



PLANNING COMMISSION MEETING
August 22, 2018
Meeting Action Summary

August 22, 2018 – 6:30 p.m.

Commissioners present: Butler, Carpenter, Carttar, Paden, Sinclair, Struckhoff, Weaver, Willey

Staff present: McCullough, Crick, Day, Ewert, Larkin, M. Miller, Mortensen

GENERAL BUSINESS

PLANNING COMMISSION ACTION SUMMARY

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of May 23, 2018.

Motioned by Commissioner Struckhoff, seconded by Commissioner Carttar, to approve the action summary (minutes) from the Planning Commission meeting of May 23, 2018.

Unanimously approved 8-0. Commissioners Butler, Carpenter, Carttar, Paden, Sinclair, Struckhoff, Weaver, Willey voted in favor.

Receive and amend or approve the action summary (minutes) from the Planning Commission meeting of July 25, 2018.

Motioned by Commissioner Struckhoff, seconded by Commissioner Paden, to approve the action summary (minutes) from the Planning Commission meeting of July 25, 2018.

Unanimously approved 8-0. Commissioners Butler, Carpenter, Carttar, Paden, Sinclair, Struckhoff, Weaver, Willey voted in favor.

COMMITTEE REPORTS

No reports to receive from any committees that met over the past month.

Commissioner Struckhoff said the Metropolitan Planning Organization Policy Board met last week and approved the revised public participation plan and made a small amendment to the fiscal Transportation Improvement Program.

EX PARTE / ABSTENTIONS / DEFERRAL REQUEST

- Ex parte:
Commissioner Weaver disclosed that he received a political campaign contribution from Big Springs Quarry in 2016 when he ran for County Commission. He said it would impact his decision or deliberations on the matter.

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Mr. Randy Larkin said he did not need to abstain since there was no substantial interest.

- No abstentions.

GENERAL PUBLIC COMMENT

No general public comment.

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ITEM NO. 1 FINAL DEVELOPMENT PLAN FOR BAUER FARM; 4651 BAUER FARM DR (SLD)

FDP-18-00301: Consider a revised Final Development Plan for Bauer Farm, located at 4651 Bauer Farm Dr. Submitted by Joe Stewart on behalf of Falco LLC, property owner of record.

STAFF PRESENTATION

Ms. Sandra Day presented the item.

APPLICANT PRESENTATION

Mr. Joe Stewart agreed with staff report and was present for questions.

PUBLIC COMMENT

No public comment.

ACTION TAKEN

Motioned by Commissioner Struckhoff, seconded by Commissioner Weaver, to approve the Final Development Plan, FDP-18-00301, for Bauer Farm, 4651 Bauer Farm Dr., based upon the findings of fact presented in the body of the staff report.

Commissioner Sinclair asked staff about the other lots developed in Bauer Farm with on-street parking.

Ms. Day said the on-street parking was further west of Champion. She said Burger King and Zaxby's did not construct on-street parking.

Commissioner Carpenter asked if the landscape wall would be included.

Ms. Day said yes.

Unanimously approved 8-0. Commissioners Butler, Carpenter, Carttar, Paden, Sinclair, Struckhoff, Weaver, Willey voted in favor.

PC Minutes 8/22/18

ITEM NO. 2 REZONING .81 ACRES FROM RS7 TO RSO; 708 ELM ST (LRM)

Z-18-00255: Consider a request to rezone approximately .81 acres from RS7 (Single-Dwelling Residential) District to RSO (Single-Dwelling Residential-Office) District, located at 708 Elm St. Submitted by TreanorHL, for Elizabeth B. Ballard Community Center Inc., property owner of record.

STAFF PRESENTATION

Mr. Luke Mortensen presented the item.

APPLICANT PRESENTATION

Ms. Lauren Davis, TreanorHL, was present for questions.

PUBLIC COMMENT

Mr. Ted Boyle, North Lawrence Improvement Association, spoke in favor of the rezoning. He said the Ballard Community Center held a neighborhood question/answer meeting that had a good turnout. He said most of the questions were regarding parking and traffic. He said the neighborhood was in favor of the rezoning. He encouraged Planning Commission to forward the rezoning to City Commission with a recommendation of approval.

