

# BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

Amended Agenda

## WEDNESDAY, APRIL 15, 2009

6:35 p.m. (Commission Chamber)

-Convene

### CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders; and
- (b) Consider approval of a Temporary Business Permit for a fundraiser for Women in Construction. Application submitted by Bart Christian for Lone Oak, Inc. (Keith Dabney)

### REGULAR AGENDA

- (2) Consider approval of CUP-1-3-09, a Conditional Use Permit for the selling of dirt, located on the north side of N 201 Diagonal Road/E Hwy 56, in the NE ¼ of section 3-15-20. Submitted by James & Marilyn Barrett, property owner of record. Linda Finger is the Planner.
- (3) Consider approval of CUP-1-4-09, a Conditional Use Permit for the selling of dirt, located on the SW corner of N 50 Rd & E 2100 Rd, in the SE ¼ of section 18-15-21. Submitted by James & Marilyn Barrett, property owner of record. Linda Finger is the Planner.
- (4) Consider approval of CUP-1-2-09, a Conditional Use Permit for a truck storage facility, which was previously approved for a 5-year CUP that has now expired. The property is located in the NW ¼ of section 8-14-20, more specifically described as being located on the SE corner of N 800 Rd & E 1500 Rd. Submitted by Paul Werner Architects, for John Stevens, property owner of record. Linda Finger is the Planner.
- (5) Consider approval of CUP-1-1-09, a Conditional Use Permit for an event hall for Seranata Farms, located at 1898 E 56 Road, in the SE ¼ of section 11-12-17. Submitted by Price Property LLC, property owner of record. Sandra Day is the Planner.
- (6) Other Business
  - (a) Consider approval of Accounts Payable (if necessary)
  - (b) Appointments
  - (c) Miscellaneous
  - (d) Public Comment
- (7) Adjourn

## MONDAY, APRIL 20, 2009

- Consider and Approve the Douglas County Community Corrections Plan (Ron Stegall)
- Executive Session to meet with Attorney (get wording from Evan)
- 2008 Annual Report for the Lawrence-Douglas County Health Department (Dan Partridge)

## WEDNESDAY, APRIL 22, 2009

- Consider awarding construction contract for Route 438 improvements, Project No. 2007-13 (Keith Browning)

**MONDAY, APRIL 27, 2009**

-No Commission Meeting

**WEDNESDAY, APRIL 29, 2009**

-No Commission Meeting

**MONDAY, MAY 4, 2009**

**WEDNESDAY, MAY 6, 2009**

-Consider adopting West of K-10 Plan (Dan Warner)

**MONDAY, MAY 11, 2009**

**WEDNESDAY, MAY 13, 2009**

**MONDAY, MAY 18, 2009**

**WEDNESDAY, MAY 20, 2009**

**MONDAY, MAY 25, 2009**

-No Commission Meeting in observance of Memorial Day

**WEDNESDAY, MAY 27, 2009**

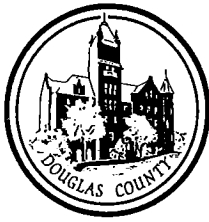
**WEDNESDAY, JULY 8, 2009 (Light Agenda)**

**MONDAY, SEPTEMBER 7, 2009**

-No Commission Meeting in Observation of Labor Day

**MONDAY, SEPTEMBER 21, 2009 (Light Agenda)**

***Note:** The Douglas County Commission meets regularly on Mondays at 8:30 A.M. and Wednesdays at 6:35 P.M. at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.*



**DOUGLAS COUNTY ZONING & CODES**

2108 W. 27th Street, Suite I  
Lawrence, KS 66047  
(785) 331-1343 Fax (785) 331-1347

**Keith R. Dabney**  
Director

1(5)

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**MEMORANDUM**

**TO :** Board of County Commissioners  
Craig Weinaug, County Administrator

**FROM:** Keith R. Dabney, Director Zoning & Codes Dept. *K.D.*

**DATE :** April 7, 2009

**RE :** Temporary Business Permit – Fundraiser for Women in Construction

This memorandum shall serve to inform you that this office has received an application from Bart Christian, representative for Lone Oak, Inc., for a Temporary Business Permit. The purpose of the Temporary Business Permit would be for a fundraiser, to be scheduled for Saturday, April 18, 2009 from 8:00 AM to 3:00 PM. Location of the proposed temporary business is 1719 E 150 Road, Lecompton, KS 66050.

The following have been notified with regard to this request, Douglas County Sheriff's Department, Douglas County Health Department, Willow Springs Township and adjoining property owners within 1,000 feet.

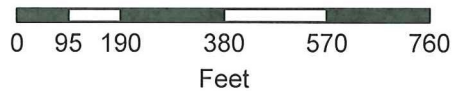
**STAFF RECOMMENDATION:** APPROVAL, with a special notation that Lone Oak LLC is currently in the process of renewing their previously approved Conditional Use Permit.



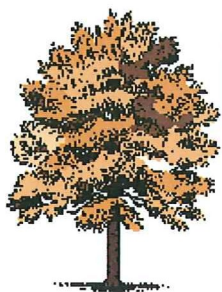
Legend

<b>FEMA_floodplain</b>	<b>Ln_Typ</b>	<b>Access Mgmt Classifications</b>
— <all other values>	— 500 Year Floodplain	— Hwy or Freeway
— Floodway Fringe	— FLOODWAY	— Principal Arterial
— ROAD CLASSIFICATION	— Minor Arterial	— Major Collector
	— Minor Collector	

Lone Oak Sporting Trap



<a href="#">Home</a>	<a href="#">Location</a>	<a href="#">Sporting Clays</a>	<a href="#">Hunting</a>	<a href="#">Calendar</a>	<a href="#">Photo Album</a>	<a href="#">Links</a>
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# LONE OAK

## HUNTING SPORTS

Sporting Clays ~ Wobble ~ 5-Stand ~ Lodging  
Pheasant ~ Chukar ~ Quail ~ Turkey ~ Deer

~ Call Today to Schedule Your Shoot or Hunt! ~      ~ Sporting Clays ~      ~ Call Today

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Open Thursday, Friday, Saturday and Sunday  
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Lone Oak, LLC  
1719 E 150 Road  
Lecompton, Kansas  
785-887-6864

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**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
03/23/09

**ITEM NO. 1:      CONDITIONAL USE PERMIT FOR THE SALE OF DIRT; FROM A SITE  
LOCATED NORTH OF US HWY 56 IN SECTION 3-15-20, BALDWIN  
CITY, KS (LMF)**

**CUP-1-3-09:** Consider a Conditional Use Permit for the sale of dirt that was generated as the result of the property owner's work to clean and clear the site of overgrown trees. The primary use of this property is for growing and producing agricultural products. This site is located east and north of the Baldwin City limits between N 300 Road (Ames Street extended east) and N 201 Diagonal Road/ US Hwy 56 in the NE ¼ of section 3-15-20. Submitted by James and Marilyn Barrett, property owners of record.

**STAFF RECOMMENDATION:** Staff recommends\* the Planning Commissions forward recommendations for approval of this Conditional Use Permit to the Board of County Commissioners based on the findings of fact in the staff report and subject to the following conditions:

1. The approval be limited to the sale of dirt from the two existing dirt piles on the site;
2. The approval be for a period of 4 years [July 1, 2013] or until the two existing dirt piles are removed, whichever occurs first;
3. One sign be permitted to be posted along the south side (N 201 Diagonal Road/US Hwy 56) road frontage, behind the road right-of-way line, with a maximum size of no greater than 32 square feet;
4. Customer access to the site be limited to the access cut from N 210 Diagonal Road/US Hwy 56; and,
5. Sales are limited to conditions when mud will not be carried onto the highway by vehicle tires and customer hours are limited to daylight hours.

\*Staff's recommendation also includes an inspection of the site in two years (on or before July 1, 2011) by Zoning & Codes staff to determine the extent of raw material remaining to be sold. This recommendation is not listed as a condition of approval as it lies outside the ability of the owner to perform.

**Reason for Request:**      Applicant response: *"(to) sell dirt from existing dirt piles".*

**KEY POINTS**

- The property is currently in agricultural production during the growing seasons of the year.
- The use proposed is a temporary use until the excess soil created from the clearing of brush and trees is removed.
- This site's ultimate development potential, based on its proximity to Baldwin City limits, is for some type of urban land use, following annexation into the city.
- This property is within 3 miles of the Baldwin City limits and, based on County Resolution No. 80-5 requires a joint public hearing by the Baldwin City Planning Commission and the Lawrence-Douglas County Planning Commission. The recommendations of both boards will be forwarded on to the County Commission with the staff report.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- The owners have a second Conditional Use Permit application on this Planning Commission agenda for dirt sales for a site near the Franklin-Douglas County line where the excavation for a pond resulted in excess dirt that the owners would like to sell.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- No public comment was received prior to printing this Staff Report.

**GENERAL INFORMATION**

Current Zoning and Land Use: A (Agricultural) District; agricultural crop production with several small, scattered areas of trees

Surrounding Zoning and Land Use: A (Agricultural) District to the north and east. The uses are rural residential and agricultural. R\* (Single Family) to the south and R-2\* (Two-family Dwelling) and C\* (General Commercial) Districts to the west; these areas are within the corporate limits of Baldwin City and include residential development and vacant/ undeveloped land.

\* The Zoning Designations indicated are from the Baldwin City Comprehensive Plan's Existing Land Use Map.

<b>Site Summary:</b>	
Subject Property:	46 acres
Proposed Buildings:	none
Existing Buildings:	none
Required Parking:	none
Required ADA accessible Parking:	none
Parking Provided:	none

**I. ZONING AND USES OF PROPERTY NEARBY**

**Staff Finding –**

The subject property is located on the eastern border of Baldwin City, between N 300 Road and N 201 Diagonal Road/US Hwy 56. It is used agriculturally. A 3-acre tract exists along the subject property's northern boundary where it fronts onto N 300 Road. This 3-acre tract is not part of the Conditional Use Permit application and is developed with a relative's residence. Uses further to the north include agricultural and rural residential, as do uses to the east of this property. The west and south sides of the subject property are within the corporate limits of Baldwin City and are partially developed with residential uses. The residences were built in the late 1990s.

**II. CHARACTER OF THE AREA**

**Staff Finding –** The character of the area is rural agricultural with evidence of urban fringe development. The area is within the Urban Growth Boundary of Baldwin City.



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

Applicant response:  
*"Ag uses."*

**Staff Finding** – A Conditional Use Permit (CUP) does not change the base, underlying zoning or, in this case, the existing and future use of the property for agricultural crop production.

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

**Staff Finding** –County Zoning Regulations were adopted in 1966; this property has been zoned "A (Agricultural)" since that adoption. The property is in agricultural production – it is not vacant land.

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

Applicant Response:  
*"no affect"*

Section 19-1.01 of the County Zoning Regulations recognize that "*certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited.*" The proposed use falls under section 19-4.14 of Chapter XII, (Zoning Regulations) of the County Code. The use enumerated in this section is:

*"14. Stripping of top soil for sale or for use other than on the premises, except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto."*

Approval of a Conditional Use Permit does not remove any restrictions imposed by the A zoning of the property. Approval of this application would allow the applicant to remove piles of dirt that inhibit or detract from the principal use of the property, which is agricultural.

**Staff Finding** – There are no negative impacts that have been identified with the approval of this use.

### 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

Applicant Response:  
*"will not affect public health, safety, values or welfare of any nearby landowners."*

This factor is a test of balance; weighing the relative gain to the public against the hardship imposed upon the property owner/applicant if the application is denied. The use proposed provides an opportunity for residential landowners in SE Douglas County to purchase and haul top soil from a site within close proximity to their homes or building sites. Denial of the permit alters only who does the hauling from the site. The property owner would retain the right to

load and haul the excess dirt in the dirt piles from this site to another location. Denial of the Conditional Use Permit removes a ready source for landscaping material for residents in the area. The approval or denial of this Conditional Use Permit application has no impact on the relative gain to the public's health, safety or welfare.

**Staff Finding** – Approval of the CUP would provide ready access for residential property owners and developers to a commodity necessary for landscape improvements. Access to N 201 Diagonal Road/US Hwy 56 exists today. Farm vehicles entering or exiting this site must observe traffic safety rules in entering and exiting the site. There would be no difference in the traffic safety regulations for vehicles traveling along N 201 Diagonal Road/US Hwy 56 if this application is approved.

## VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN OF DOUGLAS COUNTY AND WITH THE COMPREHENSIVE PLAN OF BALDWIN CITY

Applicant Response—  
*"will not affect this plan."*

### **HORIZON 2020:**

An evaluation of the conformance of a Conditional Use Permit request with *Horizon 2020's* strategies, goals, policies and recommendations finds that the comprehensive plan does not address special or conditional use permits. The Plan does address agriculturally zoned/used land. *Horizon 2020* recommends; "Agricultural uses should continue to be the predominant land use within the areas of the county beyond the designated urban growth/service areas (rural area). Uses permitted in the rural area should continue to be limited to those which are compatible with agricultural production and uses.." (page 5-6, *Horizon 2020*). The proposed use facilitates the continuation of the property in its current agricultural use by providing a tool for the property owner to recoup a portion of the cost of clearing and preparing the land for crop production through the sale of excess dirt generated by this activity on the subject property.

**Staff Finding** – The issuance of special or conditional use permits is not discussed in *Horizon 2020*. However, the Plan does address agricultural uses and the fact that such uses should be continued as the predominant land use within areas of the county beyond the designated urban growth/service areas. This area is beyond the Lawrence's Urban Growth Area.

### **COMPREHENSIVE PLAN, BALDWIN CITY, KS:**

Section 10 in the Comprehensive Plan provides the 'Future Land Use Plan' and the vision for how the Urban Growth Area and the Urban Reserve Area are proposed to function.

