

# BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

## WEDNESDAY, JULY 6, 2011

4:00 p.m.

-Convene

- Consider approval of the minutes for April 27, June 1, June 8 and June 15, 2011.

## CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) **CPA-6-5-09**: Consider approval of a Resolution providing Board of County Commissioners direction to the Lawrence-Douglas County Planning Commission concerning the reconsideration of the Northeast Sector Plan. Dan Warner is the Planner; and
- (c) Consider reappointment of Coroner position (Sarah Plinsky)

## REGULAR AGENDA

- (2) Consider approval of Consolidated Planning Grant (CPG) Applications to KDOT
- (3) **CUP-4-3-11**: Consider a Conditional Use Permit for an indoor sports center, located at 1898 East 56 Road, Lecompton. Submitted by PLS Landscape for Price Property LLC, property owner of record. (PC Item 5; approved 7-0 on 6/20/11) Sandra Day is the Planner.
- (4) **CUP-4-2-11**: Consider a Conditional Use Permit for a Preschool located at 2084 N. 1300 Road. Submitted by Kristine Lawhorn for United Methodist Church of Eudora, property owner of record. (PC Item 1; approved 7-0 on 6/20/11) Sandra Day is the Planner.
- (5) **CUP-3-1-11**: Consider a Conditional Use Permit for a Retail Nursery located at 1185 N. 1250 Road. Submitted by Lawrence Landscape Inc., property owner of record. (PC Item 3; approved 7-0 on 6/20/11) Sandra Day is the Planner.
- (7) Other Business
  - (a) Consider approval of Accounts Payable (if necessary)
  - (b) Appointments:  
**Board of Zoning Appeals 10/2011 (2 positions-current not eligible for reappointment)**
  - (c) Miscellaneous
  - (d) Public Comment

## **RECESS UNTIL 6:35 P.M.**

-Reconvene

(8) Noise Ordinance discussion continued from the June 15, 2011 meeting. (Jim Flory)

(9) Adjourn

## MONDAY, JULY 11, 2011

8:30 am: Commissioner Budget Work Session-Hear individual budget issues from agencies and county departments. Tentative Schedule:

- 8:30 am – Johnson County Transit (Alice Amrein)
- 9:00 am – Community Shelter (Loring Henderson)
- 9:20 am – Healthcare Access (Nikki King)
- 9:40 am – Eudora Historical Society /DMI/Heritage (John Harrenstein)
- 10:00 am – Visiting Nurses Association (Judy Bellome)
- 10:20 am – Humane Society (Dori Vallihon)

10:40 am – Jayhawk Area Agency on Aging (Jocelyn Lyons)

10:55 am – The Shelter Inc. (Judy Culley)

**TUESDAY, JULY 12, 2011**

8:30 a.m. to 1 p.m. – Commissioner Budget Work Session-Hear individual budget issues from agencies and county departments: Tentative Schedule:

8:30 am – Community Corrections (Linda Koester-Vogelsang)

8:45 am – County Appraiser (Steve Miles)

9:00 am – Emergency Communications and Sheriff's Budgets (Ken McGovern)

9:45 am – Public Works (Keith Browning)

10:30 am – Emergency Management (Teri Smith)

10:45 am – Information Technology (Jim Lawson)

11:00 am – Miscellaneous Administrative Issues including shared costs and transfers, Cola and Merit, etc.

**WEDNESDAY, JULY 13, 2011**

**TUESDAY, JULY 19, 2011**

8:30 a.m. to 1 p.m. – Commission Budget Work Session - Hear individual budget issues that could not be scheduled the previous week and discussion by the County Commission.

8:30 am – Cottonwood (Sharon Spratt)

8:50 am – Hearings for other issues identified by other Commissioners, and decisions on directions to staff on changes to budget.

**WEDNESDAY, JULY 20, 2011**

8:30 a.m. to 1 p.m. – Commission Budget Work Session including directions to staff on changes to budget

(if necessary)Continuation of discussion on changes to budget as presented.

-4:00 p.m. Consider approval of Agreement with Keyta D. Kelly of Kelly Law Offices, LLP, for the collection of delinquent personal property taxes. (Paula Ghilchrist)

-6:35 p.m. – Rothwell Annexation

**WEDNESDAY, JULY 27, 2011**

**MONDAY, JULY 25, 2011**

8:00 a.m. -Additional Budget Work Sessions, if necessary

**TUESDAY, JULY 26, 2011**

8:00 am -Additional Budget Work Sessions, if necessary

**WEDNESDAY, AUGUST 10, 2011**

6:35 p.m. -2012 Budget Public Hearing

***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.*

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

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS PROVIDING DIRECTION TO THE LAWRENCE-DOUGLAS COUNTY PLANNING COMMISSION FOR ADDITIONAL CONSIDERATION OF THE NORTHEAST SECTOR PLAN (CPA-6-5-09)**

WHEREAS, the Lawrence-Douglas County Metropolitan Planning Commission on September 20, 2010, by Resolution No. PCR-7-5-10, adopted and recommended the adoption of the "Northeast Sector Plan" and an amendment to Chapter 14 to add the Northeast Sector Plan, to "*Horizon 2020*," contained in planning staff report CPA-6-5-09; and

WHEREAS, the Board of County Commissioners and the Lawrence City Commission held a joint study session on the Northeast Sector Plan on March 8, 2011; and

WHEREAS, the Board of County Commissioners considered the Northeast Sector Plan at public meetings held on May 11, 2011 and June 1, 2011, and by a vote of 2-1 on June 1, 2011, returned the Northeast Sector Plan to the Lawrence-Douglas County Planning Commission for additional consideration.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS:

Section 1. The above recitals are incorporated by reference as if fully set forth herein and shall be as effective as if repeated verbatim.

Section 2. The Board of County Commissioners provides the following direction to the Lawrence-Douglas County Planning Commission for further consideration of the Northeast Sector Plan:

1. Consider the public/private infrastructure costs of development of the area southwest of the airport currently designated Industrial when compared with the infrastructure costs of developing other identified industrial sites around Lawrence, in particular the Farmland site and the sites in the NW corridor along Farmer's Turnpike, to determine if such costs are extraordinary for the amount of industrial land developed.
2. Considering the presumed extraordinary costs to provide public infrastructure, such as storm water, sewer and street improvements, presumed to be needed to support industrial or other urbanized development in Grant Township, discuss whether urbanization should be reasonably expected outside of the airport property.
3. Considering the unique challenges present in the area of the sector plan, including infrastructure costs, identified storm water issues, the presence of class 1 and 2 soils, etc., and considering the other areas in the county, especially those that surround Lawrence, designated or recently zoned for industrial uses, discuss whether industrial development outside of the airport property is a necessary designation in this plan area in order to meet the "*Horizon 2020*" goal of expanding the industrial inventory.
4. Discuss whether or not the area southwest of the airport currently designated Industrial is a true future multi-modal transportation area. Consider the growth and intensity of uses at the airport as well as how realistic it is that rail can be extended to the industrially designated area southwest of the airport. Discuss whether rail and airport transportation modes are valid reasons to support industrial designations on the property southwest of the airport.
5. Discuss more thoroughly the impact of developing to the proposed land use designations in the area and the recommendations of the North Lawrence Drainage Study. Consider how the

Federal Aviation Administration's circular regarding waterfowl around the airport impacts the recommendations of the drainage study that may result in retaining/detaining stormwater in the area around the airport. Consider the potential future of regulations regarding development in levee protected areas.

Section 3. This Resolution shall be in full force and effect upon its adoption by the Board of County Commissioners and being published once in the official County newspaper.

Adopted by the Board of County Commissioners of Douglas County, Kansas, this \_\_\_\_ day of \_\_\_\_\_, 2011.

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

\_\_\_\_\_  
Jim Flory  
Chair

\_\_\_\_\_  
Mike Gaughan  
Commissioner

\_\_\_\_\_  
Nancy Thellman  
Commissioner

ATTEST:

\_\_\_\_\_  
Jameson D. Shew, County Clerk

RESOLUTION NO. 11-\_\_\_\_\_

**A RESOLUTION REAPPOINTING THE DISTRICT CORONER AND DEPUTY DISTRICT CORONERS FOR THE SEVENTH JUDICIAL DISTRICT FOR A FOUR-YEAR TERM COMMENCING ON JANUARY 8, 2011**

**WHEREAS**, K.S.A. 22a-226, as amended, authorizes the Board of County Commissioners to appoint the district coroner; and

**WHEREAS**, K.S.A. 22a-226, as amended, authorizes the Board of County Commissioners to confirm the appointment of deputy coroners and special deputy coroners;

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY:**

**Section 1.** The Board of County Commissioners hereby reappoints Eric Mitchell, M.D., as the District Coroner for the Seventh Judicial District of the State of Kansas.

**Section 2.** The Board of County Commissioners hereby confirms the reappointments of Donald V. Pojman, M.D. and Atlaf Hossain, M.D. as Deputy District Coroners for the Seventh Judicial District of the State of Kansas.

**Section 3.** Both the District Coroner and the Deputy Coroners shall be reappointed to a four-year term which commenced on January 8, 2011.

ADOPTED this 6th day of July 2011.

**BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS**

\_\_\_\_\_  
Jim Flory, Chair

\_\_\_\_\_  
Nancy Thellman, Member

ATTEST:

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

\_\_\_\_\_  
Jameson D. Shew, County Clerk

Memorandum

Lawrence-Douglas County Metropolitan Planning Organization (L-DC MPO)

**TO: David L. Corliss, Lawrence City Manager  
Craig Weinaug, Douglas County Administrator**

**FROM: Todd Girdler, L-DC MPO Senior Transportation Planner**

**CC: Scott McCullough, L-DC MPO Secretary  
L-DC MPO Policy Board Members  
L-DC MPO Technical Advisory Committee Members**

**Date: June 29, 2011**

**RE: Competitive Consolidated Planning Grant (CPG) Applications to KDOT**

Our MPO operation is funded mostly with federal Consolidated Planning Grant (CPG) funds supplied by the USDOT and distributed to the MPO by KDOT. This federal funding for our MPO is augmented by cash and non-cash match amounts from local and state sources. Recently KDOT instituted a new CPG management system that includes an annual competitive application for a portion of CPG funds. That competitive process is now underway, and the MPO would like to submit applications for these additional funds. This funding will be at 80% federal and 20% non-federal match. The instructions for applying for these competitive CPG funds are attached to this memo.

During the last month the MPO staff discussed possible projects to fund with competitive CPG at both MPO Technical Advisory Committee (TAC) and the MPO Policy Board (MPO) meetings. The MPO directed the MPO staff to develop funding applications for the three studies noted below and to confer with the Lawrence and Douglas County Commissions to see if they are interested in supporting these applications and in providing a local cash match for any of these projects (see project descriptions and funding proposals below). This application process is on a fast track with applications due to KDOT by July 31<sup>st</sup>. This funding will be available in 2012. According to the application instructions, projects will receive a higher score if a cash match is provided. These projects are anticipated to be completed by consultants with oversight by MPO staff. The estimated study costs listed below were derived from MPO staff soliciting estimates from consultants that have worked with the MPO recently.

**Projects Recommended by the MPO for Application to KDOT for Competitive CPG Funding (80% federal)**

- **Commuter Park & Ride Study** – this study will investigate possible locations for commuter park and ride lots to serve the needs of Douglas County residents who work in Topeka and Metro Kansas City. Those lots could also serve shuttle bus needs for special event days in Lawrence. Coordination with commuter bus services and local transit services will be studied.

