

Case# BZA 10-76 Richard D. Hoskinson requests exception to permit the extraction of dirt, soil, and gravel on property generally located on the north side of Central and west of the Wichita-Valley Center Flood Control Ditch.

Poster
4-8-76
[Signature]
6:51
1-11-76

ACTION

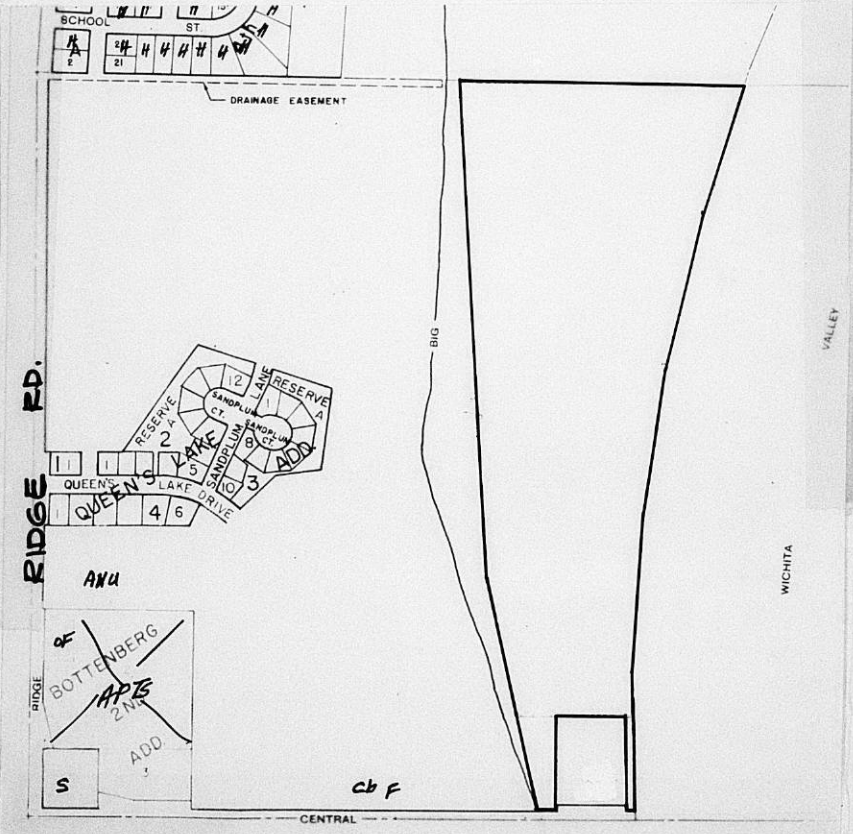
BZA 10-76 COMMITTEE Approved DATE 4-27
M.A.P.C. 4/27/76
B.C.C./B. CO. C. _____

Map No. 5048
 Sec. 15
 Twp. 27
 Range 1W

BZA- 10-76
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA:
1. Acres: 16.7 (10.30 (IRREGULAR) ft. by 2610 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East WICHITA VALLEY CENTER FIELD CENTER 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 _____



Sinead
 No. 2153C
 HASTING, IAN - LOS ANGELES
 LOGAN OH - MADRID, TX U. S. A.

STATE OF KANSAS
SEDGWICK COUNTY
FILED FOR RECORD AT

OCT 21 1976

NO. 3 90625

BETTE F. MCCART
REGISTER OF DEEDS

David
Adams

extra
copy

BOOK 214 PAGE 952

RESOLUTION RELATING TO THE GRANTING OF EGRESS AND EGRESS
EASEMENT TO MYRON C. WILBUR AND SYLVIA B. WILBUR TO SERVE THE
REAL ESTATE DESCRIBED HEREIN.

RESOLUTION

WHEREAS, proceedings have been duly had and taken, authorizing the construction of certain Flood Control Works in Sedgwick County, Kansas, in cooperation with the City of Wichita, and the United States Government as set forth in a certain Resolution adopted by the Board of County Commissioners on March 22, 1948, and

WHEREAS, under and by virtue of the provisions of Sections 19-3301 to 19-3305, inclusive, of the 1953 supplement to the 1949 General Statutes of Kansas, said County is granted the power and authority to acquire the necessary lands, rights of way and easements in connection with said Flood Control Works, and

WHEREAS, Myron C. Wilbur and Sylvia B. Wilbur are the owners of the following described real estate, to-wit:

All that part of the E/2 of the SW/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N. W. Corner of said SW/4; thence east along the north line of said SW/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85° 00' 30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S. W. Corner of said SW/4, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet,

and

WHEREAS, in order to provide the safest possible ingress and egress to and from said property and in order to improve access to the Wichita and Valley Center Big Slough-Cowskin Floodway, it is necessary to grant an easement to the owners thereof, their successors and assigns.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, being duly assembled in regular session in the Office of the Commission in the Courthouse at Wichita, Kansas, this 21st day of October, 1976, with all members present and voting as follows, to-wit:

JOHN HALE, Chairman

TOM SCOTT, Commissioner

EARL E. RUSH, Commissioner

THAT an easement for the purpose of ingress and egress be and hereby is granted to Myron C. Wilbur and Sylvia B. Wilbur



STATE OF KANSAS
SEDGWICK COUNTY
FILED FOR RECORD AT
OCT 21 1976

Original Compared
With Record

MM 214 PAGE 952

NO. 3 00625
BETTE F. MCCART
REGISTER OF DEEDS

RESOLUTION RELATING TO THE GRANTING OF AN INGRESS AND EGRESS
EASEMENT TO MYRNON C. WILBUR AND SYLVIA B. WILBUR TO SERVE THE
REAL ESTATE DESCRIBED HEREIN.

RESOLUTION

WHEREAS, proceedings have been duly had and taken, authorizing the construction of certain Flood Control Works in Sedgwick County, Kansas, in cooperation with the City of Wichita, and the United States Government as set forth in a certain Resolution adopted by the Board of County Commissioners on March 22, 1948, and

WHEREAS, under and by virtue of the provisions of Sections 19-3301 to 19-3308, inclusive, of the 1953 supplement to the 1949 General Statutes of Kansas, said County is granted the power and authority to acquire the necessary lands, rights of way and easements in connection with said Flood Control Works, and

WHEREAS, Myrnon C. Wilbur and Sylvia B. Wilbur are the owners of the following described real estate, to-wit:

All that part of the E/2 of the SW/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N. W. Corner of said SW/4; thence east along the north line of said SW/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85° 00' 30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1356.43 feet east of the S. W. Corner of said SW/4, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet,

WHEREAS, in order to provide the safest possible ingress and egress to and from said property and in order to improve access to the Wichita and Valley Center Big Slough-Cowskin Floodway, it is necessary to grant an easement to the owners thereof, their successors and assigns.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, being duly assembled in regular session in the Office of the Commission in the Courthouse at Wichita, Kansas, this 20th day of October, 1976, with all members present and voting as follows, to-wit:

JOHN HALE, Chairman

TOM SCOTT, Commissioner

EARL E. RUSH, Commissioner

That an easement for the purpose of ingress and egress be and hereby is granted to Myrnon C. Wilbur and Sylvia B. Wilbur



owners of the above described real estate, their successors, administrators and assigns, over and across a portion of the Wichita - Valley Center Flood Control Project, legally described as follows, to-wit:

A strip of land 50 feet in width being 25 feet either side of the following described centerline:

Beginning at a point on the south line of the SW/4, Section 15, T-27-S, R-1-W a distance of 370 feet west of the southeast corner of said SW/4 Section; thence north a distance of 215 feet; thence northwesterly at a deflection angle left of 30 degrees a distance of 275 feet to the westerly right-of-way line of the Wichita-Valley Center Flood Control Project as condemned in Case Number A-31849. The point of beginning of said easement is located 135 feet east of the intersection of the south line of the SW/4 and the westerly right-of-way line of the Flood Control project.

