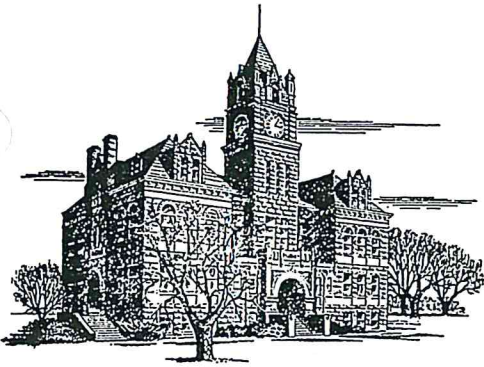


MARION COUNTY, KANSAS

## PLANNING COMMISSION/BOARD OF ZONING APPEALS

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MARION COUNTY COURTHOUSE

### STAFF REPORT

August 25, 2016

**TO:** Marion County Planning Commission/Board of Zoning Appeals

**FROM:** Emma Tajchman, Director of Planning and Zoning

**SUBJECT:** PC-16-04 – Request for a Conditional Use Permit to operate a rock quarry on property zoned “RR” Rural Residential District located at 290<sup>th</sup> Street and Zebulon Road

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This is the request of Bob Bergkamp Construction Company, applicant and agent, on behalf of Ronnie and Susan Carlson, owner, requesting a Conditional Use Permit to operate a rock quarry on property zoned “RR” Rural Residential District in the Northwest Quarter of the Northwest Quarter of Section 16, Township 18 South, Range 5 East, Marion County, Kansas.

The applicant submitted the application with a picture from “google” showing the location of the some of the operations, but little else. The applicant indicates the specific manner in which the quarry will be developed will be determined based upon demand for product. Products to be developed from this location would be principally limestone rock of various sizes and agricultural lime. The parcel is approximately 38.5 acres. It was an active quarry site in the past and has been reclaimed for agricultural purposes following all previous quarrying activity. The majority of the parcel was not quarried.

Base on the little amount of information provided by the applicant, it is difficult to evaluate this request beyond the appearance of a request for approval from the County with an “open-ended, signed check” Conditional Use Permit to develop as the applicant feels necessary.

The site plan provides a vague representation of the proposed operation, with the majority of the development plan requirements not addressed. The extent of the quarrying activity is shown, especially concerning compliance with setback requirements. No contour information has been provided. A detention pond is indicated on the photo and drainage flow was mentioned in written material, but there is no engineering documentation supporting the submittal. Minimal information has been provided regarding utilities. The intention to drill a private well is noted, but the location is not provided. It is assumed that electricity and proper wastewater disposal will be necessary, but neither are addressed in the text or shown on the diagram. The intent of the development plan is to provide a relatively accurate representation of the rock quarry

3. *A statement of intent shall accompany the Development Plan to explain the measures used to achieve compatibility of the proposed development with surrounding properties through the planning of the site and the location and design of structures.*

Under the listing of specific Conditional Uses in Article 19, specific standards and requirements applicable for quarries are also listed. These requirements, with staff comments, are as follows:

52. *Quarrying, mining, and removal of sand, gravel, stone, coal or topsoil and the processing of the same, including asphalt and concrete plants, provided:*

A. *All quarries and mining operations and asphalt and concrete plants shall be screened by a method approved by the Governing Body when the same are visible from any public road.*

The development plan indicates berms are to be located along the north and west sides of the site; however no information is provided as to the height or width of the berms. The written narrative indicates the berms will be seeded with native grass and that cedar trees may be planted along the north side of the property to provide additional screening, but no more details are shown on the development plan. Lockable gates are mentioned for security purposes; however, neither fencing nor gate locations are shown on the development plan.

B. *The applicant shall provide an approvable method for dust abatement on all unpaved interior roads if any part of the operation is located within 1/4 mile of any residential dwelling.*

Dust control is addressed in the written supporting information, noting the monitoring for crushers and conveyors will be used to moderate the dust from these facilities using a water misting system. The written plan also indicates that watering will be used as needed on haul routes to minimize dust. Water trucks will be utilized in this process. An on-site, private well is proposed to be the source to provide for all dust abatement measures.

