

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, FEBRUARY 17, 2010

-6:35 p.m. – County Commission Meeting

-Convene

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) Consider authorization to solicit bids for Project No. 2010-5, rehabilitation of two Route 1023 bridges over Dry Creek and Deer Creek (Keith Browning); and
- (c) Consider waiving Purchasing Policy requirements, and authorizing Public Works Director to contract with George Butler Associates for 2010 bridge inspection services

REGULAR AGENDA

- (2) Introduction of Food Policy Council Executive Committee Members. (Emily Jackson)
- (3) Consider adoption of resolution establishing a procedure for disposal of Douglas County property in the 1100 Block of Rhode Island Street. (Craig Weinaug)
- (4) Consider a Preliminary Plat (PP-11-6-09) for Pines International Addition, a one lot addition of approximately 2.3 acres, located at 1997 E 1400 Rd, and the following associated items: a variance from Section 20-811(d)(2)(ii) to permit a septic system on a lot with less than 3 acres of area, a variance from Section 20-811(c)(1) which requires sidewalks along roads in the UGA, and a Temporary Set Aside Agreement for the protection of the historic structure on site. Submitted by Grob Engineering Services, LLC for PINES International Inc., property owner of record. (PC Item 8; approved 8-0 on 1/27/10) (Mary Miller is the Planner)
- (5) Consider approval of a site plan SP-1-1-10 for construction of a manufacturing facility and parking lot for PINES International, located at 1997 E 1400 Rd. (Mary Miller is the Planner)
- (6) Consider Text Amendment TA-10-22-09 to the Zoning Regulations for the Unincorporated Territory of Douglas County to create a new Business District to support rural conference, recreational, and tourism sites. Initiated by the Board of County Commissioners on 6/24/09 Deferred from 11/18/09 Planning Commission. (PC Item 13; approved 8-0 on 1/27/10) (Mary Miller is the Planner)
- (7) Other Business
 - (a) Consider approval of Accounts Payable (if necessary)
 - (b) Appointments
 - (c) Miscellaneous
 - (d) Public Comment
- (8) Adjourn

WEDNESDAY, FEBRUARY 24, 2010

-Discussion of proposal by ECO² Commission (Larry McElwain)

-Consider removal of a condition for CUP-2-4-07 for First United Methodist Church at 867 Hwy 40.(Sheila Stogsdill)

THURSDAY, FEBRUARY 25, 2010

9:00 a.m. to 3:00 p.m. – Planning Work Session in City Commission Room at City Hall.

WEDNESDAY, MARCH 3, 2010 – Light Meeting

WEDNESDAY, MARCH 10, 2010

WEDNESDAY, MARCH 17, 2010 – Light Meeting

WEDNESDAY, MARCH 24, 2010

WEDNESDAY, MARCH 31, 2010

WEDNESDAY, APRIL 7, 2010

6-8 p.m. – VIP Open House for new Healthcare Access location at 330 Maine, Lawrence.

THURSDAY, APRIL 8, 2010

4:30 p.m. – Public open house and Chamber ribbon cutting for Healthcare Access location at 330 Maine, Lawrence.

Note: The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and 6:35 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.

MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : February 11, 2010

Re : Authorization to solicit bids for Project No. 2010-5
Joint replacement and deck repair/resurfacing for two bridges
Bridge Nos. 13.26N-02.50E and 15.55N-02.50E
Route 1023 bridges over Dry Creek and Deer Creek south of Stull

The CIP includes \$75,600 for deck patching and silica fume overlay of Bridge No. 13.26N-02.50. The CIP also includes \$150,000 for Bridge No. 15.55-02.50 to remove expansion joints, patch and overlay the deck. Both projects are scheduled for this year. In an effort to obtain favorable bids, we plan to include both bridges into one project.

While the CIP includes \$225,600 for both bridges, we currently estimate construction to cost approximately \$350,000. The engineering design cost is \$13,500. We also may need some consulting construction engineering services, which should not exceed \$5,000. Therefore, we currently estimate total project costs at approximately \$370,000.

This project is similar to last year's project for the Route 1023/458 bridges over the Wakarusa River arm and the Rock Creek arm of Clinton Lake. Both bridges will remain open to one-lane traffic. Temporary traffic signals will control traffic at each bridge. We anticipate beginning construction by May 1, and completing construction by mid-July.

Also included in the CIP for this year is a project to pave shoulders and overlay Route 1023/458 from Stull to Route 1. The plan is to begin this work in mid-July as the bridge rehabilitation projects are finishing. This will allow completion of the road surfacing work prior to late-fall cold weather.

Action Required: Consider authorization to solicit bids for Project No. 2010-5, joint removal and silica fume overlay for two Route 1023 bridges over Dry Creek and Deer Creek.

MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : February 12, 2010

Re : Consent Agenda authorization to contract for bridge inspection services

We need to contract for bridge inspection services to keep current on required 2010 inspections and ratings. Typically, we perform some inspections with in-house personnel, and contract for the remaining bridge inspections. One of our engineering positions, currently unfilled, was instrumental in performing these inspections.

George Butler Associates (GBA) has contracted with KDOT to conduct bridge scour analyses and fracture-critical reviews for all bridges in KDOT District 1, including Douglas County. In order to fulfill their contract with KDOT, GBA must review county bridge files and travel to each bridge site. Review of files and traveling to each bridge site represents a sizeable portion of the expense for bridge inspections.

I requested a cost proposal from GBA to perform Douglas County's bridge inspections for 145 bridges (out of 162 total bridges) for which inspections are due in 2010. They propose to perform the required services for a not-to-exceed cost of \$24,650, which calculates to \$170 per bridge. This is a very reasonable fee for this work. Road & Bridge Fund 201 contains \$50,000 for bridge inspection services.

We request the BOCC waive Purchasing Policy requirements for obtaining consulting engineering services, and authorize the Public Works Director to contract with GBA for these services.

Action Required: Consent Agenda approval to waive Purchasing Policy requirements, and authorize Public Works Director to contract with George Butler Associates for 2010 bridge inspection services at a not-to-exceed cost of \$24,650.00.

RESOLUTION NO. 10-5

A Resolution of the Board of County Commissioners of Douglas County, Kansas, Adopted Pursuant to K.S.A. 19-211(b), Establishing an Alternate Methodology For Disposal of Certain Douglas County Property

WHEREAS, K.S.A. 19-211(b) provides that the Board of County Commissioners of Douglas County, Kansas (hereinafter the "Board") may, in lieu of the following procedures established in K.S.A. 19-211(a) for the disposal of property, adopt a Resolution to establish an alternate methodology for disposal of property.

WHEREAS, Douglas County, Kansas, by and through the Board, owns certain real estate, legally described as Lots 122, 124, 126, and 128 on Rhode Island Street, all in the City of Lawrence, Douglas County, Kansas (the "Real Estate").

WHEREAS, pursuant to that certain Ground Lease dated April 1, 2008 (the "Ground Lease"), by and between the Board and Tenants to Homeowners, Inc., a Kansas not-for-profit corporation ("TTH"), the Board has leased the Real Estate to TTH for a fixed annual ground lease payment of \$1.00 and other good and valuable consideration.

WHEREAS, the Board desires to consider permanently disposing of the Real Estate by conveying fee title to TTH.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, SITTING IN REGULAR SESSION THIS 17th DAY OF FEBRUARY, 2010 AND INTENDING TO EXERCISE ITS POWERS PURSUANT TO K.S.A. 19-211(b), DOES HEREBY RESOLVE AS FOLLOWS:

1. Methodology for Disposal of Specific Property. The Board adopts the following methodology with respect to its potential disposal of the Real Estate:
 - a. The property proposed to be sold or disposed of is the Real Estate described above in the Recitals.
 - b. The proposed method of sale or disposition of the Real Estate shall involve a quit-claim deed to TTH for no additional consideration.
 - c. Public comment and public participation in the sale or disposition of the Real Estate shall be permitted and will be received and considered at a public hearing and allow public participation to be held on _____, 2010, commencing at 6:30 p.m.

d. After conclusion of the public hearing, the Board will make a determination whether to take formal action to convey fee title to some or all of the Real Estate to TTH, considering such matters as the Board determines relevant including, but not limited to the fact that the Real Estate is currently subject to the Ground Lease in favor of TTH, TTH's mission and its proposed use of the Real Estate, potential deed restrictions, whether disposing of the Real Estate by conveyance of fee title to TTH will reduce TTH's reliance on funding from governmental agencies or taxpayers of Douglas County or otherwise provide a benefit to residents of Douglas County.

e. The Board's decision to dispose of the Real Estate must be made unanimously by all three members of the Board.

f. The County Administrator shall cause a Notice of Public Hearing and Public Participation to be published one time in the official County newspaper no more than 14 and no less than 7 days before the date of the public hearing, in accordance with the form provided in Exhibit A.

2. Effective Date. This Resolution shall take effect and be in force from and after its adoption.

IN WITNESS WHEREOF, the foregoing Resolution was adopted this 17th day of February, 2010.

BOARD OF COUNTY COMMISSIONERS OF
DOUGLAS COUNTY, KANSAS

Nancy Thellman, Chair

Jim Flory, Commissioner

Jameson D. Shew, County Clerk

Mike Gaughan, Commissioner

Exhibit A
Form of Legal Publication

NOTICE OF PUBLIC HEARING AND PUBLIC PARTICIPATION

TO ALL PERSONS:

Please take notice that pursuant to Resolution No. 10-5, adopted pursuant to K.S.A. 19-211(b), the Board of County Commissioners of Douglas County, Kansas (the "Board") will consider the disposal of the following described real estate by conveyance of fee title to Tenants to Homeowners, Inc., a Kansas not-for-profit corporation ("TTH"):

Lots 122, 124, 126, and 128 on Rhode Island Street, all in the City of Lawrence, Douglas County, Kansas (the "Real Estate").

A public hearing will be held at 6:35 p.m. on February ____, 2010, at which time the Board will discuss and receive public comments and allow public participation concerning the foregoing. The public hearing will be held in the Commission meeting room on the second floor of the Douglas County Courthouse, at 1100 Massachusetts, Lawrence, Kansas.

After conclusion of the public hearing, the Board will make a determination whether to take formal action to convey fee title to some or all of the Real Estate to TTH, considering such matters as the Board determines relevant, including but not limited to the fact that the Real Estate is currently subject to the Ground Lease in favor of TTH, TTH's mission and its proposed use of the Real Estate, potential deed restrictions, whether disposing of the Real Estate by conveyance to TTH will reduce TTH's reliance on funding from governmental agencies or taxpayers of Douglas County or otherwise provide a benefit to residents of Douglas County.

[Notice to Publisher: Publish one time, no more than 14 and no less than 7 days before said hearing. Send 2 proofs of publication to County Administrator, Douglas County Courthouse, 11th and Massachusetts, Lawrence, KS 66044.]

Proposed by Tenants to Homeowners:

DEED RESTRICTION: For a period of 15 years from the date of this deed, the use of the above-described real estate by Grantee, and Grantee's successors and assigns, is hereby restricted to the establishment and management of affordable housing, including but not limited to the Lawrence Community Land & Housing Trust program. During such period of time, any other use of said property shall require the express, written consent of the Grantor. Grantor may terminate and forever release this deed restriction at any time by recording a signed written statement to such effect with the office of the Register of Deeds of Douglas County, Kansas.

Memorandum

Lawrence-Douglas County Metropolitan Planning Office

TO: Board of County Commissioners
FROM: Mary Miller, Planning Staff
CC: Craig Weinaug, County Administrator
Scott McCullough, Director of Planning and Development Services
Date: For February 17, 2010 County Commission Agenda
RE: Variances requested with Preliminary Plat for PINES International Addition [PP-1-1-10]:

Attachments: Section 2.63 of the Douglas County Sanitary Code
Letter from applicant requesting variance

VARIANCES GRANTED BY PLANNING COMMISSION

A variance from Sub-Section 810(d)(4)(ii) of the Subdivision Regulations to permit the dedication of less than the required right-of-way for Hwy 24/59 was approved by the Planning Commission at their January 27, 2010 meeting with the approval of the preliminary plat as permitted in Sub-Section 813(g) of the Subdivision Regulations: "In cases where there is hardship in carrying out the literal provisions of the design standards of these regulations (such as design standards for lot width, lot depth, block depth, etc.), the Planning commission may grant a variance from such provisions, except that in cases where there is hardship in carrying out the literal provisions found in Sub-Section 811(e) (wastewater disposal systems) the appropriate Governing Body may grant a variance from such provisions.

