

Published in The Daily Reporter on February 7th, ¹⁹⁹⁷1996.

RESOLUTION NO.

A RESOLUTION AUTHORIZING ROCK CRUSHING, THE STORAGE AND RECYCLING OF CONCRETE AND ASPHALT, AND EXCAVATION OF A BORROW PIT ON PROPERTY ZONED "LI" LIMITED INDUSTRIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY RESOLUTION NO. 46-1996.

FILE COPY

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Unified Zoning Code, a Conditional Use Permit to allow rock crushing, the storage and recycling of concrete and asphalt, and excavation of a borrow pit on property zoned "LI" Limited Industrial, legally described below:

Case No. CU-403

Conditional Use Permit to allow rock crushing, the storage and recycling of concrete and asphalt, and excavation of a borrow pit. Described as:

A tract of land in the northeast quarter of Section 14, Township 28 south, Range west of the 6th P.M., Sedgwick County, Kansas, described below:

That part of the northeast quarter of said Section 14, lying west of the Missouri Pacific Railroad; except the north 933.0 feet thereof, and except that part taken for the Wichita-Valley Center Floodway, condemnation Case A-304010. Generally located south of MacArthur, east of the Wichita-Valley Center Floodway.

SUBJECT TO THE FOLLOWING CONDITIONS:

General Provisions:

- A. The applicant shall be responsible for maintaining all operational roads in a sand or graveled condition and shall apply water or other acceptable dust retardant so as to minimize blowing dust.
- B. The site shall be developed as indicated on the site plan, except for the fencing which shall be as indicated by General Provision Item F. (fencing) below.
- C. Any violation of the conditions of approval shall render the conditional use permit null and void.
- D. The applicant shall submit and receive approval of a drainage plan from the County Engineer including any needed easements for the temporary storage of run-off prior to commencing operations.
- E. Adjacent to the perimeter of the application area, a minimum 60-inch high fence shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the site plan. Said fence shall be placed on steel posts which are not less than 7 feet tall. The posts shall not be set more than 16 feet apart. The fence shall be a minimum height of 60 inches and shall be of the following types of construction:
 - 1. A 48-inch high or higher chain link fence with 3 or more strands of barbed wire; or
 - 2. A 48-inch high or higher solid metal or solid masonry fence with 3 or more strands of barbed wire; or
 - 3. A 48-inch high or higher wood fence which may have cracks or openings not in excess of 5% of the area of such fence, with 3 or more strands of barbed wire.
- F. The applicant shall obtain applicable county, state and federal permits prior to beginning rock crushing or excavation operations on this site.
- G. When operations cease at this location, all materials and equipment associated with both requested uses shall be removed from the site.

- H. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- I. Any on-site storage of fuels or chemical must be approved by the Wichita-Sedgwick County Health Department.
- J. This Conditional Use shall permit rock crushing and excavation operations for a period of 10 years.
- K. The applicant shall guarantee the paving of Broad Street from the driveway to MacArthur Road to County Engineering standards.
- L. The applicant shall submit and receive approval of drainage plans to control runoff from truck washout or other processing operations from the Health Department prior to commencing operations.
- M. The applicant shall comply with the City of Wichita noise ordinance standards.

Rock Crushing Operations:

- A. The opacity of the dust from the crusher must not exceed 15 % opacity and emissions of dust from transfer points, i.e. elevators, belts, etc. must not exceed 10% opacity as determined by the Wichita-Sedgwick County Department of Community Health, Air Quality Control staff.
- B. Use of the rock crusher shall be limited to the hours of 7:00 A.M. - 6:30 P.M. Monday through Friday, and 9:00 A.M. - 1:00 P.M. on Saturday. The rock crusher shall not be used on Sunday or official county holidays.
- C. Stockpiles of raw and finished material shall not exceed 25 feet in height.
- D. Water, or other dust retardant, shall be used as needed to control blowing dust from stockpiled materials.

Borrow Excavation:

- A. The borrow pit shall be excavated as indicated on the site plan, with no stockpiled material stored within the setbacks indicated on the site plan.
- B. Within 60 days of the completion of excavation, a vegetative cover shall be planted to stabilize banks and to minimize blowing material. The vegetative

cover shall consist of a perennial drought resistant grass or combination of grasses which will permit the establishment of a good sod cover to prevent blowing and erosion.