Mr. Shawn Teenor, 707 Elm, said the Ballard Community Center had not been a great neighbor to him. He said his biggest concern with the rezoning was the layout of the sheds on the site. He said the intersection of 7th Street and Elm Street was only a 2-way stop and was a huge hazard to the community and needed further evaluation. He said increased traffic in the area had caused increased traffic accidents. He said he was not able to attend the Ballard Community Center neighborhood meeting. He said Ballard employees had not been kind to his family and he has had issues with them.

APPLICANT CLOSING COMMENTS

Ms. Davis said the Ballard Center was currently under site plan review. She said this was the first time she had heard the concerns expressed by Mr. Teenor and that those concerns were worth looking at during the site plan review process.

COMMISSION DISCUSSION

Commissioner Carpenter asked Mr. Boyle to respond to comments regarding traffic.

Mr. Boyle said seven traffic calming devices were expected to be installed. He said funding was received for some of the devices from Community Development Block Grant (CDBG). He said some of the traffic calming devices were slated for Elm Street and Walnut Street. He said they were waiting for the City to install them. He said the 7th and Elm intersection was not a high accident intersection.

Commissioner Carpenter asked staff to comment about traffic at that intersection.

Mr. McCullough said this is the first that he had heard concerns about traffic. He said the City Engineer could look at the intersection. He said staff welcome comments and input from neighbors for consideration with the site planning process.

Commissioner Willey asked if Planning Commission would see the site plan.

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Mr. McCullough said Planning Commission would not see the site plan, it would be an administrative review. He said the public could provide comments to the Planning office.

Mr. Teenor said he appreciated the offer to speak to staff. He felt the intersection was a huge hazard and deserved a 4-way intersection and a traffic control device well before 7th Street. He said the Ballard Center sheds block drivers view.

Commissioner Carpenter inquired about the anticipated use that triggered rezoning.

Ms. Becky Price, Ballard Center Director, said they were adding clothing for adults and basic household goods. She said it was hard to predict the number of clients but that they did not anticipate an increase in traffic.

Commissioner Carpenter asked about the sheds.

Ms. Davis said the sheds would be looked at with the site plan but that they were in the correct place according to Code. She said if City staff indicate the sheds are not in the correct place they would be moved.

Commissioner Carttar asked if the proposal was essentially to bring the pre-existing site into conformance.

Mr. Mortensen said that was correct.

Commissioner Sinclair asked why the North Lawrence Neighborhood Plan was not recognized in the Comprehensive Plan.

Mr. McCullough said he wasn't sure there was a neighborhood plan to recognize. He said the Comprehensive Plan only acknowledged more recent plans.

Commissioner Carpenter asked what was considered a recent plan.

Mr. McCullough said the 1990's was the cutoff. He said neighborhood plans were consulted for information but older ones did not provide much value in discussions because so much can change contextually in an area.

Commissioner Carpenter asked if it would be beneficial for neighborhoods to have plans and review them. He wondered how often the neighborhood plans should be updated.

Mr. McCullough said in a perfect world every 5-10 years. He said there were several neighborhoods that would like to establish their first neighborhood plan or update their plan. He said it was a matter of resources to get them established, drafted, and reviewed. He said after the Comprehensive Plan effort staff would be back at doing some of that in the future.

ACTION TAKEN

Motioned by Commissioner Butler, seconded by Commissioner Carttar, to approve the request to rezone approximately 0.81 acres, from RS7 (Single-Dwelling Residential) District to RSO (Single-

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Dwelling Residential-Office) District, located at 708 Elm St, based on the findings presented in the staff report and forwarding it to the City Commission with a recommendation for approval.

Commissioner Sinclair said the Ballard Center was an incredible organization and provided great services to the community. He supported the rezoning. He said he understood the comments made by Mr. Teenor but felt they were more appropriately directed toward staff as the site plan is reviewed.

Unanimously approved 8-0. Commissioners Butler, Carpenter, Carttar, Paden, Sinclair, Struckhoff, Weaver, Willey voted in favor.

