

HARPER COUNTY, KANSAS

Agenda No. ____
for February 24, 2020

REVISED SPECIAL USE REPORT *

CASE NUMBER: SU-01-19

APPLICANT: Waste Connections of Kansas
AGENT:

REQUEST: To modify two conditions attached to the Special Use case SU-01-06 for the Plumb Thicket Landfill approved by Resolution No. 2002-04

CASE HISTORY: Application is submitted under the provisions described in Condition #42-”Should it be deemed necessary by the Applicant to request a modification of any of these conditions or an addition thereto, application will need to be made to consider only such modification or addition in the same manner of notification, hearing, recommendation and decision as for the original special use case. Such a modification or addition shall not cause the validity of an approved special use to be repealed nor create a new special use.”

APPROX. LOCATION: 440 NE 150 Rd, Harper Kansas

SITE SIZE: 487.5 acres more or less

1. Condition-Section 17: Modify the condition to allow for the inclusion of a five acre tract within the screening area in the SE corner, along the entrance road, for the express purpose of an education center, a gas energy plant designed to process collected land fill gas and ancillary improvements (e.g. road, landscaping).
2. Condition-Section 28: Modify the annual fee paid to the County from \$150,000, subject to annual Consumer Price Index (CPI) adjustments that is directly proportional to the percentage change in the CPI for such annual period to a set amount of \$175,000, with \$25,000 dedicated to Plumb Thicket Conservation Committee and specifically used for the Environmental Program and End Use initiatives at the landfill.

ADJACENT ZONING AND EXISTING LAND USE:

North: Kingman County, A-1 Agricultural District – Agricultural land

South: A-2 Agricultural District – Agricultural land, Fish Farm

East: A-2 Agricultural District – Agricultural land.

West: A-2 Agricultural District – Agricultural land

* **NOTE:** This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses initially provided need to be evaluated with the evidence and reworded as necessary to reflect the Commission's considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator. A copy of the report should be provided to the applicant before the hearing. The completed report can be included within the minutes following the statutory required summary of the hearing or attached thereto. The minutes and report should be forwarded to the Governing Body within 14 days to serve as a basis for their decision.

BACKGROUND INFORMATION:

This property has been a waste facility consisting of an office, scales, maintenance shop, vehicle parking, leachate storage, pads for periodic monitoring of the contents of refuse loads, interim educational center and the cells for actual depositing of refuse and covering since 2005.

(See attached aerial photo with drawing.)

FACTORS AND FINDINGS: **

- 1. What are the existing uses and their character and condition on the subject property and the surrounding neighborhood? (See Adjacent Existing Land Use on page 2 of 7.)**

Subject property is and remains a solid waste disposal facility licensed in the State of Kansas. Plumb Thicket is a solid waste disposal facility accepting municipal solid waste, construction and demolition debris, and special waste approved by both the State of Kansas and Waste Connections. Plumb Thicket, since its inception in 2005, has operated under the same State regulations and company operating values. The surrounding area is agricultural land and a fish farm to the south.

- 2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the request? (See Adjacent Zoning on page 2 of 7.)**

The subject property has been issued a Special Use permit to allow construction and operation of a sanitary landfill in the A-2 Agricultural District. The surrounding properties are zoned as A-2 Agricultural District, used for farming, exploration and production (oil and gas industry), and pasture land.

- 3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?**

The length of time the subject property has remained undeveloped is not a factor in this consideration. The area currently undeveloped by the future landfill gas to energy (LFGTE) facility has remained undeveloped from the site's commencement of operation (2006) to the current date.

**** NOTE:** Of those factors considered as relevant to the requested change in zoning district classification or boundary, not all factors need to be given equal consideration by the Board in deciding upon its recommendation.

- 4. Would the request correct an error in the application of these regulations?**

The request does not correct any error in the application.

- 5. Is the request caused by change or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?**

Yes, conditions related to landfill gas (LFG) have changed. The landfill has reached an age where there is enough landfill gas (LFG) produced to run and operate a beneficial reuse application. Landfill gas has a high energy value and can be used through combustion in several beneficial reuse energy applications.

