

Case No. BZA 24-77 - MILES SAND, INC., requests exception to permit the establishment of a sand excavation plant on property generally located on the east side of Meridian in an area between 45th St., North, and I-235 By-Pass

*POSTED
6-6-77
V.M.P.
V.E.I.
g.H.*

ACTION

BZA 24-77 COMMITTEE *Approved* DATE *6-28-77*

M.A.P.C.

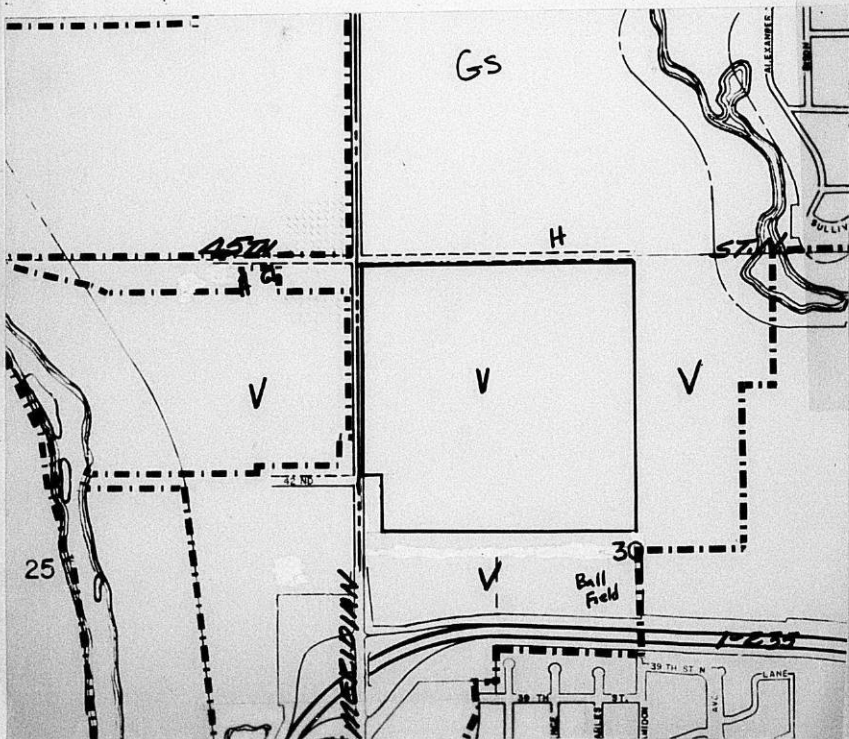
B.C.C./B.C.C.C.

A3
 Map No. 5350
 Sec. 30
 Twp. 26
 Range 1E

BZA- 29-77
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA:
1. Acres: 143.9 (2240 (IRREGULAR) ft. by 2610 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East UNDEVELOPED South UNDEVELOPED
 West UNDEVELOPED North SINGLE FARM SAND Pt.
 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 _____



HATHORN, INC. - LOS ANGELES
 LOAN ON JACKSON, TX U.S.A.

No. 2-153C
Smend

RESOLUTION NO. BZA 24-77

WHEREAS, Miles Sand, Inc., 4852 N. 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 June 28, 1977, 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. The applicant shall dedicate by separate instrument sufficient half street right-of-way to bring Meridian up to major street standards (50 feet of half-street right-of-way).
2. 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.
3. 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.

RESOLUTION No. BZA 24-77

Page 2

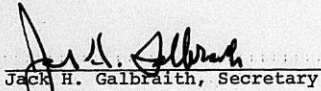
4. The applicant shall proceed in accordance with the operational plan, and shall excavate the lake and form the banks as indicated on the approved plan.
5. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than four horizontal to one vertical.
6. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
7. 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.
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, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation.
9. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
10. 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.
11. 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.
12. 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.
13. The property shall be platted prior to the issuance of any building permits, except those necessary for the sand excavation operation.
14. 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 Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.
15. The applicant shall plant deciduous and/or coniferous trees along the southern line of the northwest quarter of Section 30, Township 26, Range 1E to supplement the trees already in existence there, to assist in providing screening from I-235 to the south. Said trees are to be planted not later than the spring of 1978.
16. The applicant shall submit 4 revised copies of the operational plan to show the minimum depth of 6 feet below water table and to identify the planting area described in condition #15 above.
17. The applicant shall comply with conditions 1, 8, and 16 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.

18. 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.
19. At the end of 20 years from the date of approval, there shall be a rehearing of the case by the Board of Zoning Appeals to determine if an extension of time shall be granted.

ADOPTED AT WICHITA, KANSAS, this 28th day of June, 1977.


