



*Sedgwick County...
working for you*

District 3 Citizens Advisory Board Meeting
Minutes

Monday, September 13, 2021

ZOOM 7 p.m.

Board members: Sharon Ailsieger, Janet Federico, Carl Losey, Janice Manlove, Glen Shafer, Luke Sponsel, Nancy Hinten

County representatives: Commissioner David Dennis, Annette Graham, Philip Zevenbergen, Corinthian Kelly

ORDER OF BUSINESS

1. Call to Order
Vice-Chair Glen Shafer called the meeting to order at 7:03 p.m.
- Unanimous Approval of Minutes – July 26, 2021

PUBLIC AGENDA

The public agenda allows members of the public to present issues on the agenda to the Board.

NEW BUSINESS

1. Department on Aging Briefing – Annette Graham, Director Sedgwick County Department Aging and also manages the Central Plains Area Agency on Aging gave a detailed description of the available services provided. Ms. Graham shared that the Department on Aging is responsible for planning and coordinating a system to meet the needs of older adults in the Sedgwick County area. Special emphasis is given to the needs of low income, minority, and disabled adults to prevent costly institutionalization. The department's focus is on providing home and community based services, including home delivered meals, supportive services, transportation, information and assistance and linking them to additional resources in the community.

Available Services include: Services for Adults 60+

Alzheimer's Association - Adult Care Connection

Adult Care Connection Program provides information, referral and care consultation helpline case management services to family caregivers

Cairn Health - Plus Medical Services

This program works with pharmacies to obtain the best possible price on medication and provides a voucher to the senior. They also purchase diabetic supplies, provides access to vision services, pays Medicare Part D co-pays, and assists with enrollment of eligible seniors in PDP assistance programs to obtain medication for chronic conditions. Cairn assists seniors with up to \$180 for emergent prescriptions each year.

Catholic Charities, Inc. - Adult Day Services

This program provides adults age 60 and older and their caregivers an adult day care service that not only provides respite for the caregiver but also activities of daily living, mobility, medication management, nutrition, arts and recreation, community integration, case management services and transportation to and from the facility.

Envision - Low Vision Independence Program for Seniors

This program works with adults 60 years and older who are blind or visually impaired with rehab services including: occupational and physical therapy, orientation and mobility, counseling, assisted technology and adaptive equipment.

Guadalupe Clinic - Health Screening and Prescription Voucher Program

Health screenings, health education, referrals and vouchers for prescription medications are made available through this program to low income older individuals who are 60 and over and residing in Wichita and Sedgwick County. Health education and screening services include: routine blood pressure, blood sugar and weight checks, health and nutrition assessment, and health education presentations.

Kansas Legal Services - Protective Legal Services for Elders

The Protective Legal Services for Elders program combines prevention efforts with legal action to respond to financial exploitation of elders. The prevention efforts include helping seniors designate an appropriate person to service as their Power of Attorney for financial matters or health care.

Mental Health Association of South Central Kansas - Senior Companion Program

This program enables seniors 60 years of age and older, who are living in poverty, to assist frail individuals over age 60, who are vulnerable to losing their independence due to physical or mental disabilities. The Senior Companion will assist with daily activities such as meal preparation, grocery shopping, medication reminders, transportation to medical appointments, attending social activities, companionship, and respite care for the families of clients.

Senior Services of Wichita – Meals on Wheels

Meals on Wheels provides a hot, noon meal five days a week (seven days a week for the most frail) to homebound individuals age 60 and older in the Wichita area.

Senior Services of Wichita – Roving Pantry

This Roving Pantry is a grocery shopping and delivery service for homebound individuals 60 and older.

Senior Services of Wichita - Senior Employment Services

Senior Employment helps workers fifty-five and above find paid employment in business and in-home placements. Tailored specifically to older people, it's a valuable resource for seniors and for employers seeking mature workers and the skills and experience they bring with them.

