

OLIVAREZ stated that in 1983 this property was platted for development of a mobile home subdivision. At that time the owner of the property wanted to have one lot from which she could sell mobile homes to people who were purchasing lots within that mobile home subdivision. A request was filed then for "C" zoning on one of these lots to enable her to sell the mobile homes from the site, and because the County zoning regulations require 20,000 square feet in the "C" zoning district, she also had to obtain a variance through the County Board of Zoning Appeals for reduction of the lot area. When the County Board of Zoning Appeals reviewed the variance, they established two conditions on their approval of the reduction of lot area. One condition was that the reduction of area shall apply only to the proposed temporary use of sales office for these mobile homes, and that any change of occupancy would be subject to the property reverting back to the single family district. The second condition of the County Board of Zoning Appeals was that the applicant would, within two years, or at any time all of the lots had been sold, apply for rezoning back to the "AA" Single-family district. OLIVAREZ pointed out that it has been more than two years now since that filing of the zone change and the BZA application. The property is now under a separate ownership, and the County Zoning Administrator, about six weeks ago, asked the Planning Commission to consider or initiating this request to change the zoning back to the "AA" Single-family district. She said that in addition to it being over the two-year time limit, there are proceedings now regarding a number of the undeveloped properties in this area with the possibility of a different owner taking title to some of the lots in the future, and staff felt that to make sure that the new owner would be aware of the condition of that lot not being approved for any type of "C" zoning, that it would be best to get it back to the "AA" Single-family zoning district before it changes ownership again. OLIVAREZ stated that this request was reviewed by the Derby Planning Commission two weeks ago and they unanimously recommended approval of the zone change back to the "AA" Single-family district. Staff recommended approval of the zone change.

No one spoke either in support of or in opposition to this application.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood; the zoning and uses of properties nearby; the unsuitability of subject property for continued long-term commercial use; and the recommendation of staff; I move that we recommend to the governing body that this application be approved. Crockett moved, Banzer seconded and it carried unanimously. Conlee was absent.

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4. Case No. CU-298 - Donnie E. & Norma J. Cook request conditional use permit for a raw materials extraction operation for Government Lot 2 in the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 35, Township 28 South, Range 1 East of

the 6th P.M. Generally located on the south side of 63rd Street South between Clifton and the Arkansas River.

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

Background: In 1978, a conditional use permit (CU-203) was granted for a raw materials extraction operation on this site. The land owner had made arrangements for a contractor to create a 4.5-acre lake in return for the sand which could be extracted during formation of the lake and work was substantially underway. The permit was granted for a five-year period. At the end of that time, the owner requested, and received, a three-year extension (CU-260), stating that additional time was needed to excavate a minimum of six feet below the water table. That time expired June 1, 1986. The owner now desires an additional two years to finish the lake and regrade the property. A slight expansion of the lake at its narrowest dimension is also proposed.

Analysis: Conditional Use Permits #203 and #260 were approved with side slopes of 4:1 on the excavation area and with the existing barbed wire fence being accepted in lieu of the standard chain link fence. A 4:1 slope was standard in 1978. The barbed wire fence was acceptable because of the remote location of the site and because several people already lived on the premises which was considered a deterrent to trespassers. These same requirements are incorporated into staff's recommended conditions of approval which are listed below. A new restrictive covenant regarding foreign matter is being requested so that the new wording about acceptable bank stabilization materials can be included. Items L, M & N are also new conditions, but are now required by the County's Floodplain Management Resolution which was adopted in June.

If the Planning Commission determines that an extension of time for this raw materials extraction operation is appropriate, the following are recommended conditions of approval:

- A. The applicant shall proceed in accordance with the operational plan approved for CU-203 and reapproved for CU-260 and shall excavate the lake and form the banks as indicated on the approved plan although minor modifications may be made in order to widen the narrow part of the lake.
- B. The applicant shall be responsible for maintaining the existing four strands of barbed wire fence along the east and west property lines and the existing five strand barbed wire fence and gate along the north property line and the gate shall be kept locked except when in use.
- C. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
- D. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than four horizontal to one vertical.