- E. No foreign matter, such as rubbish, trees, car bodies, etc. shall be deposited on the site or in the extraction area.
- H. Commercial recreational activities, such as boating, fishing skiing, etc. shall not be permitted in the area, unless duly authorized under provisions of the zoning code and amendments thereto.
- I. If groundwater is encountered during the excavation, the applicant shall notify the Health Department within 3 working days. The applicant shall work with the Health Department to establish a minimum depth of excavation and a time-table.

SECTION II. That upon the taking effect of this Resolution, the notation of such conditional use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan area Planning Department.

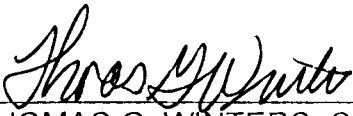
SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

Commissioners present and voting were:

BETSY GWIN	<u>Yes</u>	
PAUL W. HANCOCK		<u>No</u>
THOMAS G. WINTERS	<u>Yes</u>	
MELODY C. MILLER		<u>No</u>
MARK F. SCHROEDER	<u>Yes</u>	

DATED this 28th day of August, 1996.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS



THOMAS G. WINTERS, Chairman

ATTEST:

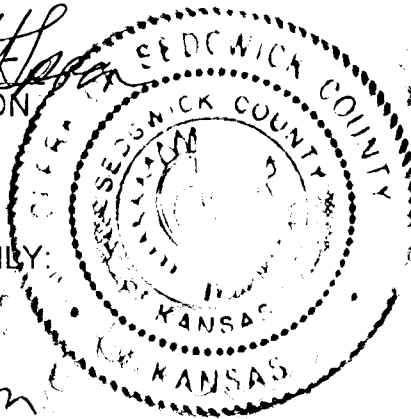


SUSAN E. CROCKETT-SPOON
County Clerk

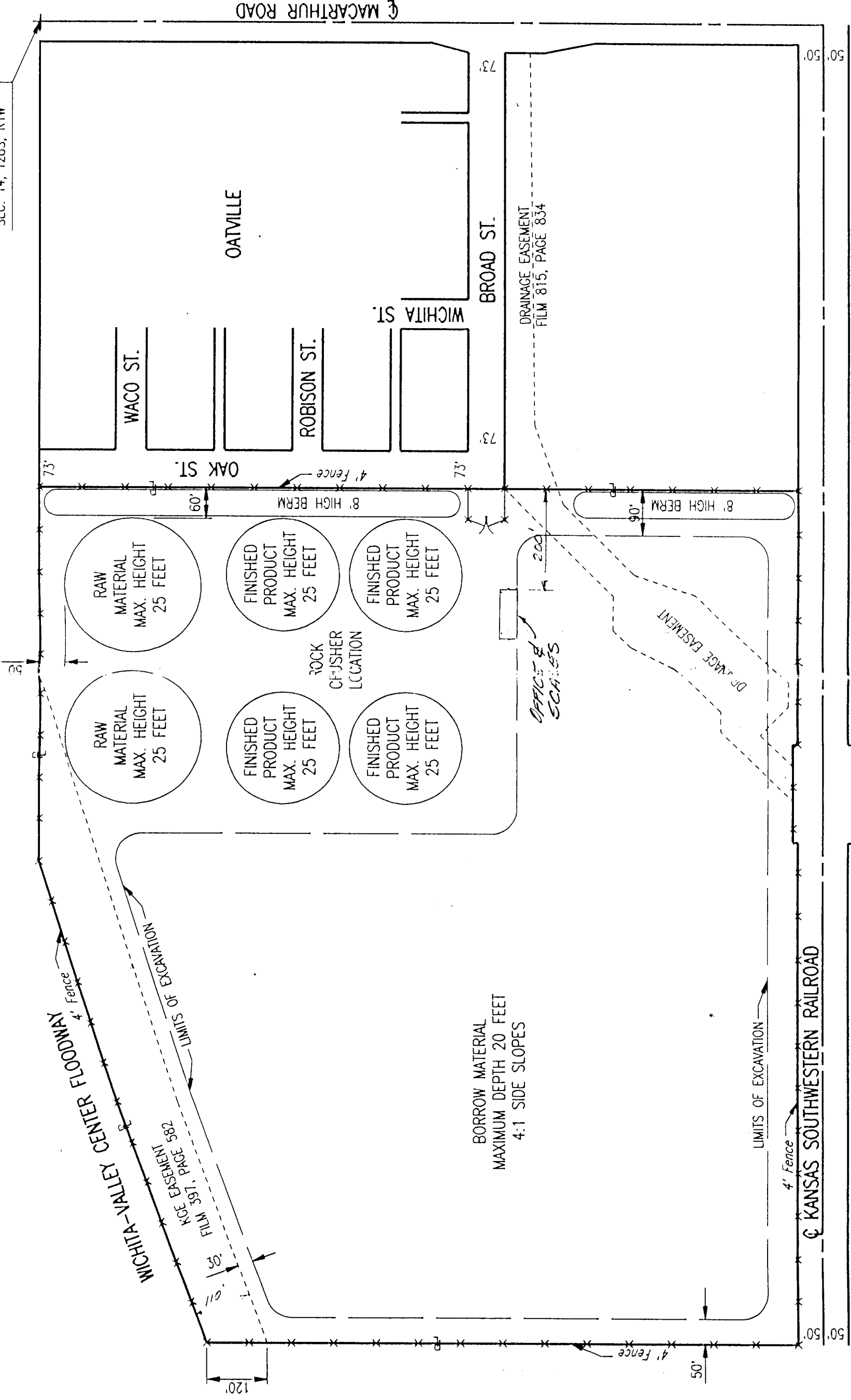
APPROVED AS TO FORM ONLY:



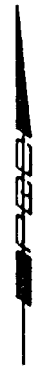
Assistant County Counselor



N.W. CORNER, N.E. 1/4
SEC. 14, T28S, R1W



BOB BERGKAMP CONSTRUCTION CO., INC.
CONDITIONAL USE CU-403



SCALE: 1"=200'
6-21-96
REV. 7-4-97



AGENDA ITEM NO. 4

STAFF REPORT

July 25, 1996 MAPC

CASE NUMBER: CU-403

APPLICANT/AGENT: Scott Bergkamp (property owner) / Bob Bergkamp Construction Co. (lessee) / Gary Wiley (agent)

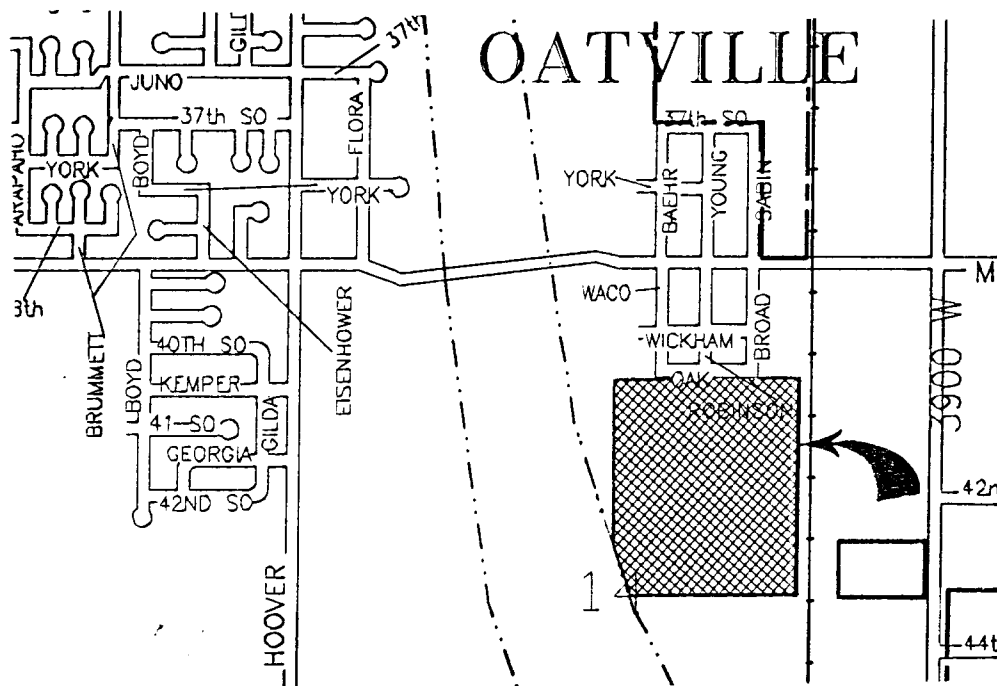
REQUEST: Conditional Use to permit rock crushing, the storage and recycling of concrete and asphalt, and excavation of a borrow pit.

CURRENT ZONING: "LI" Limited Industrial

SITE SIZE: 56.1 acres

LOCATION: South of MacArthur, east of the Wichita-Valley Center Floodway.

PROPOSED USE: Rock Crushing and recycling of concrete and asphalt, and excavation of borrow pit.



