PLANNING COMMISSION REPORT Regular Agenda – Public Hearing Item

PC Staff Report 4/25/2016

ITEM NO. 4 CONDITIONAL USE PERMIT; PINE FAMILY TREE NURSERY; 1782 E 1500 RD (SLD)

Pine Family Tree Nursery: **CUP-16-00070**: Consider the renewal of a 30.5 acre Conditional Use Permit for Pine Family Tree Nursery, Landscape Center, *Retail Nursery*, located at 1782 E 1500 Rd. Submitted by Landplan Engineering PA, for Pine Family Investments LC, and Sue A Pine, Trustee property owners of record.

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit for a *Retail Nursery* and forwarding it to the County Commission with a recommendation for approval subject to the following condition(s):

- 1) Provision of a revised site plan to include the following notes:
 - a) "Changes to the site to add additional covered storage may be amended by a future site plan approved administratively. Changes to add retail sales on this site should be amended by a revised site plan approved by the County Commission with notice to surrounding property owners."

Reason for Request: Updated the existing CUP

A Conditional Use Permit was approved in 2003 to accommodate retail sales associated with an existing commercial agricultural operation. The property included in this request provides an area for display and bulk sales of landscape material. The point of sale occurs on the property located to the west. The Conditional Use Permit allows for a maximum of 3,500 SF of enclosed space for retail sales and unlimited exterior sales. At this time the application does not include any enclosed sales space within the boundary of the Conditional Use Permit.

ATTACHMENTS

- 1. Area Map
- 2. Proposed site plan
- 3. Approved site plan
- 4. Aerial Map of Development
- 5. Future Land Use Map, Northeast Sector Plan

KEY POINTS

- Property is part of an existing agricultural/retail operation.
- Request is for renewal of an approved Conditional Use Permit.
- The attached site plan shows the existing improvements and uses of land included in the boundary of the request.
- A Conditional Use Permit, CUP-10-08-03, for the Pine Family Farm landscape nursery and bulk landscape materials sales, *Retail Nursery*, was approved by the County Commission on January 5, 2004. One of the conditions was that; *The Conditional Use Permit will be re-evaluated by the County Commission in December, 2008. The CUP will expire in December, 2013. Continuation of the use beyond November, 2013 will require rezoning or approval of a new CUP.*
- The Zoning Regulations do not require time limits for Conditional Use Permits but they may be applied in cases where it is expected that the use may not be compatible with the surrounding area as it develops.

ASSOCIATED CASES/OTHER ACTION REQUIRED

- CUP-10-08-03; original approval
- SP-05-20-09; Revised site plan for CUP-10-08-03 for the addition of display areas along entry drive.
- Board of County Commissioners' approval of the Conditional Use.
- Zoning and Codes Office issuance of a Conditional Use Permit when plans have been released to the Zoning and Codes Office and conditions of approval have been met.

PUBLIC COMMENT

None received

GENERAL INFORMATION	
Current Zoning and Land Use:	A (Agricultural) District and B-2 (General Business) District; landscape materials sales approved with a Conditional Use Permit (CUP-10-08-03).
Surrounding Zoning and Land Use:	A (Agricultural) District to the east, west and south and A (Agricultural) District and B-2 (General Business) District to the north; established farms and rural residences in all directions. To the west, across County Route 9 [E 1500 Road] is the office and scale for this landscape material operation of the Pine Family Farms.

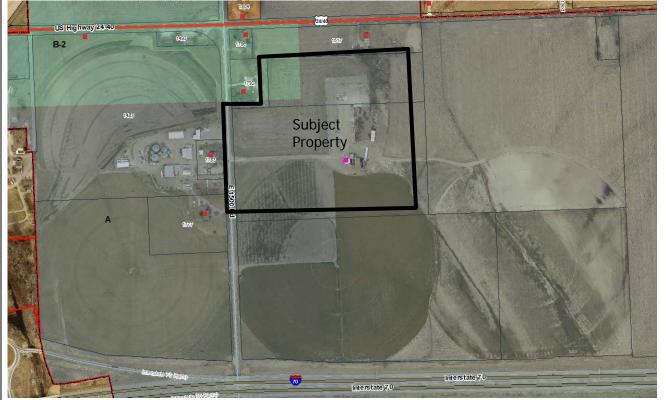


Figure 1: Subject Property - Existing and Surrounding Zoning

I. ZONING AND USES OF PROPERTY NEARBY

The property is located between Interstate 70, to the south and U.S. Highway 24/40 to the north. The Pine Family tree operation includes parcels located on both sides of E 1500 Road. The area is predominantly zoned A (Agricultural) District. The intersection of E 1500 Road and U.S. Highway 24/40 is zoned B-2 (General Business) District on the northwest, southwest, and southeast corners. The northeast corner is zoned B-1 (Neighborhood Businesses) District.

