

## CONDITIONAL USE RESOLUTION NO. CU-496

**WHEREAS**, the Kansas Department of Transportation, by and through its agents Bob Bergkamp Construction Company, Inc., and PEC, P.A., c/o Gary Wiley, pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested a Conditional Use to permit a temporary rock crusher on 8 acres zoned "RR" Rural Residential described as:

The north 700 feet of the south 1700 feet of the east 500 feet of the west ½ of the SE 1/4 of Section 7, Township 26 South, Range 2 East, Sedgwick County, Kansas. Generally located on the north side of K-254 Highway, 1/4 mile west of Rock Road.

**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 October 15, 1998, 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 to permit a conditional use allow a temporary rock crusher 8 acres zoned "RR" Rural Residential described as

The north 700 feet of the south 1700 feet of the east 500 feet of the west ½ of the SE 1/4 of Section 7, Township 26 South, Range 2 East, Sedgwick County, Kansas.

subject to the following conditions:

- A. The Conditional Use shall permit rock crushing operations for a period of 4 months from date of approval, with removal of all materials from the site within 12 months from approval.
- B. The site shall be developed as indicated on the site plan.
- C. Use of the rock crusher shall be limited to the hours of 7:00 a.m. to 6:30 p.m., Monday through Friday, and 9:00 a.m. to 1:00 p.m. on Saturdays. The rock crusher shall not be used on Sundays or official County holidays.

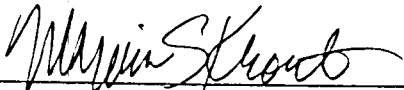
- D. Water, or other dust retardant, shall be used as needed to control blowing dust from stockpiled materials.
- E. The applicant shall be responsible for maintaining all operational roads in a sand or graveled condition and shall apply water or other acceptable dust retardant so as to minimize blowing dust.
- F. 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.
- G. Stockpiles of raw and finished material shall not exceed 25 feet in height.
- H. Any on-site storage of fuels or chemicals must be approved by the Wichita-Sedgwick County Health Department and the Sedgwick County Fire Department
- I. The applicant shall obtain applicable county, state and federal permits prior to beginning rock crushing or excavation operations on this site.
- J. The rock crusher is for existing material on the property or material taken from the construction of Highway 254; no material from other locations are to be placed on the property.
- K. The provisions of Chapter 7.41 of the Code of the City of Wichita with regard to noise shall apply to the rock crusher and all other activities on site.
- L. Any violation of the conditions of approval shall render the Conditional Use permit null and void.

Adopted this 15th day of October, 1998. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION

  
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William M. Johnson, Chairman

ATTEST:

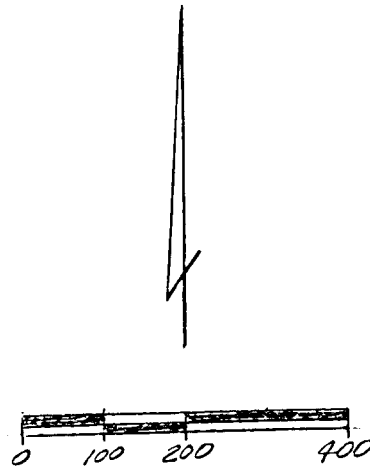
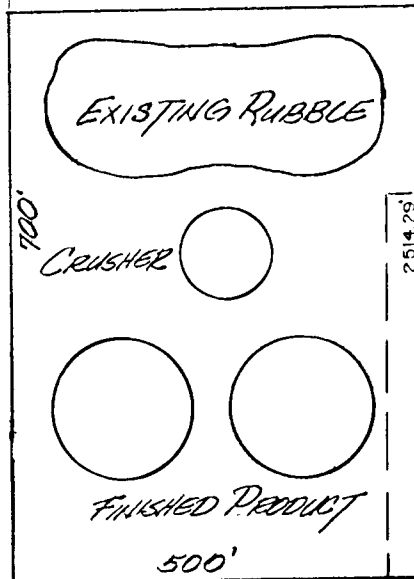
  