Estimated Total Cost \$50,000-60,000 with Estimated Local Match \$10,000-12,000

- **Fixed Route Transit and Pedestrian Accessibility Study** – this study will look at obstacles that transit riders face in accessing the fixed route system and identify places where improvements to the pedestrian environment (sidewalks, ramps, signals, crosswalks, etc.) could be made to improve and/or enable people to use fixed route services. Issues that now force some riders to rely on expensive paratransit services will be studied. Possible locations for bus turnouts will also be examined.  
Estimated Total Cost \$30,000-40,000 with Estimated Local Match \$6,000-8,000
- **Countywide Bikeway System Plan** – this project will expand the existing bikeway system planning efforts and the Bikeway System Map to cover all of Douglas County. The MPO staff and consultant will work with the TAC and the Bicycle Advisory Committee (BAC) on this project. This project will look at on-road and off-road bikeways, and possible bikeway connections from Douglas County to Topeka and Metro Kansas City.  
Estimated Total Cost \$80,000-100,000 Estimated Local Match \$16,000-20,000

The total estimated possible local cash match needed to support all three studies, if awarded, is \$40,000 and would be funded in whole or part by Lawrence, the County, or even one or more of the other cities in the county since two of the recommended studies affect more than Lawrence and unincorporated Douglas County.

The MPO currently has an estimated \$17,000 in local non-cash staff match and an estimated \$59,000 in KDOT match funding from the 5-County Regional Transportation Study to program in its 2012 budget. Such sources of non-cash match funding are typically used to support general MPO programming, including staff costs, and could be used to free up budgeted local cash match to commit toward the studies without increasing the 2012 budget past the 2011 budget. In any event, the MPO should be able to balance its 2012 budget with a relatively small percentage of local cash match even with the added competitive CPG funded studies.

To put the level of local cash support in historical perspective it should be noted that in recent years the MPO was funded with 80% federal CPG funds with the other 20% in local (Lawrence) cash match. During the 2005-2007 period the match was all in local cash at about \$57,000 annually while for the 2008-2010 period the local cash match dropped to about \$28,000. That decline was due in part to the MPO using KDOT match funds from the US 56 Corridor and 5-County Regional Transportation Studies. Another part of that decline was the MPO's use of local staff match (about \$17,000 annually) starting in 2010. In 2011 the MPO was able to use local staff match and an overabundance of KDOT match from the 5-County Regional Transportation Study to lower the MPO's need for local cash to an unprecedented low of only \$2,071. That is highly unusual. The need for a more typical local cash figure of about \$20,000-30,000 coupled with about \$17,000 of local staff match is expected to return in the 2013 budget.

The critical thing to note is that for 2012 we have a rare opportunity to get a significant amount of extra CPG funding (possibly \$100,000) for studies that will complement our Metropolitan Transportation Plan update (i.e., T-2030 to the T-2040 Transportation Plan) and do so with our regular MPO staff program intact and without increasing the budget authority of the MPO budget in 2012. The table below compares the total MPO program costs to the amount of local cash match per year for 2005-2013.

**MPO Unified Planning Work Program Budgets--Total CPG Funded Program & Local Cash Match Amounts**

Year	2005	2006	2007	2008	2009	2010	2011	2012 without extra CPG	2012 with \$100,000 extra CPG	2012 with \$200,000 extra CPG	2013
<b>Total Program</b>	266,500	274,380	348,550	170,003	300,683	250,245	245,755	221,944	321,944	421,944	187,500
<b>Local Cash</b>	46,400	54,876	69,710	34,001	25,913	25,068	2,071	0	20,000	40,000	20,000
<b>% Local Cash</b>	17.4	20.0	20.0	20.0	8.6	10.0	0.84	0.00	6.2	9.8	10.7

Note: 2010-2013 programs include local staff match which lowers the needed local cash match. 2009-2012 programs include KDOT match which lowers the needed local cash match. 2013 CPG allocation of \$150,000 from KDOT is estimated.

The \$20,000 level of local cash funding for these new studies does not need to raise the amount of local cash match for the MPO program in 2012 beyond what it has been recently. For next year the MPO will still have plenty of KDOT match to use for the MPO staff costs. At \$20,000 estimated for 2012 with the award of extra CPG funds, the local cash amount will still be lower than it was four years ago. The table above shows that the MPO staff has been working with KDOT to decrease the MPO's need for local cash during the recent hard economic times, understanding that local budgets are tight.

The MPO has directed the MPO staff to pursue applications for all three of the projects noted above. While we do not know which of these projects will receive funding approval from KDOT, it is hoped that we will get at least one of our requested projects. With that in mind, the MPO staff recommends that all three applications be submitted to KDOT with local cash match recognizing that approximately \$20,000 will be needed from the various partners (city, county, KU, transit, etc.) to fund the anticipated level of projects (\$100,000 worth of projects - half of the high-end cost estimate total for all three projects).

Considering the very short timeframe for developing these applications, it is important for the City and County Commissions to review these projects soon and to advise if there is a local government interest in pursuing these projects and. The MPO staff would like to have this item placed on the Commission agendas in early July so that staff will receive local guidance on how to construct the budgets for these applications and have time to prepare them before the July 31<sup>st</sup> deadline.

**Action Requested**

- 1. Direct MPO staff to submit the three recommended applications to KDOT for Competitive CPG funds to do extra planning studies in support of the regional transportation planning program and the update of the transportation plan, if appropriate.**

If you have any questions about this matter please contact Todd Girdler at (785) 832-3155 or by email at [tgirdler@lawrenceks.org](mailto:tgirdler@lawrenceks.org).

Attachments: KDOT Competitive CPG Funding Process – application instructions



# KDOT Competitive Funding Process

## Overview

Beginning in fiscal year 2010, KDOT will allow all MPOs to carry over into 2011, an amount equal to 20% of their 2010 allocation or \$20,000, whichever is more. The excess funds that are remaining will enter into the Competitive Fund Pot. This funding pot will be available to all the MPO's to competitively compete for planning projects. These funds may be used for any CPG eligible planning activity and must be programmed along with the annual allocation in the UPWP.

## Competitive Fund Request:

The Competitive Fund Process allows any MPO to apply for excess funds that were recaptured by KDOT and not awarded during the non-competitive round. The MPOs will be given an opportunity to submit formal requests to KDOT for use of these funds between **July 1<sup>st</sup> and July 31<sup>st</sup> each year**. Final decisions regarding the use of competitive funds will be made by KDOT by **September 1<sup>st</sup> each year**. Please note competitive funds can only be used for CPG planning eligible activities. Typically, competitive funds would require a cash match; however it has been expressed by several MPOs that it would be difficult to come up with cash match on such short notice. KDOT has decided the cash match requirement will be waived **for this year only** as both KDOT and the MPOs work through this process. MPOs should plan for using cash match for competitive funds in future years.

## Guidelines for Requesting Competitive Funds

MPOs must have their 4<sup>th</sup> quarter billings submitted to KDOT in order to apply for excess funds. This will assist both the MPO and KDOT with determining fund availability and necessity. MPOs seeking competitive funds must submit the "Request for Competitive Funds" form (you may ask your KDOT MPO Transportation Planner for assistance in filling out this form) along with documentation that provides justification of the project. A Special Projects Agreement will be executed between KDOT and the MPO if the MPO is selected to receive competitive funds. Billings for the project should be submitted along with the regularly scheduled quarterly billings, but must be specifically identified as being a part of the Special Projects Agreement (KDOT will provide a project number that should be documented on the paperwork). In addition, if competitive funds are awarded to the MPO, it must be identified in the UPWP of the identified program year(s) as using "Competitive Funds" including the project description, activities, and schedule.

## Project Evaluation

All Competitive Fund requests will be evaluated based on several criteria including the relevancy or necessity of the project to the MPO program, the MPO's ability to complete the project as evidenced from prior work and current staff expertise, status of core work elements, ability to provide cash match and the "planning principles" of the project as a whole (i.e., projects that enhance livability, sustainability, innovation, and interagency cooperation, etc...). It should be noted that project selection will not solely be based on the highest score received from the project scoring sheet. KDOT will also use other qualitative factors along with the project score to assist in the final determination.

## Competitive Fund Request Evaluation Form

**Project:** \_\_\_\_\_

Reviewer \_\_\_\_\_ Date \_\_\_\_\_

**A. Relevancy/ Necessity:** (*Total points possible = 30*) \_\_\_\_\_

1. The MPO has completed all core work elements. (10pts) \_\_\_\_\_
2. The proposed project is necessary to complete a core work element. (8 pts) \_\_\_\_\_
3. The proposed project directly complements the MTP. (7 pts) \_\_\_\_\_
4. The proposed project is an ancillary project to the MTP. (5 pts) \_\_\_\_\_

**B. Project Completion:** (*Total points possible = 25*) \_\_\_\_\_

1. The project sponsor has the availability capacity in their work program to complete the project (8 pts) \_\_\_\_\_
2. The project sponsor has a strong history of completing projects on time. (7 pts) \_\_\_\_\_
3. The proposed project can be completed by the provided end date. (5 pts) \_\_\_\_\_
4. The proposed project is a reasonable and pragmatic project. (5 pts) \_\_\_\_\_

**C. Provided Match:** (*Total points possible = 15*) \_\_\_\_\_

- 1. The project sponsor is providing cash match. (15pts) \_\_\_\_\_
- 2. The project sponsor is providing partial cash match. (7pts) \_\_\_\_\_
- 3. The project sponsor has identified an eligible in-kind match source. (3 pts) \_\_\_\_\_

**D. Planning Principles** (*Total points possible = 40*) \_\_\_\_\_

- 1. The proposed project contains elements of **Sustainability/Livability** as described by the HUD-EPA-DOT Livability principles. (8 pts) \_\_\_\_\_
- 2. The proposed project promotes **Innovative** transportation ideas for the region. (8 pts) \_\_\_\_\_
- 3. The proposed project entails a comprehensive **Planning Process**. (8 pts) \_\_\_\_\_
- 4. The proposed project contains an **Implementation** strategy that will put the plan into action. (8 pts) \_\_\_\_\_
- 5. The proposed projects creates the opportunity for **Interagency Coordination/ Cooperation**. (8 pts) \_\_\_\_\_

**TOTAL POINTS POSSIBLE: 120**

**TOTAL POINTS SCORED:** \_\_\_\_\_

*(Points assigned to each question represents the maximum available not the minimum.)*

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

PC Staff Report  
6/20/11

**ITEM NO. 5      CONDITIONAL USE PERMIT FOR INDOOR SPORTS CENTER; 1898 E 56 RD (SLD)**

**CUP-4-3-11:** Consider a Conditional Use Permit for an indoor sports center, located at 1898 East 56 Road, Lecompton. Submitted by PLS Landscape for Price Property LLC, property owner of record.

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

1. Provision of note on the face of the plan that states: the facility is not an event facility and that the use is restricted to practice only.
2. Provision of a note on the face of the plan that states: This use is limited to not more than two teams or 40 persons maximum at any one practice time.
3. Provision of note on the face of the plan that states: prior to occupancy all applicable building codes shall be met for the proposed change in building use.

**Reason for Request:** Applicant's response: *"We would like to change our CUP from an event hall to a recreation center. Due to the economy the recreation will be less expensive to create and operate."*

**KEY POINTS**

- The building was originally constructed as an indoor equestrian arena.
- Previous CUP approved (CUP-1-1-09) for reception hall in 2009.
- This request will replace the previous reception hall use.

**ATTACHMENTS**

- Area map
- Site Plan

**GOLDEN FACTORS TO CONSIDER**

**ZONING AND USES OF PROPERTY NEARBY**

- A (Agricultural) District; existing agricultural properties and scattered rural residences.
- County commercial zoning located along the county road.

**CHARACTER OF THE AREA**

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

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

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

**ASSOCIATED CASES / OTHER ACTION REQUIRED**

- CUP-6-2-94; Serenata Farms recreation facility; Planning Commission approved in July 1994.
- CUP-1-1-09; reception hall approved by the County Commission in April 2009.
- Approval by Board of County Commissioners.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- Telephone call from Melvin Walter; 1878 E. 78 Road, indicating support of request.
- Telephone call from Dave Henry requesting additional information about request.

