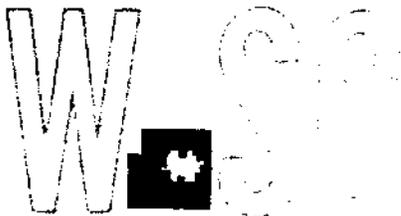


WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1888
(316) 268-4561

October 11, 1990

Bill Bachman
1901 W. 13th St.
Wichita, KS 67203

Re: BZA 10-90 - Exception to permit sand and gravel extraction on property zoned the "AA" One-Family Dwelling District, located on the west side of Meridian in an area north of Keywest.

Dear Mr. Bachman:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on June 26, 1990. 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, 2, 3 and 8 have been completed.

Please note the other conditions of approval as set forth in the resolution, such as the fencing requirements, hours of operation, etc. I am enclosing a copy of the approved operational plan for this extraction. In accordance with condition #10, the plan shall be posted in the sand extraction office on the site.

If you have questions concerning this matter, please call me at 268-4421.

Sincerely,


Louise Olivarez, Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

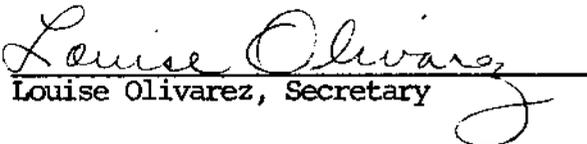
cc: Kenny Hill, Poe & Associates, 434 N. Oliver, 67208
Paul Hays, CID
Lance Flowers, CID
Pat Burnett, Deputy City Clerk

14. Stockpiling of sand and/or gravel shall be limited to the two areas identified on the approved plan.
15. Concrete and asphalt mixing plants, contractor storage yards and commercial recreational activities, such as boating, fishing, skiing, etc. shall not be permitted in the area unless duly authorized under provisions of the City Zoning Ordinance and amendments thereto.
16. All slopes shall have covering consisting of a perennial growth which will permit the establishment of sod cover to help prevent erosion.
17. To minimize blowing soil in this area, overburden shall not be removed more than one year in advance of the lake being expanded into an area, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of grasses which will permit the establishment of sod cover to help prevent erosion.
18. All sand and gravel extraction shall be completed within three years from Board of Zoning Appeals approval of this use exception. Within 60 days after completion of the sand extraction in any one phase of this operation, all stockpiled sand and/or gravel and all sand pumping and related equipment shall be removed from that portion of the site, and the land around the lake shall be graded in accordance with the grading and drainage plan approved for the associated plat.
19. Failure to comply with the requirements as set forth by the BZA shall cause this use exception to become null and void.

ADOPTED AT WICHITA, KANSAS, this 26th day of June, 1990.


Keith Alter, President

ATTEST:


Louise Olivarez, Secretary

BZA RESOLUTION NO. 10-90

WHEREAS, Bill Bachman, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit sand and gravel extraction on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Beginning at the northeast corner of the Southeast Quarter of Section 24, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence S 0°00'30" E on the east line of the Southeast Quarter of said Section 24 to the northeast corner of The Moorings Addition; thence S 89°05'30" W on the north line of Keywest for a distance of 2,961.68 feet more or less to the northwest corner of The Moorings 4th Addition; thence N 0°54'30" W for a distance of 80.24 feet; thence N 23°30'00" W for a distance of 254.24 feet; thence S 66°30'00" W for a distance of 485.00 feet; thence N 38°45'06" W for a distance of 65.62 feet; thence N 32°30'00" E for a distance of 160.00 feet; thence N 62°30'00" E for a distance of 210.00 feet; thence S 64°30'00" E for a distance of 118.50 feet; thence N 66°30'00" E for a distance of 82.39 feet; thence N 23°30'00" W for a distance of 280.00 feet; thence N 24°58'53" E for a distance of 149.51 feet; thence N 89°05'30" E for a distance of 3,143.84 feet to a point on the east line of the Northeast Quarter of said Section 24; thence S 0°00'30" E to the point of beginning. Generally located on the west side of Meridian in an area north of Keywest.