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Marvin S. Krout, Secretary

PY-35

DEEDED TO STATE

FILM 1477, PG. 94

TRACT B 6234Ac. ±



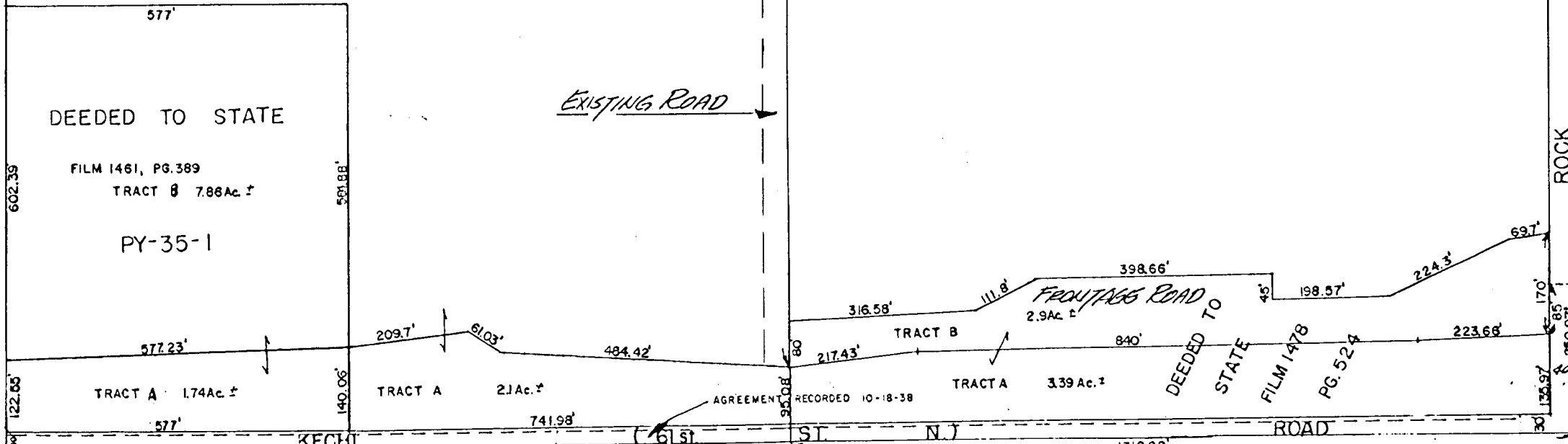
DEEDED TO STATE

FILM 1461, PG. 389

TRACT B 7.88Ac. ±

PY-35-1

EXISTING ROAD



AGREEMENT RECORDED 10-18-38

DEEDED TO STATE  
FILM 1478  
PG. 524

ROCK (79th) ST

RR BX-A PG 18 7-3-1091



# STAFF REPORT

KECHI PC OCTOBER 13, 1998  
MAPC OCTOBER 15, 1998

**CASE NUMBER:** CU-496

**APPLICANT:** KDOT C/O Benny P. Tarverdi, P.E., 3200 E. 45th Street North, Wichita, KS 67220

**AGENT:** Bob Bergkamp Construction Co. Inc., C/O Jim Snook, 3709 S. West Street, Wichita, KS 67217  
AND  
PEC, P.A., C/O Gary Wiley, 303 S. Topeka, Wichita, KS 67202

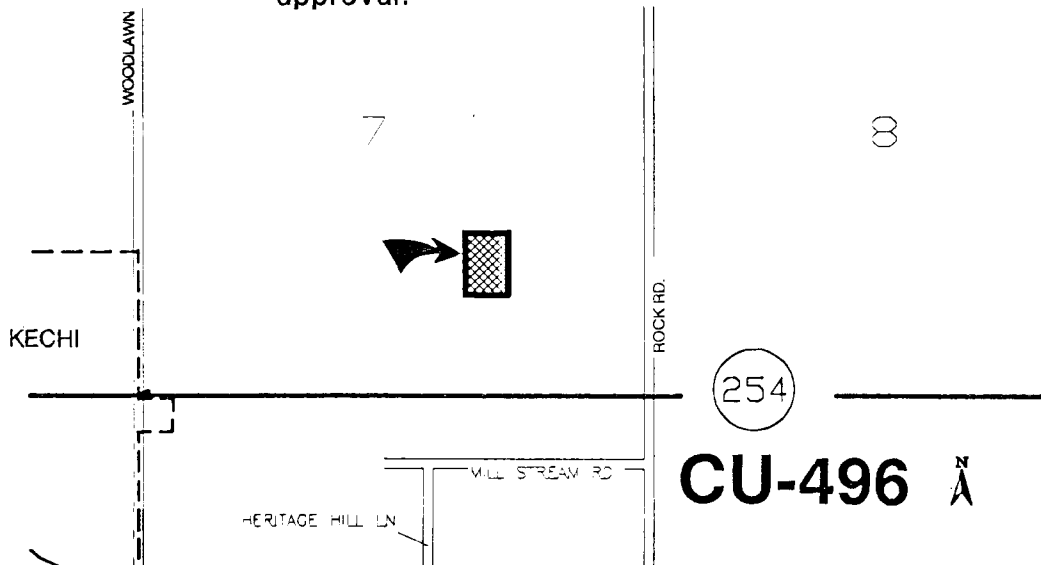
**REQUEST:** A Conditional Use Permit to allow a temporary rock crusher