VARIANCES REQUESTED FROM THE BOARD OF COUNTY COMMISSIONERS

Variances are being requested from the following standards in the Subdivision Regulations for the Preliminary Plat for PINES International Addition:

1. Section 811(d)(2)(ii) *"For all other lots, the minimum lot area requirement for an on-site sewage management system is 3 acres. Any land located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements on site sewage management system"*
2. Section 811(c)(1) *"Sidewalks and pedestrian ways shall be provided in the City of Lawrence and in platted subdivisions in the Urban Growth Areas in accordance with the standards of this sub-section (for Lawrence and the Lawrence UGA) or the applicable UGA city's (Baldwin City, Eudora, or Lecompton) standards"*

VARIANCE 1. WASTEWATER DISPOSAL SYSTEM DESIGN STANDARDS

The proposed lot in the PINES International Addition has less than the 3 acres required for an on-site wastewater disposal system in Sub-Section 811(d)(2)(ii). A variance is being requested through a note on the Preliminary Plat from this requirement. As noted above, this variance may be granted by the governing body.

Sub-Section 813(f)(2) states that a variance shall not be granted unless all of the following apply:

1) Strict application of these regulations will create an unnecessary hardship upon the Subdivider;

Section 2.63 of the Douglas County Sanitary Code (attached) contains the area requirements included in the Subdivision Regulations for an on-site sewage management system. Per Section 2.63(a)(2) of the Sanitary Code, a property is exempt from these requirements if the division of property which is less than the required minimum has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997. The Register of Deeds provided deeds which show the property in its current configuration since 1910. Richard Ziesenes, the Douglas County Health Officer, indicated that the dedication of additional road right-of-way would not be seen as a 'division' of land. There is no other land available to combine with this property to create the required 3 acres of area.

As the Douglas County Sanitary Code exempts this property from the area requirements and the County Health Department has determined that adequate area exists for a septic system, strict application of these regulations, which would prevent development on this property, will create an unnecessary hardship upon the subdivider.

2) The proposed variance is in harmony with the intended purpose of these regulations;

Per Sub-Section 801(a), the purpose of these regulations is to provide for the harmonious and orderly development of land, contribute to conditions conducive to health, safety, aesthetics, convenience, prosperity, and efficiency, and provide for the conservation and protection of resources. The development is conducive to the health and safety of the area as it is in compliance with the requirements of the Douglas County Sanitary Code.

3) The public health, safety and welfare will be protected.

The variance complies with the exemption section of the Douglas County Sanitary Code. The Douglas County Health Officer determined that a septic system may be safely installed on this property; however, he indicated that there would be limitations to the usage. The applicant has been made aware of these limitations. The septic system would be approved and permitted by the Douglas County Health Department; therefore, the public health, safety and welfare will be protected.

STAFF RECOMMENDATION:

Based on the parcel's compliance with the area requirements in the Douglas County Sanitary Code and the Douglas County Health Officer's determination that a septic system could be safely installed on this property, staff recommends that the variance from Sub-section 811(d)(2)(ii) be granted.

VARIANCE 2. SIDEWALKS AND PEDESTRIAN WAYS

Sub-Section 811(c) of the Subdivision Regulations requires that sidewalks and pedestrian ways shall be provided in the City of Lawrence and in platted subdivisions in the Urban Growth Area. This sub-section also provides that the applicant may request a waiver of part or the entire requirement to install sidewalks. The Planning Commission may make a recommendation on such waiver request, but final action on the waiver request shall be by the governing body, as part of the preliminary plat review. A variance has been requested from this requirement through the attached letter from the applicant, Dean Grob of Grob Engineering Services, LLC, dated February 1, 2010.

1. Strict application of these regulations will create an unnecessary hardship upon the Subdivider;

Applicant's response: *"No public street or highway improvements adjacent to the property are proposed or anticipated in the near future. My client feels at this juncture, the requirement for sidewalks would impart an undue hardship on his property with no ultimate benefit to the County."*

Pedestrian walkways are required in the Subdivision Regulations to provide pedestrian connectivity throughout the area. There is a small area of industrially zoned property in this area surrounded by agriculturally zoned land. It is unlikely that the surrounding property will be developed residentially for quite some time. The construction of sidewalks would not provide connectivity until the surrounding area is developed. Requiring the applicant to install sidewalks at this time would create an unnecessary hardship.

2. The proposed variance is in harmony with the intended purpose of these regulations; and

Per Sub-Section 801(a), the purpose of these regulations is to provide for the harmonious and orderly development of land, contribute to conditions conducive to health, safety, aesthetics, convenience, prosperity, and efficiency, and provide for the conservation and protection of resources. The addition of sidewalks to this subdivision would contribute to health, safety and convenience if there were other platted subdivisions in the area. Given the lack of development in the area at this time, the variance is in harmony with the intended purpose of the regulations.

3. The public health, safety and welfare will be protected.

If additional development were to occur in the area, sidewalks may be appropriate to accommodate pedestrian travel. As pedestrian traffic is not anticipated in this area, the public health, safety and welfare will be protected.

STAFF RECOMMENDATION

Based on the lack of development in the area, current or expected within the near future, staff recommends the granting of the variance from Sub-section 811(c) to allow the subdivision to be platted without installing sidewalks at this time. A note should be added to the preliminary plat which states that sidewalks will be installed at a later date, when adjoining subdivisions have been platted and adjoining sidewalks are available.

- g. Annual licenses shall expire on December 31 of the calendar year in which they are issued. The annual license fee shall be the same for any fraction of the year as for the entire year.
- h. Installer License Revocation. A license may be revoked for continued failure to comply with the requirements of this Sanitary Code.

2-6.3

Area Requirements

- a. Residential Parcels, Tracts, or Lots. For the unincorporated areas of Douglas County, Kansas, an individual on-site sewage management system shall not be constructed upon any parcel, tract, or lot of less than:

- 1) Three (3) adjoining acres when a public water supply or cistern is provided. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management systems [Subdivision Regulation 20-811 (d) (2) (ii), p. 57, or as amended]. Cisterns shall not be installed on lots, tracts, or parcels divided on or after January 1, 2007, within the City of Lawrence Urban Growth Area [Subdivision Regulation 20-811 (e) (1), p.58, or as amended].
- 2) Five (5) adjoining acres when a water well is provided. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management system use [Subdivision Regulation 20-811 (d) (2) (i), p.57, or as amended].

New private water wells constructed after the effective date of this Sanitary Code, which are located within the City of Lawrence Urban Growth Area, shall be installed for irrigation purposes only, and shall not be connected to any residential or commercial building [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

- 3) The exemptions to this requirement are when:
 - a) A division of property which is less than the above stated minimums has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997.
 - b) A property is exempt under Section 21-4.07 of the Douglas County Zoning Regulations.

- c) Any lands divided prior to January 1, 2007, shall not be required to meet the floodplain requirements [Subdivision Regulation 20-801 (d)(2)(ii), p. 7, or as amended].
- b. Non-Residential Parcels, Tracts, or Lots. For the unincorporated areas of Douglas County, Kansas, an individual on-site sewage management system shall not be constructed upon any parcel, tract, or lot of less than:

- 1) Three (3) adjoining acres when a public water supply or cistern is provided. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management systems [Subdivision Regulation 20-811 (d) (2) (ii), p. 57, or as amended]. Cisterns shall not be installed on lots, tracts, or parcels divided on or after January 1, 2007, within the City of Lawrence Urban Growth Area [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].
- 2) Five (5) adjoining acres when a water well is provided. Any land divided after January 1, 2007, which is located within the floodplain, shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management system use [Subdivision Regulation 20-811 (d) (2) (i), p. 57, or as amended].

New private water wells constructed after the effective date of this Sanitary Code, which are located within the City of Lawrence Urban Growth Area, shall be installed for irrigation purposes only, and shall not be connected to any residential or commercial building [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

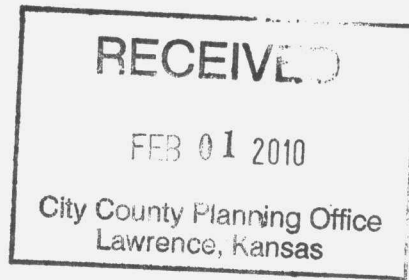
- 3) The exemptions to this requirement are when:
 - a) A division of property which is less than the above stated minimums has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997.
 - b) A property is exempt under Section 21-4.07 of the Douglas County Zoning Regulations.
 - c) Any lands divided prior to January 1, 2007, shall not be required to meet the floodplain requirements [Subdivision Regulation 20-801 (d)(2)(ii), p. 7, or as amended].
- 4) Reserve area for absorption field required. A reserve area for a future secondary absorption field shall be required for all new non-residential

building sites constructed after the effective date of this Sanitary Code. The reserve area shall be the same size as the area required for the primary absorption field.

2-6.4

Data Requirements

- a. Residential. The following shall be submitted to and accepted by the Health Department before issuance of a permit to construct an on-site sewage management system:
 - 1) An application form including the following:
 - a) Name, address and phone number of applicant and owner.
 - b) Location of building site, including legal description with section, township and range.
 - c) Number of bedrooms in the home.
 - 2) A drawing of the lot or site, showing:
 - a) Overall dimensions of the lot.
 - b) Location of buildings, driveways and geographical features near the proposed absorption field.
 - c) Location and type of all water supplies, and location of all water service lines.
 - d) Layout of entire on-site sewage management system, including septic tank, absorption field, interconnecting lines, and / or any other components.
 - e) Location of foundation footing or any other non-sewage drain(s).
 - f) An arrow indicating North direction.
 - 3) Other supportive data or information required by the Health Department.
 - 4) A letter from the Douglas County Zoning and Codes Department which states that the lot, tract or parcel is a Buildable Lot.
 - 5) For lands divided after January 1, 2007, a copy of a Certificate of Survey which clearly displays what acreage, if any, is included within the



*Site Civil Geotechnical Engineering
Consulting Construction Management*

February 1, 2010

Nancy Thellman, Chairperson
Board of County Commissioners
Douglas County, Kansas
1100 Massachusetts
Lawrence, Kansas 66044

Re: Subdivision Waiver Request – Sidewalks in the Urban Growth Area (UGA)
Pines International Addition – Preliminary and Final Plat

Dear Commissioner Thellman,

On behalf of Pines International, Inc., I am requesting a Waiver from Subdivision Section 20-811(c) which requires that sidewalks be provided for subdivisions in the UGA. In accordance with Sub-section iii this request is for a waiver of the entire requirement to install sidewalks.

No public street or highway improvements adjacent to the property are proposed or anticipated in the near future. My client feels at this juncture, the requirement for sidewalks would impart an undue hardship on his property with no ultimate benefit to the County.

We appreciate the commission's consideration in this matter. If you are in need of assistance or require additional information, please do not hesitate to call me at (785) 856-1900.

Sincerely yours,

A handwritten signature in black ink that reads "J. Dean Grob". The signature is written in a cursive style.

J. Dean Grob, P.E.
Principal
Grob Engineering Services, LLC
Kansas Professional Engineer License No. 12769

cc: Kevin Allmon

**PLANNING COMMISSION REPORT
REGULAR AGENDA
PUBLIC HEARING—VARIANCE ONLY**

PC Staff Report
1/27/10

ITEM NO. 8: PRELIMINARY PLAT FOR PINES INTERNATIONAL ADDITION; 1997 E 1400 RD (MKM)

PP-11-6-09 Consider a Preliminary Plat for Pines International Addition, a one lot addition of approximately 2.3 acres, located at 1997 E 1400 Rd, and variance from Section 20-810(d)(4)(ii) to permit dedication of less than 120 ft of right of way for a principal arterial. Submitted by Grob Engineering Services, LLC for PINES International Inc., property owner of record.

