

BZA 54-88 - Edgar & Janice Dwire request
exception to permit extraction of raw
materials (sand) for 36 mo. on prop. zone
"AAA" One-Family Dwelling District gen.
located on the east side of Seneca - no

POSTED 12-29-88
KW

ACTION

B.Z.A. 54-88 Approved 12/20/88
DATE

200 '14 Sec. 3-16-89
Checked LO
Shot 4-13-89
Record ✓

DATA SHEET

MAP NO.: 5452C&D

CASE NO. BZA 54-88

(CPO 5B, 12/7/88)

REQUEST: Exception to permit extraction of raw materials (sand) for a period of 36 months.

EXISTING ZONING: "AA" One-Family Dwelling District

GENERAL LOCATION: On the east side of Seneca, north of I-235 (4130 N. Seneca).

APPLICANTS: Edgar W. & Janice M. Dwire
ADDRESS: 2931 Benjamin
Wichita, KS 67204

PHONE: 265-4248 (W)
838-8377 (H)

AGENT: Lowell D. High, Land Surveyor
ADDRESS: 1542 S. St. Francis
Wichita, KS 67211

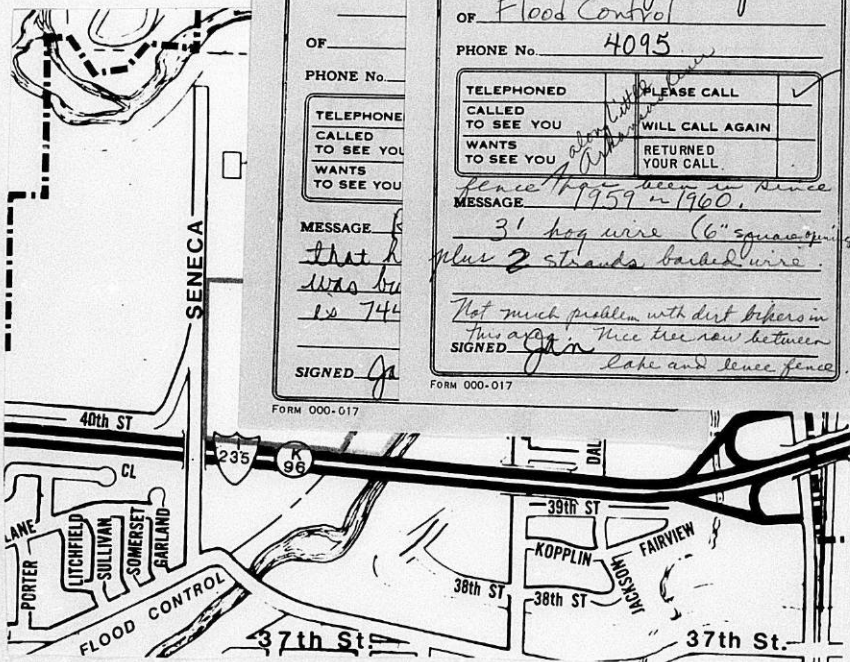
PHONE: 264-0341

AREA DATA

Acres: ~~1,158 ft. by 34.9 ft.~~ 34.9 acres

Adjacent Zoning and Land Use:

North "AA"
South "R-5"
East "AA"
West "C"



IMPORTANT MESSAGE

FOR Louise
DATE 12/15/88 TIME 2:20 A.M. P.M.
WHILE YOU WERE AWAY
Bob Jennings
OF Flood Control
PHONE No. 4095

TELEPHONED	PLEASE CALL
CALL TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RETURNED YOUR CALL.

MESSAGE: Seneca fence has been in since 1959 in 1960.
3' hog wire (6" square openings)
plus 2 strands barbed wire.
Not much problem with dirt bikers in this area. Nice tree now between lake and Seneca fence.
SIGNED Jan

FORM 000-017

HEATING & AIR CONDITIONING
HOBANSON & SONS
U.S.A.

Shiloh
No. 2153C

DATA

MAP NO.: 5452C&D

REQUEST: Exception to permit extra period of 36 months.

EXISTING ZONING: "AA" One-Family

GENERAL LOCATION: On the east side (Seneca).

APPLICANTS: Edgar W. & Janice M. I
ADDRESS: 2931 Benjamin
Wichita, KS 67204

AGENT: Lowell D. High, Land
ADDRESS: 1542 S. St. Francis
Wichita, KS 67211

AREA DATA

Acres: ~~1,158 ft.~~ by ~~34.9 ft.~~ 34

Adjacent Zoning and Land Use:

North "AA"

South "R-5"

East "AA"

West "C"

IMPORTANT MESSAGE

FOR Louise
DATE 12/15/88 TIME 1:47 A.M.
P.M.

WHILE YOU WERE AWAY

Ed Durive

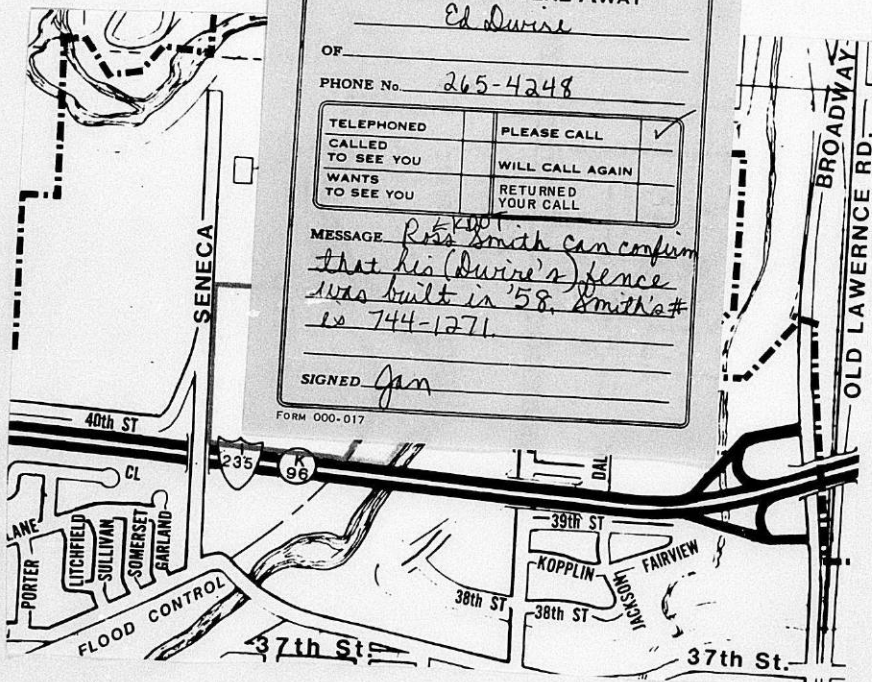
OF _____
PHONE No. 265-4248

TELEPHONED	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	RETURNED YOUR CALL	<input type="checkbox"/>

MESSAGE ^{EX 2001} Ross Smith can confirm that his (Durive's) fence was built in '58. Smith's # is 744-1271.

SIGNED Jan

FORM 000-017



LOG ANGLE 15, CHICAGO LOGAN, OH
ADDRESS 15, U.S.A.