James Richardson, Vice-Chairman

ATTEST:


Jack H. Galbraith, Secretary

July 21, 1977

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXX

City Hall, Tenth Floor
455 North Main Street

Mr. V. Harley Miles
Miles Sand, Inc.
4852 North Meridian
Wichita, Kansas 67204

Re: Case No. EZA 24-77
Request for Exception

Dear Mr. Miles:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 28, 1977, in connection with your request for an exception 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 generally located on the east side of Meridian in an area between 45th Street North and I-235 By-pass.

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,

Larry Dobson
Assistant Secretary

LD:bh

Attach.

cc: Robert Feldner, Supt., Central Inspection
M. S. Mitchell, Maintenance-Flood Control
Don Gisick, City Clerk
Joe Donnelly, Central Inspection
~~Steve D. [unclear]~~

BCC: Robert J. Wentworth, 5310 North Meridian, 67204

July 14, 1977

Don Gisick, City Clerk

Larry Dobson, Assistant Secretary to Board of Zoning Appeals

Restrictive Covenant associated with Case No. BZA 24-77

On June 28, 1977, the Board of Zoning Appeals approved the request of Miles Sand, Inc., 4852 North Meridian, Wichita, Kansas, for an exception to permit the extraction of fill dirt, soil, sand and gravel on property generally located on the east side of Meridian in an area between 45th Street North and I-235 By-Pass.

A condition of approval imposed by the Board required the submission of a properly executed Restrictive Covenant providing that no foreign matter shall be deposited within the excavation.

Attached for recording with the Register of Deeds is the Restrictive Covenant mentioned above. This recording cost should be billed to the applicant.

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

Larry Dobson, Assistant Secretary
to the Board of Zoning Appeals

LD:bh
Attach.

Dobson

WOODARD, BLAYLOCK & JOHNSON
ATTORNEYS AT LAW
600 CENTURY PLAZA BLDG.
WICHITA, KANSAS 67202

LEE H. WOODARD
STEPHEN J. BLAYLOCK
A. RODMAN JOHNSON

(316) 263-4850

July 11, 1977

Larry Dobson
Assistant Secretary
Board of Zoning Appeals
10th Floor, City Hall
455 North Main Street
Wichita, KS, 67202



Re: Case No. BZA 24-77, Request for Exception

Dear Mr. Dobson:

*7-14-77
file setup
for processing
through S/D*

Enclosed you will find the executed RESTRICTIVE COVENANT
and DEDICATION of Miles Sand, Inc., relative to the refer-
enced Request for Exception. If these documents as submitted
meet with the approval of the attorney for the City, will
you please proceed to have them recorded and bill us for
the recording charges therefor.

*7-14-77
sent to
City Clerk
for recording*

Thank you for your cooperation in this matter.

Very truly yours,

WOODARD, BLAYLOCK & JOHNSON

Stephen J. Blaylock
Stephen J. Blaylock
Attorney at Law

SJB:hk
Enclosures

cc: Miles Sand, Inc.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, MILES SAND, INC.,

being the owner of the following described real estate in Sedgwick County, Kansas, to wit:

The West Fifty Feet (50') of the northwest quarter of Section 30, Township 26 South, Range 1 East, Sedgwick County, Kansas.

does hereby dedicate the above described real estate to the public for _____ street _____ purposes.

Executed this 7th day of July 1977 ..

MILES SAND, INC.

By: V. Harley Miles, President

STATE OF KANSAS)
SEDGWICK COUNTY)^{ss}

BE IT REMEMBERED, that on this 7th day of July, 1977,
came V. Harley Miles, President of MILES SAND, INC.,

to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas,

this _____,

City Clerk

Hazel I. Kolstad
Notary Public

My Commission Expires: 8-25-79



RESTRICTIVE COVENANT

MILES SAND, INC., being the legal owners of the following described real estate in Sedgwick County, Kansas, to-wit:

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.

hereby makes 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 MILES SAND, INC., 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 July, 1977, by MILES SAND, INC.

MILES SAND, INC.

By: V. Harley Miles Pres.
V. Harley Miles, President

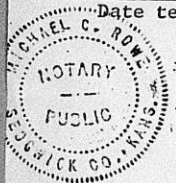
STATE OF KANSAS)
) SS:
SEDGWICK COUNTY)

The foregoing instrument was acknowledged before me this 7th day of July, 1977, by V. Harley Miles, President of MILES SAND, INC.