ADOPTED at Wichita, Kansas, this 20th day of October, 1976.

BOARD OF COUNTY COMMISSIONERS

[Signature]
Chairman
[Signature]
The Hole

[Signature]
Earl E. Rush
Earl E. Rush



ATTEST:

[Signature]
County Clerk
George Pierce

State of Kansas
County of Sedgwick

I, County Clerk of said County, do hereby certify this to be a true and correct copy of the original instrument which is on file or of record in my office.

Done this 20th day of October, 1976.

GEORGE PIERCE, County Clerk

By [Signature], Deputy

STATE OF KANSAS }
SEDGWICK COUNTY } 25
FILED FOR RECORD AT
..... M

OCT 21 1976

No. 3 00625

BETTE F. MCCART
REGISTRAR OF DEEDS

Original Compared
With Record

FORM 214 PAGE 952

RESOLUTION RELATING TO THE GRANTING OF AN INGRESS AND EGRESS
EASEMENT TO MYRNON C. WILBUR AND SYLVIA B. WILBUR TO SERVE THE
REAL ESTATE DESCRIBED HEREIN.

RESOLUTION

WHEREAS, proceedings have been duly had and taken, authorizing the construction of certain Flood Control Works in Sedgwick County, Kansas, in cooperation with the City of Wichita, and the United States Government as set forth in a certain Resolution adopted by the Board of County Commissioners on March 22, 1948, and

WHEREAS, under and by virtue of the provisions of Sections 19-3301 to 19-3308, inclusive, of the 1953 supplement to the 1949 General Statutes of Kansas, said County is granted the power and authority to acquire the necessary lands, rights of way and easements in connection with said Flood Control Works, and

WHEREAS, Myrnon C. Wilbur and Sylvia B. Wilbur are the owners of the following described real estate, to-wit:

All that part of the E/2 of the SW/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N. W. Corner of said SW/4; thence east along the north line of said SW/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85° 00' 30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S. W. Corner of said SW/4, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet,

and

WHEREAS, in order to provide the safest possible ingress and egress to and from said property and in order to improve access to the Wichita and Valley Center Big Slough-Cowskin Floodway, it is necessary to grant an easement to the owners thereof, their successors and assigns.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, being duly assembled in regular session in the Office of the Commission in the Courthouse at Wichita, Kansas, this 20th day of October, 1976, with all members present and voting as follows, to-wit:

JOHN HALE, Chairman

TOM SCOTT, Commissioner

EARL E. RUSH, Commissioner

THAT an easement for the purpose of ingress and egress be and hereby is granted to Myrnon C. Wilbur and Sylvia B. Wilbur

2H
Chairman

owners of the above described real estate, their successors, administrators and assigns, over and across a portion of the Wichita - Valley Center Flood Control Project, legally described as follows, to-wit:

A strip of land 50 feet in width being 25 feet either side of the following described centerline:

Beginning at a point on the south line of the SW/4, Section 15, T-27-S, R-1-W a distance of 370 feet west of the southeast corner of said SW/4 Section; thence north a distance of 215 feet; thence northwesterly at a deflection angle left of 30 degrees a distance of 275 feet to the westerly right-of-way line of the Wichita-Valley Center Flood Control Project as condemned in Case Number A-31849. The point of beginning of said easement is located 135 feet east of the intersection of the south line of the SW/4 and the westerly right-of-way line of the Flood Control project.

ADOPTED at Wichita, Kansas, this 20th day of October, 1976.

BOARD OF COUNTY COMMISSIONERS

John Hail
Chairman
John Hail

Earl E. Rush
Earl E. Rush



ATTEST:

George Pierce
County Clerk

George Pierce

State of Kansas
County of Sedgewick

I, County Clerk of said County, do hereby certify this to be a true and correct copy of the original instrument which to be filed of record in my office.

Done this 25th day of October, 1976.

GEORGE FIERCE, County Clerk

By Chippine McDonald, Deputy

THE CITY OF WICHITA



DEPARTMENT OF PUBLIC WORKS
CENTRAL INSPECTION DIVISION
CITY HALL — SEVENTH FLOOR
438 NORTH MAIN STREET
WICHITA, KANSAS 67202

November 15, 1976

Mr. David C. Adams
Morris, Laing, Evans, Brock & Kennedy
200 West Douglas - Suite 200
Wichita, Kansas 67202


Dear Mr. Adams:

A signed copy of the resolution on BZA Case No. 10-76 was received in this office on November 5, 1976.

As of this date, we have no record that a drainage easement has been dedicated to the city in order to qualify for a waiver of the fencing requirements in Section 5.34.080.

The drainage easement dedication and the fencing waiver can be considered concurrently by the City Commission. When the dedication is presented, this office will submit the request for waiver.

Sincerely,


Robert B. Feldner
Superintendent of Central Inspection

RBF:mm1

cc: M. S. Mitchell, Flood Control
✓ Jack H. Galbraith, Metropolitan Area Planning
R. W. Bruggeman, Director of Public Works



SUPERINTENDENT OF CENTRAL INSPECTION — 288-4480
BUILDING CODE ENGINEER — 288-4488
PLAN EXAMINATION — 288-4477

HOUSING — 288-4481
ZONING — 288-4479
SIGNS — 288-4475

BUILDING & CONSTRUCTION — 288-4481
PLUMBING & MECHANICAL — 288-4478
ELECTRICAL & ELEVATOR — 288-4471

November 1, 1976

Don Gisick, City Clerk

Jack H. Galbraith, Chief Planner

Restrictive Covenant Associated with Case No. BZA 10-76

On April 27, 1976, the Board of Zoning Appeals approved the request of Richard D. Hoskinson, 990 North Westlink, Wichita, Kansas, for an exception to permit the extraction of fill dirt, soil, sand and gravel on property generally located on the north side of Central and west of the Wichita-Valley Center Flood Control Ditch. One of the conditions of approval, was that the applicant 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.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:LD:bh
Attach.

RESTRICTIVE COVENANT

MYRNON C. WILBUR and SYLVIA B. WILBUR, husband and wife, legal owners of the following described real estate in Sedgwick County, Kansas, to-wit:

All that part of the E/2 of the SW/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N.W. Corner of said SW/4; thence east along the north line of said SW/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85° 00' 30" a distance of 1800 feet; thence south-easterly 862 feet more or less to a point 1856.43 feet east of the S. W. Corner of said SW/4, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet.

hereby make the following declaration as to restrictions, limitations and use of the above-described land, and that said declaration shall constitute a covenant running with said land owned by said Myrnon C. Wilbur and Sylvia B. Wilbur, husband and wife, and shall be binding upon all owners and their successors, assigns and heirs:

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

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

IN WITNESS WHEREOF, this Restrictive Covenant has been executed on this 7th day of August, 1976, by Myrnon C. Wilbur and Sylvia B. Wilbur, husband and wife.



Myrnon C. Wilbur
Myrnon C. Wilbur

Sylvia B. Wilbur
Sylvia B. Wilbur

STATE OF KANSAS:
ss.
SEDGWICK COUNTY:

The foregoing instrument was acknowledged before me this 7th day of August, 1976, by Myrnon C. Wilbur and Sylvia B. Wilbur, husband and wife.