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 26, 1990, 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 sand and gravel extraction on property zoned the "AA" One-Family Dwelling District, subject to the conditions outlined in Section 28.04.181, 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 sand and gravel extraction on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Beginning at the northeast corner of the Southeast Quarter of Section 24, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence S 0°00'30" E on the east line of the Southeast Quarter of said Section 24 to the northeast corner of The Moorings Addition; thence S 89°05'30" W on the north line of Keywest for a distance of 2,961.68 feet more or less to the northwest corner of The Moorings 4th Addition; thence N 0°54'30" W for a distance of 80.24 feet; thence N 23°30'00" W for a distance of 254.24 feet; thence S 66°30'00" W for a distance of 485.00 feet; thence N 38°45'06" W for a distance of 65.62 feet; thence N 32°30'00" E for a distance of 160.00 feet; thence N 62°30'00" E for a distance of 210.00 feet; thence S 64°30'00" E for a distance of 118.50 feet; thence N 66°30'00" E for a distance of 82.39 feet; thence N 23°30'00" W for a distance of 280.00 feet; thence N 24°58'53" E for a distance of 149.51 feet; thence N 89°05'30" E for a distance of 3,143.84 feet to a point on the east line of the Northeast Quarter of said Section 24; thence S 0°00'30" E to the point of beginning. Generally located on the west side of Meridian in an area north of Keywest

subject to the following conditions:

1. As some of the proposed excavation is within 1,000 feet of a flood protection structure, the applicant shall obtain a permit from the County Engineer. This permit is required by K.S.A. 19-3309 and shall be obtained within 90 days following approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception.

2. The applicant shall submit a restrictive covenant to the Secretary, approved as to content by the City-County Flood Control Office and as to form by the City Attorney. The covenant shall provide for the construction and maintenance of a loop levee or berm on the premises at such a location as the Flood Control Office may direct in accordance with construction specifications Sections 1 through 4, inclusive, and maintenance specifications Sections 1 and 2 of Construction and Maintenance Specifications, as prepared by the City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors or assigns. This covenant shall be submitted to the Secretary within 90 days following approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception. (Note: Minimum pad elevations required for the residential lots will function as this berm or levee.)
3. Within 90 days following Board of Zoning Appeals approval and prior to release of the resolution authorizing this use exception, the applicant shall submit a restrictive covenant 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.
4. Fencing shall be installed in accordance with Chapter 5.34 of the City Code.
5. With the exceptions of the area near Meridian where the lake adjoins the proposed under-road drainage structure and the area at the northeasterly edge of the Portwest cul-de-sac, excavation shall not occur closer to existing or proposed street right-of-way than 50 feet. This condition will necessitate some revision of the proposed east and south boundaries of the easternmost lake.
6. The earth and sand shall be extracted to at least a minimum depth of 6 feet below the normal water table, as determined by the City-County Health Department.
7. To provide for bank stabilization and safety of future uses, the side slopes of the lakes shall be no more steep than 5 horizontal to 1 vertical.
8. In accordance with the approved drainage plan for this 86-lot residential development, the applicant shall submit a covenant satisfactory in form to the City Attorney and City Engineer which authorizes the use of the extraction areas as detention storage facilities for public drainage purposes. This covenant shall be submitted within 90 days following approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception.
9. The extraction of sand and gravel on this site shall proceed in accordance with the plan approved by the BZA. The perimeter of the lakes shall conform to the approximate sizes and shapes indicated on the approved plan, taking note of condition #5 above. The islands within the lakes may also be excavated at the developer's option.
10. In order to assist in the enforcement of the operational plan for this extraction, the applicant shall have a copy of the approved operational plan posted in the sand extraction office. The plan is labeled "Drainage and Grading Plan - The Moorings 5th Addition - Revised 6-14-90".
11. The applicant shall maintain the existing hedgerow along Keywest until such time that development of the interior streets and utilities necessitates its removal.
12. Hours of operation for any sand extraction equipment, including the haul trucks, shall be limited to between 7 a.m. and 6 p.m. Mondays through Saturdays.
13. The existing farmhouse road along the north side of the property shall be used as the haul road for the removal of sand and gravel extracted from this site. The road may be extended west as needed. The road shall be maintained in a sanded or graveled condition so as to minimize blowing soil. Keywest Street shall NOT be used as a haul road for this sand extraction operation.