PC Minutes 8/22/18

**ITEM NO. 3 CONDITIONAL USE PERMIT FOR BIG SPRINGS QUARRY; 2 N 1700 RD
(MKM)**

CUP-18-00299: Consider a Conditional Use Permit for Big Springs Quarry, approximately 1,049 acres located at 2 N 1700 Rd. and parcels to the north, east, and south. Submitted by Mid-States Ventures LLC, for Mid-States Ventures LLC, Nancy J Hughes, James R Meek, Thomas R Meek, and Bonnie M Nichols, Trustee, property owners of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Mr. Rich Eckert, Mid-States Materials, provided history on the quarry operations and phasing of the project. He provided a slideshow on the overhead. He said Mid-States leaves the land better than they find it. He said he agreed with all of the conditions of approval in the staff report. He said the quarry benefited the regional and local economy. He said he looked at appraised property values of the surrounding properties and property values had increased over the past few years. He showed a promotional video on the overhead.

PUBLIC COMMENT

Mr. Phil Porter, Buckley Powder Company, spoke in favor of Mid-States Materials. He said the Kansas Fire Marshalls Office was the authority having jurisdiction over blasting. He said modern blasting was a science and well thought out. He said Buckley Powder Company has been doing business with Mid-States Materials before the Big Springs Quarry and they were ethical, honest, and good to deal with.

Ms. Michelle Best expressed concern regarding the completion of phase 6.

Mr. Robert Best said he would like phase 6 to have a set time of completion, preferably prior to December 2020.

Mr. Scott Carlson, Kansas Department of Agriculture, provided information on State reclamation requirements. He said the State's requirements were far less than what Douglas County required. He said the State accepts the bonding documents of Douglas County in lieu of a State requirement to get a bond. He said in terms of compliance, Mid-States Materials was always on top of things and incorporate reclamation into their business model. He said Mid-States received an award from the National Association of State Land Reclamations. He said he was proud that there were more winners in the State of Kansas than any other state in the country. He said there were over 900 registered sites in the state of Kansas. He said there was a lot of competition out there and he had seen many operators that did not care about doing the right thing. He said Mid-States knows the importance of community and doing the right thing by the land owners.

Mr. Chad Hasler, employee of Mid-States Materials, said the company places importance on the environment and safety.

Mr. Bill Collins, Capital Trucking, spoke in favor of Mid-States Materials. He said his business had grown thanks to the success of Mid-States.

Mr. Bob Henthorne, retired geologist with the Kansas Department of Transportation (KDOT) and current Project Geologist with Capital Geotechnical Services, said part of his job duties with KDOT was sampling and inspecting rock quarries. He said he inspected Big Springs Quarry for many years and it produces some of the best aggregate product in the area. He said Mid-States Materials took over Big Springs Quarry in 2007 and KDOT sampled it 57 times under the Mid-States Materials ownership and every sample passed the requirements. He felt it was important to keep producing a high quality aggregate product for the area.

APPLICANT CLOSING COMMENTS

Mr. Eckert said they were committed to finishing phase 6 and they believe they can get it done by the end of 2020. He said the site would be beautiful afterward. He said they made 11 different contacts with neighbors to hear their concerns and address them.

COMMISSION DISCUSSION

Commissioner Willey asked Mr. and Mrs. Best if the contingency of phase 6 being finished first addressed their concerns.

Ms. Best said she felt Mid-States response about finishing phase 6 was weak. She would like to see a timeframe put in place.

Commissioner Willey said the quarry covered two counties. She said the Conditional Use Permit included language about completing phase 6 before moving on. She wondered if the language covered what could or could not be done in Shawnee County.

Ms. Miller said Big Springs could quarry in Shawnee County at any time. She said the concern from the neighbor was that Big Springs would remove the equipment from phase 6 and stop quarrying there and move to Shawnee County. She said one of the Conditional Use Permit conditions was that Big Springs would quarry continuously. She said wording could be added saying that the equipment would not be removed.

Mr. McCullough said it would be difficult for staff to regulate a Conditional Use Permit in another county. He said Mid-States Materials indicated they were committed to the Douglas County side and staying in phase 6. He said there could be some tidying up of the language to say that they won't move out of phase 6 to any of the new phases until phase 6 was complete and reclaimed. He said the quarry was driven by market demand and it would be hard to put a date on it. He said Lawrence does not have authority on a quarry in Shawnee County.

Commissioner Carpenter inquired about the possibility of continuous mining of phase 6. He asked if this was a homogenous bed of limestone or if there were different materials spread throughout the area.

Mr. Cole Anderson, Mid-States Materials, said at the site they were mining three different types of limestone units; Irvine Creek, Rock Bluff, and Ozawkie limestone. He said the main unit they were after was the Irvine creek because it was thickest and highest quality.