Send
No 2-153C

MAP NO.: 5452C&D

REQUEST: Exception
period of

EXISTING ZONING: "

GENERAL LOCATION: O
S

APPLICANTS: Edgar W
ADDRESS: 2931 Be
Wichita

AGENT: Lowell
ADDRESS: 1542 S.
Wichita

AREA DATA

Acres: 1,158-ft. b

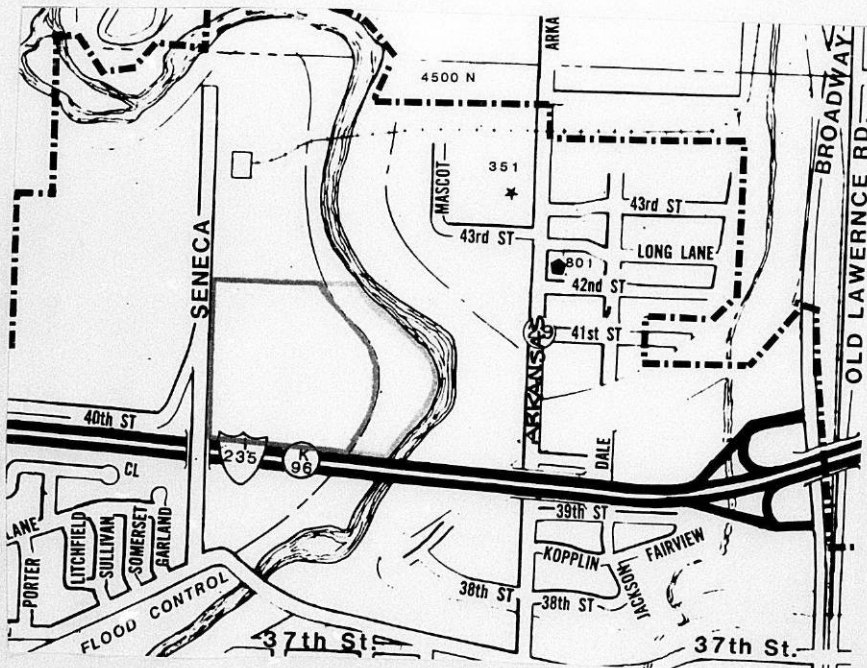
Adjacent Zoning and

North "AA"

South "R-5"

East "AA"

West "C"



Shaw
No. 2-153C
HASTINGS MN
LOS ANGELES CHICAGO LOGAN OH
MEMPHIS ST. LOUIS MOBILE OKLA
PHOENIX PORTLAND RICHMOND VA
SAN ANTONIO TAMPA WASHINGTON
U.S.A.

BZA INSPECTION SHEET

MAP NO.: 5452 C&D

CASE NO. BZA 54-88

REQUEST: Exception to permit the extraction of raw materials (sand) for a period of 36 months.

EXISTING ZONING: "AA" One-Family Dwelling District

GENERAL LOCATION: On the east side of Seneca, north of I-235 (4130 N. Seneca).

APPLICANTS: Edgar W. & Janice M. Dwire
ADDRESS: 2931 Benjamin
Wichita, KS 67204

PHONE: 265-4248 (W)
838-8377 (H)

AGENT: Lowell D. High, Land Surveyor
ADDRESS: 1542 S. St. Francis
Wichita, KS 67211

PHONE: 264-0341

HEARING DATE: 12/20/88

BZA ACTION: *Approved subject to various development conditions and submission of restrictive covenant and revised site plan within 30 days (Jan. 19, 1989). Sand extraction to be completed by 12-31-91. Final site grading within 90 days after cessation of sand extraction; removal of watchman's mobile phone within 30 days after final grading.*

FOLLOW-UP DATES: *MAPD - Jan. 19, 1989*

C.I.D. — *check fencing prior to sand extraction; make sure operation complies with all conditions; check site after operation ceases.*

RESPONSE BY MAPD: *Covenant and revised plans submitted 1-18-89*

RESPONSE BY CID:



METROPOLITAN AREA PLANNING
DEPARTMENT
CITY HALL - TENTH FLOOR
435 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4551

January 19, 1989

Edgar & Janice Dwire
2931 Benjamin
Wichita, KS, 67204

Re: BZA 54-88 - Exception to permit the extraction of raw materials (sand) for a period of 36 months, located on the east side of Seneca, north of I-235 (4130 N. Seneca).

Dear Mr. & Mrs. Dwire:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on December 20, 1988. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files now that conditions 1 and 14 have been completed.

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

Sincerely,

Louise Olivarez
Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Lowell D. High, Land Surveyor, 1542 S. St. Francis, Wichita,
KS 67211
Monty Robson, Superintendent of Central Inspection
Joe Donnelly, Zoning Administrator, CID
Dale Rea, Deputy City Clerk

FILE COPY

BZA RESOLUTION NO. 54-88

WHEREAS, Edgar W. and Janice M. Dwire, pursuant to Section 2.12.590.C, Code of the City of Wichita, request an exception to permit the temporary extraction of raw materials (sand) on property zoned the "AA" One-Family Dwelling District and legally described as follows:

SW/4 NW/4 Section 29, Township 26 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, lying west of the Wichita-Valley Center Flood Control right-of-way, except the north 1,000 feet thereof, and except the west 50 feet for street; AND

NW/4 SW/4 29-26S-1E except highway r.o.w. and except that part platted as Sherwood Village Addition; AND

NE/4 SW/4 29-26S-1E lying west of the Wichita-Valley Center Flood Control r.o.w., except highway r.o.w. Generally located on the east side of Seneca, north of I-235.

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 20, 1988, 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 temporary extraction of raw materials (sand) on property zoned the "AA" One-Family Dwelling District, subject to the conditions outlined in Section 28.04.181.2, Code of the City of Wichita.

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

SW/4 NW/4 Section 29, Township 26 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, lying west of the Wichita-Valley Center Flood Control right-of-way, except the north 1,000 feet thereof, and except the west 50 feet for street; AND

NW/4 SW/4 29-26S-1E except highway r.o.w. and except that part platted as Sherwood Village Addition; AND

NE/4 SW/4 29-26S-1E lying west of the Wichita-Valley Center Flood Control r.o.w., except highway r.o.w. Generally located on the east side of Seneca, north of I-235.

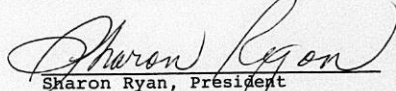
subject to the following conditions:

1. Within 30 days following Board of Zoning Appeals approval and prior to the release of the resolution, the applicants shall submit a restrictive covenant, to be recorded with the Register of Deeds, providing that no foreign matter, such as rubbish, trees, car bodies, asphaltic concrete mix, building rubble or other trash, shall be deposited on the application area or within the lake.

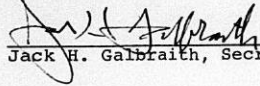
2. Fencing shall be provided in accordance with the requirements of Section 5.34 of the City Code prior to any additional sand extraction occurring on this site.
3. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
4. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than three horizontal to one vertical.
5. No part of the sand extraction operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of the north and east property lines or within 100 feet of the south and west property lines.
6. The sand extraction operation shall cease no later than December 31, 1991, unless the Board of Zoning Appeals grants an extension of time after proper notification and hearing.
7. Within 90 days following expiration of this use exception or cessation of the sand extraction operation, whichever occurs first, all equipment used in the operation, as well as all stockpiled material, shall be removed from the site and the site final graded to prepare it for residential development. All slopes shall be planted or seeded with a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
8. A watchman's mobile home residence may occupy the property for as long as this use exception is valid. Within 30 days after final grading of this site, the mobile home shall be removed from the premises.
9. The applicants shall be responsible for maintaining all operational roads on site in a graveled condition to minimize blowing dust.
10. All the application area outside of the lake shall be graded so as to drain into the lake or as approved on the grading and drainage plan associated with the plat of Shark's Nest Addition.
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.
12. 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.
13. 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.
14. Within 30 days following Board of Zoning Appeals approval and prior to the release of the resolution, the applicant shall submit 4 copies of a revised site plan which has the following information:
 1. location of existing and proposed new fence;
 2. location of the night watchman's mobile home;
 3. location of the proposed equipment shed;
 4. access road into the site and approximate location of operational roads on site;
 5. setbacks from perimeter boundaries as required by the Board.

BZA Resolution No. 54-88
Page 3

ADOPTED AT WICHITA, KANSAS, this 20th day of December, 1988.


