Wichita-Sedgwick County Metropolitan Area Planning Department

February 5, 2021

Michael Bryan Simpson
PO Box 12644
Wichita KS 67277

RE: **CON2020-00039** - County Conditional Use for a rock crushing operation in Limited Industrial Zoning, Generally located 1000 feet South of West MacArthur Road and within one-half mile west of South West Street on the east side of the Mitch Mitchell Floodway (4806 West MacArthur).

Dear Applicants:

At its regular meeting on **February 4, 2021**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the following conditions:

Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

A. The activity will be limited to the hours of 7:00 a.m. to 6:00 p.m.
B. The site shall be developed and operated in conformance with the approved site plan and all applicable codes to include but not limited to zoning, building, fire and environmental regulations. All rock crushing operations and material storage shall take place within the designated site plan area, unless an adjusted site plan is approved by the Director of Planning.
C. Prior to rock crushing operations, the applicant (or applicant's hired rock crushing company) shall get an air permit from KDHE to operate in the State of Kansas and that the equipment will be subject to EPA Regulation 40 CFR 60, Subpart 000 NSPS for Nonmetallic Mineral Processing Plants.
D. Rock crushing operations on the site shall not create dust which travels on to surrounding properties.
E. All vehicular drives on the site, work and parking areas shall be surfaced with an all-weather material, which may include crushed rock, to minimize dust on the site. A water truck will be kept onsite to be used to control dust.
F. Access to the site will be from the current drive located on West MacArthur Road.
G. All conditions shall be met or the Conditional Use shall be null and void.
H. If the Zoning Administrator finds that there is a violation of any of the provisions or conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Property owners opposed to the application may file with the City Clerk signed written protest of the MAPC's recommendation. (Unsigned e-mails are not considered to be legal protests.) To be effective, the protest must be filed by 5:00 p.m. on **February 18, 2016.** In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially located within 1,000 feet of the property for which the application was filed, and must be submitted to the County Clerk by **February 18, 2011 at 5:00 p.m.**

If there are not any protests, the MAPC's approval is final. If there are protests, this application will be presented to the Wichita City on **March 16, 2021, beginning at 9:00 a.m.** The Wichita City Council meeting will be held "Virtually".

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Kathy L Morgan

Kathy L. Morgan, Senior Planner
Current Plans Division

Copies to: MABCD
Jeff Blubaugh, Council Member District IV
Rebecca Fields, CSR, District IV

CONDITIONAL USE RESOLUTION NO. CON2020-00039

WHEREAS, Michael Bryan Simpson, Owner; pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests County Conditional Use to allow a rock crushing/recycling operation on LI Limited Industrial Zoning described as:

That part of the Northwest Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying East of the East line of the Wichita-Valley Center Flood Control (Condemnation Case: A-30410); including the vacated portions of lots, blocks, alleys and streets in vacated portions of lots, blocks and streets in vacated Diamond Addition, Oatville, Sedgwick County, Kansas; also including the abandoned Missouri Pacific Railroad right-of-way of MacArthur Road. Said parcel more particularly described as follows: Commencing at the Northeast Corner of the Northwest Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence S 00° 07'40" E along the East line of said Northwest Quarter, a distance of 60.00 feet to the Point of Beginning; thence continuing S 00° 07'40" E along the East line, a distance of 1628.36 feet to a point on the East line of Wichita-Valley Center Flood Control (Condemnation Case: A-30410); thence N 16° 25'28" W along said East line of Wichita-Valley Center Flood Control, a distance of 356.21 feet; thence N 16° 47'04" W along said East line, a distance of 86.94 feet; thence N 15° 36'04" W along said East line, a distance of 488.76 feet; thence N 14° 20'04" W along said East line, a distance of 488.85 feet; thence N 13° 12'37" W along said East line, a distance of 235.58 feet to a point on the Southerly right-of-way of MacArthur (Film 0774, Page 0943); thence N 90° 00'00" E along said right-of-way, a distance of 48.06 feet; thence N 00° 00'00" E along said right-of-way, a distance of 20.00 feet; thence N 90° 00'00" E along said right-of-way, a distance of 80.00 feet; thence N 84° 17'22" E along said right-of-way, a distance of 100.50 feet; thence N 90° 00'00" E along said right-of-way, a distance of 200.49 feet to the Point of Beginning.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of February 4, 2021, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved County Conditional Use to allow a rock crushing/recycling operation on "LI" Limited Industrial Zoning described as:

