

# BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

## *Amended Agenda*

### WEDNESDAY, JUNE 23, 2010

6:35 p.m.

#### CONSENT AGENDA

- (1)(a) Consider approval of Commission Orders;
- (b) Consider authorization for the Public Works Director to approve purchase of a precast concrete culvert from Oldcastle Precast at a cost of \$69,350.00 for installation at 00.78N-05.50E (Keith Browning); and
- (c) Consideration of a Resolution to reallocate to the City of Lawrence \$11.7 million in Recovery Zone Bonds previously allocated to Douglas County pursuant to American Recovery and Reinvestment Act of 2009 (Roger Zalneraitis)

#### REGULAR AGENDA

- (2) Discussion of the letter on behalf of the advocates for "Outside for a Better Inside"(John McGrew)
- (3) Consider approving resolution establishing a 45-mph speed limit on Route 1061 from N 300 Road to N 600 Road (Keith Browning)
- (4) Consider approval of Conditional Use Permit **CUP-3-2-10** for accessory uses such as outdoor weddings, picnicking, and outdoor music, with the Bluejacket Crossing Winery, approximately 20 acres, located at 1969 N 1250 Rd, Eudora. Submitted by Kandaya Selvan, property owner of record. (PC Item 8; approved 9-0 on 5/26/10) (Mary Miller is the Planner)
- (5) Other Business
  - (a) Consider approval of Accounts Payable (if necessary)
  - (b) Appointments
  - (c) Miscellaneous
  - (d) Public Comment
- (6) Adjourn

### WEDNESDAY, JUNE 30, 2010

4:00 p.m. – Proclamation recognizing the “20<sup>th</sup> Anniversary of the American Disabilities Act” (Bob Mikesic)

6:35 p.m.

-Receive US-56 Corridor Management Plan from KDOT (Keith Browning)

-Receive and consider approval of Implementation Agreement concerning management of US-56 corridor (Keith Browning)

### WEDNESDAY, JULY 7, 2010

6:35 p.m.

-Consider approval of Text Amendments (TA-4-7-10) to the Zoning Regulations, Chapter 12, Article 28 of the Code of the County of Douglas, Kansas to reference 2010 effective dates for new Floodplain Overlay District Maps and related regulation changes. (Keith Dabney/Amy Brown)

### MONDAY, JULY 12, 2010

8:00 a.m. – 12:00 p.m. – County Commission Budget Work Session

### TUESDAY, JULY 13, 2010

8:00 a.m. – 12:00 p.m. – County Commission Budget Work Session

### WEDNESDAY, JULY 14, 2010

8:00 a.m. – 12:00 p.m. – County Commission Budget Work Session

4:00 p.m. – Commission Meeting

**MONDAY, JULY 19, 2010**

8:00 a.m. – 12:00 p.m. – County Commission Budget Work Session

**TUESDAY, JULY 20, 2010**

8:00 a.m. – 12:00 p.m. – County Commission Budget Work Session

**WEDNESDAY, JULY 21, 2010**

8:00 a.m. – 12:00 p.m. – County Commission Budget Work Session

4:00 p.m. – Commission Meeting

**WEDNESDAY, JULY 28, 2010**

-FY2011 Financial Approval for Community Corrections.

**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 : June 17, 2010

Re : Consent Agenda authorization to purchase precast concrete culvert  
Structure No. 00.78N-05.50E

The referenced culvert is on Route 1029 (E 550 Road) approximately  $\frac{3}{4}$  mile north of the Franklin County line. The existing culvert is a 14'-span, concrete box structure with a roadway width (hub guard to hub guard) of 28 feet. Given the amount of fill over the structure, and a road travelway width of 24 feet, the side (or shoulder) slopes over this culvert are very steep. There is an approximate 11-foot difference in elevation between the roadway and the creek flowline, and there is no guardrail. This structure is one of six culvert replacements planned for Route 1029 between N 1 Road (Franklin County line) and N 200 Road.

At this location, we plan to construct a 16'-span x 10' high x 50' long, 3-sided precast concrete culvert. The new culvert will allow for a 12' clear zone between the edge of the roadway and the culvert's hub guard. This department's bridge crew will construct the culvert. Construction is planned for later this year.

Oldcastle Precast of Topeka submitted a price quote of \$69,350.00 for this culvert. The CIP includes \$100,000 to purchase a precast culvert for this location.

Action Required: Consent Agenda authorization for the Public Works Director to approve purchase of a 16' span x 10' high x 50' long precast concrete culvert from Oldcastle Precast at a cost of \$69,350.00 for installation at 00.78N-05.50E.

# Memorandum

## City of Lawrence

### City Manager's Office

TO: David L. Corliss, City Manager  
CC: Diane Stoddard, Assistant City Manager  
FROM: Roger Zalneraitis, Economic Development Coordinator/Planner  
DATE: June 16, 2010  
RE: Recovery Zone Facility Bond Reallocation Agreement

Recovery Zone Facility Bonds are tax exempt bonds that can be used for private investment. Because they are tax exempt, they carry a lower interest rate than traditional bond financing and thus are attractive investment instruments for private firms. Recovery Zone Bonds are essentially Industrial Revenue Bonds (IRBs)- the governing body that issues them is a conduit for issuing the bonds and the firm for whom the bonds are issued is responsible for all principle and interest payments.

As part of the American Recovery and Reinvestment Act of 2009, Douglas County received an allocation of \$11.7 million in Recovery Zone Facility Bonds. The County and City then received notification from Berry Plastics that they were interested in using these bonds for a distribution center that they wished to build in Lawrence. The County agreed to allocate these bonds to the City so that Berry could use them for the project. The City also agreed to issue the bonds for the Berry expansion project in [January of this year](#).

The County has been notified by the state of Kansas that the Recovery Zone Facility Bonds will revert to the State on July 1 unless they are allocated either to a project or to a City within the County. To retain these bonds for local use, the County would like to formally allocate the Facility Bonds to the City. In order to do this, a resolution needs to be agreed to by both the City and County stipulating that the City will be allocated the bonds for the purpose of using them toward the distribution center expansion of Berry Plastics.

The attached [Reallocation Agreement](#) is based on language used by both Wyandotte and Barton Counties to allocate their Recovery Zone Facility Bonds to sub-jurisdictions. Approving this agreement simply reaffirms the decisions made by the City and County in late 2009 and early 2010 to make the Facility Bonds available for Berry Plastic's expansion. If approved, the County will receive the Reallocation Agreement immediately and consider it for approval as well.

#### **Action Requested**

Approve the Reallocation Agreement and forward to the County for their consideration.

## REALLOCATION AGREEMENT

**THIS REALLOCATION AGREEMENT** (this “Agreement”) is made and entered into as of this \_\_\_ day of June, 2010, by and between Douglas County, Kansas (the “County”) and the City of Lawrence, Kansas (the “City”).

### RECITALS

**WHEREAS**, the County has received an allocation of the national Recovery Zone Facilities Bonds limitation in the amount of \$11,700,000 (the “Allocation”) pursuant to the American Recovery and Reinvestment Tax Act of 2009, codified in Title 26 of the United States Code and IRS Notice 2009-50, 2009-26 I.R.B. 1118 and the matters set forth and referenced therein issued on June 12, 2009 (the “Act”); and

**WHEREAS**, the County has not applied the Allocation to any other financing nor has the County reallocated the Allocation to any other unit of local government; and

**WHEREAS**, the County filed a Recovery Zone Bond Notice of Intent to Issue with respect to the Allocation on or before September 15, 2009 with the Kansas Department of Commerce Development; and

**WHEREAS**, in accordance with the Act, the County may reallocate to another unit of local government all or any part of the Allocation in any reasonable manner as the County shall determine; and

**WHEREAS**, the City has heretofore authorized the issuance of its Tax-Exempt Recovery Zone Facility Industrial Revenue Bonds for the purpose of financing the cost of acquiring, constructing, renovating, expanding, equipping and furnishing a distribution facility for the benefit of Berry Plastics (the “Project”); and

**WHEREAS**, the City has requested the County, and the County desires, to reallocate to the City the authority to issue Recovery Zone Facility Bonds in the principal amount not to exceed \$11,700,000 for the Project;

**NOW, THEREFORE, IN CONSIDERATION** of the foregoing recitals, mutual agreements, covenants and promises contained in this Agreement, and other good and valuable consideration, the receipt, sufficiency and validity of which is hereby acknowledged, the parties agree as follows:

1. **Reallocation of the Allocation.** The County hereby reallocates to the City, and the City agrees to accept and use, the Allocation for the Project in accordance with all applicable provisions of the Act.

2. **Execution and Counterparts.** This Agreement may be executed in counterpart copies and shall become binding when all parties hereto have signed the signature page or a counterpart copy and such execute counterparts have been attached to this Agreement.

3. **Governing Law.** This Agreement and all matters relating to this Agreement shall be governed by the laws of the State of Kansas.

**IN WITNESS WHEREOF**, the County and the City have executed this Agreement as of the date first above written.

**DOUGLAS COUNTY, KANSAS**

By: \_\_\_\_\_  
Nancy Thellman  
Commission Chair

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Douglas County Clerk

**CITY OF LAWRENCE, KANSAS**

By: \_\_\_\_\_  
Mike Amyx  
Mayor

(SEAL)

ATTEST:

By: \_\_\_\_\_  
City Clerk



June 15, 2010

Mike Amyx, Mayor  
City of Lawrence  
6 East Sixth Street  
P.O. Box 708  
Lawrence, KS 66044-2268

Scott Morgan, President, School Board  
Lawrence School District  
110 McDonald Drive  
Lawrence, KS 66044-1063

Nancy Thellman, Chairperson  
Douglas County, Kansas  
1100 Massachusetts Street  
Lawrence, KS 66044

Re: Outside for a Better Inside/City and School District Land

Dear Community Leaders:

On March 30, 2010, I wrote to you on behalf of Outside for a Better Inside whose goal is to help reconnect children with nature and the outdoors. We believe that children who play creatively outside will be happier, healthier and smarter citizens.

In that letter we indicated our interest in assisting in a community study of the land highlighted on the attached location map. Our big dream would be that this land becomes a "state of the art" wellness campus for our community. We were not then and are not now asking for any funds from the City, County or School District.

We are requesting that you place us on your individual agendas at the earliest convenient date. We would like to pursue with the community the establishment of a pond and walking trail on the property at no cost to the taxpayer. We believe that there are federal government programs and foundations that will have interest in assisting our community for these types of uses.

Please share a copy of this letter with your administrators and I will call each of them to schedule a time to discuss this idea further. Thanks for your consideration.

Sincerely,

John McGrew  
On behalf of Advocates of "Outside for a Better Inside"

## MEMORANDUM

To : Board of County Commissioners

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

Date : June 17, 2010

Re : Consider approval of resolution establishing a 45-mph speed limit on Route 1061 (E 2200 Road) from N 300 Road to N 600 Road

You may recall a petition submitted to Douglas County in February 2010 requesting a reduced speed limit on a portion of Route 1061 (see attached). Tricia Crowe submitted the petition, which was signed by 21 property owners living in the vicinity of Route 1061 between N 400 Road and N 500 Road. The petition requested reducing the current 55-mph speed limit to 45 mph or 40 mph for this portion of Route 1061. This department was directed to study this portion of Route 1061 and make recommendations on an appropriate speed limit.

We measured prevailing speeds in this portion of Route 1061 in March 2010. Measured 85<sup>th</sup>-percentile speeds were 59 mph at the two locations measured. We also analyzed the road segment's geometry, access characteristics, and accident history (see attached memo from Terese Gorman, P.E., Engineering Division Manager).

Although 85<sup>th</sup>-percentile speeds seem to indicate the existing 55-mph speed limit is appropriate, the road's vertical alignment is less than appropriate for 55 mph. Given available stopping sight distance on Route 1061 between N 300 Road and N 600 Road, 45 mph is a more appropriate speed limit. In addition, between N 400 Road and N 500 Road, there are numerous entrances and stopping sight distance is further restricted in several areas. In this one-mile segment, 40 mph is a more appropriate speed.

This department recommends BOCC approval of the attached resolution establishing a 45-mph speed limit on Route 1061 from N 300 Road to N 600 Road. In addition, we recommend installing LIMITED SIGHT DISTANCE warning signs with 40 MPH advisory plates for the one-mile segment between N 400 Road and N 500 Road.