Sharon Ryan, President

ATTEST:


Jack H. Galbraith, Secretary

RESTRICTIVE COVENANT

The undersigned, Edgar Wm. Dwire and Janice M. Dwire, husband and wife, being owners of the following described real property covered by Board of Zoning Appeals 54-88 do hereby impose upon said property to-wit:

SW/4 NW/4 Section 29, Township 26 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, lying west of the Wichita-Valley Center Flood Control right-of-way, except the north 1,000 feet thereof, and except the west 50 feet for street; AND

NW/4 SW/4 29-26S-1E except highway r.o.w. and except that part platted as Sherwood Village Addition; AND

NE/4 SW/4 29-26S-1E lying west of the Wichita-Valley Center Flood Control r.o.w., except highway r.o.w. Generally located on the east side of Seneca, north of I-235

MICROFILMED
OF RECORD

a covenant to run with the land as follows:

1. No foreign matter, including but without limitation to, rubbish, trees, car bodies, new asphaltic concrete mix, and building rubble or other trash shall be deposited on the above described real property or within any sand pit excavation thereon.

STATE OF KANSAS }
SEDGWICK COUNTY } ss
FILED FOR RECORD AT
10:00 AM

Dec 23 1988 0987074

PAT KETTLER
REGISTER OF DEEDS

*Ed Dwire
County*

Bank stabilization and fill materials shall include sidewalk pavement, concrete pavement, concrete pavement with asphaltic concrete overlays, and asphaltic concrete pavement. All asphaltic concrete materials shall have aged sufficiently so that the water soluble pollutants have dissipated. In no instance will asphaltic concrete exceed 15% of the total materials used. Reinforcing materials protruding in excess of 12 inches shall not be permitted. Materials used for final grade shall have reinforcing materials clipped as close to flush as possible.

The covenant herein contained shall be binding upon the undersigned, their successors in interest and assigns. The said covenant may be enforced in any appropriate action in any Court having jurisdiction thereof by the City of Wichita, the County of Sedgwick or any member of the public in whose favor and for whose benefit this covenant is made.

IN WITNESS WHEREOF we have hereunto set our hands this 23rd day of December, 1988.

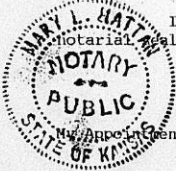
Edgar Wm. Dwire
Edgar Wm. Dwire

Janice M. Dwire
Janice M. Dwire

STATE OF KANSAS, COUNTY OF SEDGWICK) ss:

BE IT REMEMBERED, that on this 23rd day of Dec, 1988 before me, the undersigned, a notary public, in and for the County and State aforesaid, came Edgar Wm. Dwire and Janice M. Dwire who are personally known to me to be the same persons who executed the foregoing instrument of writing, and such persons duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial Seal, the date and year last above written.



My Commission Expires: Feb. 24, 1992

Mary L. Nattaw
Notary Public
Mary L. Nattaw

Edgar Wm. Dwire
Janice M. Dwire
1988

WICHITA SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

December 20, 1988

Edgar & Janice Dwire
2931 Benjamin
Wichita, KS 67204

Re: BZA 54-88 - Exception to permit extraction of raw materials (sand) for a period of 36 months on the east side of Seneca, north of I-235 (4130 N. Seneca).

Dear Mr. and Mrs. Dwire:

At the regular meeting of the Board of Zoning Appeals on December 20, 1988, your request for an exception to permit extraction of raw materials (sand) for a period of 36 months was considered. It was the action of the Board to grant the request, subject to the following conditions:

1. Within 30 days following Board of Zoning Appeals approval and prior to the release of the resolution, the applicants shall submit a restrictive covenant, to be recorded with the Register of Deeds, providing that no foreign matter, such as rubbish, trees, car bodies, asphaltic concrete mix, building rubble or other trash, shall be deposited on the application area or within the lake.
2. Fencing shall be provided in accordance with the requirements of Section 5.34 of the City Code prior to any additional sand extraction occurring on this site.
3. 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.
4. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than three horizontal to one vertical.
5. No part of the sand extraction operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of the north and east property lines or within 100 feet of the south and west property lines.

*recorded copy
received
1-18-89*

FILE COPY

Edgar & Janice Dwire
Page 2

6. The sand extraction operation shall cease no later than December 31, 1991, unless the Board of Zoning Appeals grants an extension of time after proper notification and hearing.
7. Within 90 days following expiration of this use exception or cessation of the sand extraction operation, whichever occurs first, all equipment used in the operation, as well as all stockpiled material, shall be removed from the site and the site final graded to prepare it for residential development. All slopes shall be planted or seeded with a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
8. A watchman's mobile home residence may occupy the property for as long as this use exception is valid. Within 30 days after final grading of this site, the mobile home shall be removed from the premises.
9. The applicants shall be responsible for maintaining all operational roads on site in a graveled condition to minimize blowing dust.
10. All the application area outside of the lake shall be graded so as to drain into the lake or as approved on the grading and drainage plan associated with the plat of Shark's Nest Addition.
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.
12. 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.
13. 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.
14. Within 30 days following Board of Zoning Appeals approval and prior to the release of the resolution, the applicant shall submit 4 copies of a revised site plan which has the following information:

*received
1-18-89*

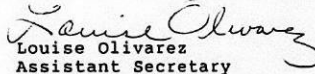
Edgar & Janice Dwire
Page 3

1. location of existing and proposed new fence;
2. location of the night watchman's mobile home;
3. location of the proposed equipment shed;
4. access road into the site and approximate location of operational roads on site;
5. setbacks from perimeter boundaries as required by the Board.

The resolution setting forth the official action of the Board will be released upon compliance with conditions 1 & 14. Please take special note that these items shall be submitted within 30 days of this date, or by January 19, 1989.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions, please call our office.

Sincerely yours,


Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

LO:jcm

cc: Lowell D.High, 1542 S. St. Francis, Wichita, KS, 67211
Monty Robson, Superintendent of Central Inspection
Joe Donnelly, Zoning Administrator, CID
Dale Rea, Deputy City Clerk

REASONS FOR APPROVING BZA 54-88

The conditions of approval as set out in Section 28.04.181.2 of the Zoning Ordinance are found to exist.

The character of the immediate neighborhood is either undeveloped or consists of flood control and highway right-of-way to the extent that a 3-year use of subject site for sand extraction should not be detrimental to adjacent properties.

The zoning and uses of developed properties nearby are for the most part either commercial or are public rights-of-way for flood control and highway purposes.

The property is suitable for sand extraction because a shallow lake, created by a former borrow operation, exists on the site and is in need of deepening so that a cleaner body of water can be maintained.

The granting of the exception will ultimately benefit nearby property and the general public because a cleaner lake will be created as a result of this sand extraction.

There will be no impact on community facilities other than the use of public roads by sand trucks for a maximum period of three years.

The CPO Council for this area and the Planning staff have recommended approval of this exception.

THE CITY OF WICHITA

TO: Louise Olivarez, Principal Planner

DATE: December 13, 1988

FROM: Stanley J. Scott, CP Coordinator *Stan Scott*

SUBJECT: BZA 54-88: East Side of Seneca,
North of I-235

On Wednesday, December 7, 1988, CPO Northwest Neighborhood Council 5A considered the captioned case, a request for a zoning exception to permit the extraction of raw materials (sand) for a period of 36 months on property zoned the "AA" One-Family Dwelling District. Council members were provided the notice of public hearing, map of the area, site plan, and MAPD staff comments. Following discussion, the Council voted 8-0 (one abstaining) to recommend that the zoning exception be granted subject to MAPD staff comments.