STAFF RECOMMENDATIONS:

VARIANCE

Staff recommends approval of the variance request from Section 20-810(d)(4)(ii) to permit the dedication of 20 ft of right-of-way and 10 ft of easement rather than the 30 ft of right-of-way required for N 200 Road/Hwy 24/59.

PRELIMINARY PLAT

Staff recommends approval of the Preliminary Plat of the PINES International Addition and referring it to the Board of County Commissioners for consideration of dedication of easements and rights-of-way subject to the following conditions of approval:

1. A variance shall be obtained from the Board of County Commissioners from Section 20-811(d)(2)(ii) of the Subdivision Regulations to permit the location of an on-site sewage management system on a lot that is less than 3 acres.
2. The plat shall be revised with the following changes:
 - a. Waiver and Variance Requested shall be revised to 'Variances'.
 - b. Note 1 shall be revised to include the date the Planning Commission granted the variance, if it is approved.
 - c. Note 2 under 'Variances Requested' shall be revised as follows: The owner is requesting a variance from the 3-acre requirement for on-site sewage management system on lots which are served by a public water supply. [Section 20-811(d)(2)(ii)] of the Subdivision Regulations. The note shall be revised to include the date the Board of County Commissioners granted the variance, if it is approved.
 - d. Label shall be added for N 2000 Rd along the western portion of the north property line.
3. The following actions shall be required prior to recording of the final plat:
 - a. The applicant shall provide documentation to the Planning Office that a water meter is available from Rural Water District #13 to serve this property.
 - b. The applicant shall provide documentation to the Planning Office indicating Water District #13 and Lawrence Fire Department's approval of hydrants or

alternate water storage devices to support firefighting needs, per Section 20-811(e)(3) of the Subdivision Regulations.

- c. The applicant shall provide documentation to the Planning Office that the on-site sewage management system has been approved by the Douglas County Health Department.
- d. The applicant shall provide an executed water connection agreement, per Section 20-811(e)(2)

Applicant's Reason for Request: Subdivision requirement prior to obtaining a building permit for development of industrial facility.

KEY POINTS

- The subject property is zoned I-2 (County-Light Industrial) District.
- Access to/from Hwy24/54 is prohibited for the subject property.

SUBDIVISION CITATIONS TO CONSIDER

- This application is being reviewed under the Subdivision Regulations for Lawrence and Unincorporated Douglas County, effective Jan 1, 2007.
- Section 20-813(d)(1) states that building permits will be issued only for platted or vested properties.
- Section 20-810(d)(4)(ii) requires that 120 ft of right-of-way be provided for principal arterials without medians in the unincorporated portion of the county.
- Section 20-811(d)(2)(ii) requires a minimum of 3 acres which are unencumbered by floodplain for an on-site sewage management system when rural (public) water supply is utilized.
- Section 20-813(g) states that variances from the wastewater disposal systems requirements in Section 20-811 must be obtained from the governing body, in this case the Board of County Commissioners.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- Board of County Commissioners' acceptance of dedication of easements and rights-of-way as shown on the preliminary plat.
- Board of County Commissioner's approval of variance from wastewater management standard in Section 20-811(d)(2)(ii) to permit on-site sewage management system on property with area less than 3 acres.
- Final Plat submitted to Planning Office for administrative approval and recordation at the Douglas County Register of Deeds.
- Submittal and County Commission approval of a site plan prior to development.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- None

Site Summary

Gross Area: 2.289 acres
Number of Lots: 1

GENERAL INFORMATION

Current Zoning and Land Use: I-2 (County-Light Industrial) District; developed with one small building, vacant.

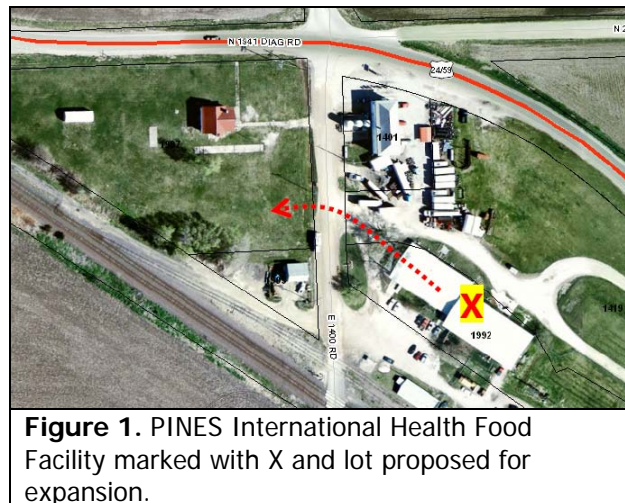
Surrounding Zoning and Land Use: To the east: I-3 (County-Heavy Industrial) District; Feed dealer and Co-op Elevator and food products manufacturing facility.

To the south: I-2 (County-Light Industrial) District; Grant Township equipment storage and maintenance; further to the south is A (County-Agricultural) District with railroad right-of-way and agricultural uses.

To the north and west: A (County-Agricultural) District; agricultural uses with scattered rural residences.

STAFF REVIEW

This plat is preparatory to industrial development of the property. The applicant proposes to expand their business, PINES International Health Food Products, which is located to the southeast across E 1400 Road on to the subject property due to a requirement that certain processes be separated. (Figure 1) The property contains approximately 2.3 acres located at 1997 E 1400 Road, in an area generally known as Midland Junction. The property is located within Service Area 4 of the Lawrence Urban Growth Area (UGA) and is encumbered with the 500 year floodway fringe. The 500 year floodway fringe is not regulated by the County Floodplain Regulations.



Section 20-811(d)(2)(ii) of the Subdivision Regulations require lots within Service Areas 2-4 that will be served with rural public water to have a minimum area of 3 acres if they utilize an on-site sewage management system. The Douglas County Sanitary Code provides exceptions for properties which were subdivided prior to certain dates. Per the exemption listed in Section 2-6.3(a)(3)(a) of the Douglas County Sanitary Code, a septic system may be installed on properties with a minimum area of 1 acre if the land division occurred and was filed with the Douglas County Register of Deeds prior to October 10, 1997. The subject property was established in its current configuration in 1910, per deeds recorded at the Register of Deeds. The Douglas County Health Officer indicated that the granting of additional right-of-way would not be seen as a 'land division'; therefore, an on-site sewage management system would be compliant with the recently adopted Douglas County Sanitary Code. The applicant shall request a variance from the area requirement in the Subdivision Regulations from the County Commission, per Section 20-813(g). The note on the plat states that the variance is being requested from the Douglas County Health Department requirement; however, the lot is compliant with the County Sanitary Code and the variance is necessary from the design standards in Section 20-811(d)(2)(ii) of the Subdivision Regulations. The note on the plat shall be revised with this correction and to correctly identify it as a 'variance' not an exemption.

Zoning and Land Use

The applicant proposes to expand the PINES International Health Food production business located to the southeast across E 1400 Road on to the subject property. The property is zoned I-2 (County-Light Industrial) District which is intended for light manufacturing, fabricating, warehousing, and wholesale distributing in low buildings with off-street loading and off-street parking for employees and with access by major thoroughfares or railroads in either central or outlying locations. The property is bounded by Hwy 24/59 on the north and a Union Pacific Railroad line on the south; however, the railroad does not provide stops at this location. The property is appropriately zoned for the proposed land use.

Streets and Access

The property is bounded on the north by US Hwy 24/59 and N 2000 Road. US Hwy 24/59 right-of-way is adjacent to the majority of the northern property boundary and N 2000 Road is adjacent to the western portion. (Figure 2) Access restrictions apply to US Hwy 24/59 and are shown graphically on the plat. Access shall be taken to E 1400 Road which bounds the property on the east. KDOT and Grant Township both commented that the access onto E 1400 Road should be taken as far south from the intersection with US Hwy 24/59 as possible. The access onto E 1400 Road shall be determined at the site planning stage in accordance with the Douglas County Access Management Standards and shall be located as far from the Hwy24/59 and E 1400 Road intersection as possible.



Figure 2. Hwy 24/59 and N 2000 Road adjacent to the property.

Utilities and Infrastructure

Rural Water District No. 13 serves properties in the area and confirmed that they have a 6 in. waterline at this location. The water district indicated that a formal application requesting a feasibility study at that location is necessary to determine if a water meter is available. The applicant has submitted the study and shall provide the Planning Office with documentation that a water meter is available prior to the recording of the final plat.

A septic system will be utilized for onsite sewage management and a variance to permit an on-site wastewater management system on a lot with less than 3 acres shall be requested from the Board of County Commissioners when the plat is before them for acceptance of easements and rights-of-way. The approval of the preliminary plat is conditioned upon the County Commission's approval of the variance.

Per Section 20-811(e)(3), fire hydrants or alternate water-storage devices must be approved by the water district and the applicable fire department as sufficient for their firefighting needs prior to the recording of the final plat. The applicant has contacted the water district for a fire hydrant feasibility study and shall provide the Planning Office with documentation prior to the recording of the plat.

Easements and Rights-of-way

US Hwy 24/59 currently has 60 ft of right-of-way. Section 20-810(d)(4)(ii) requires 120 ft of right-of-way for principal arterials without medians in the unincorporated portions of Douglas County. The applicant proposed to dedicate an additional 10 ft of right-of-way and 10 ft of utility easement along US Hwy 24/59 rather than the required 30 ft of right-of-way. KDOT had no comment on this proposed right-of-way dedication; however, the County Engineer indicated that 20 ft of right-of-way and 10 ft of easement would be preferable if it did not interfere with the placement of the new structure. The structure, planned for the southern portion of the property, will not be impacted by the additional right-of-way dedication, so 20 ft of right-of-way and 10 ft of easement have been shown on the plat. A variance is being requested for the reduced right-of-way and will be discussed in the next section of this report.

E 1400 Road is classified as a 'local' road on the Future Thoroughfares Map which requires 70' of right-of-way per Section 20-810(d)(4)(ii) of the Subdivision Regulations. One-half of the required right-of-way, 35 ft, shall be dedicated with this plat for E 1400 Road.

VARIANCE

The property owner is requesting a variance from Section 20-810(d)(4)(ii) which requires 120 ft of right-of-way for principal arterials without medians in the unincorporated portions of the county.

Section 20-813(g) states that the Planning Commission may grant a variance from the design standards of these regulations with the exception of the standards of the wastewater disposal system standards only if the following three criteria are met: that the strict application of these regulations will create an unnecessary hardship upon the Subdivider, that the proposed variance is in harmony with the intended purpose of these regulations and that the public health, safety and welfare will be protected. Below is a review of the variance request in relation to these criteria.

Criteria 1: Strict application of these regulations will create an unnecessary hardship upon the Subdivider.

Applicant's response: *"The owner believes that dedication of additional land would impose an undue hardship on an already limited sized lot, and that the existing development to the east of their property would greatly limit the ability of the existing highway to be expanded into their property."*

Strict application of these regulations would require the property owner to dedicate an additional 30 ft of right-of-way along the north side of the property. Currently 60 ft of right-of-way is provided for Hwy 24/59 in this location. This is less right-of-way than is provided on nearby portions of the highway as shown in Figure 3. The dedication of an additional 20 ft of right-of-way would create a more similar right-of-way width. The property is a triangular property located between railroad and highway right-of-way. The property to the east has an

established structure and it is unlikely that the highway would be expanded to the south in that area.

KDOT did not object to the applicant's original proposal to dedicate an additional 10 ft of right-of-way in this area; therefore the dedication of 20 ft is above that which would be required by KDOT. The County Engineer has approved the dedication of 20 ft of right-of-way and 10 ft of utility easement. The dedication of additional right-of-way would further reduce the lot area for this property. As the right-of-way is not required by KDOT and the County Engineer has approved the 20 ft dedication, the dedication of additional right-of-way would constitute an unnecessary hardship upon the property owner.

Criteria 2: The proposed variance is in harmony with the intended purpose of these regulations.

The purpose of the Subdivision Regulations is to provide for the harmonious and orderly development of land and to contribute to conditions conducive to health, safety, aesthetics, convenience, prosperity and efficiency. The right-of-way required in the 2006 Subdivision Regulations is intended to provide adequate space for the roadway, utilities, sidewalks and other features. The Subdivision Regulations are also intended to coordinate the development of each parcel of land with the existing community and facilitate the proper development of adjoining land [Section 20-801(2)(iv)].