Action Required: Consider approval of resolution establishing a 45-mph speed limit on Route 1061 (E 2200 Road) from N 300 Road to N 600 Road.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ESTABLISHING A 45 MILES PER HOUR  
MAXIMUM SPEED LIMIT ON A PORTION OF COUNTY ROUTE 1061  
(E 2200 ROAD) IN PALMYRA TOWNSHIP

WHEREAS, pursuant to K.S.A. 8-1560, local authorities may determine and declare a reasonable and safe maximum speed limit for roads under their jurisdiction; and

WHEREAS, on the basis of an engineering and traffic investigation performed by the Douglas County Public Works Department the maximum speed limit for the following described county road or highway, to-wit:

a portion of E 2200 Road, also known as County Route 1061, beginning at the intersection of N 300 Road, thence north along the centerline of E 2200 Road a distance of approximately three miles to the intersection of N 600 Road, and terminating at said point;

as set by K.S.A. 8-1558, is greater than is reasonable or safe under the conditions found to exist on the above described road under the jurisdiction of this Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS that a speed limit of 45 miles per hour is hereby determined and declared to be a reasonable and safe speed limit for the above described road.

This speed limit shall become effective when appropriate signs giving notice thereof are erected upon the road above described.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY, KANSAS

\_\_\_\_\_  
Nancy Thellman, Chair

ATTEST:

\_\_\_\_\_  
Mike Gaughan, Member

\_\_\_\_\_  
Jamie Shew, County Clerk

\_\_\_\_\_  
Jim Flory, Member

MEMO TO: Keith Browning

FROM: Terese Gorman

DATE: May 10, 2010

SUBJECT: Speed Limit on Route 1061 between N 300 Rd and N 600 Rd

We received a request from Tricia Crowe on February 25, 2010 to lower the speed limit on E 2200 Rd between N 400 Rd and N 500 Rd from 55 mph to 40 mph. We have collected traffic counts along Route 1061 in this area. On March 9 and 10 at approximately ¼ mile north of N 400 Rd, there were 1443 vehicles per day with an 85<sup>th</sup> percentile speed of 59 mph. On these same days, approximately ½ mile north of N 500 Rd, there were 1447 vehicles per day with an 85<sup>th</sup> percentile speed of 59 mph.

We analyzed the vertical alignment of this road using the original construction plans for Route 1061 between N 300 Rd and N 600 Rd. This section of Route 1061 has a rolling terrain with many vertical curves. A number of these crest and sag vertical curves have a safe speed of less than 55 mph based on the appropriate stopping sight distance. Generally the crest vertical curves accommodate at least a 45 mph speed except between N 400 Rd and N 500 Rd. This one mile section of Route 1061 has numerous vertical curves with numerous entrances to property and many of these crest vertical curves provide adequate stopping sight distance for only a 40 mph speed limit.

We also looked at the accident history from 2003 through the end of 2009. Between N 300 Rd and N 400 Rd, there were 5 accidents; 2 of them involved deer, 1 involved a cow, and 2 one car accidents with one of them including an injury. Between N 400 Rd and N 500 Rd, there were 12 accidents; 5 involved deer, 3 one car accidents, 1 accident involving a pedestrian, and 3 two car accidents with injuries. Between N 500 Rd and N 600 Rd, there were 7 accidents; 2 involved deer, 4 were one car accidents, and 1 involved two vehicles at the intersection of N 600 Rd..

Although the 85<sup>th</sup> percentile speed indicates that 55 mph is an appropriate speed limit, the vertical geometry indicates that the stopping sight distance generally accommodates 45 mph. However between N 400 Rd and N 500 Rd, the vertical alignment, number of entrances, and accident history indicate that a 40 mph speed limit would be desirable. Therefore, it would be appropriate to change the speed limit between N 300 Rd and N 600 Rd to 45 mph and install a Limited Sight Distance Sign - Next One Mile with an advisory speed of 40 mph placed just north of N 400 Rd and just south of N 500 Rd

**PW - Kelly, Michael**

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**From:** AD - Crabtree, Robin  
**Sent:** Thursday, February 25, 2010 10:40 AM  
**To:** County Commissioner - Thellman, Nancy; County Commissioner - Flory, James; County Commissioner - Gaughan, Mike  
**Cc:** PW - Browning, Keith; PW - Gorman, Terese; PW - Kelly, Michael; AD - Weinaug, Craig  
**Subject:** Petition for reduction of speed limit

**Commissioners:**

A petition was dropped off today by Trish Crowe asking that the speed limit on 2200 Rd (1061) between N400 and N500 Road be reduced. There have been a number of accidents and there is a visual problem in addition to speeders. Please review. Keith Browning is out until Friday. I am waiting to hear on how to proceed with the information.

Thanks,  
Robin

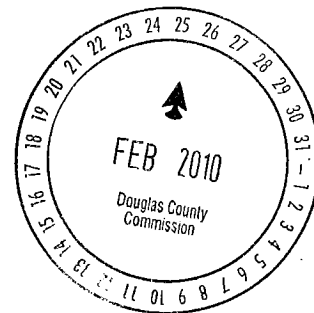
*Copy K/B*



Board of County Commissioners

1100 Massachusetts

Lawrence, Kansas 66044



**Petition to decrease speed limit in section of 2200 Rd.**

Dear Board of County Commissioners,

I am writing this letter to ask the County to decrease the speed limit within a section of 2200 Road. This section sits North of N. 400 Rd. to North of N. 500 Rd. past the bridge. In both directions North and South there is a section of several quick hills with active resident's driveways. The concern is safety for residents and travelers in this area. Resident's driveways access to 2200 Road. Dependent on the speed of the oncoming traffic there are times when vehicles are hidden and not able to stop quickly enough.

**Children and School Buses.** There are MANY young and school aged children who live in this stretch and many who utilize the school bus system. On multiple occasions I have personally seen people speed through here with just a small fraction of them actually being pulled over for speeding. Just a few weeks ago I was waiting for the school bus. Minutes before the bus arrived the officer yet again pulled over another speeder in this stretch. Some children cross this road to get on the bus while others are dropped off on the driveway access side of the road. A few years ago a car did collide into the back of the bus in this section. It is just a matter of time before a driver and a stopped bus dropping off a child collide again. This puts at risk the children entering and exiting the bus. It also puts at risk the children still on the bus at risk. Unaware drivers who pop over a hill to be surprised by a stopped bus are also at risk. This road is busier during the morning and evening rush. Unfortunately, this is the same time that many children are riding the bus.

**Entering and Exiting Driveways.** Another recent example is one that took place this fall 2009. A neighbor was turning onto N. 500 Rd and over the hill came another car. This car quickly popped over the hill and was not able to stop on time which led to a multiple car accident. All of these cars ran into the back end of the other cars when coming over the hill. Fortunately, only minor injuries occurred. It was a bad accident that ended up shutting down the one side of the road for many hours. It could have been much worse. If there was oncoming traffic or individuals in the back of these vehicles the situation could have been far different. I know I have personally popped over a hill on several occasions going roughly 45 and have had to slam

on the breaks as a car was exiting their driveway. Neighbors are having close calls with neighbors – thus signaling a major problem in this area.

**Increase in Semis.** A potential concern is that of a possible increase in semi traffic from the proposed BNSF Intermodal. Currently, just in the last year alone we have seen a significant increase in truck traffic – many of which easily catch up to me when I am driving 45 through this stretch. This road does not have a shoulder capable of protecting in order to avoid a possible collision.

**Hill Jumpers.** “Hill Jumpers” do occasionally use this area at excessively high speeds.

**Bicyclists.** Another issue is that of the high amount of bicycle riders who utilize this road. Many neighbors in this section have had numerous surprises when they have come over a hill to find a bicyclist or group of bicyclists. This section is not safe for bicyclists especially at the speeds in which many travelers use in this section. Again, it could be tragic. No vehicle wants to hit a bicyclist – lowering the speed would protect both parties in this situation.

**Retrieving Mail.** Other issues of safety include home owners getting their mail and having to cross the road in these hills. Several years ago this led to a near tragic accident where a 12 year old boy had to be life-flown to Children’s Mercy. Many weeks of hospital stay, months and years of operations, he is fortunately OK. However, he does live with affects from the accident. The thing about this is the driver who hit him was not even aware of what he hit as he popped over the hill and it happened quickly. Most drivers who go through this stretch aren’t aware of the real dangers lurking just over the hill. A lowered speed limit would make people aware.

**Daily Workers.** The Sanitation workers, UPS, Postal Service workers, and so forth are at risk every day as they are at complete stops in this stretch while doing their job. Many have commented on having close calls with these workers as well – at no ones fault. Often we can see skid marks randomly through out this area – this speaks for itself.

There have been several other accidents and incidents with in this stretch. Everyone who signed this petition had several stories to tell. The overwhelming response to this request to lower the speed limit has been significant. This is a daily worry for those of us that live in this small area. I think I should also mention that I did have some who also commented that there is another dangerous hill located north of the bridges between N. 500 and N. 600 Rd. Since I did not bring this petition to anyone other than those in my “neighborhood” I was not able to get a good feel for that hill. However, several did mention this hill and it may need to be looked at as well.

Whether it is a bus or resident leaving or entering their driveway a decrease in speed should be addressed. A decrease of 15 mph to 40 mph would be significant to those who comply with the speed limit thus increasing the safety of the residents and travelers utilizing this stretch of 2200 Road. A 10 mph decrease would be suitable in some locations - while 40 seems to be more appropriate for the majority of the stretch through the hills. Many drive 5 over the speed limit. Thus 40 mph would help ensure drivers are being safe and slowing down.

Thank you for taking the time to review this letter and petitions. We all truly hope our voices will be heard in this situation. We know this stretch better than anyone as we live and drive it daily. It is dangerous. MANY have had accidents and there are daily "close calls". This decrease would help in the safety of the residents in this stretch. It would also protect the daily drivers utilizing this stretch. Enclosed are petition forms signed by neighbors in this small area in support of a decrease of the speed limit. My neighbors and I are more than willing to help in any way possible as well – it is worth all of our safety and daily peace of mind. I look forward to hearing back at your earliest convenience as to what the next step needed is. Please feel free to contact me with any questions. I can be reached at 785-883-4146 or [trishcrowe@hotmail.com](mailto:trishcrowe@hotmail.com).

We thank you for taking the time to listen. We all appreciate it.

Sincerely,

  
Tricia Crowe

2203 N. 500 Rd,

Eudora, Kansas, 66025

Enclosed - Petitions from those who live in this small section. Though most comments and close calls were directly spoken to me – a few people did take some time to make comments on the back of the petition or on paper. Thanks!



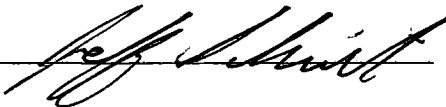
Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Donna (Deanna) Boyd

Address: 490 E 2200 Rd. Eudora KS 66025

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: JEFF SCHMIDT 

Address: 476 E 2200 TH Rd EUDORA, KS 66025

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Stacy Schmidt Stacy Schmitt

Address: 476 E 2200th Rd Eudora KS 66025

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Pete Neuhaus

Address: 309 PERRY LAWRENCE KS 66044  
↑  
Mail Delivery man

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Jillia Crowe

Address: 2203 N. 500 Rd

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Larry Sturms

Address: 452 E 2200 Rd Eudora KS 66025

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Deanna D. Merrifield

Address: 448 East 2200 Road, Eudora, Ko. 66025

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Paul Bam

Address: 2219 N 500 Rd

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Katherine E. Cook

Address: 442 E. 2200 Rd.

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Alan Cook

Address: 2203 N. 500th

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Laurie Reeves

Address: 432 E. 2200 Rd. Cedarvale, KS 66025

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: David Cook

Address: 442 E 2200 Rd.

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Ken Damm

Address: 2219 N 500 Rd

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Justin Cook

Address: 442 E 2200 Rd.

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

my brother was hit by a car at this address due to the excessive speed.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Steve Cook

Address: 442 E 2200 Rd.