Oct. 20, 1980

Date term expires:

Michael C. Rowe
Notary Public



Dobson

REISS & GOODNESS ENGINEERS
2160 WEST 21ST STREET - WICHITA, KANSAS 67204 (316) 632-0283

July 5, 1977

Mr. Larry Dobson
Assistant Secretary,
Board of Zoning Appeals
The City of Wichita
City Building Annex
104 S. Main St.
Wichita, Kansas 67202



RE: Case No. BZA 24-77

Dear Mr. Dobson:

As requested in your letter of June 30, 1977 to Mr. Miles about the above captioned zone case, we have enclosed 4 copies of the Revised Operational Plan.

Sincerely,

Reiss & Goodness Engineers

Kenny E. Hill
Kenny E. Hill, E.I.T.

KEH:mb

encl.

cc: Harley Miles

June 30, 1977

V. Harley Miles
Miles Sand, Inc.
4852 N. Meridian
Wichita, Kansas 67204

Re: Case No. BZA 24-77
Request for Exception

Dear Mr. Miles:

At the regular meeting of the Board of Zoning Appeals on June 28, 1977, your request for an exception 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 generally located on the east side of Meridian in an area between 45th Street North and I-235 by-pass, was considered.

It was the action of the Board to approve this request subject to the conditions listed in the Secretary's Report, amended and added to as follows:

5. 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.
10. 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.
15. The applicant shall plant deciduous and/or coniferous trees along the southern line of the northwest quarter of Section 30, Township 26, Range 1E to supplement the trees already in existence there, to assist in providing screening from I-235 to the south. Said trees are to be planted not later than the spring of 1978.

V. Harley Miles
June 30, 1977

(Add) 19. At the end of 20 years from the date of approval there shall be a rehearing of the case by the Board of Zoning Appeals to determine if an extension of time shall be granted.

It should be noted that the 4 revised copies of the operational plan required by condition #16 refers to the operational site plan. I am enclosing a copy marked in red indicating the changes you should make to the plan. Four copies of the revised plan should then be submitted to this office.

You are reminded that conditions 1, 8 and 16, contained in the Secretary's Report, must be complied with prior to our forwarding of the Resolution to the Superintendent of Central Inspection and within six months from June 28, 1977 or the Resolution will become null and void. By copy of this letter, I am forwarding sample dedication and restrictive covenant instruments to Mr. Blaylock.

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

Sincerely,

Larry Dobson
Assistant Secretary
Board of Zoning Appeals

LD:el

Enclosures

cc:(forms) - Steve Blaylock, Suite 600, Century Bldg, 67202
Larry T. Ziesenis, 2829 W.45th St.North, 67204
Bill Bachman, 1901 W.13th, 67203

(Test Report) - Eulalia Langford, 1736 W.53rd St.North, 67204
Robert Feldner, Superintendent, Central Inspection
M.S. Mitchell, Maintenance-Flood Control
Donald C. Gisick, City Clerk
Joe Donnelly, Central Inspection

bcc Wentworth

b

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE June 20, 1977

TO Larry Dobson, Junior Planner, Current Plans
FROM Evelyn Pittman, CPO Administrative Aide

SUBJECT BZA 24-77

At a recent meeting of CPO Council "M", the Council reviewed the captioned subject with the CPO Aide. The applicant and area residents (in support of the applicant) were also present. Following a discussion between the Council, applicant and area residents, the Council voted to recommend approval of the exception to permit extraction of raw material.

Your consideration of this recommendation will be appreciated.

Evelyn Pittman
Evelyn Pittman
CPO Administrative Aide

EP:rh

NOTED:

David L. Furnas
David Furnas
CPO Coordinator



*Hi-lited areas
are added since
original statement
led
6-28-77*

STATEMENT OF PROPOSED USE

This application for exception is made pursuant to the general provisions of 2.12.590(c), Code of the City of Wichita, Kansas, which specifically grants power to the Board of Zoning Appeals to make exceptions for use of Sand Excavation plants under 28.04.181(2) of that Code.

The quarter section which is the subject of this application ("proposed site") is to be used for sand excavation and dirt removal operations. The sand and dirt removed will be used in all types of construction projects and approximately 12 million tons of sand will be excavated. All dirt that is removed outside the confines of the lake created by the sand excavation will be replaced by heavier dirt and brought to grade.

The proposed site will be buffered on the North, East, and South by 200 foot setback which will be farmed. On the West the buffer will consist of the 60-foot right-of-way for Meridian Avenue. In addition, the applicant will plant deciduous and/or coniferous trees along the southern line of the northwest quarter of Section 30, Township 26, Range 1E to supplement the trees already in existence there, to assist in providing screening from I-235 to the south. Said trees will be planted in the Spring of 1978.

The proposed site is immediately South of a quarter section upon which the applicant presently operates a sand excavation plant and from which the applicant removes dirt. The present site of the applicant's operations and proposed site are separated by a 30-foot wide (one-half) right-of-way for 45th Street North. The applicant has already planted buffer trees along the North property line of the present site and is in the process of planting 1500 trees around the present plant location.