The surrounding land use is predominantly agricultural. Rural residential uses are located in the immediate area along existing County roads and U.S. Highway 24/40. The Airport Motel is located on the southwest corner of E 1500 road and U.S. Highway 24/50.

Staff Finding – The current zoning is A (Agricultural) District and B-2 (General Business) District. Agriculture is the predominant use of the immediate area.

II. CHARACTER OF THE AREA

The subject property is located northeast of the existing Lawrence City limits and south of the Lawrence Municipal Airport. The property is located in a unique area of Douglas County that includes approximately 500 acres of unincorporated land that is bounded by Highways to the north and south. The Lawrence City limit does not currently abut this property.



The property is also located in proximity to the Lawrence Municipal Airport. Portions of the Airport Overlay District extend over the property included in this application.

Features of this area include:

- o E 1500 is an existing Collector Road and a future designated bike route.
- o Property is located within the boundary of the Northeast Sector Plan. Future land use for this area is designated as agricultural in the Sector Plan.
- o The property is located in the Urban Growth Boundary of the City of Lawrence.
- Municipal water is located along the west side of E 1500 Road but does not serve the property.
- Property is identified with Class 1 soils.
- o The property is not located within the regulatory floodplain.

Since the original approval in 2003 there has been little change to the surrounding area based on a review of the City's 2003, 2006, 2009, 2012, 2013 and 2014 aerial photography. The character of the area is agricultural with limited commercial uses and activity located along U.S. Highway 24/40 and within the Pine Family Property along E 1500 Road.

Staff Finding – The character of the area is agricultural with only limited commercial activity associated with the nursery operation and uses located along the highway.

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

Applicant's response: "The purpose of this CUP is to sell nursery items within the tree and sod farm."

This request does not propose to modify the base zoning. The purpose of the A (Agricultural) District is to "provide a full range of agricultural activities, including agritourism, and the processing of and sale of agricultural products raised on the premises among other purposes listed in section 12-306.1 of the County Zoning Regulations."

Agricultural uses such as farms, truck gardens, orchards or nurseries as well as commercial green houses are among the permitted uses in the A (Agricultural) District. Approval of the Conditional Use Permit allows limited retail sales.

Section 12-319-4.32 Retail Nursery allows for the retail sale of ancillary products that are not produced on the site. This section also limits the amount of enclosed retail space. Green houses and outdoor displays are not included in the maximum cap for allowable net retail space. The property located on the east side of E 1500 Road, included in this request, uses outdoor display areas and open storage bins for containing, organizing and displaying of products. The point of sale occurs in the building located on the Pine Family Farm property on the west side of E 1500 Road, not included in this Conditional Use Permit.

The original approval included a time limit with a five year review. The original approval expired in November 2013. This request is intended to provide a continuation of the operation.

Staff Finding – Approval of this request would not alter the base zoning district. The property will continue to be suitable for agricultural activities and uses. Approval of the request allows for ancillary uses of the property related to the primary agricultural operation.

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

The property is developed with agricultural buildings noted for covered storage. These spaces are not part of the limitation for retail sales so long as they are used for storage. The original agricultural structures were constructed in the 1970's.







The landscape business was initiated in 2006 and has continued to grow. This application represents an intent to continue the operation.

The property has been zoned A (Agricultural) District since 1966. The majority of the property is used for agricultural fields. The landscape material storage use, Retail Nursery, was approved in 2003. No changes to the base zoning district have been made. The area for the landscape material business has expanded to the north since the approval in 2003 but is still contained within the boundary of the Conditional Use Permit.

Staff Finding – The property is not currently vacant, but includes agricultural buildings that support the use of the property for the related landscape material sales business and landscaping business located to the east.

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

Applicant's Response: "This business for their retail customers has been operation since 2003. The CUP was renewed in 2009."

Section 12-319-1.01 of the County Zoning Regulations recognize that "....certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited."

The proposed request anticipates the continued operation of the retail sales for landscape materials. This is in addition to the existing agricultural business located to the east of the subject property. The original Conditional Use Permit was approved with a limitation on the length of the approval. Little has changed for the surrounding area since the approval in 2003. The request does not include a new enclosed retail building. The operation is anticipated to continue within the existing footprint as shown on the attached site plan.

The activity associated with this use includes a gravel drive in the center with areas for landscape display and plant propagation around the perimeter of the site (highlighted in green in image below).



This application seeks to renew the Conditional Use Permit for the continued operation of the retail sales associated with the landscape material business.

No detrimental effects are anticipated by the continued operation of this use and the renewal of the Conditional Use Permit.

Staff Finding – The activity area is located in the central portion of the site. Continued agricultural operations surround the property. No detrimental effects are anticipated by the continued operation of this use and the renewal of the Conditional Use Permit.

