

RESOLUTION No. 02-424

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO ALLOW PORTABLE ROCK CRUSHER, ON APPROXIMATELY 4.80 ACRES ZONED "GI" GENERAL INDUSTRIAL, GENERALLY LOCATED NORTHWEST OF THE 29<sup>TH</sup> STREET NORTH OHIO STREET INTERSECTION CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, 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 Wichita-Sedgwick County Unified Zoning Code, a Conditional Use allow portable rock crusher on 4.80 acres zoned "GI" General Industrial legally described below:

**Case No. CON2001-00069**

A Conditional Use Permit to allow portable rock crusher, on 4.80 acres zoned "GI" General Industrial described as:

Lot 3, Burlington Northern Industrial Center, Wichita, Sedgwick County, Kansas. Generally located northwest of the 29<sup>th</sup> Street North – Ohio Street intersection.

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Submit a revised site plan to be approved by the Planning Director. The plan will show circulation and parking between the concrete plant site and the rock crusher and location of aggregate piles and all other improvements to the site. As shown on the site plan a 6-foot chain link fence with 3 strains of barbed wire will be around the crusher site. The fence will be around all four sides of the crusher site. Gates will be installed at the two northern access drives of the crusher site and will be closed and locked when the crusher is not in operation.
2. All internal circulation and ingress – egress to be watered during hours of operation or treated with a product to minimize blowing dust and/or surfaced with an approved all weather surfaces.
3. Submit a revised Landscape Plan to be approved by the Planning Director. A berm, 20-ft wide and 10-ft high to be placed along the north property line of the site. The berm, will be planted in grass and Conifer trees, a minimum of 5-ft in height and planted every 15-ft. on top of the berm. 6-ft high berms, 10-ft wide will be placed along the east and west property lines and planted with grass and Conifer trees, a minimum of 5-ft in height and planted every 15-ft. on top of the berm. Berms will not be in any easements. Landscaping shall be completely installed 60 days after approval of the Conditional Use and prior to operation of

the crusher and shall be developed according to the approved Landscape Plan. All landscaping will be maintained as required in the Landscape Ordinance. Landscaping will include an irrigation system.

4. A drainage plan must be submitted and approved by the City Engineer.
5. All aggregate piles will be no higher than 20-ft and watered as necessary to minimize blowing dust. Capacity of dust and emissions of dust from the rock crusher, the aggregate piles or any facility cannot exceed opacity as determined by the Wichita Environmental Health – Air Quality Staff and the Kansas Air Pollution Control Regulations.
6. Any stockpiling of fuels or chemicals on this site must be approved by the Health Department.
7. The applicant shall meet all permitting, reporting and operating requirements as necessary per the local, state and federal levels prior to any crushing activities on this site.
8. The level of noise generated by the rock crusher shall not exceed community standards as specified by City Ordinance and determined by the Wichita Environmental Health Department.
9. The operation of the crusher is limited to 20 non-consecutive days beginning in the late spring – early summer of 2003. The applicant shall notify the Permits and Planning Staff when that 20-day period begins. Hours of operation will be 7 AM – 5 PM Monday - Friday. No operation of the crusher is permitted during weekends or State or Federal Holidays
10. Any violation of the conditions of approval will allow the Conditional Use to be declared null and void.

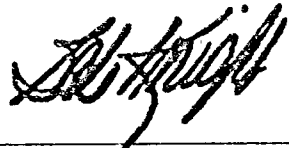
**SECTION 2.** That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

**SECTION 3.** That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS,  
this date SEP 17 2002




ATTEST:

  
\_\_\_\_\_  
Bob Knight, Mayor

*Patricia Ellis*  
for Pat Burnett Deputy City Clerk

Approved as to form:

  
Gary E. Rebenstorf, City Attorney





AGENDA ITEM NO. \_\_\_\_\_

**STAFF REPORT**

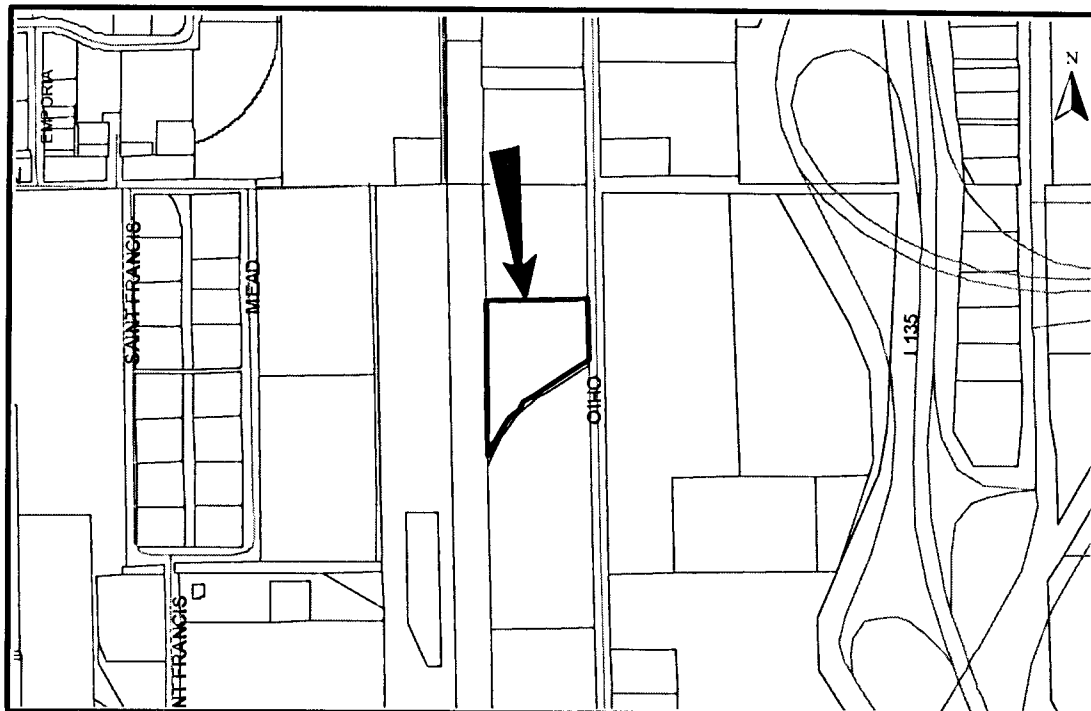
MAPC June 20, 2002

MAPC – May 23, 2002 Deferred

Park Board Commissioners – May 13, 2002

DAB VI – May 6

- CASE NUMBER:** CON2001-00069
- APPLICANT/OWNER:** KRC, LLC c/o Jeffery Johnson
- REQUEST:** Conditional Use to allow portable rock crusher
- CURRENT ZONING:** "GI" General Industrial
- SITE SIZE:** Approximately 4.80 acres
- LOCATION:** Generally located northwest of the 29<sup>th</sup> Street North – Ohio Street intersection
- PROPOSED USES:** Portable rock crusher



**BACKGROUND:** A Conditional Use is being sought to allow a rock crusher on property

zoned "GI" General Industrial. The site is located approximately ½ mile north of 29<sup>th</sup> Street North on the west side of Ohio (see attached site plan). The application area is approximately 4.80 acres in size, and is platted as Lot 3, Burlington Northern Industrial Center Addition. The applicant also owns the 11.4 acres located immediately south of the application area (Lot 2, Burlington Northern Industrial Center Addition). These two lots are separated by a drainage easement. The applicant is one of the contractors reconstructing I-135 and the I-135 - 21<sup>st</sup> Street North interchange. The highway project will generate significant amounts of material to be crushed. The application area is conveniently located within two miles of the job site. Also, the applicant intends to locate a concrete plant on Lot 2. Lot 2 is already zoned "GI" and permits the concrete plant as a "use by right." A rock crusher located on Lot 3 would be an additional convenience in operating the concrete plant. Material ran through the crusher can be used by the concrete plant. The applicant has indicated that the concrete plant will be located on Lot 2 regardless of the outcome of the Conditional Use request for the rock crusher.

As indicated on the site plan, two access points off of Ohio are proposed for the lot on which the rock crusher is to be located. These access points have been installed. Currently there are aggregate piles located on the site. The site plan depicts landscaping and berms to be located along the east and north property line. The rock crusher would be located in the east-center portion of the site as there is a pipeline easement and a drainage easement located in the western half of the site. The applicant indicates that the rock crusher will be needed through early summer 2003. The applicant currently has the rock crusher located within K-DOT right-of-way during the first year (spring 2002 – spring 2003) of the highway project. During the second year (2003) of the project, the rock crusher would be moved to the application area, and run for 20, non-consecutive, days out of that year, generally late spring through early summer. Hours of operation for the crusher are generally 7:00 A.M. to 5:00 P.M. Monday through Friday. Average Daily Trips to be generated by the rock crusher have not been determined. The site plan shows berms and landscaping on the concrete plant site connecting to the crusher site and a 6-foot chain link fence, with 3 strains of barbed wire around the crusher site and concrete plant.