A 10 ft utility easement is being dedicated along the highway right-of-way to provide area for expansion of future infrastructure. The dedication of 20 ft of additional right-of-way would be in harmony with the purpose of the Subdivision Regulations as it provides adequate space for roadway features, per KDOT and the County Engineer. The right-of-way is similar to that provided in other areas and matches the right-of-way of the adjacent developed property.

Criteria 3: The public health, safety and welfare will be protected.

The amount of right-of-way being dedicated is consistent with the amount of right-of-way provided for the highway in the area. The County Engineer and KDOT approved the amount of right-of-way being dedicated; therefore, the public health safety and welfare should be protected.

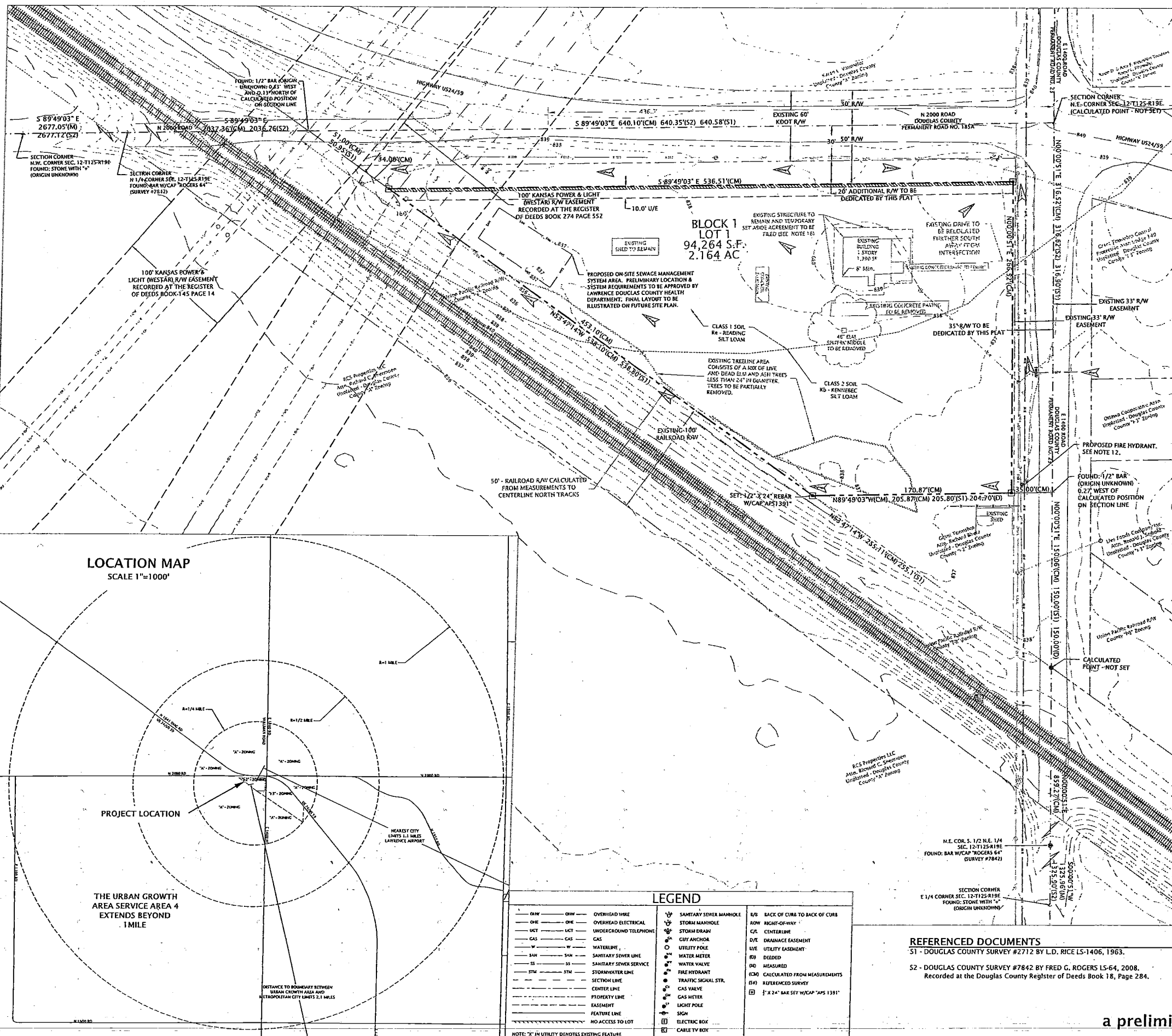
Conformance

The Comprehensive Plan recognizes Midland Junction as an appropriate location for industrial location; but recommends that intense development should wait until such time that urban services are able to be provided. (page 7-8, *Horizon 2020*) The applicant intends to construct an 8,000 sq ft structure as an expansion of the existing PINES International Health Foods facility in the area. This expansion is being constructed to meet industry standards and does not constitute intense development.

With the approved variances and recommended conditions, the preliminary plat is in conformance with the standards and requirements of the Subdivision Regulations and the Zoning Regulations.



Figure 3. Hwy 24/59 right-of-way widths in area.



LEGAL DESCRIPTION
 A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 12 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, ALL IN DOUGLAS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:
 COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 00°00'51\"/>

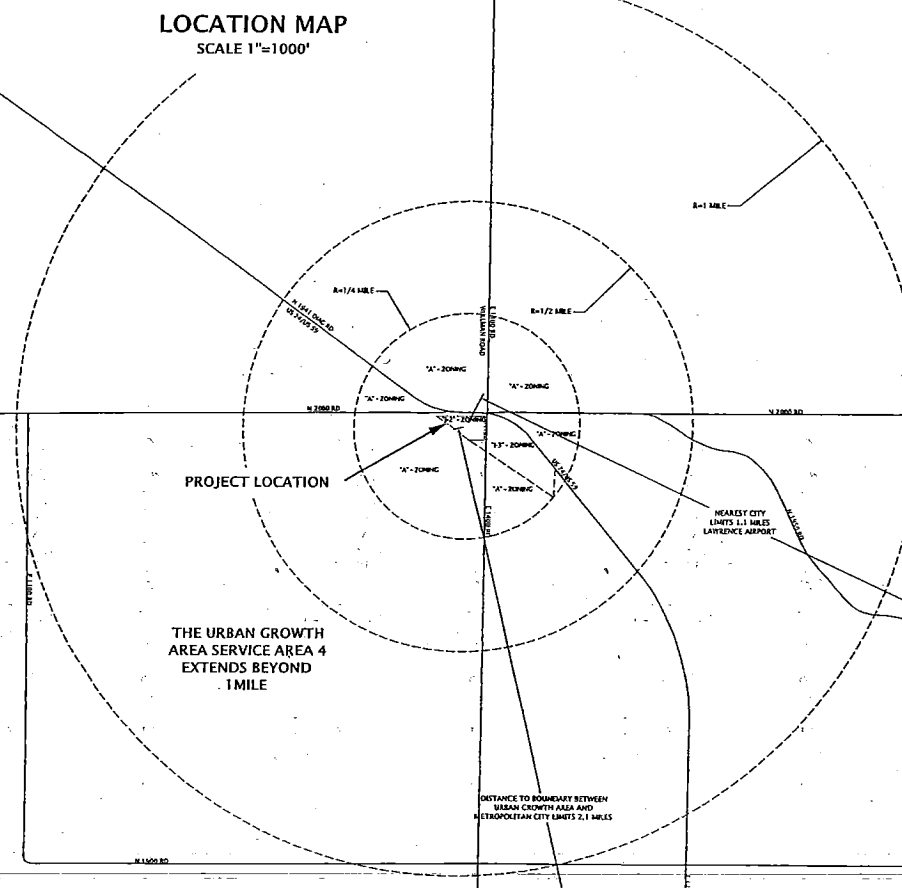
GENERAL NOTES
 OWNER: PINES INTERNATIONAL INC.
 1992 E 1400 ROAD
 Lawrence, Kansas 66044
 Attention: Ronald J. Selbold
 1. Land Planner/Engineer: Grob Engineering Services, LLC
 3210 Mesa Way, Suite A
 Lawrence, Kansas 66049
 2. Surveyor: All Points Surveying, LLP
 P.O. Box 4444
 Lawrence, KS 66045
 3. Aerial and topographic information obtained from aerial survey performed by Sanborn Mapping for the City of Lawrence and Douglas County 2006. Specific topographic and boundary information for property & directly adjacent obtained from field survey provided by All Points Surveying, October 2009.
 4. Typical Soil Type: Re - Reading Silt Loam - Soil Class 1
 Kb - Kennebec Silt Loam - Soil Class 2
 Seasonal Water Table Is 2'-5\"/>

- Existing Land Use: Vacant School House
- Proposed Land Use: Light Industrial - Warehouse and Manufacturing
- Current Zoning: I-2 Light Industrial
- Basis for bearings for this plat is the North Section line of the Northeast Quarter of Section 12, Township 12 South, Range 19 East, S 89° 49' 03\"/>

- VARIANCES REQUESTED**
- Pursuant to Subdivision Design Standards Section 20-810(d)(4)(ii), the Owner of this property requests a variance from the requirement to dedicate 30 feet of additional Right-of-Way for a Principal Arterial (w/o median) Street Type. The Owner proposes to dedicate 20 feet of Right-of-Way and 10 additional feet of Permanent Utility Easement along the dedicated Right-of-Way of U.S. Highway 24/59. The owner believes that dedication of additional land would impose an undue hardship on an already limited sized lot, and that with the existing development to the east of their property would greatly limit the ability of the existing highway to be expanded into their property. The Lawrence-Douglas County Planning Commission granted the variance January 27, 2010.
 - The Owner is requesting a variance from the 3-acre requirement for On-Site Sewage Management System on lots which are served by public water supply Section 20-811(d)(2)(B) of the Subdivision Regulations. The Board of County Commissioners granted the variance February _____, 2010.

SITE SUMMARY

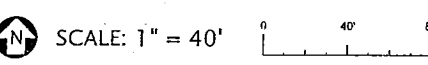
Gross Property Area:	3.074 AC
Existing Dedicated ROW & ROW Easements:	0.644 AC
Existing Lot Size:	2.430 AC
Proposed Dedicated ROW:	0.910 AC
Proposed Utility Easement:	0.122 AC
Proposed Plat:	2.164 AC
Total Number of Lots:	1
Minimum Lot Size:	2.164 AC
Maximum Lot Size:	2.164 AC
Average Lot Size:	2.164 AC



LEGEND

— GRW — GRW — OVERHEAD WIRE	— SAN — SAN — SANITARY SEWER SERVICE	— S/S — S/S — SANITARY SEWER SERVICE	— STM — STM — STORMWATER LINE	— SECTION LINE	— CENTER LINE	— PROPERTY LINE	— EASEMENT	— FEATURE LINE	— NO ACCESS TO LOT	— SANITARY SEWER MANHOLE	— STORM MANHOLE	— STORM DRAIN	— CITY ANCHOR	— UTILITY POLE	— WATER METER	— WATER VALVE	— FIRE HYDRANT	— TRAFFIC SIGNAL STR.	— GAS VALVE	— GAS METER	— LIGHT POLE	— SIGN	— ELECTRIC BOX	— CABLE TV BOX
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REFERENCED DOCUMENTS
 S1 - DOUGLAS COUNTY SURVEY #2712 BY L.D. RICE LS-1406, 1963.
 S2 - DOUGLAS COUNTY SURVEY #7842 BY FRED G. ROGERS LS-64, 2008.
 Recorded at the Douglas County Register of Deeds Book 18, Page 284.