18. All sand and gravel extraction shall be completed within three years from Board of Zoning Appeals approval of this use exception. Within 60 days after completion of the sand extraction in any one phase of this operation, all stockpiled sand and/or gravel and all sand pumping and related equipment shall be removed from that portion of the site, and the land around the lake shall be graded in accordance with the grading and drainage plan approved for the associated plat.
19. Failure to comply with the requirements as set forth by the BZA shall cause this use exception to become null and void.

June 26, 1990

SECRETARY'S REPORT

CASE NUMBER: BZA 10-90

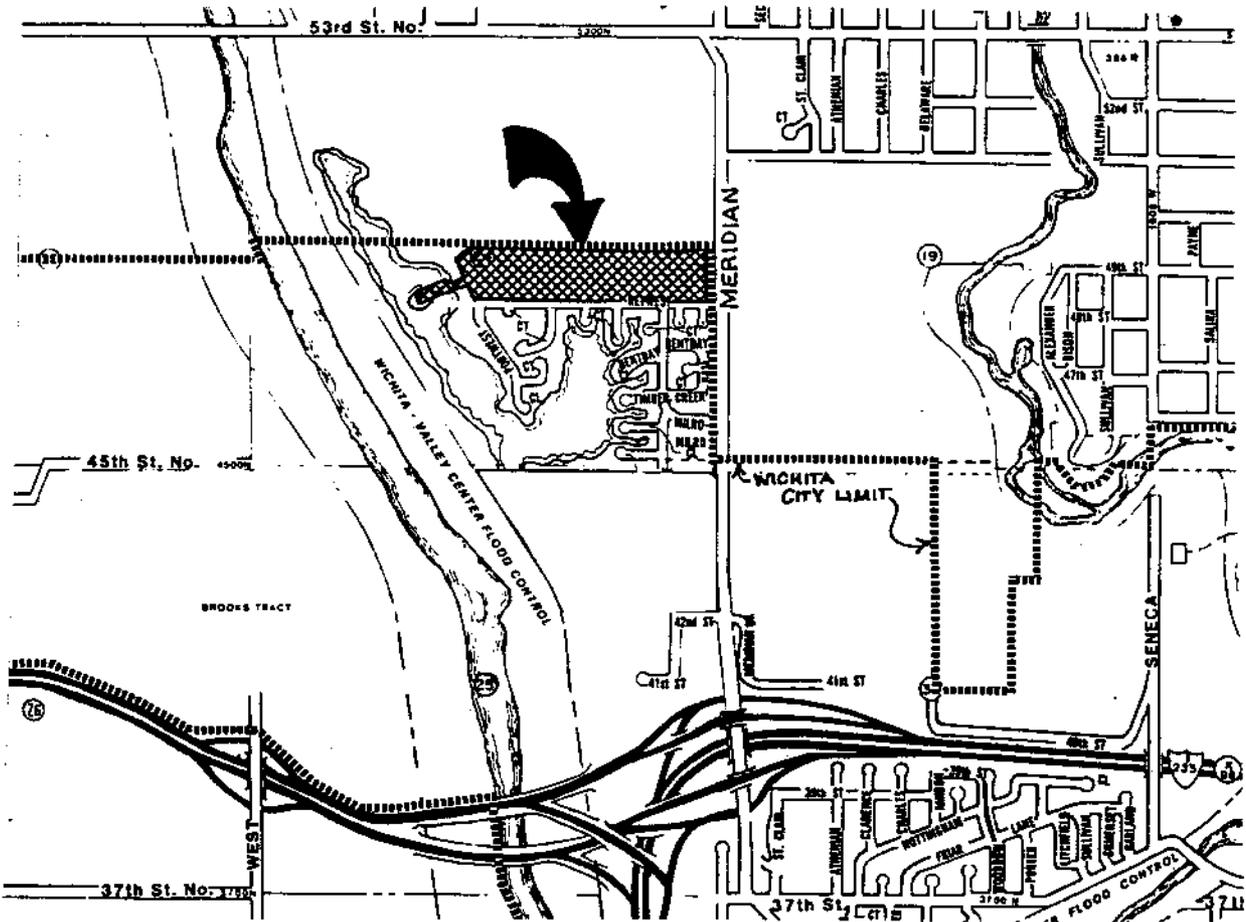
OWNER/APPLICANT/AGENT: C. Bill Bachman (applicant)
MIBAC, Inc. & Charlotte B. Gsell Revocable
Living Trust (owner)
Kenny Hill, Poe & Associates (agent)

REQUEST: Exception to permit sand & gravel extraction

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 57 acres(±)

LOCATION: West side of Meridian in an area north of
Keywest.