That part of the Northwest Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying East of the East line of the Wichita-Valley Center Flood Control (Condemnation Case: A-30410); including the vacated portions of lots, blocks, alleys and streets in vacated portions of lots, blocks and streets in vacated Diamond Addition, Oatville, Sedgwick County, Kansas; also including the abandoned Missouri Pacific Railroad right-of-way of MacArthur Road. Said parcel more particularly described as follows: Commencing at the Northeast Corner of the Northwest Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence S 00° 07'40" E along the East line of said Northwest Quarter, a distance of 60.00 feet to the Point of Beginning; thence continuing S 00° 07'40" E along the East line, a distance of 1628.36 feet to a point on the East line of Wichita-Valley Center Flood Control (Condemnation Case: A-30410); thence N 16° 25'28" W along said East line of Wichita-Valley Center Flood Control, a distance of 356.21 feet; thence N 16° 47'04" W along said East line, a distance of 86.94 feet; thence N 15° 36'04" W along said East line, a distance of 488.76 feet; thence N 14° 20'04" W along said East line, a distance of 488.85 feet; thence N 13° 12'37" W along said East line, a distance of 235.58 feet to a point on the Southerly right-of-way of MacArthur (Film 0774, Page 0943); thence N 90° 00'00" E along said right-of-way, a distance of 48.06 feet; thence N 00° 00'00" E along said right-of-way, a distance of 20.00 feet; thence N 90° 00'00" E along said right-of-way, a distance of 80.00 feet; thence N 84° 17'22" E along said right-of-way, a distance of 100.50 feet; thence N 90° 00'00" E along said right-of-way, a distance of 200.49 feet

to the Point of Beginning.

Approved subject to the following conditions:

A. The activity will be limited to the hours of 7:00 a.m. to 6:00 p.m.
B. The site shall be developed and operated in conformance with the approved site plan and all applicable codes to include but not limited to zoning, building, fire and environmental regulations. All rock crushing operations and material storage shall take place within the designated site plan area, unless an adjusted site plan is approved by the Director of Planning.
C. Prior to rock crushing operations, the applicant (or applicant's hired rock crushing company) shall get an air permit from KDHE to operate in the State of Kansas and that the equipment will be subject to EPA Regulation 40 CFR 60, Subpart 000 NSPS for Nonmetallic Mineral Processing Plants.
D. Rock crushing operations on the site shall not create dust which travels on to surrounding properties.
E. All vehicular drives on the site, work and parking areas shall be surfaced with an all-weather material, which may include crushed rock, to minimize dust on the site. A water truck will be kept onsite to be used to control dust.
F. Access to the site will be from the current drive located on West MacArthur Road.
G. All conditions shall be met or the Conditional Use shall be null and void.
If the Zoning Administrator finds that there is a violation of any of the provisions or conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this **4th** Day of **February** 2021

METROPOLITAN AREA PLANNING COMMISSION

Michael C. Greene, Chair MAPC

ATTEST:

Scott Wadle, Secretary

Affidavit of Legal Publication

STATE OF KANSAS)

ss.

County of Sedgwick)

Mary Joyce, being first duly sworn, deposes and says:
That he/she is Legal Manager of

The Derby Informer

a weekly newspaper printed in the State of Kansas, and published in and of general circulation in Sedgwick County, Kansas, with a general paid circulation on a weekly basis in Sedgwick County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a weekly published on Wednesdays, and has been so published continuously and uninterrupted in said county and state for a period of more than one year prior to the first publication of said notice, and has been admitted at the post office of Derby, Kansas, in said county as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for **1 week** the first publication thereof being made as aforesaid on the 1**3th** day of **January** 2021, with subsequent publications being made on the following dates:

N/A

Legal Manager

Subscribed and sworn to before me this 13th day of January, 2021.

Notary Public

Rhonda Cott
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 2-20-23

Official Hearing Notice – MAPC – February 4, 2021

Printer's Fee: $43.40
Additional copies: $_____

Legal Publication

OCA 150004
Published in The Derby Informer on January 13, 2021

MAPC February 4, 2021
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on **Thursday, February 4, 2021 no earlier than 1:30 p.m.**, the WichitaSedgwick County Metropolitan Area Planning Commission (Planning Commission) will consider the following applications. The meeting will be held virtually, public participation is available in multiple ways, those without technology options can participate by going to Century II – Room 101B – 225 West Douglas Avenue, Wichita, Kansas 67202 (specified at the bottom of this notice). **If you have any questions regarding the meeting or items on this notice, please call the WichitaSedgwick County Metropolitan Area Planning Department at (316) 2684421.**

CON2020-00039 County Conditional Use for a rock crushing operation in Limited Industrial Zoning, Generally located 1000 feet South of West MacArthur Road and within one-half mile west of South West Street on the east side of the Mitch Mitchell Floodway.