<b>GENERAL INFORMATION</b>	
Current Zoning and Land Use:	A (Agricultural) District; existing agricultural property with improvements including a residence, business and accessory structures.
Surrounding Zoning and Land Use:	A (Agricultural) District to the north east and west; existing agricultural uses.  B-2 (General Business) District to the south along the Highway. Existing uses include both commercial and residential uses.
<b>Site Summary</b>	
Subject Property:	36.90 acres total
Building:	110' x 160' = 17,600 SF (Conversion of an existing agricultural building to an indoor recreation facility for baseball training/practice.)

**Summary of Request**

The subject property is made up of multiple parcels under the applicant's ownership. This request is intended to allow for a non-agricultural use of an existing building. The building was originally constructed as an indoor arena for Seranata Farms. A Conditional Use Permit was approved in 2009 to allow for conversion of the building to a reception hall. The applicant has indicated that the cost of the remodel is not feasible. If approved, this request will re-purpose the building to accommodate an indoor baseball training facility. The facility is anticipated to be used during fall/winter and early spring training. The facility may also be used during typically the spring/summer season for additional practice opportunities. The facility will be occupied based on a reserved time. There are no published or set hours of operation at this time. Typically ball practice occurs in the afternoon and evening hours and weekends.

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

The predominant zoning in the area is A (Agricultural). The area along Highway 40 is zoned B-2 (General Business) District. Highway development includes commercial and residential activities. Other land uses include rural residential and agricultural in the immediate area.

**Staff Finding** – The predominant use in the area is rural residential and agricultural with scattered county commercial uses located along Highway 40.

## II. CHARACTER OF THE AREA

The property is located within the community of Big Springs, southwest of Lecompton (an incorporated city). The property is located outside of the Lecompton 3 mile buffer area. The area is best described as an agricultural community including small business located along the Highway 40 frontage. The area along the highway is currently zoned for commercial uses. The current development pattern does not fully utilize this zoning. The area could be redeveloped with commercial uses thus changing the character of the area.

**Staff Finding** – The subject property is located within Big Springs, a rural community located along Highway 40 in the extreme western portion of Douglas County. The surrounding property includes a variety of parcel sizes and a commercially zoned strip along the Highway.

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

Applicant's response: *The building is very suitable for ball practice and hitting lessons.*

The subject property includes an existing landscape business. Direct access to the site is from Highway 40 a paved road. A Conditional Use Permit (CUP) does not change the base, underlying zoning. Therefore, the suitability of the property for agricultural uses will not change. The existing building is sufficiently large with high ceiling height to accommodate recreation uses/ball sports. This building has been approved for previous non-residential and non-agricultural related uses in the past. The property is developed with a residence, business, and related accessory structures.

**Staff Finding** – A Conditional Use Permit (CUP) does not change the base, underlying zoning. The property is suitable for the business and residential uses to which it has been restricted and for the proposed recreation use.

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

**Staff Finding** –County Zoning Regulations were adopted in 1966; this property has been zoned "A (Agricultural)" and "B-2" (General Business) prior to a 1984 zoning request (Z-7-10-84) that extended the commercial zoning along the highway. The property is currently developed with multiple buildings including residential, business and agricultural structures and uses.

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

Applicant's Response: *This will not affect nearby property. All activity is indoor.*

Section 12-319-01.01 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 is not specifically listed in the County Zoning Regulations. However, several similar uses including athletic fields or baseball fields, recreation facility, sports area or stadium are listed Conditional Uses. These uses include generally larger structures or spaces to accommodate a variety of public assembly activities. This request is most similar to the definition of a recreation facility.

The specific use is intended to focus on only one type of sport and does not include an open field area for games and sporting events.

Approval of the request will not alter the base zoning district. If approved, the existing agricultural building could be renovated (subject to building permit review and approval) for an indoor recreation/training facility.

Approval of this CUP will allow the applicant to operate a recreation facility within an existing building on site. There are no proposed changes to the property that are required to accommodate this use (excluding any applicable building permit requirements as they relate to assembly uses).

The operation of the facility is anticipated to be based on a reserved scheduled time basis. Generally, groups would be less than twenty and travel occurring in multiple cars. Adequate area is provided near the building to accommodate parking for this use.

The property was previously used for a therapeutic equestrian riding facility. This program has been closed for a number of years. A previous application for this same property was approved in 2009 to allow for a reception hall. Much of the surrounding open area is used to cultivate nursery stock related to the landscape business at this location. Approval of the request will introduce moderate activity and traffic to the area. As noted in the application the proposed activity would be completely indoors. As an indoor facility, noise and lights will have minimal impact on the surrounding area.

**Staff Finding** – Approval of the request will allow for use of an existing building originally constructed for a business type use. The proposed use will be conducted indoors. The expected small group use of the building is not anticipated to have a detrimental affect on the surrounding area.

## **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: "*This facility will provide an area for indoor recreation for children of all ages, while providing additional sales tax revenue for Douglas County.*"

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property.

Approval of the request is intended to use an existing structure for an indoor training facility for baseball teams. Use of the building in anticipated being off-season from a spring/summer sport. This activity could coincide with a generally less active time than the existing landscape business. The building was originally designed and constructed as an indoor equestrian arena. Approval of the request will accommodate additional business activity to the area and reuse and existing building. Denial of the request requires the applicant to find an alternative use for the existing structure.

**Staff Finding** – The approval of the CUP would provide additional recreation opportunities to the area. Additional traffic to and from the site is anticipated to be minimal since the proposed operation will mostly likely host one to two teams at a time. Gain to the public health, safety and welfare results from re-use of the existing building and expanded recreational options in the area. There is an identified hardship for the owner to find a viable use for and existing 17,600 SF building designed for a specific purpose.

## VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

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

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

Key features of the plan are noted in Chapter 3 of *Horizon 2020*. The plan generally seeks to preserve neighborhoods, facilitate infill development and to limit non-agricultural encroachments. This request intends to re-use and existing building originally constructed for therapeutic riding. Approval of the request allows for re-use of existing improvements within the area without encroaching on other agricultural activities.

**Staff Finding** – *Horizon 2020* does not directly address the issuance of CUPs, however the proposed use provides an active use of a large existing building on this property.

## VIII. PROFESSIONAL STAFF RECOMMENDATION

The subject property is not located within any identified Urban Growth Area. The application focuses on the reuse/conversion of an existing building. This request is located along an existing highway. The proposed use is intended to utilize existing built improvements located on the property. The proposed use will occur within an enclosed building and allow for activity during poor weather conditions. No physical changes to the site are proposed with this request.

### STAFF REVIEW (Site Plan)

Access to the facility is provided via an existing driveway through the commercial portion of the property. The main entrance to the building is proposed on the west side with the majority of the parking area. The driveway intersects a major thoroughfare. This section of the highway includes wide shoulders that would accommodate turning movements.

Conversion of the building may require improvements to meet minimum County building code requirements prior to occupancy of the structure for the proposed use. Upon submission of a building permit, the maximum occupancy of the structure will be established. The request is intended for an indoor training facility and is not expected to include a high level of interior finish.

A previous CUP for this same property and building was approved in 2009 for a reception hall. That form of recreation facility would have been significantly more intensive than the proposed building use as an indoor baseball training facility.

**Parking:** A parking standard for this use is not specifically identified in the Zoning Regulations. Similar parking categories that may be considered for a 17,600 SF building are provided below. Staff believes the parking standard for a community center is appropriate for this request.

Use (Section 12-316)	Standard	Application to site
Church, auditorium or place of assembly	1 space per 5 seats or bench seating	No fixed seating – assuming 20 persons per team and two teams maximum = 8 spaces required



Public library, museum, art gallery or community center	10 spaces per use Plus 1 additional space for each 300 SF of floor area in excess of 1,000 SF	As a single use community center type use base parking would be 10 spaces plus 55 spaces per 1,000 SF = <b>65 spaces required</b>
Auditorium, theater, gymnasium, stadium, arena, or convention hall	1 space per 5 seats or seating spaces	No fixed seating – assuming 20 persons per team and two teams maximum = 8 spaces required
Amusement place, dance hall, skating rink, swimming pool, natatorium, or exhibition hall without fixed seats.	1 space per 100 SF of floor area	For a 17,600 SF building = 176 spaces required

At this time the occupancy for the building is not established. Occupancy will be established by the County Zoning Office when more details are available about the floor plan and interior arrangement of batting changes and open areas for skill practice. Since a floor plan is not available at this time staff recommends that the use be limited. There is no expectation that more than 40 individuals would utilize the facility at any given time (assuming a maximum of 20 people per team including coaches and spectators/parents). Staff recommends that a note be added to the face of the plan to limit the use to not more than two teams or 40 individuals at any time.

The proposed plan shows a total of 80 parking spaces. The size of the structure could accommodate a much larger group as shown in the parking summary. There are existing driveway paths through the property that provide access for the landscape business. The proposed use for a baseball training facility is a much smaller scope than the previous reception hall application. Because of building concerns expressed by the County zoning Administrator, staff recommends a note be added to the face of the plan that states occupancy of the building is subject to approval and compliance with all applicable building codes for the proposed change in the building use.

**Screening:** The site includes existing vegetation as shown on the site plan. These natural areas provide buffering between the activity areas of the property and abutting properties. Parking is located on the east and west sides of the building. Screening is used to shield vehicle lights and to buffer noise.

**Limits and Conditions:** The applicant has not proposed any specific limitations for the hours of operation. Typical business hours are assumed. Evening hours and weekend use are also reasonable possibilities for this facility. Because of the indoor element hours of operation should not impact the surrounding area Staff has not proposed any conditions related to hours of operation or a time limit for this use. Staff has proposed limits on the use to specify that this is not an event facility and to limit the total number of teams/people at any given time. These recommendations are reflected in the conditions of approval.