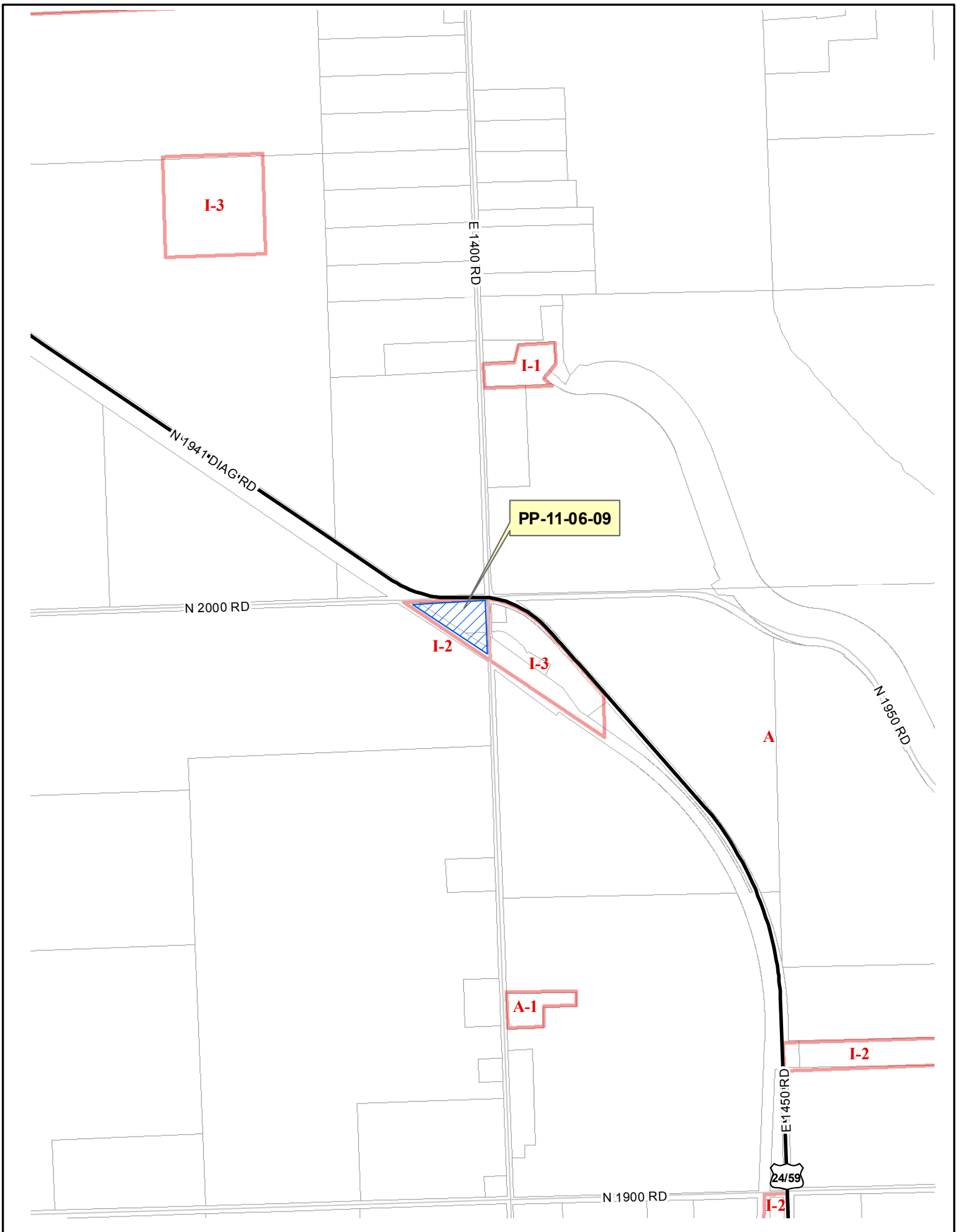
a preliminary plat for
PINES INTERNATIONAL ADDITION

GROB ENGINEERING SERVICES, LLC
 3210 Mesa Way, Suite A • Lawrence, Kansas 66049
 P.O. Box 502 • Lawrence, Kansas 66044
 Phone 785 856-1900 • Fax 785 856-1901

PRELIMINARY PLAT
PINES INTERNATIONAL ADDITION
 1997 E. 1400 ROAD
 LAWRENCE, KANSAS

DESIGNED BY: JGC
 CHECKED BY: JGC
 ISSUE DATE: November 23, 2009
 REVISIONS:
 December 23, 2009
 January 29, 2010

SHEET 1



ITEM NO. 8 PRELIMINARY PLAT FOR PINES INTERNATIONAL ADDITION; 1997 E 1400 RD (MKM)

PP-11-6-09: Consider a Preliminary Plat for Pines International Addition, a one lot addition of approximately 2.3 acres, located at 1997 E 1400 Rd, and variance from Section 20-810(d)(4)(ii) to permit dedication of less than 120 ft of right of way for a principal arterial. Submitted by Grob Engineering Services, LLC for PINES International Inc., property owner of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Hird inquired about the temporary set aside agreement regarding the school house.

Ms. Miller said the draft set aside agreement says they will maintain the school house. They can use it as an office, for example, but will have to maintain its character.

APPLICANT PRESENTATION

Mr. Dean Grob, Grob Engineering Services, was present for questioning.

PUBLIC HEARING

No public comment.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the variance request from Section 20-810(d)(4)(ii) to permit the dedication of 20 ft of right-of-way and 10 ft of easement rather than the 30 ft of right-of-way required for Hwy 24/59.

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

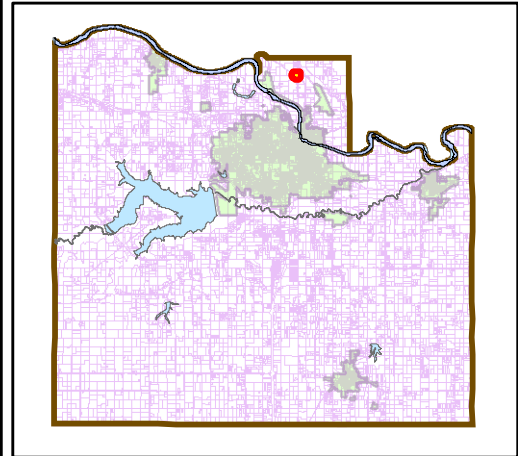
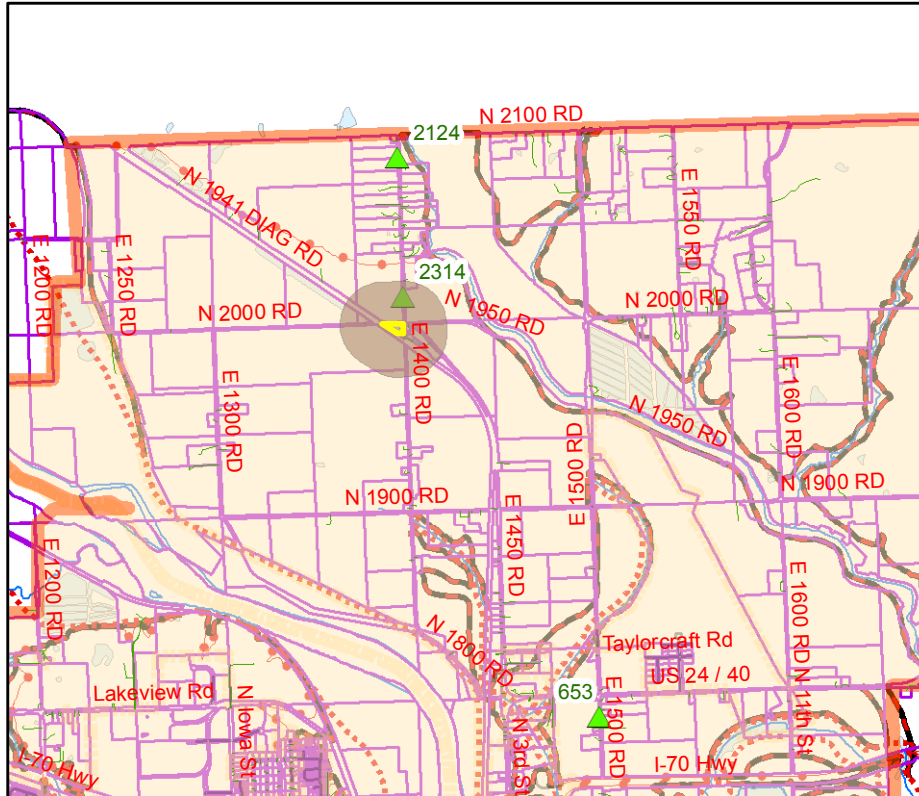
Motioned by Commissioner Hird, seconded by Commissioner Harris, to approve the Preliminary Plat of the PINES International Addition and referring it to the Board of County Commissioners for consideration of dedication of easements and rights-of-way subject to the following conditions of approval:

1. A variance shall be obtained from the Board of County Commissioners from Section 20-811(d)(2)(ii) of the Subdivision Regulations to permit the location of an on-site sewage management system on a lot that is less than 3 acres.
2. The plat shall be revised with the following changes:
 - a. Waiver and Variance Requested shall be revised to 'Variances'.
 - b. Note 1 shall be revised to include the date the Planning Commission granted the variance, if it is approved.
 - c. Note 2 under 'Variances Requested' shall be revised as follows: The owner is requesting a variance from the 3-acre requirement for on-site sewage management system on lots which are served by a public water supply. [Section 20-811(d)(2)(ii)] of the Subdivision Regulations. The note shall be revised to include the date the Board of County Commissioners granted the variance, if it is approved.
 - d. Label shall be added for N 2000 Rd along the western portion of the north property line.
3. The following actions shall be required prior to recording of the final plat:
 - a. The applicant shall provide documentation to the Planning Office that a water meter is available from Rural Water District #13 to serve this property.





- b. The applicant shall provide documentation to the Planning Office indicating Water District #13 and Lawrence Fire Department's approval of hydrants or alternate water storage devices to support firefighting needs, per Section 20-811(e)(3) of the Subdivision Regulations.
- c. The applicant shall provide documentation to the Planning Office that the on-site sewage management system has been approved by the Douglas County Health Department.
- d. The applicant shall provide an executed water connection agreement, per Section 20-811(e)(2)

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.

PP-11-6-09/SP-1-1-10 Pines International Addition



PP-11-6-09

	PP-11-6-09		uga
	ownshp10		city_limits10

This map was produced by Douglas County GIS.
 It is for reference only and is not intended for
 conveyances, nor is it a legal survey.
 Wednesday, February 3, 2010 1:35:19 PM
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SITE PLAN REVIEW
BOARD OF COUNTY COMMISSIONERS STAFF REPORT
February 17, 2010

A. SUMMARY

SP-1-1-10, 1997 E 1400 Road; Site Plan for light manufacturing and warehouse use. Submitted by Grob Engineering Services. for Pines International, Inc, property owner of record.

B. GENERAL INFORMATION

Current Zoning and Land Use: I-2 (County-Light Industrial) District; developed with one small building and a shed, vacant.

Surrounding Zoning and Land Use: To the east: I-3 (County-Heavy Industrial) District; Feed dealer, Co-op Elevator and food products manufacturing facility.

To the south: I-2 (County-Light Industrial) District; Grant Township equipment storage and maintenance; further to the south is A (County-Agricultural) District with railroad right-of-way and agricultural uses.

To the north and west: A (County-Agricultural) District; agricultural uses with scattered rural residences

Site Summary:	Existing	Proposed
Gross Area (sq ft):	94,264	94,264
Building Coverage(sq ft):	1,390	9,390
Pavement Area(sq ft):	2,500	4,218
Gravel Area(sq ft):	0	16,230
Impervious:	3,890	13,608
Pervious(sq ft):	90,374	80,656

Parking Requirement:

(1 space per 2 employees on largest shift) [Section 12-316.1]

Parking Required: 10 employees 5 parking spaces required / 1 ADA

Parking Provided: 7 parking spaces / 1 ADA

C. STAFF REVIEW

The property contains approximately 2.164 acres and is located at 1997 E 1400 Road in the area commonly known as Midland Junction. The I-2 zoning in this area permits light industrial uses such as light manufacturing, fabricating, warehousing, and wholesale distributing. The applicant

proposes to expand their business, PINES International Health Food Products, which is located to the southeast across E 1400 Road, to this property. A 8,000 sq ft one-story building is being proposed for light manufacturing and warehousing uses associated with PINES International Health Food Products. The property is also being platted as part of this development proposal. The Planning Commission approved the preliminary plat [PP-1-1-10] on Jan 27, 2010. The Board of County Commissioners will also consider the dedication of easements and rights-of-way and associated variances with the plat at their February 17, 2010 meeting.

