

RESOLUTION 2020-23

A resolution of the Leavenworth County Kansas Board of County Commission, issuing a Special Use Permit for extraction of raw materials, sand mining for Kaw Valley Companies, INC (“Kaw Valley”) – Lenape Sand Quarry on the following described property:

The southwest quarter of Section 22, Township 12, Range 22 East and portions of the northeast and northwest quarter of Section 22, Township 12, Range 22 East of the 6th P.M., located in Leavenworth County, Kansas. More commonly known as 00000 Lenape Road, PID 235-22-0-00-00-004.00

WHEREAS, it is hereby found and determined that a request for a Special Use Permit (“SUP”) as described above was filed with the Secretary of the Leavenworth County Planning Commission, on the 16th day of January, 2019, and

WHEREAS, it is hereby found that the Leavenworth County Planning Commission (“Planning Commission”), after notice as required by law, did conduct a public hearing upon the request for said SUP on the 10th day of July, 2019; and

WHEREAS, it is hereby found that the Planning Commission, upon its consideration of the facts, entered specific findings of fact, considered herein, and did recommend that the SUP be denied; and

WHEREAS, the Board of County Commission (“Board”) conducted a public hearing, having given proper notice, on the application for said SUP on the 8th day of July, 2020, and did further, in session on the 15th day of July, 2020, consider the application for said SUP and the recommendation of the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Leavenworth County, Kansas, that based upon its consideration of the recommendation and findings of fact of the Leavenworth County Planning Commission; and the findings of fact adopted by the Board of County Commissioners in regular session on the 15th day of July, 2020 and incorporated herein by reference;

That Case No. DEV-19-008, Special Use Permit for extraction of raw materials, sand mining for Kaw Valley Companies, INC – Lenape Sand Quarry approved subject to the following mandatory conditions:

1. The SUP shall be limited to a period of 25 years with annual staff evaluations including calculation of impact fees. That the following conditions shall be binding upon Kaw Valley, or any successor in interest or agent, and that the SUP is made subject to compliance with said conditions.
2. (a). Kaw Valley shall bring the specified route/roadway up to county standards prior to hauling (“improvement”). Design and construction of the improvement shall be funded by Kaw Valley. Funds for the improvement shall be received or otherwise adequately secured by the county prior to the initiation of design and construction of the improvement. Funds may need to be adjusted as the project progresses through completion.

(b) Provided that the improvement is constructed as provided for herein, Kaw Valley shall be allowed to recoup their proportionate share of the cost of said improvement through the collection by the county of development fees imposed upon future commercial development along the route/roadway. Development fees shall be imposed by the county on said commercial development for a period of time of not less than twenty (20) years, or until Kaw Valley has recouped its proportionate share of the cost of the improvement. Said development fees shall be calculated by the county so as to provide for

a reasonable share of the cost of the improvement be borne by future commercial development along the route/roadway. Such development fees, when collected by the county, shall be promptly remitted to Kaw Valley.

(c) For the purpose of this agreement “proportionate share” shall mean the difference between the cost of the improvement made so as to allow for the additional truck traffic created by use of the route/roadway by Kaw Valley and the cost of improvement along the route/roadway necessitated by condition of the route/roadway prior to any use by Kaw Valley.

3. A formal executed agreement between the county and the Kaw Valley detailing all requirements and responsibilities of the parties regarding such improvement shall be required
4. Kaw Valley shall build a berm along the southern property line. A mixture of evergreen and deciduous trees shall be planted along the berm. The applicant shall submit a landscape plan signed and sealed by a landscape architect to staff for review and approval. The planting shall be substantial so that they provide screening and noise barrier to the golf course to the south. The trees shall be maintained throughout the duration of the Special Use Permit.
5. All operations shall not take place within 105’ from the center of either 166th Street or Lenape Road. All activities shall be a minimum of 40’ from the property line. All activity along the southern parcel boundary shall be a minimum of 80’ from the property line.
6. Machinery shall be well-maintained and lubricated to reduce noise.
7. The submitted site plan shall be updated to include the addition of a 26’ wide private driveway. The driveway shall apply to all sheets of the site plan.
8. There shall be no truck traffic associated with the operations conducted pursuant to the SUP traveling south on 166th Street into De Soto.
9. Jake braking by trucks being used in the operations conducted pursuant to the SUP shall be prohibited on the SUP site and along the approved haul route.
10. Trucks being used in the operations conducted pursuant to the SUP shall use only the designated haul route as approved with this Special Use Permit.
11. All trucks exiting the site shall be weighed and must meet legal load limits prior to exiting the site. A log providing sufficient detail acceptable to the county shall be maintained by Kaw Valley and shall be subject to inspection by the county upon request.
12. Trucks shall not enter the site prior to 7:00am and shall exit the site not later than 3:00pm, Monday-Friday.
13. Noise shall be limited to 65 dBs along property lines adjacent to Residentially Zoned Parcels.
14. Dredging operations shall be limited to the hours of 6:30am until 6:30pm Monday-Saturday.
15. Kaw Valley shall file a Surface Mining Permit with the Kansas Department of Health and Environment. This permit shall be submitted to Leavenworth County upon issuance.
16. The SUP shall be limited to five (5) full-time employees not including truck operators.

17. The applicant shall adhere to the following memorandums:
 - a. See attached comments – Memo – Chuck Magaha – Emergency Management, June 6, 2019
 - b. See attached comments – Email – Brittney Reed – Electric utility, February 5, 2019
 - c. See attached comments – Memo – Janelle Phillips, P.E. – State of Kansas, February 26, 2019 revised December 30, 2019.
 - d. See attached comments – Memo – David R. Hibbs – Department of the Army, May 28, 2019
 - e. See attached comments – Memo – Larry Hook – State of Kansas, March 13, 2019
 - f. See attached comments – Letter – Mitch Pleak – Leavenworth County Public Works, June 23, 2020

18. No signage is allowed in the right-of-way. No signage is requested with the SUP. All signage shall comply with Article 25, Sign Regulations of the Leavenworth County Zoning and Subdivision Regulations.

19. No on-street parking shall be allowed.

20. This SUP shall be limited to the Narrative, dated June 28, 2019 and Noise Study dated June 25, 2019 submitted with this application.


21. The SUP shall require adherence to the dust control plan dated February 18, 2020, with the exception that all sand loads shall be tarped.

22. This SUP shall require compliance by Kaw Valley, or any successor in interest, with all local, state, and federal rules and regulations that may be applicable. After approval of this SUP by the board all conditions listed shall be complied with and documentation of such compliance provided to the Planning and Zoning Department within 30 business days.


Adopted this 22nd day of July, 2020
 Board of County Commission
 Leavenworth, County, Kansas



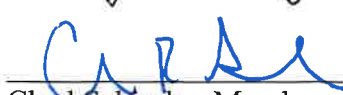
 Doug Smith, Chairman



 Jeff Culbertson, Member




 Vicky Kaaz, Member



 Chad Schimke, Member





 Janet Klasinski

Mike Stieben, Member