Commissioner Carpenter asked if there was anything that was market driven that would prompt Mid-States to move to a different location to quarry a particular material.

Mr. Anderson said it would not make sense to move to a different site to quarry the same rock.

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Commissioner Carpenter asked if it was best for the business model to finish the phase.

Mr. Anderson said that was correct. He said Mid-States Materials would not gain anything by moving to another site.

Commissioner Weaver inquired about monitoring of the existing embankment ponds and other stock water structures in the area.

Mr. Eckert said Mid-States either owns or leases almost all them in the area.

Commissioner Weaver asked about the ones outside of their ownership.

Mr. Eckert said Mid-States would need property owner permission to go onto other property. He said there were not any wells within ½ mile of the quarry. He said the blasting process was a science and there would not be any damage off-site. He said they were fine with the conditional language the Best's proposed. He felt the language was captured in the Conditional Use Permit.

Commissioner Sinclair inquired about the million dollar liability insurance versus a bond.

Mr. Eckert said it was a much greater protection for property damage. He said when a \$10,000 bond is exhausted it would then go into a civil issue. He said the million dollar insurance policy provided greater protection than a bond for the company and property owners. He said quarrying involves explosives on-site so the insurance policy needs to be robust. He said they need an insurance policy that covers more, not less. He said it wouldn't make sense if the insurance policy had a lot of exclusions because then they would have to cover any expense out of pocket.

Commissioner Willey said it seemed like the only difference between the two points of view was the timeframe. She said there seemed to be a good faith effort from Mid-States to stick with the phase until it was finished. She was not in favor of a specific timeframe because the demand could change. She said she did not have a problem with the acreage increase for what was being mined at a particular time since it could help in terms of efficiency. She asked if the hours have always been until 10:00pm.

Mr. Anderson said they have never run past 6:00pm production wise.

Ms. Miller said the stop time was currently 10:00pm.

Commissioner Willey asked if the reference to 1042 was referring to the lowest elevation.

Mr. Anderson nodded.

Commissioner Struckhoff said he appreciated the applicant working with the adjacent residents and the willingness to adopt the language proposed by the Best's in an effort to stick to production in phase 6. He said he did not think a specific timeframe could be put on it since demand was out of their control. He appreciated the reclamation that Mid-States had done to date.

Commissioner Carpenter asked staff about the current Conditional Use Permit condition from 1992 of no future requests to expand the size of the quarry.

Ms. Miller said the quarry had not started yet. She said her guess was that the neighbors thought it might be ongoing. She said she consulted the county counselor and he said all of the conditions could be changed.

Commissioner Carpenter said this request would extend it 30 years beyond the expected completion.

Ms. Miller said there was a 5 year administrative review and Big Springs has to submit plans before moving into every phase. She said there was a lot of ongoing review that did not require public input. She said the timeframe could be renewed.

Commissioner Carpenter said landowners purchase property with the expectation that the quarry would be completed by a certain date. He wondered about predictability.

Ms. Miller said it was a balance. She said they want to use all the limestone. She stated if the Conditional Use Permit expires, a new Conditional Use Permit application would then be submitted. She said that would give false hope to landowners that it was gone so they would make plans and then there would be a new application. She said the timeframe language could be more clear to say that it expires in 30 years unless an extension is approved.

Commissioner Struckhoff said the administrative review would collect complaints.

Ms. Miller said administrative reviews are done every 5 years. She said a lot of times staff are on-site more often so those times count as the 5 year reviews. She said the reclamation is checked at the phase completion and operation plans are worked on when they move into a new phase. She said compliance issues go directly to the County Commission.

Mr. McCullough said Mid-States purchased the site with a number of issues that they corrected. He said staff had a high confidence level with this operator. He said quarries were unique and require lots of conditions.

Commissioner Willey asked if the previous Conditional Use Permit would run to the end of 2020 or if this Conditional Use Permit would replace it.

Mr. McCullough said this would replace it.

Ms. Miller said it would go 30 years from the date of approval by County Commission.

Commissioner Sinclair said they had discussed three minor changes to the conditions; adding language stating that phase 6 preferably end on or before December 2020, referencing that the Conditional Use Permit has the possibility to be extended in the future, and the addition of two holidays to the days that the quarry cannot operate.

Commissioner Willey asked the applicant if those were acceptable.

Mr. Eckert said yes.