D. Findings

Per Section 12-319A-5 of the Zoning Regulations, staff shall first find that the following conditions have been met:

- (a) That the proposed use is a permitted use in the district in which the property is located;**

The subject property is zoned I-2 (Light Industrial) District. The light industrial and warehouse use being proposed for this site is a permitted use in the I-2 District.

- (b) That the proposed arrangement of buildings, off-street parking, access, lighting, landscaping, and drainage is compatible with adjacent land uses;**

The property is bounded on the north and east sides by road right-of-way on the west/southwest by railroad right-of-way. Grant Township stores equipment and materials on the parcel directly to the south. Grant Township expressed concern that the additional impervious surface and the grading and layout of the property may contribute to drainage problems onto their site. The County Engineer indicated that the grading that is being proposed with this site plan will create a drainage swale along Pines south property line to capture runoff. It won't 'prevent runoff' onto the southern property but will 'limit the runoff. He indicated that the swale collects runoff from a very small area so the Grant Township property should not be harmed by the proposed development. He further indicated that the swale is relatively shallow but this is about all that can be done to limit runoff onto Grant Township property. The Street trees are shown along the north and east property lines which will provide an attractive view from the roadway. A note shall be added to the plan to restrict the trees on E 1400 Road to medium-height species to avoid conflict with the overhead power line. Lighting with a maximum illumination of 250 watts shall be installed on the building walls. Note 19 on the site plan indicates that the lighting shall be shielded to prevent off-site glare. The development is compatible with adjacent land uses.

- (c) That the vehicular ingress and egress to and from the site and circulation within the site provides for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well;**

Vehicular ingress and egress to and from the site will be provided by one 40 foot wide drive on E 1400 Road. 35 ft of road right-of-way for N 1400 Road is being dedicated with the plat for this property, as required by Code. KDOT, the County Engineer and Grant Township all recommended that the driveway be located as far south from the intersection of Hwy 24/59 and E 1400 Road. The driveway is located near the southern edge of the property. A small area south of the drive is graded to control the flow of stormwater.

(d) That the site plan provides for the safe movement of pedestrians within the site;

No pedestrian activity is anticipated with the proposed rural, industrial development. A variance has been submitted to the Board of County Commissioners from the requirement in Sub-section 811(c)(1) to provide sidewalks on both sides of all streets within Lawrence and the Urban Growth Area. If the County Commission does not approve this variance, the site plan shall be revised to show a 6 ft sidewalk south of Hwy 24/59 and a 5 ft sidewalk on the west side of E 1400 Road.

(e) That there is a sufficient mixture of grass, trees, and shrubs within the interior and perimeter (including public right-of-way) of site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan area not used for buildings, structures, parking, or accessways shall be landscaped with a mixture of grass, trees and shrubs;

Street trees will be installed along Hwy 24/59 on the north of the property and E 1400 Road on the west and shrubs shall be planted along the building front. The street trees along E 1400 Road are located within 20 ft of an overhead utility line. Per the Subdivision Regulations, a street tree should not be located further than 30 ft from the street curb. As it would not be possible to move the street trees further from the overhead line, the following species are recommended for street trees along E 1400 Road: Callery Ornamental Pear, Chinkapin Oak, Eastern Redbud, Goldenrain Tree, Hedge Maple, Honey Locust (thornless), Imperial Honey Locust, Japanese Tree Lilac, Kentucky Coffee Tree, Sawtooth Oak, Shantung Maple, Trident Maple, White Mulberry or Winter King Hawthorn. The landscape schedule shall be revised to indicate that the street trees along E 1400 Road will be selected from this list or a sub-set of this list.

There are no exterior storage areas designated on the plan. A note needs to be added to the plan which states that vegetation on areas which are not designated for structures, access or parking areas shall be maintained. An historical building in the northeastern portion of the lot will be maintained.

(f) That all outdoor trash storage areas are screened;

There are no outdoor trash storage facilities shown on the site plan. Trash will be stored in enclosed carts and wheeled to the road for pickup.

E. CONCLUSION

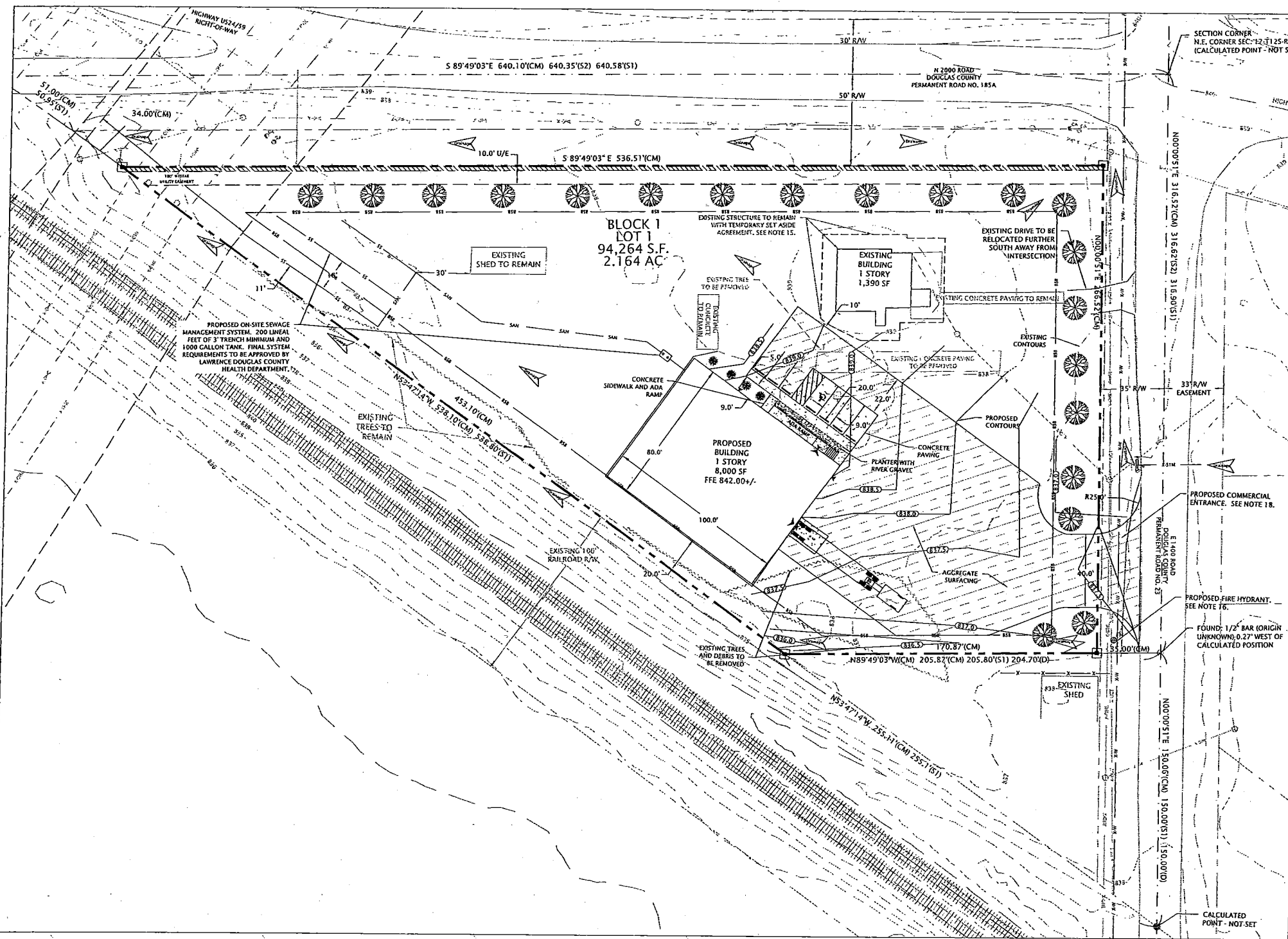
This proposal is for the construction of a 8000 sq ft manufacturing and warehouse facility and associated site improvements. The proposed request, as conditioned, is consistent with the regulations in the Douglas County Zoning Regulations.

Staff recommends that SP-1-1-10, a site plan for PINES International manufacturing facility be approved subject to the following conditions:

1. Provision of a revised site plan with the following changes:
 - a. If the Board of County Commissioners does not approve the variance from Sub-section 811(c)(1) of the Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County with the preliminary plat for PINES International Addition [PP-11-06-09] which is scheduled for the February 17, 2010 Commission meeting, the site plan

shall be revised to show a 6 ft wide sidewalk south of Hwy 24/59 and a 5 ft wide sidewalk on the west side of E 1400 Road.

- b. Note on the plan that the surfacing in the area between the entrance and the loading dock will be a minimum of 8" depth aggregate surfacing.
- c. Note added to the plan which states that "Any area not designated on the site plan for buildings, structures, parking, or accessways shall be landscaped with a mixture of grass, trees and shrubs."
- d. The required setbacks shall be labeled on the building envelope shown on the plan.
- e. The landscape schedule shall be revised to indicate that the street trees along E 1400 Road shall be selected from the following list or a sub-set of this list: Callery Ornamental Pear, Chinkapin Oak, Eastern Redbud, Goldenrain Tree, Hedge Maple, Honey Locust (thornless), Imperial Honey Locust, Japanese Tree Lilac, Kentucky Coffee Tree, Sawtooth Oak, Shantung Maple, Trident Maple, White Mulberry or Winter King Hawthorn.



LEGAL DESCRIPTION

LOT 1 - BLOCK ONE, PINES INTERNATIONAL ADDITION, A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 12 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, ALL IN DOUGLAS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:
 COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 00°00'51" WEST, ALONG EAST LINE OF SAID SECTION 316.52 FEET; THENCE NORTH 89°49'03" WEST, 35.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°49'03" WEST, 170.87 FEET, SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE NORTH 53°17'11" WEST ALONG SAID NORTH RIGHT OF WAY LINE, 453.10 FEET; THENCE SOUTH 89°49'03" EAST PARALLEL TO THE NORTH SECTION LINE OF SAID SECTION, 536.51 FEET; THENCE SOUTH 00°00'51" WEST 266.52 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 2.164 ACRES MORE OR LESS.