Edgar W. Dwire, 2931 Benjamin (applicant), appeared before the Council to describe the request and respond to questions from the Council and area residents. Mr. Dwire explained that he is attempting to improve this property by planting trees and providing landscaping. He explained that a zoning exception is required for the removal and sale of sand from the property.

One area resident, Larry Foley (1109 Summitlawn), appeared before the Council to express several concerns regarding the request. Mr. Foley's concerns included the effect of dust and dirt from Mr. Dwire's project upon adjoining properties. Mr. Foley explained that he plans to construct baseball diamonds and other athletic fields for the handicapped on property adjacent to Mr. Dwire's property. He explained that dust could impair the breathing and mobility of handicapped users of his facility. In response, Mr. Dwire assured Mr. Foley and the Council that precautions would be taken to prevent excessive dust.

Please provide the Council's recommendation to the Board of Zoning Appeals when BZA 54-88 is considered on Tuesday, December 20, 1988.

SJS

RECEIVED

DEC 13 1988

METROPOLITAN PLANNING

ROUTE

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. _____

December 20, 1988

SECRETARY'S REPORT

CASE NUMBER: BZA 54-88

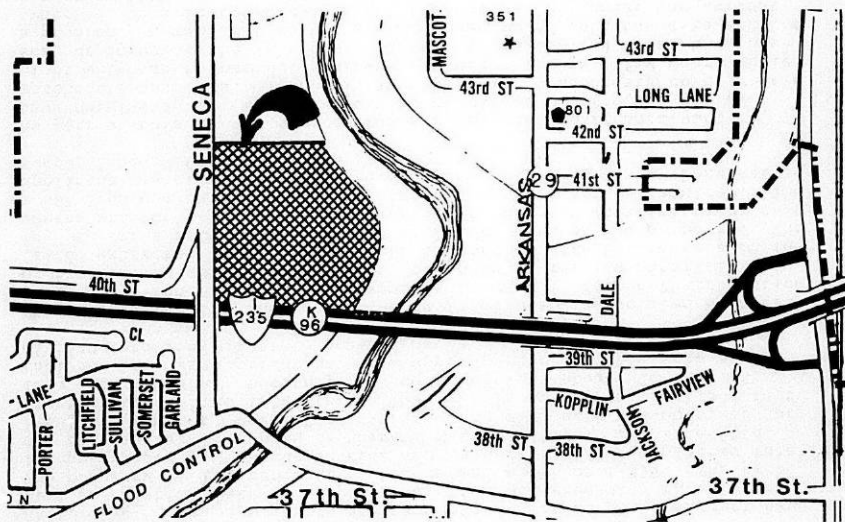
OWNER/APPLICANT/AGENT: Edgar & Janice Dwire (owners/applicants)
Lowell High, land surveyor (agent)

REQUEST: Exception to permit the extraction of raw materials (sand).

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 34.9 acres

LOCATION: East side of Seneca, north of I-235.



JURISDICTION: The Board has jurisdiction to consider this request under the provisions outlined in 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.

BACKGROUND: The applicants are requesting permission to extract sand from an existing lake for a period of time not exceeding three years. The property is located east of Seneca and north of I-235. The site is approximately 35 acres in size and is currently being platted into one residential lot known as Shark's Nest Addition. The lake is a result of a prior "borrow" operation where fill dirt was obtained for construction of the interstate. The lake is approximately 1,800 feet long (north/south), but only the south portion (about 900 feet) is included in this application. The upper portions of the lake are divided into four separate ownerships.

The lake is shallow and has a history of problems associated with cattails and stagnant water. The applicants wish to deepen their portion of the lake to approximately 20 feet. Much of the raw materials (sand) extracted from the lake will be used on site to create a building pad for a future house and to fill low spots on the property. The excess will be sold, and it is because of this raw material sales that a BZA land use exception in the residential district is required. The applicant has estimated that the proposed deepening of the lake can be accomplished within three years.

As part of this land use exception request, the applicants want to have permission for a mobile home to be placed on site for use as a watchman's quarters. The applicants feel it is necessary to provide a night watchman to protect equipment. During the past few years while some dredging of the lake has occurred, vandalism and theft have been a problem. A mobile home has already been moved onto the site and the owner has been informed by Central Inspection that under the current situation ("AA" zoning and no recorded plat), a mobile home is not permitted here. The applicants also want to be able to build a pole barn at the north end of their property to store equipment, parts and tools (hi loader, dump truck with blade, irrigation pump, and irrigation pipe).

This application is somewhat different from most sand extraction requests in that a lake already exists. The lake will be deepened but, according to the application, will not be expanded outward. Most sand extraction operations are required to slope the banks no steeper than 5:1 (about a 12° slope) in order to provide for bank stabilization and future development around the lake. This applicant indicates a desire to create 30° to 45° slopes (approximately 2:1 and 1:1 ratios). The banks currently range from about 3.5:1 to 15:1. Since the redevelopment proposal is for only one residential building site, some increase in the steepness of the banks may be acceptable, but it is recommended that they not be permitted too steep in order that stability and ease of maintenance can be provided.

The only access to the site is from the west off of Seneca. A fence already exists adjacent to the interstate highway on the south and adjacent to the levee on the east.

Prior to release of a resolution authorizing the temporary use of this site for sand extraction, the applicants should be required to submit four copies of a revised site plan with the following information:

1. location of existing and proposed new fence;
2. location of the night watchman's mobile home;
3. location of the proposed equipment shed;
4. access road into the site and approximate location of operational roads on site;
5. setbacks from perimeter boundaries as required by the Board.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	Undeveloped
SOUTH	"R-5"	Highway
EAST	"AA"	Little Arkansas River and flood control levee
WEST	"C"	Softball diamonds and truck driving training grounds

RECOMMENDATION: Should the Board determine that a sand extraction operation is appropriate at this location, it is recommended that the exception be approved, subject to the following conditions:

1. Within 30 days following Board of Zoning Appeals approval and prior to the release of the resolution, the applicants shall submit a restrictive covenant, to be recorded with the Register of Deeds, providing that no foreign matter, such as rubbish, trees, car bodies, asphaltic concrete mix, building rubble or other trash, shall be deposited on the application area or within the lake.
2. For those portions of the perimeter of the excavation area where fencing does not presently exist, fencing shall be constructed in accordance with the requirements of Section 5.34 of the City Code prior to any additional sand extraction occurring on this site.
3. 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.
4. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than three horizontal to one vertical.
5. No part of the sand extraction operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of the north and east property lines or within 100 feet of the south and west property lines.
6. The sand extraction operation shall cease no later than December 31, 1991, unless the Board of Zoning Appeals grants an extension of time after proper notification and hearing.

7. Within 90 days following expiration of this use exception or cessation of the sand extraction operation, whichever occurs first, all equipment used in the operation, as well as all stockpiled material, shall be removed from the site and the site final graded to prepare it for residential development. All slopes shall be planted or seeded with a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
8. A watchman's mobile home residence may occupy the property for as long as this use exception is valid. Within 30 days after final grading of this site, the mobile home shall be removed from the premises.
9. The applicants shall be responsible for maintaining all operational roads on site in a graveled condition to minimize blowing dust.
10. All the application area outside of the lake shall be graded so as to drain into the lake or as approved on the grading and drainage plan associated with the plat of Shark's Nest Addition.
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.
12. 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.
13. 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.
14. Within 30 days following Board of Zoning Appeals approval and prior to the release of the resolution, the applicant shall submit 4 copies of a revised site plan which has the following information:
 1. location of existing and proposed new fence;
 2. location of the night watchman's mobile home;
 3. location of the proposed equipment shed;
 4. access road into the site and approximate location of operational roads on site;
 5. setbacks from perimeter boundaries as required by the Board.