ACTION TAKEN

Motioned by Commissioner Struckhoff, seconded by Commissioner Paden, to approve the Conditional Use Permit, CUP-18-00299, for Big Springs Quarry, located at 2 N 1700 Rd, based on the findings of fact listed in the staff report, subject to the following revised restrictions/conditions of use:

1) Setbacks

Purple Phase (former phase 6)

- 400 foot setback along the south perimeter
- 260 foot setback along County Route 442
- Triangular area in the southeast corner a corner of which is 1,800 feet north of the south property line along the setback line of County Route 442 / E. 50 Road and another corner of which is 1,100 feet west of the right-of-the way of County Route 442 / E. 50 road along the south setback line.

Green Phase (former Phase 4):

- 100 foot setback to the north and 700 foot setback to the south sides
- 100 foot setback on the east side

Pink Phase

- 100 foot along north property line

Blue Phase

- 100 foot along east property line

Orange Phase

- 100 foot along east property line

All Phases—

- 100 foot setback from the property line along the east side of the private haul road.
- 100 foot setback from the property line along E. 50 Road and E. 100 Road
- 500 foot residential setback (residences existing at the time of CUP approval)

2) Operation Restrictions

- a. Methods shall be adopted to minimize dust in stage area as well as along the haul roads.
- b. Quarry hours of operation shall be restricted to:
 - i. sale and removal of rock: 6 a.m. – 6 p.m., Monday- Friday; 7 a.m. – 12:00 p.m. Saturday
 - ii. Production and extraction: 6 a.m. – 10 p.m., Monday – Thursday; 6 a.m. – 6:00 p.m., Friday
 - iii. Blasting: 1 p.m. – 5 p.m., Monday – Friday
 - iv. No quarry operations shall take place on holidays observed by the State of Kansas: (New Year's Day; Martin Luther King, Jr. Day; Memorial Day; Independence Day; Labor Day; Veterans Day; Thanksgiving Day; the day immediately following Thanksgiving Day, and Christmas Day.

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Activities occurring after these hours: In the event of an emergency or other situation that requires quarrying, or sell of product after these hours, the request must be provided to the Board of County Commissioners prior to the after hours activity commencing.

c. No more than 40 acres may be open, mined and extracted from at any one time on the quarry site, exclusive of the plant site. No more than 10 acres shall be open, mined and extracted from in a subsequent phase until reclamation is complete on the previous phase.

3) Fencing

The entire site shall be fenced with a five-strand barbed wire fence. Fencing shall be maintained by the operator. A security gate and fence shall be placed/maintained at the entrance to the quarrying site across the main haul road. The fence shall be signed periodically (minimum of 500 feet intervals) stating: "Mid-States Materials No Trespassing"

4) Berms

a. All setbacks along roadways shall contain berms to screen operations. Berms are to be 6 to 8 feet high (8 feet maximum), built at a 3 to 1 slope and vegetated.

b. Topsoil removed from each phase will be used to construct the berms. Berms shall be constructed as quarrying progresses in each phase.

5) Blasting

a. Blasting shall be set only in sequential delays; no single delay to be over 150 lbs. of explosives.

b. No fly-rock shall leave the property.

c. Prior to each blast, the operator shall contact adjoining neighbors who request individual notice of each blast. A signaling system, siren, horn, or other signaling system, shall be used to alert people in the neighboring vicinity before each blast takes place.

d. No explosives will be set in the ground overnight unguarded.

6) Monitoring Blasting

a. Operator shall contact with independent seismology firm to monitor blasts at the commencement of quarrying operations, at each residence within ½ mile of the blast site to assure that the blast design will not be harmful to any structures or wells and that all associated vibrations are below currently recognized safety levels. A report on the monitoring of initial blasting shall be made available to owners of the residences and such report shall include a full frequency analysis of vibrations.

b. After the initial blasting, operator shall contract for a continuous monitoring program commencing with the start of continuous regular blasting by an independent seismology firm at stations chosen by the seismology firm. A monthly report, which analyzes the impacts of daily blasting, will be available at operator's offices for inspection. Residents may request positioning of the seismograph to measure the impact at their property; provided, however, the applicant shall not be required to conduct tests in excess of those

it determines, based on professional advice of its independent seismology firm, will provide adequate seismic readings at resident's properties. Any resident desiring to appeal the decision of the applicant concerning this condition may appeal it to the Douglas County Public Works Director who may order seismic tests at such locations as it deems appropriate under the circumstances at the expense of the operator.

c. The operator shall comply with the NFPA 495 Kansas Explosive Materials Code regulations regulated by the Office of the State Fire Marshall.