Twila Eaton
Notary Public

My Commission Expires:
June 23 1980

November 2, 1976

Don Gisick, City Clerk

Jack H. Galbraith, Chief Planner

Dedication of Abutter's Access Rights associated
with Case No. BZA 10-76

The Board of Zoning Appeals at its meeting of April 17, 1976, approved the request of Richard D. Hoskinson, 990 N. Westlink, Wichita, Kansas, for an exception to permit the extraction of fill dirt, soil, sand and gravel on property generally located on the north side of Central and west of the Wichita Valley Center Flood Control Ditch. One of the conditions of approval required the submission of a properly executed Dedication instrument for complete access control on Central Street.

Attached, for placement on the City Clerk's agenda, is a Dedication of Abutter's Access Rights instrument.

It is recommended that the action of the City Commission be to accept the dedication and instruct the City Clerk to record it with the Register of Deeds, the filing cost of which shall be billed to the applicant.

If there are any questions, please call.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:LD:bh
Attach.

DEDICATION OF ABUTTER'S ACCESS RIGHTS

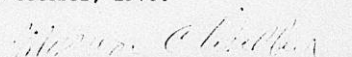
KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned, Myrnon C. Wilbur and Sylvia B. Wilbur being the owners of the following described real estate in Sedgwick County, Kansas, to-wit:

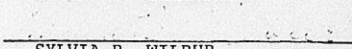
All that part of the E/2 of the SW/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N. W. Corner of said SW/4; thence east along the north line of said SW/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85° 00' 30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S. W. Corner of said SW/4, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet,

do hereby transfer and convey to the City of Wichita, Kansas, all abutter's rights of access, ingress and egress to said property from or to Central Street over and across the south line of the above described property, to have and to hold the same forever, excepting however those rights of ingress and egress to the above captioned property over and across a portion of the Wichita-Valley Center Flood Control project as granted by the Board of County Commissioners of Sedgwick County, Kansas, October 20, 1976. It being understood that this conveyance is a covenant running with the land and prohibits all subsequent owners of the above described property and all members of the public from entering upon the above described property from Central Street except as provided by the above described ingress/egress easement granted by the Board of County Commissioners of Sedgwick County, Kansas.

Executed this 22nd day of October, 1976.



MYRNON C. WILBUR



SYLVIA B. WILBUR

Dobson



THE CITY OF WICHITA

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

DATE Oct. 27, 1976

TO Larry Dobson, MAPD

FROM M. S. Mitchell

SUBJECT BZA 10-76

Reference is made to your memorandum of October 19th. Enclosed is a copy of the Ingress/Egress Easement approved by the County Commission on October 20th which has been filed for record by the Register of Deeds. I am returning one copy each of the Operational Plan and Redevelopment Plan which I have marked approved.

If we can be of further assistance, please advise.

A handwritten signature in cursive script that reads "M. S. Mitchell".

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

MSM/glm

cc: G. H. Wilton
Lower Big Slough Stream File
BZA 10-76 File

Attach. copy of Easement
Plan (2 sheets)



FILED FOR RECORD

OCT 21 1976

Original Compared
With Record

FILE 214 PAGE 952

3 625
BETIE F. McCART
REGISTERED CLERK

File

RESOLUTION RELATING TO THE GRANTING OF AN INGRESS AND EGRESS
EASEMENT TO MYRNON C. WILBUR AND SYLVIA B. WILBUR TO SERVE THE
REAL ESTATE DESCRIBED HEREIN.

RESOLUTION

WHEREAS, proceedings have been duly had and taken, authorizing the construction of certain Flood Control Works in Sedgwick County, Kansas, in cooperation with the City of Wichita, and the United States Government as set forth in a certain Resolution adopted by the Board of County Commissioners on March 22, 1948, and

WHEREAS, under and by virtue of the provisions of Sections 19-3301 to 19-3308, inclusive, of the 1953 supplement to the 1949 General Statutes of Kansas, said County is granted the power and authority to acquire the necessary lands, rights of way and easements in connection with said Flood Control Works, and

WHEREAS, Myrnon C. Wilbur and Sylvia B. Wilbur are the owners of the following described real estate, to-wit:

All that part of the E/2 of the SW/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N. W. Corner of said SW/4; thence east along the north line of said SW/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85° 00' 30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S. W. Corner of said SW/4, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet,

and

WHEREAS, in order to provide the safest possible ingress and egress to and from said property and in order to improve access to the Wichita and Valley Center Big Slough-Cowskin Floodway, it is necessary to grant an easement to the owners thereof, their successors and assigns.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, being duly assembled in regular session in the Office of the Commission in the Courthouse at Wichita, Kansas, this 20th day of October, 1976, with all members present and voting as follows, to-wit:

JOHN HALE, Chairman

TOM SCOTT, Commissioner

EARL E. RUSH, Commissioner

THAT an easement for the purpose of ingress and egress be and hereby is granted to Myrnon C. Wilbur and Sylvia B. Wilbur

20H

Charmaine

Received

OCT 26 1976

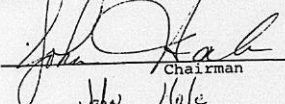
owners of the above described real estate, their successors, administrators and assigns, over and across a portion of the Wichita - Valley Center Flood Control Project, legally described as follows, to-wit:

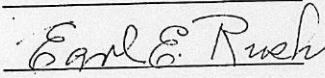
A strip of land 50 feet in width being 25 feet either side of the following described centerline:

Beginning at a point on the south line of the SW/4, Section 15, T-27-S, R-1-W a distance of 370 feet west of the southeast corner of said SW/4 Section; thence north a distance of 215 feet; thence northwesterly at a deflection angle left of 30 degrees a distance of 275 feet to the westerly right-of-way line of the Wichita-Valley Center Flood Control Project as condemned in Case Number A-31849. The point of beginning of said easement is located 135 feet east of the intersection of the south line of the SW/4 and the westerly right-of-way line of the Flood Control project.


ADOPTED at Wichita, Kansas, this 20th day of October, 1976.

BOARD OF COUNTY COMMISSIONERS


Chairman
John Hale


Earl E. Rush




County Clerk
George Perce

October 19, 1976

M. S. Mitchell, Assistant Superintendent, Public Works Maintenance
Larry Dobson, Assistant Secretary, Board of Zoning Appeals

BZA Case No. 10-76, Exception for "Sandpit," north of Central
and west of Flood Control Ditch

At the regular meeting of the Board of Zoning Appeals on Tuesday, April 27, 1976, the Board approved a request for exception to permit the extraction of fill dirt, soil, sand and gravel on property zoned the "AA" Single Family Dwelling District and "LC" Light Commercial District and generally located on the north side of Central and west of the Wichita-Valley Center Flood Control Ditch. The approval was subject to 18 conditions, and I would call your attention to condition number 17 which reads as follows:


17. The applicant shall contact the Wichita-Sedgwick County Flood Control Office of the Department of Public Works and shall obtain permission to utilize the existing floodway for the proposed sand excavation operation and shall show the agreed to boundaries of the excavation on a revised site plan.

In an effort to comply with this condition, Gary Wiley has submitted copies of revised operational and redevelopment plans showing boundary changes of the excavation. Attached are two sets of these revised plans for your review. If these boundaries are correct and agreed to by your office, please so indicate on the plans and return one of the sets to me. If you are not in agreement with the boundaries, please show corrections on the plan and return one set to me.