BZA CASE NO. 54-88

- 15 LEGAL ADVERTISEMENTS SENT TO MAPC & BZA
- 2 NOTICES SENT TO APPLICANT/AGENT
- 5 NOTICES SENT TO ADJOINING PROPERTY OWNERS
- 5 NOTICES SENT TO BZA MEMBERS

NOTICES SENT 11/29/88

- 1 NOTICE SENT TO CPO
- 2 NOTICES SENT TO CITY MANAGER & CITY COUNCIL REPRESENTATIVE TO DISTRICT
- 5 NOTICES TO MAPD STAFF -

Jack Galbraith
Louise Olivarez
Bob Young
Forrest Nagley
Karen Crook

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

November 28, 1988
CASE NO. BZA 54-88

NOTICE OF PUBLIC HEARING:

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 Edgar & Janice Dwire, requesting an exception.

Pursuant to Section 2.12.590.C, Code of the City of Wichita, the applicant is requesting an exception to permit the extraction of raw materials (sand) for a period of 36 months on property zoned the "AA" One-Family Dwelling District. A legal description of the applicant's property is as follows:

SW/4 NW/4 Section 29, Township 26 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, lying west of the Wichita-Valley Center Flood Control right-of-way, except the north 1,000 feet thereof, and except the west 50 feet for street; AND

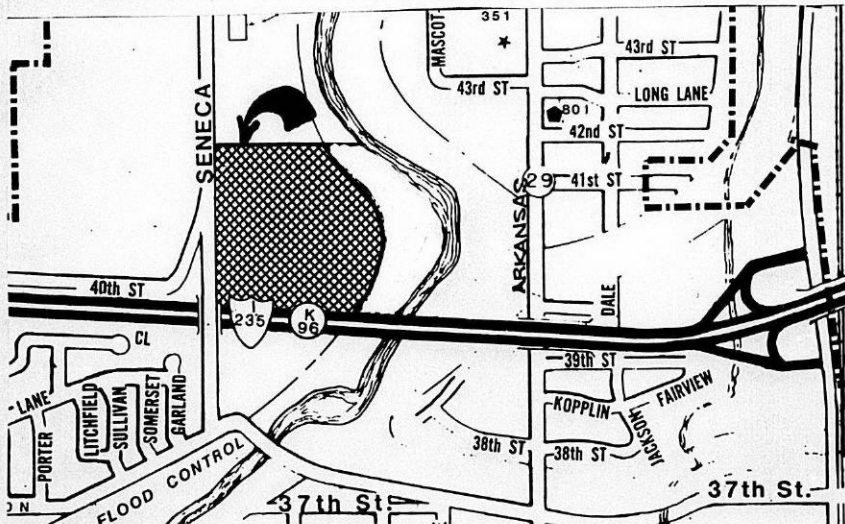
NW/4 SW/4 29-26S-1E except highway r.o.w. and except that part platted as Sherwood Village Addition; AND

NE/4 SW/4 29-26S-1E lying west of the Wichita-Valley Center Flood Control r.o.w., except highway r.o.w. Generally located on the east side of Seneca, north of I-235.

This application has been assigned Case No. BZA 54-88. It will be considered by the Board of Zoning Appeals on Tuesday, December 20, 1988, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main, Wichita, Kansas. If you have no interest in or objections to 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.

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

NOTE: We have been advised by the Citizen Participation Organization staff that CPO Northwest Neighborhood Council "5B" will consider this case at their meeting to be held on Wednesday, December 7, 1988, at 7:15 p.m. at the Orchard Community Center, 4808 West 9th Street. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.



(_____) Published in The Daily Reporter, 11/29/88

OFFICIAL NOTICE

NOTICE IS HEREBY given that on the 20th day of December, 1988, the Board of Zoning Appeals of the City of Wichita, Kansas, meeting in the Board Room, First Floor, City Hall, 455 N. Main, Wichita, Kansas, will consider the following applications beginning at 1:30 p.m.

1. Case No. BZA 54-88 - Edgar W. & Janice M. Dwire, pursuant to Section 2.12.590.C, Code of the City of Wichita, request an exception to permit the extraction of raw materials (sand) for a period of 36 months on property zoned the "AA" One-Family Dwelling District and legally described as follows:

SW/4 NW/4 Section 29, Township 26 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, lying west of the Wichita-Valley Center Flood Control right-of-way, except the north 1,000 feet thereof, and except the west 50 feet for street; AND

NW/4 SW/4 29-26S-1E except highway r.o.w. and except that part platted as Sherwood Village Addition; AND

NE/4 SW/4 29-26S-1E lying west of the Wichita-Valley Center Flood Control r.o.w., except highway r.o.w. Generally located on the east side of Seneca, north of I-235.

2. Case No. BZA 55-88 - Jack R. Hunt, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to increase the height of a pole sign from 40 feet to 55 feet on property zoned the "E" Light Industrial and "LC" Light Commercial Districts and legally described as follows:

Lots 2, 3, 4 and 5 of Parkway Addition to Wichita, Kansas; except the west 15 feet of the north 136.53 feet and the west 10 feet of the south 60.2 feet of said Lot 2. Generally located at the northeast corner of West Street and Kellogg Drive.

As provided in City Ordinances hereinabove described and Section 2.12.560 et. seq., Code of the City of Wichita, Sedgwick County, Kansas, the same will then and there be discussed and considered by the said Board of Zoning Appeals and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the exceptions and the variances will be considered by the Board of Zoning Appeals as by law provided.

WITNESS my hand and seal this 29th day of November, 1988.

Jack Galbraith, Secretary
Board of Zoning Appeals

EXHIBIT "A"

28.04.181-2.1(a) Request a special permit for the extradition of raw material (sand) from 4130 ~~South~~ North Seneca, Sharks Nest Addition to Wichita for 36 months commencing January 1, 1989.

Plot Plan.

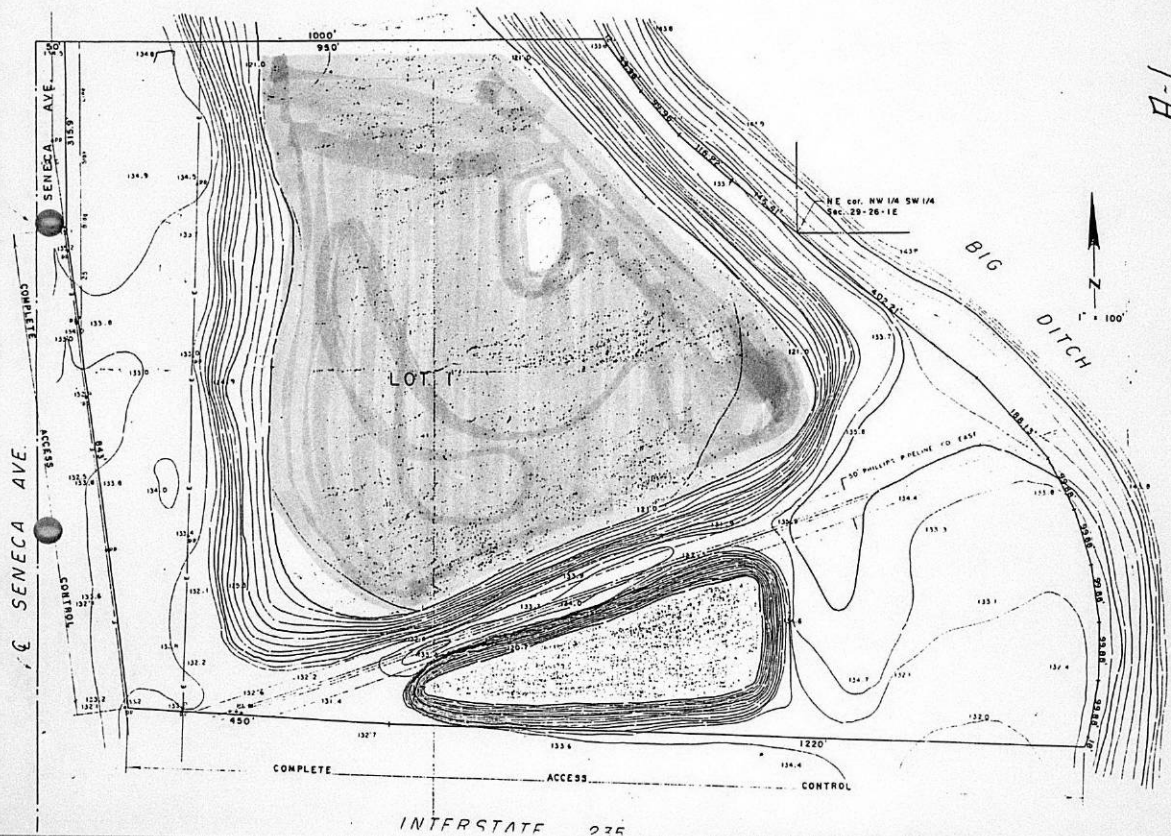
1. Blue area of Exhibit (1) shall be excavated to approximately 20 feet.
2. The banks will be sloped at 45 degrees to 30 degrees.
3. Roads will be gravel.
4. Surface grading will not be altered.
5. Circulation will not be changed, but will be improved.