7) Air and Water Quality

The quarry operator shall adhere to air quality standards of KDHE, not to exceed 20% of opacity more than 1 time in a one year period as observed by KDHE observers over a 5 minute period.

8) Other Regulatory Restrictions

All applicable regulations of EPA, KDHE, and Kansas Department of Agriculture, and other applicable agencies shall be adhered to and subsequent revisions to these regulations shall apply.

9) Noise and Light Pollution

Vehicles used in plant operation (extraction & production) after 6:00 PM shall be equipped with manufactured lighting in addition to a back-up audible signal alarm.

Permanent outdoor lighting in the quarry, including the plant area, mining area, and haul roads, shall be shielded and directed down with a solid screen to prevent light pollution beyond the site boundaries.

10) Reclamation Bond

Mid-States shall be responsible for reclamation of all quarried land.

a. A performance bond in the amount of \$100,000.00 with sufficient sureties shall be secured to cover reclamation activities for the plant site in the Facility Area. The Bond shall be filed with the Douglas County Clerk's Office.

This performance bond shall remain in place for the entire life of the permit and shall not be subject to release until the plant site has been fully reclaimed and certification thereof shall have been made by the Douglas County Commission.

b. In addition to the bond required under paragraph (a), above, a performance bond in the amount of \$400,000.00 with sufficient sureties shall be secured for the first site excavated for extraction purposes in Phase I other than at the plant site and shall be filed with the Douglas County Clerk's Office prior to the commencing of any excavation (including the stripping of top soil) other than at the designated plant site. This bond shall be for an excavation area no larger than 10 acres open at one time and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at the site for which it was obtained.

c. For each additional 10 acre site excavated for extraction purposes in any phase of the quarry operations during the term of the CUP, a performance bond in the amount of \$400,000.00 with sufficient sureties for additional excavation for extraction purposes shall

be secured and shall be filed with the Douglas County Clerk's Office prior to the commencing of any such additional excavation (including the stripping of top soil). These bonds shall each be for areas no larger than 10 acres open at one time per excavation and shall remain in place until certified by the Douglas County Commission that reclamation has been completed at each site.

- d. Each of the bonds described above also shall carry provisions which provide additional coverage for any other quarry operations that are carried on at the quarry site during the pendency of the bond until release of the bonds.

11) Insurance

The operator shall carry liability insurance in the amount of \$1,000,000.00. Certificates of insurance shall be submitted to the Zoning and Codes Department on an annual basis.

12) Operation Report and Plan

- a. Prior to the issuance of the CUP permit and every 5 years thereafter, the operator shall submit a detailed report and plan of quarrying operations to the Planning Office.
- b. The plan shall show the phases of quarrying; location of stockpile area; estimated volume of material being extracted; and a detailed monitoring and management plan for the areas undergoing reclamation.

13) Reclamation and Review

- a. The quarry shall utilize sequential reclamation. With the exception of the first cut in a phase, overburden within a cut shall be placed in the previous cut thereby removing the need to stockpile large amounts of overburden.
- b. Detailed reclamation plans shall be submitted for each phase of the reclamation process for review and recommendation by the Planning staff and approval by the County Commission. The Detailed Reclamation Plan shall be submitted and approved prior to opening of a quarry phase.
- c. The detailed reclamation plans would include a site plan showing elevations, cross-sections, and the proposed plan for revegetation of the area.
- d. The property shall be reclaimed to a state that is compatible with the surrounding area with regard to slopes, and plant and animal life supported by the established ecosystem.
- e. Terraced areas shall be shaped to blend with the existing, adjoining contours. The land must be graded to final contours as shown on the approved reclamation plan, top-soil, which had been used to construct the berms of each quarry phase shall be removed as areas are reclaimed and the topsoil shall be spread over the land area and seeding of appropriate native plants must occur. It is not necessary for vegetation to be established before moving fully to the next phase.

14) Studies/Surveys Required Prior to Opening New Phase

- a. Pre-Blast Survey. A pre-blast survey (by an independent seismology firm or structural engineer approved by the applicant and the owners of existing structures within one-half

mile of the quarry site) shall be offered to the property owners and conducted, if the property owners request, prior to operating in each phase.