The subject property, being adjacent to the city limits on two sides, is within the Urban Growth Area. This is the area acknowledged in the plan as the "logical growth area" of the City. Lands that are contiguous to the city limits are considered "the preferred locations for urban growth and development". The plan also indicates that there are approximately 292 acres of land designated as agricultural within the Urban Growth Area. The difference in the plan between the number of acres within the Urban Growth Area (4,285) and the estimated future total urban lands needed (3,993 acres) is the "timing and location of development"...based on "...a willing seller of land".

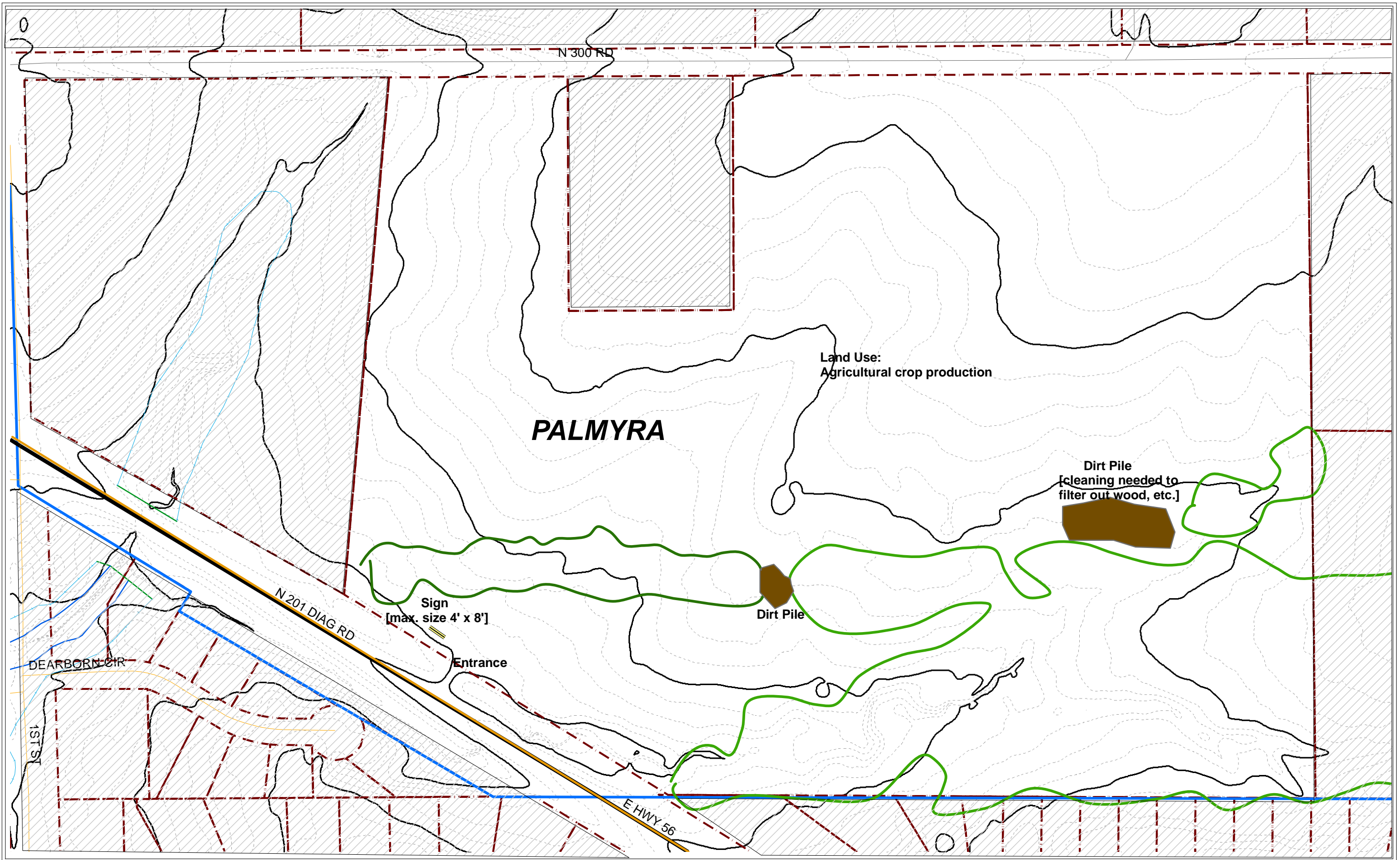
The property owner/applicant attempted to have this land annexed and developed within the city of Baldwin 4 years ago. That effort was not fruitful and the landowner has redirected his efforts into making the subject property agriculturally productive. Due to the current housing market slump, the applicant has indicated he is not “willing” to annex or develop this land for residential uses at this time.

**Staff Finding** – Conditional or special use permits are not addressed in the Comprehensive Plan for Baldwin City. However, the development of land for urban uses, or non-agricultural uses, is recommended to occur after annexation of the land into the city. The application for a Conditional Use Permit to sell excess dirt is a temporary, subsidiary use to the principal use of the property which is agricultural.

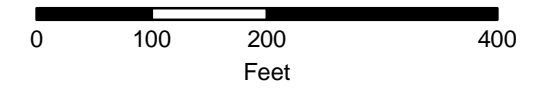
### **STAFF REVIEW**

The use described in Article 19 of the Zoning Regulations for the ‘stripping of top soil...’ appears to have its roots in the grading work that is part of large construction projects e.g. subdivisions or other large sites. This type of grading activity can result in the creation of excess dirt on-site. For small-scale projects such as this Conditional Use Permit application, which is the result of the clearing and removal of trees and undergrowth to contour and make land available for agricultural production, a temporary use permit would be more appropriate process to follow. Unfortunately, the county’s Zoning Regulations specify only a limited number of temporary use permits for a specific list of 7 land uses [RE: section 23-3.10]. None of the enumerated uses in this section of the Zoning Regulations pertains to the temporary sale of dirt.

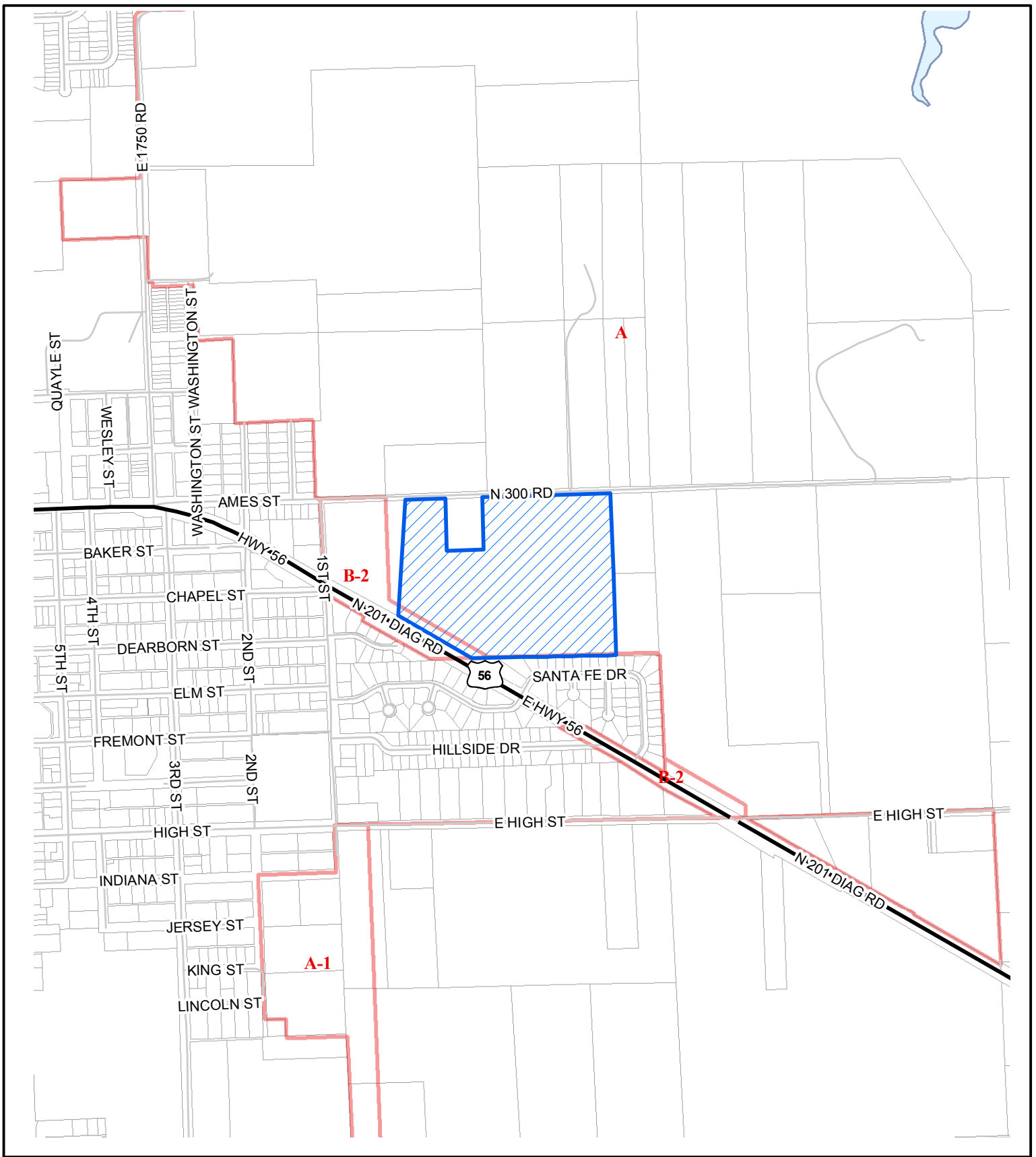
Because the nature of the use in this Conditional Use Permit application is more temporary than long term, the approval period for the Conditional Use Permit should be for a time frame commensurate with the activity described in the application. For this reason, a shorter period for the permit of four years has been recommended. Staff’s recommendation also includes an inspection of the site in two years (on or before July 1, 2011) by Zoning & Codes staff to determine the extent of raw material remaining to be sold.



**Conditional Use Permit Request**  
**Dirt Sales - NE 1/4 - 3-15-20**  
**James & Marilyn Barrett**  
 03-09-2009



- Legend
- FEMA FLOODPLAIN
  - <all other values>
  - Ln\_Typ
  - 500 Year Floodplain
  - Floodway Fringe
  - FLOODWAY
  - city\_limits09



**CUP-1-3-09: Conditional Use Permit for the Selling of dirt  
N 201 Diagonal Rd/E Highway 56**

Lawrence-Douglas County Planning Office  
March 2009



 Area Requested

Scale: 1 Inch = 1000 Feet

**ITEM NO. 1      CONDITIONAL USE PERMIT FOR DIRT SELLING; N SIDE OF N 201  
DIAGONAL RD/E HWY 56 (LF)**

**CUP-1-3-09:** Consider a Conditional Use Permit for the selling of dirt, located on the north side of N 201 Diagonal Road/E Hwy 56, in the NE ¼ of section 3-15-20. Submitted by James & Marilyn Barrett, property owner of record. *Joint meeting with Baldwin Planning Commission.*

**STAFF PRESENTATION**

Ms. Linda Finger presented the item.

Commissioner Dominguez inquired about the definition of 'daylight hours' and also asked if the applicant would be able to sell dirt on weekend and holidays.

Ms. Finger said 'daylight hours' are from sunup to sundown based upon the weather bureau. Said also said there was not a condition that would limit selling so weekends and holidays would be allowed.

Commissioner Dominguez asked if anyone had checked the road to see if it can withstand the weight of trucks coming and going. He stated he was asking these questions based off of the communication letter that expressed concerns from a neighbor.

Ms. Finger said 300 Road is to the north and the Conditional Use Permit says that access cannot be taken from there. Condition #4 on the staff report states that 'customer access to the site be limited to the access cut from N 201 Diagonal Road/US Hwy 56.'

Commissioner Rasmussen asked how long the piles of soil have been on the property.

Ms. Finger did not know how long the piles of soil had been there.

Commissioner Harris asked Ms. Finger to address the other concerns of the communication letter from the neighbor.

*The Commission took a moment to read the communication letter that was included in the online packet.*

Commissioner Finkeldei asked why a property owner would need a Conditional Use Permit to sell dirt of their property.

Ms. Finger said it is a specific listed use under the Conditional Use Permit. Section 19-1.01 of the County Zoning Regulations recognize that "*certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited.*" The proposed use falls under section 19-4.14 of Chapter XII, (Zoning Regulations) of the County Code. The use enumerated in this section is:

*"14. Stripping of top soil for sale or for use other than on the premises, except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto."*

Commissioner Finkeldei asked if the determination was made that the soil was stripped for sale as opposed to some other purpose.

Ms. Finger said yes, there was a for sale sign on the property. A property owner may grade, relocate portions of dirt and rock on their property, but the commercial activity of selling the dirt is when it becomes a Conditional Use Permit.

Commissioner Singleton asked if the communication letter was received with a signature.

Mr. McCullough said that staff accepts letters that are signed and anonymous but that this communication letter was received without a signature.

Commissioner Dominguez asked if there were any regulations for stripping topsoil.

Ms. Finger said that most of the Conditional Use Permits for topsoil have been along riverbanks where there is a build up of silt. These types of Conditional Use Permit (such as the application before them) are not a common practice because it is counterproductive to strip the top soil off property if the property owner intends to use (grow plants) on the land.

Commissioner Dominguez asked what would prevent a property owner that is given a CUP from stripping more soil to sell.

Ms. Finger said that staff tried to address that through the first condition of the staff report that limits the selling to the existing two piles but that there will be nobody going out to monitor it. She stated that some of it will be on good faith but that staff would hope neighbors would report if the pile grows.

Commissioner Harris said that the neighbors did not seem concerned about the dirt selling, but rather other possible activities.

Ms. Finger said the permit allows for selling of the dirt but that the property owner could also move or remove the dirt from the property without a Conditional Use Permit.

Commissioner Rasmussen asked if there was any consideration given to silt fences being placed around the dirt piles.