**CURRENT ZONING:** "RR"

**SITE SIZE:** Approximately 8 acres

**LOCATION:** On the north side of K-254 Highway, ¼ mile west of Rock Road.

**PROPOSED USE:** To recycle the existing concrete and asphalt pavement rubble for a period of 120 days with removal of all materials within 8 months for a requested time of 12 months from approval.



**BACKGROUND:** The applicant requests a Conditional Use to allow a temporary rock crushing operation on approximately 8 acres zoned "RR" Rural residential located north of K-254 Highway ¼ mile west of Rock Road. The site is part of a borrow site and right-of-way purchased by the Kansas Department of Transportation in connection with the construction of K-254 Highway. Permission to haul and store broken concrete and asphalt to the site was granted by KDOT to Bob Bergkamp Construction Co., prime contractor on Phase 1 of the K-254 project. Bergkamp Construction would like permission to move in a temporary rock crusher to recycle the existing materials located on this application area.

The site is accessed just north of K-254 on a frontage road from Rock Road with an existing dirt road to the site (site plan attached). There are not any homes in the property near the site north of K-254. On the east side of the property is a hedge row.

The rock crushing is proposed to be completed within 4 months with removal of all material as needed within 8 months for a requested time of 12 months beginning from the date of approval.

All the surrounding property is zoned "RR" with the properties to the north, east and west used for agricultural land, south of the application area is undeveloped land with large single-family residence to the south of K-254. The closest residence is approximately 1,100 feet from the site and is south of K-254.

**CASE HISTORY:** None

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR"	Agricultural
SOUTH:	"RR"	undeveloped land, large lot single-family residences
EAST	"RR"	Agricultural
WEST:	"RR"	Agricultural

**PUBLIC SERVICES:** Municipal services are not available to this site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for agricultural uses. The Comprehensive Plan does not specifically address the siting of a temporary rock crushing operations. 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 extension 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 APPROVAL, subject to the following conditions:

- A. The Conditional Use shall permit rock crushing operations for a period of 4 months from date of approval, with removal of all materials from the site within 12 months from approval.
- B. The site shall be developed as indicated on the site plan.
- C. Use of the rock crusher shall be limited to the hours of 7:00 a.m. to 6:30 p.m., Monday through Friday, and 9:00 a.m. to 1:00 p.m. on Saturdays. The rock crusher shall not be used on Sundays or official County holidays.
- D. Water, or other dust retardant, shall be used as needed to control blowing dust from stockpiled materials.
- E. 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.
- F. The opacity of the dust from the crusher must not exceed 15% opacity, and emissions of dust from transfer points, i.e. elevators, belts ect., must not exceed 10% opacity, as determined by the Wichita-Sedgwick County Department of Community Health, Air Quality Control staff.
- G. Stockpiles of raw and finished material shall not exceed 25 feet in height.
- H. Any on-site storage of fuels or chemicals must be approved by the Wichita-Sedgwick County Health Department and the Sedgwick County Fire Department
- I. 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.

- J. The applicant shall obtain applicable county, state and federal permits prior to beginning rock crushing or excavation operations on this site.
- K. The rock crusher is for existing material on the property; no other material are to be placed on the property.
- L. Any violation of the conditions of approval shall render the Conditional Use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding areas is characterized by agricultural uses, with residents located to the south of K-254 Highway. The proposed temporary use will have a minimal impact upon surrounding properties.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: With staff's recommended conditions of approval, the temporary nature of the operation, as well as the distance to the nearest residences, most negative impacts on adjoining property should be minimized.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: This site meets the locational criteria for this use as suggested by the Comprehensive Plan.
4. Impact of the proposed development on community facilities: K-254 Highway currently has the capacity to handle the traffic generated by this use. The use should not have any other impacts on public facilities.