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 can be complied with.

BACKGROUND: The applicant is in the process of platting The Moorings 5th Addition, an 86-lot single-family residential subdivision. Crystal Lake is to be expanded into the area in order to create waterfront lots and to handle the drainage which comes through and from this area. Five hundred thousand cubic yards of sand and gravel are expected to be removed in order to create three lakes to a minimum depth of 12 feet. Sand extraction will begin on the west and move eastward. Interior streets and utilities will be installed in phases as the extraction operation moves eastward. It is expected that three years will be needed to complete the sand extraction operation. The applicant has indicated that an existing farmhouse road along the north property line will be used as the haul road for the sand trucks, rather than Keywest. Some stockpiling of sand and gravel will occur at the locations designated on the plan.

Land to the north of this application area is owned by this applicant and is proposed for similar waterfront residential development at a future time. Due to this fact, the usual restriction against excavating within 50 feet of the property lines adjoining other private property has not been included as one of the conditions of approval for this case. The use exception provisions of the zoning ordinance suggest that excavation not be encouraged to be nearer than 100 feet to the proposed right-of-way line of any public street. Inasmuch as the plat and the drainage plan have already been recommended for approval as shown on the plan submitted with this application, the Secretary recommends that only a 50-foot setback be required adjacent to streets and that there be two exceptions even to this setback (see recommended condition #5) in order to accommodate the proposed drainage for this subdivision.

It is acknowledged that about 300 feet of channel must be excavated northwest of the application area boundary in order to connect Crystal Lake with the lakes proposed within The Moorings 5th Addition. That 300-foot area is within the County and outside the jurisdiction of the Board of Zoning Appeals, but with the inclusion of recommended condition #1 (permit from County Engineer), this channel construction will be acceptable without the need for a County conditional use permit.

ADJACENT ZONING AND LAND USE:

NORTH	"R-1"	Undeveloped
SOUTH	"AA" w/DP-78	One- & two-family dwellings
EAST	"R-1" w/CU-333	Sand extraction operation
WEST	"AA"	Lake, levee & river

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

1. As some of the proposed excavation is within 1,000 feet of a flood protection structure, the applicant shall obtain a permit from the County Engineer. This permit is required by K.S.A. 19-3309 and shall be obtained within 90 days following approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception.
2. The applicant shall submit a restrictive covenant to the Secretary, approved as to content by the City-County Flood Control Office and as to form by the City Attorney. The covenant shall provide for the construction and maintenance of a loop levee or berm on the premises at such a location as the Flood Control Office may direct in accordance with construction specifications Sections 1 through 4, inclusive, and maintenance specifications Sections 1 and 2 of Construction and Maintenance Specifications, as prepared by the City-County Flood Control Office. Said covenant shall run with the land and be binding on all owners, successors or assigns. This covenant shall be submitted to the Secretary within 90 days following approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception. (Note: Minimum pad elevations required for the residential lots will function as this berm or levee.)
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4. Fencing shall be installed in accordance with Chapter 5.34 of the City Code.
5. With the exceptions of the area near Meridian where the lake adjoins the proposed under-road drainage structure and the area at the northeasterly edge of the Portwest cul-de-sac, excavation shall not occur closer to existing or proposed street right-of-way than 50 feet. This condition will necessitate some revision of the proposed east and south boundaries of the easternmost lake.
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8. In accordance with the approved drainage plan for this 86-lot residential development, the applicant shall submit a covenant satisfactory in form to the City Attorney and City Engineer which authorizes the use of the extraction areas as detention storage facilities for public drainage purposes.
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14. Stockpiling of sand and/or gravel shall be limited to the two areas identified on the approved plan.
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