Ms. Finger said no, not specifically for the dirt piles. She said she could not get a firm answer from the KDHE or DWR. She said that the applicant, Mr. Barrett, told her that he intends to use the land as cropland and had no immediate plans to develop it.

### **APPLICANT PRESENTATION**

Mr. James Barrett said he spent 18 months cleaning up brush and trees on his property and is now selling the dirt from it. He said he has no big commercial project going on, just selling dirt for gardening. He said not to take any stock in the communication letter that the Planning Commission received.

Commissioner Rasmussen asked how long the dirt piles have been there.

Mr. Barrett said about 2 years.

Mr. Matt Kirby, Auxiliary Chair of the Baldwin Planning Commission, said there was one complaint filed in Baldwin from a gentleman, Mr. Johnson, who was concerned about outwash and erosion. He said the concerns from the Baldwin Planning Commission involved erosion as well.

### **PUBLIC HEARING**

No public comment.

### **COMMISSION DISCUSSION**

Commissioner Moore inquired about the elevations of the property.

Ms. Finger said the elevations are from 2006 so it would probably not reflect the dirt that has been removed in the past two years.

Commissioner Harris asked if Ms. Finger had the chance to visit the property and did she see erosion.

Ms. Finger said she did not see any signs of erosion such as obvious wash or rivets ten days ago when she visited the property.

Commissioner Hird said the anonymous communication letter appeared to be from one family and not numerous property owners.

Commissioner Harris said she would support the Conditional Use Permit and had thought about asking for a condition for erosion control but after hearing staffs opinion she did not feel there was a problem.

Ms. Finger said an additional condition could be added 'if erosion becomes an issue a silt fence will be installed.'

Mr. Barrett said he was going to plant brome grass between the dirt piles and the road (Hwy 56) and intended to farm the remainder of the land.

Commissioner Moore said that Mr. Barrett seemed to be offering a natural solution for possible erosion and that a silt fence at this point may not be necessary.

Mr. McCullough said he thought they should remain flexible to entertain natural agricultural methods.

### **ACTION TAKEN**

Motioned by Commissioner Harris, seconded by Commissioner Moore, to approve the Conditional Use Permit for the selling of dirt, located on the north side of N 201 Diagonal Road/E Hwy 56 and forward to the Board of County Commissioners based on the findings of fact in the staff report and subject to the following conditions\*:

1. The approval be limited to the sale of dirt from the two existing dirt piles on the site;
2. The approval be for a period of 4 years [July 1, 2013] or until the two existing dirt piles are removed, whichever occurs first;
3. One sign be permitted to be posted along the south side (N 201 Diagonal Road/US Hwy 56) road frontage, behind the road right-of-way line, with a maximum size of no greater than 32 square feet;
4. Customer access to the site be limited to the access cut from N 210 Diagonal Road/US Hwy 56; and,
5. Sales are limited to conditions when mud will not be carried onto the highway by vehicle tires and customer hours are limited to daylight hours.
6. If erosion is found on the parameter of the property, appropriate erosion control measures will be put in place.

\*Staff's recommendation also includes an inspection of the site in two years (on or before July 1, 2011) by Zoning & Codes staff to determine the extent of raw material remaining to be sold. This recommendation is not listed as a condition of approval as it lies outside the ability of the owner to perform.

Commissioner Rasmussen asked if the 6<sup>th</sup> condition would be for erosion of the dirt piles or erosion of the entire property.

Commissioner Harris said her intention was for dirt pile erosion that would go toward the edge of the property.

Unanimously approved 9-0.



Mr. Kirby said he would commend the action because it would allow Mr. Barrett to sell and extract a commodity.

March 20,2009

Lawrence Douglas County Metropolitan Planning Commission

Dear Commission:

In response to your recent notification that James & Marilyn Barrett are requesting a Conditional Use Permit, my family would like to make the following comments.

We are strongly against such a permit because of the past actions of the Barrett's concerning this particular piece of property.

When Mr. Barrett took possession of the property from his father he began bulldozing and clearing out most of the trees on the land. We had been made aware that he planned to develop the property in multi-family homes. But at the same time he was doing the clearing of trees, he was taking out a natural waterway and drainage area which we thought you couldn't do unless it was for agricultural purposes. That is what he conveyed to the powers that be, but everyone in the area knew he wanted to develop and sell the land in lots for development. After clearing the land, he was told the city of Baldwin was not interested in annexing the land into the city limits which left him to go to the county commission for development permits. He discovered that he did not have enough acreage to warrant the permit for development and in turn began harassing the neighboring landowners to purchase some of their land to give him enough acreage. They all declined because they knew of his past reputation for not paying his debts and not being trustworthy. Then he went back to telling everyone that he was going to clear the land for farming, which he did not do and instead posted a big sign selling top soil. We assume someone complained about it and that's why he is attempting to get a permit now.

Anyone of us that have dealt with Mr. Barrett know he is not a man of his word, and do not trust his intention to 'sell' top soil.

Our other concerns are the narrow gravel road, North 300 Road. We have enough traffic on it already even though it is a dead end road, and are concerned with the dust and the damage to our road by his equipment. We also have a lot of foot traffic on the road, people walking their dogs from the nearby housing developments and the local cross country track teams. There is a very small and narrow bridge on this road. If it is damaged by heavy dump trucks and equipment will Mr. Barrett repair it, we doubt it, leaving us with no way to get into town. Just his equipment from his farming and bulldozing the land had left quite a mess on our road which the township had to clean up. We are not signing this letter because of the Mr. Barrett's demeanor and fear of retribution. Again we are asking the commission NOT to allow this permit to Mr. Barrett.

Thank you

Very concerned neighboring land owners

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
03/23/09

**ITEM NO. 2:      CONDITIONAL USE PERMIT FOR THE SALE OF DIRT FROM A SITE LOCATED SOUTH OF N 50 ROAD AND WEST OF E 2100 ROAD IN SECTION 8-15-21, ONE ½ MILE FROM THE DOUGLAS-FRANKLIN COUNTY LINE (LMF)**

**CUP-1-4-09:** Consider a Conditional Use Permit for the sale of dirt that was generated from the construction of a farm pond on the site. The primary use of this property is for growing and producing agricultural products. The property is located ½ mile west of E 2100 Road, on the north side of N 50 Road, in the SE ¼ of section 8-15-21. Submitted by James and Marilyn Barrett, property owners of record.

**STAFF RECOMMENDATION:** Staff recommends\* the Planning Commissions forward recommendations for approval of this Conditional Use Permit to the Board of County Commissioners based on the findings of fact in the staff report and subject to the following conditions:

1. The approval is limited to the sale of dirt from the existing dirt pile on the site. The pile measures approximately 30' x 90' with an average height of 10';
2. The approval be for a period of 4 years [July 1, 2013] or until the existing dirt pile is removed, whichever occurs first;
3. No sign shall be erected on the site;
4. Customer access to the site may be restricted from time to time when the area is used to pasture cows; and,
5. Sales are limited to daylight hours.

\* Staff's recommendation also includes an inspection of the site in two years (on or before July 1, 2011) by Zoning & Codes staff to determine the extent of raw material remaining to be sold. This recommendation is not listed as a condition of approval as it lies outside the ability of the owner to perform.

**Reason for Request:**      Applicant response: *"to sell dirt from existing dirt pile (stock pile of dirt from pond construction)"*

**KEY POINTS**

- The property principal use is agriculture and agricultural production.
- The use proposed is a temporary use until the excess soil created by the construction of a farm pond has been sold or removed.
- This site's ultimate development potential is for agriculture and related ag. uses.
- This property is within 3 miles of the Baldwin City limits and, based on County Resolution No. 80-5 requires a joint public hearing by the Baldwin City Planning Commission and the Lawrence-Douglas County Planning Commission. The recommendations of both boards will be forwarded on to the County Commission with the staff report.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- The owners have a second Conditional Use Permit application for dirt sales on this Planning Commission agenda for a site that is adjacent to the Baldwin City limits. The dirt on that

site was the result of clearing and contouring of the land for agricultural production.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- No public comment was received prior to printing this Staff Report.

**GENERAL INFORMATION**

Current Zoning and Land Use: A (Agricultural) District; agricultural uses (crop production and pasture for cattle)

Surrounding Zoning and Land Use: A (Agricultural) District in all directions; uses in all directions are agricultural with a scattering of farm residences nearby. [The applicant's residence is on the property directly to the north of N 50 Road.]

<b>Site Summary:</b>	
Subject Property:	80 acres
Proposed Buildings:	none
Existing Buildings:	none
Required Parking:	none
Required ADA accessible Parking:	none
Parking Provided:	none

**I. ZONING AND USES OF PROPERTY NEARBY**

**Staff Finding –**

The subject property is located near the southern border of the county, approximately ½ mile north of the Franklin-Douglas County line. The property is used agriculturally as are all the adjoining properties. A few farm residences exist within ¼ mile of the subject property. The subject property and all nearby properties are zoned A (Agricultural).

**II. CHARACTER OF THE AREA**

**Staff Finding –** The character of the area is rural. The predominate land uses are farms and other agriculturally related uses.

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

Applicant response:  
*"Ag use."*

**Staff Finding –** A Conditional Use Permit (CUP) does not change the base, underlying zoning or, in this case, the existing and future use of the property for agriculturally uses.

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

**Staff Finding** –County Zoning Regulations were adopted in 1966; this property has been zoned “A (Agricultural)” since that adoption. The property is used agriculturally – it is not vacant land.

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

Applicant Response:  
*“no affect”*

Section 19-1.01 of the County Zoning Regulations recognize that *“certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited.”* The proposed use falls under section 19-4.14 of Chapter XII, (Zoning Regulations) of the County Code. The use enumerated in this section is:

*“14. Stripping of top soil for sale or for use other than on the premises, except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.”*

Approval of a Conditional Use Permit does not remove any restrictions imposed by the A zoning of the property. Approval of this application would allow the applicant to remove a pile of dirt that inhibits or detracts from the principal use of the property, which is agricultural.

**Staff Finding** – There are no negative impacts that have been identified with the approval of this use.

**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**

Applicant Response:  
*“will not affect public health, safety, values or welfare of any nearby landowners.”*

This factor is a test of balance; weighing the relative gain to the public against the hardship imposed upon the property owner/applicant if the application is denied. The use proposed provides an opportunity for residential landowners in SE Douglas County to purchase and haul top soil from a site within close proximity to their homes or building sites. Denial of the permit alters only who does the hauling from the site. The property owner would retain the right to load and haul the excess dirt in the dirt piles from this site to another location. Denial of the Conditional Use Permit removes a ready source for landscaping material for residents in the area. The approval or denial of this Conditional Use Permit application has no impact on the relative gain to the public’s health, safety or welfare.

**Staff Finding** – Approval of the CUP would provide ready access for nearby property owners to a commodity necessary for landscape improvements. E 2100 Road is a Local township road. Vehicles entering or exiting the subject property have a clear site distance for over ¼ mile in either direction.

## VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN OF DOUGLAS COUNTY AND WITH THE COMPREHENSIVE PLAN OF BALDWIN CITY

Applicant Response—  
*"will not affect this plan."*

### **HORIZON 2020:**

An evaluation of the conformance of a Conditional Use Permit request with *Horizon 2020's* strategies, goals, policies and recommendations finds that the comprehensive plan does not address special or conditional use permits. The Plan does address agriculturally zoned/used land. *Horizon 2020* recommends; "Agricultural uses should continue to be the predominant land use within the areas of the county beyond the designated urban growth/service areas (rural area). Uses permitted in the rural area should continue to be limited to those which are compatible with agricultural production and uses..." (page 5-6, *Horizon 2020*). The proposed use facilitates the continuation of the property in its current agricultural use by providing a tool for the property owner to recoup a portion of the cost of construction of a farm pond on the site through the sale of excess dirt generated by this activity.

**Staff Finding** – The issuance of special or conditional use permits is not discussed in *Horizon 2020*. However, the Plan does address agricultural uses and the fact that such uses should be continued as the predominant land use within areas of the county beyond the designated urban growth/service areas. This area is beyond the Lawrence's Urban Growth Area.

### **COMPREHENSIVE PLAN, BALDWIN CITY, KS:**

Section 10 in the Comprehensive Plan provides the 'Future Land Use Plan' and the vision for how the Urban Growth Area and the Urban Reserve Area are proposed to function.