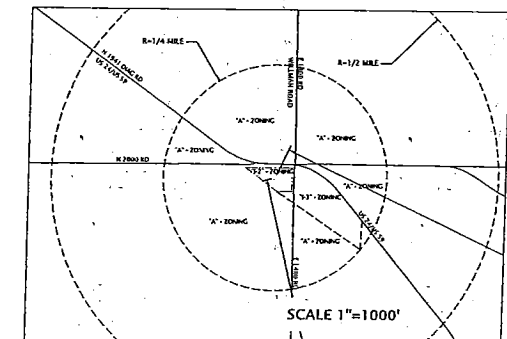
GENERAL NOTES

- OWNER:** PINES INTERNATIONAL INC.
 1992 E 1400 ROAD
 Lawrence, Kansas 66044
 Attention: Ronald L. Seibold
- Land Planner/Engineer: Grob Engineering Services, LLC
 3210 Mesa Way, Suite A
 Lawrence, Kansas 66049
 - Surveyor: All Points Surveying, LLP
 P.O. Box 4444
 Lawrence, KS 66045
 - Aerial and topographic information obtained from aerial survey performed by Sanborn Mapping for the City of Lawrence and Douglas County 2006. Specific topographic and boundary information for property & directly adjacent obtained from field survey provided by All Points Surveying, October 2009.
 - Typical Soil Type: Re - Reading Silt Loam - Soil Class 1
 Kb - Kennebec Silt Loam - Soil Class 2
 Seasonal Water Table is 2'-5' for Kb and >6' for Re
 - Existing Land Use: Vacant School House
 - Proposed Land Use: Light Industrial - Warehouse and Manufacturing and Vacant School House
 - Current Zoning: 1-2 Light Industrial
 - Property is located within Floodplain Zone X per FEMA Map # 20045C0030C Effective Date: November 7, 2001. Per FEMA Map, "This area is protected from the one percent annual chance (100-year) flood by levee, dike, or other structures subject to possible failure or overtopping during larger floods." Since property is protected from the 100-year storm, no MEB's will be designated.
 - Proposed utility locations, elevations, and sizes are preliminary and will be finalized during final design of improvements.
 - This Site Plan has been designed to comply with the provisions of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for Buildings and Facilities, appendix A to 28 CFR, part 36.
 - Drainage arrows are shown on the plan to indicate general drainage patterns required of a drainage plan.
 - The existing septic waste lateral field from the existing unused building will be abandoned to allow for construction of a new system for the proposed building.
 - National Geodetic Survey vertical benchmark is a disk marked "B 276 Reset 1956" set in a concrete headwall at the intersection of Highways 40, 59, and 24. The disk is 74.0 feet east of the center line of the northbound lane of Highway 59, in the top of the northeast end of the south headwall of a 6-foot concrete culvert, Elevation = 816.37 ft. On-site bench mark is "x" on the top of the south end of the west headwall of culvert under E1-400 Road, Elevation = 839.82 ft.
 - Direct access to/from Lot 1 and U.S. Highway 59 & 24 shall be prohibited. Lot 1 shall have one access point to E. 1400 Road in accordance with the Douglas County Public Road Access Management Standards.
 - Pursuant to Subdivision Design Standards Section 20-810(j)(2) regarding Resource Conservation - Unincorporated Area of the County, the Owner has agreed to provide provisions to protect the old school building by filing a Temporary Set Aside Agreement.
 - A request for water service feasibility study for a fire hydrant to be placed on the property has been submitted to JCRWD #13. A fire hydrant will be placed at the location shown and the cost will be born by the property owner.
 - No trash enclosure or outdoor storage areas will be constructed as part of this Site Plan. Trash disposal consists of storage in enclosed carts and wheeled to road for weekly pickup.
 - No culvert pipe will be installed at commercial entrance. Area south of entrance will be graded and maintained to provide drainage to the west along the property line and prevent undue drainage onto the property to the south. Area north of entrance will be graded to allow continued drainage to north in existing ditch. An entrance permit from Grant Township shall be required prior to entrance construction.
 - New lighting fixtures will be attached to building for guidance and safety. All lighting shall be shielded to prevent off-site glare. Proposed fixture locations have been shown on plan with a maximum illumination of 250 watts. Fixture quantity, location, and wattage shall be shown on building permit drawings.

IMPERVIOUS SURFACE SUMMARY

EXISTING SUMMARY	AREA (SQ. FT.)	SUMMARY AFTER PROJECT COMPLETION	AREA (SQ. FT.)
EXISTING BUILDING	1,390	PROPOSED BUILDINGS	9,390
EXISTING PAVEMENT	2,500	PROPOSED PAVEMENT	4,218
EXISTING GRAVEL	0	PROPOSED GRAVEL	16,230
EXISTING GREENSPACE	90,374	PROPOSED GREENSPACE	64,426
EXISTING IMPERVIOUS	3,890	PROPOSED IMPERVIOUS	13,608
EXISTING PERVIOUS	90,374	PROPOSED PERVIOUS	80,656
PROPERTY AREA	94,264		

LOCATION MAP



LEGEND

OWP	OWE	OVERHEAD WIRE	SS	SANITARY SEWER LINE	B/B	BACK OF CURB TO BACK OF CURB
ONE	ONE	OVERHEAD ELECTRICAL	ST	STORM DRAIN	ROW	RIGHT-OF-WAY
UCT	UCT	UNDERGROUND TELEPHONE	CA	CENTERLINE	CA	CENTERLINE
CAH	CAH	GAS	U/E	UTILITY EASEMENT	D/E	DRAINAGE EASEMENT
W	W	WATERLINE	U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT
SAH	SAH	SANITARY SEWER LATERAL	U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT
SS	SS	SANITARY SEWER LATERAL	U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT
STH	STH	STORMWATER LINE	U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT
B/S	B/S	BUILDING SETBACK	U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT
SECTION LINE			U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT
CENTER LINE			U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT
PROPERTY LINE			U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT
EASEMENT			U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT
FEATURE LINE			U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT
NO ACCESS TO LOT			U/E	UTILITY EASEMENT	U/E	UTILITY EASEMENT

LANDSCAPING SCHEDULE

SYMBOL	QUANT.	NAME	SIZE & COND
(Tree symbol)	20	RED SUNSET MAPLE, LACEBARK ELM, SWAMP WHITE OAK, IMPERIAL HONEYLOCUST, BALDCYPRESS, OR APPROVED EQUAL	2.0" CAL. - B&B
(Tree symbol)	4	BURKWOOD VIBURNUM, ALLEGHENY VIBURNUM, LEATHERLEAF VIBURNUM, GROW LOW SUMAC, OR MENTOR BARBERRY	5 Gal.

ALL UNPAVED AREAS SHALL BE PLANTED WITH TURF GRASSES

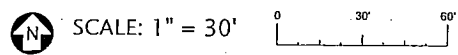
PAVING SCHEDULE

SYMBOL	AREAS AND PAVING MATERIAL
(Hatched pattern)	5" CONCRETE PAVING AT DOCK & PARKING AREA 4" CONCRETE PAVING AT SIDEWALKS
(Dotted pattern)	5" FULL DEPTH AGGREGATE SURFACING THICKNESS MAY BE INCREASED AT ENTRANCE

PARKING SUMMARY

PARKING REQUIREMENT	# EMPLOYEES	PARKING REQUIRED
MANUFACTURING/WAREHOUSE 1 SPACE PER 2 EMPLOYEES ON MAXIMUM WORKING SHIFT	10	5 SPACES
PARKING PROVIDED		
TOTAL PARKING SPACES	7	
STANDARD SPACES	6	
ADA HANDICAP SPACES	1	

THIS DOCUMENT IS FOR PLANNING PURPOSES ONLY - NOT FOR CONSTRUCTION



SITE PLAN for PINES INTERNATIONAL

GROB ENGINEERING SERVICES, LLC
 3210 Mesa Way, Suite A • Lawrence, Kansas 66049
 P.O. Box 502 • Lawrence, Kansas 66044
 Phone 785 856-1900 • Fax 785 856-1901

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SITE PLAN
PINES INTERNATIONAL
 1997 E. 1400 ROAD
 LAWRENCE, KANSAS

DESIGNED BY
 JDG
CHECKED BY
 JDG
ISSUE DATE
 December 31, 2009
REVISIONS
 February 1, 2010

SHEET
1
 1

DISCLAIMER NOTICE

The map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use rests solely on the requester. The City of Lawrence makes no warranties, express or implied, as to the use of the map. There are no implied warranties of merchantability or fitness for a particular purpose. The requester acknowledges and accepts the limitations of the map, including the fact that the map is dynamic and is in a constant state of maintenance, correction and update.



1997 E 400 Road location shown in black

Memorandum

City of Lawrence

Planning & Development Services

TO: Planning Commission

FROM: Mary Miller, Planning Staff

CC: Scott McCullough, Director of Planning and Development Services
Sheila Stogsdill, Assistant Planning Director

Date: For the January 27, 2010 Planning Commission Meeting

RE: Agenda Item No. 13; Revision to proposed language to TA-10-22-09; Revisions to Zoning Regulations in the Unincorporated Territory of Douglas County

TA-10-22-09, a text amendment to the Zoning Regulations which would establish a new business district permitting rural tourism, recreation, and conference uses, was initiated by the Board of County Commissioners on June 24, 2009. The Planning Commission considered draft language for TA-10-22-09 at their November 18, 2009 meeting.

The Commission indicated concern with the locational criteria included in the Section 12-309B-3.01 of the draft amendment, below, and noted that the criteria may be too restrictive for the wide variety of rural tourism and recreational uses which might be proposed in the unincorporated portion of the county.

Section 12-309B-3.01, TA-10-22-09
--

The following locational criteria apply to Rural Tourism uses:
--

- | |
|--|
| <ol style="list-style-type: none">1) Shall take direct access to an improved arterial roadway;2) Shall be served with a public water supply;3) Minimum distance from an existing Rural Business facility is 3 miles, or other appropriate distance as determined by the County Commission. |
|--|

As a result of the Planning Commission's discussion and direction, the draft language has been revised to remove the locational criteria from the Zoning Regulations. These criteria are located in *Horizon 2020* and will continue to be part of the compliance review of any rezoning request; however, they will not be included in the Zoning Regulations so more flexibility of uses and locations may be possible, if appropriate.

RECOMMENDATION

Staff recommends that the Planning Commission vote to forward the revised text amendment, TA-10-22-09, to the Board of County Commissioners with a recommendation for approval.

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
11/18/09

ITEM NO. 6: AMENDMENTS TO COUNTY ZONING REGULATIONS; NEW BUSINESS DISTRICT (MKM)

TA-10-22-09: Consider Text Amendment to the Zoning Regulations for the Unincorporated Territory of Douglas County to create a new Business District to support rural conference, recreational, and tourism sites. *Initiated by the Board of County Commissioners on 6/24/09.*

RECOMMENDATION: Staff recommends that the Planning Commission forward the proposed text amendment [TA-10-22-09] establishing the R-T Business District on to the Board of County Commissioners with a recommendation for approval.

ATTACHMENTS

- Attachment A -- Proposed language for Section 12-309B
- Attachment B – June 24, 2009 County Commission meeting minutes with the initiation of the text amendment.
- Attachment C—Joint Ordinance 8415/ Resolution 09-21 containing the language adopted with Comprehensive Plan Amendment [CPA-3-2-09] regarding Rural Tourism, Recreational and Conference Facilities
- Attachment D –Comparison of uses permitted in the B-2 and R-T Districts

Reason for Request: To implement recommendations in *Horizon 2020* regarding the need to create a zoning district to accommodate rural tourism uses.

RELEVANT GOLDEN FACTOR:

- Conformance with the Comprehensive Land use Plan is the relevant factor that applies to this request. Amending regulatory tools, one of which is this amendment to the County Zoning Regulations, is an implementation step in Chapter 17 of *Horizon 2020*, the City/County Comprehensive Land Use Plan.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

No public comment was received.

KEY POINTS

- A Comprehensive Plan Amendment [CPA-3-2-09] was adopted by the City and County Commissions to permit rural tourism, conference and recreational uses in the unincorporated areas of the county and to establish locational criteria for these uses.
- A rezoning to the B-2 District, conditioned to restrict the uses, was approved by the County Commission for a rural conference center/recreational facility.
- The County Commission indicated that a special zoning district should be created to accommodate these uses and initiated a text amendment to establish the district at their June 24, 2009 meeting.
- Currently, some recreation and tourism facilities may be permitted through the Conditional Use Permit.

OVERVIEW OF PROPOSED AMENDMENT

The City and County Commission adopted an amendment [CPA-3-2-09] to the Comprehensive Plan to permit rural tourism, conference, and recreational facilities in the unincorporated portions of the county in areas that are not specifically associated with the county lakes. This amendment also established locational criteria for these uses.

A corporate retreat was proposed in the rural portion of the county and the applicant indicated that they preferred a more permanent approval than is possible with a Conditional Use Permit. In addition, the Conditional Use Permit could not accommodate all the uses proposed with the project. The applicant proposed a rezoning to the B-2 District. Staff determined that the proposed use was appropriate in this location and recommended approval of the rezoning request as it complied with the comprehensive plan, as amended. The Commission voted at their June 24, 2009 meeting to table the rezoning request based on concerns that many of the uses permitted in the B-2 District would not be appropriate or compatible in that location. The Commission voted to initiate a text amendment to permit conditioned zoning so the uses could be limited, rather than acting on the rezoning request at that time. At this meeting, the County Commission also initiated a text amendment to create a special zoning district for rural tourism, recreation, and conference uses so that uses of this type which are not suited for approval through a Conditional Use Permit could be developed through rezoning to this district.

Rural Tourism uses may be appropriate in areas which have not been designated for 'commercial development' in *Horizon 2020*. These uses are a form of commercial use, but they will integrate with and benefit from the rural character of the area so they will preserve and protect the character of the area in a manner that typical commercial development may not.

Tourism uses in the unincorporated areas of the county come in a variety of types and sizes. Some are considered 'agri-tourism' and are permitted either by right or through approval of a Conditional Use Permit. Agri-tourism is accessory and subordinate to a farming operation and typically includes such uses as wineries, farm tours, bed and breakfasts, and country stores. These uses are typically less intense than the uses considered in this amendment as 'Rural Tourism' and are either permitted by right, or through approval of a Conditional Use Permit.