BACKGROUND: The applicant requests a conditional use of unlimited duration for rock crushing and recycling of concrete and asphalt pavement and excavation of borrow material on 56.1 acres of unplatted land located south of MacArthur Road and east of the Wichita-Valley Center Floodway. This site was selected by the Bob Bergkamp Construction Company in order to establish material yards on the east and the west side of the city. This application is one of two rock crusher applications submitted by the company.

MacArthur Road is a paved two-lane road. The site is currently zoned "LI" Limited Industrial, and is undeveloped. The application area is buffered on the east by railroad tracks, and on the west by the Wichita-Valley Center Floodway. East of the railroad are industrial uses, and five residences. Four of the residences front MacArthur beginning just east of the railroad tracks. The closest home is approximately 1100 feet northeast of the application area. A fifth residence fronts West Street near the southern end of the application area (approximately 1100 feet away from the application area). A residence is located approximately 900 feet north of the northern boundary of the application area. A Sedgwick County maintenance yard is located south of the application area. Properties immediately adjacent to the proposed site are all zoned "LI" Limited Industrial.

"Rock crushing" in the "LI" district is allowed only with a conditional use permit. Rock crushing is defined as an establishment engaged in crushing rock or stone milling. The rock crusher breaks chunks of concrete and asphalt into smaller pieces which are screened into different size aggregates. The aggregate is then used by paving contractors on local paving projects. Dust from the process depends on the type of material being crushed. Concrete tends to produce more dust than asphalt. The crusher is equipped with systems to reduce the amount of dust produced. Rock crushers must be licensed by the State and follow regulations regarding air pollution. Perceptions of noise generated by rock crushing operations are different at each site depending on the age of equipment, material being crushed, wind direction, background noise levels generated from adjacent uses, etc.

To mitigate any potential impacts on adjacent property, the applicant's site plan indicates they would develop an eight foot tall berm along the northern boundary of the property, and establish 60 to 90 foot setbacks. Setbacks along the east, south and west side range in size from 30 to 60 feet. The site plan also indicates a 25 foot height limit on the six stockpiles of raw and finished material. The borrow pit area is irregular in shape, taking up all but the northwest quarter of the site. Maximum depth of the borrow pit would be 20 feet. This site was selected for borrow material due to its high clay content, and the borrow pit operations are not related to rock crushing activities. The applicant indicates he was fortunate to find a site that will meet both of his needs. The applicant proposes to fence the entire site with a four foot high fence. Access to the site would be at the northern end, from MacArthur.

Staff is advised the raw material for the crusher is typically hauled in first. The crusher is then moved in to crush the material. Hours of operation are generally seven hours per day, between 7:00 A.M. and 6:30 P.M., four days a week. Maintenance of the machine typically takes up one day in five. The process uses 250 to 300 gallons per hour of water to control dust. The water is generally brought in by truck.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	"LI"	Limited Industrial, Residential
SOUTH:	"LI"	Limited Industrial, County Maintenance Yard
EAST:	"LI"	Limited Industrial, Industrial Uses and Five Home
WEST:	"LI"	Limited Industrial, Wichita-Valley Center Floodway

PUBLIC SERVICES: The property has access to MacArthur, a 2-lane arterial, with existing traffic volume of approximately 7,000 average daily trips (ADT) between the West Street and the Wichita-Valley Center Floodway. The 2020 Transportation Plan projects traffic along MacArthur to increase to approximately 10,300 ADT for this segment. Municipal water is located approximately 1/2 mile east of this site on the east side of West Street, while sanitary sewer is approximately 1/4 mile east of the site on the west side of West Street. The applicant indicates he does not need public facilities since the site will not be used daily. The Health Department indicates they will work with the applicant to locate temporary restroom facilities on the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this site as "low density residential." Given that the area is already zoned "LI", the low density residential designation is an error, and will be addressed in forthcoming revisions. In the Unified Zoning Code, "rock crushing" is categorized as an industrial, manufacturing and extractive use, and is permitted only as a conditional use. Rock crushing is not permitted "by right" in any of the city's or county's districts. The policy guidance section of the comprehensive plan indicates that:

- (a) Industrial areas should be located in close proximity to support services and provided good access to major arterials, ... truck routes, belt highways, utility trunk lines, along railroad spurs, near airports and as extensions of existing industrial uses.
- (b) [Industrial] traffic ... should not feed directly onto local streets in residential areas.

(c) Industrial uses should be generally located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses.