- 6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?**

Adequate sewage, water, and electrical supply are nearby and available for the LFGTE plant. Applicant has a permit to maintain and operate a septic tank and a leach filter field for the treatment of sewage. Sumner-Cowley Electric Cooperative, Inc. supplies electricity and Rural Water District #5 supplies water. Existing road access to Northeast 150th Rd will remain unchanged.

- 7. Would the subject property need to be platted or replatted or in lieu of dedications made for rights of way, easements, and access control or building setback lines?**

No replatting will be necessary for inclusion of the LFGTE plant into the Special Use and zoning permit. The property was platted in connection with the issuance of the Special Use and zoning permit prior to the commencement of operations.

- 8. Would a screening plan be necessary for existing and/or potential uses of the subject property?**

There is already a screening plan in place for the subject property (the landfill and associated buildings). However, the existing screening plan will need to be amended to include screening for the LFGTE plant.

- 9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?**

There is no suitable land in the same zoning suitable for the LFGTE plant. Operation of the plant is made efficient by the proximity to the landfill gas (LFG) control source, which is a candlestick-style flare. Other interior locations in the subject property will be used for future expansion of the active waste area. These area's are within the permitted waste boundary as defined by the Kansas Department of Health and Environment (KDHE) regulations.

10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

The uses are needed to provide both employment and royalty opportunities. LFGTE plant employees will have to be hired for everyday plant operations. Also, Harper County will collect a 15% royalty on LFG sales from the LFGTE plant.

11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?

Yes, the addition of the LFGTE is suitable with the landfill special use. It was approved as a future use as part of the original approved Special Use. It is a compatible and environmentally responsible activity to the landfill use.- LFGTE is a common installation or addition to landfills.

12. To what extent would the removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

The LFGTE plant will not produce odors, noise, litter, or any other detrimental effect on the surrounding properties. Additional screening will provide a visual buffer to adjacent properties. The flame seen from flare gas will cease.

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

Yes. The modification to the Special Use is consistent with the purpose of the zoning district classification and the intent and purpose of the regulations. The proposed request to modify the Special Use does not change the property's current use as a landfill facility.

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

This request is in conformance with the Harper County Comprehensive Plan. Chapter 4, Economy, notes an effort to "aggressively be pursued:

1. While continuing to develop and strengthen agriculture, all segments of government and private initiative should work towards the diversification of the economy by selectively encouraging the expansion of nonagricultural businesses and industries and agritourism."

The landfill has demonstrated economic benefits to the County since beginning operation in January of 2006. This request will further enhance implementation of the Plan to provide additional revenue for Harper County, and will provide a beneficial reuse of generated LFG that would otherwise be flared off.

15. What is the nature of the support or opposition to the request?

No public were present at the hearing.

16. Is there any information or are there recommendations on this request available from professional persons or persons with related expertise which would be helpful in its evaluation?

A historical chart was received from the Harper County Clerk showing the annual monitoring fees collected from Waste Connections have been included in the packet to review. This chart shows the adjustment of CPI % increases for each year, which should be used for County inspections and monitoring.

17. By comparison, does the relative gain to the public health, safety or general welfare by not approving the request outweigh the loss in property value or the hardship imposed upon the applicant?

There would be both financial and other hardships to the Applicant by not approving the request of change to condition #17. As an operator of a solid waste landfill, the Applicant believes in providing environmental benefits if at all possible through the disposal of waste. In this case, the Applicant has the opportunity to offset the carbon footprint of the landfill by beneficially reusing LFG as an energy/fuel source. However, the gain to the public health, safety & general welfare by not approving the request of modifying Condition #28 would outweigh the hardship of the Applicant by which the County could improve the monitoring of the landfill pertaining, but not limited, to the conditions hereto attached to case SU-01-06: Conditions 5, 8, 10, 11, 12, 13, 21, 24, 33, 34, and 39.

CONDITIONS: (Determine conditions, if any, applicable to the case with rewording if necessary and add additional conditions as deemed desirable.)

1. A site plan and screening will need to be approved by the Site Plan Committee before a zoning permit will be approved for the educational center and landfill gas energy plant.
2. A septic permit will need to be approved for the educational center by the County Sanitarian before a zoning permit is approved.
3. The Operation Plan will need to be updated and submitted to the County Clerk for file.

cc: Applicant