would it be filled?

20%

*1376 M.S.L. or 138.6 City datum
Hdq grad required*

"UNPLATTED"



A-1

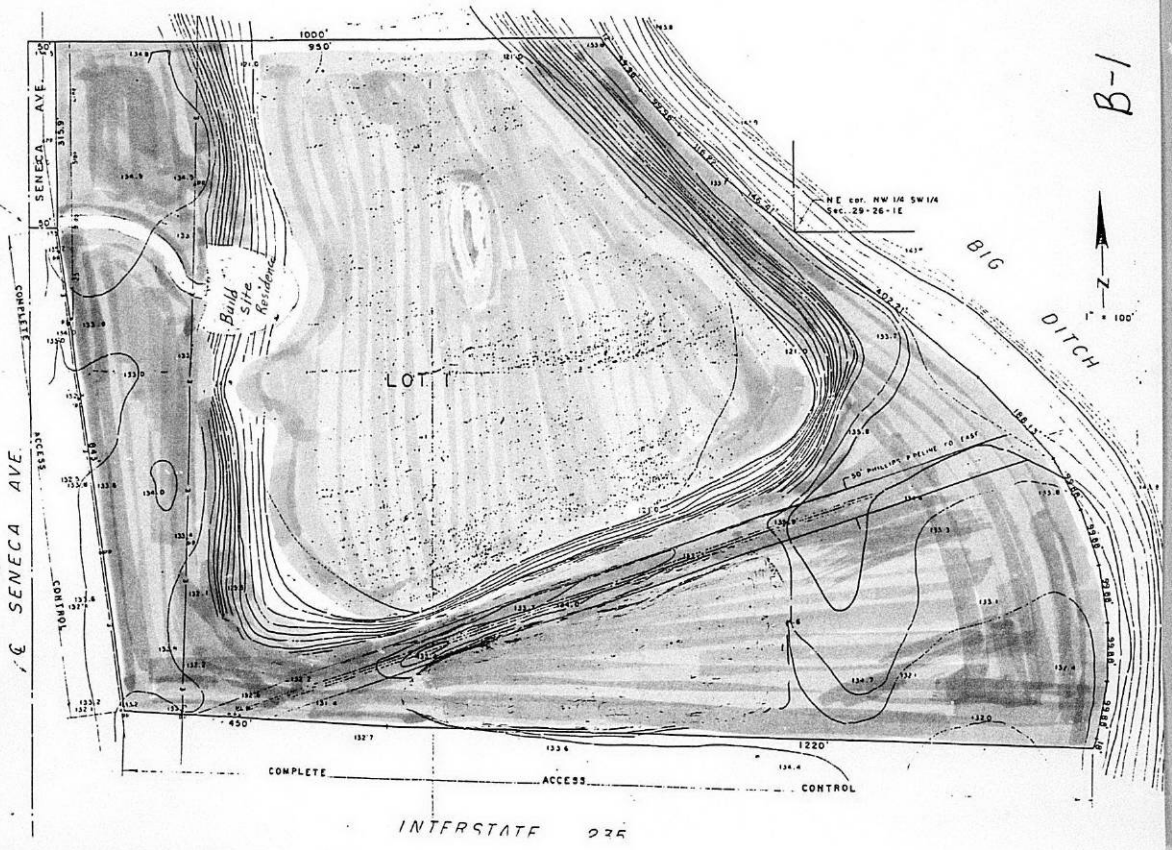
INTERSTATE 275

EXHIBIT "B"

29.04.181-2.1(b) REDEVELOPMENT PLAN

1. Reuse of the property will be residential.
2. Only one residence is planned.
3. Construction is not planned till 1992.
4. Tree planting and landscaping will be planned and completed as the material is moved.

"UNPLATTED"



INTERSTATE 235

B-1

EXHIBIT "C"

18.04.181-2.1(c) USE OF MATERIAL

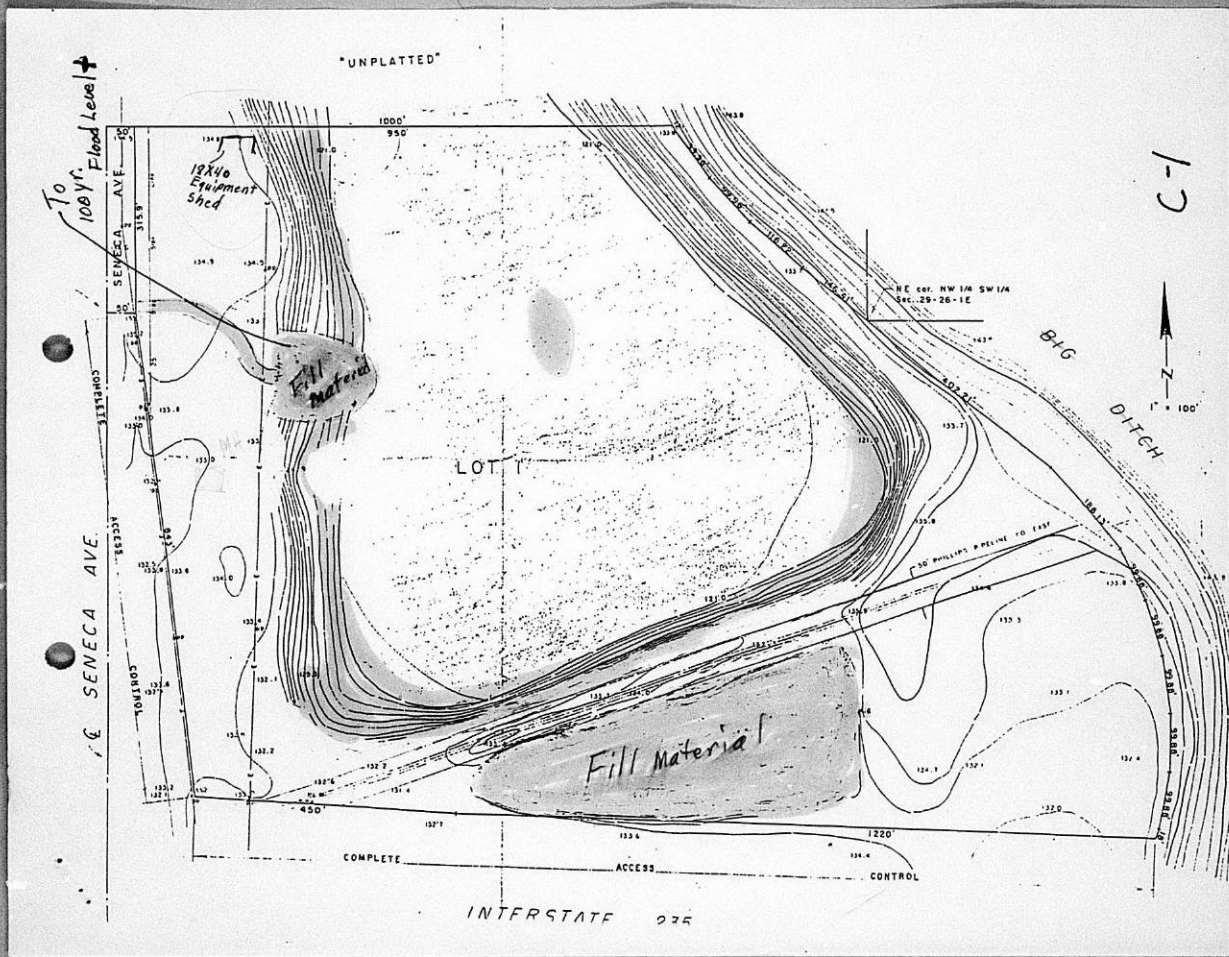
1. Material pumped would be used as follows:

- a. Fill hole between Interstate 235 and the Phillips pipe line.
- b. Resloping and landscaping banks on the West, South and East banks.
- c. Placing an island in the center of the water area.
- d. Raise selected residential building area to level specified by City.
- e. Extra sand would be sold.
- f. Want to place a temporary trailer on premises for watchman purposes during sand pumping. (During last 4 years we have had stolen a rototiller, power sprayer, 16 foot aluminum boat and tools, and vandalism of other equipment.
- g. Want to build a 3 sided pole barn with an enclosed area for storage at the ~~south~~ end of the property to store equipment, parts and tools. (hi loader, dump truck with blade, irrigation pump, irrigation pipe)

*identify
on site plan*

*more specifically
where*

*temporary or
permanent?*



APPLICATION FOR EXCEPTION

I. Applicant Edgar Wm. Dwire and Janice M. Dwire 265-4248 office
Address 2931 Benjamin, Wichita, Ks. Zip Code 67204 Phone 838-8377 Residence
Agent Lowell D. High, Land Surveyor
Address 1542 South St. Francis Zip Code 67211 Phone 264-0341
Relationship of applicant to property is that of owner
(Owner, Tenant, Lessee, Other)

II. Application is made for an exception to permit the establishment of temporary permit for extraction of raw materials (sand) for a period of thirty-six months.

on property zoned "AA" one family dwelling district which is 1158 ft by 1600 ft (or 34.9 acres) in size, legally described as:
Part of west 1/2 of southwest quarter, Section 29-26 South, 1 East,
Sedgwick County, Kansas. *see attached legal*

and located (4130 N. Seneca) Wichita, Kansas ~~on~~ the east side of Seneca
in an area North of I-235.
in the City of Wichita.

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - 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. 39-285); and that the appropriate fee is herewith tendered;
 - 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.
 - That all documents are attached hereto as noted in paragraphs 2, 3, and 4 of the instructions.

Applicant *Edgar Wm. Dwire*
Edgar Wm. Dwire
Authorized Agent Lowell D. High

OFFICE USE ONLY:

Map No. 5452C.D Zoning: (N) AA (S) R-5 (E) AA (W) C ^{W/DP-84} CPO 5B 12-7
Received in Office of Secretary, Board of Zoning Appeals, 11-21, 1988, together with appropriate fee of 376.00 (a.m./p.m.).

Signed *Louise Olving*

~~The SW/4 of the NW/4 of Section 29, Town~~

Legal

SW/4 NW/4 Sect^r 29, T26S^{South}, R1E^{East} of the 6th Principal Meridian, Sedgwick County, Kansas, lying west of the Wichita Valley Center Flood Control right-of-way, except the north 1000 feet thereof; ^{AND} the west 50 ft. of street

NW/4 SW/4 29-26S-1E except highway r.o.w. and except that part platted as Sherwood Village Addition; ^{AND}

NE/4 SW/4 29-26S-1E lying west ofst the Wichita Valley Center Flood Control r.o.w., except highway r.o.w.

will need
pictures of
BZA
sheet
card

Map 5452 C+D

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) §
SEDGWICK COUNTY)

*received
11-22-88*

The undersigned duly bonded and qualified Abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the Office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

RECORD OWNERS WITHIN A 200 FOOT RADIUS OF:

See Exhibit "A" and exceptions on Exhibit "B".

And from such examination find that the owners thereof are as set out below: (Addresses as given are furnished as a service and not certified.)

<u>RECORD OWNERS</u>	<u>DESCRIPTION</u>
<i>copy</i> Edgar William Dwire and Janice M. Dwire P. O. Box 2082 Wichita, Kansas 67201	See Exhibit "A" and exceptions on Exhibit "B".
Donald D. Vaughn II and Sherry L. Kendall 901 Nims Wichita, Kansas 67203	The S/2 of the S 485' of the N 1000' of the SW/4 of the NW/4 of Sec. 29-T26S-R1E of the 6th P.M., Sedgwick County, Kansas, lying West of the Wichita-Valley Center Flood Control right-of-way.
Kansas Gas and Electric Company 120 E. 1st Wichita, Kansas 67202	Government Lot 6 in the NW/4 of Sec. 29-T26S-R1E of the 6th P.M., Sedgwick County, Kansas.
Dukes Diamonds, Inc., a Kansas corporation 4121 N. Seneca Wichita, Kansas 67204	Lot 1, DUKES DIAMONDS ADDITION to Wichita, Sedgwick County, Kansas.
Innovare Development Corporation 2224 Columbine Wichita, Kansas 67204	Lot 1, SHERWOOD VILLAGE ADDITION, Wichita, Sedgwick County, Kansas.
Board of Education of Wichita, Kansas 217 N. Water Wichita, Kansas 67202	Beg. @ the SE corner of the NE/4 of Sec. 30-T26S-R1E of the 6th P.M., Sedgwick County, Kansas, W 100 rods; N 86 rods; E 334.1 feet; S 90.6 feet; E 1316.5 feet; S 1315.7 feet to POB; EXCEPT beg. @ the SE corner of Gov. Lot 3, W 660 feet; S 330 feet; E 660 feet; N 330 feet to the POB.

DATED at Wichita, Kansas, this 21st day of November, 1988 at 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

By Michael S. [Signature]
Assistant Vice President

EXHIBIT "A"

Beginning at the Northwest corner of the Southwest Quarter of the Northwest Quarter of Section 29, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, thence South along the West line of the Southwest Quarter of the Northwest Quarter of said Section 29 a distance of 1315.93 feet to the Southwest corner of the Northwest Quarter of said Section 29, thence East along the South line of the Northwest Quarter of said Section 29 a distance of 1330.0 feet more or less to the Southeast corner of the Southwest Quarter of the Northwest Quarter of said Section 29, said point being also in the West line of the Wichita-Valley Center Flood Control right-of-way; thence Northerly along the Westerly line of the Wichita-Valley Center Flood Control right-of-way as follows: N 51° 34' W a distance of 146.41 feet; thence N 48° 19' W a distance of 116.22 feet; thence N 42° 18' W a distance of 99.96 feet; thence N 36° 45' W a distance of 99.96 feet; thence N 31° 11' W a distance of 99.96 feet; thence N 25° 37' W a distance of 99.96 feet; thence N 20° 3' W a distance of 99.96 feet; thence N 14° 30' W a distance of 99.96 feet; thence N 8° 56' W a distance of 99.96 feet; thence N 3° 22' W a distance of 99.96 feet; thence N 2° 53' E a distance of 124.73 feet; thence N 6° 21' E a distance of 317.85 feet to a point in the North line of the Southwest Quarter of the Northwest Quarter of said Section 29; thence West along the North line of the Southwest Quarter of the Northwest Quarter of said Section 29, a distance of 874.0 feet more or less to the point of beginning; and,