When the applicant's operations at the present site have been completed, the applicant's business shall be moved to the proposed

site. Prior to that time the applicant will use the proposed site as a "borrow site" and remove some sand and dirt from it. As previously said, all dirt that is removed from the proposed site outside the lake created by the sand excavation will be replaced by heavier dirt.

Upon completion of the operations of the proposed site there will be a lake of approximately 63 acres which the applicant will have previously connected to the lake on the present site which will eventually cover an approximate 65 acre area. This will facilitate drainage for an area of 2,000 plus acres to the Northwest, for which the applicant has already given a drainage easement, into the lake on the present site from the Northwest and be retained in that lake and the lake on the proposed site. Overflow will drain to the Southeast through a normal swag, under Interstate Highway 235 through existing culverts, into a drainage ditch and then into the drainage canal. This will raise the water table to a level of three or four feet. Thus, when the operations on the proposed site are completed there will be two lakes tied together covering almost 130 acres which will facilitate drainage and form a substantial water storage area.

Any permanent change in elevation by the removal of overburden (topsoil) in the proposed area 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 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.

At the present time the applicant is developing the land immediately West of the present site for residential purposes

and following this the land to the immediate West of the proposed site will be developed for residential purposes. Then, the present site will be developed followed by the development of the proposed site when operations at that location are completed.

The applicant believes it is necessary to have a permit to so use the purposed site for a period of twenty-five years. The first five years of operation the proposed site will be used as a "borrow site" in which it is estimated that one million tons of dirt and one-half million tons of sand will be removed. The next five-year period the applicant plans to remove an additional four million tons of sand. The remaining fifteen years the rest of the sand will be removed so that at the end of twenty-five year period the proposed site will be ready for development.

SECRETARY'S REPORT
CASE NO. BZA 24-77

APPLICANT: Miles Sand, Inc., 4052 N. Meridian, Wichita, Kansas.

AGENT: Lee H. Woodard or Steve Blaylock, Suite 600, Century Plaza Building, Wichita, Kansas.

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

GENERAL LOCATION: East side of Meridian in an area between 45th Street North and I-235 By-Pass.

LAND USE: Subject property and that to the south and east are undeveloped; north is sand extraction and a farm house; west is a vacant concrete block building, general business, a farm house, and undeveloped.

ZONING: Subject property is zoned the "AA" Single Family Dwelling District and "LC" Light Commercial District. East and south are in the county and zoned the "R-1" Suburban Residential District. To the west is County "R-1" and "LC" and City "AA" Single Family and "LC" Light Commercial. North is County "R-1" Suburban Residential 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 28.04.181.2 can be complied with.

COMMENTS BY THE SECRETARY:

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

Subject property, just recently annexed, was previously denied a conditional use permit for sand extraction by the County Commission on November 10, 1976. The Metropolitan Area Planning Commission had recommended approval of the request subject to several conditions.

This property is a little less than a quarter section in size, approximately 145 acres, immediately south of the applicant's existing sand extraction plant which operates under a County Conditional Use Permit. A residential Community Unit Plan was recently approved on a former sand extraction area on the west side of Meridian now in the City limits of Wichita, (DP-79). The applicant proposes to remove one million tons of

SECRETARY'S REPORT

Case No. BZA 24-77

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dirt and excavate 12 million tons of sand from subject property over a 25 year period. The completed excavation would leave a lake of approximately 61 acres, to be connected to the lake on the present sand plant site and to be redeveloped as a residential development with a small commercial area at the northwest corner of subject property. The Sedgwick County Flood Control Office supports the proposed lake development as an improvement to the storm water system for this area.

The applicant's immediate plans for subject property would be to use the site as a "borrow site" for the removal of dirt and some sand. Otherwise the sand plant operation would not begin on this site until the operations at the present site are completed. The existing sand excavation site to the north was approved for a 15-year period beginning in 1974.

The applicants go into considerable detail of the proposed operation in their statement of justification which is attached for your review. They also have furnished test results of water samples taken from the existing lake north of subject property conducted by an independent laboratory. We are forwarding these to the Environmental Health Division for review and comments. Also provided by the applicants is a petition of consent, reportedly signed by owners of all properties within 1,000 feet of the application area with the exception of the Board of Education and State Highway Department. Signatures for all property owners within 200 feet are shown on the list.

Considerable discussion of the Conditional Use request is included in the Planning Commission of their hearing on this matter and these are also attached for your review and information. The applicant is proposing to remove dirt from outside the confines of the eventual lake that will be created by the sand excavation. He qualifies this by stating that dirt removed outside the lake confines will be replaced by heavier dirt and brought to grade.

