

The Legal Record

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CITY OF DE SOTO
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DE SOTO KS 66018-0803

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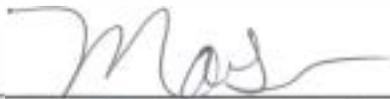
Ordinance No. 2584 Summary

On July 20, 2023, the City of De Soto, Kansas, adopted Ordinance No. 2584, granting a Special Use Permit for a period of ten years to Lessee and Operator, Hamm, Inc., for sand and gravel extraction operations, and a concrete batch plant, and related uses set forth in the Ordinance, on roughly 92 acres of land in the vicinity of 8150 Gardner Road, in De Soto, Kansas. A complete copy of this ordinance may be obtained or viewed free of charge at the Office of the City Clerk at City Hall, 32905 West 84th Street, De Soto, Kansas or at www.desotoks.us. This summary is certified by Patrick G. Reavey, De Soto City Attorney pursuant to K.S.A. 12-3001, et seq.
7/25

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Clerk for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

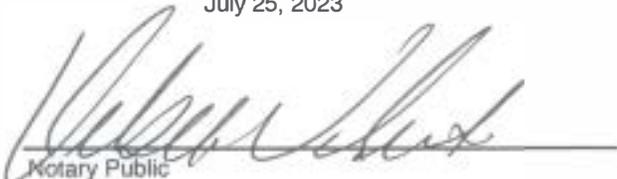
ORDINANCE NO. 2584 SUMMARY
7/25/23



Maureen Gillespie, Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

July 25, 2023


Notary Public

DEBRA VALENTI
Notary Public-State of Kansas
My Appt. Expires Aug. 21, 2023

L13952
Publication Fees: \$5.84

Ordinance Summary published in the Legal Record on _____ and the full text of the Ordinance made available at www.desotoks.us for a minimum of 1 week from the date of publication

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On July 20, 2023, the City of De Soto, Kansas, adopted Ordinance No. 2584, granting a Special Use Permit for a period of ten years to Lessee and Operator, Hamm, Inc., for sand and gravel extraction operations, and a concrete batch plant, and related uses set forth in the Ordinance, on roughly 92 acres of land in the vicinity of 8150 Gardner Road, in De Soto, Kansas. A complete copy of this ordinance may be obtained or viewed free of charge at the Office of the City Clerk at City Hall, 32905 West 84th Street, De Soto, Kansas or at www.desotoks.us. This summary is certified by Patrick G. Reavey, De Soto City Attorney pursuant to K.S.A. 12-3001, et seq.

ORDINANCE NO. 2584

AN ORDINANCE PROVIDING FOR A SPECIAL USE PERMIT FOR A SAND AND GRAVEL EXTRACTION OPERATION ON ROUGHLY 92 ACRES OF LAND IN THE VICINITY OF 8150 GARDNER ROAD, AS WELL AS A CONCRETE BATCH PLANT ON THREE OF THE ACRES, ALL WITHIN THE CITY OF DE SOTO, JOHNSON COUNTY, KANSAS

WHEREAS, a sand and gravel extraction operation has previously been in operation on land (roughly 256 acres) in the vicinity of 8150 Gardner Road in De Soto, Kansas, and said operation has been governed by City Ordinances 1071, 1100, 2268, 2284, and 2416; and

WHEREAS, the owner of the land (the David M. and Carmietta Penny Revocable Trust) has now leased the land and operation to Hamm, Inc. (hereafter referred to as “Permittee”) who seeks to continue the operation under a revised special use permit that will allow operation of a concrete batch plant on three of the acres comprising the site; and

WHEREAS, the special use permit that is the subject of this Ordinance is only for the land area described and previously governed by Ordinance 2416 (hereafter “Site”); and

WHEREAS, the (a) operation of a sand and gravel extraction operation [which falls within the regulations for “Mines and Quarries” as set out in the City Zoning Regulations]; and (b) operation of a concrete batch plant, are both allowed by a special use permit in the zoning district the Site is currently located within, that being “M-1” Industrial – Light District; and

WHEREAS, the Planning Commission of the City of De Soto, Kansas did hold a public hearing after proper publication of notice and proper service of notice upon property owners within 200 feet of the Site that is subject to the requested Special Use Permit; and

WHEREAS, the Planning Commission recommended that the Special Use Permit, with certain specified conditions, be approved for a ten (10) year period.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DE SOTO, KANSAS:

Section 1. Basis of Decision. That the Governing Body, in making its decision on the application for special use permit, considered the evidence forwarded to it by the City Planning Commission, as well as the following general criteria for Special Use Permits contained in the City's Zoning Regulations and as required by Kansas law:

- A. The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space.
- B. The nature and intensity of the proposed use and its compatibility with the zoning and uses of nearby properties. Such determination should include the location, nature, and height of structures walls, fences, and other improvements connected with the proposed use, their relation to adjacent property and uses, and the need for buffering or screening.
- C. The extent to which there is a need in the community for the proposed use.
- D. The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services.
- E. Adequacy of ingress and egress to and within the site of the proposed use, traffic flow and control, the adequacy of off-street parking and loading areas, the adequacy of required yard and open space requirements and sign provisions.
- F. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the proposed use, or present parking problems in the vicinity of the property.
- G. The environmental impacts that the proposed use would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm.
- H. The economic impact of the proposed use on the community.
- I. The extent to which the proposed use may detrimentally affect nearby property.
- J. The relative gain (if any) to the public health, safety, and welfare from a denial of the application for special use permit as compared to the hardship imposed upon the special use applicant from such denial.
- K. Consistency with the Comprehensive Plan, Utilities and Facilities Plans, Capital Improvement Plan, Area Plans, ordinances, policies, and applicable City Code of the City of De Soto and the general safety, health, comfort and general welfare of the community.
- L. The recommendation of professional staff.

Section 2. Special Use Permit for a Concrete Batch Plant and Sand and Gravel Extraction Operation. That the Governing Body hereby grants a Special Use Permit to Permittee for a concrete batch plant and sand and gravel extraction operation (and related uses as set forth herein below) -- said operation to be in conformance with and as outlined in Permittee's application and submitted drawings for the special use permit on file with the City Planner, and in compliance with all of the conditions, requirements, and terms set forth in this Ordinance, and in the City's Zoning Regulations -- on the

following legally described land in the vicinity of 8150 Gardner Road, Johnson County, De Soto, Kansas, and as diagrammed in the attached **Exhibit A**:

PER DEED BOOK 6658 PAGE 509:

The West ½ of the Northwest ¼ of the Northeast ¼ of Section 26, Township 12, Range 22, except any part in streets and roads.

Lots 1 and 2, Block 1, Argubrights Addition to Cedar Junction, a subdivision in the City of DeSoto, Johnson County, Kansas.

PER DEED BOOK 201410 PAGE 000375:

The Northeast ¼ of the Northwest ¼ of Section 26, Township 12, Range 22, Johnson County, Kansas.

The East ½ of the West ½ of the Northeast ¼ of Section 26, Township 12, Range 22, Johnson County, Kansas, lying North of the Atchison, Topeka and Santa Fe Railroad.

The Northwest ¼ of the Southwest ¼ of the Northeast ¼, lying North of the Atchison, Topeka and Santa Fe Railroad of Section 26, Township 12, Range 22, Johnson County, Kansas, EXCEPT that part now platted as Argubright's Addition to Cedar Junction.

Lots 3, 4, 5, 6, 7, 8 and 9, Block 1, Argubright's Addition to Cedar Junction, Johnson County, Kansas, according to the recorded plat filed in Plat Book 1, Page 80

Section 3. Conditions. The Special Use Permit granted herein is conditioned on the following:

- a. Unless specifically modified by this Ordinance 2584, the sand and gravel extraction, and concrete batch plant operations, permitted by this Ordinance 2584 shall be in compliance with all terms, conditions, and requirements recited in Ordinances 1071, 1100, 2268, 2284, and 2416, understanding, though, that the land described in said Ordinances is different than the Site that is the subject of this Ordinance No. 2584.
- b. Permittee constructing turn lanes and approach and deceleration lanes on 83rd street prior to concrete batch plant operations commencing.
- c. Permittee complying with noise regulations in the De Soto City Code.
- d. Permittee submitting plans and specifications for paving of Gardner Road, for approval by the City Engineer. Permittee to complete approved paving of Gardner Road from 83rd street to the northern scale house gate within one year of concrete batch plant operations commencing.
- e. Permittee satisfactorily maintaining Gardner Road (as determined by the City Engineer) from the northern scale house gate to the south gate at 7605 Gardner Road.
- f. Permittee limiting truck traffic to 175 trips per day based on a monthly average.