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Michele Frantz

Address: 490 E. 2200 Rd. Eudora, KS 66025

Please feel free to provide (on the back) any other remarks or thoughts to this petition.



Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Betty Rader

Address: 453 E. 2200 Rd. Eudora, KS. 66025

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

(personal account of Accidents) comment on Back →

I had a bad accident several years ago pulling into our drive-way. The neighbor across the road, also had an accident, at the same location.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Nadene Sale

Address: 441 E 2200 Rd Eudora Ks 66025

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Comment on Back

I've know 2 young boys at different times to get hit and one David Cook taken to Hospital with injured leg. No loss of life, thankfully. Both in front of my driveway. A slower speed would help.  
Nadene Sale

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Mitchell Reeves

Address: 432 E. 2200 Rd, Eudora, KS

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

comment on Back →

Tricia,  
I witnessed a car skid under the back of the school bus a couple years ago. I called the Sheriff's office. The officer I spoke with changed his work hours to help stop this guy from speeding through this corridor. Good luck with the petition, great job. Sincerely,  
Mitch Reeves

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Gloria Sturm

Address: 452 E. 2200 Rd Eudora Ks 66025

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

Comment on Back

As a long time resident whose property is along this road. I support any action that would slow traffic down. This road "1061" has several blind spots and absolutely no where to go should you need to get out of the way of speeding traffic. There are no shoulders and there are some rather deep ditches. We have, on a regular basis, Bicycle riders, slow moving machinery + School Buses all of which make this a road that can be downright dangerous when traffic zigzags past at well over the posted limit.

Petition form to sign in support of having the speed limit decreased to 45mph or 40mph on a stretch between N. 500 and N. 400 Rd. located on Douglas County 2200Rd.

Name: Rodney B. Knight

Address: 470 E 2200 Rd

Please feel free to provide (on the back) any other remarks or thoughts to this petition.

I truly commend you for this and trust the county will enact a slower speed limit thru this corridor!

Just this morning I almost got hit and pulled out to go south - as I live right in the dip! Thanks again!

Sincerely  
Rodney Knight

Board of County Commissioners  
1100 Massachusetts  
Lawrence, Kansas 66044

Dear Board of County Commissioners,

I have read Tricia Crowe's Petition to decrease the speed limit in the section of 2200 Road from N. 400 Rd to north of N. 500 Rd and agree with it wholeheartedly. While I don't want to reiterate all of what she has already said, I would like to point out an additional issue that I think also warrants a lower speed limit. The US Postal service requires that all mail boxes be placed on the west side of 2200 Road. This means that all residents living on the east side of the road must cross this road on a daily basis. Again, with the excessive speeds and blind hills this is a very daunting and dangerous task that has already resulted in tragedy when a child was struck by a car while getting the mail several years ago along this very stretch of road. It is only a matter of time before something like this happens again. Also, the lack of shoulders on this road means that residents must actually stand in the road while getting their mail.

I also worry about all of the bicyclists using this road. It is a beautiful road for a bike ride, and I love to see everyone taking advantage of it, but I myself would be scared to death to ride my bike on this road with the fast speed limit, limited visibility, and lack of shoulders. That has just got to be an accident waiting to happen.

Finally, perhaps lowering the speed would help to make the road less attractive to large trucks looking for a short cut to K10. I'm sure the city of Eudora does not appreciate the large trucks coming down 2200 Road as it passes right by their junior high and high schools. In fact, in town the road's speed limit is just 30 mph. In addition, perhaps putting a stop sign on 2200 Road at N. 700 Rd. (another blind spot) might further reduce the road's attractiveness to large trucks as well as making this intersection safer.

Thank you for your time and consideration on this matter.

Sincerely,



Michele Frantz  
490 E. 2200 Road  
Eudora, KS 66025

**PLANNING COMMISSION REPORT**  
**Regular Agenda**

PC Staff Report  
05/26/2010

**ITEM NO.8 : CONDITIONAL USE PERMIT FOR BLUEJACKET CROSSING WINERY; 1969 N 1250 RD (MKM)**

**CUP-3-2-10:** Consider a Conditional Use Permit for accessory uses such as outdoor weddings, picnicking, and live outdoor music with the Bluejacket Crossing Winery, approximately 20 acres, located at 1969 N 1250 Rd, Eudora. Submitted by Kandaya Selvan, property owner of record. *A joint Planning Commission meeting will be held with the Eudora Planning Commission.*

**STAFF RECOMMENDATION:** Staff recommends approval of a Conditional Use Permit for picnicking, live music events and occasional outdoor events subject to the following conditions:

- 1) The provision of a revised site plan with the following changes:
  - a) Addition of a note which states "The permit will be administratively reviewed by the County in 5 years (Calendar Year 2015)".
  - b) Addition of a note which states "The permit will expire at the end of 10 years (July 1, 2020), unless an application for renewal is approved by the local governing body."
  - c) Addition of a note which states "Events will typically occur on Saturdays, although Friday and Sunday events may be permitted. Up to 8 live music events may occur per calendar year. These events will conclude by 8:30 PM and the clean-up will be completed by 10 PM. Maximum attendance at live music events is 150."
  - d) Addition of a note which states "The parking area will be surfaced with gravel and the ADA accessible parking spaces will be paved. The ADA accessible parking space will be constructed to meet ADAAG (American with Disabilities Act Accessibility Guidelines) requirements, including signage."
  - e) The second access shall be located per the County Engineer's approval.
  - f) Landscaping shall be added to include evergreen trees and shrubs along west property to screen activity area from residence to the west.
  - g) The parking space dimensions shall be noted on the plan.
  - h) The capacity of the overflow parking area shall be noted on the plan.
  - i) A parking summary which notes the number of parking spaces required per Code, and the amount of parking provided shall be included on the site plan.
  - j) Both the event area being proposed at this time and the future event area shall be shown on one plan along with a proposed phasing schedule.
  - k) Addition of a note on the plan which states: "A revised site plan showing the details of the future event area and any associated parking would return for Staff approval prior to construction of the future event area."
  - l) Additional measures being used to buffer the property to the west shall be noted on the plan (orientation of music, use of farm vehicles, etc)
  - m) Note added to the plan which states that chemical toilets may be used for the first year, at a rate of 1 toilet per 100 attendees. Any use of chemical toilets past the first year would require approval of the County Health Official.
- 2) Permits secured from the Douglas County Health Department for new septic system, if applicable.
- 3) Approval of an entrance permit for the new driveway from Eudora Township.
- 4) Chemical toilets may be used for the first year of the CUP to allow the applicant to determine if

the events are successful.  
5) When the plans are combined, Note No. 1 regarding RV parking spaces should be removed.

**Reason for Request:** *“To further enhance agritourism in Douglas county at our vineyard and winery. Provide occasional. Music primarily on weekends at the exterior of our tasting room. To allow for picnic tables at the exterior of our tasting room.”*

**KEY POINTS**

- The applicant had originally requested self-contained RV parking with this Conditional Use Permit, but has withdrawn that request. RV parking is not being proposed with this CUP.
- Proposed uses are permitted in the A District only with approval of a Conditional Use Permit.
- The new uses being proposed are agri-tourism uses as defined by the Kansas Dept of Commerce (see attachment).
- A winery tasting room is an allowed agricultural use (K.S.A. 41-308a) which does not require a Conditional Use Permit. (see attachment)

**ATTACHMENTS**

A -- Kansas Statute K.S.A. 41-308a

**GOLDEN FACTORS TO CONSIDER**

**ZONING AND USES OF PROPERTY NEARBY**

- The subject property is located in the northeast quarter of Section 13 in Township 13, Range 20 East of Douglas County (1969 N 1250 Rd). Agricultural zoning and related land uses surround subject property.

**CHARACTER OF THE AREA**

The subject property is approximately 20 acres in size, and slopes gently from the east to the west. The property is developed with a residence and several outbuildings. The remainder of the property consists primarily of open space and vineyards. The character of the surrounding area is primarily agricultural with scattered rural residences.

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

- The current zoning designation for the property is A (Agricultural) District, a district in which many different agriculture-related uses are allowed. Recreation facilities are allowed in the A District with approval of a Conditional Use Permit.
- The proposed request will not revise the underlying zoning district.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- Approval by Board of County Commissioners

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- Charlene Neaderhiser, nearby property owner, called about the music being proposed and expressed the opinion that there be limits on the loudness so it would not detract from the general quietness of the area.



**GENERAL INFORMATION**

Current Zoning and Land Use: A (Agricultural); developed property with residence, outbuildings, vineyards and a winery with tasting room.

Surrounding Zoning and Land Use: A (County Agricultural District) in all directions. Agricultural uses, rural residences, and wooded areas.

V-C (Valley Channel) District surrounding the general area to the north, east and west. Wooded areas and agricultural uses

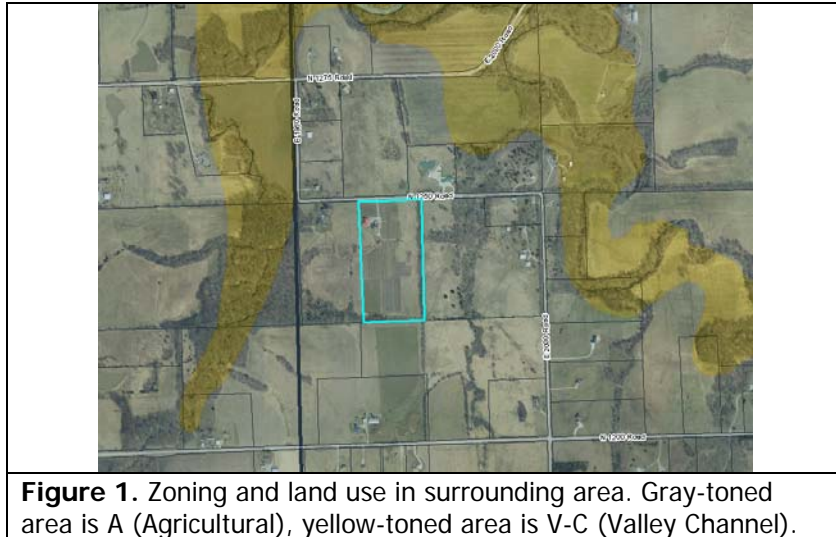
<b>Site Summary:</b>	
Subject Property:	20 acres
Proposed Buildings:	No new buildings are being proposed. New winery and tasting room are shown in southeast corner; however, these uses are not included in the CUP request.
Off Street Parking Required:	
Off Street Parking Provided:	[1 space per 5 attendees, Section 12-316-1 requirement for <i>place of assembly</i> 21 parking spaces and 1 ADA accessible parking space provided. Overflow parking area provided with capacity of 40 spaces

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

**Staff Finding** – The property is located on the south side of N. 1250 Road approximately 1 mile south of K-10 Highway and is zoned for agricultural uses. It is developed with a rural residence, multiple accessory buildings, a producing vineyard and a winery which includes a wine tasting room. The surrounding area is zoned for agricultural use with portions zoned VC (Valley Channel) further to the north, east and west. (Figure 1) Agriculture, open space, and rural residences are the principal land uses in the area.

**II. CHARACTER OF THE AREA**

**Staff Finding** – This is an agricultural area which includes pasture land, rural residences and densely wooded areas.



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

Applicant's response:

*"Good. It compliments the agritourism efforts by the state and county while providing activities that extend the visit of our guests to the winery."*

**Staff Finding** – A Conditional Use Permit (CUP) does not change the base, underlying zoning; therefore, the suitability of the property for agricultural uses will not be altered. The 20 acre property is developed with a single-family home and multiple accessory buildings. Agricultural uses on the property consist of a producing vineyard, a winery and a wine tasting room. The applicant is involved with the Committee for Agritourism in Douglas County and feels that the addition of live music and an area for picnicking would enhance the wine tasting activities. The property has been used as a vineyard since 2002 and State Statutes [KS 41-308a] (attached) allow wine tasting rooms as agriculturally exempt uses. The request is to allow the following accessory recreational uses in conjunction with the wine tasting room: picnicking, live music and an outdoor volleyball court. Outdoor events, such as weddings, are also being requested with this CUP. No structures would be built for these events. The State of Kansas definition of 'agritourism', per the Kansas Chamber of Commerce web site is *"Agritourism is when the public visits a working farm, ranch, winery or any agricultural operation or active agricultural heritage site for enjoyment, outdoor recreation, activities, education, shopping, dining or lodging. These visits generate income for the operators, which can help sustain the rural way of life and help keep more producers on our Kansas lands."* The uses which would be accessory to the winery and the proposed outdoor events fall within this definition. The property is suitable for the uses to which it has been restricted and for the agritourism uses being proposed.