RECOMMENDATION:

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

1. The applicant shall dedicate by separate instrument sufficient half-street right-of-way to bring Meridian up to major street standards (50 feet of half-street right-of-way).
2. 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.

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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.

3. 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.
4. 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.
5. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than five horizontal to one vertical.
6. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
7. 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.
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, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation.
9. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
10. 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.
11. 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.
12. 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.
13. The property shall be platted prior to the issuance of any building permits, except those necessary for the sand excavation operation.

SECRETARY'S REPORT

Case No. BZA 24-77

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14. 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 Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.
15. The applicant shall plant deciduous and/or coniferous trees along the southern line of the northwest quarter of Section 30, Township 26, Range 1E to supplement the trees already in existence there, to assist in providing screening from I-235 to the south. Said trees are to be planted in the first planting season after approval of this exception (fall, 1977).
16. The applicant shall submit 4 revised copies of the operational plan to show the minimum depth of 6 feet below water table and to identify the planting area described in condition #15 above.
17. The applicant shall comply with conditions 1, 8, and 16 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.
18. 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.

As stated by the applicants, they believe a time period of 25 years will be necessary to complete operations at this site. This is because the main sand extraction operations would not begin here until operations are completed on the site to the north. The Board may want to consider the time limitation as a condition of approval.

June 15, 1977

James F. Aiken, Director of Environmental Health

Larry Dobson, Assistant Secretary, Board of Zoning Appeals

Proposed Sand Extraction, east side of Meridian, north of
I-235 - Case No. BZA 24-77

Miles Sand Co. has filed a request for a sand extraction exception request to be considered by the Board of Zoning Appeals on June 28, 1977. The property in question lies in the northwest quarter of Section 30, Twp. 26S, Range 1 east, immediately south of the present Miles Sand extraction operation. As part of their submitted information, they have furnished us with a copy of test results taken on samples of water from the existing sand extraction site. I am attaching a copy of these test results for your review and comments and would appreciate your general comments as to the environmental impact of the proposed use on the area.

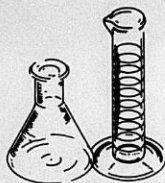
As you may recall, this is the same site that the County Commission denied a Conditional Use Permit for last year. The land has since been annexed and the proposed use now falls within the jurisdiction of the Board of Zoning Appeals. It would be appreciated if you could furnish the Board with any written comments which may be helpful to them in their consideration of this case.

If you have any questions concerning this matter, please call myself or Jack Galbraith.

Larry Dobson
Assistant Secretary
Board of Zoning Appeals

LD:el

Attachment



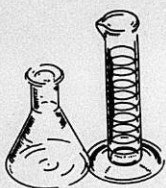
Municipal Laboratory Inc.

2160 W. 21ST ST WICHITA KANSAS
67203

PH. 838-0213

Our laboratory was contracted by Harley Miles to run the following tests on a body of water located 1/4 mile west of 53rd Street North and Meridian on the south side of 53rd Street.

The test results follow.



Municipal Laboratory Inc.

2160 W. 21ST ST. WICHITA KANSAS
67203

PH 838-0213

Name: Harley Miles

Location: 1/4 mile west of 53rd St. N & Meridian,
south side or road

Test Results

Bacteria - Fecal Coliform

Method: Membrane filter technique

Test performed by: Bob Berens

Date: 6-1-77

Location: 1 sample north side of body of water
1 sample south side of body of water

Average number /100 ml = 155

Date: 6-6-77

Location: 1 sample north side of body of water
1 sample south side of body of water

Average number /100 ml = 65

BOD - Biochemical Oxygen Demand

Method: Procedure as described in "Standard Methods for the Examination
of Water and Wastewater", 13th edition.

Test performed by: Stephanie Tucker

Date: 5-31-77

Location: Grab sample

Results: BOD = 11 mg/l

Nitrates

Method: Cadmium reduction method

Test performed by: Bob Berens

Date: 6-1-77, 6-6-77

Location: Grab samples

Results: All samples showed <1.0 mg/l nitrate N.



Municipal Laboratory Inc.

2160 W. 21ST ST. WICHITA KANSAS 67203 PH. 838-0213

Name: Harley Miles

Location: 1/4 mile west of 53rd St. N. & Meridian,
south side of road

Analytical Testing

All methods of sample collection, preservation, and analysis were in accordance with those prescribed in "Standard Methods for the Examination of Water and Wastewater", thirteenth edition.

All persons performing these tests have 4 year college degrees and at least 2 years experience in water testing.