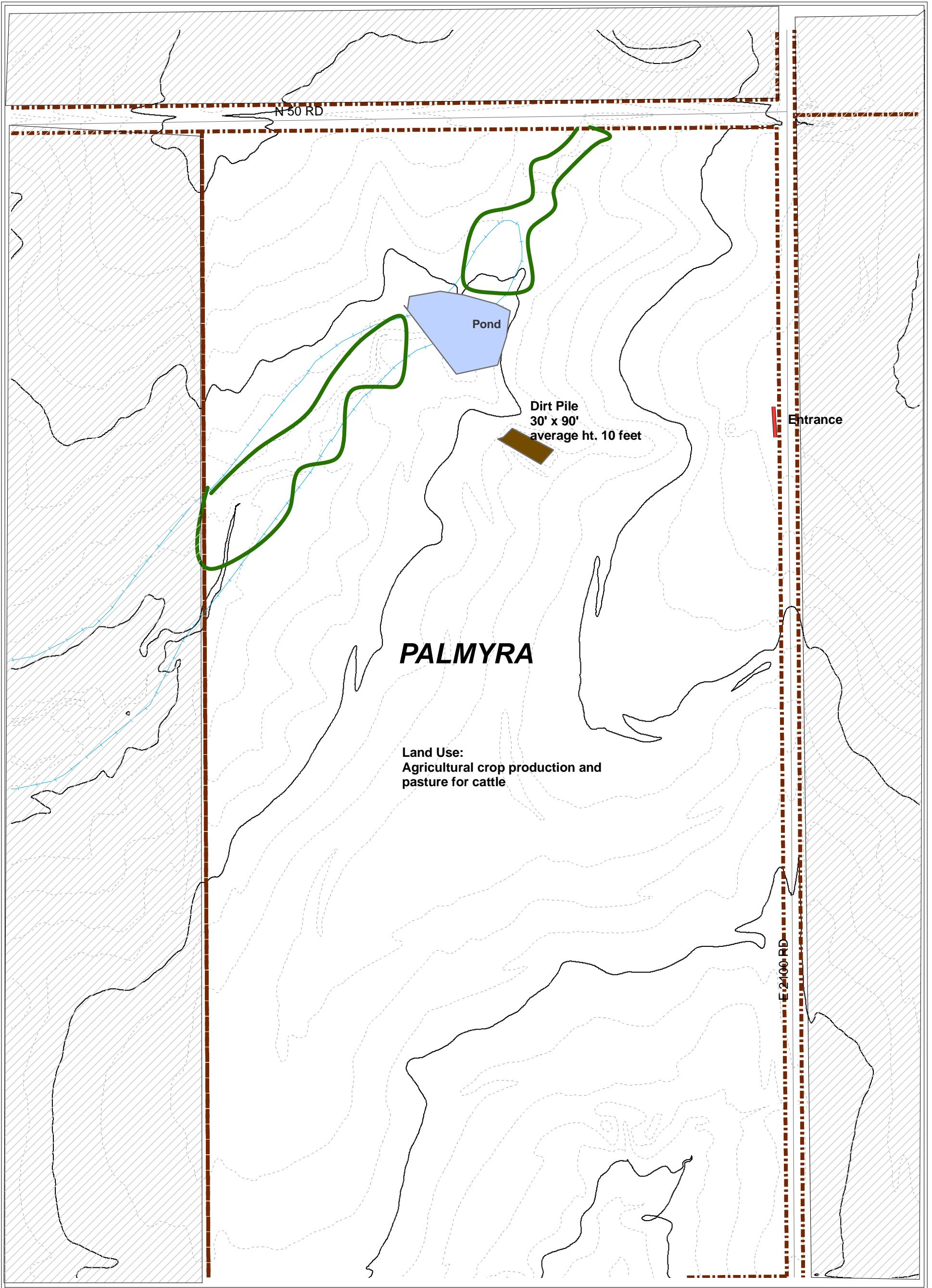
The subject property is not adjacent to the city limits. It is outside the Urban Growth Area and the Urban Reserve Area as designated in the Comprehensive Plan for Baldwin City. The subject property is, however, within 3 miles of an island of land annexed by Baldwin City for a park.

**Staff Finding** – Conditional or special use permits are not addressed in the Comprehensive Plan for Baldwin City. The development of land for urban uses, or non-agricultural uses, is recommended to occur after annexation of the land into the city. The property lies outside both the Urban Growth Area and the area of planning influence (the Urban Reserve Area). The application for a Conditional Use Permit to sell excess dirt is a temporary, subsidiary use to the principal use of the property which is agricultural.

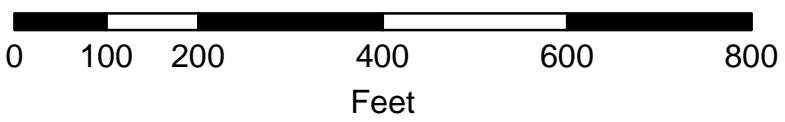
### **STAFF REVIEW**

The use described in Article 19 of the Zoning Regulations for the 'stripping of top soil...' appears to have its roots in the grading work that is part of large construction projects e.g. subdivisions or other large sites. This type of grading activity can result in the creation of excess dirt on-site. For small-scale projects such as this Conditional Use Permit application, which is the result of the clearing and removal of trees and undergrowth to contour and make land available for agricultural production, a temporary use permit would be more appropriate process to follow. Unfortunately, the county's Zoning Regulations specify only a limited number of temporary use permits for a specific list of 7 land uses [RE: section 23-3.10]. None of the enumerated uses in this section of the Zoning Regulations pertains to the temporary sale of dirt.

Because the nature of the use in this Conditional Use Permit application is more temporary than long term, the approval period for the Conditional Use Permit should be for a time frame commensurate with the activity described in the application. For this reason, a shorter period for the permit of four years has been recommended. Staff's recommendation also includes an inspection of the site in two years (on or before July 1, 2011) by Zoning & Codes staff to determine the extent of raw material remaining to be sold.



**Conditional Use Permit Request  
Dirt Sales, SE 1/4, section 18-15-21  
James & Marilyn Barrett**



Legend

**FEMA FLOODPLAIN**

— <all other values>

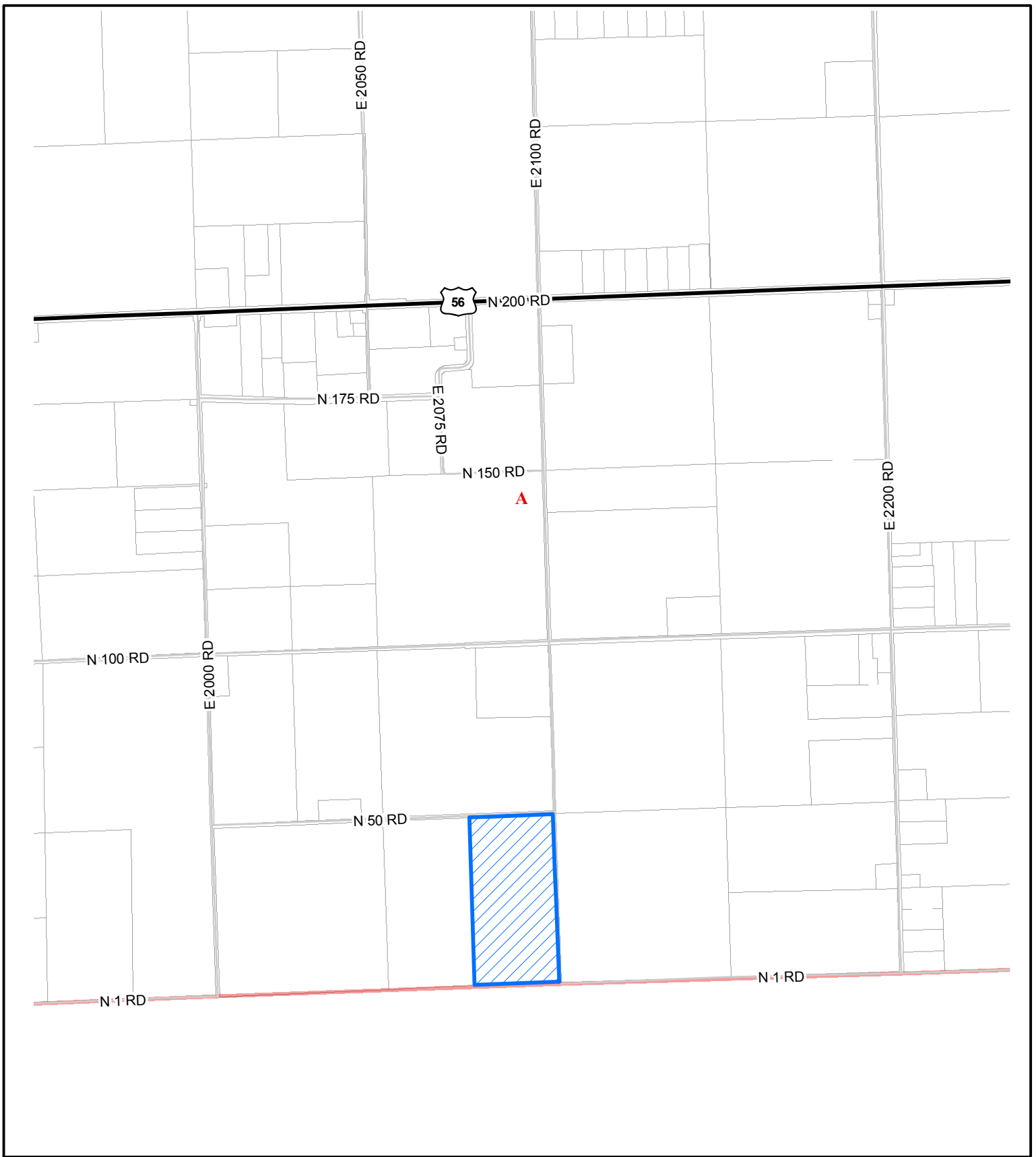
**Ln\_Typ**

— 500 Year Floodplain

— Floodway Fringe

— FLOODWAY





**CUP-1-4-09: Conditional Use Permit for the Selling of dirt  
N 50 Road & E 2100 Road**

Lawrence-Douglas County Planning Office  
March 2009



Area Requested

Scale: 1 Inch = 2000 Feet

**ITEM NO. 2      CONDITIONAL USE PERMIT FOR DIRT SELLING; SW CORNER OF N 50 RD & E 2100 RD (LF)**

**CUP-1-4-09:** Consider a Conditional Use Permit for the selling of dirt, located on the SW corner of N 50 Rd & E 2100 Rd, in the SE ¼ of section 18-15-21. Submitted by James & Marilyn Barrett, property owner of record. *Joint meeting with Baldwin Planning Commission.*

**STAFF PRESENTATION**

Ms. Linda Finger presented the item.

Commissioner Dominguez asked if there are other residences around the area that will be disturbed by noise.

Ms. Finger said there are probably three residences within a mile radius, including the applicants.

**APPLICANT PRESENTATION**

The applicant Mr. James Barrett was present for questioning.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Mr. Matt Kirby, Auxiliary Chair of the Baldwin Planning Commission, asked which road would be the access road for removal of the dirt.

Ms. Finger said the access would be an existing agricultural access off of E 2100 Road.

Commissioner Harris asked if staff would recommend an additional condition regarding erosion for this Conditional Use Permit.

Ms. Finger said no, she did not think so because the land is actively farmed and there is a floodplain permit on the property.

Commissioner Blaser expressed concern about the weight of heavy trucks hauling dirt on the road.

Ms. Finger said the entire dirt load is not anticipated to go at the same time but that a condition could be added that the applicant should work with the Township to maintain the road.

Commissioner Moore said he was not as worried about the road because it is used for agricultural and smaller trucks that are built and designed for the roads.

Commissioner Hird said based upon the dirt pile the number of trips would be fairly limited so he was not as concerned about the road. He said he would support the Conditional Use Permit.

**ACTION TAKEN**

Motioned by Commissioner Hird, seconded by Commissioner Moore, to approve the Conditional Use Permit for the selling of dirt, located at the SW corner of N 50 Road & E 2100 Road and forwarding to the Board of County Commissioners based on the findings of fact in the staff report and subject to the following conditions\*:

1. The approval is limited to the sale of dirt from the existing dirt pile on the site. The pile measures approximately 30' x 90' with an average height of 10';
2. The approval be for a period of 4 years [July 1, 2013] or until the existing dirt pile is removed, whichever occurs first;

3. No sign shall be erected on the site;
4. Customer access to the site may be restricted from time to time when the area is used to pasture cows; and,
5. Sales are limited to daylight hours.

\* Staff's recommendation also includes an inspection of the site in two years (on or before July 1, 2011) by Zoning & Codes staff to determine the extent of raw material remaining to be sold. This recommendation is not listed as a condition of approval as it lies outside the ability of the owner to perform.

Unanimously approved 9-0

March 20,2009

Lawrence Douglas County Metropolitan Planning Commission

Dear Commission:

In response to your recent notification that James & Marilyn Barrett are requesting a Conditional Use Permit, my family would like to make the following comments.

We are strongly against such a permit because of the past actions of the Barrett's concerning this particular piece of property.

When Mr. Barrett took possession of the property from his father he began bulldozing and clearing out most of the trees on the land. We had been made aware that he planned to develop the property in multi-family homes. But at the same time he was doing the clearing of trees, he was taking out a natural waterway and drainage area which we thought you couldn't do unless it was for agricultural purposes. That is what he conveyed to the powers that be, but everyone in the area knew he wanted to develop and sell the land in lots for development. After clearing the land, he was told the city of Baldwin was not interested in annexing the land into the city limits which left him to go to the county commission for development permits. He discovered that he did not have enough acreage to warrant the permit for development and in turn began harassing the neighboring landowners to purchase some of their land to give him enough acreage. They all declined because they knew of his past reputation for not paying his debts and not being trustworthy. Then he went back to telling everyone that he was going to clear the land for farming, which he did not do and instead posted a big sign selling top soil. We assume someone complained about it and that's why he is attempting to get a permit now.

Anyone of us that have dealt with Mr. Barrett know he is not a man of his word, and do not trust his intention to 'sell' top soil.

Our other concerns are the narrow gravel road, North 300 Road. We have enough traffic on it already even though it is a dead end road, and are concerned with the dust and the damage to our road by his equipment. We also have a lot of foot traffic on the road, people walking their dogs from the nearby housing developments and the local cross country track teams. There is a very small and narrow bridge on this road. If it is damaged by heavy dump trucks and equipment will Mr. Barrett repair it, we doubt it, leaving us with no way to get into town. Just his equipment from his farming and bulldozing the land had left quite a mess on our road which the township had to clean up. We are not signing this letter because of the Mr. Barrett's demeanor and fear of retribution. Again we are asking the commission NOT to allow this permit to Mr. Barrett.

Thank you

Very concerned neighboring land owners

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
03/23/09

**ITEM NO. 3:     CONDITIONAL USE PERMIT FOR A TRUCK STORAGE BUILDING;  
794 E 1500 RD, LAWRENCE, KS (LMF)**

**CUP-1-2-09:** Consider a Conditional Use Permit for a Truck Storage Building located at 794 E 1500 Road in the NW¼ of section 8-14-20. The Truck Storage Building serves Concrete Inc, a Type 2 Home Business use that is located at 795 E 1500 Road, across the road (to the west) from the Conditional Use Permit site. The storage building and Home Business uses both exist. A Conditional Use Permit was approved and existed for the truck storage building on the subject property from 2002 through 2007. The permit expired and the owner is requesting a new Conditional Use Permit for the same use and location. The property owners are John and Karon Stevens.