United Methodist Open Door – Commodity Supplemental Food Delivery Program

This program will provide commodity delivery to eligible older adults age 60 and over. It will assist those that lack transportation to pick up their own commodities and others who are unable to buy food temporarily or on a permanent basis.

Senior Centers

17 Senior centers are located throughout Sedgwick County and provide a variety of services, volunteer opportunities, information, one-on-one assistance, and educational opportunities for adults age 55 and older. Online virtual educational classes are also available to adults 55+ or caregivers of any age. Contact the Resource Center for a senior center near you (855-200-2372).

For information on these and other available service please contact the Resource Center at 855-200-2372.

PUBLIC AGENDA

Some public comment regarding Zoning Case submitted via email

2. Zoning Cases – Philip Zevenbergen, Associate Planner, Metro Area Planning Dept.
CON2021-00034 (County)

Philip Zevenbergen began addressing the Third District Citizens Advisory Board on Monday, September 13th.

BACKGROUND: The applicant is requesting a Conditional Use to permit a Vehicle Storage Yard to store recreational vehicles (RVs) and boats on property zoned RR Rural Residential; generally located on the east side of South 199th Street West and within one-quarter mile south of West 6th Street South. The property is in the unincorporated area of Sedgwick County, and it is in the Goddard Area of Influence. The platted Lot is 4.64 acres in size, but the Conditional Use will only apply to the 0.229-acre area in the northeast corner where the Vehicle Storage Yard will be located. The site plan shows the site contains a single-family residence with a detached garage and a sewage lagoon. The Vehicle Storage Yard will be 50-foot by 200-foot (10,000 sq. ft.). Access to the Vehicle Storage Yard will be off of South 199th Street West via an extension of the existing driveway along the north property line.

The Unified Zoning Code (UZC) defines a Vehicle Storage Yard as “the keeping outside of an enclosed building for more than 72 consecutive hours of one or more motor vehicles (except inoperable vehicles), boats, trailers, or unoccupied recreational vehicles.” This term does not include Wrecking/Salvage Yard. It is permitted as a Conditional Use in the RR Rural Residential district subject to the following supplementary use regulations in Section III-D.6.mm of the UZC.

The landowner is requesting conditional use to operate a vehicle storage yard on his property which is zoned rural residential it is generally located on the east side of South 199th Street West and within one-quarter mile south of West 6th Street South.

What the owner wants to do is to be able to store peoples boats and RVs on the property and the zoning code defines a vehicle storage yard as keeping outside of an enclosed building for more than 72 hours of operable motor vehicles and it would allow more than just boats and RVs it could allow for trailers and automobiles. It’s important to recognize that it is not wrecking or salvage, they have to be operable vehicles. You can’t be maintaining these vehicles there or doing major engine work. It’s really just an area to allow storage vehicles that they don’t necessarily have room for when their property, say they live in town and can’t store an RV because of their HOA or something.

Back in May or June we actually had a vehicle storage yard, literally on a neighboring property that we discussed before this board so if you were at that meeting and you were Cole these are going to be very similar presentations.

Just as a reminder the zoning code puts additional regulations on top of the vehicle storage yard when it's a conditional use in rural residential zoning.

mm. Vehicle Storage Yard in RR. Only Lots developed with a residence as the Principal Structure are eligible to apply for a Conditional Use to permit outdoor vehicle storage in excess of those permitted as an Accessory Use (see Sec. II-B.10.d and Sec. IV-E.7.I). A Vehicle Storage Yard, approved as a Conditional Use in the RR District shall be subject to the following minimum standards listed below. The Planning Commission may establish additional conditions if determined necessary in order to protect adjacent property Owners and the public interest. All applicable requirements, inspections and permits shall be in place prior to the commencement of Vehicle storage.

(1) Location. The storage area shall be located behind the property's Principal Structure; and at no time shall any Vehicles be driven or parked on or over any component of onsite wastewater treatment systems.