The dimension for the proposed ingress/egress easement was purposely left off the plan because as of this writing this issue has not been before the County Commission.

If you have any questions or further comments, please contact me. Thanks for your cooperation.

Sincerely,



Larry Dobson
Assistant Secretary
Board of Zoning Appeals

LD:bh
Attach.

LAW OFFICES OF
MORRIS, LAING, EVANS, BROCK & KENNEDY

VERNE M. LAING
FERD E. EVANS, JR.
RALPH R. BROCK
JOSEPH W. KENNEDY
ROBERT I. GUENTHNER
DAVID C. ADAMS
HEN M. PETERSON
RICHARD D. GREENE
DAVID R. TROUP

CHARTERED
SUITE 430
200 WEST DOUGLAS
WICHITA, KANSAS 67202
(316) 262-2671

LESTER L. MORRIS
1901-1966
OLIVER A. WITTMERMAN
OF COUNSEL

October 12, 1976

Mr. Larry Dobson
Assistant Secretary
Board of Zoning Appeals
455 North Main
Wichita, Kansas 67202

Re: Case No. BZA 10-76
"Sandpit" Exception

Dear Larry:

This will acknowledge receipt of your letter of September 27, 1976, reminding us of our October 27, 1976 deadline.

In satisfaction of requirements 8 and 16, we enclose herewith an original and copy of Restrictive Covenant and an original and one copy of letter agreement between KG&E and Hoskinson. Gary Wiley advises me that he has satisfied conditions numbers 15 and 17.

With respect to condition number 12, the Sedgwick County Board of Commissioners will consider our request for an ingress/egress easement Wednesday, October 20, 1976; a copy of the proposed Resolution is enclosed herewith. In the event you have any questions concerning this matter, please contact me.

Very truly yours,

David

David C. Adams
For the Firm

DCA:mi
Encl.



Wichita, Kansas
September , 1976

Mr. Bernard N. Ruddick
Kansas Gas & Electric Company
120 East 1st
Wichita, Kansas 67202

Re: Board of Zoning Appeals
Case No. 10-76

Dear Mr. Ruddick:

This letter will serve to confirm our agreement that with respect to the License Agreement of Kansas Gas & Electric, recorded in Miscellaneous Book 619 at Page 320, dated March 25, 1968, we do hereby agree that in conformance with and pursuant to the Operational Plan Sand Extraction filed in the above captioned case that:

"Excavation within the KG&E easement will be permitted, provided that the limits of excavation will not be closer than 70 feet to the east pole of any structure, 150 feet North or South of any structure, or extend Westerly beyond the center line of the easement, as indicated on the plan."

In the event the foregoing accurately describes our agreement, please so indicate by placing your signature on the space provided in the lower left hand corner of this letter. Thank you for your cooperation in this matter.

Very truly yours,

Richard D. Hoskinson

Richard D. Hoskinson

Kansas Gas & Electric Company

By *Bernard N. Ruddick*
Bernard N. Ruddick

Wichita, Kansas
September , 1976

Mr. Bernard N. Ruddick
Kansas Gas & Electric Company
120 East 1st
Wichita, Kansas 67202

Re: Board of Zoning Appeals
Case No. 10-76

Dear Mr. Ruddick:

This letter will serve to confirm our agreement that with respect to the License Agreement of Kansas Gas & Electric, recorded in Miscellaneous Book 619 at Page 320, dated March 25, 1968, we do hereby agree that in conformance with and pursuant to the Operational Plan Sand Extraction filed in the above captioned case that:

"Excavation within the KG&E easement will be permitted, provided that the limits of excavation will not be closer than 70 feet to the east pole of any structure, 150 feet North or South of any structure, or extend Westerly beyond the center line of the easement, as indicated on the plan."

In the event the foregoing accurately describes our agreement, please so indicate by placing your signature on the space provided in the lower left hand corner of this letter. Thank you for your cooperation in this matter.

Very truly yours,

Richard D. Hoskinson

Richard D. Hoskinson

Kansas Gas & Electric Company

By *Bernard N. Ruddick*
Bernard N. Ruddick

RESOLUTION RELATING TO THE GRANTING OF AN INGRESS AND EGRESS
EASEMENT TO MYRNON C. WILBUR AND SYLVIA B. WILBUR TO SERVE THE
REAL ESTATE DESCRIBED HEREIN.

RESOLUTION

WHEREAS, proceedings have been duly had and taken, authorizing the construction of certain Flood Control Works in Sedgwick County, Kansas, in cooperation with the City of Wichita, and the United States Government as set forth in a certain Resolution adopted by the Board of County Commissioners on March 22, 1948, and

WHEREAS, under and by virtue of the provisions of Sections 19-3301 to 19-3308, inclusive, of the 1953 supplement to the 1949 General Statutes of Kansas, said County is granted the power and authority to acquire the necessary lands, rights of way and easements in connection with said Flood Control Works, and

WHEREAS, Myrnon C. Wilbur and Sylvia B. Wilbur are the owners of the following described real estate, to-wit:

All that part of the E/2 of the SW/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N. W. Corner of said SW/4; thence east along the north line of said SW/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85° 00' 30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S. W. Corner of said SW/4, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet,

and

WHEREAS, in order to provide the safest possible ingress and egress to and from said property and in order to improve access to the Wichita and Valley Center Big Slough-Cowskin Floodway, it is necessary to grant an easement to the owners thereof, their successors and assigns.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, being duly assembled in regular session in the Office of the Commission in the Courthouse at Wichita, Kansas, this _____ day of October, 1976, with all members present and voting as follows, to-wit:

JOHN HALE, Chairman

TOM SCOTT, Commissioner

EARL E. RUSH, Commissioner

THAT an easement for the purpose of ingress and egress be and hereby is granted to Myrnon C. Wilbur and Sylvia B. Wilbur

owners of the above described real estate, their successors, administrators and assigns, over and across a portion of the Wichita - Valley Center Flood Control Project, legally described as follows, to-wit:

A strip of land 50 feet in width being 25 feet either side of the following described centerline:

Beginning at a point on the south line of the SW/4, Section 15, T-27-S, R-1-W a distance of 370 feet west of the southeast corner of said SW/4 Section; thence north a distance of 215 feet; thence northwesterly at a deflection angle left of 30 degrees a distance of 275 feet to the westerly right-of-way line of the Wichita-Valley Center Flood Control Project as condemned in Case Number A-31849. The point of beginning of said easement is located 135 feet east of the intersection of the south line of the SW/4 and the westerly right-of-way line of the Flood Control project.

ADOPTED at Wichita, Kansas, this _____ day of October, 1976.

BOARD OF COUNTY COMMISSIONERS

Chairman

ATTEST:

County Clerk

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXX

455 North Main Street
Tenth Floor, City Hall

September 27, 1976

Mr. David C. Adams
Suite 430, 200 W. Douglas
Wichita, Kansas 67202

Subject: Case No. BZA 10-76
"Sandpit" Exception

Dear Mr. Adams:

On Tuesday, April 27, 1976, the Board of Zoning Appeals approved your request for an exception to permit the extraction of fill dirt, soil, sand and gravel on property generally located north of Central and west of the Wichita-Valley Center Flood Control Ditch. As you know, the Board's approval was subject to several conditions.

This letter is to remind you that condition # 18 calls for compliance of five other conditions by October 27, 1976, or the Resolution effectuating the Exception shall be considered null and void. The conditions to be complied with by this date are numbers 8, 12, 15, 16 and 17 as shown on the attached list of conditions.