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

**Staff Finding** – The subject property is developed with a single-family house and a winery. The County Zoning was adopted in 1966, this property has been zoned "A (Agricultural)" since that adoption.

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

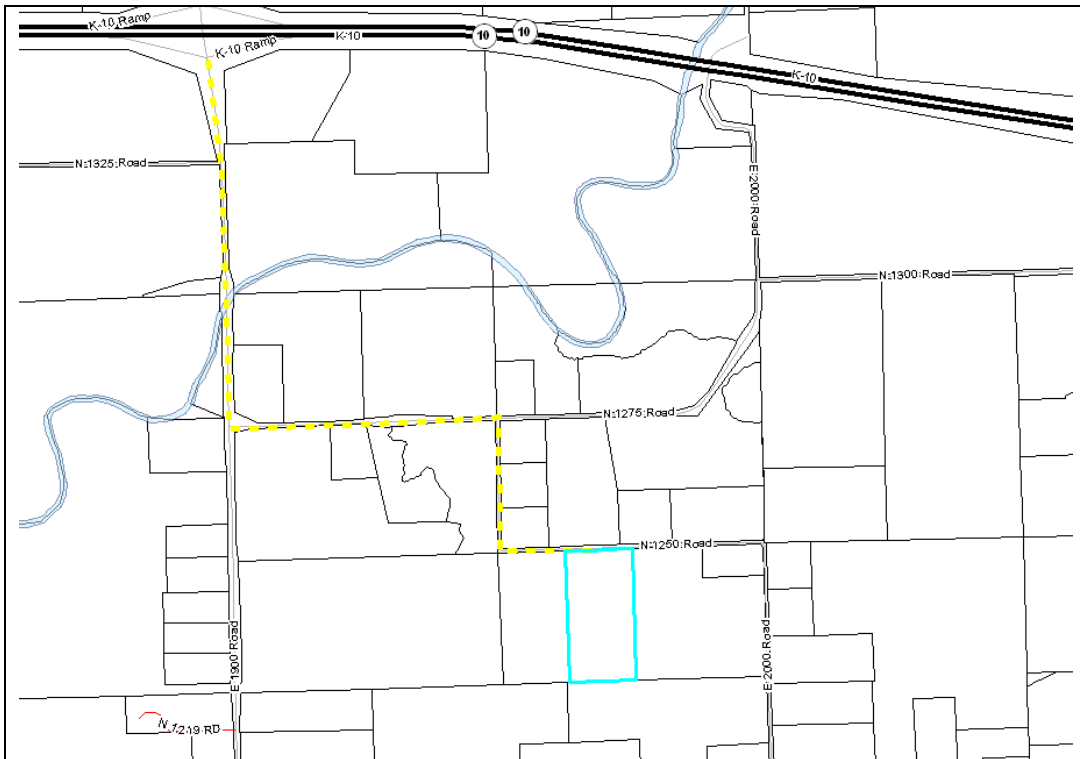
Applicant's Response:

*"It shouldn't. Live music would be placed mostly during the weekend daylight hours. (Friday, Saturday, Sunday) The musician(s) would be placed behind the winery to muffle the sound. There is ample on-site parking to prevent county road congestion. It reinforces the zoning as an agricultural business."*

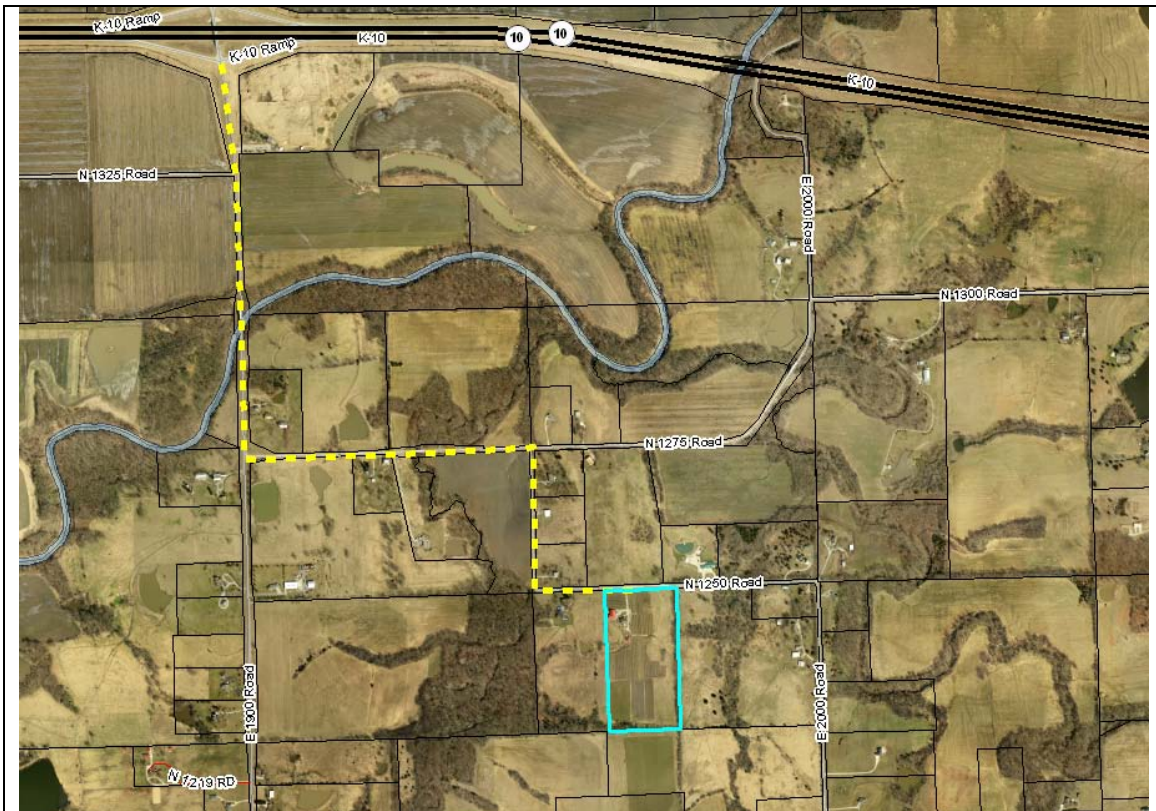
Section 19-01 of the County Zoning Regulations recognize that *"certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited."* The proposed use falls under Use 11. Recreation Facility use listed in Section 12-319-4.11 Conditional Uses Enumerated, of the Zoning Regulations for the Unincorporated Territory of Douglas County.

Approval of the CUP will allow the applicant to add accessory uses to the winery and wine tasting room and to host outdoor events such as weddings. The accessory uses would be primarily for the customers of the winery and while it is the applicant's intent that they increase the patronage of the winery and wine tasting room, these uses should not result in additional traffic in and of themselves. Outdoor events could be planned that are not associated with the winery and additional traffic would be generated with these events. Staff contacted the Eudora Township Trustee to discuss the proposed use and he indicated that they had no concerns with road maintenance as long as the number of cars involved were less than 100 cars per day. They were not concerned about the additional dust and indicated that residences along township roads could subscribe to the dust palliative treatment program. The traffic on the road could result in safety issues, due to the increase in traffic and the additional dust which could obscure vision on the road.

The applicant is aware that the County Commission suggested that additional notification be provided to property owners along the portion of the route which is unpaved, as the impact of the event may spread beyond the required 1000 ft notification area in the form of increased traffic and dust. The applicant indicated that he would notify the property owners along the preferred route to his facility which is: E 1900 Road south from K10, East on N 1275 Road, south of E 1950 Road, then east on N 1250 Road. (Figures 2a and 2b) Access to the property using the applicant's preferred route will require travel on approximately 4800 ft, or about 1 mile, of unpaved roads. Several steps could be taken to reduce the negative impact to those traveling or living along this route including, notification of residents and property owners when an outdoor event, such as a wedding, is planned, restrictions on times for events, and/or size limitations for these events to manage the number of cars travelling on the route.



**Figure 2a.** Applicant's preferred route to the property (in yellow): south from K10 on E 1900 Road, east on N 1275 Road, south on E 1950 Road, and east on N 1250 Road.



**Figure 2b.** Applicant's preferred route with aerial

The information and restrictions listed below were provided by the applicant. Planning staff comments are included in *italics*:

1. Music may be amplified, but the volume will be limited to keep the guests comfortable within a short distance of the musicians. *(This limitation should minimize negative impacts from the music to adjacent properties.)*
2. 6 to 8 live music events are proposed between April to October (with the majority of the events being held by June due to the heat of the summer and workload).
3. All live music events would end by 8:30 PM and the cleanup crew would be finished by 10PM on Event Days.
4. The larger crowds for the wine tasting are 50 to 70 guests. The event capacity for outside activities with the removable shade (tent) is 150 guests. The Douglas County Farm Tour in October brought over 300 people per day to the site.
5. The applicant indicated that dust should not be much of an issue as they are not expecting an increase over the traffic they normally have at the tasting room on Saturday.
6. Saturday would be their primary event day—although they would like to have Friday and Sunday as potential dates as well.
7. The maximum number of people at a music event would be 150 guests. Most of their activities have less than 100 guests.
8. Tasting Room sales would end at 8PM on event days; otherwise the Tasting Room closes at 6PM.
9. One outdoor wedding is planned for the upcoming year. The wedding guests will leave by 9 pm and the event area will be cleaned up by 10 pm. *(Time limits for the weddings should be set, similar to the music events.)*
10. Weddings would not be scheduled at the same time as a music event. In the case of a wedding, the tasting room would be closed for a private party.
11. Chemical toilets will be used for the wedding or other outdoor events. The winery has an ADA accessible restroom that is used for the wine tasting activities. *(The County Health Official indicated that chemical toilets may be used for the first year, while the applicant determines if the events are feasible. If feasible, the events will be relocated to the east side of the property and a new septic system would be installed to accommodate the new wine tasting area and the event guests.)*

The general layout of the proposed activities is shown in Figure 3. The music, picnicking area and volleyball court will be located south of the winery. The outdoor wedding would occur in this area as well. The winery will buffer noise associated with these activities from the properties to the north. Properties to the south and east would be buffered by distance, the existing residence and woodland. There is one nearby residence to the west, 1957 N 1250 Road that would not be buffered by the winery. Staff recommends that evergreen trees and shrubs be planted along the west property line to serve as a buffer for this residence. Staff received one public comment prior to the printing of this staff report which was concerned that the noise level associated with these events would not alter the quiet rural character of the area. The limitations on hours and noise that the applicant has proposed for these activities should minimize any negative impacts to the nearby property owners.

The applicant informed the Planning Office that they met with their neighbor to the west following a family birthday party they held near the tasting room. The neighbor indicated that the noise level associated with the birthday party was unacceptable. The applicant has agreed to plant landscaping in this area; but noted that the landscaping would take several years to provide an effective sound buffer. The applicant plans on building a wine storage/tasting room in the eastern portion of the property and will relocate the event area to this location. This area is shown on the revised CUP site plan and is also marked in Figure 4. The applicant indicated that the events would be held in the current location this year, and would be held in the eastern location when the tasting room has been relocated to that area. In the interim, they will work to address the neighbor's concerns by orienting the musicians to the east and parking farm vehicles along the west property line during an event to buffer the sound.

**Staff Finding** – Possible negative impacts to nearby properties would be increased noise and increased traffic on the unpaved road. The activity area will be buffered from nearby homes with the exception of the residence to the west. Landscape screening with evergreen species should be installed along the west property line to serve as a buffer; along with the additional steps the applicant has proposed to buffer the event noise. The applicant's proposed limitation on the number of events and hours should minimize negative impacts associated with traffic.

