

PC Staff Report - 10/23/02
CUP-08-07-02

Item No. 3 - 1

PUBLIC HEARING ITEM:

ITEM NO. 3:

**CONDITIONAL USE PERMIT FOR MERCHANDISE SALES AT 1791
N 1500 ROAD (BDP)**

SUMMARY

CUP-08-07-02: Conditional Use Permit request for Schaaake's Pumpkin Patch, including the sale of farm-related merchandise not produced on the farm. The property is generally located at 1791 N 1500 Road. Submitted by Larry Schaaake, property owner of record.

GENERAL INFORMATION

Current Zoning and Land Use:	A (Agricultural District); developed with existing Schaaake's Pumpkin Patch business.
Surrounding Zoning and Land Use:	A (Agricultural District) on all sides; agricultural land on all sides.
Reason for Request:	To allow sales of items ancillary to the agricultural products produced on the site.

I. ZONING AND USES OF PROPERTY NEARBY

The subject property is located on the south side of N 1500 Road (1791 N 1500 Road) east of E 1750 Road. Surrounding properties are zoned A (Agricultural) District, and land uses are primarily agriculture with farm ranch residences.

Staff Finding - The subject site is located on N 1500 Rd. Surrounding zoning includes A (Agricultural) on all sides. Surrounding land uses are primarily agricultural with farm residences.

II. CHARACTER OF THE AREA

The subject property is about 80 acres in size, and slopes downward to the north and south. Generally, the northern portion of the property is developed with the existing Schaaake's Pumpkin Patch. The remainder of the property consists of farmland. The surrounding character of the area is predominantly agricultural. East Hills Business Park is about ¼ mile to the west and south.

Staff Finding - The northern portion of the property is currently developed with Schaaake's Pumpkin Patch. The remainder of the property is agricultural. The character of the surrounding area is agricultural, with East Hills Business Park about ¼ mile to the west and south.

PC Staff Report - 10/23/02
CUP-08-07-02

Item No. 3 - 2

III. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

The current zoning designation for the property is A (Agricultural) District, a district in which agriculture-related uses are allowed. The agricultural products sales portion of the proposed use is allowed by right in the A District. The proposed sales of products not produced on the property is allowed in the A District with approval of a Conditional Use Permit.

The proposed uses are compatible with the property's current zoning of A (Agricultural) District with approval of a Conditional Use Permit.

Staff Finding - The subject site is suitable for the proposed uses of agricultural and other products sales.

IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

The subject area has been zoned A (Agricultural) District since the adoption of the zoning regulations in the unincorporated portions of Douglas County in 1966. Agricultural sales and the pumpkin patch operation have existed for over 25 years on the property.

Staff Finding - The subject property is developed with the Schaake's Pumpkin Patch business. The primary sales use has existed for over 25 years. The property has been zoned A (Agricultural) District since 1966.

V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

The current request is for a Conditional Use Permit to allow the continued operation of the retail agricultural sales along with the sale of ancillary products. Traffic and noise impacts associated with the use have existed in the area for over 25 years. Traffic is not anticipated to significantly increase with the approval of the Conditional Use Permit.

Staff Finding - Traffic, visual, and noise impacts from the site will not substantially change from past conditions. The proposal should not detrimentally affect nearby property.

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property. Benefits are measured based on anticipated impacts of the request on the public's health, safety and welfare.

The property could continue to be utilized as a residence and agricultural land with sales of agricultural products. The hardship imposed upon the landowner with denial of the Conditional Use Permit is that products not grown on-site would not be permitted to be sold. The relative gain to the public health, safety, and welfare is enhanced by permitting the existing use to

PC Staff Report - 10/23/02
CUP-08-07-02

Item No. 3 - 3

continue, but placing a time limit of 10 years on the present use. This recommendation is a condition of approval. At the end of 10 years, the Conditional Use Permit approval will expire. Prior to that time, it would be more appropriate to review the current use and its compatibility with adjacent uses, as well as the owner's needs and the zoning options available based upon surrounding land development and comprehensive plan recommendations.

The primary benefit resulting from this project would be that it would provide residents and businesses in Douglas County with a continued option for farm-grown agricultural and ag-related products, as well as a seasonal "pick-your-own" pumpkin patch.