**STAFF RECOMMENDATION:** Staff recommends\* approval of a Conditional Use Permit for the truck storage building at 794 E 1500 Road, Lawrence, KS and forwarding of this application to the County Commission with a recommendation for approval, based upon the findings of fact presented in the staff report, and subject to the following conditions:

1. Approval of the truck storage use, as long as the use is associated with the Home Business use to the west, for a period of ten years expiring on July 1, 2019.
2. Submittal of a revised site plan to show the following revisions and/or additions to the site plan notes as follows:
  - a. Note 1.11 – Please delete specific references to sections in site plan and building code and replace with "*...as required in the Chapter XII (Zoning Regulations) of the County Code and in the Uniform Building Codes adopted by Home Rule Resolutions by the County Commission in 1991 and 2001;*
  - b. Note 1.12 – Please revise this note to reflect the 10 year approval recommended and include the expiration date of July 1, 2019 on the plan;
  - c. Note 1.15 – Please delete specific references to sections in site plan and building code and replace with "*...as required in the Chapter XII (Zoning Regulations) of the County Code*";
  - d. Note 1.16 – Please replace the existing note with, "*Exterior storage of materials shall not be permitted on this property until a revised site plan has been approved and the property has been platted in accordance with the Subdivision Regulations*";
  - e. Note 1.17 – Please change the reference to section 19 in the Zoning Regulations to the "*...Chapter Xii (Zoning Regulations) of the County Code*";
  - f. Note 1.19 – Please replace the existing note with, "*No intensification of use or additional buildings may be constructed on the site until a revised site plan has been approved and the property has been platted in accordance with the Subdivision Regulations*"; and
  - g. Note 1.20 – Please add to this condition the word "truck" between the words 'to' and 'storage'.

\* This recommendation includes a review of the Conditional Use Permit in five years, on or before July 1, 2014, by county staff for compliance with the conditions of approval. This is not a condition of approval as it lies outside the ability of the owner to perform.

**Reason for Request:** Applicant response: *"To allow for the continued use of the structure as outlined in the previous CUP."*

**KEY POINTS**

- The current use operated as an approved Conditional Use Permit for 5 years without violating the conditions of approval. It still operates in compliance with those conditions
- The use is an extension of a county business that has operated for 10+ years in the unincorporated area of the County.
- This site's location is positioned well to access four major transportation corridors in Douglas County.
- As a service-oriented business it generates no on-site customer traffic and is the type of existing industrial/business use *Horizon 2020, Chapter 7*, encourages supporting.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- The Board of County Commissioners approved a Conditional Use Permit (RE: CUP -03-04-02) for the same use in 2002. The approval was for a 5 year period with the ability to renew for an additional 5 years. Inadvertently, the owner allowed the Conditional Use Permit to expire in 2007.
- The owner, John Stevens, has renewed his Type 2 Home Occupation use for the associated home business to the west of the subject property (re: 975 E 1500 Road).

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- No public comment was received prior to printing this Staff Report.

**GENERAL INFORMATION**

Current Zoning and Land Use: A (Agricultural) District; wooded area with approximately 25% of the site developed with a building and gravel parking area

Surrounding Zoning and Land Use: A-1 (Suburban Home Residential) District to the east, west and south. Rural residential and horse stockade, pasture areas.  
A (Agricultural) District to the north; open use of land and agricultural cropland.

<b>Site Summary:</b>	
Subject Property:	2 acres
Proposed Buildings:	none
Existing Buildings:	2,400 sq. ft (existing storage building)
Required Parking:	1 space per 2 employees; none required
Required ADA accessible Parking:	1 ADA accessible parking space required for parking areas with 1-25 spaces. No parking required; no ADA accessible parking space required.
Parking Provided:	6 spaces provided

## **I. ZONING AND USES OF PROPERTY NEARBY**

### **Staff Finding –**

The subject property is located on the south side of N 800 Rd, along the east side of E 1500 Road. E 1500 Road is a dead-end road in this location, extending for no more than 750' south of N 800 Road. The surrounding properties are in agricultural or related uses with horse, cattle, or cropland being the predominate uses. Three rural residences take access from E 1500 Rd, south of N 800 Rd. The property to the west is associated with the site of this Conditional Use Permit through the type 2 home business operated from the property at 795 E 1500 Rd. A-1 (Suburban Home Residential) zoning exists on three sides of the subject property. The subject property and the properties to the north are zoned A (Agricultural).

## **II. CHARACTER OF THE AREA**

**Staff Finding –** The character of the area has not changed since the former Conditional Use Permit was approved in 2002. The area lies several miles beyond the Urban Growth Area of Lawrence and is within three miles of four transportation corridors in Douglas County [County routes 1055, 458, 460 and US Hwy 59].

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

Applicant response:

*"The property is suited to the CUP in that it has been used this way for over 5 years with no issues."*

**Staff Finding –** A Conditional Use Permit (CUP) does not change the base, underlying zoning. The suitability of the property for agricultural or rural residential use will not be altered. The 2 acre site is not of sufficient size to be independently developed as a rural residential site. The A District permits agricultural uses and related uses. The use is suitable to the site and to the uses to which it is restricted.

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

**Staff Finding –**County Zoning Regulations were adopted in 1966; this property has been zoned "A (Agricultural)" since that adoption. The property is not vacant.

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

Applicant Response:

*"Removing the CUP would damage the current owner as well as potentially damage the surrounding property owners. The existing use is a given and as such the adjacent property owners are familiar with the property and how it is being used. If this use was not allowed the owner would have to try and salvage something from his investment in this property. That might include looking for other allowed users or uses which could have a greater impact on the adjoining neighbors than allowing the CUP as applied for."*

Section 19-1.01 of the County Zoning Regulations recognize that "*certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited.*" The proposed use falls under section 19-4.24 of the Chapter XII, (Zoning Regulations) of the County Code. The use enumerated in this section is:

*"24. Truck storage facility ancillary uses, open or enclosed, provided that wholesale and retail sales (are) not be permitted on the premises. Open storage must meet the minimum yard requirements of the district in which it is located and must be screened by a view reducing wall, fence or landscaping material from adjacent public roads and adjoining properties."*

Approval of a Conditional Use Permit does not remove restrictions imposed by the A (Agricultural) zoning of the property. Conditions of the previous CUP addressed screening, lights, and noise issues. These previous conditions are shown as notes on the provided site plan and are considered part of this Conditional Use Permit application. Approval of this application would allow continuation of a use that has demonstrated it has not detrimental impacted nearby property owners.

The storage building's use is for the sole purpose of providing additional parking and storage space for the home business on the property to the west. Traffic is not generated by this use as it includes no retail operations, office, or customer service.

**Staff Finding** – No negative impacts have been identified in the past in association with this use and none are anticipated in the future by the approval of this CUP.

## **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**

Applicant Response:

*"With lack of evidence that there were any issues in the operation of this CUP for the last 5 years, it would seem extreme to not allow the CUP to continue. The hardship upon my client would be great. If there are any issues regarding the use of the facility perhaps additional conditions should be included, however if there are none it would seem the CUP should be renewed and allowed to continue."*

This factor is a test of balance; weighing the relative gain to the public against the hardship imposed upon the property owner/applicant if the application is denied. As the use proposed conveys no specific public benefit, does denial of it convey an unreasonable hardship? In this case, the test of balance weighs in the favor of the property owner/applicant. The hardship imposed by denial of this Conditional Use Permit (CUP) application would remove a viable use on property that has limited uses based on its size, surrounding zonings and land uses. Allowing the existing use to continue through the approval of a CUP conveys no gain to the public –conversely, a denial would convey a loss to the community if the loss of the storage operation made the associated home business a non-viable use.

**Staff Finding** – Approval of the CUP would permit the use of the subject 2 acre site to continue as an extension of the home business operated on the property owner's adjacent property to the west.



## VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

### Applicant Response—

*"In general, Horizon 2020 allows CUP's to exist as long as they are conditioned appropriately and there is not an imposition upon adjoining neighbors. This appears to be the case with the CUP and therefore it should be renewed and allowed to continue."*

An evaluation of the conformance of a Conditional Use Permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within *Horizon 2020*. The comprehensive plan does not address special or conditional use permits. The Plan does address agriculturally zoned/used land. *Horizon 2020* recommends; "Agricultural uses should continue to be the predominant land use within the areas of the county beyond the designated urban growth/service areas (rural area). Uses permitted in the rural area should continue to be limited to those which are compatible with agricultural production and uses..." (page 5-6, *Horizon 2020*). *Horizon 2020* also speaks to existing businesses in the county and the need to: "Continue to address the needs of existing businesses and industries to ensure their retention in the community and to help facilitate expansion plans of those businesses and industries for the future". (re: draft Chapter 7)

**Staff Finding** – The issuance of special or conditional use permits is not discussed in *Horizon 2020*. However, the Plan does speak to the need to consider and support existing businesses in the county by continuing "to address the needs of existing businesses and industries to ensure their retention in the community..."

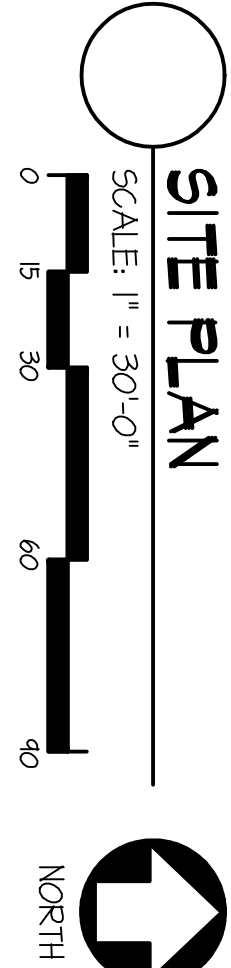
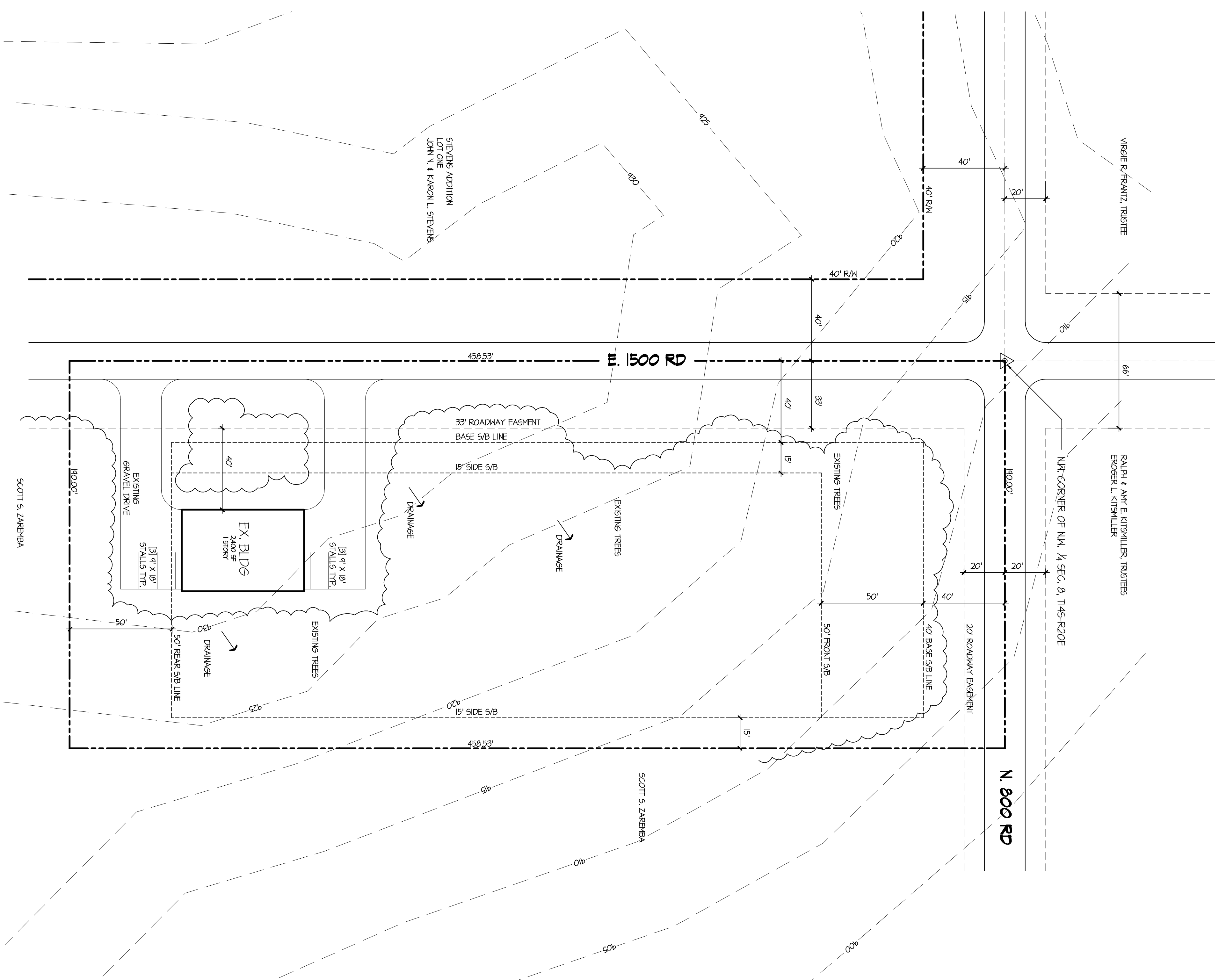
### STAFF REVIEW

History of Use Association with Home Business: The county's home occupation regulations were revised in 2001 to categorize existing, and future uses, into three different types of rural home businesses. Development standards were adopted for each type the three types of rural home business. The home business this Conditional Use Permit application is associated with was one of the uses that pre-dated the 2001 amendments to the Zoning Regulations. The use of that property was reclassified in 2001 as a Type 2 Home Business use. It has been licensed as a home business every year since 2001.