C. *Where applicable, a maintenance agreement between the applicant and the County and/or Township having jurisdiction shall be required to maintain the roads that provide the ingress/egress to the operation.*

There are two entrances proposed to the site. The initial primary entrance will be located on Zebulon Road, with a future entrance to be added on 290<sup>th</sup> Street. The location and construction of both entrances must be approved through the Road and Bridge Department. The intended haul route was identified as going north on Zebulon Road, then west on 290<sup>th</sup> Street to Highway 77.

The landowner and agent appeared before the Board of County Commissioners (BOCC) on Monday, August 8, 2016, to discuss the Maintenance Agreement. The details of what would be required in the maintenance agreement were discussed, but no agreement was made. The

stockpile areas needs to be very clear. Additionally, if there are people on site, facilities for wastewater treatment in some form must be provided.

*H. A copy of the annual survey of mining operations, as required to be filed by State law with the State, shall also be filed with the Governing Body. Said annual survey applies only to underground mining activities, not to open pit mines or quarries.*

Not applicable at this time.

*I. The applicant's operation shall be inspected by the Zoning Administrator on or before July 1st of every year following approval of the Conditional Use Permit for compliance with the above listed requirements. All deficiencies or violations shall be corrected within 60 days of written notice from the Zoning Administrator itemizing the violations and corrective measures necessary for compliance. There shall be a mandatory (5) five year review by the Planning Commission for all quarries, mining or removal of sand, gravel, coal or topsoil operating under a Conditional Use Permit.*

If approved, this will be a condition of approval.

In Article 24 of the Marion County Zoning Regulations, the factors to be considered for a Conditional Use Permit are listed. The Marion County Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines. Those factors, and staff comments where appropriate, are as follows:

*A. Whether approval of the Conditional Use would be consistent with the intent and purpose of these Regulations;*

Rock quarries are listed as a land use within regulations that may be established following approval of a Conditional Use Permit prior to commencement of operations. Quarries should generally be located away from any area in which more intensive development has occurred; but will have to be located where the rock resource is economically available. Other than a small-scale, extraction operation in the past, little information has been provided to provide an indication this location meets requirements that would support the introduction of this intensive a use on this property again. The most obvious question is why the former "quarrying" operation ceased. Nothing provided addresses this question.

As a result, staff does not believe a definitive determination can be made on whether the quarry would be consistent with the "intent and purpose" of the Zoning Regulations.

*B. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;*

The proposed location is in an area that can best be described as agricultural. There are a few residences near the site, which increases concerns that the operation of a quarry and

- H. *Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;*

The Comprehensive Plan does not provide much guidance relative to this type of operation beyond a recognition the presence of this natural resource within the County exists and that extraction should be permitted at appropriate locations. Proving this location complies with that “policy” is the burden of the applicant/owner and staff does not believe information has been supplied to prove that point.

- I. *Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use;*

Staff believes the issues discussed herein show a lack of proof of the overall benefit to the “public health, safety, and general welfare”...especially to offset the hardships in regards to road impacts, dust control, and noise control. Other issues not described include proper drainage and wastewater disposal plans. Staff believes the applicant/owner must address these issues and provide more detailed information to the Planning Commission for review and consideration before any final determinations can be made.

- J. *Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 24 of these Regulations), will not adversely affect the property in the area affected; and,*

Staff does not believe there is sufficient information at this time to make a final determination regarding this case.

- K. *Such other factors as may be relevant from the facts and evidence presented in the application.*

This staff report covers all the issues identified based upon the Regulations and in response to the information submitted. Nothing more needs to be provided based upon what is known at this time.

**Staff Recommendation:**

Based on the evaluation of the above criteria, staff believes this proposal for a rock quarry operation is not ready for a final determination and should be continued until the September meeting and the applicant be directed to provide the detailed information at least two weeks before that meeting so adequate time is provided for evaluation by all departments, agencies and advisors to the County.

**Suggested Motion:**

I move that Case No. PC-16-04, the request of Bob Bergkamp Construction Company, agent, on behalf of Ronnie and Susan Carlson, owner, seeking a Conditional Use Permit to