As noted in my letter to you on April 29, 1976, referring to condition # 12, the formalization of an access easement across the Flood Control right-of-way would be handled by a resolution from the County Board of Commissioners instead of the City of Wichita as stated in the condition. Mr. M. S. Mitchell should be contacted on this matter.

We have no authority to grant an extension of time past the October 27, 1976 date, therefore, if your client is still desirous of obtaining final approval of this Exception, these conditions must be complied with in full by the October 27, 1976 date. If there is no further interest in pursuing this matter, we would appreciate a letter to that effect.

Mr. David C. Adams
September 27, 1976

If you have any questions, please call.

Sincerely,

Larry Dobson
Assistant Secretary

LD:bh
Attach.

cc: Richard Hoskinson, 900 Westlink, 67212
Gary Wiley, Oblinger & Smith, First National Bank Bldg. 67202
M. S. Mitchell, Flood Control

RESOLUTION NO. BZA 10-76

WHEREAS, Richard D. Hoskinson, 900 Westlink, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the extraction of fill dirt, soil, sand, and gravel on property zoned the "AA" Single Family Dwelling District, and "LC" Light Commercial District, and legally described as follows:

All that part of the E 1/2 of the SW 1/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N.W. corner of said SW 1/4; thence east along the north line of said SW 1/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85°00'30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S.W corner of said SW 1/4, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet. Generally located on the north side of Central and west of the Wichita-Valley Center Flood Control Ditch.

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 April 27, 1976, 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 fill dirt, soil, sand and gravel on property zoned the "AA" Single Family Dwelling District and "LC" Light Commercial 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 to approved to permit the extraction of fill dirt, soil, sand and gravel on property zoned the "AA" Single Family Dwelling District, and "LC" Light Commercial District, and legally described as follows:

All that part of the E 1/2 of the SW 1/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N.W. corner of said SW 1/4; thence east along the north line of said SW 1/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85°00'30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S.W corner of said SW 1/4, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet. Generally located on the north side of Central and west of the Wichita-Valley Center Flood Control Ditch.

subject to the following conditions:

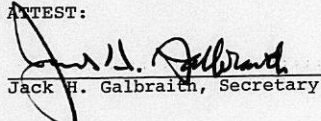
1. No commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted.
2. The applicant shall comply with the provisions of Section 5.34 of the Code of the City of Wichita pertaining to the fencing requirements of ponded or trapped water.
3. Excavation shall not 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. No part of the plant operations, including the stockpiling of raw materials or storage of equipment, shall occur on or south of the sewer easement which crosses the south end of the site.
5. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than five horizontal to one vertical.
6. The sand plant operator shall be responsible for the grading and maintenance of the area around the perimeter of the sandpit lake so as to direct drainage into the lake.
7. All slopes shall have vegetative covering consisting of perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
8. 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.
9. The applicant shall proceed in accordance with the development and operational plan approved by the Board of Zoning Appeals, and shall excavate the lake and form the banks as indicated on the approved plan.
10. 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.
11. The earth shall be extracted to at least a minimum depth of two feet below the normal water table as determined by the Wichita-Sedgwick County Health Department.
12. An ingress/egress easement, as shown on the site plan, shall be legally obtained from the City of Wichita and complete access control on Central dedicated to the City. The necessary documents to accomplish this shall be approved by the Department of Law.
13. The property shall be platted prior to the issuance of any building permits, except those necessary for the sand excavation operation.

14. Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection to request the Board to revoke the special permit after a hearing.
15. Four copies of the revised operational and redevelopment plans shall be submitted to the Secretary of the Board showing language agreeable to K. G. and E. permitting the encroachment of the excavation upon the K. G. and E. easement.
16. A copy of a signed, written agreement from K. G. and E., granting encroachment onto their easement shall be furnished to the Secretary of the Board of Zoning Appeals.
17. The applicant shall contact the Wichita-Sedgwick County Flood Control Office of the Department of Public Works and shall obtain permission to utilize the existing floodway for the proposed sand excavation operation and shall show the agreed to boundaries of the excavation on a revised site plan.
18. The applicant shall comply with conditions 8, 12, 15, 16, and 17 prior to the forwarding of the approved resolution to the Superintendent of Central Inspection and within six months from the date of approval by the Board of Zoning Appeals or the Resolution shall be considered null and void.

ADOPTED AT WICHITA, KANSAS, this 27th day of April, 1976.


Marjorie L. Taylor, Chairman

ATTEST:


Jack H. Galbraith, Secretary

Nov. 2,
~~May 19~~, 1976

Mr. David C. Adams
Suite 430
200 W. Douglas
Wichita, Kansas 67202

Subject: Case No. BZA 10-76
Request for Exception

Dear Mr. Adams:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 27, 1976, in connection with your request for an exception to permit the extraction of fill dirt, soil, sand and gravel on property zoned the "AA" Single Family Dwelling District, and the "LC" Light Commercial District, and generally located on the north side of Central and west of the Wichita-Valley Center Flood Control Ditch.

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

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

Very truly yours,

Jack N. Galbraith
Secretary

JHG:LD:bb
Attach.

cc: Richard Hoskinson, 900 Westlink, 67212
Gary Wiley, Oblinger and Smith, First National Bank Bldg., 67202
M. S. Mitchell, Flood Control
Don Giesick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Central Inspection

April 29, 1976

Mr. David C. Adams
Suite 430, 200 West Douglas
Wichita, Kansas 67202

Subject: Case No. BZA 10-76
Request for Exception

Dear Mr. Adams:

At the regular meeting of the Board of Zoning Appeals on Tuesday, April 27, 1976, your request for an exception to permit the extraction of fill dirt, soil, sand and gravel on property zoned the "AA" Single Family Dwelling District and the "IC" Light Commercial District and generally located on the north side of Central and west of the Wichita-Valley Center Flood Control Ditch was considered.

It was the action of the Board to approve this request subject to conditions 1 through 16, as shown in the Secretary's Report and conditions 17 and 18 as follows:

17. The applicant shall contact the Wichita-Sedgwick County Flood Control Office of the Department of Public Works and shall obtain permission to utilize the existing floodway for the proposed sand excavation operation and shall show the agreed to boundaries of the excavation on a revised site plan.
18. The applicant shall comply with conditions 8, 12, 15, 16, and 17 prior to the forwarding of the approved resolution to the Superintendent of Central Inspection and within six months from the date of approval by the Board of Zoning Appeals or the Resolution shall be considered null and void.

With reference to condition #12 in the Secretary's Report, it has been noted that the formalization of an access easement across the Flood Control right-of-way would be handled by a resolution from the County Board of Commissioners instead of the City of Wichita

Mr. David C. Adams
April 29, 1976

as stated in the condition. We would suggest you contact M. S. Mitchell on this matter.

If you have any questions, please call.

Sincerely yours,

Larry Dobson
Assistant Secretary

LD:bh

cc: Richard Hoskinson, 900 Westlink, 67212
Gary Wiley, Oblinger and Smith, First National Bank Bldg., 67202
M. S. Mitchell, Flood Control
Don Gisick, City Clerk
Robert Felder, Supt., Central Inspection
Joe Donnelly, Central Inspection

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE April 22, 1976



TO Jack Galbraith, Metropolitan Area Planning Department

FROM David Furnas, Citizen Participation Coordinator

SUBJECT Zoning Case No. Z-1792 and BZA 10-76

On April 21, 1976, CPO Council "A" voted unanimously to recommend that the Metropolitan Area Planning Commission deny the zoning change in zoning Case No. Z-1792. The case, originally scheduled to be heard by the Planning Commission on April 15, 1976, was deferred until April 29, 1976.