**Conclusion**

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

# Big Springs Indoor Sports Center

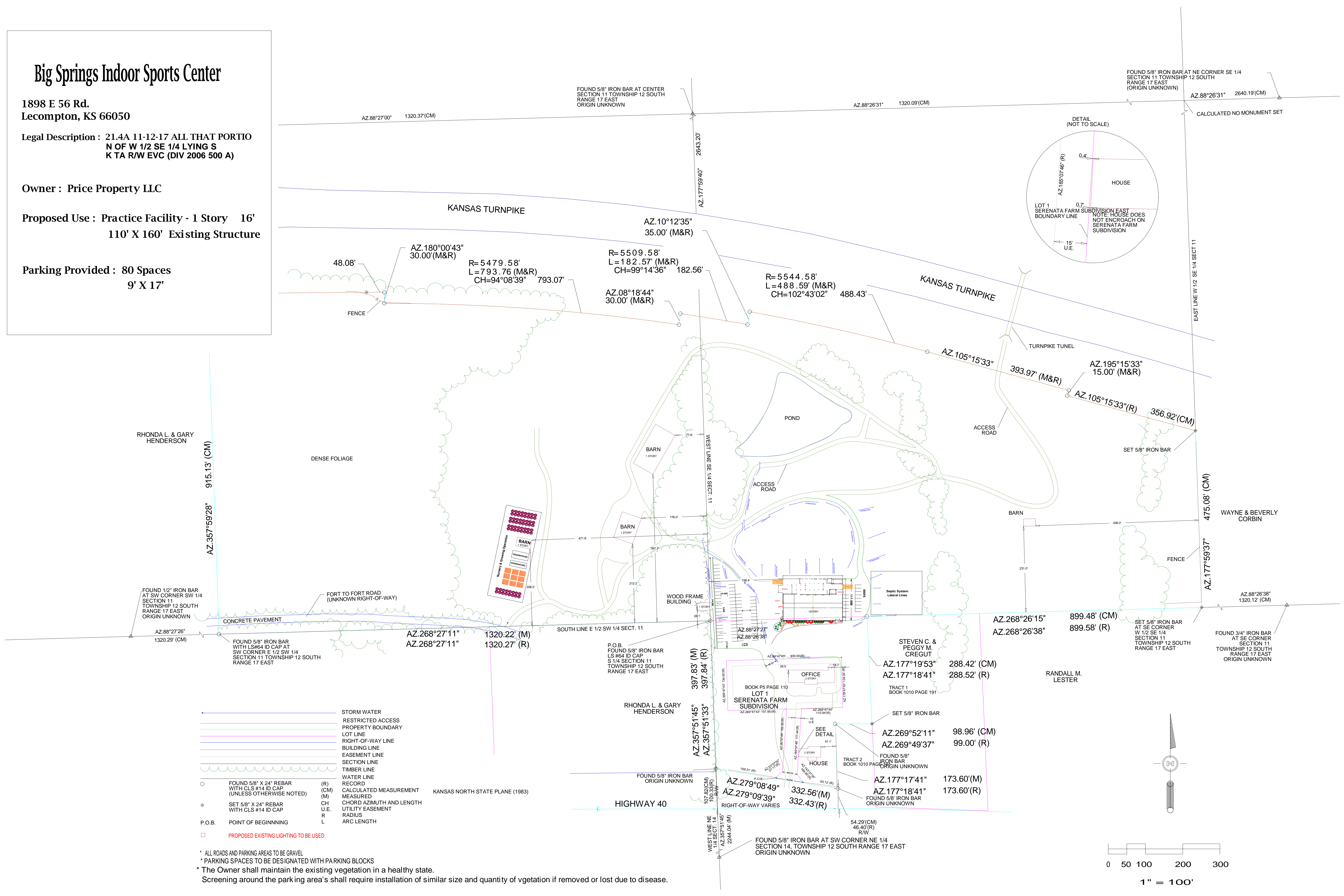
1898 E 56 Rd.  
Lecompton, KS 66050

Legal Description : 21.4A 11-12-17 ALL THAT PORTION OF W 1/2 SE 1/4 LYING S K TA R/W EVC (DIV 2006 500 A)

Owner : Price Property LLC

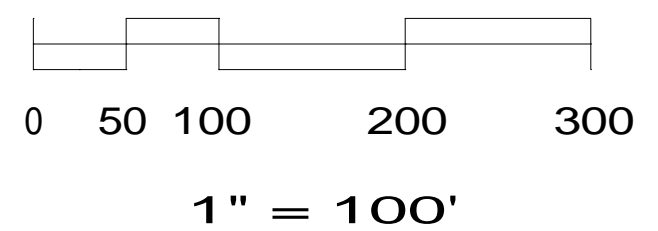
Proposed Use : Practice Facility - 1 Story 16' 110' X 160' Existing Structure

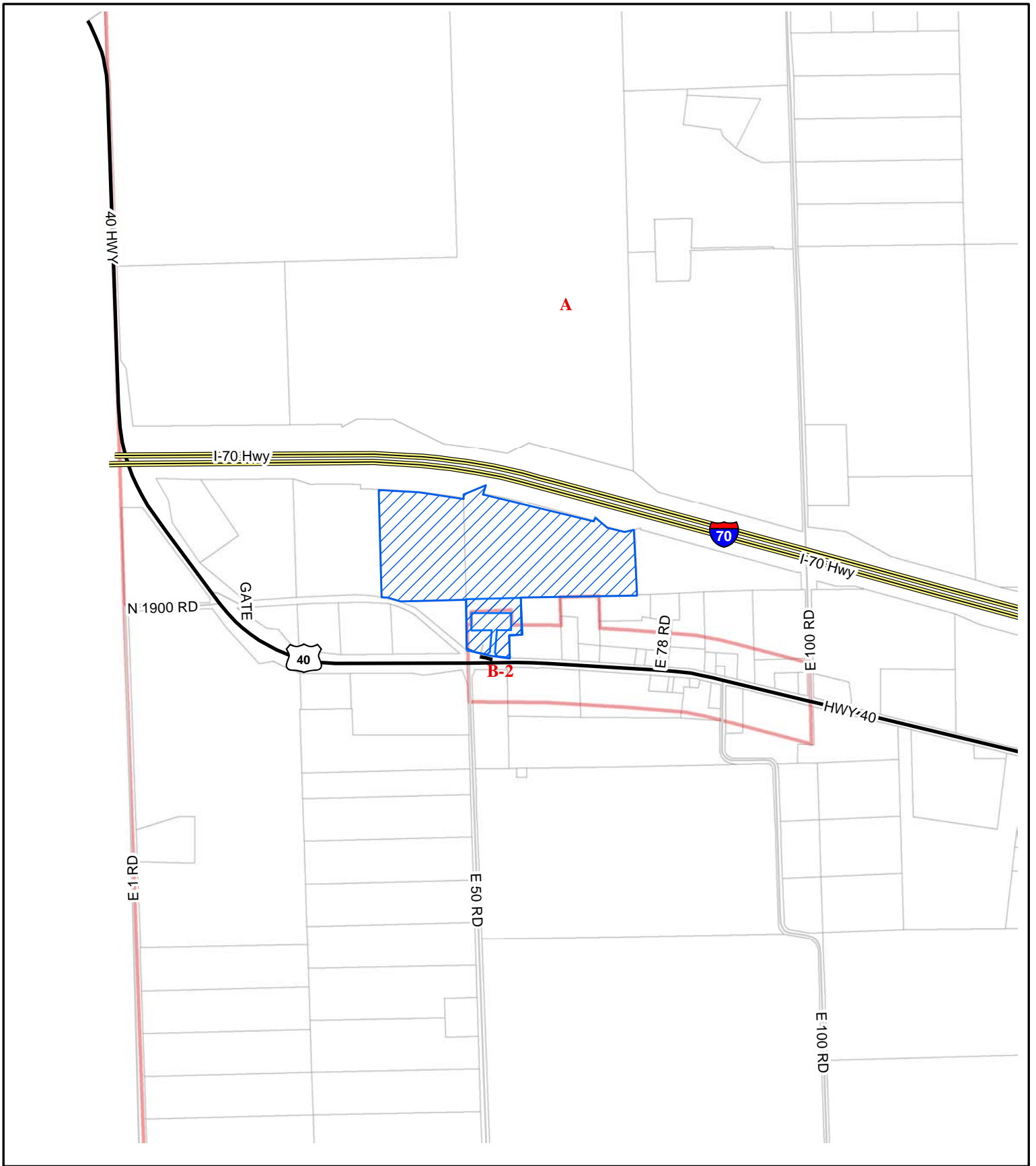
Parking Provided : 80 Spaces  
9' X 17'



- STORM WATER
- RESTRICTED ACCESS
- PROPERTY BOUNDARY
- LOT LINE
- RIGHT-OF-WAY LINE
- BUILDING LINE
- EASEMENT LINE
- SECTION LINE
- TIMBER LINE
- WATER LINE
- FOUND 5/8" X 24" REBAR WITH CLS #14 ID CAP (UNLESS OTHERWISE NOTED)
- SET 5/8" X 24" REBAR WITH CLS #14 ID CAP
- P.O.B. POINT OF BEGINNING
- PROPOSED EXISTING LIGHTING TO BE USED

\* ALL ROADS AND PARKING AREAS TO BE GRAVEL  
 \* PARKING SPACES TO BE DESIGNATED WITH PARKING BLOCKS  
 \* The Owner shall maintain the existing vegetation in a healthy state.  
 Screening around the parking area's shall require installation of similar size and quantity of vegetation if removed or lost due to disease.






**CUP-04-03-11: Conditional Use Permit for a indoor sports center  
1898 East 56 Road**

Lawrence-Douglas County Planning Office  
June 2011



 Area Requested  
Scale: 1 Inch = 1000 Feet

**ITEM NO. 5      CONDITIONAL USE PERMIT FOR INDOOR SPORTS CENTER; 1898 E 56 RD (SLD)**

**CUP-4-3-11:** Consider a Conditional Use Permit for an indoor sports center, located at 1898 East 56 Road, Lecompton. Submitted by PLS Landscape for Price Property LLC, property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

Commissioner Finkeldei asked if staff talked to the applicant about the two teams or 40 person maximum.

Ms. Day said she forwarded the staff report to the applicant and also had a brief conversation with him.

Commissioner Finkeldei said the two teams seemed arbitrary.

Ms. Day said the intention was not to limit it to only two teams, but rather a maximum of 40 people.

Commissioner Finkeldei asked if she would object to changing the wording.

Ms. Day said no.

**APPLICANT PRESENTATION**

Mr. Chad Price, Price Property LLC, was present for questioning.

Commissioner Finkeldei asked if he was okay with the 40 person maximum.

Mr. Price said he was comfortable with 40 players but said if each team had 15 players and each player had a parent bring them then they would be over the 40 maximum.

Commissioner Burger asked if there was enough space in the two story office building in the event of inclement weather.

Mr. Price said yes, there was a full basement.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Finkeldei asked if staff would be okay with 40 participants. He asked if the 40 was based on parking.

Ms. Day said there was ample parking and that was not the issue. She said it was an issue of occupancy that the county building codes administrator would establish. She said the building was capable of handling a significant larger number of people. Staff was trying to hold the occupancy down to allow the applicant time to address some of the building code issues that he may encounter. She stated staff was not married to the number of 40 people.

Commissioner Liese asked if staff could leave the number up to the county zoning office. He thought it might be wise to take the number of people out and leave it up to county zoning.

**ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Burger, to approve the Conditional Use Permit for an indoor sports center/recreation facility located at 1898 E 56 Road [SE1/4 Section 11-Township

12-Range 17] and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report subject to the following conditions two conditions:

1. Provision of note on the face of the plan that states: the facility is not an event facility and that the use is restricted to practice only.
- ~~2. Provision of a note on the face of the plan that states: This use is limited to not more than two teams or 40 persons maximum at any one practice time.~~
3. Provision of note on the face of the plan that states: prior to occupancy all applicable building codes shall be met for the proposed change in building use.

Unanimously approved 7-0.

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

PC Staff Report  
6/20/11

**ITEM NO. 1      CONDITIONAL USE PERMIT FOR A PRESCHOOL; 2084 N 1300 RD (SLD)**

**CUP-4-2-11:** Consider a Conditional Use Permit for a P reschool located at 2084 N . 1300 R oad. Submitted by Kristine Lawhorn for United Methodist Church of Eudora, property owner of record. *Joint meeting with Eudora Planning Commission.*

**STAFF RECOMMENDATION:** Staff recommends approval of a Conditional Use Permit for a preschool located at 2084 N 1300 Road.

**Reason for Request:**      *"To operate a licensed preschool facility"*

**KEY POINTS**

- Existing Church building includes office and classroom space used for religious education.
- Property is adjacent to K-10 Highway along north property line.
- Property is adjacent to the City of Eudora along the east property line.
- No physical changes to the site are proposed by this use.

**ATTACHMENTS**

- Site Plan
- Floor plan
- City of Eudora Future Land Use Plan

**GOLDEN FACTORS TO CONSIDER**

**ZONING AND USES OF PROPERTY NEARBY**

- City and suburban residential uses are located to the east and southeast.
- Agricultural zoning abuts subject property to the west, south and north of K-10 Highway.

**CHARACTER OF THE AREA**

- The proximity of the area to the City limits of Eudora creates a suburban character to the area.

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

- The proposed request will not alter the underlying zoning district.
- Child Care Centers (preschools) are allowed in the A District with a Conditional Use Permit.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- Approval by Board of County Commissioners.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None to date.

**GENERAL INFORMATION**

Current Zoning and Land Use: A (Agricultural); Existing Church.

Surrounding Zoning and Land Use: A (County Agricultural District) to the north (north of K-10 highway) and to the west and south.