(2) Area. For sites two acres or less in area, a Vehicle Storage Yard may occupy up to 11 percent of the property's square footage; for sites greater than two acres the area devoted to the Vehicle Storage Yard shall not exceed 10,000 square feet.

(3) Use. The Vehicle Storage Yard shall be used for the storage of licensed operable Vehicles only, and in no case shall it be used for sales, repair work, dismantling, or mechanical servicing of any Vehicles or equipment, or for storage of materials or supplies. Non-mechanical servicing such as replacing windshield washer fluid, light bulbs and interior cleaning shall be allowed.

(4) Setbacks. The minimum Setback for any stored Vehicles from any residence constructed before the Conditional Use is approved shall be 20 feet. The Setback requirements can be modified or waived if the applicant demonstrates there is sufficient Screening to substitute for the Setback protections.

(5) Paving. The storage area and all entrance/exit drives on private property shall be surfaced with an all-weather surface that meets the approval of the Director of County Code Enforcement and shall be maintained in good condition and free of weeds, trash and other debris.

(6) Screening. Visual screening of areas Contiguous to residential zoning Districts shall be provided to protect adjacent properties from light, debris and noise, and to preserve adjacent property values. In no case shall Screening be less than that required by Sec. IV-B.1- 3, unless the applicant demonstrates adequate Screening may be provided through alternative means, and the requirements imposed by Sec. IV-B.1-3 would be overly burdensome on the applicant.

(7) Lighting. If lighting facilities are provided, lighting shall be in compliance with lighting standards of Sec. IV-B.4.

(8) Noise. The compatibility noise standards of Sec. IV-C.6 shall be complied with provided, however, outdoor speakers and sound amplification systems shall not be permitted.

Philip continues in doing so we actually have met with the city of Goddard planning commission already they reviewed this case on August 9 and recommended approval at 5 to 0 so we default to them so that they can look at what their comprehensive plan says and how they see this area other urban growth area potentially going and whether not they feel like this would be an appropriate use, so again they met on August 9 and recommend an approval fact 5 to 0. Planning staff is recommending approval, as

well. Planning commission met on August 19 and they recommended approval 9 to 3, there were three individuals who did oppose the case.

The approval recommendation is coming with eight conditions that have to be met him as part of the approval process again I'll review pretty much vehicle store insurance or treating everybody the same there's no difference between the gym they have to comply with all the additional regulations.

RECOMMENDATION: Based upon the information available at the time the staff report was completed, staff recommends **APPROVAL** of the requests subject to the following conditions:

1. The Vehicle Storage Yard shall comply with supplementary use regulations in Section III-D.6.mm of the Wichita-Sedgwick County Unified Zoning Code (listed above in this staff report).
2. The Vehicle Storage Yard shall be limited to the storage of operable boats and recreational vehicles only, and in no case shall it be used for sales, repair work, dismantling, or mechanical servicing of any vehicles or equipment, or for storage of materials or supplies.
3. The conditional use for Vehicle Storage Yard shall be permitted for 10 years. After such time, the Conditional Use shall expire. The property owner shall be able to renew the Conditional Use for subsequent 5-year periods by administrative adjustment by the Metropolitan Area Planning Department.
4. The storage area and all entrance/exit drives shall be surfaced with an all-weather surface that meets the approval of the Zoning Administrator and shall be maintained in good condition and free of weeds, trash, and other debris.
5. A revised site/screening/landscape plan shall be submitted to the Planning Department for and approval prior to the issuance of any applicable licenses and/or building permits.
6. The site shall be developed in substantial conformance to the approved site plan/screening/landscape plan.
7. The site shall be developed in conformance with all applicable federal, state, and local regulations.
8. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use; the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII hereof, may, with the concurrence of the Planning Director declare the Conditional Use null and void.

Philip states this case has had some public comments and public opposition. There have been concerns about possible security, as you know anytime you're storing anything of value it could potentially attract individuals who are looking to take those things about you.