Properties immediately surrounding the application area are undeveloped and zoned "GI", except for two exceptions. The first exception is the applicant's abutting property located on the south. This property is currently being developed with a wet batch concrete plant. The second exception is the property located immediately to the north. This is being developed as an adult soccer field by the City Park Department. The Park Department plans to have the soccer field in use by the spring of 2003. Beyond the site's immediate area the zoning is "GI" and developed as manufacturing, warehousing, grain elevators and shipping and receiving facilities. Included in this area is the Bridgeport Industrial Park. The newest development in the surrounding area is located west of the site, across the railroad tracks: the York manufacturing facility. There are plans for another expansion in the near future.

The Park Department has received calls from groups that will be using the adult soccer fields expressing opposition to the proposed rock crusher being located next to their playing fields. Concerns identified to date include: noise, dust, truck traffic and extended hours of operation. The applicant has had discussions with the Park Department in regards to these issues. The soccer field should be ready for use in the spring of 2003. The season will be from Easter to Thanksgiving. Use of the soccer fields during the season will be, games every Sunday from 9AM – 7PM and practice Monday & Tuesday, 6PM to dusk. The applicant has indicated that the days of operation could be modified to operate when the soccer field is not in use for practice or games. There appears to be no conflict between the use of the soccer fields in 2003 and the 20-day conditional use for the crusher. The Planning Staff has met with the Environmental Health and Code Enforcement Staff who have indicated that concrete plant will create more emissions than the rock crusher, in consideration of the year round operation of the plant versus the 20 day operation period of the crusher.

DAB VI recommended the Conditional Use, 8-1, at their May 6 meeting per Staff’s conditions and modification in regards to having the landscaping and berms in place within 60 days of approval of the Conditional Use and specifying that the 20 days of operation for the rock crusher are not consecutive days. The Board of Park Commissioners voted to approve the Conditional Use, 7-0, at their May 13 meeting, per Staff’s conditions and the noted modifications recommended by DAB VI.

**CASE HISTORY:** The Burlington Northern Industrial Addition was recorded with Sedgwick County October 17, 1984. The property was undeveloped prior to its platting, but recently has been scraped and has aggregate piles on it.

**ADJACENT ZONING AND LAND USE:**

SOUTH:	“GI” General Industrial	Undeveloped, Industrial Park, Small business, RR ROW, Grain elevators
NORTH:	“GI” General Industrial	Park, Warehouse, Undeveloped Shipping & Receiving
EAST:	“GI” General Industrial	Undeveloped, burrow pit
WEST:	“GI” General Industrial	Manufacturing, Warehouses Shipping & Receiving, RR ROW Grain elevators

**PUBLIC SERVICES:** The site and the abutting concrete plant is accessible from Ohio, a paved 2-lane road. Traffic to and from the site can go to either 29<sup>th</sup> or 37<sup>th</sup> Streets North, both 4-lane arterials, which provide access to I-135. The nearest intersection with a record of Average Daily Trips (ADT) is at Hydraulic & 37<sup>th</sup> Street North: just east of the I-135 – 37<sup>th</sup> Street North interchange. ADTs north of the intersection are 2,656, ADTs south of the intersection are 6,825, ADTs west of the intersection are

5,871 and ADTs east of the intersection are 5,134. K-DOT is currently improving the I-135 – 21<sup>st</sup> Street North interchange. There are approximately 61,000 ADTs in this section of I-135 off of 21<sup>st</sup> Street North. There is gas, water, sewer and electricity for the site.

**CONFORMANCE TO PLANS/POLICIES:** The Comprehensive Plan identifies this property as Industrial. Industrial location guidelines indicate that development is to be evaluated on characteristics of the individual use, nature of the emissions, the surrounding uses and zoning districts and the degree of compatibility with adjacent uses. The Unified Zoning Code requires a Conditional use for “Rock Crushing” in all residential zoning districts, in “GO”, “NR”, “LC”, “GC”, “CBD”, “LI”, and “GI” zoning districts. The Site is zoned “GI” which permits a wide range of uses, including the most intense uses permitted. The code anticipates that uses such as the rock crusher might be appropriate in an industrial area. The site is just outside the ‘Urban Renewal General Land Use Plan, 1976’ guidelines, which encourages industrial activities that are, typically contained within structures. The ‘Urban Renewal General Land Use Plan, 1976’ is adjacent to the site on the north, south and west sides.

