

**EXCERPT MINUTES OF AUGUST 10, 2017, WICHITA-SEDGWICK COUNTY METROPOLITAN
AREA PLANNING COMMISSION MEETING**

Case No. ZON2017-00028 and CON2017-00029 – County Zone change from RR Rural Residential to SF-10 Single-Family residential and LI Limited Commercial and Conditional Use to permit mining or quarrying, specifically the extraction and removal of sand, and rock crushing for the property generally located on the north side of West 53rd Street North and approximately 1,000 feet east of K-96 Highway on property described as:

A tract of land in the Southwest Quarter of Section 17, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows: The East 1/2 of the Southwest 1/4; EXCEPT Beginning at the Southwest Corner of the East 1/2; thence East 750 feet; thence North 592.27 feet; thence West 419.46 feet; thence Northwest 786.68 feet; thence South 1306.1 feet to the Point of Beginning; and EXCEPT all subject to road rights-of-way of record.

BACKGROUND: The applicant is requesting a zone change from RR Rural Residential to SF-10 Single-Family Residential (SF-10) and LI Limited Industrial (LI), and a Conditional Use to permit mining or quarrying of sand, and rock crushing. The subject property is located on the north side of West 53rd Street North and approximately 1,000 feet east of K-96 Highway. The property is in unincorporated Sedgwick County, and abuts the City of Maize.

At the conclusion of sand extraction operation, the proposed SF-10 zoning district would allow the construction of approximately 50 single-family homes and a lake as shown on the redevelopment plan. Please note that this preliminary plan provides 50 lots with one point of access. The final plan will have to be revised to show a second point of access for this number of lots.

The proposed LI zoning would create two, three acre industrial parcels on the frontage of the property. Please see the attached redevelopment plan related to the application.

The Conditional Use request would allow a sand extraction/mining operation and related gravel crushing on the site, as shown on the attached operational site plan. Details on the operation are as follows:

- The sand extraction operation and rock crusher would have daily hours of operation from 6:00 a.m. to sunset.
- The sand extraction/mining facility and rock crusher will have an approximate 15-year duration.
- Topsoil will be removed from the site, and sand extraction operations will be within the designated area on the operational site plan.
- Material for rock crushing will be clean concrete and asphalt debris. The crushed gravel aggregate from this debris will be used for local construction and road projects. The rock crusher will operate in the designated area on the operational plan.
- The rock crusher will not be used daily, it will operate at times when there is sufficient material for crushing.
- The facility will comply with permit requirements of the Kansas Department of Health and Environment.
- A watering truck will be kept on-site to water all access roads and driveways for the sand extraction operation and rock crusher.
- The rock crusher will be equipped with a dust suppression/watering system to reduce dust from the crusher operation.
- The sand extraction operation and rock crusher would generate approximately 80 trucks per day.

The Unified Zoning Code (UZC) includes supplementary use regulations for mining and quarrying. Section III-D.6.gg. provides twenty-three standards and regulations for sand extraction operations. These include

requirements on perimeter fencing, dust control, minimum water levels, overburden and stockpile locations, drainage requirements, and other important standards.

North of the subject property is a large vacant agricultural parcel zoned RR. South of the site is vacant property currently in the City of Maize. East of the site is vacant agricultural land zoned RR. West of the property is a vacant property zoned RR. There is single-family home west of the property on West 53rd Street North. East of the site along West 53rd Street North to the Arkansas River are approximately eight similar sand extraction operations.

This application is similar to a sand extraction operation and rock crusher conditional use on West 45th Street North and North Hoover Street, CON2014-00012 and CON2017-00004.

CASE HISTORY: The subject property is vacant and unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	vacant agricultural
SOUTH:	City of Maize	single-family residence, vacant agricultural
EAST:	RR	vacant agricultural
WEST:	RR	vacant agricultural

PUBLIC SERVICES: Access to the site is proposed to be from West 53rd Street North, a two-lane arterial road, with 60 feet of full right-of-way. Truck traffic from the operation could cause congestion on the public streets and the need for increased maintenance. Utilities will have to be extended to the property.

CONFORMANCE TO PLANS/POLICIES: The property is in the City of Maize Small City Urban Growth Area, as designated on the Urban Growth Area Map of the *Community Investment Plan*. The City of Maize was advised of this application on July 18, 2017, and the City has been provided a copy of this staff report and information on the public hearing.

