 100.0' to a point on a curve to the Right having a radius of 273.67'; thence Northwesterly along said curve to the Right and through a central angle of 12°11'05", a distance of 58.20' to the P.T. of said curve; thence N. 44°34'05" W., a distance of 340.25' to the point of beginning, containing 8.969 acres more or less.

legal

The above described tract of land to be known as Lot 1, Block C,
Chisholm Park Estates Second Addition to Wichita, Sedgwick County,
Kansas, upon the recording thereof.

Very truly yours,

MOEHRING & ASSOCIATES
CONSULTING ENGINEERS

Don C. Moehring II
Don C. Moehring II

SANDLIAN REALTY REALTORS

Real Estate Investment Counselors

COMMERCIAL & INDUSTRIAL
SALES & DEVELOPMENT

PHONE 263-0118
OR 683-3912
435 N. BROADWAY
SUITE 201
WICHITA, KANSAS
67202

February 16, 1978

Board of Zoning Appeals
City of Wichita
455 North Main
Wichita, Kansas 67202

Re: Chisholm Park Estates Second Addition

Gentlemen:

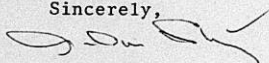
We are the owners of, and are desirous to develop the above mentioned subdivision, along with Lost Acres and a C.U.P. known as Timberline.

The three areas of development are subject to minimum pad elevations as established by Wichita-Sedgwick County Flood Control.

Chisholm Park Estates Second Addition, a Replat of a portion of Chisholm Park Estates was conceived to create an area, Lot 1, Block C, sufficient in size to obtain approximately 150,000 cubic yards of on site fill material, extraction of raw materials from this area, shall be used only for the three areas mentioned with none being offered on a commercial basis for other areas.

We feel that not later than July, 1983, a five year period, land fills will be complete and Lot 1, Block C developed as a single family dwelling unit with pond privately owned and maintained.

Sincerely,



G. Don Shirkey

GDS:vb

SPEED LETTER

TO M.S. Mitchem - P.W. Maint FROM Larry Dobson - Planning
(for your review and comments)

SUBJECT Chisholm Park Estates Second Addition

MESSAGE

DATE 2-24 1978

FOLD

Attached is a copy of a site plan submitted with a BZA application for a borrow pit. Dirt will be extracted for use in developing minimum pad elevations on surrounding sites. ~~The location of~~ The property in question is defined being replatted as Lot 1, Block C, Chisholm Park Estates Second Addition. The property is proposed to be developed as a single-family home with pond privately owned and maintained.

SIGNED

Larry Dobson

REPLY

DATE

19

FOLD

SIGNED

Wilson Jones Company Form 24-102 3-Parts © 1961 Printed in U.S.A.

SNAP-A-WAY AND RETAIN YELLOW COPY. SEND WHITE AND PINK COPIES WITH CARBON INTACT

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

Lot	Addition	Property Owner
lots 1 & 2 Block 10	Chisholm Park Estates	✓ Virdale Inc. and Colby B. Sandlian 435 N. Broadway 67202
lots 1,2,3 Block 11	Same	Same
lots 1,2,3,4,5 Block 12	Same	Same
lots 1 thru 13 Block 13	Same	Same
lots 1 thru 11 Block 14	Same	Same
lots 20 thru 30 Block 14	Same	Same
lots 1 thru 9 Block 15	Same	Same
lots 10 thru 16 Block 15	Same	D Colby B. Sandlian 435 N. Broadway 67202
1,2,3,4 Block 16	Same	D Virdale Inc. and Colby B. Sandlian 435 N. Broadway 67202
16,17, Block 16	Same	Virdale Inc. and D Colby B. Sandlian 435 N. Broadway 67202
The NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, Township 27 South, Range 1 East		Charles H. Apt and ✓ Shirley Siefkin Apt Box 328, R.R. 2 Tola, Kansas 66749
		✓ Robert M. Siefkin Fourth Financial Center 67202
The North 20 Acres of the North Half of Govt. Lots 3 and 4, Section 2-27-1E		✓ Garvey Foundation R. H. Garvey Bldg. 67202
The SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 35-26-1E		D Garvey Foundation R. H. Garvey Bldg. 67202
lot 15, Block 16	Chisholm Park Estates	D Colby B. Sandlian 435 N. Broadway 67202

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

A 350 foot radius of: Lot 1, Block C,
proposed plat of Chisholm Park Estates
Second Addition

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 14th day of February, 1978 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Sable

Vice President

Order No. 261172
wh

Form 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Pibg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

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

224 Erected	150.00
-------------	--------

Deleted	
---------	--

Name

Chas. B. Southern

Address

1111 W. 4th St.

Type

1111 W. 4th St.

Due Date

3-2-57

Date

3-2-57

By

[Signature]

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 1