- g. Permittee ensuring concrete batch plant is not operated on Sundays or outside the hours of 5:00 a.m. until 5:00 p.m. Monday through Saturday except for 60 days during peak construction season when operation of the batch plant is allowed to start at 2:00 a.m. Any special operations that need to occur on a Sunday, or any other emergency operations outside of the hours stated herein, shall be preceded by advance written notice to the City Administrator.
- h. Permittee to maintain 100-foot excavating setback from the City of Olathe raw water lines.
- i. Permittee to maintain its lighting at the concrete batch plant to shield glare to neighboring properties and focus light streams downward toward the batch plant work area.
- j. Permittee maintaining and complying with all State of Kansas and Federal permits and regulations.
- k. Permittee ensuring sand and gravel excavation operations are not occurring earlier than dawn or later than dusk on Mondays through Saturdays. No such operations shall occur on Sundays.
- l. Permittee maintaining adequate site lines (as determined by the City Engineer) at the intersection of 83rd Street and Gardner Road by Permittee removing and trimming vegetation in the vicinity thereof.
- m. Permittee complying with the reclamation plans and requirements previously submitted to the City for the Site.

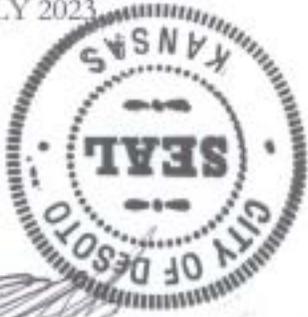
Section 4. Term of Permit. This Special Use Permit is granted for a period of ten (10) years from the effective date of this Ordinance. For any renewal of this permit beyond the original ten (10) year term, Permittee shall be obligated to pursue said renewal pursuant to application and submittal requirements in effect at the time of renewal.

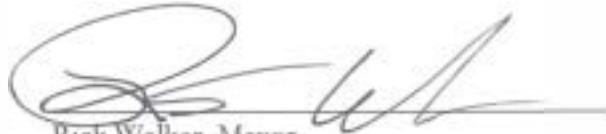
Section 5. Revocation. The effectiveness of this Special Use Permit is conditioned upon the strict compliance by the Permittee with the provisions contained herein and in the City of De Soto Zoning Regulations. Should Permittee fail to comply with any term or provision thereof and shall such failure continue following notice from City to Permittee specifying the breach and actions to be taken to cure the same, then, at the direction of the City Administrator, Permittee will be notified that this Special Use Permit is revoked prior to its otherwise normal expiration and all uses permitted herein on the Property must immediately cease. Reinstatement following default may only be effected by action of the Governing Body. Wholly separate and apart from the specific conditions of the City's Zoning Regulations are the City's interest and duties to protect the public health, safety and welfare. Permittee agrees that this Ordinance shall not operate or be construed to impede or impair the lawful function of City government operation in this area.

Section 6. Effective Date. This ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law, which will also be the effective date for purposes of the Special Use Permit herein granted.

PASSED AND APPROVED BY A MAJORITY OF THE GOVERNING BODY THIS 20TH
DAY OF JULY 2023

(Seal)