The truck storage use is for the sole use and support of the home business, operated by the property owner (Mr. Stevens). He has operated his business from his residential property at 795 E 1500 Rd for over 10 years. The truck storage building and parking areas are well screened from N 800 Road and from E 1500 Road, except at driveway entrances. Employees and employee activities on this site are limited to the moving of stored vehicles or incidental servicing of the home business vehicles as a part of regular vehicle maintenance. All vehicle repair and maintenance work is done within the enclosed building. There is no material storage in the parking area, or yard areas, around the building.

E 1500 Road is identified as a private road on a sign mounted to the back of a stop sign but it is not a private road. A portion of E 1500 Road was vacated in 1982, but that portion of road way was the portion that lies "east of a line 33 feet of and parallel to the West line of said Northwest Quarter and all portions located in the SW 1/4 , all in section 8, Township 14 South, Range 20 East." E 1500 Road is a public road for approximately 726' south of N 800 Road.

The use proposed is an appropriate application of the Conditional Use Permit regulations in the Zoning Regulations.



**LEGAL DESCRIPTION:**

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 14 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN IN DODDAS COUNTY, KANSAS; THENCE SOUTH ON THE WEST LINE OF SAID QUARTER SECTION 488.53 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION 802.0 FEET; THENCE NORTH PARALLEL WITH WEST LINE OF SAID QUARTER SECTION 488.53 FEET; THENCE SOUTH PARALLEL WITH EAST LINE OF SAID QUARTER SECTION 802.0 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.00 ACRES MORE OR LESS.

**GENERAL NOTES:**

- 11 LOCATION: DODDAS COUNTY, SE CORNER OF N. 800 RD. & E. 1500 RD.
- 12 TOWNSHIP: PALMYRA
- 13 CURRENT ZONING: A
- 14 LAND AREA: 2.00 ACRES (87121 SQ. FT. +/-)
- 15 PARKING SURFACE: GRAVEL
- 16 PARKING REQUIRED: 2
- 17 PARKING PROVIDED: 6
- 18 TYPICAL DIMENSIONS: R - SPACES - 9' X 18'
- 19 TRASH SERVICE PROVIDED BY PRIVATE COLLECTOR.
- 110 PLAN FOR COUNTY APPROVAL.
- 111 NO REST ROOM FACILITIES WILL BE PROVIDED; IF A RESTROOMS PROVIDED THE STRUCTURE SHALL BE RELOCATED TO MEET ADAMS AS REQUIRED ON THE SITE PLAN (9A-4.4 & THE UNIFORM BUILDING CODE SECTION 1029)
- 112 THE CONDITIONAL USE PERMIT APPROVAL SHALL BE FOR 5 YEARS, AFTER ADDITIONAL REVIEW AT THE END OF 5 YEARS, THE POTENTIAL FOR EXTENSION UP TO AN ADDITIONAL 5 YEARS BY THE BOARD OF COUNTY COMMISSIONERS IS POSSIBLE IF SURRENDERING LAND USES HAVE REMAINED SUBSTANTIALLY THE SAME AND THE USE IS STILL FOUND TO BE COMPATIBLE.
- 113 THE NUMBER OF TOTAL EMPLOYEES SHALL NOT EXCEED 4 ON-SITE EMPLOYEES UNLESS OTHERWISE AUTHORIZED BY THE COUNTY COMMISSIONERS.
- 114 THE APPROVED USE FOR THIS SITE IS TRUCK STORAGE FACILITY FOR VEHICLES AND EQUIPMENT FOR THE APPLICANT, REPAIRS AND/OR SERVICE STORAGE VEHICLES AND EQUIPMENT, OTHER THAN THOSE NECESSARY FOR STAFF AND MAINTENANCE AND TRUCKS IS EXPRESSLY PROHIBITED.
- 115 ANY EXTERIOR STORAGE OF MATERIAL SHALL BE COMPLETED & SCREENED PER SECTION H-4(24) OF THE COUNTY ZONING REGULATIONS.
- 116 THE ADDITION OF EXTERIOR STORAGE OF MATERIALS SHALL FIRST REQUIRE THAT THE SUBJECT PROPERTY SHALL BE PLANNED IN ACCORDANCE WITH THE ADOPTED SUBDIVISION REGULATIONS AS APPLICABLE.
- 117 EXISTING LANDSCAPING PER DODDAS COUNTY ZONING REGULATIONS 9A-4.10.
- 118 OUTDOOR LIGHTING IS NOT PROPOSED OTHER THAN LIGHTS AT THE EXISTING DOORWAYS.
- 119 A SIGN PLAT SHALL BE REQUIRED WITHIN THE DODDAS COUNTY REGISTERED OFFICES PRIOR TO ANY ADDITIONAL BUILDING OR INTERSECTION OF THE USE ON THE PROPERTY.
- 120 CONDITIONAL USE SHALL BE LIMITED TO STORAGE AND NO OFFICIAL/RETAIL SALES OPERATION MAY BE LOCATED ON THE PREMISES.

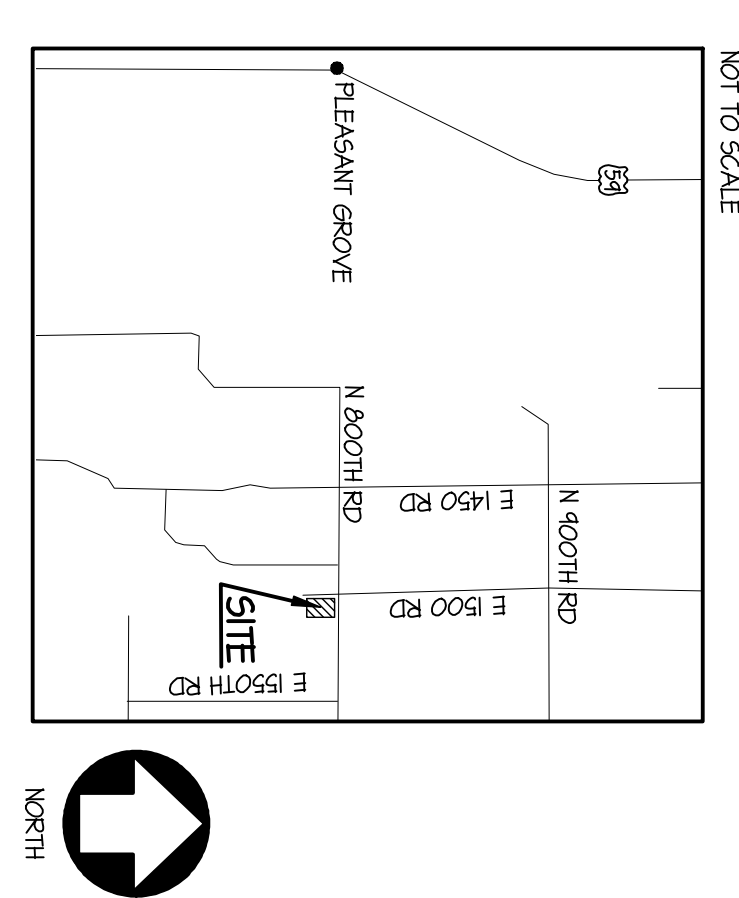
**SITE SUMMARY:**

- 21 PROJECT SITE AREA: 2.00 ACRES.
  - 22 NOTE: THERE ARE NO PROPOSED CHANGES TO THE SITE.
- |                                 |               |               |
|---------------------------------|---------------|---------------|
| 68055 SITE AREA:                | 87121 SQ. FT. | 2.00 AC.      |
| RIGHT-OF-WAY AREA:              | 18272 SQ. FT. | 0.42 AC.      |
| NET SITE AREA:                  | 68849 SQ. FT. | 1.58 AC.      |
| BUILDING AREA:                  | 2400 SQ. FT.  | 0.06 AC.      |
| PARKING AREA:                   | 62449 SQ. FT. | 1.43 AC.      |
| OFFICE SPACE:                   |               | 91 sq.        |
| NET BUILDING AREA (PUBLIC AREA) |               | 1,600 SQ. FT. |

**RELEASE:**

1/0 CUP SUBMITTAL

**LOCATION MAP:**



**paulwerner**  
ARCHITECTS

545 COLUMBIA DRIVE  
SUITE 1002  
LAWRENCE, KS 66049  
OFFICE: 785.832.0804  
FAX: 785.832.0890

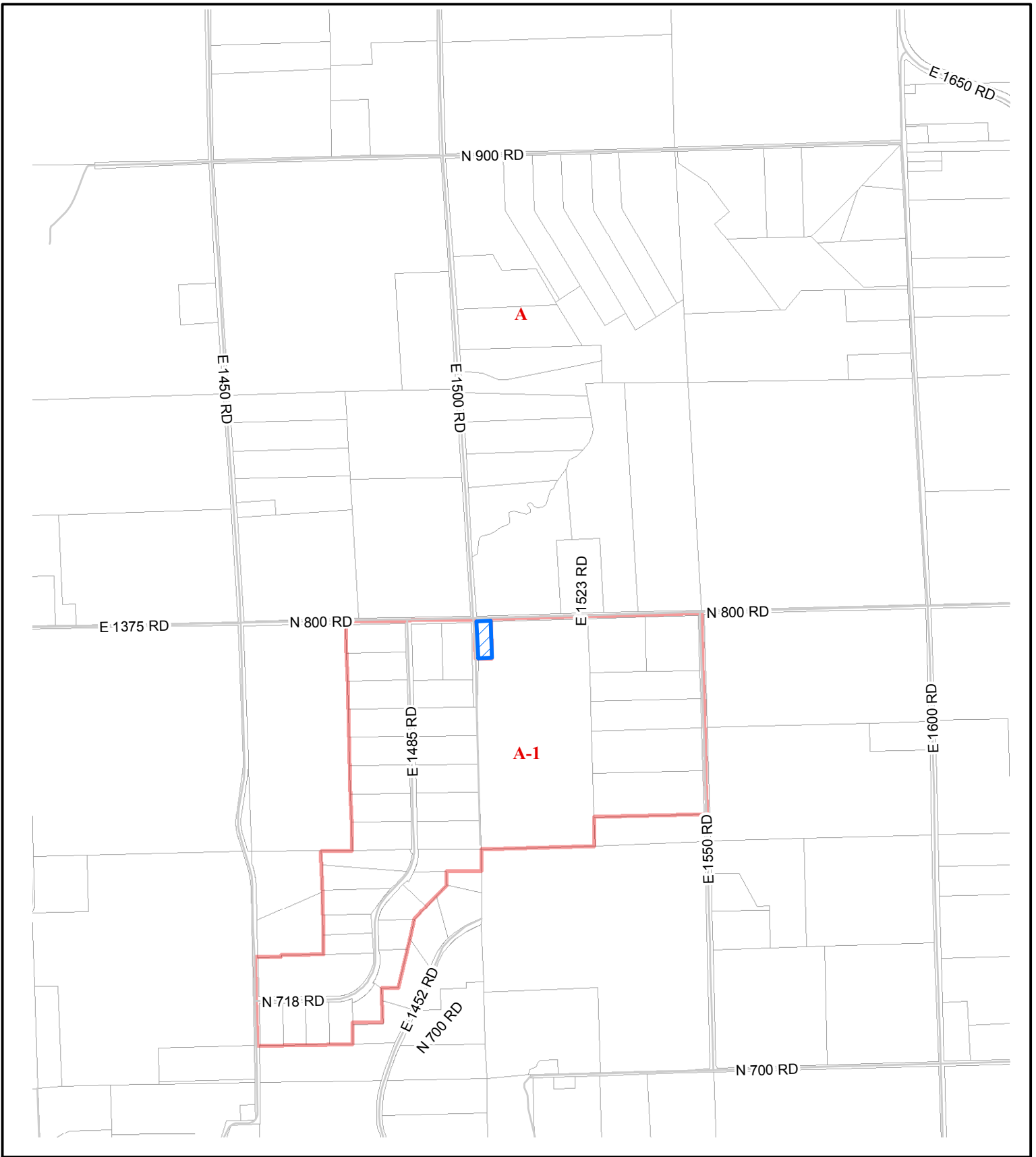
DEVELOPER:  
JOHN STEVENS  
178 E. 800th  
LAWRENCE, KS 6604  
PHONE: (785)

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**STEVENS C. U. P.**  
S.E. CORNER OF N. 800 RD. & E. 1500 RD.  
PALMYRA TOWNSHIP, KANSAS

PROJECT # 28890  
JANUARY 14, 2004  
RELEASE: DATE: 01/20/04  
1/0

C.U.P.-1



**CUP-1-2-09: Conditional Use Permit for a truck storage facility  
N 800 Road & E 1500 Road**

Lawrence-Douglas County Planning Office  
March 2009



Area Requested

Scale: 1 Inch = 1500 Feet

**ITEM NO. 3      CONDITIONAL USE PERMIT FOR TRUCK STORAGE; SE CORNER OF N 800 RD & E 1500 RD (LF)**

**CUP-1-2-09:** Consider a Conditional Use Permit for a truck storage facility, which was previously approved for a 5-year CUP that has now expired. The property is located in the NW ¼ of section 8-14-20, more specifically described as being located on the SE corner of N 800 Rd & E 1500 Rd. Submitted by Paul Werner Architects, for John Stevens, property owner of record.

**STAFF PRESENTATION**

Ms. Linda Finger presented the item.

**APPLICANT PRESENTATION**

Mr. Paul Werner, Paul Werner Architects, and the property owner John Stevens were present for questioning.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Finkeldei asked staff to explain improvements being made to better track Conditional Use Permits.

Mr. McCullough stated that staff have started tracking Conditional Use Permits approved over the past 10 years in the county and that the County Zoning & Codes Department went out and inspected those that had expired. He stated that there had been no violation complaints about the sites, staff was simply trying to get the Conditional Use Permits into compliance. Staff recently created an Access database that will help track Conditional Use Permits in the future.

