Urban Planning and Land Use

701 North 7th Street, Room 423
Kansas City, Kansas 66101
Email: planninginfo@wycokck.org

Phone: (913) 573-5750
Fax: (913) 573-5796
www.wycokck.org/planning

To: City Planning Commission

From: City Staff

Date: June 10, 2019

Re: **Petition #SP-2019-67**

GENERAL INFORMATION

Applicant:
John L. Peterson

Status of Applicant:
Representative
748 Ann Avenue
Kansas City, KS
66101

Kaw Valley Companies, Inc
5600 Kansas Ave,
Kansas City, KS

Requested Action:
Renewal of a Special Use Permit

Date of Application:
April 12, 2019

Purpose:
Renew a Special Use Permit for sand production

Property Location: 2400 South 78th Street

Commission Districts:

1. Commissioner At Large: Tom Burroughs
2. District Commissioner: Angela Markley

Existing Zoning: R-1 Single-Family District

Existing Surrounding Zoning: **North:** R-1 Single-Family District
South: AG Agriculture District
East: R-1 Single-Family District
West: ROW

Existing Uses: **North:** Water treatment/management plant
South: Undeveloped land
East: Water treatment/management plant
West: Kansas River

Total Tract Size: 16.19 acres

Master Plan Designation: The City-Wide Master Plan designates this property Industrial

Major Street Plan: The Major Street Plan designates South 78th Street as a local/neighborhood street

Advertisement: The Wyandotte Echo – May 16, 2019
Letters to Property Owner – May 16, 2019

Public Hearing: June 10, 2019

Public Opposition: None to Date

PROPOSAL

Detailed Outline of Requested Action: Renew a Special Use Permit for sand production. Applicant states that sand production has been covered under a Special Use Permit for the past 20 years and is requesting a renewal of 10 years. There were a few years recently in which operations ceased, but sand production has resumed now.

City Ordinance Requirements: Article VIII Sections 27-592 through 27-606

FACTORS TO BE CONSIDERED

1. The Character of the Neighborhood.

This is an industrial part of the city, with several production or treatment plants operating nearby, or otherwise undeveloped land.

2. ***The zoning and uses of properties nearby and the proposed use's expected compatibility with them.***

   Nearby properties are undeveloped or consist of large bodies of water. Undeveloped land is compatible with a sand production operation. Precautions and preventative measures will need to be taken to ensure dust and runoff do not pollute any of the nearby bodies of water.

3. ***The suitability of the property for the uses to which it has been restricted. Will removal of the restrictions detrimentally affect nearby property.***

   There is very little activity in the nearby properties. Therefore, the proposed activity will have little effect on the nearby properties.

4. ***The length of time the property has remained vacant as zoned.***

   The property is not vacant.

5. ***The degree of conformance of the proposed use to the Master Plan.***

   The Master Plan designates this area for industrial purposes and allows for mining/mineral extraction.

6. ***Whether the proposed use will result in increasing the amount of vehicular traffic to the point where it exceeds the capacity of the street network to accommodate it.***

   This is a request for a renewal of a Special Use Permit. Staff will rely on several metrics, including applicant's testimony, complaints filed against the address in question, and neighbor feedback in order to determine if and the extent to which the current permit has affected vehicular traffic.

7. ***Whether the proposed use is reasonably necessary for the convenience and welfare of the public and will not substantially or permanently injure the appropriate use, visual quality, or marketability of adjoining property.***

   While sand production is not reasonably necessary for the convenience and welfare of the public, it is within the land use anticipated by the City-Wide Master Plan. Staff will determine whether sand production under the previous Special Use Permit caused any substantial or permanent injury to the appropriate use, visual quality, or marketability of adjoining properties.

8. ***Whether the noise, vibration, dust, or illumination that would normally be associated with such use is of such duration and intensity as to create problems for near-by property.***

There is certainly noise, dust, and vibration created in sand production. However, it is unclear if this would be enough to disturb nearby properties, as the property at the address in question is large, and the surrounding properties are either undeveloped or not permanently occupied.