Council "A" also voted to recommend that the Board of Zoning Appeals deny the request in Case No. BZA 10-76. The Board is scheduled to hear the case on April 27, 1976.

David L. Furnas
David Furnas

Citizen Participation Coordinator

DF:EP: sm

Evelyn Pittman - Council could not vote to approve based on information available to them.



SECRETARY'S REPORT
CASE NO. BZA 10-76

APPLICANT: Richard D. Hoskinson, 900 Westlink
Wichita, Kansas.

AGENT: David C. Adams, Suite 430, 200 West
Douglas, Wichita, Kansas.

REQUEST: Exception pursuant to Section 2.12.590.C,
Code of the City of Wichita to permit the
extraction of fill dirt, soil, sand, and
gravel.

GENERAL LOCATION: North side of Central and west of the
Wichita-Valley Center Flood Control
Ditch.

LAND USE: Subject property is vacant, as are all
surrounding properties. The Wichita-
Valley Center Flood Control Ditch ad-
joins the eastern boundary of subject
property.

ZONING: Subject property is zoned the "AA"
Single Family Dwelling District and the
"LC" Light Commercial District. Property
to the south is zoned "A" Two Family
Dwelling District. East and North is
"AA". West is "AA" and "LC".

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 28.04.131(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 on subject property

for the excavation of approximately fifteen acres of fill dirt, soil, sand, and gravel, over a period of approximately six years, to be sold by the sand pit operator to the general public.

An operational site plan submitted with the application shows the excavation of the site to be accomplished in two phases, the first phase to be the southern portion of the application area and the second phase would excavate the northern portion. The plan indicates a 150 foot wide K. G. and E. easement along the west property line, a 30 foot wide sewer easement crossing the southern end of the site and extending along the east property line. A 30 foot pipeline easement also lies along the east property line. The proposed excavation is clear of all these easements with the exception of K. G. and E. easement along the west property line. Representatives of K. G. and E. have agreed to an encroachment of the excavation upon their easement provided that the limits of the excavation will not be closer than 70 feet to the east pole of any structure or extend beyond the center line of the easement. A letter from a K. G. and E. representative insists upon a clear understanding of this agreement, in writing, and proposes specific language to consummate the agreement. The Board would perhaps require the agreed to wording to be placed on the face of a revised operational site plan.

The applicant has discussed this project with the Flood Control Office and has proposed that the excavated area serve as a drainage easement, diverting drainage from the north into the excavation and then out the south end near Central.

The operational site plan indicates ingress/egress to the site by means of an easement across Flood Control right-of-way just east of the site. This has been proposed because of the close proximity of the planned bridge relocation on Central, making any alternative ingress/egress point from the site itself unsatisfactory. Agreement to this easement should be a condition of any approval of the requested exception.

The applicant has also submitted a redevelopment plan of the area showing the location of 50 lots that could be arranged along the east and north sides of a lake formed by the excavation. Under the current "AA" zoning, single family homes could be developed on these proposed lots.

It is noted that access to these lots is shown by means of a private road; this, however, would be a matter to be decided

at the time of platting.

Properties to the west and south, although now undeveloped, have been the subject of Community Plan approval for townhouse/patio home development. Property to the north, also undeveloped, has been granted a County Conditional Use permit for the same use as requested here, a sand pumping operation. Flood Control right-of-way borders the entire eastern boundary of the application area.

It is the opinion of the Secretary that inasmuch as this site lies within a flood plain, and that it is reasonable to assume that no residential development will occur on subject property until such time as the flooding problem is resolved, this would be a logical and proper interim use. The development of this project could be a partial answer to the drainage problem in the area.

RECOMMENDATION:

Based on the above review and comments, it is the Secretary's recommendation that this request to permit the extraction of fill dirt, soil, sand and gravel be approved subject to the following conditions:

1. No commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted.
2. The applicant 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. No part of the plant operations, including the stockpiling of raw materials or storage of equipment, shall occur on or south of the sewer easement which crosses the south end of the site.
5. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall

be no more steep than five horizontal to one vertical.

6. The sand plant operator shall be responsible for the grading and maintenance of the area around the perimeter of the sandpit lake so as to direct drainage into the lake.
7. All slopes shall have vegetative covering consisting of perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
8. 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.
9. The applicant shall proceed in accordance with the development and operational plan approved by the Board of Zoning Appeals, and shall excavate the lake and form the banks as indicated on the approved plan.
10. 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.
11. The earth shall be extracted to at least a minimum depth of two feet below the normal water table as determined by the Wichita-Sedgwick County Health Department.
12. An ingress/egress easement, as shown on the site plan, shall be legally obtained from the City of Wichita and complete access control on Central dedicated to the City. The necessary documents to accomplish this shall be approved by the Department of Law. *
13. The property shall be platted prior to the issuance of any building permits, except those necessary for the sand excavation operation.
14. Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection

to request the Board to revoke the special permit after a hearing.

15. Four copies of the revised operational and redevelopment plans shall be submitted to the Secretary of the Board showing language agreeable to K.G. and E. permitting the encroachment of the excavation upon the K.G. and E. easement.
16. A copy of a signed, written agreement from K. G. and E., granting encroachment onto their easement shall be furnished to the Secretary of the Board of Zoning Appeals.
17. The applicant shall comply with conditions 8, 12, 15, and 16, prior to forwarding the approved resolution to the Superintendent of Central Inspection and within six months from the date of approval by the Board of Zoning Appeals or the Resolution shall be considered null and void.



KANSAS GAS AND ELECTRIC COMPANY

April 13, 1976

DON H. ELLIOTT
DIVISION MANAGER

Mr Larry Dobson
Assistant Secretary
Board of Zoning Appeals
City of Wichita
455 North Main
Wichita, Kansas 67202

Re: Zoning Board Case No. BZA 10-76

Dear Mr Dobson:

We have reviewed the plans forwarded by your office for development north of Central and west of the Wichita Valley Center Flood Control Ditch. We are willing to accept a proposed encroachment upon our easement as shown on the Oblinger & Smith drawings. We are aware that the actual excavation in the field and a drawing do not always coincide. Therefore, we insist upon a clear understanding with the developer in writing.

We would propose language as follows:

"Kansas Gas and Electric Company grants to _____ the right to encroach upon its 175' easement located in the SW 1/4, SEc 15, Twp 27S, Range 1 W for the purpose of excavating sand. Provided, however, that under no condition will the top of the 5:1 back slope be closer than seventy feet (70') to the east pole of any structure; nor shall the excavation between structures extend beyond the center line of the easement (center conductor)."

We anticipate no real difficulty in working with either the developer or flood control on this matter. We stand ready to discuss it further at your convenience.

Sincerely,

DHE/jh



WICHITA-SEDGWICK COUNTY

DATE

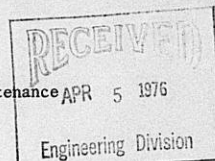
April 2, 1976

METROPOLITAN AREA PLANNING DEPARTMENT

from
Dick Linn, City Engineer
M. S. Mitchell, Assistant Superintendent Public Works Maintenance

to
Jack H. Galbraith, Chief Planner

SUBJECT BZA Case No. 10-76 - Request for exception to permit the extraction of fill dirt, soil, sand and gravel from property legally described as follows:

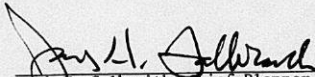


All that part of the E 1/2 of the SW 1/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N.W. corner of said SW 1/4; thence east along the north line of said SW 1/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85°00'30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S.W. Corner of said SW 1/4; except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet. Generally located on the north side of Central and west of the Wichita-Valley Center Flood Control Ditch.

