

Case No. BZA 59-81 - Miles Sand, Inc. - requests an exception to permit the modification of a previously approved operation for the extraction of raw materials, on property zoned the "AA" One-family Dwelling District and the "C-1" Light Commercial District and

5352 D

Record  
Sheet  
Checked  
1-5-72  
1-4-78  
1-4-80  
1-13-81

ACTION

POSTED  
12-14-81

BZA  
59-81

COMMITTEE

APPROVED

DATE  
12-22-81

M.A.P.C. \_\_\_\_\_

R.C.C./B. CO. C. \_\_\_\_\_

5352 D

200' 4 Sec 12-31-81  
Checked 1-4-82  
Shot 1-4-82  
Recorded 1-5-82

Case No. BZA 59-81 - Miles Sand, Inc. -  
Requests an exception to permit the  
modification of a previously approved  
operation for the extraction of raw  
materials, on property zoned the "AA"  
One-Family Dwelling District and the  
High-Finish Commercial District.

Map No. 5352  
 Sec. 30  
 Twp. 26  
 Range 1E

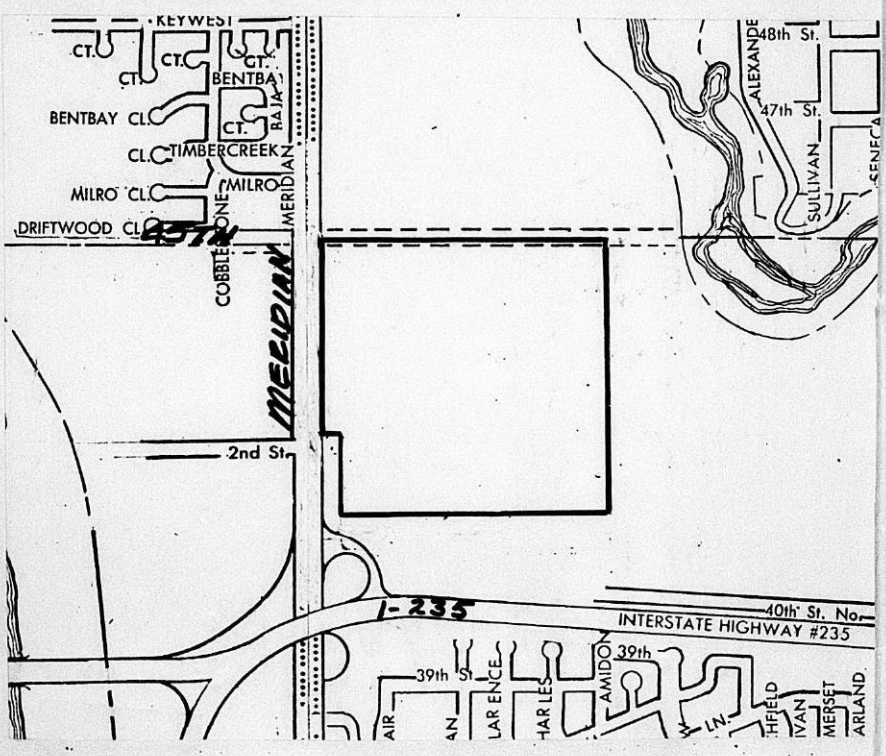
BZA- 59-81  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( 2640 ft. by 2640 ft.) (IRREGULAR)
2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
3. Land Use: East SAND PIT South 1-235  
 West UNDEVELOPED North SAND PIT
4. Sketch Plan Land Use is for: \_\_\_\_\_
5. Present Land Use if for: SAND PIT
6. Area (is) (is not) platted. \_\_\_\_\_

PHOTO DATA:

Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



SHEPARD  
 No. 2153C  
 HASTINGS, ILL.  
 LOS ANGELES, CALIF. / COLUMBIAN, OH.  
 McREGOR, TX. / LOCUST GROVE, GA.  
 U.S.A.

December 23, 1981

Miles Sand, Inc.  
4852 North Meridian  
Wichita, Kansas

Re: Case No. EZA 59-81  
Request for Variance

Dear Mr. Miles:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on December 22, 1981.

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 questions concerning this matter, please call our office.

Sincerely,

Glen E. Lytle  
Assistant Secretary

GEL:sd  
Enclosure

cc: Planning Development Services, Inc., 625 First Nat'l Bank Bldg.,  
105 North Main, Wichita  
Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisieck, City Clerk

RESOLUTION NO. BZA 59-81

WHEREAS, Miles Sand, Inc., 4852 North Meridian, 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, soil, sand or gravel) on property zoned the "AA" Single-family Dwelling District, and the "LC" Light Commercial District and legally described as follows:

The northwest quarter of Section 30, Township 26 South, Range 1 East, except the south 200 feet and except the west 200 feet south of the north line of 42nd Street North extended east and except right-of-way for Meridian on the west side of said northwest quarter in Wichita, Sedgwick County, Kansas. Generally located on the east side of Meridian in an area between 45th Street North and I-235 By-pass.