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

General Provisions:

- A. The applicant shall be responsible for maintaining all operational roads in a sand or graveled condition and shall apply water or other acceptable dust retardant so as to minimize blowing dust.
- B. The site shall be developed as indicated on the site plan, except for the fencing which shall be as indicated by General Provision Item F. (fencing) below.
- C. Any violation of the conditions of approval shall render the conditional use permit null and void.
- D. The applicant shall submit and receive approval of a drainage plan from the County Engineer including any needed easements for the temporary storage of run-off prior to commencing operations.
- E. Adjacent to the perimeter of the application area, a minimum 60-inch high fence shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the site plan. Said fence shall be placed on steel posts which are not less than 7 feet tall. The posts shall not be set more than 16 feet apart. The fence shall be a minimum height of 60 inches and shall be of the following types of construction:
 - 1. A 48-inch high or higher chain link fence with 3 or more strands of barbed wire; or
 - 2. A 48-inch high or higher solid metal or solid masonry fence with 3 or more strands of barbed wire; or
 - 3. A 48-inch high or higher wood fence which may have cracks or openings not in excess of 5% of the area of such fence, with 3 or more strands of barbed wire.
- F. The applicant shall obtain applicable county, state and federal permits prior to beginning rock crushing or excavation operations on this site.

- G. When operations cease at this location, all materials and equipment associated with both requested uses shall be removed from the site.
- H. All on-site water and sewerage facilities shall be approved by and constructed to the standards of the Wichita-Sedgwick County Health Department.
- I. Any on-site storage of fuels or chemical must be approved by the Wichita-Sedgwick County Health Department.
- J. This Conditional Use shall permit rock crushing and excavation operations for a period of 10 years.

Rock Crushing Operations:

- A. The opacity of the dust from the crusher must not exceed 15 % opacity and emissions of dust from transfer points, i.e. elevators, belts, etc. must not exceed 10% opacity as determined by the Wichita-Sedgwick County Department of Community Health, Air Quality Control staff.
- B. Use of the rock crusher shall be limited to the hours of 7:00 A.M. - 6:30 P.M. Monday through Friday, and 9:00 A.M. - 1:00 P.M. on Saturday. The rock crusher shall not be used on Sunday or official county holidays.
- C. Stockpiles of raw and finished material shall not exceed 25 feet in height.
- D. Water, or other dust retardant, shall be used as needed to control blowing dust from stockpiled materials.

Borrow Excavation:

- A. The borrow pit shall be excavated as indicated on the site plan, with no stockpiled material stored within the setbacks indicated on the site plan.
- B. Within 60 days of the completion of excavation, a vegetative cover shall be planted to stabilize banks and to minimize blowing material. The vegetative cover shall consist of a perennial drought resistant grass or combination of grasses which will permit the establishment of a good sod cover to prevent blowing and erosion.
- E. No foreign matter, such as rubbish, trees, car bodies, etc. shall be deposited on the site or in the extraction area.

- H. Commercial recreational activities, such as boating, fishing skiing, etc. shall not be permitted in the area, unless duly authorized under provisions of the zoning code and amendments thereto.
- I. If groundwater is encountered during the excavation, the applicant shall notify the Health Department within 3 working days. The applicant shall work with the Health Department to establish a minimum depth of excavation and a time-table for compliance of same.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is zoned "LI" Limited Industrial. There are six homes near the application area (apparently non-conforming uses), but the overwhelming majority of land uses in the area are industrial.
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "LI" Limited Industrial. Rock crushing is a listed conditional use in the "LI" district. Conditional uses are just that, uses which are appropriate if the applicant can meet all necessary criteria to make that use compatible with surrounding land uses. The property is buffered on two sides by a railroad and the Wichita-Valley Center Floodway. Uses thought to be appropriate in the "LI" district are best located where buffers can be provided. Given its locations and surrounding land uses, this site is properly zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The area is already zoned "LI", including the home sites. By combining the site's natural buffers with the conditions of approval, most negative impacts on adjoining property should be minimized.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: If denied, the applicant would have to seek out another site, resulting in lost time and possibly expense. This site is well buffered and already zoned "LI". It is difficult to think there are many other sites in close proximity to the end use for the material obtained or created on this site that the applicant could find which would be better situated (direct access to a paved, section line road and located within 3/4 mile of the interstate system). Road construction projects are important to the traveling public. Efforts to reuse road building materials and to minimize time and cost associated with constructions projects benefit the general public.

5. Conformance of the requested change to adopted or recognized Plans/Policies: This site meets the locational criteria suggested by the comprehensive plan.
6. Impact of the proposed development on community facilities: MacArthur currently has the capacity to handle the traffic generated by this use. However, projected traffic volume shows MacArthur reaching its capacity by 2020.