Staff Finding - The primary benefit and/or gain to the public health, safety, and welfare of the Conditional Use Permit for the market is that it would provide residents and businesses of Douglas County with farm-grown agricultural and ag-related products. Denial of the request would impose a hardship on the applicant by requiring them to cease any non-farm product sales.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

An evaluation of the conformance of this request with the County's comprehensive plan is based on the goals, policies and recommendations in Horizon 2020. As a planning document, Horizon 2020 is a policy-oriented plan. Maps are intended to be used as general reference guides in the interpretation of these policies and recommendations.

In Chapter Six - Commercial Land Use, Horizon 2020 includes the following strategy:

"Establish and maintain a system of commercial development which provides for neighborhood, community and regional commercial and retail development anticipated to meet the community's needs through the planning period" and,

"In Douglas County, focus and build upon key existing commercial areas [identified in the Horizon 2020 Background Studies] to provide day-to-day goods and services to residents of unincorporated Douglas County." (pg. 85)

For existing commercial areas in Douglas County the plan states, *"Unincorporated Douglas County currently maintains a variety of commercial areas. Each of these areas provides neighborhood level retail goods and services to both farm and non-farm residents. The Plan recommends limited expansion of these areas in the future. As the rural areas of Douglas County continue to receive new non-farm residential development, demands will increase for retail goods and services." (pg. 96)*

The proposed use is not an expansion of the primary use. The primary retail use has existed for over 25 years. The presence of an agricultural sales and seasonal "pick-your-own" pumpkin patch in this location provides an additional resource for surrounding residents and farmers.

Staff Finding - The Conditional Use Permit for the proposed facility is consistent with the goals and policies in Horizon 2020.

PC Staff Report - 10/23/02
CUP-08-07-02

Item No. 3 - 4

Review and Comments From Other Departments/Agencies:

Zoning & Codes Division: No comments.

Co. Public Works:

1. Entrance seems too narrow for public ingress/egress, but we'll defer to township's judgment. *(Notified, Township has no comment)*

NRCS:

No comments.

Health Department:

1. The site plan does not indicate if any additional water supplies or additional septic systems will be needed for the project. *(No additional water supplies proposed. Portable restrooms will be provided on site)*

Westar:

No comments.

Greeley Gas:

No comments.

Southwestern Bell:

No comments.

Wakarusa-Kaw Drainage District:

No comments.

Wakarusa Township:

No comments.

Wakarusa Township Fire Department:

No comments.

Planning Comments:

1. Please provide a smaller plan (such as 11' x 17'). Many of the dimensions are confusing because the plan is not to scale. Please revise. *(Revised)*
2. How will stormwater drain from the site? Provide and label drainage arrows. *(Revised)*
3. Please provide the following required information on the plan:
 - a. A detailed list of all proposed land uses on the property. *(Revised)*
 - b. A legal description. *(Revised)*
 - c. A graphic scale. *(Revised)*
 - d. Present zoning. *(Revised)*
 - e. Present topography. Can be either grade contours or spot elevations. These may be obtained from the County Public Works office at 13th and Massachusetts. *(Revised)*
 - f. Will there be any landscaping, existing or proposed? Include trees, shrubs, or groundcover (not including crops or trees/shrubs for sale). *(No additional landscaping proposed)*
 - g. Surfacing of the driveway entrance (gravel?). *(Revised, gravel shown)*
 - h. List the number of required and provided parking spaces. *(Revised)*
 - i. Provide a note stating that the site complies with ADA requirements. *(Revised)*
 - j. Will there be any lighting, existing or proposed? *(No lighting, daylight operation only)*

PC Staff Report - 10/23/02
CUP-08-07-02

Item No. 3 - 5

STAFF REVIEW

The applicant has submitted a Conditional Use Permit request for the existing Schaaeke's Pumpkin Patch business located on the south side of N 1500 Road (1791 N 1500 Road), east of E 1750 Road. The site is proposed for the continued use of retail agricultural sales and related products as well as a seasonal "pick-your-own" pumpkin patch. The property owner was informed by the Douglas County Zoning Administrator that a Conditional Use Permit would be required to continue operation of the facility as it exists with the sale of ancillary garden products not produced on site.

