

(150004) Published in The Wichita Eagle on March 19, 2012
RESOLUTION NO. 38-2012

A RESOLUTION CHANGING THE ZONING CLASSIFICATION FOR 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-C AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984 AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

SECTION I. 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-C of the Wichita Sedgwick County Unified Zoning Code, the zoning classification or district of the lands legally described hereby are changed as follows:

Case No. ZON2011-00014

Zone change request from SF-20 Single-family Residential ("SF-20") to RR Rural Residential ("RR"), subject to Conditional Use CON2011-00017, on approximately 160 acres legally described as:

Resource Recovery Management Addition to Sedgwick County, Kansas; generally located northwest of the intersection of South Ridge Road and West 55th Street South.

SECTION II. That upon the taking effect of this Resolution, the notation of such zone change shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office 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 by the Governing Body and publication in the official county newspaper.

Commissioners present and voting were:

1 st District	DAVID M. UNRUH	Aye
2 nd District	TIM R. NORTON	Nay
3 rd District	KARL PETERJOHN	Aye
4 th District	RICHARD RANZAU	Aye
5 th District	JAMES B. SKELTON	Aye

DATED this 15th day of March, 2012.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Tim R. Norton

Tim R. Norton, CHAIRMAN
Second District

ATTEST:

Kelly B. Arnold
for KELLY B. ARNOLD
County Clerk



APPROVED AS TO FORM ONLY:

Robert W. Parnacott
ROBERT W. PARNACOTT
Assistant County Counselor

11-2058

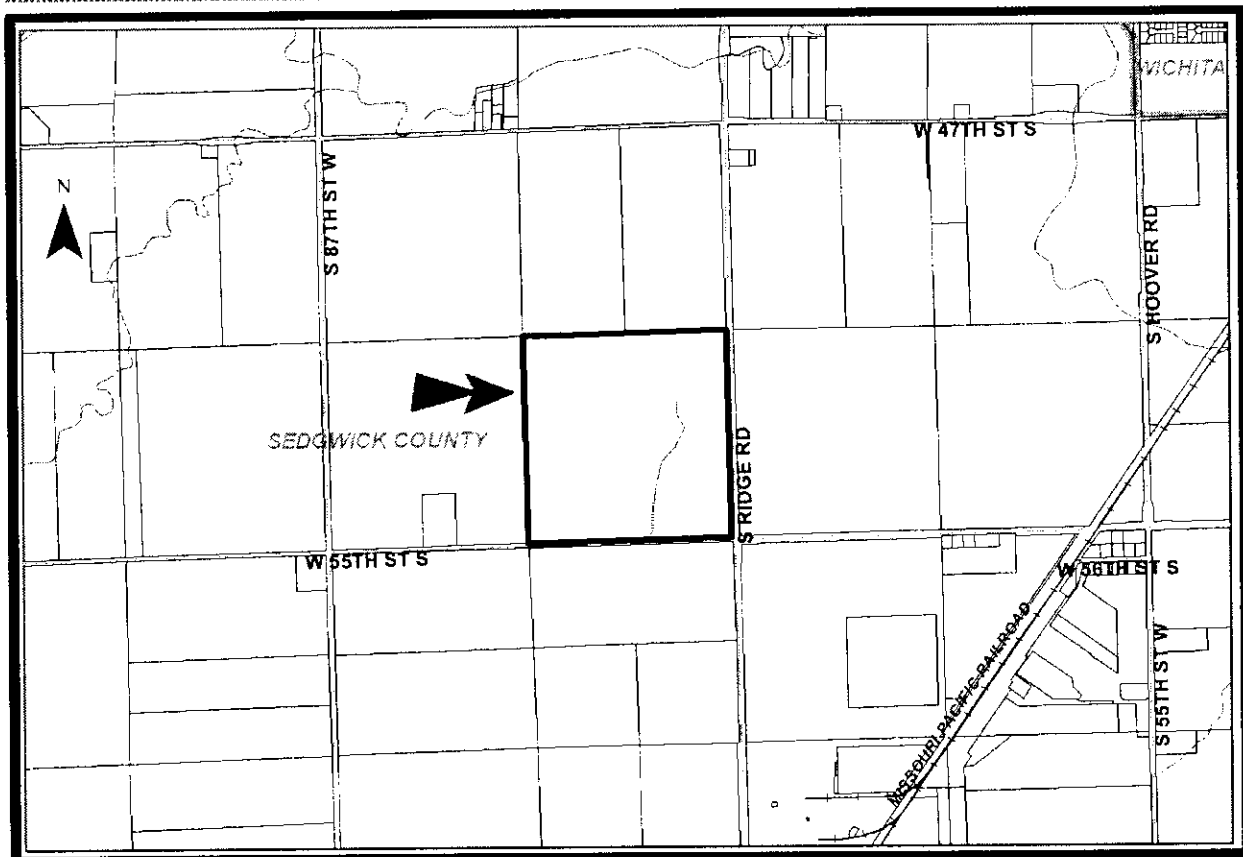
AGENDA ITEM REQUEST

Proposed Agenda Item: ZON2011-14 A ZONE CHANGE FROM SF-20 RURAL RESIDENTIAL ("SF-20") TO RR RURAL RESIDENTIAL ("RR") AND CON2011-17 A CONDITIONAL USE TO PERMIT A CONSTRUCTION AND DEMOLITION LANDFILL ON PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH RIDGE ROAD AND WEST 55TH STREET SOUTH (DISTRICT 2)

Presented By: John L. Schlegel, Director of Planning

Recommended Action: Approve the zone change and the conditional use, subject to platting within one year and the conditions recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC and authorize the Chairman to sign the prepared resolution

Proposed Agenda Date: August 24, 2011



Background: Resource Recovery Management, LLC, is seeking a zone change from SF-20 Single-family Residential ("SF-20") to RR Rural Residential ("RR"), and a Conditional Use to permit a construction and demolition "landfill" on the approximately 160 acres lying northwest of the intersection of South Ridge Road and West 55th Street South. SF-20 zoning does not permit landfills; however, the RR district does with Conditional Use approval. The application area is currently being used as cropland.

The subject site is proposed to be divided into two functional areas. The northern most 1,123.19 feet or 65.84 acres will be the actual fill areas, divided into two phases. Phase I, the northeastern most portion of the site, is to be filled first followed by Phase II, located in the northwestern corner of the site. The fill areas have approximately 1,123 feet of frontage along South Ridge Road. The site plan shows the toe of the fill areas to be set back 175 feet from Ridge Road; 150 feet from the north property line; 160 feet from the western property line and 50 feet from the K. G. & E. easement located to the south. One point of access from Ridge Road is shown. The drive from Ridge Road leads to a 24 by 40-foot (960 square feet) structure that would contain the scale house, office, training and storage. Ten parking spaces are depicted. An access road is to be located within the setback, around the perimeter of the fill areas. The southern limit of the fill areas is the northern most Kansas Gas and Electric Company (KG&E) easement, as shown on the site plan. A second utility easement is located south of the northern most KG&E easement. As shown on the site plan, drainage and retention of stormwater is to be located south of the fill area.

By code, the applicant is to design a drainage plan that limits the amount of runoff that occurs after development to the amount of runoff that existed prior to development. Due to the expense involved in developing a detailed drainage plan, detailed drainage plans are typically developed when the property is platted, not during the Conditional Use hearings. However, Planning Department staff has been advised that the applicant has met with Sedgwick County Public Works staff, and shown them a concept drainage plan that has received preliminary approval. Planning staff has been previously advised by interested neighbors that due to the very level topography of the area, drainage is a concern as it does not take very much rain before the water ponds, and it takes a few days for the land to finally drain. There have also been expressions of concern over the height of the fill material, and if the increased elevation will speed up the rate of runoff, thereby increasing the volume and the potential that stormwater could inundate Ridge Road. Any improvements needed to address drainage issues would typically be guaranteed at the time of platting.