RECOMMENDATION: The sand extraction mine and related rock crushing operation would provide essential material needed for to local construction projects of all types. The eventual redevelopment of the property with single-family homes at the conclusion of the sand extraction operation is common in this area. Based upon information available prior to the public hearings, planning staff recommends that the request be *APPROVED*, subject to the following conditions:

1. The mining/sand extraction operation shall meet all the supplementary use provisions of UZC Section III-D.6.gg.
2. The facility shall be operated as shown on the Operational Site Plan for CON2017-00029, prepared by Baughman Company.
3. The sand extraction operation and rock crusher shall have daily hours of operation from 6:00 a.m. to sunset.
4. The sand extraction/mining facility and rock crusher will have an approximate 15-year duration. This time period shall begin from the start of mining activities. The applicant shall notify MAPD of the start date.
5. Topsoil will be removed from the site, and sand extraction operations will be within the designated area on the operational site plan.
6. Material for rock crushing shall be clean concrete and asphalt debris. The rock crusher will operate in the designated area on the operational plan.
7. The rock crusher shall not be used daily, it will operate at times when there is sufficient material for crushing.
8. The facility will comply with permit requirements of the Kansas Department of Health and Environment.
9. A watering truck will be kept on-site to water all access roads and driveways for the sand extraction

- operation and rock crusher.
10. The rock crusher will be equipped with a dust suppression/watering system to reduce dust from the crusher operation.
 11. Dedication of right of way to provide a total of 60 feet across the West 53rd Street North frontage.
 12. Dedication of access controls on the West 53rd Street North frontage limiting access to one point, preferably near the center of the property.
 13. Provide a drainage plan meeting the requirements of the Wichita-Sedgwick County Stormwater Manual.
 14. Dedication of drainage easements as needed to accept runoff from off site and convey it through the site as indicated by the approved drainage plan.
 15. Dedication of reserves to protect areas of the property that are covered by floodplain.
 16. 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.

The staff's recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** North of the subject property is a large vacant agricultural parcel zoned RR. South of the site is vacant property currently in the City of Maize. East of the site is vacant agricultural land zoned RR. West of the property is a vacant property zoned RR. There is single-family home west of the property on West 53rd Street North. East of the site along West 53rd Street North to the Arkansas River are approximately eight similar sand extraction operations.

This application is similar to a sand extraction operation and rock crusher Conditional Use on West 45th Street North and North Hoover Street, CON2014-00012 and CON2017-00004.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned RR and the property could be developed with permitted uses in this zoning district. Allowing the uses proposed with the Conditional Use application will provide materials important to local construction projects. The future redevelopment of the site with single-family homes will allow residential uses that are consistent with the area.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The Supplemental Use Regulations of the UZC are designed so mining and quarrying operations do not have an adverse impact on surrounding properties. The proposed Conditional Use shall meet all twenty-three Supplemental Use Regulations and should not detrimentally effect nearby property. Dust control is a major concern with operations such as this, and watering of haul roads and a watering system on the rock crusher will help compliance with these standards. The eventual redevelopment of the property with single-family homes will provide a development that is compatible with the area.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The property is in the City of Maize Small City Urban Growth Area, as designated on the Urban Growth Area Map of the *Community Investment Plan*. The City of Maize was advised of this application on July 18, 2017, and the City has been provided a copy of this staff report and information on the public hearing.
5. **Impact of the proposed development on community facilities:** The primary impact of the proposed use is an increase in truck traffic on West 53rd Street North. Truck traffic could cause increased congestion on public streets and the need for additional street maintenance.

DAVE CLEMENTS, Planning Staff presented the Staff Report.

RICHARDSON asked if the city of Maize considered this item.

CLEMENTS replied that the City of Maize Planning Commission had an information session last Thursday.

RICHARDSON asked if this item needs to go to the City of Maize Planning Commission for approval.

CLEMENTS responded that a representative from the City of Maize Planning Commission is present.

RICHARDSON commented since this property is not platted and there is simply just a sketch drawing he believes the exact dimensions of the limited industrial zoning should be defined before approved today.

CLEMENTS replied that it is described by legal description.

RICHARDSON asked if the legal description is available.

CLEMENTS responded yes, and used for purposes of the public notice.

RICHARDSON would like to see the legal description and the dimensions on the two lots.

CLEMENTS said the legal description was used to outline of the two lots.

WARREN zoning case ...*inaudible*... up to change not bind in any way shape or form.