The site currently contains a residence and retail sales structure, as well as multiple farm-related outbuildings including a machinery barn and cattle barn. In addition, there is a pumpkin patch to the south of the buildings for customers to choose pumpkins.

A Conditional Use Permit is required for this use in an A (Agricultural) District. The Zoning Regulations recognize certain conditional uses, although incompatible with other uses permitted in a district, may be permitted when "*found to be in the interest of the public health, safety, morals, and general welfare of the community*".

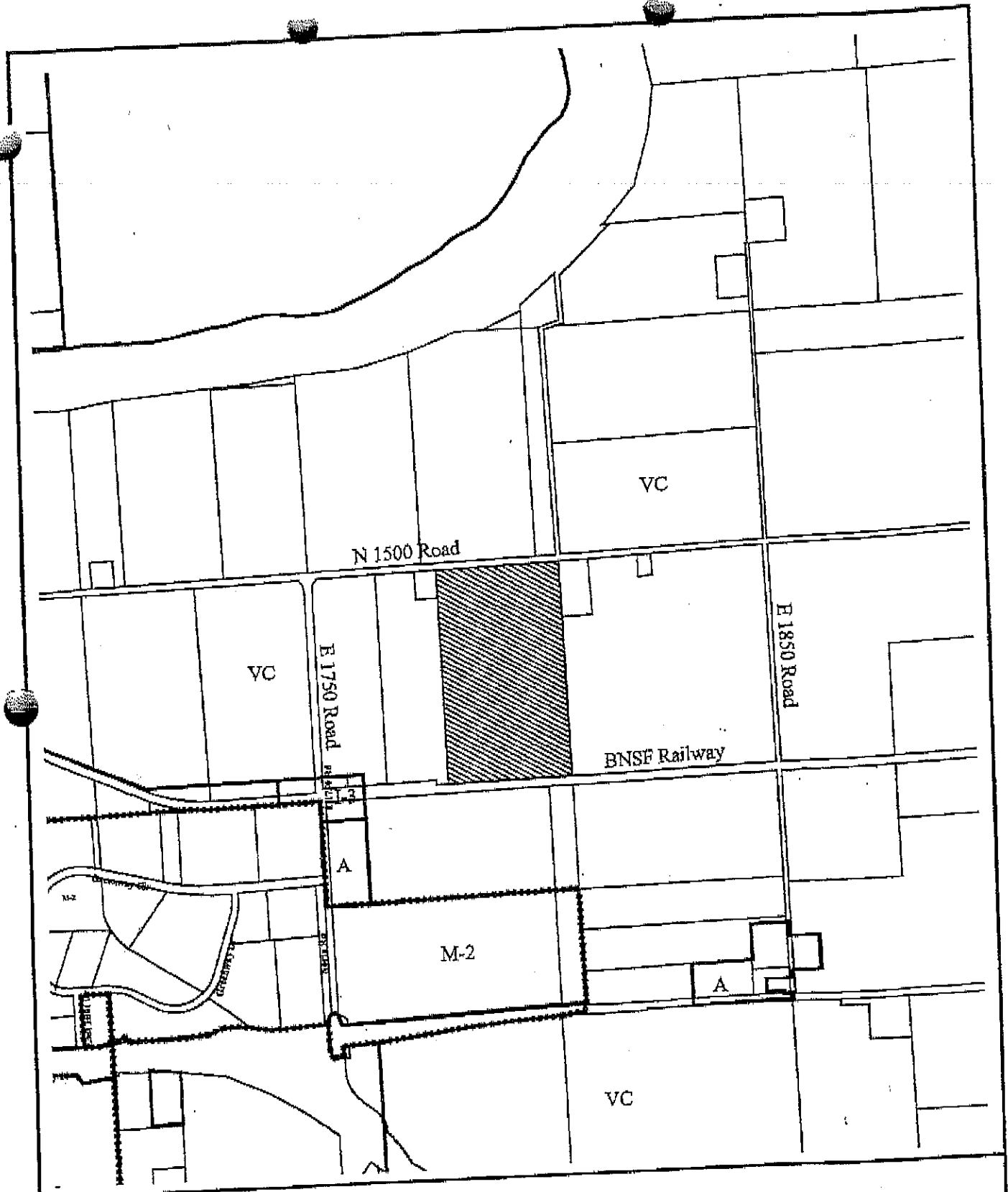
Parking

The applicant has shown approximately 30 parking spaces within the gravel parking lot on the plan, and an additional 200 parking spaces within a grass overflow area to the east. The total retail floor area is 1,200 square feet, which accounts for only the interior retail space and does not include the outdoor "field" pumpkin activities. With a parking requirement of 1 parking space per 200 square feet, the total required for the retail use is 6 spaces. Previous concerns with parking along the roadside has been alleviated with the grass overflow parking area.

PROFESSIONAL STAFF RECOMMENDATION


Planning Staff supports the land use as an agricultural retail sales business with sales of ancillary products and a seasonal "pick-your-own" pumpkin patch. Staff recommends approval of the Conditional Use Permit for the above stated use, based upon the findings of fact presented in the body of the Staff Report and forwarding of it to the County Commission with a recommendation for approval subject to the following conditions:

1. Revise the text of the site plan to provide the following information:
 - a. Provision of a note on the site plan stating, "Retail sales of items not produced on site is limited to 3,500 square feet of floor area".
2. Provision of a note on the face of the site plan stating, "The Conditional Use Permit will be re-evaluated by the County Commission in February, 2007. The CUP will expire in February, 2012. Continuation of the use beyond February 2012 will require rezoning or approval of a new CUP."



CUP-08-07-02: Conditional Use Permit for Schaake's
Pumpkin Patch at 1791 N 1500 Road

Lawrence-Douglas County Planning Office
September 30th, 2002

 Area Requested
Scale: 1 Inch = 1500 Feet