City of Eudora to the east, east of E 2100 Road/Winchester Road.

A-1 (Suburban Home Residential) to the southwest; existing large lot residential subdivision.

<b>Site Summary:</b>	
Subject Property:	35.413 acres
Existing Building:	14,322 SF
Off Street Parking Required:	Standard: 1 space per classroom (Section 12-316-1). Maximum 8 class rooms = 8 spaces.
Off Street Parking Provided:	142 parking spaces provided.
Approved Site Plan:	SP-10-64-04; original church development
Proposed Preschool:	2 classrooms currently 4 classrooms by fall 2011 8 maximum classrooms
Class room size	10 children per class room [80 children program maximum]
Staff	4 staff currently [10 staff maximum at full capacity]
Hours of Operation	Monday through Friday AM Session (8:15 to 11:15) PM Session (11:45 -3:15)

**Summary of Request**

This request is for a Conditional Use Permit to allow a preschool (Child Care Center) to be operated from the existing church. No physical changes to the property are proposed. The church includes a number of existing classrooms. The application indicates that the program will include two to four classrooms initially (10 children per classroom) with future growth of the program up to a total of 8 classrooms (80 maximum children). This maximum is based on the availability of space within the existing building. Other state standards for child care must be met separately.

The proposed hours of operation are from 8:00 to 3:00 with a morning session and an afternoon session. Hours of operation are summarized in the table above. Initially, staff will include a total of four individuals. As the program grows additional staff will be added. Staffing levels are also regulated by state standards. Approval from the County Health Department is also required.

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

The property is currently zoned A Agricultural. The area east of E 2100 Road/Winchester Road is located within the City of Eudora. A platted rural residential subdivision is located to the southwest. The immediate zoning includes both A and A-1 zoning in the County portion of the surrounding area. Land uses include both residential and agricultural uses.

**Staff Finding** – This property is located along Kansas Highway 10 and abuts the existing Eudora city limits. Land uses include both residential and agricultural activities.

## II. CHARACTER OF THE AREA

This property is located adjacent to the City of Eudora and northeast of an existing rural residential subdivision. The area is transitioning to a suburban character as Eudora expands to the south.

**Staff Finding** – This is located adjacent to the City of Eudora. As the City develops to the south this area will be incorporated into the city limits. The character of the area is generally one of transition from Agricultural to suburban.

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

Applicant's response: *"Property is properly zoned and equipped for institutional use."*

A Conditional Use Permit (CUP) does not change the base, underlying zoning. Therefore, the suitability of the property for continued church use will not be altered.

The 6.3 acre property is developed with a church and parking lot capable of supporting the proposed child care center. Approval of the request allows for multi-use of an existing building.

**Staff Finding** – The property is suitable for the uses to which it has been restricted and for the proposed child care center.

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

**Staff Finding** – The subject property is developed with a church and parking lot (SP-10-64-04). 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: *"None"*

Section 12-319-01.01 of the County Zoning Regulations recognize that *"certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited."* The proposed use falls under section 12-319-4.30 Child Care Center of the Zoning Regulations for the Unincorporated Territory of Douglas County.

Approval of this CUP will allow the applicant to operate a preschool/Child Care Center as an accessory use to the church. There are no proposed changes to the property that are required to accommodate this use. Existing classroom space used for religious education provides ample room for the weekday program. An existing enclosed play ground area provides an outdoor recreation area typically required per State Health Department standards.



Hours of operation are proposed as Monday – Friday from 8:15 to 3:15 for the program operation. Staff generally would be present on site prior to and after the program hours as needed. This time is generally consistent with other non-residential/business activity located in other areas of the City of Eudora. Access to the site is accommodated via N 1300 Road/W. 20<sup>th</sup> Street. No negative impacts are anticipated by the weekday use of the church building on the surrounding area.

**Staff Finding** – The addition of a daytime use will not affect nearby properties resulting from hours of operation or 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 public will benefit by having additional access to early education."*

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property.

The application lists the proposed use as "preschool". This use is considered to be a child care center per the definition provided in the County Zoning Regulations. In practice preschools and child care centers are similar terms that tend to be used interchangeably providing elements of both child care and early education based on the structure of the program. This request is intended to operate as a preschool offering early childhood education in a more formal setting. Early education is associated with later educational performance. Provision of these services within neighborhoods allow children to form neighborhood connections earlier in life and are more likely to attend school with peers in the same school district.

- Approval of the request will provide an opportunity for clients of the program to develop neighborhood connections that include future classmates upon entering local schools.
- Approval of the request allows for multi-use of existing building and infrastructure improvements.

**Staff Finding** – Approval of the Conditional Use Permit may benefit the community by adding child care options for residents within the community. This request benefits the community by utilizing existing property and infrastructure improvements.

## VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *"The request conforms with Horizon 2020's goal of increasing the diversity of educational opportunities, creating stronger interrelationships among public and private organizations and ensuing that development is compatible with its surroundings and the community. (Horizon 2020 1-3)"*

The property is located within the city of Eudora's Urban Growth Boundary. The area located along the south side of K-10 Highway west of E 2100 Road/Winchester Road is designated on the future land use Map as planned Mixed Use (Map 10 Eudora Comprehensive Plan). The property is located within the unincorporated area of Douglas County. *Horizon 2020* defines the rural area as: "area that is located outside of the designated Urban Growth Areas of the incorporated Cities." Because of the proximity to the City of Eudora and the existence of the Eudora Urban Growth Boundary,

conformance with the *Eudora Comprehensive Plan* is considered to take precedence. The *Eudora Comprehensive Plan* defines mixed use as incorporating:

*"...residential, retail and office uses. Retail and office uses may be stand-alone or may be on the ground floor with residential on the upper floors. This category supports a variety of zoning districts; however, the focus of development within the category is not so much as use as it is on design. All development projects should be well planned and designed to ensure a high level of compatibility with surrounding development. Accordingly, the Planned Unit Development process needs to be employed to ensure the objectives of this category and the planning districts are met."*

The plan further defines public and semi-public uses as the following:

*"This category includes uses such as schools, churches, post offices, fire stations, libraries, cemeteries, utility facilities, governmental uses and religious institutions. The zoning code may or may not include an exclusive public/semi-public district but these uses are identified on the Future Land Use Map in order to identify actual and proposed uses within the planning area."*

The existing church located at 2084 N 1300 Road was built after the land use plan was completed in 2003. Later updates to the plan did not update the area to include the existing church. As noted above the property is not yet located within the Eudora city limits.

The proposed request does not include physical development of the site nor does it propose annexation into the city of Eudora or Eudora city rezoning.

*Horizon 2020* does not address Conditional Use Permits as a tool to achieve specific policies. This area is generally anticipated to eventually be incorporated by the City of Eudora. The *Eudora Comprehensive Plan* supports logical growth along established corridors south of K-10 Highway between Winchester Road and Church Street. The *Eudora Comprehensive Plan* also includes policies regarding public and semi-public uses. The plan specifically states:

*"The City should support the development and expansion of the various organizations serving all residents of all ages and needs, including the City's youth and the growing segment of the population that is age 65 and older. This includes the City's educational facilities and nursing homes."*

*Horizon 2020* recognizes the importance of urban growth boundaries for all cities in Douglas County. Deference is given to the land use plans articulated in the *Eudora Comprehensive Plan*.

**Staff Finding** –A Conditional Use Permit can be used to allow specific uses that are 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 future land use plans for the City of Eudora.

## VIII. PROFESSIONAL STAFF RECOMMENDATION

The proposed request abuts the existing Eudora city limits along the east property line and K-10 Highway along the north property line. The proposed request does not include any physical

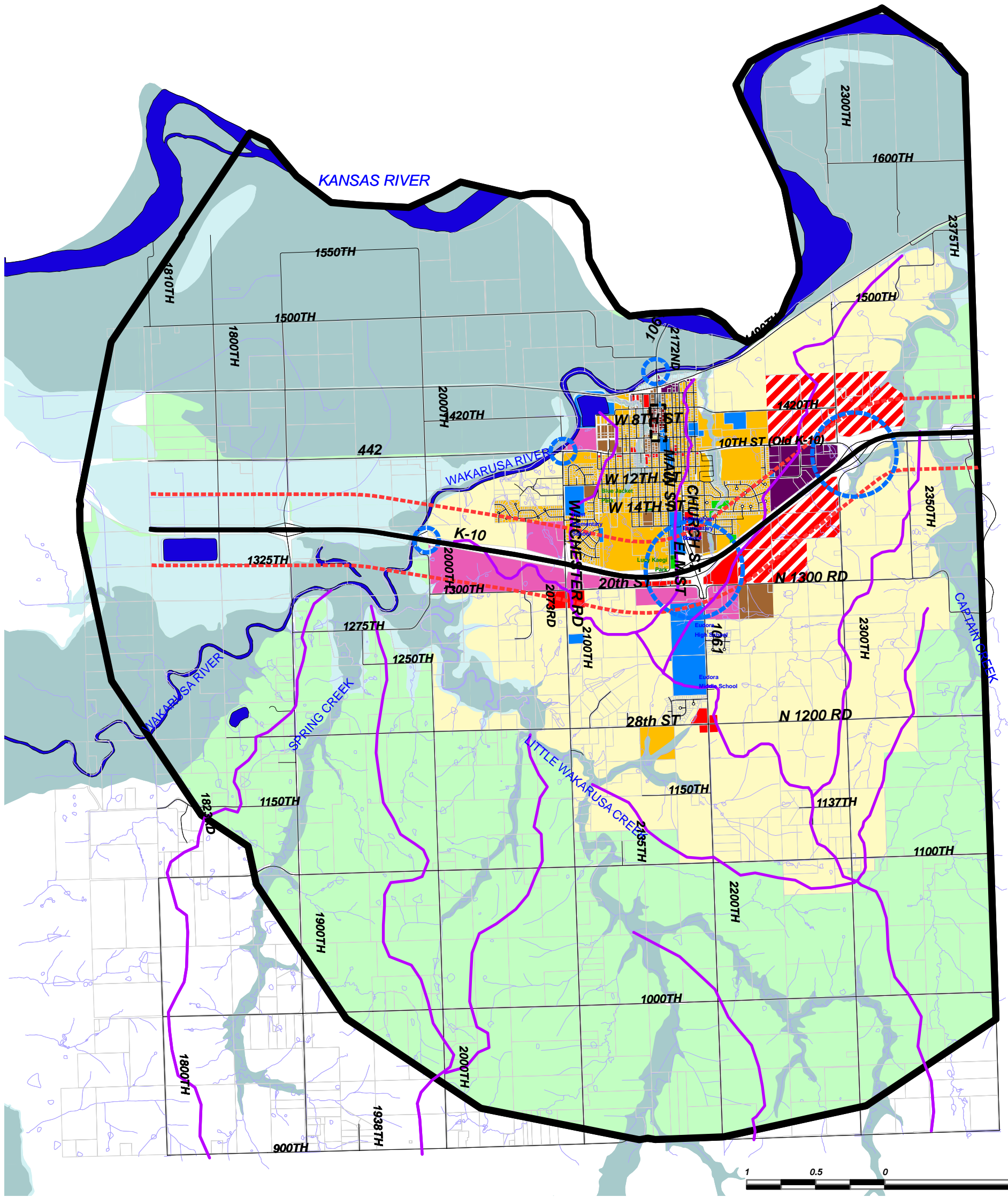
alteration to the site and is considered to be beneficial in providing additional child care and early education options within the community. The proposed use will co-locate within an existing church and utilize existing infrastructure. The proximity of the property to the City of Eudora suggests an appropriateness to consider land use recommendations based on the *Eudora Comprehensive Plan*. Support for this argument is included in *Horizon 2020* by recognition of urban growth boundaries of the incorporated Cities of Douglas County. Staff recommends approval of the proposed Conditional Use Permit.