Surrounding properties are zoned SF-20, except the southeast corner of 55th Street and Ridge that is zoned GI General Industrial ("GI"), and used for crop production. There are at least three single-family residences located to the west of the site. Except for Occidental Chemical Corporations facilities, all of the land located west of Ridge Road is used for agricultural activities. The closest other residence is located approximately 2,133 feet north of the subject site, east of Ridge Road, and is zoned SF-20. There are some other residences located one-half mile to the north of the subject site, north of 47th Street South and one-half mile west of Ridge Road; also zoned SF-20. An electric utility station is located one-half mile east of the site, and is zoned LI Limited Industrial ("LI"). Three-fourths of a mile south of the site, east of Ridge Road, is the Occidental Chemical

Corporation plant, zoned GI. Northeast of the Occidental plant, southeast of the site, is a grain elevator, zoned LI. Air Products is located approximately 1.25 miles south of the application area, and is also zoned GI. RR zoned land is located .75 mile south of the application, west of Ridge, and is located one mile west of the application area, just south of 55th Street. The border between the SF-20 and RR zoning districts was likely established in 1958 when land located approximately within three miles of the then city limits of Wichita were zoned SF-20 and land beyond that three mile distance was zoned RR.

The site is located approximately 2.5 miles south of Mid-Continent Airport. The recommended conditions of approval require compliance with applicable local, state and federal regulations. During the 2008 case, Planning Department staff contacted Mid-Continent staff regarding the application, and its potential impact on airport operations, and was advised to contact the FAA regarding advisory circular AC150/5200-34A titled *Construction or Establishment of Landfills [MSWLF] near Public Airports*. The program manager for the regional FAA office replied to staff's inquiry stating: "My understanding is that this is a construction and demolition landfill that will not accept putrescible waste and will not be co-located with other waste disposal operations. Such landfills generally do not attract wildlife and are compatible with airport operations." For the current application, staff is in receipt of a letter from Victor White, Director of Airports, dated May 15, 2011, that indicates Wichita Mid-Continent Airport staff does not oppose the application, and the applicant has indicated he will comply with Federal Aviation Administration Office (FAA) Advisory Circular AC150/5200-33B titled *Hazardous Wildlife Attractants on or near Airports*.

Planning Department staff believes the greater Wichita area currently has two C&D landfills in operation, the City of Wichita's facility at Brooks Landfill and C&D Recyclers operate a facility at 4250 West 37th Street North; neither of which are located in the southwest quadrant of the county. The City's C&D landfill has a height limit established by the Kansas Department of Health and Environment and does not have a time limit. The facility at 4250 West 37th Street North is permitted up to 70 feet in height on their fill areas. However long it takes for the fill area to reach 70 is the time frame for that Conditional Use.

Per the Sedgwick County Sign Code, the site will be limited to an eight square-foot sign unless modified by the conditions of approval listed below.

During both the 2008 and 2011 hearings, the following questions were asked or comments were made regarding the following topics:

1. Staff from the FAA has advised planning staff that composting is not allowed on airport property, but is allowed off of airports so long as the fill material does not contain putrescible materials.
2. With respect to groundwater, "location restriction D" listed below requires a five-foot separation from the predicted maximum water table elevation to the bottom of the landfill cell. Also, it is planning staff's understanding that local regulations require the applicant to ensure that an impermeable barrier is either present in walls and bottom of

each cell or is installed, or monitoring wells are installed. Staff has been advised that Occidental Chemical has water wells located within a mile of the site to the north and within 1.5 miles to the south. Occidental Chemical also has a 14 inch water line running along the west side of Ridge Road, adjacent to the application area that serves their plant located south of the application area. Occidental Chemical also has many monitoring wells in the area and is concerned that they may have to install additional wells to protect their interests if the request is approved without further study.

3. Another concern expressed by at least one resident has to do with the potential for a vapor release from Occidental or any of the other industrial uses in the area that may deal in materials that are "heavier than air"; will the mounds created by the fill impede or delay the dispersal of heavier than air material to a degree that the presence of the landfill increases the hazard to nearby residences?