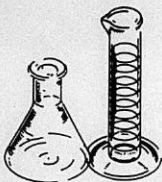
Specific Criteria

Bacteria: The coliform group of bacteria has been the principal indicator of the suitability of a particular water for domestic uses. The State Water Quality Criteria for Class A waters states the geometric mean shall not exceed 200 colonies per 100 ml of sample. Four grab samples were taken on two days for fecal coliform analysis. Our test results show the water in question to be below the limit.

pH: The pH of the samples taken was in the range of 7.2-7.5 which is within the 6.5-8.5 range established by the State Board of Health regulation 28-16-28, Water Quality Criteria.

Oil and Grease: All water was free of visible oil and grease.

BOD: The biochemical oxygen demand (BOD) determination constitutes an empirical test in which standardized laboratory procedures are used to determine the relative oxygen requirements of waters. The BOD of the



Municipal Laboratory Inc.

2160 W. 21ST ST. WICHITA KANSAS 67203 PH. 838-0213

water in question was 11 mg/l. This can be put in proper perspective when compared to the BOD of the Arkansas River which is in the range of 5mg/l - 20 mg/l. State regulations have no mandatory limit on BOD.

Solids: There were no man made deposits of solids, either organic or inorganic. All waters were free of floating debris and scum.

Toxic Substances: The State Department of Health and Environment will test for toxic substances, such as pesticides, only when there is an indication that pesticide contamination has occurred. According to Mike Kayser of the Department of Health and Environment no indication of contamination exists at the water in question.

Nitrates: Nitrates are the most completely oxidized form of nitrogen. High levels of nitrates indicate biological waste in its final stage of stabilization or run-off from fertilized fields. A limit of 45 mg/l nitrate has been imposed on drinking water. Results show the nitrate level to be below 1 mg/l nitrate N.

WOODARD, BLAYLOCK & JOHNSON
ATTORNEYS AT LAW
800 CENTURY PLAZA BLDG.
WICHITA, KANSAS 67202
(316) 263-4950

STATEMENT OF PURPOSED USE

This application for exception is made pursuant the general provisions of 2.12.590 (c), Code of the City of Wichita, Kansas, which specifically grants power to the Board of Zoning Appeals to make exceptions for use of Sand Excavation plants under 28.04.181 (2) of that Code.

The quarter section which is the subject of this application ("proposed site") is to be used for sand excavation and dirt removal operations. The sand and dirt removed will be used in all types of construction projects and approximately 12 million tons of sand will be excavated. All dirt that is removed outside the confines of the lake created by the sand excavation will be replaced by heavier dirt and brought to grade.

The proposed site will be buffered on the North, East and South by 200 foot setback which will be farmed. On the West the buffer will consist of the 60 foot right-of-way for Meridian Avenue. In addition, the applicant plans to grow buffer trees along the property lines.

The proposed site is immediately South of a quarter section upon which the applicant presently operates a sand excavation plant and from which the applicant removes dirt. The present site of the applicants operations and proposed site are separated by a 30 foot wide (one-half) right-of-way for 45th Street North. The applicant has already planted buffer trees along the North property line of the present site and is in the process of planting 1500 trees around the present plant location.

When the applicant's operations at the present site have been completed the applicant's business shall be moved to the proposed site. Prior to that time the applicant will use the proposed site as a "borrow site" and remove some sand and dirt

from it. As previously said, all dirt that is removed from the proposed site outside the lake created by the sand extraction will be replaced by heavier dirt.

Upon completion of the operations of the proposed site there will be a lake of approximately 63 acres which the applicant will have previously connected to the lake on the present site which will eventually cover an approximate 65 acre area. This will facilitate drainage for an area of 2,000 plus acres to the Northwest, for which the applicant has already given a drainage easement, into the lake which exists on the present site. This drainage will flow into the lake on the present site from the Northwest and be retained in that lake and the lake on the proposed site. Overflow will drain to the Southeast through a natural swag, under Interstate Highway 235 through existing culverts, into a drainage ditch and then into the drainage canal. This will raise the water table to a level of three or four feet. Thus, when the operations on the proposed site are completed there will be two lakes tied together covering almost a 130 acres which will facilitate drainage and form a substantial water storage area.

At the present time the applicant is developing the land immediately West of the present site for residential purposes and following this the land to the immediate West of the proposed site will be developed for residential purposes. Then, the present site will be developed followed by the development of the proposed site when operations at that location are completed.