There's been discussion about the zoning code talking about how it has to be developed with a residence. And there was a discussion that the planning commission had currently it is my understanding that the dwelling unit and the home on the property is currently not occupied the owner of the property is elsewhere. I believe it is his intention to eventually rent that property out, and the county legal representative just in Wagner who's a county counselors opines that the way the zoning code is written that it didn't mean that somebody had to be actually living in the building that it is just developed within residence because that is determined will be the primary function on the site. This property just does not have somebody living on it. At that time, the planning commission following up

asked the applicant if they were going to be providing any security measures and they didn't know about any at the time

CAB Questions:

CAB member Janet Federico asks: The requirement for upkeep on the paved surface you said it could be gravel. So my question is overtime gravel can become very sparse, is there any requirement for upkeep of the gravel, so it does not become the mud pit that you alluded to?

Philip Zevenbergen: Yes, With having a paving requirement it's not a you do it once and never have to do it again there would be the I guess it's more implied that maintenance and it's the same thing for the screening, You can't just put up screening once if you know trees die in holes open up in the screening then it Has to be replaced.

CAB Member Sharon Ailsieger asked: who enforces that?

Philip Zevenbergen: County Code enforcement

CAB Member Sharon Ailsieger asked: so they go out and check is that a part of their job or do they wait for somebody to call?

Philip Zevenbergen: Unfortunately, code enforcement is primarily on a complete basis

CAB Member Sharon Ailsieger asked: Is there a limit on how many items he can store?

Philip Zevenbergen: in a sense, there is, the code doesn't specify how many vehicles it specifies in area. So your limit how many vehicles, you can practically move in and out of the 10,000 square-foot area so that gives 10,000 ft.² about a quarter of an acre, so you're looking at less than a quarter acre in storage area.

CAB Member Glen Shafer asks: in that upgrade that this board approved back in June, did that already have the all-weather surface.

Philip Zevenbergen: My understanding is that he is in the process of getting that put down. I've been in conversation with him recently via email he's working with the contractor on getting it graded so that they can put the surface down I don't know what their timeline is.

This current one does not have anything down but again they are not storing vehicles and they would not have to immediately start coming into compliance, they would just have to come into compliance before they actually start storing vehicles.

CAB Member Glen Shafer asks: These are two separate conditional uses with two separate properties and two separate property owners so they just can't remove that back fence and combine them?

Philip: Correct

20% of land owners is not protesting so regardless of the number of owners 80% is in protest and what that means is this will be going to the board of County commissioners on October 6 and it will require a supermajority vote by the board of County commissioners in order to get approved or 4 out of 5 vote for approval.

Public Comment

Protests from Residents

Vickie Strelow: my husband and I are opposed section D6MM of the Sedgwick county zoning code states only lots developed with the residents as a principal structure are eligible to apply for the conditional usage permit and that's on page 162 the zoning code. The code clearly states residence and not dwelling units a residence is required in order to operate a vehicle storage unit. And currently, no one is living at 740 S. 199th St. W. This next research comes from our attorney, the Wichita Sedgwick County unified zoning code does not define residence, nor does the Wichita Sedgwick County codes of ordinance, the zoning codes is to be construed in accordance with its purposes.

Kansas statutory construction provision defines residence as the place which is adopted by a person as a person's place of habitation to which whenever a person is absent the person has the intention of returning.

The fact of dwelling in a place for some time when a person eats in one place and sleeps in another place where the person sleeps so we consider the persons residence the Merriam Webster dictionary both illegal and the ordinary definition includes the person must live in a structure in order for it to be a residence the zoning code also defines dwelling unit as a building or portion of the building that contains living facilities for more than a family and that includes provisions for sleeping touch and eating and sanitation of building is a dwelling unit regardless of whether a person currently lives there the choice to use the word residence rather than dwelling unit in section 3DM6MM indicates that a person must live there as the principal structure

We feel like the application should be denied.