DALE MILLER commented that the applicant could come back at the time of platting and reconfigure if something force the way they did their mining operation.

WARREN on entrance zoning...*inaudible*....

DALE MILLER said if the engineers feel they need a second point of access, it would be determined and required at the time of platting,

CLEMENTS said it was discussed with County Public Works and recognized that this is a preliminary plan subject to change with platting.

CHAIR FOSTER is concerned with the language in condition number four regarding not having limitation.

RICHARDSON commented that there is usually a time limit.

CHAIR FOSTER said yes, and if an applicant needs an extension, they can come back and obtain one.

CLEMENTS said the word proximally could be taken out or the applicant could better define what operationally needs to be done since it is market driven to great degree.

RUSS EWY, BAUGHMAN COMPANY, PA, 315 ELLIS, AGENT FOR THE APPLICANT said a there is a modification of the operational site plan that shifts the operation of the plan site as well as the rock crushing facility slightly to the north east in the general location of the development. He mentioned that the site plan also provides clarification of the two phases. Phase one is about thirteen acres with the balance of the lake being phase two. He mentioned the plant site was shifted because it lapse over two, three acre lots. He said the legal description takes the limited industrial zoning up 730 feet and will shrink down at some point when the property is plated. He said there is a centerline of a proposed roadway system, a public street system and plan going over the top of the centerline with the access road to the entrance of the plat of the plan site. He said residential development would begin infrastructure development at what will be phase one. He feels that moving of the plan site will pull it away from traveling public on 53rd Street as well as from developments to the Southwest.

GREENE asked if they factor the need for a second access point to the development.

EWY replied, not at this point and it is an issue addressed during platting.

GREENE commented that the applicant should keep in mind the need for a second point access.

EWY commented that that this point there will be one operational access point for the sand pit within the future platted right of way for public street system. He said once the property is platted they are splitting a six acre limited industrial area into two lots with a share driveway for the lots. He said at that point an arrangement could be made with Fire to have a second emergency access easement to provide a second point of access through the industrial lots and the applicant would be willing to explore at that point.

CHAIR FOSTER commented that on the new diagram presented it refers to the LI zoning at the southeast corner and asked if there should be any concerned for a screening, he knows the plant is not there but given that is the zoning. He said he does not recall the zoning to the south.

EWY said the Commission would hear from the City of Maize representative that is present as it relates to the concerns from the City of Maize and the industrial development. He said there is substantial hedge along the east property line and substantial separations from the residential uses further to the east. He said screening along the south is something that could be addressed at this meeting. He commented as far screening goes for the plant site itself it could be expect that this particular location will be well screened from any residential development to the east and the plant site has moved 850- 900 feet to north of the roadway and does not anticipate any negative impacts from the operation of the sand plant. He mentioned that the roads will be water by trucks and just as the site on Hoover and 55th site, it will be well kept with no dust and very limited noise.

CHAIR FOSTER commented concerning the time limit it would be set a maximum of 15 years with the applicant being able to come back and seeking an extension.

EWY agreed and would like to specify that the clock starts at the time of extraction.

BLICK said that staff recommendations states 6:00 a.m. to sunset. He commented with daylight savings sunset can be nine o'clock and with most business stopping at five he would like to know what the applicants opinion is on the matter.

EWY said the sun up to sun down is an ingrained traditional recommendation for sand pits. He said the applicant is comfortable with the limitation as stated in the staff report.

BLICK said he is concern for nearby residents.

EWY commented that it is a good point. He said that the applicant had a change to meet with area residents to the north and had a very a constructive discussion mostly likely the reason there no area property owners in the meeting to discuss the case.

KIM EDGINGTON, PLANNING ADMINISTRATOR FOR THE CITY OF MAIZE said she is present representing the Maize Planning Commission who does not have any objection with the proposed development and welcomes the future late development that it will bring to the community. She said that Maize Planning Commission asks that the MAPC considers a lesser zoning district along 53rd Street. She mentioned that there are other sand pits in the area to the east, there is no other LI zoning along the 53rd Street corridor. She said their Comprehensive Plan contemplates Commercial development along the 53rd Street frontage and would prefer that the land use restrictions for this development be less industrial and more commercial in nature. Preferably, looking at an office warehouse zoning to keep the buildings along 53rd Street more commercial in design. She will stand for questions.

MCKAY asked if heavy commercial be acceptable by Maize Planning Commission.