(Notice shall be mailed, by certified mail, to all property owners within one-half mile of the phase to be quarried, at least 1 month prior to the beginning of that phase, indicating that a new phase is about to be quarried and letting the property owner know about the pre-blast survey.)

b. Hydrologic Study

The quantity/quality of water in the wells within one-half mile of each quarry phase shall be documented prior to the commencement of quarrying operations in that phase. A study shall be done, at the operator's expense, for all wells within ½ mile of each phase (with property owner consent). Notice shall be provided to all property owners within one-half mile of the phase boundary as noted in Condition 13a.

This study is intended to provide an inventory of area residential and stock wells and determine their capacities and current volumes/levels of operation; and to determine the impact of quarrying, per phase, based on the depth of mining proposed. If mining is proposed at a depth lower than 1042 or the local water table, the County Engineer may require a hydrologic study to analyze the impact on area wells.

c. Drainage Study

Prior to work progressing in each phase of the quarrying operation, a detailed grading plan showing site runoff and its relationship to the adjoining properties shall be submitted to the Planning Office for review and approval prior to work progressing in each phase.

15) Site Access and Road Restrictions

- a. Except for vehicles traveling to and from the site on 45th Street in Shawnee County, the principal access to the site for transport truck traffic and hauling of rock shall be restricted to the use of U.S. Highway 40 from the direct haul route north of the proposed quarry. (The haul road is currently in place and the intersection with Highway 40 was designed in accordance with KDOT requirements.)

Any other haul route options must first be approved by the Douglas County Commission.

- b. Except for local deliveries of rock from the quarry site, Route 442 shall not be used by transport trucks to travel to and from the east. The operator shall post signs and adopt appropriate restrictions on the quarry site, including restrictions on sale of rock where necessary, to ensure strict compliance with this restriction by all transport trucks.

In the event the Board of County Commissioners determines, after due notice and hearing, that such restrictions have proven ineffective in prohibiting transport trucks which originate from or travel to the quarry site from using Route 442 east of the quarry entrance in violation of this restriction, the Board may order such improvements to Route 442 as it deems necessary, including, but not limited to, appropriate shouldering, surfacing, and signing, and assess such costs to the applicant which shall be paid in a timely manner. In the alternative, the Board may order the operator to cease operation or order such steps as the Board deems necessary under this CUP.

- c. No township roads shall be used as access to the quarry.
 - d. Restrictions which shall be posted at the entrance to the plant, regarding vehicles hauling from the site are to include:
 - no flatbed trucks without sides or tailgates;
 - tailgates shall be in place and in an upright position; and
 - all trucks leaving the site must be covered by a tied-down tarp.
 - e. Operator is responsible for spillage and cleanup of aggregate within one mile of the plant site, which includes the intersection of the access road to the north and U.S. Highway 40. The failure by the applicant to clean up spilled aggregate of such roads within a reasonable period of time shall be grounds for action under Section XVII, Inspection/Violation/Revocation.
 - f. The operator will not allow trucks to exceed State of Kansas legal weight limits or legally posted weight limits since different truck configurations have different legal weight limits.
 - g. Weight limitations shall be posted on appropriate roads adjacent to the quarry.
 - h. Access points across township roads between phases of operation require prior review and authorization from the Douglas County Public Works Director. Access is restricted to one point of crossing per phase as shown on the operation plan. Road crossings between the phases of the site shall be maintained by operator at all times.
 - i. During the term of this Conditional Use Permit, the applicant shall not request the vacation of any township roads in the vicinity of the site.
- 16) **Transfer of Operator**
Because the operator's track record is an important consideration, a change in the quarry operator shall require the conditional use permit to come back to the Planning Commission for review and to the County Commission for reapproval.
- 17) **Sanitary Landfill**
The property shall not be used or requested for use as a sanitary landfill within the life of this conditional use permit.
- 18) **Shop Facility**
Repair and maintenance activities shall be limited to service of vehicles and equipment in use at this specific quarry location.
- 19) **Inspection/Violation/Revocation**
The Douglas County Commission, or the appointed representative(s) thereof, shall have the right, without advance notice, to enter the premises and inspect any aspect of the quarry operation for compliance with the conditions of this permit. Upon entering the premises, the County shall first request an escort by the applicant's representatives.