Commissioner Harris asked if Conditional Use Permit renewals have the same process of public input and notification as new Conditional Use Permits.

Ms. Finger said yes, the same process of public input and notification is done with renewals. She went on to say that the staff is trying to implement an annual or semi-annual renewal date across the board, instead of every Conditional Use Permit having different renewal dates.

Commissioner Hird felt that everything should be done to encourage home occupations and he commended staff for bringing the Conditional Use Permits into compliance.

Commissioner Moore suggested that staff work with the County attorney to draft better language for the starting date of the 10 year Conditional Use Permit, such as 'effective March 24<sup>th</sup>, 2009.'

Mr. McCullough said that staff will work with the County attorney to draft better language.

**ACTION TAKEN**

Motioned by Commissioner Moore, seconded by Commissioner Hird, to approve the Conditional Use Permit for the truck storage building at 794 E 1500 Road and forward to the County Commission with a recommendation for approval, based upon the findings of fact presented in the staff report, and subject to the following conditions\*:

1. Approval of the truck storage use, as long as the use is associated with the Home Business use to the west, for a period of ten years expiring on July 1, 2019.

2. Submittal of a revised site plan to show the following revisions and/or additions to the site plan notes as follows:
  - a. Note 1.11 – Please delete specific references to sections in site plan and building code and replace with "*...as required in the Chapter XII (Zoning Regulations) of the County Code and in the Uniform Building Codes adopted by Home Rule Resolutions by the County Commission in 1991 and 2001;*
  - b. Note 1.12 – Please revise this note to reflect the 10 year approval recommended and include the expiration date of July 1, 2019 on the plan;
  - c. Note 1.15 – Please delete specific references to sections in site plan and building code and replace with "*...as required in the Chapter XII (Zoning Regulations) of the County Code*";
  - d. Note 1.16 – Please replace the existing note with, "*Exterior storage of materials shall not be permitted on this property until a revised site plan has been approved and the property has been platted in accordance with the Subdivision Regulations*";
  - e. Note 1.17 – Please change the reference to section 19 in the Zoning Regulations to the "*...Chapter XII (Zoning Regulations) of the County Code*";
  - f. Note 1.19 – Please replace the existing note with, "*No intensification of use or additional buildings may be constructed on the site until a revised site plan has been approved and the property has been platted in accordance with the Subdivision Regulations*"; and
  - g. Note 1.20 – Please add to this condition the word "truck" between the words 'to' and 'storage'.

\* This recommendation includes a review of the Conditional Use Permit in five years, on or before July 1, 2014, by county staff for compliance with the conditions of approval. This is not a condition of approval as it lies outside the ability of the owner to perform.

Commissioner Harris said she would vote in favor of the motion and thanked staff for making the process for efficient.

Unanimously approved 9-0.

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
03/23/09

**ITEM NO. 4:      CONDITIONAL USE PERMIT FOR SERANATA FARMS RECEPTION HALL;  
                          1898 E 56 ROAD (SLD)**

**CUP-1-1-09:** Consider a Conditional Use Permit for an event hall for Seranata Farms located at 1898 E. 56 Road [SE1/4 Section 11-Township 12-Range 17]. Submitted by Price Property LLC, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends\* approval of a Conditional Use Permit for a reception hall located at 1898 E 56 Road [SE1/4 Section 11-Township 12-Range 17] and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report subject to the following conditions:

1. Applicant shall provide a revised site plan with the following changes:
  - a. Note additional parking area in grass area north of building.
  - b. The owner operator shall maintain the existing vegetation in a healthy state. Screening around the parking areas shall require installation of similar size and quantity of vegetation if removed or lost due to disease.
  - c. Show minimum required 4 accessible spaces.
  - d. Note that CUP shall expire on July 1, 2019.

\* This recommendation includes a review of the Conditional Use Permit in five years, on or before July 1, 2014, by county staff for compliance with the conditions of approval. This is not a condition of approval as it lies outside the ability of the owner to perform.

**Reason for Request:** Applicant's response: *"To change the usage of an agricultural building for use as an event hall."*

**KEY POINTS**

- The facility currently exists.
- The proposed CUP is to allow for an assembly type use.

**GOLDEN FACTORS TO CONSIDER**

**ZONING AND USES OF PROPERTY NEARBY**

- A (Agricultural) District; existing agricultural properties and scattered rural residences. County commercial zoning located along the county road. Existing landscape business located in front portion of subject property in commercial zoning area.

**CHARACTER OF THE AREA**

- Agricultural area of western Douglas County. Highway commercial uses.

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

- Existing zoning is suitable. Use is allowed within the A District subject to approval of a CUP.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- Provision of four paper copies of the revised site plan.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- Telephone calls from area residents inquiring about details of the application. Concerns expressed about traffic, parking, hours of operation, number of events per week and maximum occupancy.

<b>GENERAL INFORMATION</b>	
Current Zoning and Land Use:	A (Agricultural) District; existing agricultural property with improvements
Surrounding Zoning and Land Use:	A (Agricultural) District to the north east and west; existing agricultural uses B-2 (General Business) District to the south along the Highway. Existing uses include both commercial and residential uses.
<b>Site Summary</b>	
Subject Property	Conversion of a existing agricultural building to reception hall 21.4 acres
Buildings:	110' by 160' = 17,600 SF

**I. ZONING AND USES OF PROPERTY NEARBY**

**Staff Finding** – The subject property is made up of multiple parcels under the applicant’s ownership. Area along the highway is zoned B-2 (General Business) District. The subject property includes a landscape business, home and several out-buildings located on the agricultural portion of the property. The predominate zoning in the area is A (Agricultural). Commercial zoning was established along the Highway on both sides prior to expansions of the area in 1984. Highway development includes a variety of uses including commercial and residential activities.



**II. CHARACTER OF THE AREA**

**Staff Finding** – The subject property is located within the area known as Big Springs. This rural community is located along U.S. Highway 40 in the extreme western portion of Douglas County. This is a rural area with agricultural land uses and rural residences. The surrounding property includes a variety of parcel sizes and a commercially zoned strip along the Highway. The subject property includes an existing landscape business.

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

Applicant’s response:

*“Suitability is fine as the property is not in view of neighboring residences.”*

**Staff Finding** – A Conditional Use Permit (CUP) does not change the base, underlying zoning. The suitability of the property for agricultural and residential purposes will not be altered. The 21.4 acre property is developed with various structures. The property includes both B-2 and A zoning districts.



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

**Staff Finding** –County Zoning Regulations were adopted in 1966; this property has been zoned “A (Agricultural)” and “B-2” (General Business) prior to a 1984 request in the area<sup>1</sup>. The property is currently developed with multiple buildings including residential, business and agricultural structures and uses.

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

Applicant's Response: *“will not affect nearby property as the events will be inside and parking is not visible unless on property.”*

Section 19-1.01 of the County Zoning Regulations recognize that *“certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited.”* The proposed use falls under *Use 11. Recreation Facilities* listed in Section 19-4 Conditional Uses Enumerated, of the Zoning Regulations for the unincorporated areas of Douglas County.

Approval of the request will not alter the base zoning district. If approved the existing agricultural building could be renovated (subject to building permit review and approval) for an assembly type use.

The area along the Highway is currently zoned for commercial uses. The current development pattern does not fully utilize this zoning. The area could be redeveloped with commercial uses thus changing the current character of the area. The property was previously used for a therapeutic equestrian riding facility. This program has been closed for a number of years. Approval of the request will introduce new activity to the area. This use is associated with peak traffic at the beginning and ending of events. Occupancy of the structure will require building permits to bring the structure into compliance with minimum standards.

Concerns identified by the public include the number and duration of activities of the property and traffic impacts on the surrounding areas.

**Staff Finding** – Approval of the request will allow for additional activity in the area and reuse of existing buildings on the subject 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

Applicant's Response:  
*“Gain to the public welfare is gained by providing an event hall. Nearby properties should not be affected.”*

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<sup>1</sup> Staff report and minutes from Z-07-10-84.

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property. Approval of the request is intended to use an existing structure for a reception hall.

**Staff Finding** – The approval of the CUP would provide additional economic opportunities to the area. Additional traffic will occur to and from the site during events.

## VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

An evaluation of the conformance of a Conditional Use Permit request with the comprehensive plan is based on the strategies, goals, policies and recommendations contained within *Horizon 2020*. The comprehensive plan does not directly address Conditional Use Permits.

The subject property is outside of any identified urban growth area for a nearby city. The closest incorporated boundary is the City of Lecompton. The property is also outside of the 3-mile perimeter of the City of Lecompton.

Key features of the plan are noted in Chapter 3 of *Horizon 2020*. The plan generally seeks to preserve neighborhoods, facilitate infill development and to limit non-agricultural encroachments.

**Staff Finding** – *Horizon 2020* does not directly address the issuance of CUPs, however the proposed use provides an active use of existing facilities in the area.

### STAFF REVIEW

The subject property is not located within any identified Urban Growth Area. The application focuses on the reuse/conversion of an existing building.

Access to the facility is provided via an existing driveway through the commercial portion of the property. The main entrance to the building is proposed on the west side with the majority of the parking area. The site plan shows vegetation along the eastern side of the property that will screen the smaller parking lot from the abutting properties.

The driveway intersects a major thoroughfare. This section of the highway includes wide shoulders that would accommodate turning movements.

Conversion of the building will require improvements to meet minimum County building code requirements prior to occupancy of the structure for the proposed use. Upon submission of a building permit, the maximum occupancy of the structure will be established. The applicant stated they anticipate occupancy between 150 to 299. The size of the building would easily accommodate a much larger group. Until a building permit is submitted by the applicant and approved by the County, the total occupancy of the structure will not be determined.

**Parking:** Required parking for the use is one space per 5 seats for Auditorium, theater, gymnasium stadium, arena or convention hall (16-1 County Zoning Regulations). At this time the occupancy for the building is not established.

The proposed plan shows a total of 80 defined parking spaces. The Plan will need to be revised to show the location of accessible spaces. The current number of parking spaces would

accommodate approximately 400 seats in the building. The applicant indicated that desire to accommodate between 150 and 299 occupants for any given event.

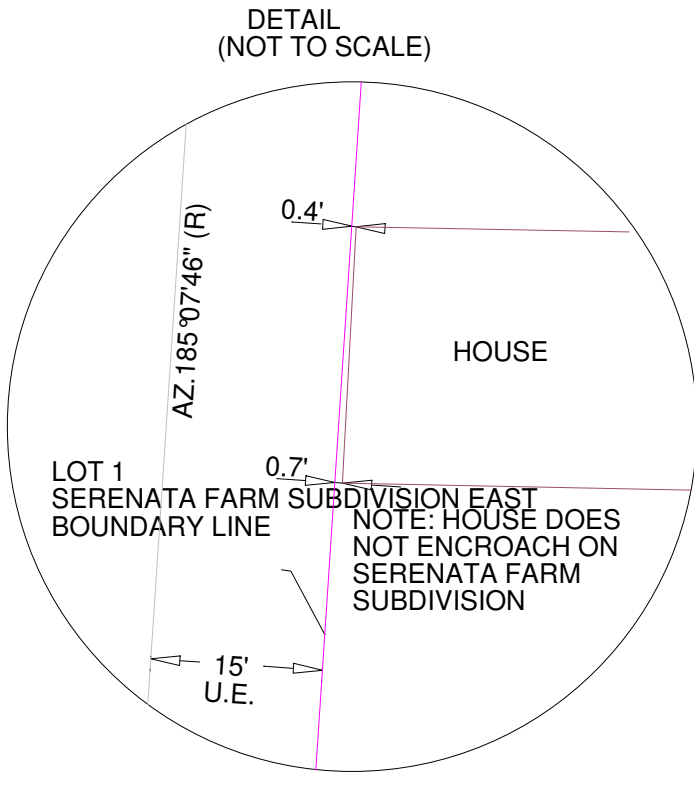
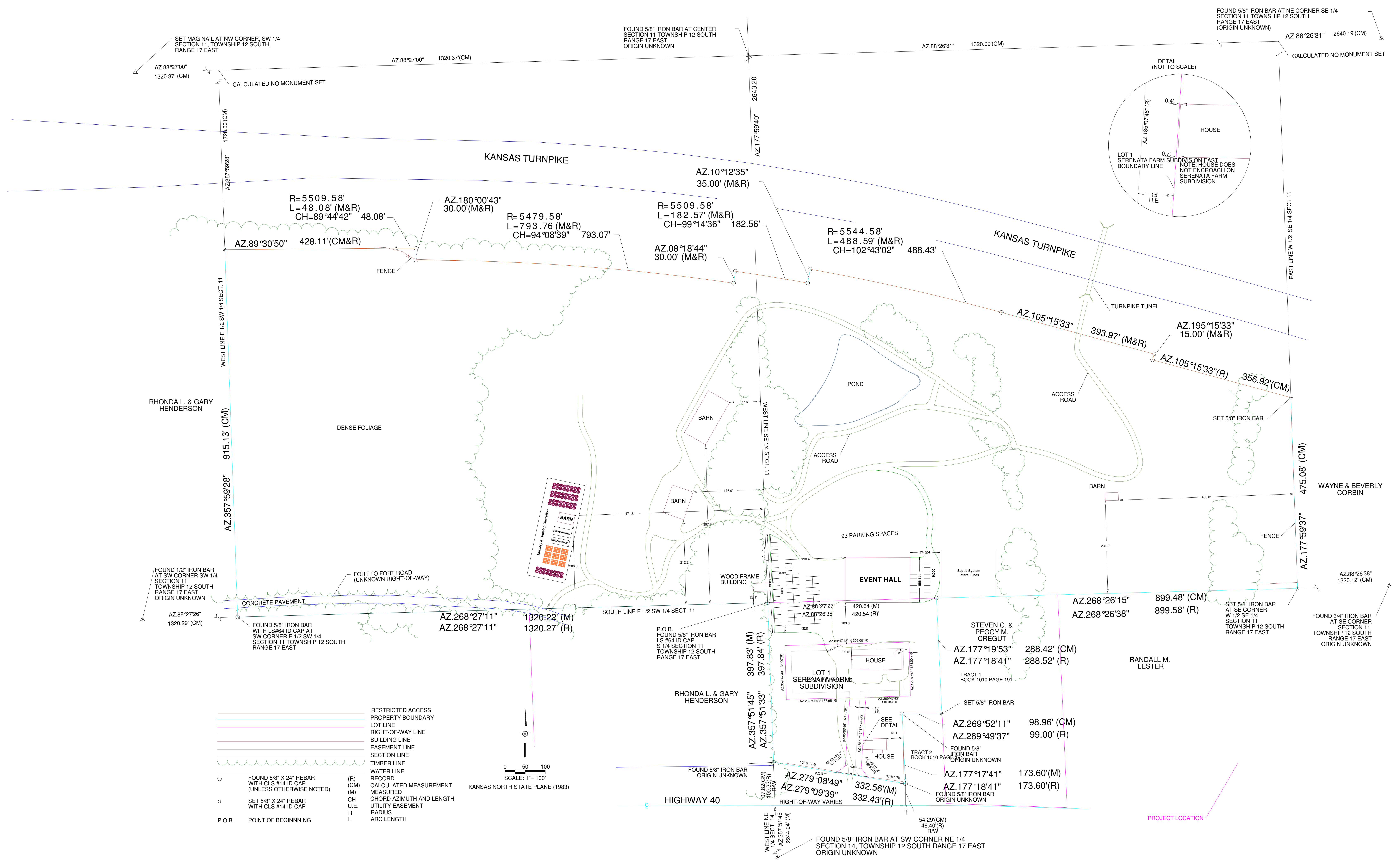
The size of the structure could accommodate a much larger group and additional parking would then be required. The subject property is sufficiently large enough to accommodate additional parking to the north of the building. There are existing driveway paths through the property that provide access. Staff recommends that the site plan be revised to show the area north of the building as an additional overflow parking area.