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

Applicant's Response:

*"The gain to the public in general is to provide an enjoyable rural experience in the vineyard and winery with practical activities that give our guests an experience to visit more frequently. Over a thousand guests have helped us with pruning, harvest, and wine processing the past 3 years independent of our customers. We do not feel this is a hardship for our neighbors but a positive destination, community activity and again agriculturally based."*

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property. In Staff's opinion, denial of the request for a Conditional Use Permit would affect the individual landowner by prohibiting these agritourism opportunities. The property could continue to be utilized as agricultural land, residence, winery and tasting room but the property owner could not enhance the winery and wine tasting room through agritourism uses. Denial of the CUP request may limit the amount of traffic on the unpaved portions of N 1250 and E 1950 and N 1275 Roads; however there are no limits on the number of vehicles which may visit the winery and wine tasting room so it is uncertain that the denial would reduce traffic significantly.

**Staff Finding** – Approval of the Conditional Use Permit may indirectly benefit the community by adding to the agritourism in the area, thus strengthening the agricultural base. It does not directly harm the public health, safety and welfare; however the increase in traffic associated with these uses may present a safety issue for the public in increased traffic and dust on unpaved roads. Restrictions on the frequency and size of events will control the increase in traffic.

#### **VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Applicant's Response—

*“We think our request conforms because our primary focus is agriculture and the success of a Kansas grown product.”*

The subject property is not located within an identified urban growth area. The comprehensive plan recommends that agricultural uses continue to be the predominant land use within the areas of the county beyond the designated urban growth areas. Uses permitted in the rural area should continue to be limited to those which are compatible with agricultural production and uses. Uses which allow farmers to sell directly to the consumer, such as seasonal farm stands and pick-your-own operations, provide flexibility and incentives to retain agricultural land in production. (Page 5-6, *Horizon 2020*)

*Horizon 2020* does not address Conditional Use Permits as a tool to achieve specific policies.

**Staff Finding** – The Comprehensive Plan encourages uses which provide incentives to retain agricultural land in production in the rural area of the county (outside any Urban Growth Area). A Conditional Use Permit can be used to allow specific uses that are not permitted in a zoning district with the approval of a site plan. This tool allows development to occur in harmony with the surrounding area. The proposed request is consistent with the Comprehensive Plan.

## **STAFF REVIEW**

Approval of the request would allow the property owner to engage in agritourism which includes accessory uses to the winery and wine tasting room as well as the outdoor events on a restricted basis. The subject property is not located within an identified urban growth area but is located within three miles of Eudora's city limits. The request has been forwarded to the Eudora Planning Commission and the application will be considered at a joint Eudora/Lawrence and Douglas County Planning Commission meeting. The proposed application is for activities associated with the winery and wine tasting room which would consist of a picnicking area, area for music and a fire pit, and a volleyball area. A portable shade canopy is proposed to provide shade for the attendees. The tasting room is allowed by Kansas Statute, but a Conditional Use Permit (CUP) is necessary for the additional recreation activities per Section 12-319-4.11 of the Zoning Regulations. Access to the site is currently provided from an existing driveway cut through the public right-of-way abutting N. 1250 Road. A new driveway is proposed for access to the overflow parking area approximately 220' to the west of the existing driveway. The County Engineer indicated that a shared driveway, or a driveway located further to the west would be more appropriate, as the proposed location could create a sight distance problem. The driveway should be placed in a location which is approved by the County Engineer. A driveway permit must be obtained from the Eudora Township.

The County Health Department noted that permits will need to be secured for septic systems if applicable for use.

The current location may result in negative impacts on the property owner to the west and landscaping in addition to the measures proposed by the applicant should be utilized as a buffer. The future location is further removed (Figure 4) and is buffered from surrounding properties by distance and the vineyard. Two site plans have been provided with this application; one showing the current proposed location of the events and one showing the future location. These should be combined into one site plan, with a note that the event area to the east has been approved with this CUP for construction per the phasing schedule on the plan. The site plan should be revised to show the details of the future event area and parking layout and returned for Staff approval prior to construction of facilities for the new event location.

## **Parking**

The site plan identifies approximately 17 parking spaces in an existing parking area which serves the winery. 4 additional parking spaces are shown to the north of the residence. The applicant indicated that these parking spaces would be graveled and this should be noted on the site plan. The plan should clearly show how the southern parking area is accessed. Overflow parking is proposed near N 1250 Road and is access from the proposed western driveway. This area should be more clearly defined on the plan and the number of vehicles which could be accommodated noted.

The plan shows 21 parking spaces and one ADA accessible space. A parking summary should be provided on the plan which notes the following: that parking is calculated per Section 12-316-1 at a rate of 1 space per 5 attendees, (requirement for assembly use) as there are no structures associated with the proposed activities; the total number of parking spaces including ADA and overflow parking spaces provided should also be noted in the summary.

The total number of attendees would be determined by the number of parking spaces provided, or by conditions placed upon the Conditional Use Permit. A note should be added to the plan which states that the ADA parking spaces will be paved and the ADA accessible parking spaces will be constructed to meet ADAAG (American with Disabilities Act Accessibility Guidelines) requirements, including signage.

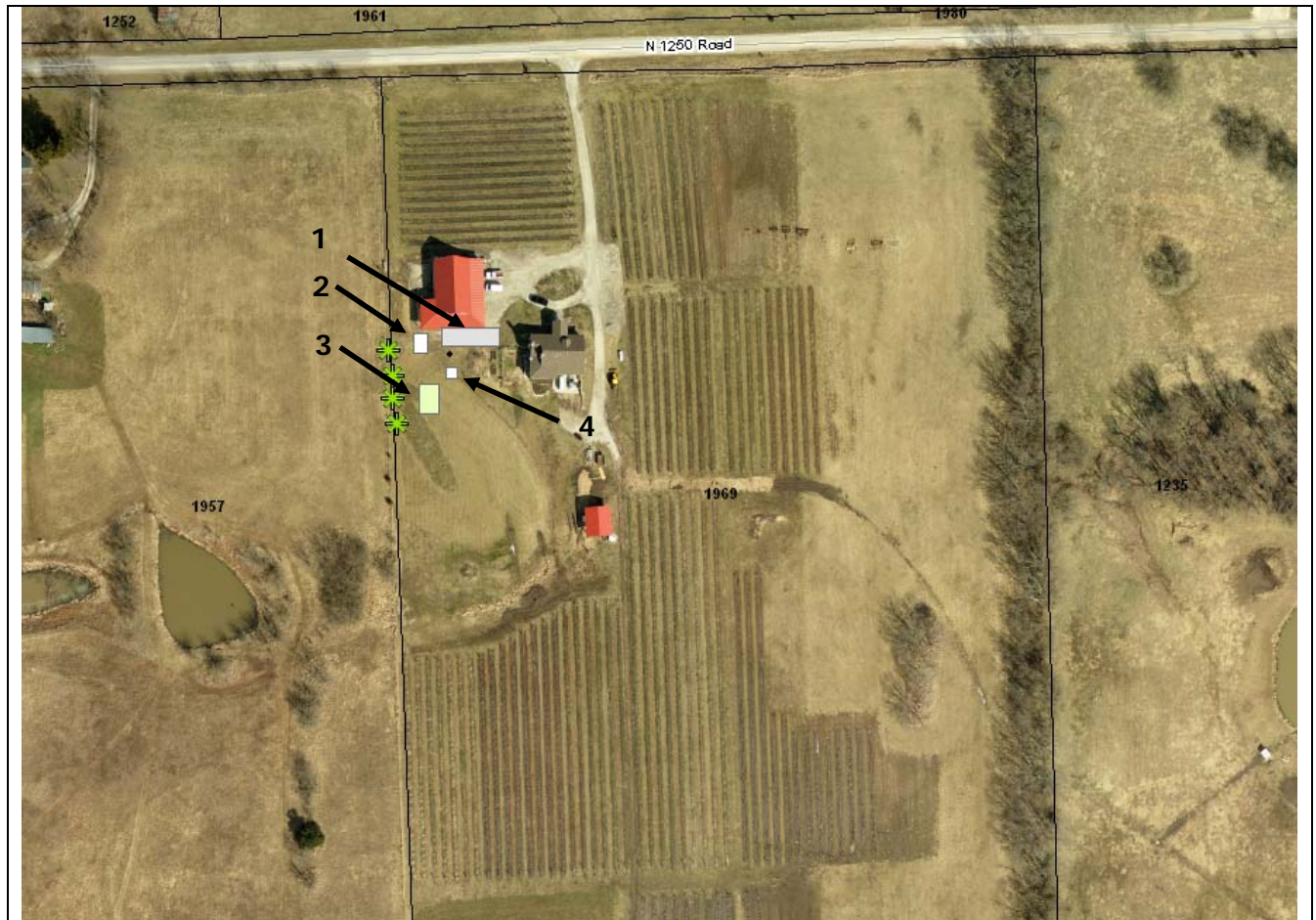
## **Conclusion**

A Conditional Use Permit does not allow the range of uses permitted in a commercial district. Approval of a CUP can be tailored to address specific issues such as intensity or frequency of use, include time limitations, and provide screening requirements. The recommended conditions respond to the specific nature of the request without the associated intensity of full-scale commercial zoning. Recent actions by the County Commission have approved Conditional Use Permits with the following term limitations:

- A CUP will be administratively reviewed in 5 years
- A CUP will expire at the end of 10 years, unless an application for renewal is approved by the local governing body

Time limitations may be placed on the activities to reduce any negative impacts to the nearby property owners. The picnicking activities which are accessory to the winery and wine tasting room should be permitted during the winery and wine tasting room hours. Live music events shall conclude by 8:30 PM with clean-up completed by 10:00 PM. Outdoor events, such as weddings, shall be limited to Friday, Saturday and Sundays and must end by 9 PM with no guests remaining past 10:00 PM.





**Figure 3.** Approximate layout of activity areas with existing wine tasting room.

**1** → picnic area **2** → moveable shade canopy **3** → volleyball area **4** → music \* → recommended screening



**Figure 4.** Location of event areas. Current (marked with a circle) Future (marked with a rectangle) would be buffered from neighbor to west by vineyard.

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**41-308a: Farm winery license; authority of licensee.** (a) A farm winery license shall allow:

(1) The manufacture of domestic table wine and domestic fortified wine in a quantity not exceeding 100,000 gallons per year and the storage thereof;

(2) the sale of wine, manufactured by the licensee, to licensed wine distributors, retailers, clubs, drinking establishments, holders of temporary permits as authorized by [K.S.A. 41-2645](#), and amendments thereto, and caterers;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

(4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(6) if the licensee is also licensed as a caterer, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the unlicensed premises as authorized by the club and drinking establishment act;

(7) the sale and shipping, in the original unopened container, to consumers outside this state of wine manufactured by the licensee, provided that the licensee complies with applicable laws and rules and regulations of the jurisdiction to which the wine is shipped; and

(8) the sale and shipping of wine within this state pursuant to a permit issued pursuant to K.S.A. 2009 Supp. 41-348, and amendments thereto.

(b) Upon application and payment of the fee prescribed by [K.S.A. 41-310](#), and amendments thereto, by a farm winery licensee, the director may issue not to exceed three winery outlet licenses to the farm winery licensee. A winery outlet license shall allow:

(1) The sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

(2) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments; and

(3) the manufacture of domestic table wine and domestic fortified wine and the storage thereof; provided, that the aggregate quantity of wine produced by the farm winery licensee, including all winery outlets, shall not exceed 100,000 gallons per year.

(c) Not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser

proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas.

(d) A farm winery or winery outlet may sell domestic wine and domestic fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 p.m. on Sunday. If authorized by subsection (a), a farm winery may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) and serve and sell domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.

(e) The director may issue to the Kansas state fair or any bona fide group of grape growers or wine makers a permit to import into this state small quantities of wines. Such wine shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such wine shall not be subject to the tax imposed by [K.S.A. 41-501](#), and amendments thereto. The permit shall identify specifically the brand and type of wine to be imported, the quantity to be imported, the tasting programs for which the wine is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of wine pursuant to this subsection and the conduct of tasting programs for which such wine is imported.