Rick Walker, Mayor

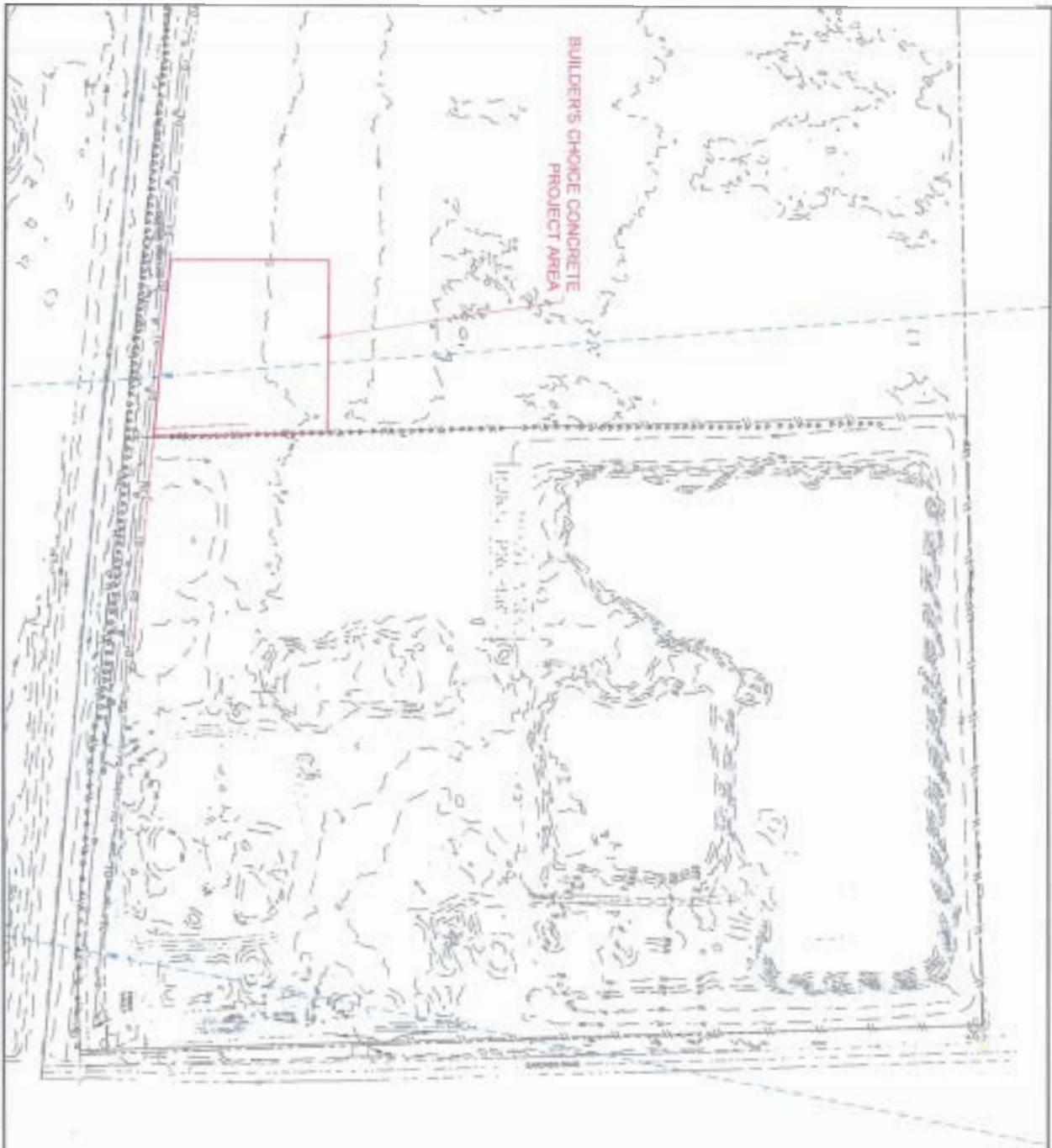
ATTEST:


Brandon Mills, City Clerk

APPROVED AS TO FORM:


Patrick G. Reavey, City Attorney

EXHIBIT A



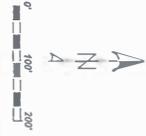
BUILDER'S CHOICE CONCRETE
PROJECT AREA

LEGEND

- EXISTING MAJOR CONTOUR
- - - EXISTING MINOR CONTOUR
- PROPOSED FACILITY BOUNDARY
- - - PROPERTY BOUNDARY
- - - FIRM BASE FLOOD ELEVATION
- - - FIRM BASE FLOOD ELEVATION

PROJECT INFORMATION
 PROJECT NAME: BUILDER'S CHOICE CONCRETE
 OWNER OF RECORD: BRYAN LAND LLC
 ADDRESS: 8228 OAKBERRY ROAD
 DE SOTO, MO 64728
 ENGINEER: BLACKSTONE ENVIRONMENTAL
 DATE: 06/20/2017

NOTES
 1. ACCORDING TO THE FIRM SPECIFIC MAP, THE PROJECT SITE IS BARELY LOCATED WITHIN A ZONE A/E ELUVATION IS APPROXIMATELY 782' - 788' WITH AN ELEVATION RANGE OF APPROXIMATELY 782' - 788' WITH AN EFFECTIVE DATE OF ABOUT 08, 2008.
 2. THE PROJECT AREA ARIE THE SPECIAL USE PERMIT LAND USE ON ALL SIDES. THESE IS SHOWN BY THE MAJOR BOUNDARY FROM L. JAMES, P.L. ON JUNE 23, 2017.



<p>BLACKSTONE ENVIRONMENTAL</p> <p>BLACKSTONE ENVIRONMENTAL, INC. 16200 FOSTER STREET OVERLAND PARK, KS 66205 P: 913-485-9950 F: 913-646-2077</p>		<p>SITE OVERVIEW</p> <p>BUILDER'S CHOICE CONCRETE</p> <p>DE SOTO, KANSAS</p>	
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