DECLARATION OF ABSTENTIONS

Comm. Haase stated he would recuse himself from Items 7A – 7C.

REGULAR AGENDA

ITEM NO. 3: **CONDITIONAL USE PERMIT FOR MERCHANDISE SALES AT 1791 N 1500 ROAD (BDP)**

CUP-08-07-02: Conditional Use Permit request for Schaake’s Pumpkin Patch, including the sale of farm-related merchandise not produced on the farm. The property is generally located at 1791 N 1500 Road. Submitted by Larry Schaake, property owner of record.

STAFF PRESENTATION

Mr. Pedrotti introduced the Item, explaining the CUP was for the sale of related items not produced on-site. Sales of produce (pumpkins) grown on-site were and would continue to be permitted year-round.

APPLICANT PRESENTATION

The applicant had no additional presentation.

PUBLIC HEARING

No member of the public spoke on this Item.

Draft

ACTION TAKEN

Motioned by Comm. Bateman and seconded to approve the Conditional Use Permit for land use as an agricultural retail sales business with sales of ancillary products and a seasonal “pick-your-own” pumpkin patch and forwarding it to the County Commission with a recommendation for approval subject to the following conditions:

1. Revise the text of the site plan to provide the following information:
 - a. Provision of a note on the site plan stating, “Retail sales of items not produced on site is limited to 3,500 square feet of floor area”.
2. Provision of a note on the face of the site plan stating, “The Conditional Use Permit will be re-evaluated by the County Commission in February, 2007. The CUP will expire in February 2012. Continuation of the use **covered by this CUP** beyond February 2012 will require rezoning or approval of a new CUP.”

Motion carried unanimously, 10-0, with Student Comm.’s Morrell and Whelan also voting in favor of the motion.

Site Plan for:
 Schaake's Pumpkin Patch
 1791 N. 1500 Rd.
 Lawrence, KS. 66046

Legal Description: 70 acres of the NE quarter, section 3,
 township 13, range 20

Present Zoning: Agriculture
 Present Land Use: Agriculture
 Proposed Land Use: Retail sales of agricultural items grown
 on site. Retail sales of agricultural items purchased for resale.
 Retail sales of crafts, made on site.

There will be no additional water supplies.
 Portable restrooms will be provided on site.
 No additional lighting needed. (Operations in daylight hours only)
 Site complies w/ ADA requirements.