Section 28.04.181.2, Code of the City of Wichita, authorizing the BZA to grant this use as an exception also requires that any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval ~~of the approval~~ of the Wichita-Sedgwick County Flood Control Office of the Department of Public Works and the City Engineer. Since aerial photographs of the area and the attached plans indicate that drainage alterations will occur, we would appreciate it if you would review the plans and forward any comments you might have to us by April 13, 1976.

We would also appreciate any comments you might have relative to the medial design on Central and the location of the proposed medial break and ingress/egress easement across City property.

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


Jack H. Galbraith, Chief Planner

JHG:LD:bh
Attach.

KGE should comment on excavation limits.

(over)

112.5 ft² channel

125.0 berm

116 typ ^{30"}

Medial break can be designed within the dimensions on the attached plans.

Key to approval is the ingress/egress easement.

Site drainage, sanitary sewer service, etc. can be worked out at time of platting.

April 7, 1976

Mr. Don Elliott
Division Manager
Kansas Gas and Electric
P.O. Box 208
Wichita, Kansas 67201

Re: Case No. BZA 10-76 -
Request for exception to
permit the extraction of
fill dirt soil, sand and
gravel

Dear Mr. Elliott:

The attached Notice to Adjoining Property Owners describes an application for exception to permit the installation of a "sand pit" operation on the legally described property. Also attached are plans submitted by the applicant showing the excavation limits. You will note along the west property line that the excavation is shown encroaching into the K. G. and E. easement.

We would appreciate any comments you might have relative to the excavation limits shown on the plans as it affects K.G. and E.'s easement.

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

Sincerely,

Larry Dobson
Assistant Secretary
Board of Zoning Appeals

LD:bh
Attach.

cc: Barney Ruddick, Kansas Gas
and Electric

WICHITA-SEDGWICK COUNTY

DATE

April 8, 1976

METROPOLITAN AREA PLANNING DEPARTMENT

TO David Furnas, CPO Coordinator

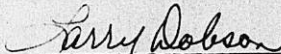
FROM Larry Dobson, Assistant Secretary, Board of Zoning Appeals

SUBJECT Notice of Board of Zoning Appeals Cases
(Case Numbers BZA 7-76; BZA 8-76; BZA 9-76; and
BZA 10-76)

Attached are notices of four new cases to be considered by the Board of Zoning Appeals at its meeting of April 27, 1976. Also attached are sketch maps of the area involved in each case.

If you have any questions, please call.

Sincerely,



Larry Dobson
Assistant Secretary

LD:bh
Attach.

7 notices sent to adjoining property owners
10 notices sent to members of MAPC

April 2, 1976

BZA 10-76

BOARD OF ZONING APPEALS
Tenth Floor, City Hall
455 No. Main, Wichita, Kansas 67202

April 2, 1976

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 10-76

An application has been filed by Richard D. Hoskinson, 900 Westlink, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the extraction of fill dirt, soil, sand and gravel on property zoned the "AA" Single Family Dwelling District, and "LC" Light Commercial District, and legally described as follows:

All that part of the E 1/2 of the SW 1/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N.W. corner of said SW 1/4; thence east along the north line of said SW 1/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85°00'30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S.W. corner of said SW 1/4, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet. Generally located on the north side of Central and west of the Wichita-Valley Center Flood Control Ditch.

This application has been assigned Case No. BZA 10-76, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 27, 1976, at 1:30 p.m., in the City Commission Chambers, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, either in person or by agent or attorney.

Jack Galbraith
Secretary

April 2, 1976

Dick Linn, City Engineer
M. S. Mitchell, Assistant Superintendent Public Works Maintenance

Jack H. Galbraith, Chief Planner

BZA Case No. 10-76 - Request for exception to permit the extraction of fill dirt, soil, sand and gravel from property legally described as follows:

All that part of the E 1/2 of the SW 1/4 of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N.W. corner of said SW 1/4; thence east along the north line of said SW 1/4, 1537.6 feet for a place of beginning; thence with an angle to the right of 85°00'30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S.W. Corner of said SW 1/4; except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet. Generally located on the north side of Central and west of the Wichita-Valley Center Flood Control Ditch.

Section 28.04.181.2, Code of the City of Wichita, authorizing the BZA to grant this use as an exception also requires that any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the approval of the Wichita-Sedgwick County Flood Control Office of the Department of Public Works and the City Engineer. Since aerial photographs of the area and the attached plans indicate that drainage alterations will occur, we would appreciate it if you would review the plans and forward any comments you might have to us by April 13, 1976.

We would also appreciate any comments you might have relative to the medial design on Central and the location of the proposed medial break and ingress/egress easement across City property.

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

Jack H. Galbraith, Chief Planner

JHG:LD:bh
Attach.

2-289
14

LAW OFFICES OF
MORRIS, LAING, EVANS, BROCK & KENNEDY
CHARTERED

VERNE M. LAING
FERD E. EVANS, JR.
RALPH R. BROCK
JOSEPH W. KENNEDY
ROBERT I. GUENTHNER
DAVID C. ADAMS
KEN M. PETERSON
RICHARD D. GREENE
GORDON B. STULL

SUITE 430
200 WEST DOUGLAS
WICHITA, KANSAS 67202
(316) 262-2671

LESTER L. MORRIS
1901-1966
OLIVER A. WITTERMAN
OF COUNSEL

April 2, 1976

Mr. Larry Dobson
Metropolitan Area Planning Commission
City Hall
455 N. Main
Wichita, Kansas 67202

Re: Hoskinson, Richard
Application for Exception

Dear Larry:

Enclosed find revised legal description prepared by Baughman Co. pursuant to your request. Please review this description at your convenience. Should you have any questions or in the event find this description unacceptable, please contact me.

Very truly yours,



David C. Adams
For the Firm

DCA:mi

Encl.



WILLIAM L. KORBER

BAUGHMAN CO.

S U R V E Y O R S

PHONE 316/262-7271

330 LAURA

WICHITA, KANSAS 67211

*use as legal for
P2A 10-76*

All that part of the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Sec. 15, Twp. 27-S, R-1-W, lying west of the west line of the Wichita Valley Center Flood Control Right-of-way as condemned in Case A-31849, and east of a line described as commencing at the N. W. Corner of said SW $\frac{1}{4}$; thence east along the north line of said SW $\frac{1}{4}$, 1537.6 feet for a place of beginning; thence with an angle to the right of 85° 00' 30" a distance of 1800 feet; thence southeasterly 862 feet more or less to a point 1856.43 feet east of the S. W. Corner of said SW $\frac{1}{4}$, except therefrom the west 238.4 feet of the east 764.78 feet of the south 375 feet.

April 1, 1976

Map 5048
GARY WILEY
262-0451

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR EXCEPTION

I. Name of Applicant Richard D. Hoskinson
67212
Mailing Address 990 N. Westlink, Wichita Phone 722-1865
Name of Authorized Agent David C. Adams
Suite 430, 200 W. Douglas
Mailing Address Wichita, Kansas 67202 Phone 262-2671
Relationship of applicant to property is that of contract purchaser
(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 ~~excavation~~ extraction of fill dirt, soil, sand
and gravel on property zoned
_____, located West of Wichita - Valley Center Flood

Control and north of Central
and legally described as: All that part of the
E/2 of the SW/4 of 15-27-1W, lying W of the W line of the Wichita Valley Center
Flood Control ROW and East of the following described line: Beginning 1855.83 feet
East of the SW corner of SW/4, thence NWly 862 feet, thence NWly 1800 feet to N
line of SW/4, Except the W 238.4 feet of the E 764.78 feet of the South 375 feet.