(f) A farm winery license or winery outlet license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(g) No farm winery or winery outlet shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premise supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

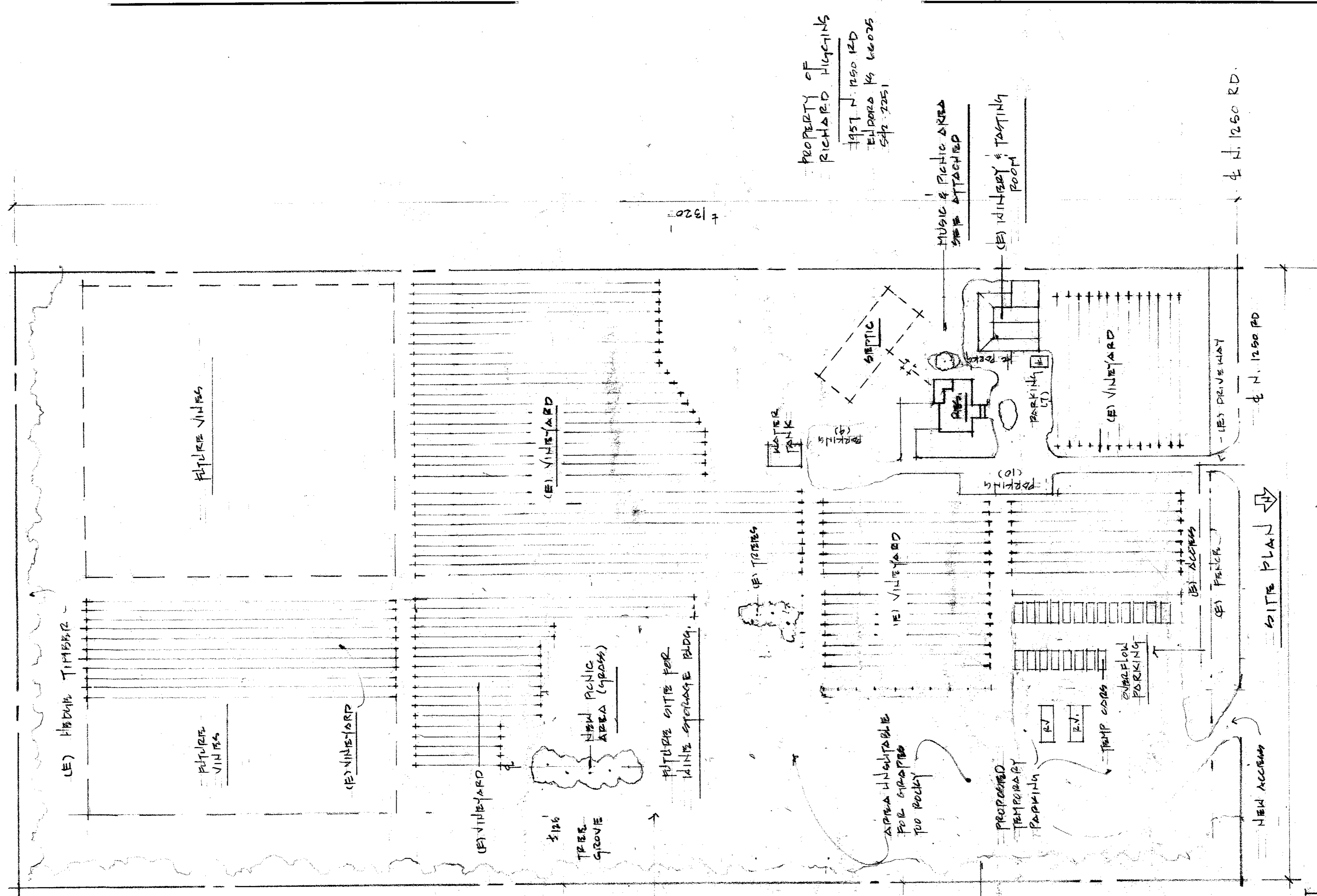
(h) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.

(i) This section shall be part of and supplemental to the Kansas liquor control act.

**History:** L. 1983, ch. 161, § 3; L. 1985, ch. 170, § 25; L. 1987, ch. 182, § 141; L. 1988, ch.

165, § 1; L. 1990, ch. 178, § 1; L. 1992, ch. 201, § 2; L. 1998, ch. 191, § 3; L. 2005, ch. 201, § 14;  
L. 2006, ch. 206, § 5; L. 2007, ch. 178, § 2; L. 2008, ch. 126, § 1; L. 2009, ch. 114, § 4; July 1.

PROPERTY OF  
O.M. SOLBERG



SITE PLAN



1"=60'

PROPERTY OF  
MURRAY MURDOCK

PROPERTY OF  
O.M. SOLBERG  
1235 E 2000 RD  
EUDORA, KS 66025  
542-3556

NOTES.

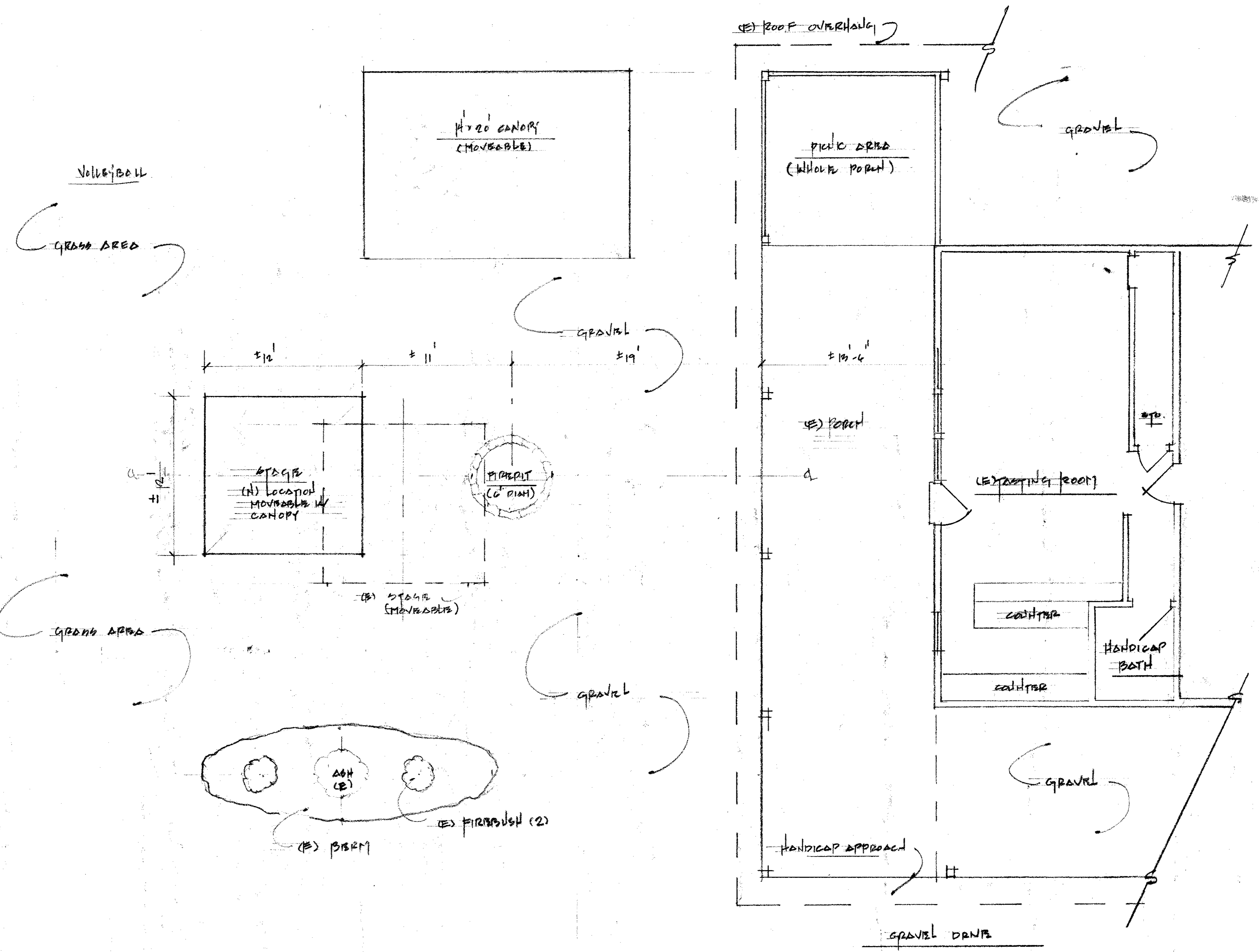
1. NO UTILITIES OR HOOKUPS FOR REC. VEHICLES - TOTALY SELF CONTAINED - 24 HR MAX
2. ALL OVERLOOKED PARKING - TEMPORARY USE.
3. PLANTS PLANTED FOR ADDITIONAL INTEREST THEY GROW, NE CORNER OF PROPERTY BERRY.
4. LOCATIONS ARE VISUAL CLOSE TO ACTUAL SITUATION SEE PACKS AND OTHER DIMENSION SHOULD BE CORRECT
5. PROPERTY DESCRIPTION - APR 13-13-20

PROPERTY OF  
FRED WHEAT  
1900 N 1250 RD  
EUDORA, KS 66025  
542-1595

REVISIONS	BY

BLUE JACKET CREEKING VINEYARD & WINERY  
O.M. SOLBERG - GELVAN  
1909 N. 1250 RD EUDORA, KS 66025  
185.542.1764 PH/FAX E-MAIL - BLUEJACKETCREEKING@GMAIL.COM

Date	3.5.2010
Scale	1"=60'
Drawn	GRS
Job	B/C/V
Sheet	
Of Three Sheets	



EXTERIOR TASTING ROOM  
 1/4" = 1'-0"

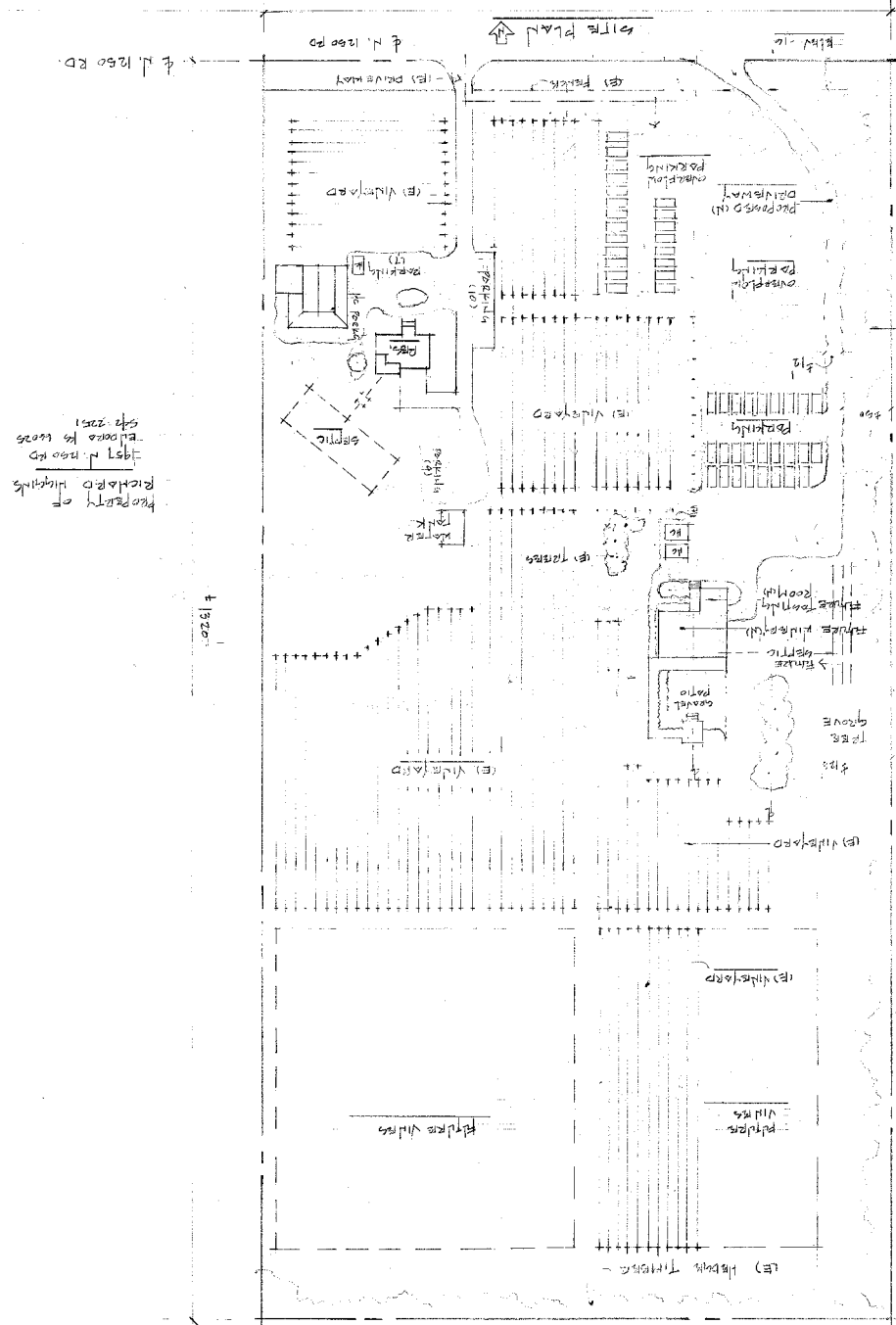
PETER SCHEIT CROSSING WINERY

8.5.2010
1/4" = 1'-0"
BSCH
#1
OF THREE

Project of  
 1200 E 200th St  
 1200 E 200th St  
 1200 E 200th St

SITE PLAN

1. Preliminary parking layout
2. All outdoor furniture to be placed in designated areas
3. All tables placed for appropriate circulation. The location of tables shall vary from time to time. All tables shall be placed in designated areas.
4. Property shall be maintained in accordance with city code.
5. Property protection - April 13-15-20