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor. As provided in Section V of the WichitaSedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, 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 proposed changes to the zoning regulations will be considered by the MAPC as by law provided.

PLEASE NOTE THIS MEETING IS CONSIDERED AN EMERGENCY MEETING OF THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION due to COVID-19, WHICH WILL IMPOSE SPECIAL PROCEDURES TO PARTICIPATE IN THE PUBLIC HEARING. THESE ARE AS FOLLOWS:

The meeting will be conducted "virtually" using Go-To-Meeting. You have multiple options to participate: 1) submit comments ahead of time, 2) participate remotely, or 3) attend a virtual connection site in-person (see below).

Submit Comments Ahead of Time
You can submit comments regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department). Comments must be received by the Planning Department no later than 5pm 3 days prior to the meeting. Please be sure to provide ample time for delivery. The comments can be submitted in the following formats: email; letter; video; and audio message (mp3, etc.). The comment should indicate which item they pertain to and be less than three (3) minutes in duration. The comments should be submitted to Planning Department staff using the contact information below. The comments received ahead of the submission deadline will be shared with the MAPC, prior to or during the meeting.

Email	BPagan@wichita.gov
Mailing Address	Wichita-Sedgwick County Metropolitan Area Planning Department Attn: **Scott Wadle** 271 W. 3rd Street – Suite 201 Wichita, KS 67202
Phone	316.268.4421
Fax	316.858.7764

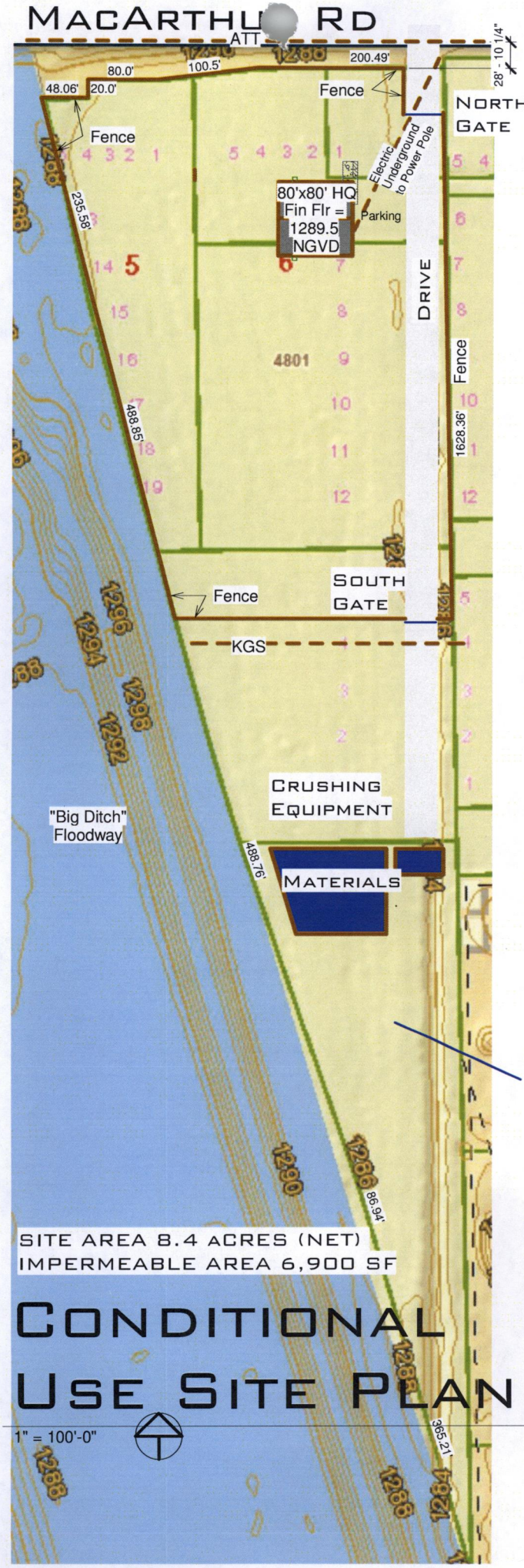
Participate Remotely
Please join my meeting from your computer, tablet or smartphone.
https://global.gotomeeting.com/join/651544141
You can also dial in using your phone.
United States: +1 (571) 317-3112
Access Code: 651-544-141