EDGINGTON replied either general commercial or office warehouse were the two categories recommend by the Maize Planning Commission. She mentioned that there are some commercial uses to the south and east in the City of Maize and those properties are general commercial zoned.

RICHARDSON asked of the item requires approval by the City of Maize.

EDGINGTON said it is not requires it, however, the City of Maize did have their routine meeting and review the case.

RICHARDSON asked if the case would go to Board of County Commissioners for final approval.

EDGINGTON replied yes, since it is a zone change.

JAY RUSSEL, OWNER AND APPLICANT said he is trying to take a different approach concerning sand pits. He said instead of getting the sand pits when they are done and trying to adapt to them, they are trying to buy the ground upfront. He said this particular pit only about 25 acres and will only happen for the period of time that would take to get the sand pit done. He said it will not go 40-foot deep like the majority in the area and will not take 15 years. It is designed to get it done in a timely manner. He said for the Fire department in the County is 50 lots and the City is 30 or 60 and a lot of conversation discussed earlier today. He said the two commercial lots are already sold with one user that will take the entire place. He said the entrance to the fifty lost is controlled next to the commercial and he will make sure through architectural control that what is built there will not jeopardize the value of the rest of the property. He said he would let the Planning Administrator for the City Of Maize have a say in architectural control.

HARTMAN asked what did the applicant think of the suggested change of LI to general commercial or office warehouse.

RUSSEL said it was zoned in the County for the County to make the decision. He said it was not annexed to Maize for that reason.

HARTMAN asked if he would like to leave it as it is.

RUSSEL replied, yes.

CHAIR FOSTER said it was mentioned earlier that the two lots were sold already with commercial type use, however he sees LI on the diagram.

EWY replied that the application is for Limited Industrial with several uses specific and among them manufacturing general and machine shows permitted by the Limited Industrial and not the office warehouse district and it was part of the intention of whom the buyer is.

CHAIR FOSTER commented that the request description in the staff report says zone change SF-10 single family residential and LI limited commercial and conditional used to permit minor coring. He asked if it's LI limited industrial and SF-10.

EWY said the original application sought 69 acres of limited industrial zoning however, the industrial zoning is incompatible with the use of residential and the zoning legal description was split for limited industrial in a smaller application area in the southeast corner of the site. He said they did not ask for limited commercial it is limited industrial.

WARREN moved to approve as presented, second by **HARTMAN**

CHAIR FOSTER asked what the zoning is of the front along 53rd Street would be for the motion.

WARREN replied as presented, limited industrial.

CHAIR FOSTER offers a substitute motion for general commercial use and would like to know from the applicant if that fulfills the needs for zoning.

RUSSEL he would have to visit with the contract purchaser to find out what characteristic of the building would be affected. He said the contract purchaser is on the Planning Commission of Maize and talked to the City Manager of Maize for tax incentives. He said he would not like commit to something that will require a new zone change.

EDGINGTON said she is speaking as a representative of the City of Maize Planning Commission and reflecting the views of their meeting. She said their main concern was the immediate frontage of the two lots. She stated that the applicant and the City of Maize could come to an agreement of the aesthetics of the buildings along Maize Road and the zoning could be worked out to the benefit of both parties.

WARREN would like to confirm that the concern is not with the use but more from the aesthetic of the buildings as an entrance to the community.

EDGINGTON she replied that with site being so near to the interchange of 53rd street and Maize the aesthetic of the buildings is a concern. She added if the building was within the City of Maize, there are certain design standards that do not allow metal building along the frontage.

MCKAY commented that the applicant has more to lose if the frontage of the building is not astatically pleasing.

CHAIR FOSTER asked if they could add a condition for the site plan to be review by the City of Maize.

DALE MILLER said it could be recommend approval subject to the applicant utilizing design criteria utilized by the City of Maize.

EWY said ultimately, there will be a building permit on a platted lot and the platted lot will be annexed during planning at the platting of it to the City of Maize. He said if its site plan approval at the time of building permit that will occur within the City of Maize jurisdiction at the end of the day.

RUSSEL said they could come up with a solution with the City of Maize concerning the architectural approval.

MILLER STEVENS asked if the substitute motion was completed or if it was withdrawn.

CHAIR FOSTER replied that he is withdrawing the substitute motion.

MOTION: To approve subject to staff recommendation
WARREN moved, HARTMAN seconded the motion, and it carried (11-0).