James Strelow: Over 30 years in our area there has been a covenant that has restricted businesses in this area. This set the standard for our area the first RV storage yard that came in six months ago, our property value has gone down 3 to 5% since, and in an estimate that we received the second one will do nothing but do the same thing to us again.

We feel this is nothing but a back door to use a rule residential area as a commercial piece of property. So we're asking you to oppose it.

CAB Member Sharon Ailslieger asked: if the current owner doesn't rent property and it sits empty what are the ramifications? If they do rent it was not a renter are they going to take care of worry about anything because they are renting?

Chris Alexander: I am the owner of the property and I maintain the property and I am doing the best that I can with the property from where it was out from when I bought it to the state it is in today. And does it matter to anybody what my intent is for it I'm paying the taxes on it and I'm taking care of it. I don't go to anybody else and say hey your grass is too tall I don't do that – I don't believe it's right for anybody else to say that to me in the sheer fact that I pay the taxes on it and I take care of it.

Do you know that I'm trying to renovate it so that potentially we could move in there? Nobody knows that this is what Vickie and James are portraying to everybody but they don't really know; because they have their own opinion on what they think is going on.

CAB member Janet Federico asks the Strelows: since the owner states he intends to renovate that to move in does that change anything for you?

Response from the Strelows: We feel like if he owns the property and he wants to put the vehicle storage unit in, he should live there as the principal resident because he's the one that owns it, he'll be the one that will put up the security and take care of it and make sure that the standards are met. With the last vehicle storage unit we have a school bus right up against our property and he's using that as screening and that's not in the standards

CAB member Janet Federico asks the Strelows: you want him to live there but if he were to rent it would that be okay with you yes or no?

Response from Jack Strelow: As most rental property goes I would be opposed to it.

CAB member Janet Federico states if the school bus [from the other property owner] doesn't meet the standard that sounds like a complaint that should be registered.

CAB Member Sharon Ailsieger asked: If he puts this in other than property value how does this effect you?

Response from Jack Strelow: over the last month we have had more theft than we have in the last 30 years I don't know where it's coming from or what it is but I think it's directly correlated to more traffic around the area right here right now and this is not going this is not part of character over area right not here this is rural residential on the properties here – people enjoy large lots and they don't have businesses that are right down the street on 100 Maple over here about a half three-quarter mile away they're putting in a new housing development right there that are \$500-\$600,000 houses this is the area that we had in mind for us around here. So this is this is not the character of the area we would feel with I feel like it's a dead run around it.

CAB member Janet Federico asks if Mr. Chris is not actually storing anything at this point in time so anyway what is going on [regarding theft] would not be related to his proposal to store property.

The Strelows: That is correct it is just an inkling of what could happen around here especially if you have a renter that doesn't care about anything.

Probably just the increase in people in the area you know people come in and go on in and there's this more traffic that's just our supposition play coordinator to the last was six months or so yes

CAB member Janet Federico states we need to be very careful that in a decision that we're making here we're addressing what's going on here and not penalizing this gentleman [Mr. Alexander] for somebody else's missteps.

Chris Alexander states: there are two different cases between two different people. One person is trying to get himself into compliance because he didn't know he had to do that with his property.

I am trying to take the proper steps and go through the proper measures, so that I am doing things right up front and not doing them on the backside. And I am going to try to do everything I can with the property that I own to make sure that all my neighbors are content and happy, because the worst thing to have is an unhappy neighbor. Unhappy neighbors are no fun. So, I'm going to do the right thing and make sure that it's all taken care of, and meets the county code and follows the direction that the county lays out.

Janice Manlove makes a motion recommending the non- approval of the conditional use application. The motion is not seconded and the discussion goes back to the Board for discussion.

Janice Manlove makes another motion recommending the approval of the conditional use permit application as presented to the CAB. The motion is seconded by Nancy Hinten.

Sharon Ailsieger, Janet Frederico, Carl Losey, Glen Shafer, Luke Sponsel, Nancy Hinten voted to approve

Janice Manlove voted to deny.