_____, 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 Richard D. Hoskinson
Richard D. Hoskinson
Authorized Agent David C. Adams
David C. Adams

OFFICE USE ONLY: Received in the office of the Secretary, Board of
Zoning Appeals, 2:30 (a.m. - p.m.), 3:30, 19 76,
together with appropriate fee of \$50.00

Signed Larry Nelson

T9-403

Generally located on the north side of Central and west of the Wichita Valley Center Flood Control ditch

S T A T E M E N T

The Board of Zoning Appeals has jurisdiction to grant the exception applied for herein pursuant to Section 2.12.590(C) granting the Board jurisdiction to grant exceptions where the Board is specifically authorized to grant such exceptions under the terms of Title 28. Section 28.04.181(2) of the Zoning Ordinance specifically authorizes the Board of Zoning Appeals by special permit to grant exceptions and authorize the extraction of raw materials. Subject to obtaining the requested exception, the Applicant has agreed to purchase the subject property for the temporary operation of a sand pit and future redevelopment. This exception is requested in order that the Applicant may be allowed to remove fill dirt, soil, sand and gravel from the premises pursuant to the plot plan attached hereto and redevelopment in accordance with the redevelopment plan which is also attached.

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,

All the owners within 200 feet of:
 All that part of the East Half of the Southwest Quarter of Section 15, Township 27, Range 1 West, of the Sixth Principal Meridian, lying West of the West line of the Wichita Valley Center Flood Control ROW and East of the following described line:
 Beginning 1855.83 feet East of the Southwest corner of the Southwest Quarter, thence Northwesterly 862 feet, thence Northwesterly 1800 feet to the North line of the Southwest Quarter, Except the West 238.4 feet of the East 764.78 feet of the South 375 feet Sedgwick County, Kansas.



see revised legal

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.)

TRACT DESCRIPTIONOWNER & ADDRESS

All that part of the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of 15-27-1W, lying W of the W line of the Wichita Valley Center Flood Control ROW and East of the following described line: Beginning 1855.83 feet East of the SW corner of SW $\frac{1}{4}$, thence NWly 862 feet, thence NWly 1800 feet to N line of SW $\frac{1}{4}$, Except the W 238.4 feet of the E 764.78 feet of the South 375 feet.

Myron C. & Sylvia B. Wilbur
 943 Wilbur Lane
 Wichita, Kansas 67212

Beginning 526.38 feet West of the SE corner of the SW $\frac{1}{4}$; thence West 238.4 feet, thence North 375 feet, thence East 224.8 feet, thence South 375 feet to beginning, Except the South 55 feet for Street, Section 15-27-1W, Sedg. Co., Ks.

City of Wichita
 Condemned in Case #C-30343

Fidelity  Title
 COMPANY, INC.

TRACT DESCRIPTION

OWNER & ADDRESS

Beginning at a point on the South line of said SW $\frac{1}{4}$, 1856.43 feet East of the SW corner thereof; thence West along the South line of said SW $\frac{1}{4}$, 121.97 feet; thence with an angle to the right of 78 degrees, 25 minutes, 15 seconds a distance of 751.15 feet; thence with an angle to the left of 8 degrees, 48 minutes, 45 seconds, a distance of 528.14 feet; thence with an angle to the right of 23 degrees, 27 minutes, 45 seconds, a distance of 1409.5 feet, more or less, to the north line of said SW $\frac{1}{4}$; thence east along the north line of said SW $\frac{1}{4}$, 44.42 feet to point 1537.6 feet east of the NW corner of said SW $\frac{1}{4}$, thence with an angle to the right of 85 degrees, 00 minutes, 30 seconds, a distance of 1800 feet; thence southeasterly 862 feet, more or less to beginning.

Hershel B. & Vera Arlene Cook
✓ % Ritchie Bros. Const. Co., Inc.
P.O. Box 4048
North Wichita Station
Wichita, Kansas 67204



Beginning 1734.46 feet East and 396.48 feet Northwest Southwest corner Southwest Quarter for beginning, thence North 354.67 feet Northwesterly 528.14 feet West 75 feet to West line East Half SW $\frac{1}{4}$ South 800 feet, East 327.8 feet, to beginning, Section 15, Township 27, Range 1 West

D Myron C. & Sylvia B. Wilbur
943 Wilbur Lane
Wichita, Kansas 67212

Commencing at the SW corner of Section Fifteen (15), Township Twenty seven (27) South, Range One (1) West of the 6th P.M.; thence East along South section line a distance of 1494.40 feet to a point; thence left with an angle of 90 degrees 00', a distance of 40.00 feet to the point of beginning, thence continuing on the same line a distance of 400.00 feet to a point; thence right with an angle of 90 degrees 00' a distance of 150.00 feet to a point; thence right with an angle of 78 degrees 24' a distance of 396.48 feet to a point; thence right with an angle of 98 degrees 36' a distance of 224.12 feet to a point; thence right with an angle of 3 degrees 00' a distance of 5.88 feet to the point of beginning, containing 2 acres, more or less, Sedgwick County, Kansas.

✓ Robert Louis & Louise Maxine
Hayes
3227 Cromwell Drive
Wichita, Kansas 67204

TRACT DESCRIPTION

OWNER & ADDRESS

Beginning Northwest corner SW $\frac{1}{4}$
East 780 feet South 704.28 feet
for beginning, thence SWly 282.71
feet Southeasterly 510.02 feet,
SW 296.55 feet, East 350 feet,
North 650 feet, East 304.56 feet,
SW 114.05 feet, thence Northwest
257.38 feet to beginning, and a
tract beginning 780 feet East
NW corner, SW $\frac{1}{4}$, thence East 713.18
feet, SWly 746 feet, West 304.56
feet, SWly 114.05 feet, NWly 257.38
feet, North 704.28 feet to beginning,
Section 15, Township 27, Range 1 West

Hershel B. & Vera Arlene Cook
& Ritchie Construction Co., Inc.
P.O. Box 4048, N. Wichita Station
Wichita, Kansas 67204

Reserve B, FARMINGTON SQUARE ADDITION

Max L. Cole
3841 West 13th Street
Wichita, Kansas 67203

All that portion of the NW $\frac{1}{4}$
of Section 15, Township 27,
Range 1 West of the 6th P.M., Sedgwick
County, Kansas, lying East of
Country Acres Fourth "B" Addition in
Sedgwick County, Kansas, except the
East 330 feet of the North 660 feet
and .84 of an acre conveyed to the
Wichita-Valley Center Flood Control
Project

Lakeview Development Co., Inc.
P.O. Box 4048, N. Wichita Station
Wichita, Kansas 67204



Dated at Wichita, Kansas, this 2nd day of January, 1976,
at 7:00 o'clock A.M.

FIDELITY TITLE COMPANY, INC.

By *Debra Gray*
Asst Sec. ag

Tracer No. 31492



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		

50.00

DESCRIPTION AMOUNT

Board of Zoning Appeals
Grant Books

Name

Address

Type Due Date

Comments:

Date By

3/1/64 *[Signature]*

*

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