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 December 22, 1981, 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, soil, sand or 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 be approved to permit the extraction of raw materials (fill dirt, soil, sand or gravel) on property zoned the "AA" Single-family Dwelling District, and the "LC" Light Commercial District and legally described as follows:

The northwest quarter of Section 30, Township 26 South, Range 1 East, except the south 200 feet and except the west 200 feet south of the north line of 42nd Street North extended east and except right-of-way for Meridian on the west side of said northwest quarter in Wichita, Sedgwick County, Kansas. Generally located on the east side of Meridian in an area between 45th Street North and I-235 By-pass.

subject to the following conditions:

1. Any permanent change in elevation by the removal of overburden (topsoil) shall only occur in that area designated as within the limits of excavation on the operation plan. Removal of fill material below the water table, shall be to a minimum of six feet below the water table so as to be of sufficient depth to retard algae growth in the lake. All areas depicted on the operational plan as outside of the excavation area shall remain in agricultural use during the removal of overburden in order to minimize wind and water erosion. Any removal of material outside the designated excavation area shall be replaced with materials so that the area can be utilized for normal farming operations.

2. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
3. The applicant shall proceed in accordance with the operational plan, and shall excavate the lake and form the banks as indicated on the approved plan.
4. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than four horizontal to one vertical.
5. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
6. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
7. 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, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation.
8. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
9. Fencing shall be constructed in accordance with the requirements of Section 5.34 of the Code of the City of Wichita prior to the commencement of the sand extraction operation below the water table. The fence adjacent to Meridian shall be placed not closer than 50 feet to the Section line on Meridian.
10. No concrete or asphalt mixing plants or commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted in the area unless duly authorized under the provisions of the City Zoning Ordinance and amendments thereto.
11. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
12. The property shall be platted prior to the issuance of any building permits, except those necessary for the sand excavation operation.
13. The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstructions or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office of the Department of Operations and Maintenance and the Department of Engineering, and shall be in accordance with the standards of these authorities.
14. At such time that it is intended to either excavate the lake under the 45th Street North right-of-way, or extend the excavation equipment under the street, approval shall be obtained from the appropriate governing body.
15. 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.
16. Resolution No. BZA 24-77 shall become null and void upon the release of this resolution.

ADOPTED AT WICHITA, KANSAS, this 22nd day of December, 1981.

  
William J. Gossett, Chairman

ATTEST:

  
Glen E. Lytle, Assistant Secretary

**THE CITY OF WICHITA**

**OFFICE OF** CITIZEN PARTICIPATION

**DATE** December 17, 1981



**TO** Glen Lytle, Special Assistant for Zoning

**FROM** Stan Scott, Administrative Aide III

**SUBJECT** BZA 59-81: Southeast corner  
of Meridian and 45th Street  
North

On Wednesday, December 16th, CPO Neighborhood Council "M" considered the captioned case, a request for an exception to permit modification of a previously approved operation for the extraction of raw materials on property zoned "AA" and "LC" at the captioned location. The Council voted, 5-1, to recommend approval of the requested exception.

The applicant, V. Harley Miles, and agent, John Gist, were present to describe the requested variance and respond to questions from the Council. No area residents or property owners were present. Council members were provided a copy of the notice to adjoining property owners and MAPD staff comments.

Please provide the Council's recommendation to the Board of Zoning Appeals when BZA 59-81 is considered on Tuesday, December 22nd.

Stan Scott  
Administrative Aide III

SS:mw

Noted:

Sarah Gilbert  
CP Coordinator

**RECEIVED**

DEC 17 1981

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

SECRETARY'S REPORT  
CASE NO. BZA 59-81

APPLICANT: Miles Sand, Inc., 4852 North Meridian,  
Wichita, Kansas.

AGENT: Planning Development Services, Inc., 625  
First National Bank Bldg., 105 North Main,  
Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B,  
Code of the City of Wichita, to modify the  
previously approved operation for extraction  
of raw materials.

GENERAL LOCATION: On the southeast corner of Meridian and 45th  
Street North.

ZONING: Subject property is zoned "AA" One-family  
Dwelling District and "LC" Light Commercial.  
To the west is also "AA" and "LC". To the  
north is "LC" and "R-1". To the east is

LAND USE: Subject property has been approved as a sand  
extraction operation. To the west a residential  
development. To the east vacant, and to the  
south is I-235 and outdoor recreational uses.  
To the north the applicant has a sand extraction  
operation.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant has filed this application in order to modify the conditions of approval for a sand and gravel extraction that were approved by the Board of Zoning Appeals on June 28, 1977. At that time, the Board established a period of 20 years for the completion of the extraction operation.