9. ***Whether the proposed use will pollute the air, land or water.***

   Sand production near a river, especially a river as vital as the Kansas River, must be undertaken with regard for the nearby bodies of water. Industry-standard precautions and preventative measures must be taken or remain in place in order to prevent sand or sand production by-product from entering the river.

10. ***Whether the use would damage or destroy an irreplaceable natural resource.***

    A small stream runs through the property and enters the nearby Kansas River. Improper sand production and by-product disposal could cause irreversible damage to the stream and greatly affect the ecosystem of the river.

11. ***The relative gain to the public health, safety, and welfare as compared to the hardship imposed on the individual landowner or landowners.***

    If the sand production operation were not permitted, public health, safety, and welfare would be improved. It is unclear if the hardships imposed on Applicant would exceed the gain in public health, safety, and welfare.

12. ***Whether the proposed use would result in overcrowding of land or cause undue concentrations of population.***

    Staff will determine if the previous Special Use Permit caused overcrowding or undue concentrations of population. However, it appears that a permit for sand production has not cause anything of the sort.

PREVIOUS ACTIONS

Renewal of SP-2008-30, approved for special use permit to operate as a sand production plant.

NEIGHBORHOOD MEETING

The applicant held a meeting at 2:00 PM on May 22, 2019 at 748 Ann Avenue. The address is applicant's law office, 10 miles away from the property in question. Applicant states that no neighbors or anyone from the public attended the meeting; the only attendees were applicant and Dan Hays, a corporate representative.

KEY ISSUES

Pollution/runoff, noise, truck traffic, safety

STAFF COMMENTS AND SUGGESTIONS

Urban Planning and Land Use Comments:

1. Has applicant or landowner received any complaints in the past 10 years related to sand production or transportation? This includes complaints about truck, machinery, or equipment traffic in and out of the site, noise at excessive volumes or inappropriate times, excessive dust, or sand runoff?

   Applicant Response: No.

   Staff Response: Renewal of the Special Use Permit relies on the fact that no complaints have been made. The discovery of complaints previously made may affect the status of the renewed Special Use Permit, including revocation.

2. Has applicant or landowner received any citations or notices from the UG or other governments or government agencies related to sand runoff entering bodies of water, or related to other environmental issues?

   Applicant Response: No.

   Staff Response: Renewal of the Special Use Permit relies on the fact that no citations or notices have been given. The discovery of previously undiscovered citations may affect the status of the renewed Special Use Permit, including revocation.

3. Applicant and sand production operation must follow all applicable local, State, and Federal regulations regarding sand production, mining/mineral extraction, and by-product disposal.

   Applicant Response: Yes.

4. Kaw Valley should ensure it continues to file and maintain a current occupation tax application with the County for the sale of sand and rock materials.

   Applicant Response: Yes.

5. Provide current photographs from the sand operation site, including the sand plant building(s) and evidence of runoff prevention/mitigation techniques.

   Applicant Response: Will provide.

   Staff Response: Applicant has provided photos of the sand mining operation.

6. Renewal of a Special Use Permit for 10 years.

   Applicant Response: Yes.

Public Works Comments:

A) Items that require plan revision or additional documentation before engineering can recommend approval:
   1) None
B) Items that are conditions of approval (stipulations):
   1) None
C) Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents:
   1) None

STAFF RECOMMENDATION

Staff recommends that the City Planning Commission make the findings contained within the staff report related to *Factors to be Considered*, and *Key Issues* and recommend **APPROVAL** of Petition **#SP-2019-67** subject to all comments and suggestions outlined in this staff report.