The motion carried 6-1:

CON2021-00036: County Conditional Use to permit Rock Crusher on property zoned SF-20 Single-Family Residential

CON2021-00036 (County)

Philip Zevenbergen began addressing the Third District Citizens Advisory Board regarding the second zoning case: Conditional Use to permit Rock Crushing.

BACKGROUND: The applicant is requesting rock crushing and recycling on the 6.54 acres, unplatted SF-20 Single-Family residential zoned property generally located on the east side of North 135th Street West and within one-half mile north of West 13th Street North. The Unified Zoning Code (UZC) requires consideration of a Conditional Use for a Rock Crusher in all zoning districts; UZC, Sec.III.D. The applicant proposes to crush only concrete/rock and asphalt that is currently on-site.

The operation of the site will only be from 8 a.m. to 5 p.m. for a maximum of 90 days of operations and will cease within 12 months from date of approval, Monday – Friday. Only the stock piles of the existing

materials on site will be processed. No additional materials will be brought onto the site. Mies Land Development will hire licensed rock crushing companies, which are licensed by the Kansas Department of Health and Environment (KDHE). The company will also be required to have an air permit from KDHE to operate it in the State of Kansas and the equipment will be subject to EPA Regulation 40 CFR 60, Subpart 000 NSPS for Nonmetallic Mineral Processing Plants.

CON2021-00036 (County) is a conditional use requesting a temporary rock crusher property located on the east side of North 135th Street West and within one-half mile north of West 13th Street North. Zevenbergen states it's an interesting piece of property in that it is kind of sandwiched around within portions of the city of Wichita but it's still in unincorporated Sedgwick County. Over some period of time individuals have dropped debris, like concrete and asphalt and there's stuff on the site that needs to be taken care before any type of development can happen on property so the applicant is requesting to have this rock crusher here so that they can crush it down to an aggregate size so that they can sell for construction projects, things of that nature instead of having to pay to haul it off the property they can just bring a rock crusher to the site, deal with it on site and then when they're moving it, they're moving it as aggregate to be sold somewhere else or to be used for projects around the city.

Zevenbergen states they are requesting a 12 month conditional use permit and within that one year timeframe the rock crushing operation can only operate for 90 days total. The conditional use for a year would allow say the moment they get a crew they start crushing rock, the debris piles that are formed from the crushed rock waiting to be hauled can stay on the property for up to 12 months from approval because it gives the opportunity to have an on-site and store so as they get orders or are moving it off the site they have that timeframe.

Zevenbergen states there have been citations on the site from the previous landowner because of the storage and the previous landowner was basically using the site as a landfill. The new owner wants to clean up the property and wants to do it efficiently by putting a rock crusher on the site take care of the material on the site and then so when it's being trucked off it's easier to move. The crusher would only be in operation from 8 AM to 5 PM Monday through Friday, and only materials current debris on site can be crushed/ processed, so they can't be bringing new materials on site to be crushed. Nice Land Development will hire a licensed rock crushing company, which are license by the Kansas Department of Health and Environment (KDHE) the company will also be required to have an air permit from KDHE to operate in the state of Kansas and the equipment used has to be EPA regulated.

Below are descriptions of the nearby land uses

- Properties to the north of the subject site are zoned SF-20 Single-Family Residential and are in agricultural use and one-half acre to five (5) acre lots.
- Properties to the east of the subject site are zoned SF-20 and vacant.
- Properties to the south of the subject site include SF-20 zoned property owned by the same property owner as the subject site and currently in agricultural use; and LC Limited Commercial zoned property with warehouse/self-storage.
- The property to the west is located within the Wichita City Limits, zoned SF-5 and is developed with single-family homes in the Silverton Addition.