The applicant is requesting two basic changes to the conditions established by Resolution No. BZA 24-77. One is to eliminate the 20 year time frame for completion of the sand and gravel extraction operation. The second relates to the site plan which is a change in location of the connection between the operation to the north under 45th Street North. This request is being made in order to facilitate the use of existing equipment already located on the property to the north, which will permit the pumping of this property without additional equipment or moving the location of their present operation.

RECOMMENDATION:

If the Board of Zoning Appeals determines that the requested changes in the previously approved exception would be appropriate, then it is recommended that it be approved subject to the following conditions:

1. Any permanent change in elevation by the removal of overburden (topsoil) shall only occur in that area designated as within the limits of excavation on the operation plan. Removal of fill material below the water table, shall be to a minimum of six feet below the water table so as to be of sufficient depth to retard algae growth in the lake. All areas depicted on the operational plan as outside of the excavation area shall remain in agricultural use during the removal of overburden in order to minimize wind and water erosion. Any removal of material outside the designated excavation area shall be replaced with materials so that the area can be utilized for normal farming operations.

2. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
3. The applicant shall proceed in accordance with the operational plan, and shall excavate the lake and form the banks as indicated on the approved plan.
4. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than four horizontal to one vertical.
5. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
6. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
7. 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, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation.
8. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
9. Fencing shall be constructed in accordance with the requirements of Section 5.34 of the Code of the City of Wichita prior to the commencement of the sand extraction operation below the water table. The fence adjacent to Meridian shall be placed not closer than 50 feet to the Section line on Meridian.
10. No concrete or asphalt mixing plants or commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted in the area unless duly authorized under the provisions of the City Zoning Ordinance and amendments thereto.
11. All slopes shall have vegetative covering consisting of a perennial drowth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
12. The property shall be platted prior to the issuance of any building permits, except those necessary for the sand excavation operation.
13. The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstructions or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office of the Department of Operations and Maintenance and the Department of Engineering, and shall be in accordance with the standards of these authorities.
14. At such time that it is intended to either excavate the lake under the 45th Street North right-of-way, or extend the excavation equipment under the street, approval shall be obtained from the appropriate governing body.
15. 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.
16. Resolution No. BZA 24-77 shall become null and void upon the release of this resolution.

BOARD OF ZONING APPEALS  
Tenth Floor - City Hall  
455 North Main, Wichita, Kansas 67202

December 2, 1981

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. EZA 59-81

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Miles Sand, Inc., 4852 North Meridian, Wichita, Kansas, requesting an exception.

Pursuant to Section 2.12.590.C, of the Code of the City of Wichita, the applicant is requesting an exception to permit the modification of a previously approved operation for the extraction of raw materials on property zoned "AA" One-family Dwelling District and "LC" Light Commercial. A legal description of the applicant's property is as follows:

The NW 1/4, Sec. 30, T26S, R1E, except the S. 200' and except the W. 200' S. of the N. line of 42nd St. N. extended E. and except R/W for Meridian on the W. side of said NW 1/4. Generally located at the southeast corner of Meridian and 45th Street.

This application has been assigned Case No. EZA 59-81. It will be considered by the Board of Zoning Appeals on December 22, 1981 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested exception you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or 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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith  
Secretary

BZA CASE NO. 59-81

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

7 NOTICES SENT TO ADJOINING PROPERTY OWNERS

20 TOTAL NOTICES SENT 12-2-81





**PDS**  
INCORPORATED

PLANNING DEVELOPMENT SERVICES, INC.

625 First National Bank Bldg., Wichita, Kansas, 67202 / 316-262-0451, Telex 417 • 375 PDS WIC

**RECEIVED**

NOV 24 1981

METROPOLITAN PLANNING

ROUTE

*Lytle*

November 23, 1981

Mr. Jack H. Galbraith, Chief Planner  
Metropolitan Area Planning Dept.  
City Hall - Tenth Floor  
455 North Main Street  
Wichita, Kansas 67202

RE: Revised Board of Zoning Appeals "Application for Exception"  
For Extraction of Raw Materials (previous case No. BZA 24-77),  
Generally Located at the Southeast Corner of Meridian and 45th  
Street North.

Dear Jack:

Now that Conditional Use Permit (CU-249) has been approved by the Board of County Commissioners, we are submitting herewith an associated City BZA Exception for the extraction of raw materials on behalf of Miles Sand, Inc. Materials submitted are:

- City BZA Application for Exception
- Revised "operational" and "redevelopment" plans (six copies)
- Current abstractor's certificate for application area and all properties within a distance of 200 feet
- Check for filing fee in the amount of \$200.00.