ATTACHMENTS

Ground View of Site Entrance
Aerial Photo of Current Sand Mining Operation

REVIEW OF INFORMATION AND SCHEDULE

Action	Planning Commission	Board of Commissioners
Public Hearing	June 10, 2019	June 27, 2019
Special Use		

STAFF CONTACT: **Mike Farley**
mfarley@wycokck.org

MOTIONS

I move the Kansas City, Kansas City Planning Commission **RECOMMEND APPROVAL** of Petition **#SP-2019-67** to the Unified Government Board of Commissioners as meeting all the requirements of the City code and being in the interest of the public health, safety and welfare subject to such modifications as are necessary to resolve to the satisfaction of City Staff all comments contained in the Staff Report; and the following additional requirements of the Kansas City, Kansas City Planning Commission:

1._____;

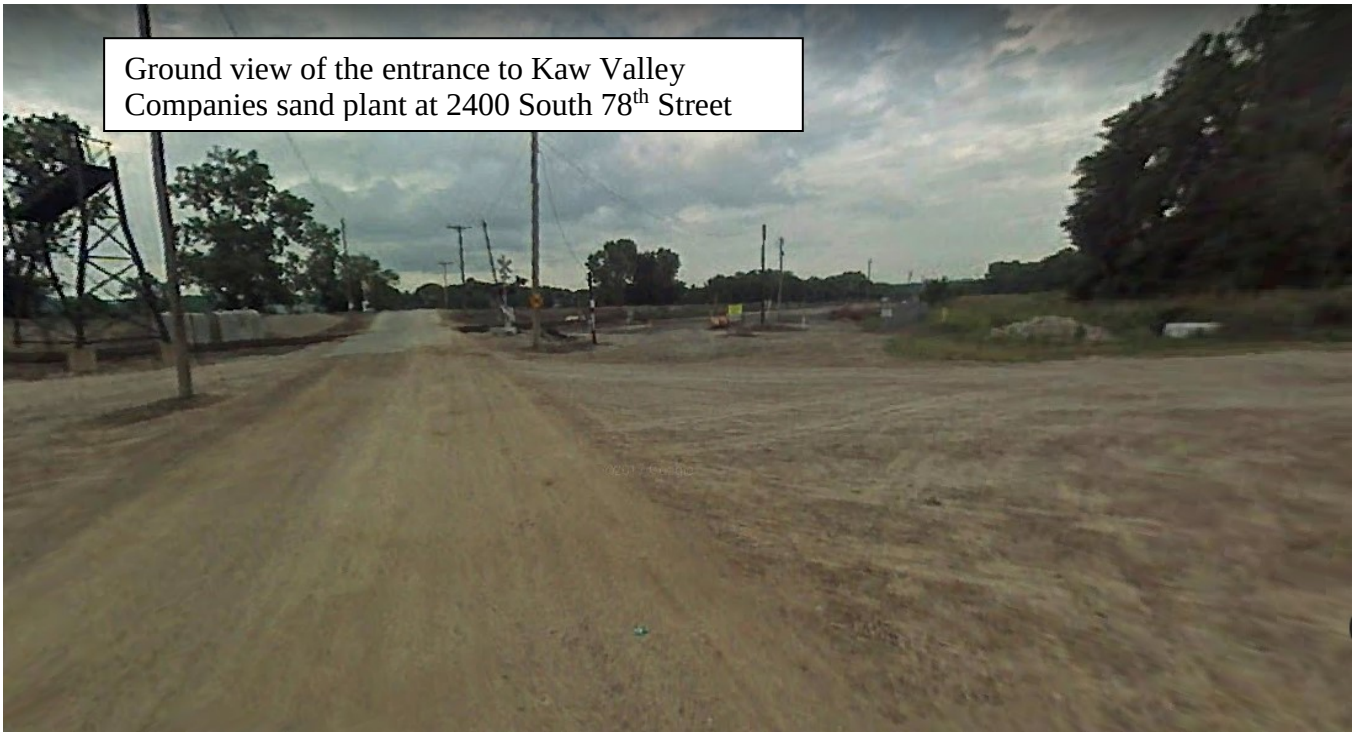
2. _____; And

3. _____.

OR

I move the Kansas City, Kansas City Planning Commission **RECOMMEND DENIAL** of Petition #**SP-2019-67,** to the Unified Government Board of Commissioners as it is not in compliance with the City Ordinances and as it will not promote the public health, safety and welfare of the City of Kansas City, Kansas; and other such reasons that have been mentioned.

Ground View of Site Entrance



Aerial Photo of Current Sand Mining Operation