The comprehensive plan in this location identifies the property is in rough residential I've been till now and so truly this material does need to be moved in order to be able to properly develop comprehensive plan would indicate.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED** subject to the following conditions:

- A. The hours of operation shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. The rock crusher may not be operated on Saturdays, Sundays or legal holidays.
- B. The site shall be developed and operated in conformance with the approved site plan.
- C. All applicable codes to include but not limited to zoning, building, fire and environmental regulations. All rock crushing operations and material storage shall take place within the designated site plan area, unless an adjusted site plan is approved by the Director of Planning.
- D. Prior to rock crushing operations, the applicant (or applicant's hired rock crushing company) shall get an air permit from KDHE to operate in the State of Kansas and that the equipment will be subject to EPA Regulation 40 CFR 60, Subpart 000 NSPS for Nonmetallic Mineral Processing Plants.
- E. Rock crushing operations on the site shall not create dust which travels on to surrounding properties. A dust suppression/watering system shall be used during all rock crushing operations.
- F. All vehicular drives on the site, work and parking areas shall be surfaced with an all-weather material, which may include crushed rock, to minimize dust on the site. A water truck will be available and used to control dust at the site for the duration of this Conditional Use.
- G. Access to the site will be from the drive access on the east side of North 135th Street West.
- H. The rock crusher shall operate no more than 90 days total. The rock crusher Conditional Use shall be authorized for a period of twelve (12) months from the approval date of this application. The piles and all materials must be removed from the site at the end of the twelve (12) months.
- I. Any request for extension of timing for this Conditional Use must be submitted to the Planning Commission for consideration.
- J. If the Zoning Administrator finds that there is a violation of any of the provisions or conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Zevenbergen states this case has been to Planning Commission on August 19 and received an approval recommendation. Several members of the public spoke against this case, just with concerns of dust and brought up what had been going on with that property in the past. There was a discussion on the board on whether or not the conditional you should be allowed to for a longer period of time where they can so we have 90 days to crush I am that if it takes longer for the material be sold off the site months just because it just needs to area for some time and he would like it to not continue to be that way I have to be taken off.

Questions from CAB Members:

CAB Member Janet Federico asked: is the intention after 90 days of crushing would the debris be gone and the current situation resolved?

Philip: At the end of the 12 month period they are allowed to crush for 90 days only, but again that the ability to have a conditional use for 12 months that timeframe able to handle material

CAB Member Sharon Ailsieger asked: when you say 90 days is that continuous days or are we looking at they can do it for a month and then be off a month, etc.?

Philip: the way this is written is it says 90 days total the way it's written in the conditions of approval says 90 total days so they can't operate on weekends, so not 90 consecutive days

Phil Meyer states: to answer any concerns they have the requirements in there about water control and keeping dust down anytime, any of those 90 days they're in operation, they have to adhere to those conditions on dust control.

CAB Member Sharon Ailsieger asked: who is going to make sure that they do?

Phil Meyer states: that MABCD role to enforce that, and they can show up on site at any time and check that, or if they are turned in by neighbors, they will go out and look into it, either of those two things can happen.

Glen Shafer asks: is it 90 days of actual crashing or if people are out there and it's not the arrival of equipment?

Philip: yes its 90 days of the actual rock crushing

CAB Member Glen Shafer asked: On the debris pile are there restrictions on covering or is it just going to sit there?

Philip: in the conditions of approval there was nothing requiring the debris piles to be covered, but it does talk about how they have to do dust suppression and them doing everything they can to suppress dust from all sources

CAB Member Nancy Hinten asked: Why can't the debris on site be extracted without being crushed?

Phil Meyer: it's unfortunate that was there but it is I think was fortunate for Sedgwick County the individual that now on this property happens to be in this type of construction business and can get this crushed it can get it fixed if we don't approve this I don't mean this in a wrong way I'm just talking to history if we don't approve this and just tell him he's in violation get it cleaned up and he has to start moving out of one of the conditions that are in those approval for the suppression for water control over it doesn't come in to play if you just issue him a letter and tell him to clean it up, so it a bad situation but a great opportunity to clean up a bad situation, with a contractor that has a good reputation in this town that can get it cleaned up.