**Screening:** The site includes existing vegetation as shown on the site plan. These natural areas provide buffering between the activity area of the property and abutting properties. Screening is used to shield vehicle lights and to buffer noise. Continued maintenance of the vegetation shall be part of the site plan, if approved. A note should be added to the plan that states the owner/operator shall maintain the existing vegetation in a health state. Screening around the parking areas shall require installation of similar size and quantity of vegetation if removed or lost due to disease.

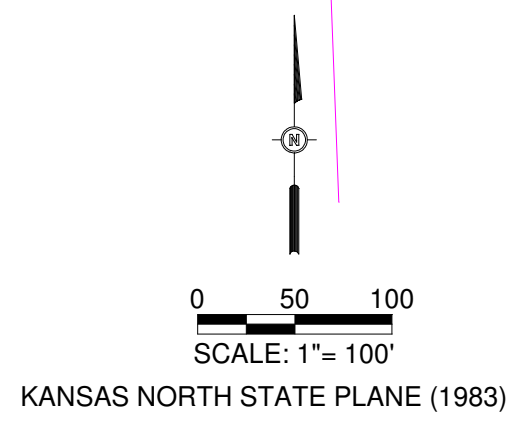
**Limits and Conditions:** The applicant has not proposed any specific limitations for the number of events for the use. A recent revision to an existing CUP for a similar use removed restrictions and permitted an unlimited number of events per week. As such no limit on the number of events in a given week is recommended for this use [CUP-09-07-08; 1514 N 600 Road; Stony Point Hall (previous CUP-12-09-05)].

### **Conclusion**

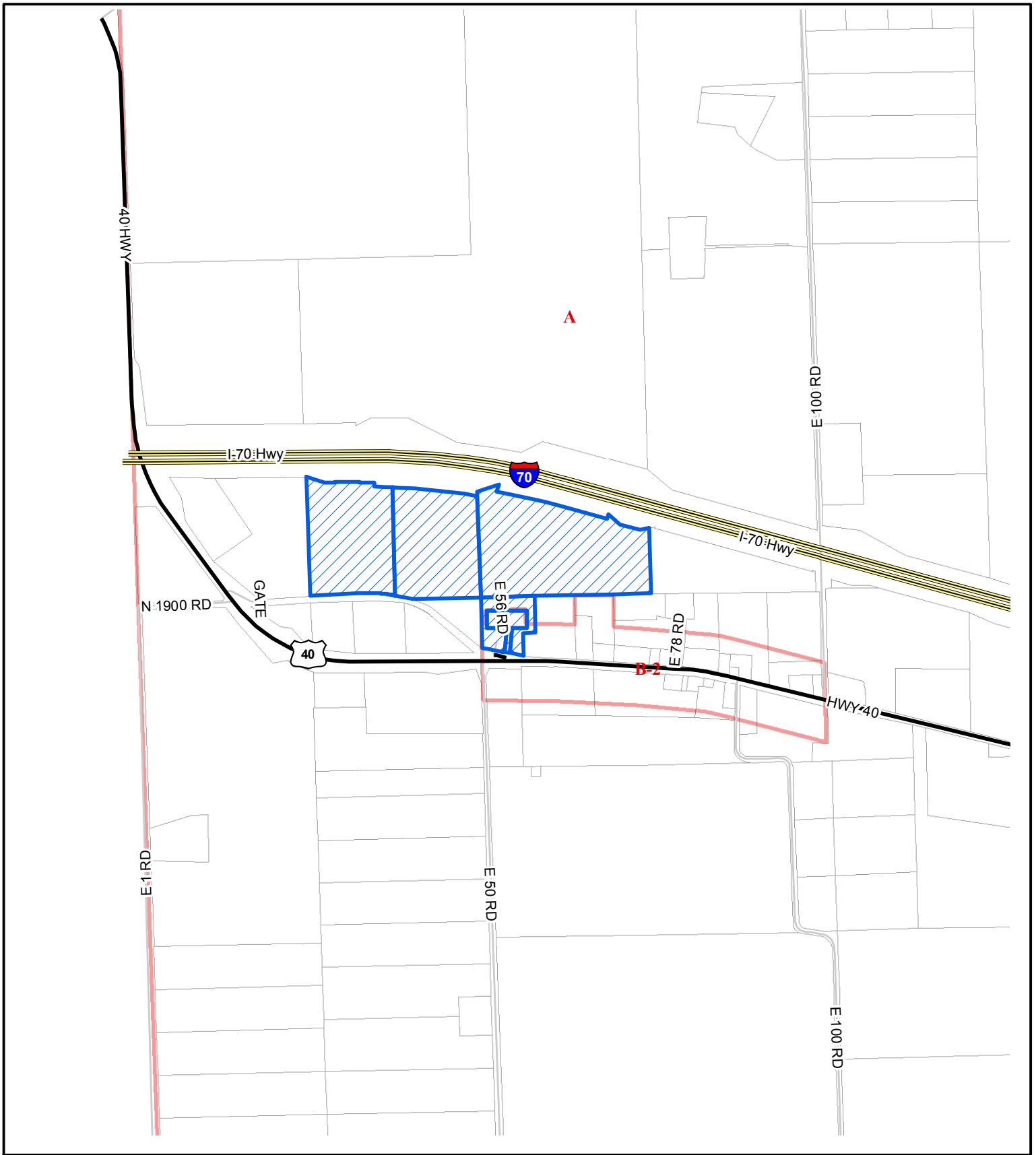
The proposed CUP as conditioned complies with the County Zoning Regulations and the land use recommendation of *Horizon 2020*.



—	RESTRICTED ACCESS		
—	PROPERTY BOUNDARY		
—	LOT LINE		
—	RIGHT-OF-WAY LINE		
—	BUILDING LINE		
—	EASEMENT LINE		
—	SECTION LINE		
—	TIMBER LINE		
—	WATER LINE		
○	FOUND 5/8" X 24" REBAR WITH CLS #14 ID CAP (UNLESS OTHERWISE NOTED)	(R)	RECORD
○	SET 5/8" X 24" REBAR WITH CLS #14 ID CAP	(CM)	CALCULATED MEASUREMENT
○		(M)	MEASURED
○		CH	CHORD AZIMUTH AND LENGTH
○		U.E.	UTILITY EASEMENT
○		R	RADIUS
○		L	ARC LENGTH
P.O.B.	POINT OF BEGINNING		



PROJECT LOCATION



**CUP-1-1-09: Conditional Use Permit for a event hall for Seranata Farms  
1898 East 56 Road**

Lawrence-Douglas County Planning Office  
March 2009



Area Requested

Scale: 1 Inch = 1000 Feet

**ITEM NO. 4      CONDITIONAL USE PERMIT FOR SERANATA FARMS; 1898 E 56 RD (SLD)**

**CUP-1-1-09:** Consider a Conditional Use Permit for an event hall for Seranata Farms, located at 1898 E 56 Road, in the SE ¼ of section 11-12-17. Submitted by Price Property LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item. She said she had several phone calls from property owners wanting clarification on what was planned at the site.

Commissioner Harris asked Ms. Day to address the neighbors concerns regarding noise.

Ms. Day said the building is set far back on the property and is buffered by vegetation. She said that another neighbors concern was access. She stated that when she visited the site there was good access to the site and the area was well designed for it. She said another concern was occupancy of the structure. She said that occupancy is set through the building permit but that the applicant was looking to attract events for 200-300 people. She said the building would be capable of holding a much larger group but the building codes would have to be satisfied.

**APPLICANT PRESENTATION**

Mr. Chad Price, said he was changing the current riding arena into an event hall. He said events would not be daily, but more likely on weekends. He said they are looking to book events under 300 people because over that number he would have to install a sprinkler system to be in compliance with building codes.

**PUBLIC HEARING**

Ms. Rhonda Henderson, owns property to the west, asked if the entire property would be included in the Conditional Use Permit. She also inquired about the current landscaping business at the site and how the outdoor events would control noise. She felt there should be limits on people, curfews, and alcohol. She asked about bathroom facilities, restrictions on types of events, and someone being present to supervise events.

Commissioner Rasmussen asked Ms. Henderson to clarify the landscape business.

Ms. Henderson said it was part of the same property.

Mr. Grant Eichhorn, said he has known Mr. Chad Price for about four years and that he has always done a fantastic job with every project he has worked on and felt this would be a good addition to the county. He said he lives near Stony Point and has not heard a peep out of them.

Mr. Russ Carlson, owner of Stony Point Hall, said he supports the Conditional Use Permit and is working on the project with Mr. Price by providing the management part of his project. He said Seranata Farms is closer to Topeka and the area has a lack of activity and event halls. He stated that Stony Point has restrictions and these are helping aid Mr. Price with not making the same mistakes that Stony Point did.

Commissioner Hird inquired about curfews and alcohol.

Mr. Carlson said that Stony Point has a curfew of 11:00pm Monday - Thursday and the music has to end by midnight on Friday, Saturday, and Sunday with guests leaving by 1:00am. He stated that Stony Point includes the curfew in every contract. He said regarding alcohol they had their lawyer research it and found that in the state of Kansas if it is an invited event (not open to the public and not charging a fee) there does not need to be a liquor license. He said that Stony Point had a supplemental contract drawn up by their lawyer for each customer to sign stating the conditions that the alcohol will be legal and that

the customer accepts all responsibility for alcohol related issues. The customer can either do that or hire a caterer with a site liquor license.

Commissioner Hird asked if there have been problems with alcohol at the Stony Point site.

Mr. Carlson replied, no.

Commissioner Harris inquired about outdoor use.

Ms. Day said there is nothing in the application that prohibits a tent or event outside but that the activity area is the barn and the immediately surrounding parking area.

Commissioner Finkeldei asked if the applicant had any intention of having outdoor events.

Mr. Carlson said that usually with wedding events the wedding is outside and the reception is inside. He said that people who are paying for the facility usually want to be inside for climate control and restroom facilities.

Commissioner Singleton said that most of the issues Ms. Henderson was concerned about were outside of the Planning Commission realm so they should address the noise if possible. She asked if the applicant objected to the same noise curfew that Stony Point currently has.

Mr. Price said he had no objections.

Ms. Day went over the issues that Ms. Henderson expressed concerns about. She said that alcohol was not something that Planning staff would review. As part of the building permit the health department would deal with the restrooms and waste disposal requirements. She stated that staff feels the access is adequate and that the landscape business is part of the existing condition of the site. The Conditional Use Permit is for an event hall and overseeing the use would be the applicants responsibility.

Commissioner Singleton asked staff to compare the locations of Stony Point and Seranata Farms.

Ms. Day said that they both have strong agricultural characteristic but that Seranata Farms has a nearby highway.

Commissioner Hird said the location of the event hall was an excellent location and he would support the Conditional Use Permit.

Commissioner Blaser agreed with Commissioner Hird and said he would also support the Conditional Use Permit.

## **COMMISSION DISCUSSION**

### **ACTION TAKEN**

Motioned by Commissioner Singleton, seconded by Commissioner Hird, to approve a Conditional Use Permit for a reception hall located at 1898 E 56 Road [SE1/4 Section 11-Township 12-Range 17] and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report subject to the following conditions\*:

1. Applicant shall provide a revised site plan with the following changes:
  - a. Note additional parking area in grass area north of building.
  - b. The owner operator shall maintain the existing vegetation in a healthy state. Screening around the parking areas shall require installation of similar size and quantity of vegetation if removed or lost due to disease.

- c. Show minimum required 4 accessible spaces.
  - d. Note that CUP shall expire on July 1, 2019.
2. All functions end by midnight Sunday-Thursday and by 1:00am Friday and Saturday.

\* This recommendation includes a review of the Conditional Use Permit in five years, on or before July 1, 2014, by county staff for compliance with the conditions of approval. This is not a condition of approval as it lies outside the ability of the owner to perform.

Commissioner Dominguez said he would vote in opposition because he felt there was no reason for something in the country to have a limitation on noise.

Motion carried 8-1, with Commissioner Dominguez voting in opposition.