### **STAFF REVIEW (Site Plan)**

A site plan was approved by the County Commission in August 2005 for the construction of a 14,322 SF church. The site plan included a conceptual addition to the building but did not include the phasing schedule for the addition. The parking lot was sized to accommodate the 251 projected seats of the sanctuary space. The site plan shows a future parking area that could be expanded in the future if needed.

This proposed request for a preschool does not include any physical changes to the site. Existing religious education classrooms will double as preschool classrooms. The existing outdoor area is fenced and will be used for the preschool during program hours. The initial program proposal will include up to four of the existing eight classrooms in the building. As the program grows additional space and staff will be added. The existing building and parking lot are more than adequate to accommodate the maximum program projection of 80 students.

No conditions of approval are required for this use.



# Map 10 Future Land Use Map

*City of Eudora, Kansas*



## Comprehensive Plan

July 2005

### LEGEND

- City of Eudora Planning Area
- City of Eudora Corporate Limits
- Roads
- Parcels
- Water Features
- 100-year Floodplain
- 500-year Floodplain
- Major Ridge Lines

- Land Use**
- Rural Policy Area
- Low-Density Residential
- Medium-Density Residential
- High-Density Residential
- Mixed Use
- Central Business District
- Commercial
- Business Park
- Industrial Park
- Public/Semi-Public
- Parks & Open Space

- Overlays**
- Central Business District
- Gateways
- K-10 Corridor

7920 Ward Parkway Kansas City, Missouri, 64114  
816-363-2696 2001-205

MAP/DATA DISCLAIMER: Base map delineations, planimetrics, and related data shown herein have been established by the Douglas County, Kansas GIS Department and modified by Bucher, Willis & Ratliff Corporation on behalf of the City of Eudora as warranted. Any inaccuracies in information incorporated in this map are unintentional.

NOTE: Central Business District and K-10 Corridor Overlays as identified by the City of Eudora Zoning Regulations.

# OPEN HEARTS PRESCHOOL

UNITED METHODIST CHURCH OF EUDORA  
2044 N 1300 ROAD, KANSAS, KANSAS 66025



SHEET: A-1.1

PROJECT NO. 2001-0007 (08/08) A-1.1

The office of:  
KENNETH O. VON ACHEN  
CHARTERED ARCHITECTS  
Post Office Box 618  
Eudora, Kansas 66025  
PHONES: 913-241-2410, KANSAS CITY AREA - 913-229-4686  
ARCHITECTS - ENGINEERS - PLANNERS - ESTB. 1945

BOB D. CAMPBELL & CO., INC.  
Structural Engineers - Since 1957  
4538 Bellevue  
Kansas City, Missouri 64111

**H&B**  
HOSS & BROWN  
ENGINEERS, INC.  
1717  
Lawrence, Kansas 66044  
(785) 822-1102 Fax: (785) 822-1285

19 September 2005  
PLOT OF DRAWING IN PROGRESS

NOTE: SITE PLANS, DRAWINGS ARE BASED UPON AN ELECTRONIC FILE TO BY WHITE MARTIN (OUR PREVIOUS SURVEY PERFORMED BY ENGINEERING CONSULTANTS, P.A.) AND ASSUMED TO BE CORRECT. THE CLIENT HAS ADVISED TO KENNETH O. VON ACHEN, CHARTERED ARCHITECTS BY THAT FIRM.

NO HIGHWAY INDICATED WITH 6 LANES AND WINCHESTER INTERCHANGE

R-O-W FOR OFF RAMP  
2.58 ACRES

OWNER OFFERED OFF-RAMP R-O-W LINE  
N 64° 42' 58" W 957.56 FT.  
KDOT REQUESTED OFF-RAMP R-O-W LINE  
N 10° 49' 16" W 495.30 FT.

50 FT. SET BACK FROM POTENTIAL OFF-RAMP R-O-W.

NOTE 1: TRASH CONTAINMENT AREA ADDED TO "REAR" PARKING LOT AREA. TRASH REMOVAL BY WELDON ENTERPRISES, INC.  
NOTE 2: FUTURE CONSTRUCTION WILL REQUIRE RESUBMITTAL FOR SITE PLAN APPROVAL.

Approved & Released  
Case No. SE 12-14141 Date 7/19/05  
Planner Initials: [Signature] # of Sheets: 2  
Project No. 2001-0007 (08/08) A-1.1

FOUND 5/8" BAR  
FOUND 5/8" BAR  
SET 5/8" BAR  
FOUND 5/8" BAR  
FOUND 5/8" BAR  
FOUND 5/8" BAR

SE COR. SEC. 7, T.13S., R.21E.  
BAR OVER FOUND STONE

SUBMITTED FOR SITE PLAN REVIEW ONLY, NOT FOR CONSTRUCTION

75 FT. SET BACK FROM K-10 R-O-W.

Hours of operation:  
1-F: 8:15-11:15 am  
11:45-3:15 pm  
3:30-11:00 am M/W/F or T/R  
2:00-3:00 pm M-F  
It is for program to have 20 kids per classroom. We currently have 2 classrooms with a possibility of 40 kids in the fall of 2011. Potentially we can grow into 4 total classrooms. This could increase the amount of students to a max of 80. We will start with 2011 with 1 staff members. We can grow to a max of 10 staff members.

1/A-1.1a & 1/A-1.1b LAYOUT & GRADING DETAIL PLANS AT T=30 FT.

CONTAINS 35.72 ACRES OR  
CONTAINS 1,355,903 S.F. MORE OR LESS

WE SHALL VERIFY COORDINATE POINTS ON SITE PRIOR TO CONSTRUCTION AND NOTIFY OWNER OF ANY DISCREPANCY.

DATE SYSTEM  
IN-AND 00.00.E  
OF 00.00.A  
OF 00.00.E  
OF 00.00.E

REFERENCE CORNERS

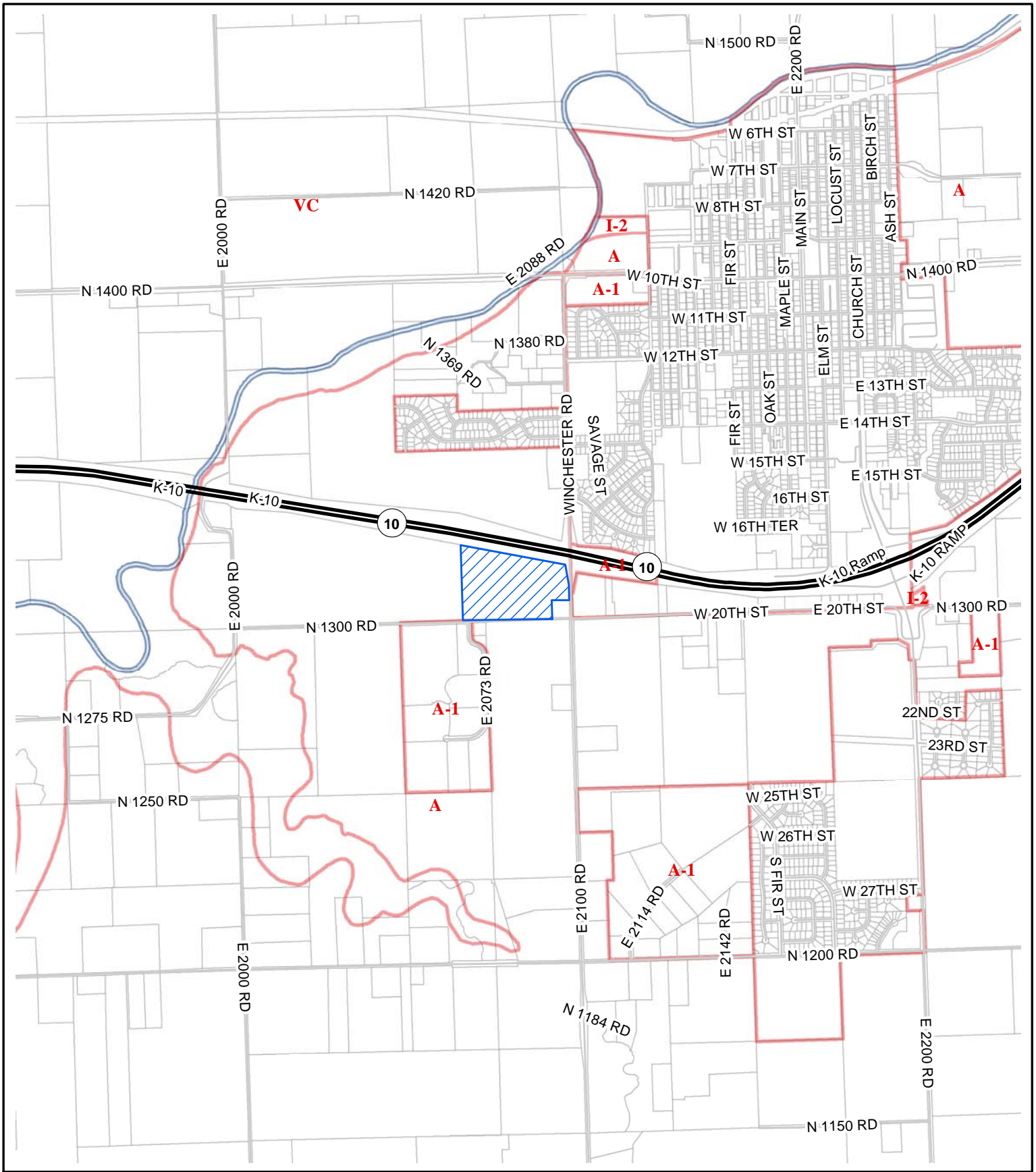
1/1 SITE PLAN - LAYOUT  
SCALE 1" = 60'-0"

GRAPHIC SCALE IN FEET  
0 20 40 60 80 100 200 300

DATE	REVISIONS

2501-KSP7(08/08) A-1.1






**CUP-04-02-11: Conditional Use Permit for a Preschool  
2084 N 1300 Road**

Lawrence-Douglas County Planning Office  
June 2011



 Area Requested

Scale: 1 Inch = 2000 Feet

**ITEM NO. 1      CONDITIONAL USE PERMIT FOR A PRESCHOOL; 2084 N 1300 RD (SLD)**

**CUP-4-2-11:** Consider a Conditional Use Permit for a Preschool located at 2084 N. 1300 Road. Submitted by Kristine Lawhorn for United Methodist Church of Eudora, property owner of record. *Joint meeting with Eudora Planning Commission.*

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**APPLICANT PRESENTATION**

Ms. Kristine Lawhorn was present for questioning.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION by Eudora Planning Commission**

Eudora Commissioner Kurt von Achen said Eudora Planning Commission supported the item.

Eudora Commissioner Ken Adkinson asked how many kids would attend.

Ms. Lawhorn said currently there were 24 enrolled but that there could be up to 40 children this semester. She said there could be 10 children per classroom per session so there could be a total of 80 children. She said they hoped to grow into more classrooms.

**ACTION TAKEN by Eudora Planning Commission**

Motioned by Eudora Commissioner Richard Campbell, seconded by Eudora Commissioner Ken Adkinson, to approve the Conditional Use Permit for a preschool located at 2084 N 1300 Road.

Motion carried 4-0 by Eudora Planning Commission.

**COMMISSION DISCUSSION BY Lawrence Planning Commission**

Commissioner Finkeldei disclosed ex parte that his son's friend hoped to go to this school.

**ACTION TAKEN by Lawrence PC**

Motioned by Commissioner Finkeldei, seconded by Commissioner Liese, to approve the Conditional Use Permit for a preschool located at 2084 N 1300 Road.

Unanimously approved 7-0.