Further, the Douglas County Commission, or the appointed representative(s) thereof, shall be authorized to:

- a. Order the stoppage of any operation occurring without a permit or in violation of the terms of this permit.
 - b. Order the operator or its agents and employees to adopt such remedial measures as are necessary to comply with the terms of this CUP. In such cases, the operator shall be given no more than ninety (90) days to rectify any condition of noncompliance.
 - c. Order the immediate suspension of operations if, after due notice and an opportunity to be heard before the County Commission, it is determined by the Board of County Commissioners that the permitted operation is causing, or can reasonably be expected to cause, a significant, imminent danger or threat to the health, safety or welfare of the public or to the environmental quality of the surrounding area.
 - d. In cases such as those described in Paragraph (C) that do not pose an imminent threat to the public health, safety and welfare, the operator shall be given no more than 90 days to rectify the condition. If the condition has not been rectified, the County Commission, after due notice and hearing, may order the suspension of operations and suspend or revoke part or all of the CUP.
 - e. If the operator or the agents or employees thereof, fail to comply with a lawful order under this section, or violate any of the restrictions of use enumerated for this permit, the County Commission, after due notice and an opportunity for a hearing, may suspend or revoke part or all of the CUP.
- 20) The timeframe for completion of any phase is dependent on the market demand; however, the operator agrees to continuously quarry Phase 6 (within the limits of the CUP restrictions) so that Phase 6 will be completed as soon as possible, preferably by or before December 19, 2020.
- 21) The CUP approval is valid for 30 years from the date of approval by the Board of County Commissioners (date) and shall expire at that time unless an application for renewal, submitted prior to the expiration date, is approved by the County Commission.

Unanimously approved 8-0. Commissioners Butler, Carpenter, Carttar, Paden, Sinclair, Struckhoff, Weaver, Willey voted in favor.

PC Minutes 8/22/18

ITEM NO. 4A ANNEX 34.2 ACRES; W OF HUNTERS HILL DR & HILL SONG CIR (BJP)

A-18-00246: Consider the annexation of approximately 34.2 acres located west of Hunters Hill Dr & Hill Song Cir. Submitted by BG Consultants, for DFC Company of Lawrence LC, property owner of record. *Initiated by City Commission on 6/19/18.*

ITEM NO. 4B REZONING 34.2 ACRES FROM R-1 TO RS10; W OF HUNTERS HILL DR & HILL SONG CIR (BJP)

Z-18-00247: Consider a request to rezone approximately 34.2 acres from County R-1 (Single-Family Residential) District to RS10 (Single-Dwelling Residential) District, located west of Hunters Hill Dr & Hill Song Cir. Submitted by BG Consultants, for DFC Company of Lawrence LC, property owner of record. *Initiated by City Commission on 6/19/18.*

Items 4A-4B were withdrawn by the applicant prior to the meeting.

MISCELLANEOUS NEW OR OLD BUSINESS

Consideration of any other business to come before the Commission.

MISC NO. 1 INITIATE TEXT AMENDMENT TO LAND DEVELOPMENT CODE; CONDITIONAL ZONING

Initiate a Text Amendment to the City of Lawrence Land Development Code, to define and clarify the use of conditional zoning.

Motioned by Commissioner Carpenter, seconded by Commissioner Willey, to initiate a Text Amendment to the City of Lawrence Land Development Code, to define and clarify the use of conditional zoning.

Motion carried 8-0. Commissioners Butler, Carpenter, Carttar, Paden, Sinclair, Struckhoff, Weaver, Willey voted in favor.

MISC NO. 2 DOWNTOWN MASTER PLAN STEERING COMMITTEE

Appoint a Planning Commissioner to serve on the Steering Committee for the Downtown Master Plan. The Steering Committee will advise, review, and provide feedback to the consultant, within the framework of the project scope, throughout the process for drafting the Downtown Master Plan.

Commissioner Willey nominated Commissioner Paden to the Downtown Master Plan Steering Committee.

Motioned by Commissioner Willey, seconded by Commissioner Carpenter, to nominate Commissioner Paden to the Downtown Master Plan Steering Committee.

Motion carried 8-0. Commissioners Butler, Carpenter, Carttar, Paden, Sinclair, Struckhoff, Weaver, Willey voted in favor.

ADJOURN 8:38pm