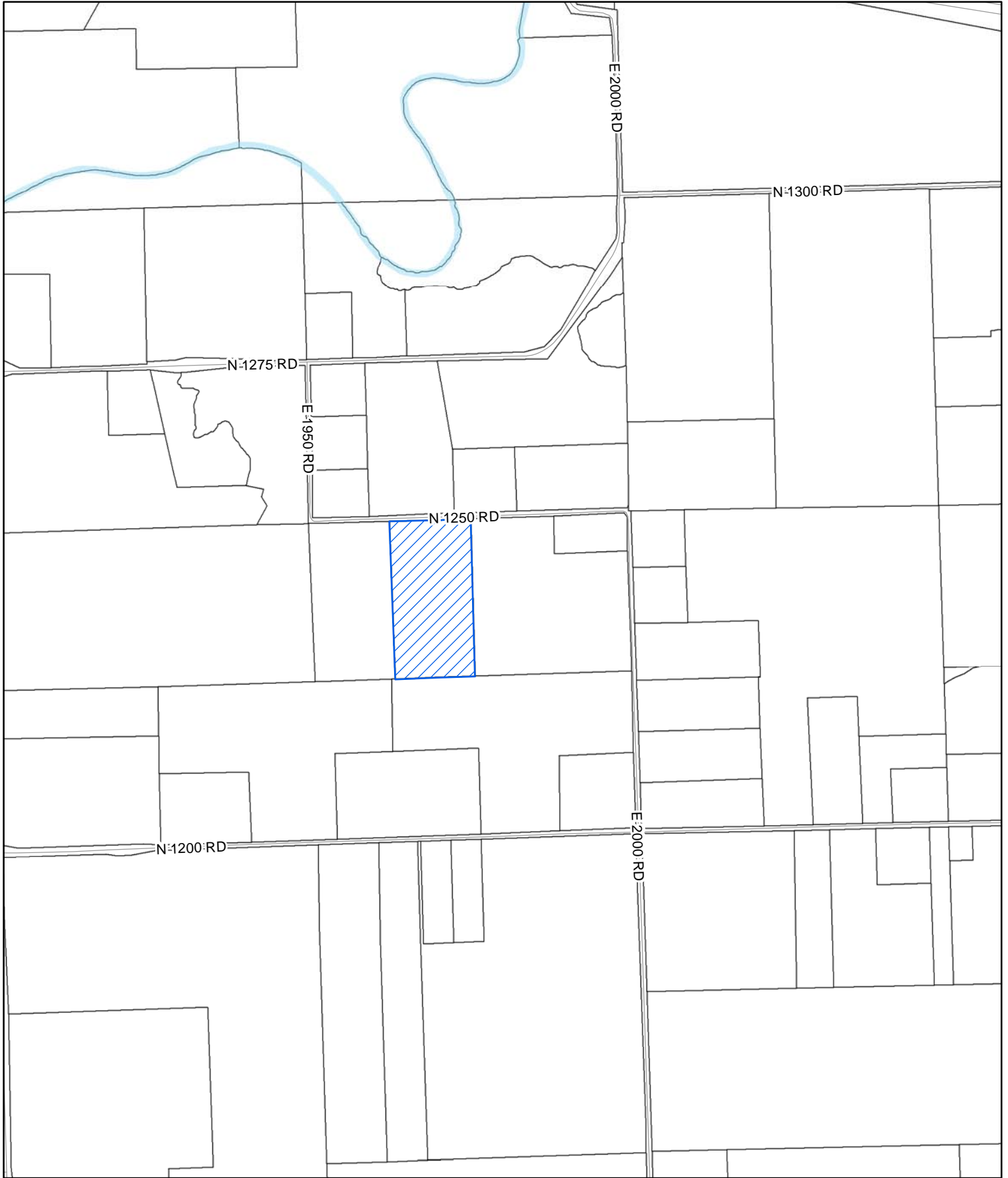
Property of  
 1200 E 200th St  
 1200 E 200th St  
 1200 E 200th St

Property of  
 1200 E 200th St  
 1200 E 200th St  
 1200 E 200th St

Project of  
 1200 E 200th St  
 1200 E 200th St



**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.



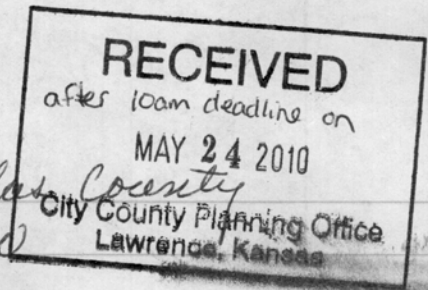
CUP-03-02-10: Conditional Use Permit for accessory uses such as outdoor weddings, picnicking, outdoor music, and overnight RV parking, with the Bluejacket Crossing Winery located at 1969 N 1250 Rd, Eudora



Area Requested



City of Lawrence/Douglas County  
attn: Mary Miller



This is in regards to the conditional use permit our neighbors of the Bluejacket Crossing Winery has requested.

We have nothing against Kandaya Selman, as a neighbor, but we are against this request. We live in the country because we like our privacy, peace, and quiet of rural living. I Richard Higgins have lived here at 1957 N. 1250 Rd for 30 years. My wife and I do not want to see commercialism take over our neighborhood. We don't live in town, because of all the traffic and noise associated there.

We would not appreciate the traffic, dust, and noise it would bring. The route drawn out goes right by our place. The gravel road is considered one lane and a lot of traffic could cause problems.

If this is passed, it will open the door to grow bigger and bigger, with eight months out of the year or more and events happening more often.

This could also cause more of an opportunity for crime to come to this area.

If or when we would ever decide to sell our place, it could make it harder to sell. Most people who want a place out in the country, want it for the peace, quiet and getting away from everything.

Sincerely,  
Richard W Higgins  
Judith Higgins

**ITEM NO. 8      CONDITIONAL USE PERMIT FOR BLUEJACKET CROSSING WINERY; 1969 N 1250 RD (MKM)**

**CUP-3-2-10:** Consider a Conditional Use Permit for accessory uses such as outdoor weddings, picnicking, and outdoor music, with the Bluejacket Crossing Winery, approximately 20 acres, located at 1969 N 1250 Rd, Eudora. Submitted by Kandaya Selvan, property owner of record. *A joint Planning Commission meeting will be held with the Eudora Planning Commission.*

**Eudora PC members present:**

Mr. Kurt von Achen, Mr. Pat Jankowski, and Mr. David Montgomery

**STAFF PRESENTATION**

Ms. Mary Miller presented the item.

Commissioner Dominguez asked how close the neighbors homes were to the road.

Ms. Miller showed on a map on the overhead.

Commissioner Dominguez expressed concern about dust.

Ms. Miller said a chemical palliative treatment can be applied to gravel roads, but that there is a charge for it.

Commissioner Hird asked if the restricted number of guests, ending time, and number of times per year were proposed by the applicant or staff.

Ms. Miller said the applicant proposed them based on his intentions.

**APPLICANT PRESENTATION**

Mr. Kandaya ('Pep') Selvan, Bluejacket Crossing Winery, said at the intersection of 1975 and N 1250 both homes are quite close to the road. Most of the dust problems affect the people living on the north side of the road. He said during the Farm Tour in October they had 300 guests per day during those two days and that should have been a reasonable test for the extreme. He gave his background on his involvement in the wine industry. He is the President of the Local Vineyard and Winery Association. He said there are 2 ½ full time employees and 6-12 seasonal employees for harvest from April to October. He said most work at the winery is done by volunteers. He felt there was a need for increased opportunity with rural involvement. He said he sent a letter that extended the 1000' notification area to make sure all residents on the unpaved portion of the preferred route were notified. He said earlier this month they had a birthday party with a loud band at the winery and that several neighbors complained. He apologized and said that was not a smart move on his part and that the party was more than he expected it to be. He felt it was important that his activities are limited in order to maintain the responsibility to his neighbors. He said the proposed location for the stage would decrease the noise level.

Commissioner Carter inquired about what it would entail to move the stage area.

Mr. Selvan said it is all portable, the stage is 4'x4' and sits directly on the ground and can be picked up and moved. He said the goal is to build a new winery, tasting room, and storage facility and develop the landscape and then move the events to the western location.

Commissioner Carter asked if he was going to rent portable toilets.

Mr. Selvan said the Health Department wants to see one toilet for every 100 guests. He said there is one bathroom in the tasting room and that if needed they would rent a portable toilet.

Commissioner Blaser asked if there were any plans for the county to pave the road in front of his house.

Mr. Selvan said he had heard that N 1200 Road is a priority road due to its connection with the Eudora Subdivision but did not know of any set timeframe to do that.

### **PUBLIC HEARING**

Mr. Richard Higgins said he lives next to applicant. He said he has been there for 30 years and the traffic has gotten worse since the winery was opened. He said the noise from bands is disturbing. He did not like the plan. He felt that 6-8 events a year might end up being 30 events a year. He was concerned about dust from road because he lives within 50' of the county road.

Commissioner Hird said the new proposed winery location would be further away from his property. He asked Mr. Higgins if he thought moving the winery farther away would help reduce the noise.

Mr. Higgins said it would help but that the car traffic would increase greatly.

Commissioner Hird asked Mr. Higgins if the new winery was on a different area of the property would that help alleviate his concerns.

Mr. Higgins said no, not really.

Motioned by Commissioner Moore, seconded by Commissioner Blaser, to close the public comment.

Motion carried 9-0.

### **APPLICANT CLOSING COMMENTS**

Mr. Selvan said it makes a big difference to him that Mr. Higgins is comfortable with the effort that they are making.

Commissioner Finkeldei asked if Mr. Selvan would be okay with the condition of no electronic amplification.

Mr. Selvan said that would be fine.

Commissioner Finkeldei asked if he had a firm timeline on when the winery would be moved.

Mr. Selvan said the goal is to break ground in the fall but that the economy is affecting that so his best guess would be 2 years.

Commissioner Dominguez asked if he was willing to restrict the events to 8 per year.

Mr. Selvan said Springtime is about the only time it is comfortable for outdoor events and at this time 8 exterior events is more than he can handle. He said currently it is about 3 events per year.

Commissioner Rasmussen asked if the 10 year limitation makes it harder to get financing.

Mr. Selvan said yes.

### **COMMISSION DISCUSSION**

Commissioner Rasmussen inquired about the parking capacity.

Ms. Miller said the site plan needs to clearly define the area which would show how many cars.

Mr. Selvan said there are 21 parking spaces and overflow in the pasture that holds 40 cars.

Commissioner Rasmussen asked if there would be cars backed up along the road.

Mr. Selvan said no, if parking is not available then he will turn people away.

Commissioner Rasmussen asked why there is a paved ADA requirement but not one for Pinwheel Farm.