The applicant believes it is necessary to have a permit to so use the proposed site for a period of twenty-five years. The first five years of operation the proposed site will be used as a

*See original
in back of
file for
clear copy*

The next five year period the applicant plans to remove an additional four million tons of sand. The remaining fifteen years the rest of the sand will be removed so that at the end of the twenty-five year period the proposed site will be ready for development.

exc. BCE
State Hwy

WOODARD, BLAYLOCK & JOHNSON
ATTORNEYS AT LAW
600 CENTURY PLAZA BLDG.
WICHITA, KANSAS 67202
(316) 263-4958

CONSENT PETITION

THE UNDERSIGNED, Owners of real property in Sedgwick County, Kansas, by setting forth their signature and address below, consent to the quarter section immediately North of Interstate Highway 235 and East of Meridian Avenue being used as a sand excavation plant and for the purpose of dirt removal.

SIGNATURES

ADDRESS

<u>Edward W. Paul</u>	<u>North west Development</u>
<u>Robert P. H.</u>	<u>President Pleasant Valley Livestock Club, 2954 No. Mainline</u>
<u>Donald A. York</u>	<u>3010 West Central</u>
<u>S. H. Harnsperger</u>	<u>Box 2266 McHale</u>
<u>Mr. Bob Jones</u>	
<u>W. H. Beckman</u>	<u>1901 W. 13TH / WICHITA</u>
<u>WESTWIND DEVELOPMENT, INC.</u>	
<u>Don Beckman</u>	<u>1901 W. 13TH / WICHITA</u>
<u>Wayne Alexander</u>	<u>1836 Mainline</u>
<u>Frank A. Dean</u>	<u>FOURTH FINANCIAL CENTER</u>
<u>Harry B. Scrimin</u>	<u>2829 W 45TH</u>
<u>Herbert N. Sloan</u>	<u>3929 N. Athman</u>
<u>Fred S. Phipps</u>	<u>4118 Regent's Lane</u>
_____	_____
_____	_____

Fourth National Bank & Trust Co., Wichita, Kans. TRUSTEE
OF THE WICHITA TRUSTS
By Frank A. Dean
Assistant Vice President

9 notices sent to agent and/or applicant and adjoining property owners

10 notices sent to MAPC Members

1 notice to CPO

20 total notices sent on BZA 24-77, June 6, 1977

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

June 7, 1977

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 24-77

An application has been filed by Miles Sand, Inc., 4352 N. Meridian, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the extraction of raw materials (fill dirt, 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.

This application has been assigned Case No. BZA 24-77 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 28, 1977, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, either 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.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR EXCEPTION

I. Name of Applicant Miles Sand Inc.

Mailing Address 4852 N. Meridian ⁰⁹ Phone 838-3362

Name of Authorized Agent Lee H. Woodard - Steve Blylock

Mailing Address Suite 600 Century Bldg. Phone 263-4958

Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other).

II. Application is made for an exception as provided in Section
2.12.590.C, Code of the City of Wichita, Kansas, to permit
the establishment of a Sand Excavation plant

_____ on property zoned

annexation?

L.C.- single, located N of I-235 & east of Meridian
Dwelling

_____ and legally described as:

The northwest quarter (NW1/4) of Section 30, T 26 S, R 1 E of the 6th

*see ownership
list for
legal*

P. M. Sedgwick County, Kansas Subject to Highway Right of way.

_____, 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.

Generally located on the east side of Meridian in an area between 4825 St. North and I-235 by pass

Applicant Miles Sand Inc
Steve Blylock

Authorized Agent Lee H. Woodard

OFFICE USE ONLY: Received in the office of the Secretary, Board of Zoning Appeals, 10:00 (a.m.) - p.m., May 27, 19 77, together with appropriate fee of \$50.00

accepted subject to annexation becoming effective before advertising of case. Signed Larry Johnson

WOODARD, BLAIR, LOCK & JOHNSON
ATTORNEYS AT LAW
600 CENTURY PLAZA BLDG.
WICHITA, KANSAS 67202
(316) 263-4958

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The applicant believes it is necessary to have a permit to so use the purposed site for a peridd of twenty-five years. The first five years of operation the proposed site will be used as a borrow site in which it is estimated that one million tons of dirt and one-half million tons of sand will be removed.

The next five year period the applicant plans to remove an additional four million tons of sand. The remaining fifteen years the rest of the sand will be removed so that at the end of the twenty-five year period the proposed site will be ready for development.