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

PC Staff Report  
6/20/11

**ITEM NO. 3      CONDITIONAL USE PERMIT FOR A RETAIL NURSERY; 1185 N 1250 RD (SLD)**

**CUP-3-1-11:** Consider a Conditional Use Permit for a Retail Nursery located at 1185 N. 1250 Road. Submitted by Lawrence Landscape Inc., property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of a Conditional Use Permit for a Retail Nursery located at 1185 N. 1250 Road subject to the following conditions:

1. Approval of a local floodplain development permit prior to start of commercial retail operations.
2. The applicant shall provide a revised site plan with the following note: Chemical or compost toilets may be used only if approved by the County Health Official.

**Reason for Request:** *"To allow retail sales of nursery plants and landscaping supplies."*

**KEY POINTS**

- Existing business located along hard surface roads (N 1250 and E 1200 Roads).
- Existing zoning is VC (Valley Channel) requiring a local floodplain development permit.
- Property is currently designated floodway per FEMA maps
- Applicant is seeking a Letter of Map Revision (LOMR) based on site survey data that if approved by FEMA would revise the floodway boundary in this area.

**ATTACHMENTS**

- Site Plan
- Area Map

**GOLDEN FACTORS TO CONSIDER**

**ZONING AND USES OF PROPERTY NEARBY**

- Valley Channel zoning and related agricultural land uses surround subject property.

**CHARACTER OF THE AREA**

- Property is located south of K-10 Highway within the Lawrence Urban Growth boundary.

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

- The current zoning designation for the property is VC, a district in which many agriculture-related uses are allowed.
- The proposed request will not alter the underlying zoning district.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- Approval by Board of County Commissioners.
- Approval of a local floodplain development permit or revision to the floodplain boundaries through a Letter of Map Revision (LOMR)

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None to date.

**GENERAL INFORMATION**

Current Zoning and Land Use: VC (Valley Channel); existing tree farm and nursery stock supply business.

Surrounding Zoning and Land Use: VC (Valley Channel); in all directions. Agricultural uses and rural residences.

<b>Site Summary:</b>	
Subject Property:	33.5 acres
Office Building	300 SF
Storage Building	180 SF
Shipping Container (storage)	360 SF
Pole Barn (equipment storage)	1200 SF
Future Hoop House (greenhouse)	1,920 SF
<b>Total Building space</b>	<b>3,960 SF</b>
<b>Total building space excluding (greenhouse)</b>	<b>2,040 SF</b>

Off-Street Parking: Standard: 1 space per 200 feet of floor area, Section 12-316-1 requirement for *retail store or personal services establishment and banks*.

Excluding storage space total retail area is 300 SF requiring 2 off-street parking spaces.

25 parking spaces provided along existing driveway.

**Summary of Request**

This request is for a Conditional Use Permit to allow for retail sales and related activities. The site includes several existing and proposed improvements. Structures are minor and generally moveable on the property as needed. The site includes both office/retail space as well as equipment storage related to the landscape business. Storage of materials such as rock, mulch, and gravel are also located on the property and available for retail sales and used in the landscape business. The Zoning Regulations allow an area of not more than 3,500 square feet of net retail space as a maximum Conditional Use. Beyond that size commercial zoning would be required for retail uses. Greenhouses, where plants are grown, and outdoor display areas are not included in the retail space calculation. This particular nursery is geared toward exterior display of products and accommodates a customer’s access to the site to choose specific plants and materials available for sale. The office building provides a point for the retail sales transaction. A key feature of this request defines and limits the activity to nursery related sales and prohibits general assembly activities such as receptions, weddings, and similar uses.

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

This area is located between K-10 Highway and the Wakarusa River. The area zoning is reflective of the floodplain designation in the area. Uses include rural residences and agricultural fields. A large

pond is located on the subject property that was created as a borrow pit for the construction of K-10 Highway.

**Staff Finding** – This property is located in the area between the K-10 Highway and the Wakarusa area. The development pattern is dominated by agricultural uses.

## II. CHARACTER OF THE AREA

This property is located within the Lawrence Urban Growth Boundary and within the planning area of the *Revised Southern Development Plan*. The area is currently rural in nature, but influenced by the proximity of the Lawrence City Limits, K-10 Highway and the Wakarusa River. The urban area is located between 31<sup>st</sup> Street and the highway with the agricultural area located to the south. This area has a strong agricultural character at this time.

**Staff Finding** – This area is characterized as an agricultural area on the fringe of Lawrence. The development pattern is characterized by rural residences along the existing county roads and agricultural fields. The proposed use is compatible with the character of the area.

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

Applicant's response: *"Excellent."*

This property is zoned VC (Valley Channel) District. The purpose of this district is identified in Section 12-314 of the County Zoning Regulations and states: *"...prevent, in those areas subject to periodic or potential flooding, such development as would result in a hazard to health or safety, and to insure the general public will not be forced to expend exorbitant funds to remedy flood problems."* This district is associated with a designated floodplain. Development is also subject to a local floodplain development permit, separate from the Conditional Use Permit, administered by the County Zoning Administrator. The Planning Commission's action is separate from the Floodplain permitting process.

Uses allowed in the VC district include: farms, truck gardens, orchards, and plant nurseries among other types of open land uses. In addition to the nursery aspect of the existing land use, landscape materials are stored and displayed for sale. The County Zoning Regulations allow for Retail Nurseries that do not exceed a total of 3,500 SF of net retail space excluding greenhouses (future hoop house) and outdoor display areas. This property is currently used as a tree nursery farm and landscaping material storage/sales. A Conditional Use Permit (CUP) does not change the base, underlying zoning. Therefore, the suitability of the property for continued agricultural use will not be altered.

**Staff Finding** – The property is suitable for the nursery uses within the VC District. The total building improvements are less than the maximum 3,500 SF established in the Zoning Regulations.

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

This property is developed with an active tree farm and several buildings related to the landscape business. The VC (Valley Channel) and VP (Valley Plain) Overlay District were created in response to the 1951 flood and were included in the September 23, 1966 Zoning Regulations when the County

adopted county zoning. The VP district was removed in 1981 when the floodplain management regulations were adopted for the first time and amended into the County Zoning Regulations.

**Staff Finding** – The subject property is an operating tree farm and includes several buildings used for business related activities and storage. The County Zoning Regulations were adopted in 1966 including VC and VP zoning generally reflecting the 1951 flood impact. Valley Channel Zoning as it occurs today has been in place since 1981.

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

Applicant's Response: *"No detrimental affects for nearby properties."*

Section 12-319-01.01 of the County Zoning Regulations recognize that *"certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited."* The proposed use falls under Section 12-319-4.32 Retail Nursery of the Zoning Regulations for the Unincorporated Territory of Douglas County.

The existing business currently includes wholesale transactions as well as limited retail activity. The applicant's main office is located in North Lawrence where customers seeking design plans are directed. Approval of the request will allow for commercial retail operations at this site. The use is not anticipated to generate significant traffic. The use is immediately adjacent to K-10 highway with a hard surface road between the highway and the property.

This property is located within the regulatory floodplain of Douglas County. The applicant is currently seeking a revision to the adopted floodplain maps that modifies the boundary and removes a portion of the property from the regulatory portion of the floodplain. A local floodplain development permit is required. As such specific building codes must be met for structures. The applicant has been advised of this concern and is taking steps to address these requirements separate from this Conditional Use Permit. No detrimental impacts are anticipated by approval of this proposed request assuming applicable floodplain regulations are applied by the County through the building permit process.

**Staff Finding** – No detrimental impacts are anticipated by the proposed use. This finding assumes that the applicable enforcement of the County floodplain regulations is implemented for this site.

**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 is the availability of a creative retail nursery offering Douglas County Farm Fresh trees and shrubs and ancillary products."*

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 the scope of retail activity currently provided on this property. The

property could continue to be utilized as a tree farm. The retail use is an allowed use in this district subject to the approval of a Conditional Use Permit.

**Staff Finding** –Approval of this request does not directly harm the public health, safety and welfare. Denial of the request limits the scope of the business for this site.

## VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: *"This request is the very essence of compliance to the comprehensive plan Horizon 2020. This request encourages the production and sales of locally grown nursery crops for use in Lawrence and Douglas county, making it just a little greener!"*

The property is located within the city of Lawrence Urban Growth boundary. The property is also located within the *Revised Southern Development Plan* area. The plan was approved in 2008 and adopted into *Horizon 2020*. *Horizon 2020* does not address Conditional Use Permits as a tool to achieve specific policies. This area is anticipated to develop over time as an open space area with auto related commercial uses along the south side of K-10 Highway near the intersection of S. Iowa Street and K-10 Highway. The area south of K-10 Highway is a transition area with substantial open space uses recommended along the corridor.

**Staff Finding** –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 and to address specific land use concerns as the area transitions from a rural to urbanized development pattern.

### STAFF REVIEW (Site Plan)

Approval of the request would allow the property owner to expand the current operation and engage in retail activities on a larger scale. Current retail sales is limited to only those products produced on site. The site plan shows an area for bulk items such as mulch and decorative rock. A display area is provided at the front of the site and is the primary retail area. The paved and landscaped areas are intended to showcase examples of work and products available.

Minimal improvements to the site are proposed. Most structures are built on skids and are portable. They can be moved movable around or off-site, if needed.

County Health Department approval will be required for the placement of a chemical, compost, or incinerating toilet. The applicant intends to provide a single occupancy facility. Because the use is located in the floodway, this portable/removal facility is preferred by the County Health Department.

The site includes display areas that showcase products and services available such as patios and outdoor kitchen designs. The applicant also intends for an area at the front of the site to be dedicated for additional display. This area would allow for display of pools and other "hardscape" improvements that may be demonstrated for customer's consideration. The 20' by 80' display area is proposed along the front property line. Staff recommends that the display area be setback consistent with the 50' setback for the Valley Channel District.

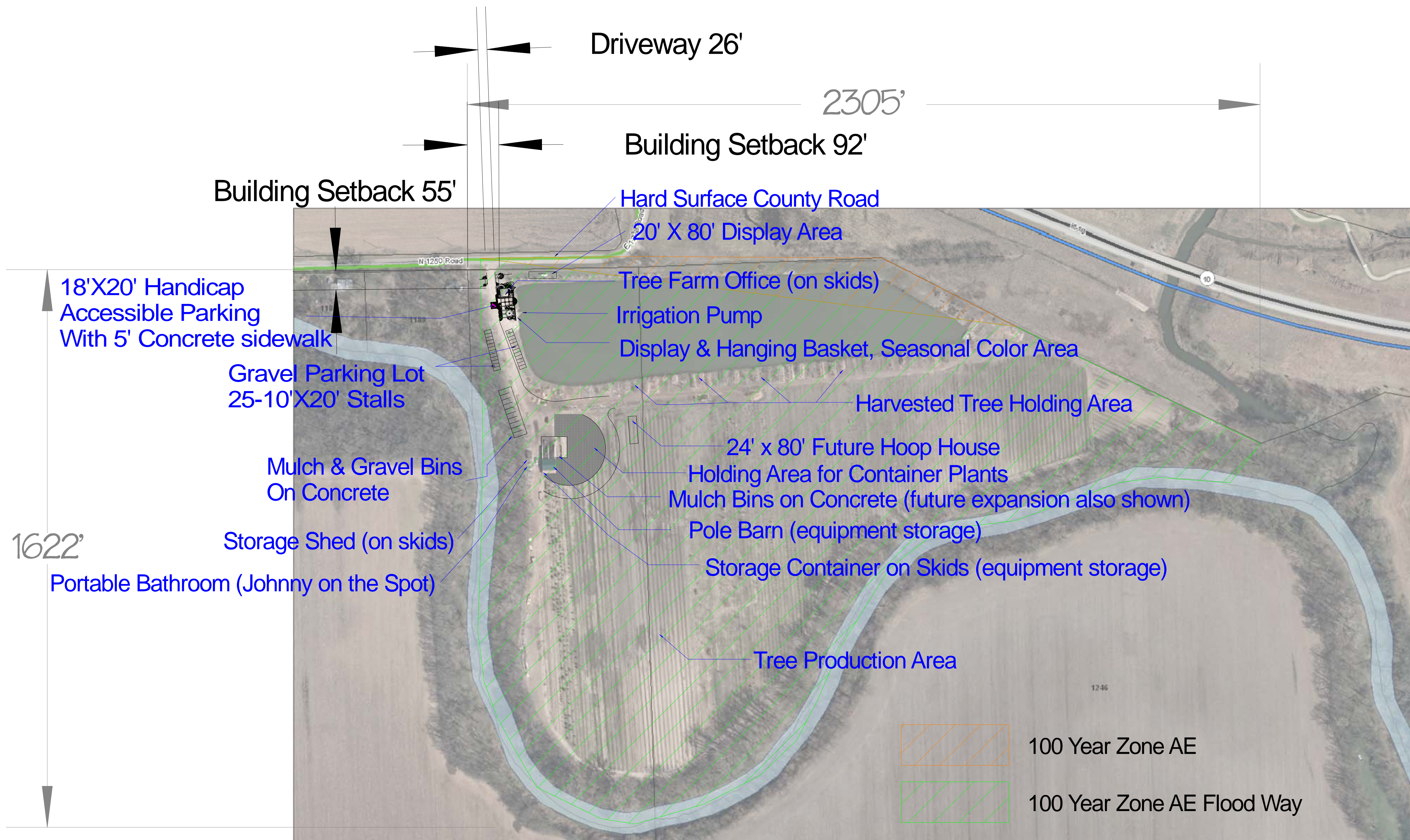
### Parking

The site plan identifies approximately 25 parking spaces to be located along the existing gravel drive to the site. Adequate area exists on site to accommodate overflow parking if needed.