CAB Member Carl Losey asked: is there a noise level on this crusher how much decibels does the crusher put out?

Phil Meyer: there is by the codes and I'm not going to be able to speak on the mature staff report item D has that covered in it and I can't get into specifics and the crushers of today are pretty quiet now actually

Philip Zevenbergen: Part of the reason for the designation of Operating from 8am to 5pm Monday through Fridays was to help minimize the impact on everyday life knowing individuals are off and leaving the residential area to go to work

Protests from Residents

Jeremy Carroll: I would recommend that we hold off on approval. It was brought in by machinery; it can be removed by machinery. We are looking at winter months in October November where it's going to be dry and 30 mph winds can very easily put that material up in the air. When we're done rock crushing we're no longer maintaining dust control and that scenario. The other thing that I wanted to highlight is that I work from home; my wife operates a home based business. I worked remote for well over a decade. This is not a temporary pandemic related situation for me, so my wife and I are 100% dependent on a workable environment from our home office situation.

This is very concerning to me especially since we are talking about 8am to 5pm Monday through Friday, which obviously are normal working hours. So again my recommendation would be to ask that this be denied, because we're going to create dust whether it's hauled off, whether it's crushed and then we're looking at potentially storing this material for a year, where you are looking at dry air and windy days. Not to mention the noise, and the additional traffic of the material being sold off.

CAB Member Sharon Ailsieger asked: how quickly can he haul it all out of there - are we looking at the whole another year anyway?

Phil Myers: I don't know if I can answer your question on how long it would take to haul that out of there I would say couple weeks best cranking away but I'm kind of guessing and I've been by that pile many times over the last X number of year but I don't know if I can answer that and then there is the question of if MABCD shows up and says your conditional use is not approved - that's where I can't I'm guessing if I try to tell you it'll all be gone in 30 days or all be gone in six months I don't know how long that process will take, if that's what you're asking will it be gone by the end of September I don't know like I got a feeling with legalities of it not going to disappear that quick, but I don't know how long it will take.

Glen Shafer asked: it was my understanding and that could have changed but we can't force anybody to remove anything right?

Phil Myers: I think there could be a legal battle there yes I think there could be a battle on that. Is it grandfathered in or he didn't cause the violation - I don't know that's somebody else, the county legal department probably needs to answer that for you not me.

CAB Member Janet Federico asked: Is it factual that this gentleman is going to make money off of this Rock crushing thing?

Phil Myers: I would assume that he could, I don't want to mislead you and tell you he's just moving it out of the goodness of his heart, but it will be used on construction jobs typically rock like that is crushed up and used as a sub base for streets or other paving situation -- purely secondary money is not their primary use not the reason he bought the ground but he can clean it up and get rid of it.

Protests from Residents

Jayne: Is there any possible way that they can cover this rock that's been crushed with any type of covering, because if it's blowing around it can be toxic. My daughter and I have severe allergies and I know there's a gentleman in our neighborhood also that has a son that has severe asthma so will there be a possibility of this being covered and hauled out at the same time?

Phil Meyer: I have a great sympathy with what Jayme is saying - I'm struggling here because I look at it as a pile of rocks and I assume that all the dust and sediment has kind of just worked its way down when it's rained so I don't know that there's dust coming out of that pile today. If we have permission to crush this we start crushing operation and you've got it in your staff report the conditions necessary to handle the wind suppression and more and keep it moist and keep the dust down so I think the answers are in your staff report for right now so I don't want to take lightly with what Jayme saying or saying that isn't right I'm just not sure there's a lot of dust coming off of that today and as we go through the operation of crushing those we've got this safeguards put in to address what she's talking about in my opinion.

Carl Losey made a motion to recommend approval of CON2021-00036. Luke Sponsel seconded the motion.

Sharon Ailslieger, Janet Federico, Carl Losey, Glen Shafer, Luke Sponsel voted to approve

Nancy Hinten voted to deny.

Janice Manlove abstained

The motion carried 5-1: 1 Abstention.