As you are aware, this site was originally approved for the extraction of raw materials by the City Board of Zoning Appeals in 1977 (BZA 24-77). The new application is submitted for the specific purposes of:

Tucson, AZ, Denver, CO, Dallas, TX  
Formerly Oblinger-Smith Corporation


Page 2

1. Eliminating the 20 year time limitation for extraction, to insure full utilization of sand and gravel resources for the operation of the business.
2. Revising the operational and redevelopment plans to accommodate a future connection and pumping of the extraction operation south of 45th Street, from the present sand plant facilities of Miles Sand, Inc. located north of 45th Street.

Should there be need for additional copies of the plans or any other information, please call.

Sincerely,

PLANNING DEVELOPMENT SERVICES, INC.

  
John D. Gist

JDG:mb

cc: Mr. V. Harley Miles

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1	5	The Moorings	✓ V. Harley Miles & Ro Jean Miles, 2823 Timbercreek Circle 67204
1 exc. the south 10 acres	-	Hallock Addition	✓ Riverlawn Christian Church, 2535 Amidon, 67204

<u>Tract</u>	<u>Property Owner</u>
North 18 ft. of the east 4 acres of Govt. Lot 9 in the NE $\frac{1}{4}$ of 25-26-1W	✓ MIBAC Inc., 1901 W. 13th, 67203
North $\frac{1}{2}$ of the east 4 acres of Govt. Lot 9 in the NE $\frac{1}{4}$ of 25-26-1W lying south of the north 18 ft. of said Lot 9	"
South $\frac{1}{2}$ of the east 4 acres of Govt. Lot 9 in the NE $\frac{1}{4}$ of 25-26-1W lying south of the north 18 ft. of said Lot 9	"
East 200 ft. of the north 18 ft. of Govt. Lot 1 in the NE $\frac{1}{4}$ of 25-26-1W	✓ Janet V. Bachman, 1901 W. 13th, 67203
Tract in Govt. Lots 1 & 2 in the NE $\frac{1}{4}$ of 25-26-1W beg. at a pt. 771.83 ft. north and 30 ft. west of the SE corner of said Lot 2; then north 343 ft.; then west 70 ft.; then south 293 ft.; then west 750 ft.; then south to a pt. 820 ft. west of the pt. of beg.; then east 820 ft. to beg.	✓ Kansas Department of Transportation, 3200 E. 45th St. North, 67220
East 1210 ft. of Govt. Lots 1 & 2 in the NE $\frac{1}{4}$ of 25-26-1W, Except the tract described immediately above, and Except the north 18 ft., and Except the south 771.83 ft. of the east 1210 ft., and Except the east 30 ft. for highway	✓ The Northwest Development Corp. Inc., 1901 W. 13th St., 67203
South 200 ft. of the NW $\frac{1}{4}$ of 30-26-1E, and the west 200 ft. of said NW $\frac{1}{4}$ lying south of the north line of 42nd St. North extended east, except that portion deeded to the State of Kansas for highway purposes	✓ Miles Sand Inc., 4852 N. Meridian, 67204
NW $\frac{1}{4}$ of 30-26-1E exc. the south 200 ft., and except the west 200 ft. lying south of the north line of 42nd St. North extended east, and except r/o/w for Meridian Ave.	"

Tract

SW $\frac{1}{4}$  of 19-26-1E

That part of the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of 19-26-1E lying south and west of the Little Arkansas River, except that part taken for flood control

Tract beg. at the NW corner of Govt. Lot 1 in the NE $\frac{1}{4}$  of 30-26-1E; then south 74 rods; then east 80 rods; then north 74 rods; then west to the pt. of beg., except that part condemned for flood control

West 200 ft. of the south 86 rods of the NE $\frac{1}{4}$  of 30-26-1E

Property Owner

*Def.* Miles Sand Inc., 4852 N. Meridian, 67204

~~Beulah Alexander (Deceased)~~

✓ Kansas Gas and Electric Co., 201 N. Market, 67202

~~Fred S. Pierpoint, Address Unknown~~

page 3

We hereby certify the foregoing to be a true and correct list of the property owners within a 200 foot radius of

The Northwest Quarter of Section 30, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, Except the South 200 feet, and Except the West 200 feet south of the North line 42nd Street extended east, and Except the right-of-way for Meridian on the West side of said Northwest Quarter

as shown by the last deed of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 17th day of November, 1981, at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

*Mary Gable*  
Vice-President

Order No. 304634  
GE

**MICROFILMED**  
**FROM THE BEST**  
**AVAILABLE COPY**

FORM 021

PAYMENT NOTICE  
 City of Wichita

	Use of Str.	Code Bks	Copies
Bldg.			
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION		AMOUNT
NAME		
ADDRESS		
FUND	DUE DATE	
COMMENTS		
DATE	BY	

\*

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

Roll # 2