**Limits and Conditions:** The applicant has not proposed any specific limitations for the hours of operation. Typical business hours are assumed. Evening hours and weekend use are also reasonable possibilities for this facility. This site is not designed or intended to be a venue for receptions and other similar public assembly activities. This limitation is reflected as a note on the face of the site plan. Staff does not recommend limiting business hours for this operation.

**Conclusion**

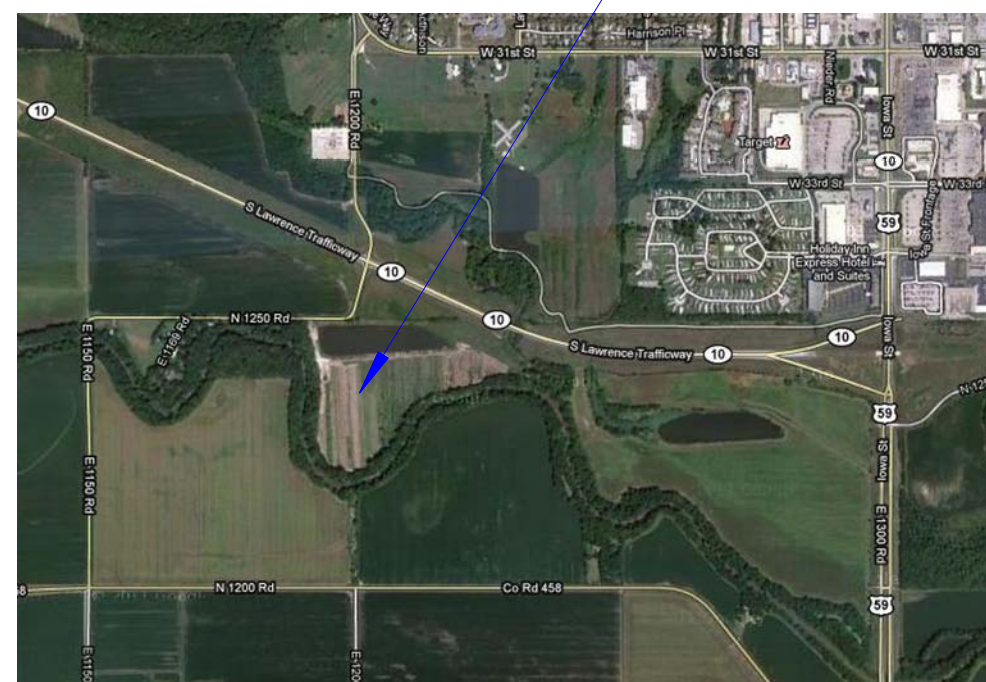
Approval of a CUP can be tailored to address specific issues such as intensity and operation, including time limitations and establish screening requirements. The recommended conditions respond to the specific nature of the request without the associated intensity of full-scale commercial zoning. The proposed CUP as conditioned complies with the County Zoning Regulations and the land use recommendation of *Horizon 2020*.



**Legal Description:** 16A 15-13-19 BEG AT NE COR SE  
 1/4 TH S01DEG42'12"E 1621.08 F  
 T (MEAS) 1575 FT (DEED) BK 563  
 /255,SD PT BEING ON E LINE SE

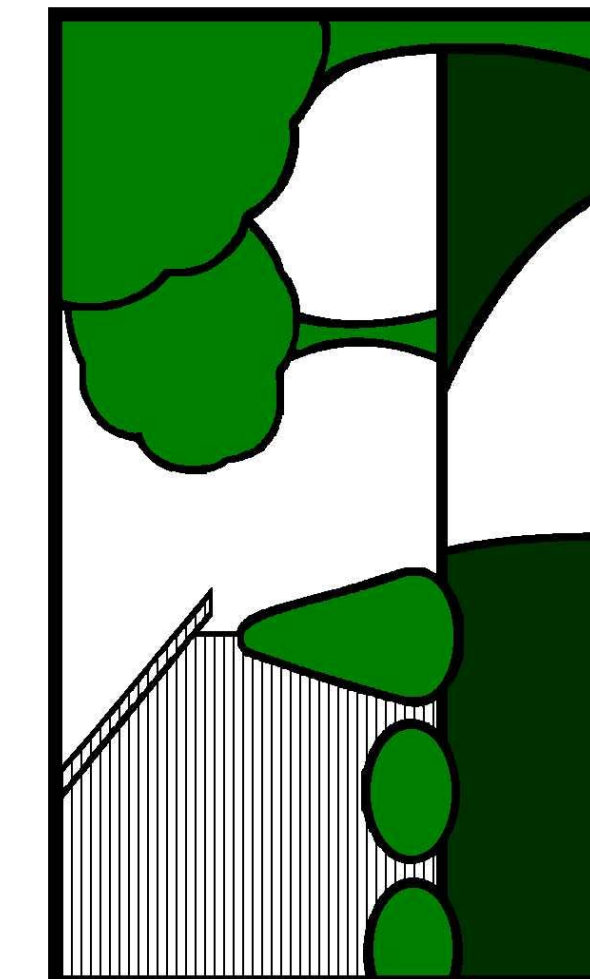
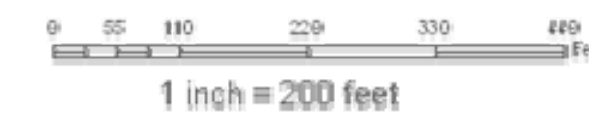
**Legal Description:** 33.5A 14-13-19 BEG AT NW COR S  
 W 1/4 TH N88DEG03'38"E690.79  
 FT (MEAS & DEED) BK 513/1616,S  
 D PT BEING ON N LINE SW 1/4;th

General Location



No proposed lighting.  
 Any future lighting will be directed down and shielded.  
 Maximum height of stockpiled materials will be 10'  
 No uses such as wedding receptions or other non business related events are proposed.

Office Building on Skids	18'x20'	300sqft
Storage Building on Skids	9'x20'	180 sqft
Shipping (storage) Container	9'x40'	360 sqft
Pole Barn (green roof)	30'x40'	1200 sqft
Future hoop House	24'x80'	1920 sqft



# Lawrence Landscape CUP Plan for Tree Farm & Retail Sales





**ITEM NO. 3      CONDITIONAL USE PERMIT FOR A RETAIL NURSERY; 1185 N 1250 RD (SLD)**

**CUP-3-1-11:** Consider a Conditional Use Permit for a Retail Nursery located at 1185 N. 1250 Road. Submitted by Lawrence Landscape Inc., property owner of record.

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**APPLICANT PRESENTATION**

Mr. Frank Male, Lawrence Landscape, was present for questioning.

Commissioner Finkeldei asked if he had any issues with the two conditions.

Mr. Male said no.

**PUBLIC HEARING**

No public comment.

**ACTION TAKEN**

Motioned by Commissioner Finkeldei, seconded by Commissioner Culver, to approve a Conditional Use Permit for a Retail Nursery located at 1185 N. 1250 Road subject to the following conditions:

1. Approval of a local floodplain development permit prior to start of commercial retail operations.
2. The applicant shall provide a revised site plan with the following note: Chemical or compost toilets may be used only if approved by the County Health Official.

Unanimously approved 7-0.

**HOME RULE RESOLUTION NO. HR \_\_\_\_\_**

**A HOME RULE RESOLUTION AMENDING THE REGULATIONS  
PROHIBITING EXCESSIVE NOISE WITHIN THE UNINCORPORATED AREAS  
OF DOUGLAS COUNTY, KANSAS**

**WHEREAS**, K.S.A. 19-101a, and amendments thereto, authorizes the Board of County Commissioners (hereinafter after the “Board”) to transact all County business and perform all powers of local legislation and administration it deems appropriate, including the enactment of legislation designed to protect the health, safety, welfare, and quality of life of the citizens of Douglas County; and

**WHEREAS**, by Resolution No. 10-6-3, as Codified at Article 2 of Chapter VII of the Douglas County Code, the Board has adopted Noise Control regulations; and

**WHEREAS**, the Board finds that excessive noise, generally and not solely during night-time hours, is a hazard to the health, safety, welfare, and the quality of life of the citizens of Douglas County; and

**WHEREAS**, the Board desires to make certain amendments to the Noise Control regulations so that they are not applicable solely during the night-time hours.

**NOW, THEREFORE**, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, SITTING IN REGULAR SESSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011 AND INTENDING TO EXERCISE THE POWERS OF HOME RULE LEGISLATION PURSUANT TO K.S.A. 19-101a, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Amendment to Regulated Hours. Noise Disturbances should not be regulated solely during the night-time hours. As such, Section 7-201 of the Douglas County Code is amended to read as follows:

7-201. NOISE DISTURBANCE PROHIBITED. No person or group of persons, regardless of number, shall make, continue, or cause to be made, or assist in making or continuing to make, any Noise Disturbance in the unincorporated areas of Douglas County. Any person creating any such Noise Disturbance and/or permitting such Noise Disturbance to be created in, or emanate from, any property under his or her care, custody or control shall be presumed responsible for any such noise.

SECTION 2. Amendment to Exemption f. Exemption f should be amended to place time limits on the applicability of the exemption. As such, Section 7-203.f. of the Douglas County Code is amended to read as follows:

7-203. EXEMPTIONS. The prohibitions of Section 7-201 shall not apply to any of the following:

\* \* \*

- f. The lawful discharge of firearms between the hours of 7:00 a.m. and 10:00 p.m. or in connection with lawful hunting activities; and

\* \* \*

The remaining provisions of Section 7-203, including exemptions a, b, c, d, e, g, h, and i are not amended.

SECTION 3. Resolution No. 10-6-3. Resolution No. 10-6-3 is amended consistent with the provisions of this Resolution.

SECTION 4. Effective Date. This is a home rule resolution and shall take effect and be in force from and after its publication once in the official County newspaper.

**ADOPTED** THIS \_\_\_ day of \_\_\_\_\_, 2011.

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

\_\_\_\_\_  
Jim Flory, Chair

\_\_\_\_\_  
Nancy Thellman

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

ATTEST:

\_\_\_\_\_  
Jameson Shew, County Clerk