

**CONDITIONAL USE RESOLUTION NO. CON2002-00042**

**WHEREAS**, Bledsoe Enterprises, Inc., Harry Bledsoe (owner); Baughman Company, P.A., Russ Ewy (agent), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to allow "Temporary Rock Crusher" on 8 acres zoned "SF-20" Single Family Residential described as:

A tract of land lying in the NW 1/4 of Section 36, Township 27 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as beginning at a point 169 feet, more or less, south and 30 feet east of the NW corner of said NW 1/4; thence south parallel with the west line of said NW 1/4, 500 feet; thence east at a right angle to the west line of said NW 1/4, 700 feet; thence north parallel with the west line of said NW 1/4, 500 feet; thence west to the point of beginning (subject property contains 350,000 square feet, or 8.0 acres.) Generally located at the southeast corner of Kellogg (US Highway 54) and 135<sup>th</sup> Street West.

**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 August 22, 2002, 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 to allow "Temporary Rock Crusher" on 8 acres zoned "SF-20" Single Family Residential described as:

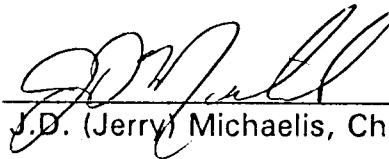
A tract of land lying in the NW 1/4 of Section 36, Township 27 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as beginning at a point 169 feet, more or less, south and 30 feet east of the NW corner of said NW 1/4; thence south parallel with the west line of said NW 1/4, 500 feet; thence east at a right angle to the west line of said NW 1/4, 700 feet; thence north parallel with the west line of said NW 1/4, 500 feet; thence west to the point of beginning (subject property contains 350,000 square feet, or 8.0 acres.) Generally located at the southeast corner of Kellogg (US Highway 54) and 135<sup>th</sup> Street West.

subject to the following conditions:

1. The Conditional Use shall be developed and operated in conformance with the approved site plan.
2. The storage of equipment or stockpiling of sand, aggregate, or overburden is not permitted closer than 100 feet to any public right of way, or closer than 50 feet to any property line.
3. Any stockpiling of fuels or chemicals on this site must be approved by the Health Department.
4. All aggregate piles will be no higher than 20 feet 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.
5. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the rock crushing operation, the land surrounding the site shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related equipment shall be removed from the subject site.
6. The Conditional Use for the rock crusher operation shall be valid for a period of 4 years.
7. Hours of operation for rock crushing shall be limited to 6:00 a.m. to sunset.
8. All operational roads shall be maintained in a sand or graveled condition and shall be treated with water or other acceptable dust retardant to minimize blowing dust.
9. 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.
10. 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.
11. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
12. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 22<sup>ND</sup> DAY of AUGUST, 2002. 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

  
\_\_\_\_\_  
J.D. (Jerry) Michaelis, Chair MAPC

ATTEST:

  
\_\_\_\_\_  
Mike Lindebak, Secretary



## STAFF REPORT

MAPC 08-22-02

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**CASE NUMBER:** CON2002-00042

**APPLICANT/AGENT:** Bledsoe Enterprises, Inc., Harry Bledsoe (owner); Baughman Company, P.A., Russ Ewy (agent)

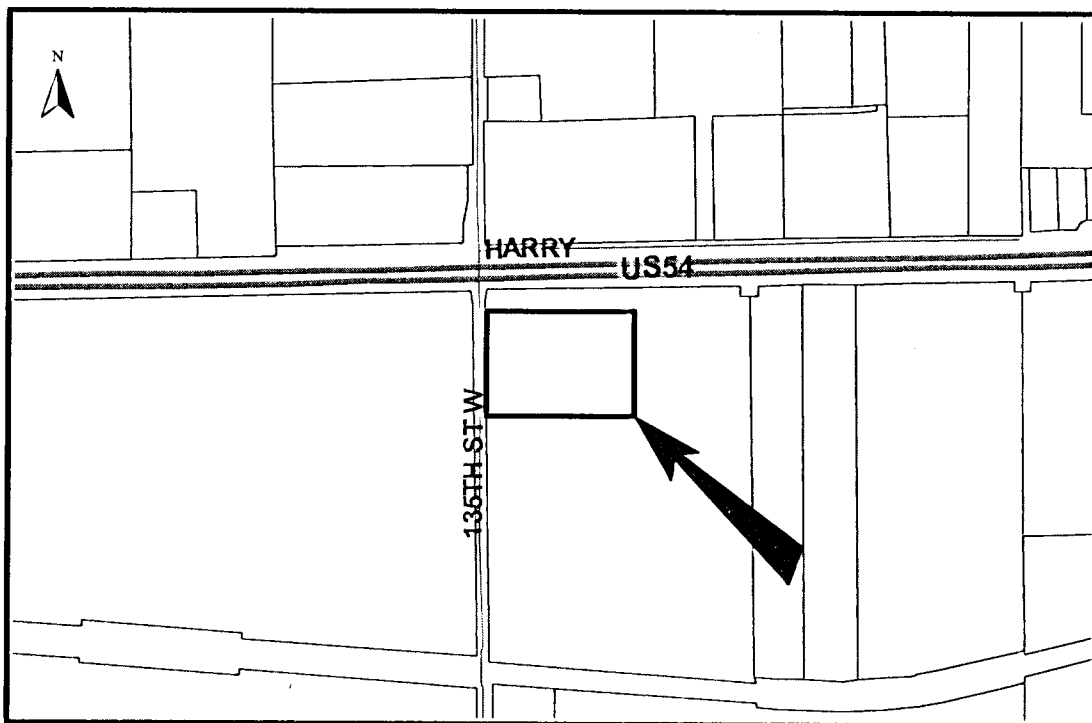
**REQUEST:** Conditional Use to allow "Temporary Rock Crusher"