Join from a video-conferencing room or system.
Dial in or type: 67.217.95.2 or inroomlink.goto.com
Meeting ID: 651 544 141
Or dial directly: 651544141@67.217.95.2 or 67.217.95.2##651544141

New to GoToMeeting? Get the app now and be ready when your first meeting starts: https://global.gotomeeting.com/install/651544141

Attend a Virtual Connection Site In-Person
You may also participate in the hearing by going to meeting room 101B at Century II (225 West Douglas) to participate in the Planning Commission meeting by "virtual" connection. Planning Department staff members will be available to assist in your participation at this location. This option is intended for those without other technology options, and who have not previously submitted recorded audio or video comments. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (2684464) by 5pm, 3 days prior to the meeting.

WITNESS MY HAND on January 11, 2021
Scott Wadle, Secretary
WichitaSedgwick County
Metropolitan Area Planning Commission



CONDITIONAL USE SITE PLAN

1" = 100'-0"

SIMPSON DIRT CONSTRUCTION, LLC
4801 W MACARTHUR RD
WICHITA, KS 67215

USE: ROCK-CRUSHING

ZONING: LI LIMITED INDUSTRIAL

FLOOD ZONE: "X" SPECIAL CONSIDERATION AREA W/ REDUCED FLOOD RISK DUE TO LEVEE

State of Kansas }
County of Sedgwick } SS

I, Chad R. Abbott, P.S. #1340 do hereby certify that the following Boundary Survey and Legal Description was performed and written by me or under my direct supervision and that I am duly licensed Land Surveyor in the State of Kansas.

The following legal description was written by Chad R. Abbott, P.S. #1340 on April 12, 2018.

That part of the Northwest Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying East of the East Line of the Wichita-Valley Center Flood Control (Condemnation Case: A-30410); including the vacated portions of lots, blocks, alleys and streets in vacated Original Townsite of Oatville, Sedgwick County, Kansas; also including vacated portions of lots, blocks and streets in vacated Diamond Addition, Oatville, Sedgwick County, Kansas; also including the abandoned Missouri Pacific Railroad right-of-way, as conveyed by deed filed in Deed Book 1447, Page 97; together with Lot 1, Block 6, Original Townsite of Oatville, Sedgwick County, Kansas; and except that part taken for right-of-way of MacArthur Road.

Said parcel more particularly described as follows:

Commencing at the Northeast Corner of the Northwest Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence S 00°07'40" E along the East line of said Northwest Quarter, a distance of 60.00 feet to the Point of Beginning; thence continuing S 00°07'40" E along said East line, a distance of 1628.36 feet to a point on the East line of Wichita-Valley Center Flood Control (Condemnation Case: A-30410); thence N 16°25'58" W along said East line of Wichita-Valley Center Flood Control, a distance of 356.21 feet; thence N 16°47'04" W along said East line, a distance of 86.94 feet; thence N 15°36'04" W along said East line, a distance of 488.76 feet; thence N 14°20'04" W along said East line, a distance of 488.85 feet; thence N 13°12'37" W along said East line, a distance of 235.58 feet to a point on the Southerly right-of-way of MacArthur Road (Film 0774, Page 0943); thence N 90°00'00" E along said right-of-way, a distance of 48.06 feet; thence N 00°00'00" E along said right-of-way, a distance of 20.00 feet; thence N 90°00'00" E along said right-of-way, a distance of 80.00 feet; thence N 84°17'22" E along said right-of-way, a distance of 100.50 feet; thence N 90°00'00" E along said right-of-way, a distance of 200.49 feet to the Point of Beginning.

TH PT NW 1/4 COMM NE COR THEREOF TH S 60 FT S 836.5 FT TO BEG TH S 792.13 FT TO PT ON E LI OF WICHITA-VALLEY CENTER FLOOD CONTROL CC-A-30410 NWLY 356.21 FT NWLY 86.94 FT NWLY 381.28 FT E 226.65 FT TO BEG SEC 14-28-1W

Total Acres: 2.034
Total Square Feet: 88,582

SITE PLAN
APPROVED 2/18/21 BY RLmorgan

DRAWING PREPARED BY
RANDAL STEINER ARCHITECT, PA
565 S WESTSHORE LN WICHITA
(316) 641-4670

NOVEMBER 20, 2020