**RECOMMENDATION:** Based on the information available prior to the public hearing, and considering the proximity of the site to the I-135 project, the limited duration for which the rock crusher is needed and the symbiotic relationship between the concrete plant and the rock crusher, staff recommends the application be APPROVED, with the following conditions.

1. Submit a revised site plan to be approved by the Planning Director. The plan will show circulation and parking between the concrete plant site and the rock crusher and location of aggregate piles and all other improvements to the site. As shown on the site plan a 6-foot chain link fence with 3 strains of barbed wire will be around the crusher site.
2. All internal circulation and ingress – egress to be watered during hours of operation or treated with a product to minimize blowing dust and/or surfaced with an approved all weather surfaces.
3. Submit a revised Landscape Plan to be approved by the Planning Director. A berm, 20-ft wide and 10-ft high to be placed along the north property line of the site. The berm, will be planted in grass and Conifer trees, a minimum of 5-ft in height and planted every 15-ft. on top of the berm. A 6-ft high berm, 10-ft wide will be placed along the east and west property lines and planted with grass and Conifer trees, a minimum of 5-ft in height and planted every 15-ft. on top of the berm. Berms will not be in any easements. Landscaping shall be completely installed no latter than 60 days after approval of the CU and prior to operation of the crusher and shall be developed according to the approved Land Scape Plan. All landscaping will be

maintained as required in the Landscape Ordinance.

4. A drainage plan must be submitted and approved by the City Engineer.
5. All aggregate piles will be no higher than 20-ft and watered as necessary to minimize blowing dust. Capacity of dust and emissions of dust from the rock crusher, the aggregate piles or any facility cannot exceed opacity as determined by the Wichita Environmental Health – Air Quality Staff and the Kansas Air Pollution Control Regulations.
6. Any stockpiling of fuels or chemicals on this site must be approved by the Health Department.
7. The applicant shall meet all permitting, reporting and operating requirements as necessary per the local, state and federal levels prior to any crushing activities on this site.
8. The level of noise generated by the rock crusher shall not exceed community standards as specified by City Ordinance and determined by the Wichita Environmental Health Department.
9. The operation of the crusher is limited to 20 non-consecutive days beginning in the late spring – early summer of 2003. The applicant shall notify the Permits and Planning Staff when that 20-day period begins. Hours of operation will be 7 AM – 5 PM Monday - Friday. No operation of the crusher is permitted during weekends or State or Federal Holidays
10. Any violation of the conditions of approval will allow the Conditional Use to be declared null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is zoned "GI" General Industrial. The immediate surrounding area is developed as shipping and receiving facilities, manufacturing, Railroad ROW, some undeveloped property, a concrete plant and a park.
2. The suitability of the subject property for the uses to which it has been restricted: Industrial development on the site as currently zoned "GI" is likely. The area around the site is zoned "GI" and recent development of the York Facility and the concrete plant in the area indicates likelihood of some type of industrial development. Rock crushers are typically located next to concrete – asphalt – recycling plants, but are not a necessary operation feature.

3. Extent to which removal of the restrictions will detrimentally affect nearby property. Typically crushers are located in more isolated areas along the fringe of the City limits. Successful (in terms minimizing the negative impact on the immediate area with traffic, dust and noise) examples being the rock crushers at the K-96 – Hillside interchange and the K-96 – 37<sup>th</sup> Street North interchange. Less successful would be the one located at K-15 – 31<sup>st</sup> Street South. What contributes to a successful location is a somewhat isolated industrial location coupled with major physical barriers around it (the Big Ditch or other extensive drainage and freeways), having similar uncontained activity (the land fill) in the area and immediate access to freeways or major arterials. The applicant's proposal to use the site for only 4 weeks coupled with landscaping and berms would minimize its impact on the area, in particularly to the abutting park property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for "Rock Crusher", on "GI" General Industrial is a Conditional Use per the WSC Unified Zoning Code. The Comprehensive Plan recommends the best use for this area as Industrial.
5. Impact of the proposed development on community facilities: I-135 improvements represent a critical enhancement not only to local traffic, but also to regional and national traffic. I-135 provides the link from I-35 and I-70. A strategically located rock crusher will facility the completion of this project in an efficient manner in regards to time allowed for the project, the cost of the project and localizing the job traffic of the project.