**CURRENT ZONING:** "SF-20" Single Family Residential

**SITE SIZE:** 8 acres

**LOCATION:** Southeast corner of Kellogg (US Highway 54) and 135<sup>th</sup> Street West

**PROPOSED USE:** To permit the temporary placement of a rock crusher for the proposed Kellogg freeway improvements



**BACKGROUND:** The applicant requests a Conditional Use to allow "Rock Crushing" in association with an approved Conditional Use for the excavation of fill material (CON2002-35), and a permitted "by right" temporary concrete plant site. The purpose of all of these uses is for the anticipated West Kellogg highway project. The unplatted, undeveloped property is located southeast of the Kellogg and 135<sup>th</sup> intersection, and is zoned "SF-20". The application area is 8 acres located within a larger 53-acre tract, which is approved for the previously mentioned excavation Conditional Use. Proposed access to the site is off 135<sup>th</sup> at a point 600 feet south of Kellogg; setbacks indicated on the site plan are 100 feet from Kellogg and 150 feet from 135<sup>th</sup>.

The applicant indicates that after the Conditional Use is no longer needed, the site will be graded and developable. North of the application area, across Kellogg, is property zoned "GC" and undeveloped or developed with businesses. South of the application area is an "SF-20" zoned railroad corridor, a KG&E substation, agriculturally developed land, and a large lot single-family residence located beyond the railroad, substation, and agricultural field. East of the application area is "SF-20" zoned property developed with agricultural uses. West of the application area is property zoned "GC" and "LI" developed with agricultural uses and a concrete mixing plant.

**CASE HISTORY:** The application area is located within a larger 53-acre tract which was approved for Conditional Use CON2002-35, for soil extraction, by MAPC on July 25<sup>th</sup>, 2002.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"GC"	undeveloped, retail business
SOUTH:	"SF-20"	railroad, utility substation, agriculture, single-family residence
EAST:	"SF-20"	agriculture
WEST:	"GC", "LI"	agriculture, concrete mixing plant

**PUBLIC SERVICES:** The property is located along 135<sup>th</sup> Street West, a two-lane, unpaved section line road. The existing half-width right of way on this road is 30 feet; County Public Works has indicated a desire to increase that half-width right of way to the desired standard of 70 feet. The traffic count as of July 2000 was 788 cars per day (ADTs) on this section of 135<sup>th</sup>. The projected traffic volume for 2030 is 3,961 cars per day. No street projects are currently included in the C.I.P for this section of 135<sup>th</sup>; the *2030 Transportation Plan* designates this section of 135<sup>th</sup> to be a two-lane arterial. The property currently has no improved entrances onto 135<sup>th</sup>.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this property as

“Industrial/Transportation/Utility/Communication”, reflecting its location along Kellogg. The “Sedgwick County Development Guide” designates the application area as within the 2010 Urban Service Area.

The Unified Zoning Code lists “Rock Crushing” as a Conditional Use in the “SF-20” zoning district. The Zoning Code lists no specific conditions for “Rock Crushing”; however, the site is currently under the conditions of the previous soil extraction Conditional Use.

**RECOMMENDATION:** With the proper conditions in place, this temporary proposal should not have a detrimental affect on the surrounding properties. The previous conditional use for excavation on this site required right of way dedications to bring the adjacent 135<sup>th</sup> Street West up to County right-of-way standards. The conditions suggested below should mitigate potential negative impacts caused by this Conditional Use. Required permits should further ensure the safe operation of the Conditional Use.

For these reasons and based on information available prior to the public hearings, Staff recommends that the Conditional Use request be **APPROVED**, subject to the following conditions:

1. The Conditional Use shall be developed and operated in conformance with the approved site plan.
2. The storage of equipment or stockpiling of sand, aggregate, or overburden is not permitted closer than 100 feet to any public right of way, or closer than 50 feet to any property line.
3. Any stockpiling of fuels or chemicals on this site must be approved by the Health Department.
4. All aggregate piles will be no higher than 20 feet 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.
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6. The Conditional Use for the rock crusher operation shall be valid for a period of 4

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7. Hours of operation for rock crushing shall be limited to 6:00 a.m. to sunset.
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11. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
12. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

**This recommendation is based on the following findings:**

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are zoned "SF-20" and "GC"; the area is a mixture of rural, industrial, and commercial uses. The Conditional Use should not negatively affect the character of the neighborhood, as like uses already exist.
2. The suitability of the subject property for the uses to which it has been restricted: The application area could be developed as zoned for agricultural uses or single-family residential use. The site location, adjacent to a freeway and near an existing concrete mixing plant, may not make it attractive for residential uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions provided in the Unified Zoning Code for this Conditional Use should prevent any detrimental affect on nearby property. These conditions work to mitigate any negative dust, noise, or environmental effects. The fencing requirement from the previously approved Conditional Use for soil extraction should prevent trespassing and accidents on this property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *Comprehensive Plan* does not specifically

address "Rock Crushing". The Plan recommends that all industrial use locations be compatible with the built and natural environment. The land use guide identifies this area as designated for "Industrial/Transportation/Utility/Communication"; the requested use is consistent with this designation.

5. Impact of the proposed development on community facilities: Traffic to and from the requested Conditional Use at this location will increase the daily trips on this section of 135th; this increase should not exceed the safe capacity of this road. The right of way dedication from the previous Conditional Use approved at this site will allow for further widening of 135<sup>th</sup>, should an increase in traffic make widening necessary.