OWNERSHIP LIST

Tract	Property Owner
Northwest fractional Quarter of Section 30-26-1E, containing 135.06 Acres according to U. S. Govt. Survey, also described as Lots 5, 6 and 7, and the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 30 and Lot 2 in Section 30 except those portions deeded for Highway	✓ Fourth National Bank & Trust Co A. R. Winzeler and Richard Jones Trustees 100 North Broadway 67202
Beginning at the Northwest corner of the Northeast Quarter of Section 30-26-1E thence South 74 rods, East 80 rods, North 74 rods, West 80 rods to point of beginning except A-39338	✓ Miles Sand Inc. 4852 North Meridian 67204
The South portion of the Northeast fractional Quarter of Section 30-26-1E described as commencing at the Southeast corner of said NE $\frac{1}{4}$, North 86 rods, West 160 rods, South 86 rods, East 160 rods to place of beginning except: Beg. at the SE corner of said NE $\frac{1}{4}$, thence West along the South line of said Quarter section 100 rods; thence North parallel with the East line of said Quarter Section, 86 rods; thence East parallel with the South line of said Quarter Section, 334.1 feet more or less to the West line of Govt. Lot 3, in said Quarter section, thence South along the West line of Govt. Lot 3, 90.6 feet to the Southwest corner of said Lot 3, thence East along the South line of said Lot 3, 1316.5 feet to the Southeast corner of Govt. lot 3, thence South 1315.7 feet to the place of beg, except a tract 660 feet by 330 feet in the SE corner of Govt. Lot 3	✓ Fred S. Pierpoint 4118 Regents 67208
The West Half of the Southeast Quarter of Section 19-26-1E lying South and West of Wichita Valley Center Flood Control project	✓ Moyle Alexander & Marguerite 1436 Salina etal 67203
The Southwest Quarter of Section 19-26-1E	✓ Miles Sand Inc. 4852 North Meridian 67204
The East Half of the Southeast Quarter of Section 24-26-1W	✓ V. Harley Miles & Ro Jean 4852 N. Meridian 67204
The South Half of the East 4 Acres of Lot 9 lying South of the North 18 feet of Govt. Lot 9, Section 25-26-1W	✓ MIBAC Inc. 1901 West 13th Street 67203

Tract

Property Owner

The East 1210 feet of Govt. Lots 1 and 2 in Section 25-26-1W, except the North 18 feet and except the South 771.83 feet of the East 1210 feet of Govt. Lot 2, and except the East 30 feet for Highway

✓ The Northwest Development Corp, Inc.
1901 West 13th Street 67203

The North Half of the East 4 Acres of Lot 9 in Section 25-26-1W lying South of the North 18 feet of said Lot 9

✓ MIBAC Inc., 1901 West 13th Street
67203

A tract beginning at the Northeast corner of Section 25-26-1W, thence West 1054.16 feet, thence South 18 feet, thence East 1054.16 feet, thence North to the point of beginning, subject to a perpetual row and easement granted in Deed 1282-142

✓ Larry T. Ziesenis & Bonnie Lou
2829 West 45th Street North
67204



434 NORTH MAIN
WICHITA, KANSAS 67202
267-8371

The Security Abstract & Title Company, Inc., hereby certifies the foregoing to be a true and correct list of property owners of:

A 200 foot radius of: the Northwest Quarter of Section 30-26-1E except the South 200 feet and except the West 200 feet South of the North line of 42nd Street North extended East and except row for Meridian on the West side of said Northwest Quarter

as shown by the record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 12th day of May, 1977 at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

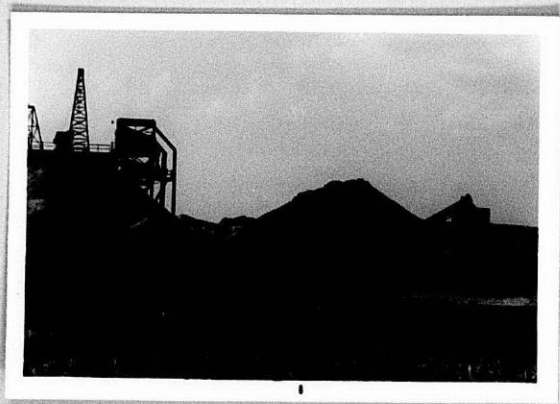
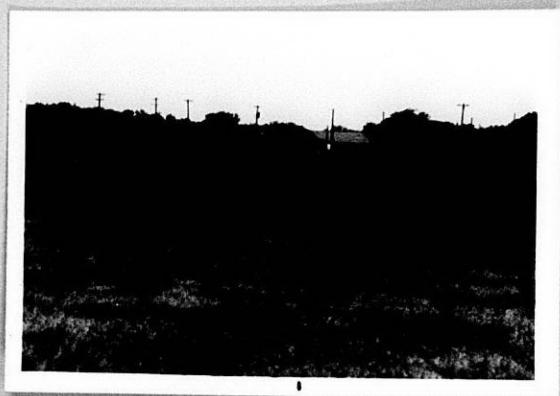
By

A handwritten signature in cursive script that reads 'Mary Gable'.

Vice President

Order No. 250473
wh





FORM 223-021

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION AMOUNT

Name

Address

Type Due Date

Comments:

Date By

*

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