The MAPC considered the application on July 7, 2011. Twelve individuals spoke in opposition to the request citing the following circumstances: existing poor stormwater drainage will be made worse; the landfill may cause higher levels of flooding; increased potential for groundwater pollution from material deposited in the landfill; increased erosion due to higher stormwater levels; the area already has its share of groundwater pollution; other sites would be better than the subject site; existing farming activities could be negatively impacted; increased dust, noise and truck traffic will diminish general quality of rural living and property values. The MAPC considered three motions: a) approve subject to staff recommendation; b) approve subject to staff recommendations plus a requirement that a liner be installed or c) deny the application. After hearing all the relevant comments, the MAPC approved (7-4-2) a motion to approve the application subject to staff recommendation:

Approve, subject to platting within one year, and subject to the following conditions:

- A. Demolition and construction solid waste resulting from the construction, remodeling, repair, repair and demolition of structures, roads, sidewalks and utilities as further defined in K.S.A. 65-3402(u) shall be the only landfill material permitted. Household solid waste, hazardous or toxic wastes, as defined by K.S.A. 65-3430 et seq. shall not be permitted for disposal at this site.
- B. The landfill operation shall obtain all applicable permits or licenses prior to depositing landfill material on the site. Operations shall proceed in accordance with all regulations and conditions established by the Kansas Department of Health and Environment (KDHE), Wichita-Sedgwick County Health Department, FEMA, the Corps of Engineers, the Department of Wildlife and Parks or any other agency having jurisdiction or oversight authority for the activities conducted on the application area.
- C. A landfill operator shall be on the site during all hours of operations for the purpose of screening incoming loads for authorization, inventory of the type, size and quantity of loads, and direction of loads to the appropriate cells. Access to the subject property shall be prohibited except during the hours of operation.

- D. The delivery of construction and demolition waste to the site shall be only by way of paved roads.
- E. A minimum 8-foot high fence shall be installed around the perimeter of the site to minimize the blowing of any materials onto adjacent properties. The fence shall be either chain link or welded or woven wire with openings no larger than two inches. The fence shall be installed prior to the beginning of filling operations.
- F. Upon written notice of any violation by the appropriate zoning administrator or any agency authorized to permit, review or evaluate operations, operations shall cease and the violation shall be corrected within 48 hours.
- G. A detailed grading/drainage plan shall be submitted to the Sedgwick County Department of Public Works for review and approval prior to commencement of operations. As part of that review, the Department may require that easements be dedicated for drainage purposes. A copy of the approved grading and drainage plan shall be submitted to the Planning Department for filing with other case materials. The operation of the landfill shall be in conformance with the approved grading and drainage plan, and with the approved "Site Plan." Landfill operations shall be conducted so as to minimize the area that could blow. In order to minimize the potential for blowing material, a maximum of three acres at any one time may be utilized as fill area. Prior to the opening of any new area, the previous area shall be graded and seeded with at least eighteen inches of clean cover material. All fill, work or drive areas shall be maintained in a manner that minimizes blowing dust or fugitive material.
- H. The maximum height of fill material shall not exceed 80 feet in height; and landfill and composting operations shall cease 33 years from the date of final approval. It shall be the responsibility of the applicant to notify the planning staff and the Director of County Code Enforcement of the date when filling began; otherwise the time period shall run from the date of MAPC or Board of County Commissioner (BoCC) approval, whichever is latest.
- I. A landscape plan shall be submitted for review and approval by the Director of Planning. All plant materials shall be maintained in good condition and shall be replaced as necessary and immediately within the context of the growing season. Evergreens, a minimum of 5-feet in height shall be installed between the fill areas and the property lines at a rate of at least one tree per 15-feet. The landscaping is to be installed prior to beginning fill operations on the site.
- J. Right-of-way dedications commensurate with those required by the Subdivision Regulations shall be required if existing rights-of-way are substandard.
- K. If required, a revised site plan shall be submitted for review and approval.
- L. The C&D landfill shall be developed and operated in compliance with all conditions of approval or the Conditional Use shall be considered null and void. Operations shall commence within one year of the date of final approval or the