Beginning at a point in the East line of the Northwest Quarter of the Southwest Quarter of Section 29, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, and 431.9 feet North of the Southeast corner of the Northwest Quarter of the Southwest Quarter of said Section 29; thence Westerly 723.9 feet to a point 723.3 feet West and 461.7 feet North of the Southeast corner of the Northwest Quarter of the Southwest Quarter of said Section 29; thence West 450.0 feet to a point 835.3 feet South and 157.4 feet East of the Northwest corner of the Southwest Quarter of said Section 29; thence Northwesterly to a point in the North line of the Southwest Quarter of said Section 29, and 50 feet East of the Northwest corner of the Southwest Quarter of said Section 29; thence Easterly along the North line of the Southwest Quarter of said Section 29 a distance of 1280.0 feet more or less to the Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 29; thence South along the East line of the Northwest Quarter of the Southwest Quarter of said Section 29 a distance of 890.0 feet more or less to the point of beginning; and,

Beginning at the Southwest corner of said Northeast Quarter of the Southwest Quarter of Section 29, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence N 89° 54' E along the South line of said Northeast Quarter of the Southwest Quarter 61.15 feet; thence N 60° 34' E 194.23 feet; thence N 52° 38' E 162.5 feet; thence N 39° 50' E 99.88 feet; thence N 30° 06' E 99.88 feet; thence N 20° 22' E 99.88 feet; thence N 10° 38' E 99.88 feet; thence N 0° 54' E 99.88 feet; thence N 8° 50' W 99.88 feet; thence N 18° 34' W 99.88 feet; thence N 28° 18' W 99.88 feet; thence N 42° 22' W 188.13 feet; thence N 51° 34' W 402.21 feet to the West line of said Northeast Quarter of the Southwest Quarter; thence South 1319.8 feet along said West line to the place of beginning;

EXCEPT four (4) tracts as shown on Exhibit "B".

Handwritten note:
This is all the exception in Exhibit B. It should be N 51° 34' W a distance of 146.41 feet; N 48° 19' W a distance of 116.22 feet; N 42° 18' W a distance of 99.96 feet; N 36° 45' W a distance of 99.96 feet; N 31° 11' W a distance of 99.96 feet; N 25° 37' W a distance of 99.96 feet; N 20° 3' W a distance of 99.96 feet; N 14° 30' W a distance of 99.96 feet; N 8° 56' W a distance of 99.96 feet; N 3° 22' W a distance of 99.96 feet; N 2° 53' E a distance of 124.73 feet; N 6° 21' E a distance of 317.85 feet to a point in the North line of the Southwest Quarter of the Northwest Quarter of said Section 29; thence West along the North line of the Southwest Quarter of the Northwest Quarter of said Section 29, a distance of 874.0 feet more or less to the point of beginning; and,

Handwritten note:
N 51° 34' W a distance of 146.41 feet; N 48° 19' W a distance of 116.22 feet; N 42° 18' W a distance of 99.96 feet; N 36° 45' W a distance of 99.96 feet; N 31° 11' W a distance of 99.96 feet; N 25° 37' W a distance of 99.96 feet; N 20° 3' W a distance of 99.96 feet; N 14° 30' W a distance of 99.96 feet; N 8° 56' W a distance of 99.96 feet; N 3° 22' W a distance of 99.96 feet; N 2° 53' E a distance of 124.73 feet; N 6° 21' E a distance of 317.85 feet to a point in the North line of the Southwest Quarter of the Northwest Quarter of said Section 29; thence West along the North line of the Southwest Quarter of the Northwest Quarter of said Section 29, a distance of 874.0 feet more or less to the point of beginning; and,

Handwritten note:
This includes I 235 road. Said road being used as the east line of said Northeast Quarter of the Southwest Quarter of said Section 29.

EXHIBIT "B"

EXCEPTIONS TO LEGALS SHOWN ON EXHIBIT "A".

- (1) The North 257.50 feet of that part of the Southwest Quarter of the Northwest Quarter of Section 29, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying West of the Wichita-Valley Center Flood Control right-of-way.
- (2) The South half of the South 485 feet of the North 1000 feet of that part of the Southwest Quarter of the Northwest Quarter of Section 29, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying West of the Wichita-Valley Center Flood Control right-of-way.
- (3) The North half of the South 485 feet of the North 1000 feet of that part of the Southwest Quarter of the Northwest Quarter of Section 29, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying West of the Wichita-Valley Center Flood Control right-of-way.
- (4) Lot 1, PILAND LAKE ADDITION, Wichita, Sedgwick County, Kansas.

Malone Dwire and Jones
Attorneys at Law

P.O. BOX 2082 - 305 WEST CENTRAL
WICHITA, KANSAS 67201
(316) 265-4248

EDGAR WM. DWIRE
WARREN G. JONES
—
MICHAEL V. MADDEN

COUNSEL
E. L. IPATI MALONE

March 27, 1987

R. Sparkman
Dept. of Housing
& Economic Development
Central Inspection Division
455 N. Main
Wichita, Kansas 67202

AA

RE: 4202 N. Seneca

Dear Sir:

I am in receipt of your notice regarding an alleged violation at 4202 N. Seneca.

The trailer house located on that property is there to store tools and equipment for continued development of the project, and for the storing of some feed for the horses that currently graze the property.

During the last couple of years, even though no trespassing signs are posted, we have had over \$1,500 worth of property stolen from that area, which included a boat, a sprayer, rototiller, numerous hand tools, etc.

If you are acquainted with that property, you would know that five years ago it was completely infested with cattails, birds and muskrats, and created an annual stinch problem. Since that time, we have killed a very substantial amount of the cattails, causing birds to leave, and trapped the muskrats, eliminating the stinch. We hope in the future to deepen the water area by pumping the sand, and landscaping the bank areas.

Two years ago, we planted approximately 300 trees on the premises, virtually all of which have died. Since you have apparently been over the property, you would have noticed that we now have an irrigation pipe on the premises. It is our intent to again plant a large number of trees, only this time, encourage their survival by irrigating.

needs location permit

The trailer unit was placed on the property in lieu of building a building to store materials, which we would be wanting to tear down in a couple of years, when we had the basic development done. If we are in violation, then any building project in town that has a moveable unit on it is also in violation of the City Ordinances.

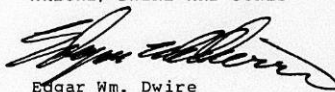
March 27, 1987
page 2

Our development of the area has been slow, but consistent,
and we hope to continue to improve the area, and do not feel we
are in violation of the terms of this ordinance.

Thank you for your consideration in this matter.

Very truly yours,

MALONE, DWIRE AND JONES

A handwritten signature in cursive script, appearing to read "Edgar Wm. Dwire".

Edgar Wm. Dwire

EWD:bb

NR 00450

METROPOLITAN AREA PLANNING DEPARTMENT

Description City BZA case
Name Edgar Durie
Address 2731 Benjamin 67204
Fund No. (circle one) 755-40710-003 (fees) 755-40710-004
(books, xerox) 755-40710-026 (microfilm)
Amount 310⁰⁰
Date 11-21-88 Due Date 11-21-88 By LL

Form 00-000

NR 00451

METROPOLITAN AREA PLANNING DEPARTMENT

Description 2 BZA signs
Name Edgar Durie
Address 2731 Benjamin 67204
Fund No. (circle one) 755-40710-003 (fees) 755-40710-004
(books, xerox) 755-40710-026 (microfilm)
Amount 6⁰⁰
Date 11-21-88 Due Date 11-21-88 By LL

Form 00-000

*

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

Roll # 3