Ms. Miller said with Pinwheel Farms there was a requirement for ADA spaces for the farmers market but with her other type of events of educational activities or camping there isn't an established location so there wouldn't be specific place to locate it. She said Planning Commission could require one ADA paved space at Pinwheel Farm if they desired. She said that Bluejacket Winery already has the ADA parking space for the wine tasting room which is required.

Commissioner Rasmussen asked why the Pinwheel Farms Conditional Use Permit expiration date was proposed for 20 years and Bluejacket Winery for only 10 years.

Ms. Miller said the expiration dates aren't set by Code, time limits were something the previous County Commission wanted for Conditional Use Permits. She said with Pinwheel Farm staff originally suggested 10 years but the applicant requested 100 years and Planning Commission indicated at last months meeting that they were not comfortable with that and moved it to 20 years. Time limits can be set by Planning Commission.

Commissioner Rasmussen said it is difficult to get loans on shorter Conditional Use Permits.

Ms. Miller said if Planning Commission feels it is appropriate they can increase the 10 year time limit. She said 10 year is just the standard timeframe.

Commissioner Rasmussen said he would like to see a longer time period for this if approved.

Commissioner Carter asked if the applicant would like the time frame extended.

Mr. Selven said 20 years is a great starting point and would give a reasonable amount of time to cover the asset.

Commissioner Harris expressed concern about the dust that could be generated by the winery. She wondered if the neighbors have recourse if the dust becomes a problem. She suggested the possibility of the applicant paying for the dust treatment of the road.

Ms. Miller said it is not a current condition but could be added.

Commissioner Finkeldei said condition 1c in the staff report says 'up to 8 live music events may occur per calendar year.' He asked what the recourse would be if the number of events is exceeded.

Mr. McCullough said when staff knows that a condition is being exceeded the county office enforces the conditions of the Conditional Use Permit. If it is during the first year staff would work to remind the applicant of the condition and if it happens again then staff can initiate a revocation process to bring it back for hearing and revoke the Conditional Use Permit.

Commissioner Hird said this topic ties into the Agri-Tourism Committee that he serves on and Mr. Selvan has been attending those meetings as well. He said he is a vineyard owner himself. He said on April 8<sup>th</sup> he and his wife toured Bluejacket Winery but were not aware of this Conditional Use Permit at the time and did not discuss it. He felt this is exactly the type of activity the state is trying to promote and this is what gets people out to the country. He felt it was a positive activity. He said the dust problem is inevitable in the country and he hoped the county and township can help address the issue. He did not think a total of 8 afternoons a year for outdoor events was a terrible imposition, especially with the ending time of 8:30pm. He felt this was the type of thing that should be promoted and extending the timeframe for the Conditional Use Permit made

sense because a vineyard is a long term investment. He would like to see the Conditional Use Permit extended 20 years at a minimum. He felt the applicant has gone above and beyond the call of duty to include the neighbors in the process. The new facility will be built a lot farther away from Mr. Higgins property. He said he would support the application.

Mr. Kurt von Achen, Eudora Planning Commission, said a quorum could not be formed since there were only three members of the Eudora Planning Commission present this evening. He expressed concerns about traffic and dust. He said as a consensus they recommend approval but would not be in favor of extending the Conditional Use Permit timeframe.

Mr. Selvan said he will be part of the Farms Tour this year and the committee is doing research to find some public form of transportation such as a school bus or senior citizen bus to move 20-40 people.

Commissioner Carter asked when the 6-8 outdoor events will occur.

Mr. Selvan said during a 6 week window in March, May, or April.

Commissioner Carter asked Mr. Selvan if he would be willing to pay for the county to treat the road during that 6 week time period.

Mr. Selvan said he would consider it if the cost was affordable. He said he thought the treatment lasted around 4 weeks.

Commissioner Hird said his neighbors treat the road in front of their homes and the treatments last longer than 4-6 weeks and he believed the cost was about \$1.35 per foot so for Mr. Selvan to treat the entire road would be too costly.

Commissioner Rasmussen asked what the Eudora Planning Commission opposed about extending the Conditional Use Permit to 20 years.

Mr. von Achen said they felt the 5 year review with a 10 year permit was just fine. He said they felt that 20 years was too long.

Commissioner Blaser asked staff if the Conditional Use Permit is extended to 20 years could it be reviewed every 5 years.

Mr. McCullough said it could if it is written that way. He said the reason why there are expiration dates on many Special Use Permits is because it is a special use in an area that has the opportunity to evolve and change over the years. Often times what may be very compatible with an area today may grow out of its compatibility in a specified time period so part of the discussion and analysis should be how quickly an area is turning over, growing, and changing.

Commissioner Finkeldei asked if the applicant owns other property in the area.

Mr. Selven said he is the trustee to his mothers estate of 85 acres that is adjacent to the east and immediately south he has 22-23 acres.

Commissioner Finkeldei said he could support an extension of the overall length of the Conditional Use Permit with the condition of it moving to the future site. He said if the winery moves to the east he could support the 20 years, but if it stays to the west it should be 10 years. He also said that as long as it is located on the west side there should be no amplification for music.

Commissioner Rasmussen said he would support Commissioner Finkeldei's suggestions.

Commissioner Finkeldei said the 5 year review was appropriate as well.

Mr. McCullough said a typical review of conditions is administrative. If staff finds that a condition is not being met an avenue to seek relief from that could be an amended Conditional Use Permit and change one specific condition. 5 year reviews have been staff going to the site with a list of conditions.

Mr. von Achen said that the Eudora Planning Commission could support Commissioner Finkeldei's suggestion if the extension was tied to the new site.

Commissioner Moore asked if a requirement should be included to address no parking on N 1250 during events.

Ms. Miller said it is not a requirement since there usually is no parking on county roads but it could be added.

Commissioner Harris inquired about adding a condition regarding the dust.

Commissioner Blaser said he liked the 20 year timeframe with 5 year reviews. He said as far as the dust, he would not put a condition about the applicant paying for the treatment of the road. He thought if the entire road was treated the cost should be shared by neighbors, not just the applicant. He said he would support the project.

Commissioner Carter asked for clarification on Commissioner Finkeldei's 20 year timeframe.

Commissioner Finkeldei said he would suggest a 10 year Conditional Use Permit unless during that period it is moved to the future site, at which time it would be extended to 20 years.

Commissioner Hird asked if 3 years from now the applicant moves to the new location, he would have a total of 18 years left for the CUP. He asked if Commissioner Finkeldei is saying that it would be extended 20 years from that date.

Commissioner Finkeldei said he was saying 20 years total. He said he felt like they were pushing the limit anyway and if the applicant decides to move 9 years from now then it would be a 29 year Conditional Use Permit.

Commissioner Moore said financing is important but at the same time Planning Commission should look at the compatibility of the use.

Mr. McCullough suggested that they could consider the 20 year term with a specific condition to move the site within 5 years. If it is a condition that the facility move within 5 years and the applicant is coming up on that 5 years and it is not met he has the ability to go back through the public hearing process to ask for relief from that condition and explain the circumstances. Staff likes the expiration date to be firm instead of a moving date.

Commissioner Carter recapped what he was okay with; 20 years contingent upon moving in 5 years, a condition added for no parking on the road, no electronic amplification at least until it is moved, and he would not be in favor of putting the burden of the dust control on the applicant for 8 events over a 6 week period.

Mr. McCullough said he thought he heard the applicant say he was comfortable with the condition of no amplified noise. Noise is one of those tricky things that even moving it several hundred feet it isn't probably going to mitigate it. He urged them to consider a condition of just no amplified music at the site.

Commissioner Hird said given the number of events a year he felt that was unreasonable. He said low level amplification of a blue grass band was not offensive and would be over by 8:30pm.

Commissioner Rasmussen agreed with Commissioner Hird.

Commissioner Finkeldei stated the applicant said there was a hill in between. He said he still thinks that as long as the winery is on the west there should be no amplification but once moved to the east he would withdraw that.

Commissioner Rasmussen asked if the condition was for no amplified music until the site is moved or no amplification at all.

Commissioner Moore felt it would be cleaner for it to say no amplification at the site.

### **ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Rasmussen, to approve Conditional Use Permit (CUP-3-2-10) for 1969 N 1250 Road and forward to the Board of County Commissioners subject to the following revised conditions of approval (new language is shown in **bold** print and deleted text is shown as ~~struckthrough~~):

- 1) The provision of a revised site plan with the following changes:
  - a) Addition of a note which states "The permit will be administratively reviewed by the County ~~in~~ **every** 5 years (Calendar Year 2015, **2020, 2025, 2030**)".
  - b) Addition of a note which states "The permit will expire at the end of ~~10~~ **20** years (July 1, **2030** ~~2020~~), unless an application for renewal is approved by the local governing body."
  - c) **Addition of a note which states "The event area will be moved to the eastern location within 5 years of approval."**
  - d) Addition of a note which states "Events will typically occur on Saturdays, although Friday and Sunday events may be permitted. Up to 8 live music events may occur per calendar year. These events will conclude by 8:30 PM and the clean-up will be completed by 10 PM. Maximum attendance at live music events is 150."
  - e) **Addition of a note which states "No parking will be permitted on N 1250 Road."**
  - f) **Addition of a note which states "No electric amplification of music in current location."**
  - g) Addition of a note which states "The parking area will be surfaced with gravel and the ADA accessible parking spaces will be paved. The ADA accessible parking space will be constructed to meet ADAAG (American with Disabilities Act Accessibility Guidelines) requirements, including signage."
  - h) The second access shall be located per the County Engineer's approval.
  - i) Landscaping shall be added to include evergreen trees and shrubs along west property to screen activity area from residence to the west.
  - j) The parking space dimensions shall be noted on the plan.
  - k) The capacity of the overflow parking area shall be noted on the plan.
  - l) A parking summary which notes the number of parking spaces required per Code, and the amount of parking provided shall be included on the site plan.
  - m) Both the event area being proposed at this time and the future event area shall be shown on one plan along with a proposed phasing schedule.
  - n) Addition of a note on the plan which states: "A revised site plan showing the details of the future event area and any associated parking would return for Staff approval prior to construction of the future event area."
  - o) Additional measures being used to buffer the property to the west shall be noted on the plan (orientation of music, use of farm vehicles, etc)
  - p) Note added to the plan which states that chemical toilets may be used for the first year, at a rate of 1 toilet per 100 attendees. Any use of chemical toilets past the first year would require approval of the County Health Official.
- 2) Permits secured from the Douglas County Health Department for new septic system, if applicable.
- 3) Approval of an entrance permit for the new driveway from Eudora Township.



- 4) Chemical toilets may be used for the first year of the CUP to allow the applicant to determine if the events are successful.
- 5) When the plans are combined, Note No. 1 regarding RV parking spaces should be removed.

Commissioner Harris said she would support the motion but felt the dust issue should be addressed. She said the area wasn't really designed for a business out there. She felt there should be clarification for amplification at the new location to say low to moderate amplification at the new site.

Commissioner Hird said he would reluctantly vote in favor of the motion. He said his reluctance has to do with the amplification issue. He said he understood the concern about dust and wished there was a solution. He did not agree with the condition of no amplification and felt it was unnecessary for 8 events a year and felt it was micromanaging.

Commissioner Rasmussen said he did not want try to micromanage the amplification. Agreed with Commissioner Hird about not wanting to micromanage by putting this restriction on it.

Commissioner Chaney agreed with Commissioner Hird about the micromanaging. He said there are only 8 events a year that will end by 8:30pm. He thought the applicant was really working to come up with something that will make everyone as happy as possible. He said he would reluctantly support the motion.

Commissioner Dominguez said he would support the motion but felt they have over managed the issue of amplification and financing. He said he was still concerned about the dust but felt the applicant would do what he could to try to fix the problem.

Commissioner Hird said he would be willing to vote against the motion and remake a motion without the condition regarding the amplification.

Commissioner Moore said he would support the motion as is.

Commissioner Carter said when amplification was initially brought up the applicant readily nodded about not needing amplification in its current spot. He said he would be in favor of approving the motion as is.

Commissioner Rasmussen thanked the Eudora Planning Commission for their assistance.

Unanimously approved 9-0, with consensus from Eudora Planning Commission.