Rural Tourism includes such uses as corporate retreats, large recreational facilities, campgrounds and associated commercial uses associated with heritage sites. These uses are larger and more intensive than the agri-tourism uses and often have several accessory or ancillary uses. For instance, a corporate retreat may have cabins or other form of lodging, a restaurant, a bar, conference center with offices, barber or beauty shop, spa, swimming pool and other associated recreational activities. Given the more intensive nature and the larger scale of the 'Rural Tourism' use, it may not be appropriate for approval through a Conditional Use Permit. Therefore, a new Zoning District, the Rural Tourism Business District, is being established to provide a district for these limited types of uses.

Research into the concept of rural tourism included the following sources:

- USDA *National Institute on Food and Agriculture, Rural Tourism* (www.csrees.usda.pdf)
- USDA, Rural Information Center publication *Promoting Tourism in Rural America* (www.nal.usda.gov/ric/ricpubs/tourism.pdf)
- Clemson University study on Nature Based Tourism (www.strom.clemson.edu/publications/Potts/chpt1.pdf)

To assist in the determination of whether a proposed use is a 'rural tourism use', the following definition for Rural Tourism is included in the proposed language of Section 12-309(B):

"Rural tourism showcases the rural life and heritage at rural locations. Rural tourism can take many forms including nature, adventure, historical, cultural, and ecological (eco-) tourism. Rural tourism is typically experience oriented, is located predominantly in a natural environment in areas of low population, and is based on the preservation of the character of the area."

This definition clarifies the difference between 'rural' tourism and other tourism uses. The USDA publications indicate that rural tourism is an economic development tool which can contribute to the economy of the area while maintaining the rural character, when well planned.

Attachment D compares the uses proposed with this amendment to uses which are permitted in the B-2 (General Business) District. The B-2 District also includes uses permitted in the B-1 and R-1 District and these are included in the comparison. Light-industrial, office, and other uses were not included in the Rural Tourism District as they would not be a component of a rural tourism use. Uses, such as reception halls, social assembly, and exhibit halls were added as these could be a component of a Rural Tourism Use.

SUMMARY

The proposed text amendment defines rural tourism to assist in the determination of those uses which would be considered 'rural tourism'. The amendment lists the locational criteria as criteria for rezoning to this district as well as site design criteria which apply to development in this zoning district. The permitted uses were selected to include only those uses which would constitute or be a part of a rural tourism use.

12-309B 'R-T RURAL TOURISM BUSINESS DISTRICT REGULATIONS

12-309B-1. The regulations set forth in this section, or elsewhere in these Regulations, when referred to in this section, are the regulations in the 'R-T' Rural Tourism Business District. This district is designed to provide a suitable zoning district for tourism, recreation, and conference uses which are more intense and larger in scale than similar uses which may be permitted by right or with a Conditional Use Permit in the Agricultural Zoning District.

12-309B-2. Definition of Rural Tourism.

Rural tourism showcases the rural life and heritage at rural locations. Rural tourism can take many forms including nature, adventure, historical, cultural, and ecological (eco-) tourism. Rural tourism is typically experience oriented, is located predominantly in a natural environment in areas of low population, and is based on the preservation of the character of the area.

12-309B-3. The following criteria apply to Rural Tourism uses:

12-309B-3.01 Rural Tourism uses may exist alone or may be several uses combined. For instance, a corporate retreat may have meeting rooms, recreational facilities and a restaurant.

~~12-309B-3.02~~ ~~The following locational criteria apply to Rural Tourism uses:~~

- ~~a. Shall take direct access to an improved arterial roadway;~~
- ~~b. Shall be served with a public water supply;~~
- ~~c. Minimum distance from an existing Rural Business facility is 3 miles, or other appropriate distance as determined by the County Commission.~~

12-309B-3.02 The following site design criteria apply to Rural Tourism uses:

- a. Rural Tourism uses shall integrate with and/or benefit from the rural character of the area.
- b. Facilities shall be designed to preserve natural resources and integrate with the rural environment through appropriate land use, site design, buffering, or other methods.
- c. A site specific site plan shall be submitted with rezoning applications to demonstrate that the site design criteria noted above have been met. The following items are required on all site plans for rural tourism areas:
 - 1) A minimum 200 ft buffer area provided around the perimeter of the site.
 - 2) Uses permitted within this buffer area shall be limited to agriculture or other low-impact uses. These uses shall be noted on the site plan along with the party or entity responsible for maintenance of the buffer area.

12-309B-4 USE REGULATIONS

The following uses may be permitted within the R-T District only in those cases where they constitute or are a part of a rural tourism use as defined in Section 12-309B-2:

12-309B-4.01 Personal service uses including barber shops, beauty parlors, spas, photographic or artists' studios, and other personal service uses of a similar character.

12-309B-4.02 Restaurants, (excluding drive-in or drive-thru restaurants), and taverns.

12-309B-4.03 Retail stores, but there shall be no slaughtering of animals or poultry on the premises of any retail store. Retail stores are limited individually to a maximum area of 10,000 sq ft.

12-309B-4.04 Amusement places, skating rinks, and dance halls; all in a completely enclosed building, auditorium or theater.

12-309B-4.05 Indoor sports or recreation, including bowling alleys, billiard parlors, swimming pools, physical fitness centers, and other similar uses.

12-309B-4.06 Outdoor recreation, including parks, playgrounds, swimming pools, skating rinks, golf courses, driving ranges and other similar uses.

12-309B-4.07 Open air theatre (excluding drive-ins).

12-309B-4.08 Lodging which includes hotels, motels, bed and breakfasts, or campgrounds.

12-309B-4.09 Reception hall, conference center, or other places of social assembly.

12-309B-4.10 Agricultural uses.

12-309B-4.11 Commercial riding stable.

12-309B-4.12 Commercial greenhouse.

12-309B-4.13 Residential dwellings when associated with the tourism use as caretaker, manager, or as part of a living museum.

12-309B-4.14 Religious institutions such as a convent, church, temple or mosque.

12-309B-4.15 Libraries, cultural center, exhibit hall, museums, art galleries and other similar uses.

12-309B-4.16 Community buildings.

12-309B-4.17 Child care center

12-309B-4.18 Animal hospital or clinic when accessory to a tourism use; provided that such hospital or clinic and any treatment rooms, cages, pens or kennels be maintained within a completely enclosed building with soundproof walls and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls and located on a sewer (have it's own sewage management system). Accessory buildings and uses.

12-309B-4.19 Outdoor advertising signage, with the requirement than any outdoor advertising structure or sign in excess of 100 square feet in area shall be attached flat against a wall or building. See Section 12-306-2.18 for requirements pertaining to the height and location of signage.

12-309B-4.20 Temporary signs pertaining to the lease, hire, or sale of a building or premises on which such sign is located.

12-309B-4.21 Utility installations for sewer, water, gas, electric and telephone mains and incidental appurtenances.

12-309B-4.22 Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations and passenger stations.

12-309B-4.23 Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

12-309B-5. PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-316.

12-309B-6. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-317.

12-309B-7. HEIGHT, AREA AND BULK REGULATIONS

Height and area regulations shall be as set forth in the chart of Section 12-318.

12-309B-8. SUPPLEMENTARY USE REGULATIONS

Supplementary use regulations are contained in Section 12-319.

12-309B-9. SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS

Supplementary height, area and bulk regulations are contained in Section 12-321.

ITEM NO. 13 AMENDMENTS TO ZONING REGULATIONS; BUSINESS DISTRICT (MKM)

TA-10-22-09: Consider Text Amendment to the Zoning Regulations for the Unincorporated Territory of Douglas County to create a new Business District to support rural conference, recreational, and tourism sites. *Initiated by the Board of County Commissioners on 6/24/09 Deferred from 11/18/09 Planning Commission.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

Commissioner Hird inquired about temporary buildings being used during development.

Ms. Miller said that is a use that is currently permitted in business districts in the county and that is for temporary buildings during construction, such as a mobile home used as an office for leasing. If they were going to sell lots it would be platting something into individual ownership. Usually that is done with residential subdivisions when they want to sell each lot. She said in this case she thought the temporary building would be for the construction of whatever the rural tourism use is.

Commissioner Hird said he did not envision the rural tourism as being a situation where a developer would be selling lots. He was concerned about the language.

Ms. Miller said the language about selling lots can be removed.

Commissioner Harris said she would support that change. She asked if the county engineer had weighed in on taking out the language about the improved arterial roadway.

Ms. Miller said she believed that would be determined on an individual basis based of the type of rural tourism use and intensity. It may not always require access, such as a secluded camping area. The county engineer would weigh in on each one and his recommendation would be taken.

Commissioner Hird said he noticed wineries and winery tasting rooms were not on the permitted uses.

Ms. Miller said wineries and winery tasting rooms are exempt by the Kansas Agricultural Law.

Commissioner Hird inquired about retail sales in a winery.

Ms. Miller said there would be two options. If it was just the winery and tasting room it would be exempt. If a winery wanted to do retail sales and it is a small operation then they could apply for a Conditional Use Permit.

PUBLIC HEARING

Ms. Marci Francisco met with the League of Women Voters Land Use Committee and they agreed with Commissioner Hird's comment about the temporary buildings. She also said they discussed a hotel or bed and breakfast being different than a motel and expressed concern about the idea of a motel.

Commissioner Hird asked why they would object to motel but not hotel.

Ms. Francisco said motels seem to be individual lodging, hotels seem to have restaurants, meeting rooms and groups that might get together.

Ms. Miller said in the County Zoning Regulations hotel is described as taking access to the room from an interior hallway and a motel is described as access from an exterior door. She gave the example of The Woods, which has cabins with exterior doors. She said perhaps when the County Zoning Regulations are revised the distinction could be removed because it seems like a fine point.

COMMISSION DISCUSSION

Commissioner Blaser said that must be an old regulation because all motels have internal doorways and hallways.

Commissioner Carter said there are a lot of motels that have meeting space for gatherings. He also gave the example of a motel accessory use for a fishing farm or hunting retreat.

Commissioner Hird recently went to the Kansas Grape Growers and Wine Makers meeting in Emporia and it was in a motel and the rooms had outside access but they also had meeting space and other facilities.

Commissioner Harris suggested language 'lodging such as bed and breakfasts, camp grounds or other lodging that includes meeting or gathering spaces for group events.'

Mr. McCullough said staff would prefer to use language already in the Code.

Commissioner Harris said we may get something we don't want if we strictly stay with the language.

Mr. McCullough staff would prefer to be more flexible with it. He gave the example of a small motel without a lot of gathering spaces would provide lodging for a family who would then explore whatever agritourism situation there is so there may not be a need for gathering spaces.

Commissioner Harris wondered how they could craft it so they could limit the things they don't want but encourage what they do want.

Mr. McCullough said it might help to define the harm in motels.

Commissioner Carter said it's not that they don't want motels. He said he could see a motel sprouting up with small rooms for a need if it's there and then add meeting space as needed.

Commissioner Singleton felt the distinction between hotels and motels is pretty antiquated. She said hotels are historically for people to go and gather and motels were created when cars became popular so people could stop and go in from the exterior. She felt that both hotels and motels could have gathering rooms. She did not think it made any difference and preferred leaving the language alone.

Commissioner Hird gave the example of an archery range where attendees stay in cabins. He said he would not be opposed to a motel if it is connected to a specific use and connected to some sort of rural tourism.

Ms. Miller said these uses are permitted only where they constitute or are part of a rural tourism. For instance they may be the rural tourism use in and of themselves or they may be a part of it.

Commissioner Rasmussen gave the example of bird watching with cabins in the woods and spotting areas set up around it. He said it would meet the definition of motel but that it would be associated with a use.

ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Harris, to approve the revised text amendment, TA-10-22-09, with the following strikethrough edit to section 12-309B-4.01, and forward to the Board of County Commissioners with a recommendation for approval,

12-309B-4.01 Temporary buildings, the uses of which are incidental to construction operations ~~or sale of lots during development~~ being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

Unanimously approved 8-0. Student Commissioner Shelton voted in favor.