- E. The sand plant operator shall be responsible for maintaining all operational roads in a graveled condition.
- F. The applicant shall submit a new restrictive covenant which provides that no foreign matter shall be deposited on the site or in the excavation area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.
- G. The natural drainage flow shall be protected throughout the area. 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 and the County Bureau of Public Services and shall be according to the specifications of these authorities.
- H. Once the sand extraction operation has ceased, all sand extraction equipment and all piles of sand and gravel shall be removed from the property within six months.
- I. No commercial recreational activities, such as boating fishing, skiing, etc., shall be permitted in the area unless duly authorized under provisions of the County Zoning Regulations. No topsoil removal shall be permitted, except as necessary to properly grade the site, unless a revised conditional use permit is requested and approved.
- J. All slopes shall have vegetative covering consisting of a perennial drouth resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- K. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- L. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- M. In accordance with the County's Floodplain Management Resolution, the applicant shall provide the Bureau of Public Services an engineer's certification that the proposed site improvements will not increase the base flood elevation on the Arkansas River during a 100-year flood.
- N. In accordance with the County's Floodplain Management Resolution, the applicant shall submit his operational and extraction plans to the State Division of Water Resources for review. Approval from the Division must be obtained prior to publication of the resolution authorizing the conditional use permit.
- O. The applicant shall comply with conditions "F", "L" and "M" prior to this case being scheduled for County Commission review and shall comply with condition "N" within three months after County Commission approval and prior to publication of the resolution establishing this conditional use permit.

- P. Any violation of conditions attached shall declare the conditional use permit null and void.
- Q. This conditional use permit shall expire at the end of two years from the date of approval by the Board of County Commissioners.

OLIVAREZ stated that this property was first approved for a conditional use permit for sand extraction in 1978. At that time it had a five-year time limit. When that expired in 1983, a request was made for a three-year extension. That expired in June 1986, and the applicant is now requesting a two-year extension during which time he wants to complete the regrading of the property and perhaps expand the lake a little at its narrowest point.

OLIVAREZ stated that it was pointed out in the staff report that when this was first approved in 1978 the slopes which were acceptable at that time were 4:1. She pointed out that 5:1 is the current recommended slope on finished lakes, but since the 4:1 was what was approved when this lake was begun, staff felt that it should be kept as one of the conditions of approval. Also when this was first approved in 1978, there was a discussion about the existing barbed wire fence that surrounds the site, and that was considered as being acceptable because of the location of this site, and because of the number of people who lived around the area which was viewed to be a deterrent for trespassers. Staff has also recommended continuation of that type of fence for this additional two-year permit.

OLIVAREZ further pointed out that there were a few requirements that are different now than the last two times of the applicants' request. The conditions are required now because the County has adopted a floodplain management resolution. The other condition asked for is a restrictive covenant. Because of the condition regarding the acceptable bank stabilization materials, staff would like for a new restrictive covenant to be submitted which would specify those types of materials that are acceptable for bank stabilization. Staff recommended approval of the two-year extension of this conditional use permit.

OLIVAREZ stated that the Derby Planning Commission reviewed this application two weeks ago and recommended approval subject to the conditions in the staff report.

DONNIE COOK, applicant, was present.

There was no one present in opposition to the application.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood; the zoning and uses of properties nearby; the suitability of subject property for the uses proposed; and the recommendation of staff; I move that we recommend to the

governing body that this application be approved subject to the following conditions:

- A. The applicant shall proceed in accordance with the operational plan approved for CU-203 and reapproved for CU-260 and shall excavate the lake and form the banks as indicated on the approved plan although minor modifications may be made in order to widen the narrow part of the lake.
- B. The applicant shall be responsible for maintaining the existing four strands of barbed wire fence along the east and west property lines and the existing five strand barbed wire fence and gate along the north property line and the gate shall be kept locked except when in use.
- C. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
- D. To provide for bank stabilization and safety of future uses, the side slope of the excavation shall be no more steep than four horizontal to one vertical.
- E. The sand plant operator shall be responsible for maintaining all operational roads in a graveled condition.
- F. The applicant shall submit a new restrictive covenant which provides that no foreign matter shall be deposited on the site or in the excavation area and which specifies what bank stabilization materials are acceptable. This covenant shall be submitted to the Planning Department prior to this case being scheduled for County Commission review.
- G. The natural drainage flow shall be protected throughout the area. 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 and the County Bureau of Public Services and shall be according to the specifications of these authorities.
- H. Once the sand extraction operation has ceased, all sand extraction equipment and all piles of sand and gravel shall be removed from the property within six months.
- I. No commercial recreational activities, such as boating, fishing, skiing, etc., shall be permitted in the area unless duly authorized under provisions of the County Zoning Regulations. No topsoil removal shall be permitted; except as necessary to properly grade the site, unless a revised conditional use permit is requested and approved.

- J. All slopes shall have vegetative covering consisting of a perennial drouth resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
- K. The property shall be platted prior to the issuance of any zoning or building permits, except those necessary for the sand extraction operation.
- L. In accordance with the County's Floodplain Management Resolution, a floodplain development permit shall be obtained from the County Bureau of Public Services.
- M. In accordance with the County's Floodplain Management Resolution, the applicant shall provide the Bureau of Public Services an engineer's certification that the proposed site improvements will not increase the base flood elevation on the Arkansas River during a 100-year flood.
- N. In accordance with the County's Floodplain Management Resolution, the applicant shall submit his operational and extraction plans to the State Division of Water Resources for review. Approval from the Division must be obtained prior to publication of the resolution authorizing the conditional use permit.
- O. The applicant shall comply with conditions "F", "L" and "M" prior to this case being scheduled for County Commission review and shall comply with condition "N" within three months after County Commission approval and prior to publication of the resolution establishing this conditional use permit.
- P. Any violation of conditions attached shall declare the conditional use permit null and void.
- Q. This conditional use permit shall expire at the end of two years from the date of approval by the Board of County Commissioners.

Wilson moved, Parsons seconded.

MILES commented that if more than two years is needed, the usual chainlink fence should be required.

PARSONS asked why was the applicant being given an additional six months to remove the sand and gravel from the property. Why would that not be part of finishing the property up within the initial two years?

GALBRAITH said that it could be that way. Staff has just tried to give people a reasonable period of time after the excavation supposedly is to cease to finish grading, clean up the site, and remove any sand or gravel that might still be there.

VOTE ON THE MOTION: It carried unani-  
mously. Conlee was absent.

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5. Case No. Z-2792 - Melba Kay Bunyard requests zone change from "AA" to "LC" for Lot 12, Edminster Gardens Addition, Wichita, Sedgwick County, Kansas. Generally located on the west side of Hillside in an area between 31st Street South and Dunham Drive.

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

Background: The applicant is requesting a zone change from "AA" to "LC" for a half-acre platted lot located on the west side of Hillside in an area between 31st Street South and Dunham Drive. The lot is currently undeveloped.

Analysis: Properties to the north, south and west are all in the "LC" district while property to the east across Hillside is zoned "RB" but undeveloped. The zoning policy for both sides of Hillside between Wassal and 31st Street South is to look with favor on "LC" zoning.

A recommendation of approval by the Planning Commission should be subject to the property being replatted within one year after City Commission approval of the zone change in order to obtain additional street right-of-way, utility easements, appropriate building setbacks and access control, or the case be considered denied and closed. The ordinance establishing the zone change shall not be published until the replat has been recorded.

OLIVAREZ stated that this is the only property still in this block not zoned light commercial. The adopted policy favors light commercial zoning in this location on Hillside. She said that staff recommended approval of the zone change subject to replatting the property within one year.

DONALD HILL, agent representing the applicant, was present.

There was no one present in opposition to the application.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the character of the neighborhood; the zoning and uses of properties nearby; the suitability of subject property for the uses proposed; and the recommendation of staff; I move that we recommend to the governing body that this application be approved subject to the property being replatted within one year after City Commission approval of the zone change in order to obtain additional street right-of-way, utility easements, appropriate