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 business has provided retail nursery/landscape material for the last 12 years and has developed a great customer base. The loss of the business would develop a hardship for the local customer to go out of town or county for their nursery needs."

This business has operated the landscape material storage area and expanded retail sales area since 2003. There are no known violations or complaints associated with the operation. The current code allows for agricultural uses and buildings on the property. The existing buildings provide covered storage and are not subject to the 3,500 SF limit of retail sales. The applicant could add additional storage buildings and covered storage to the site and not impact the Conditional Use Permit. A site plan would, however, be required to demonstrate that any new structures comply with the building setback requirements of the district.

Approval of the request supports an existing commercial operation in the community. Denial of the request would result in a contraction of the existing business but would not necessarily require the removal of existing improvements. There is no harm to the public health, safety or welfare by the continued operation of the existing business.

Staff Finding – There is no harm to the public health, safety or welfare by the continued operation of the existing business. Approval permits a local business to continue to serve residents and businesses in the community.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response: "This area is generally in agricultural land use with adjacent land use zoned for industrial land use with the Lawrence Municipal Airport. This use is accessory use with the agricultural use of the area."

Key features of *Horizon 2020* are listed in Chapter 3- General Plan Overview. "The plan encourages the conservation of sensitive natural and environmental features and discourages development where two or more features exist in combination or would result in costly public improvements."

The area included in the boundary of the Conditional Use Permit includes Class 1 soils. The high quality soil and gentle grade make agricultural uses in the area highly desirable. The property is not located in the regulatory floodplain. The proposed use is consistent with the general policy of preserving natural features of the community.

The property is located within the Lawrence Urban Growth area. The area between US Highway 24/40 and Interstate Highway 70 is identified in *Horizon 2020* as Service Area 2. This area is also included in the Northeast Sector Plan. Generally, the plan does not support urban development unless corresponding urban services are available. This application does not represent a request for urban development. Urban services are not necessary for the continued operation of a commercial agricultural operation.

Chapter 6 of *Horizon 2020* addresses commercial development. A commercial node is indicated north of the subject property at the intersection of E 1500 Road and U.S. Highway 24/40. This node corresponds with existing county commercial zoning and uses at that intersection.

Chapter 12 – Economic Development provides policies regarding employment, tax base growth and income growth for the county. A basic policy stated in *Horizon 2020* is captured in Policy 1: Business Retention and Expansion: *Business retention and expansion of existing businesses has become the core foundation of economic development efforts for Douglas County.*

Horizon 2020 recommended that development of land in Service Area 4 (Grant Township) be deferred until the completion of a regional drainage study. This study, known as the Lawrence Drainage Study was completed in 2005 and adopted by the City Commission in January 2006. The Northeast Sector Plan was amended into Horizon 2020 in September 2012. The subject property is located within the area shown on the Future Land Use Map in the Northeast Sector Plan as suitable for Agricultural uses. The proposed request is consistent with this land use designation.

Staff Finding – The proposed request is consistent with the policies and land use recommendations included in *Horizon 2020* for continued agricultural use.

VIII. PROFESSIOANL STAFF RECOMMENDATION

This use has operated without incident since being approved in early 2004. Approval of the request facilitates the continued operation of the local business. Staff recommends approval of the Conditional Use Permit. Staff does not recommend the addition of a time limit on the Conditional Use Permit.

Changes to the site to add additional covered storage may be amended by a future site plan approved administratively. Changes to add retail sales on this site should be amended by a revised site plan approved by the County commission with notice to surrounding property owners. This will accommodate changes in business practices over time with adequate review to assure that minimum building setbacks are met, and to identify any other applicable building codes or zoning codes that may be present at the time.

STAFF REVIEW

This site includes two enclosed storage buildings and multiple covered storage bins. Access to these structures is accommodated via a wide interior access drive that accommodates two way traffic as well as area for loading as needed.

Setback

The site plan shows a building envelope with a 50' front setback, 15' side setbacks and 50' rear building setback. All structures are located well within the building envelope. The two enclosed storage buildings are located approximately 745' from the front setback and 447' from the rear setback. The covered storage area is located 290' from the nearest property line. The proposed site plan demonstrates that structures exceed the minimum setback requirements for the district.

Lighting

This project does not include any exterior lighting. Any lighting added to the site in the future would be subject to review by the County Zoning and Codes office for compliance with the design standards.

Access and Circulation

Access to this site is provided via an entrance to E 1500 Road. No changes to the access are proposed. The site includes wide gravel drives. Lawrence City Fire Prevention reviewed the project and provided general recommendations regarding access aisle width. This site exceeds the minimum recommended design standard of 20'.

Off Street Parking

Off-street parking is provided near the enclosed storage buildings on the south side of the site.

Landscaping/buffering

A majority of the property is used for agricultural purposes. Areas are designated for "varietal agricultural" and for "tree farming". Farming activities cross property lines as seen in the aerial photograph below.

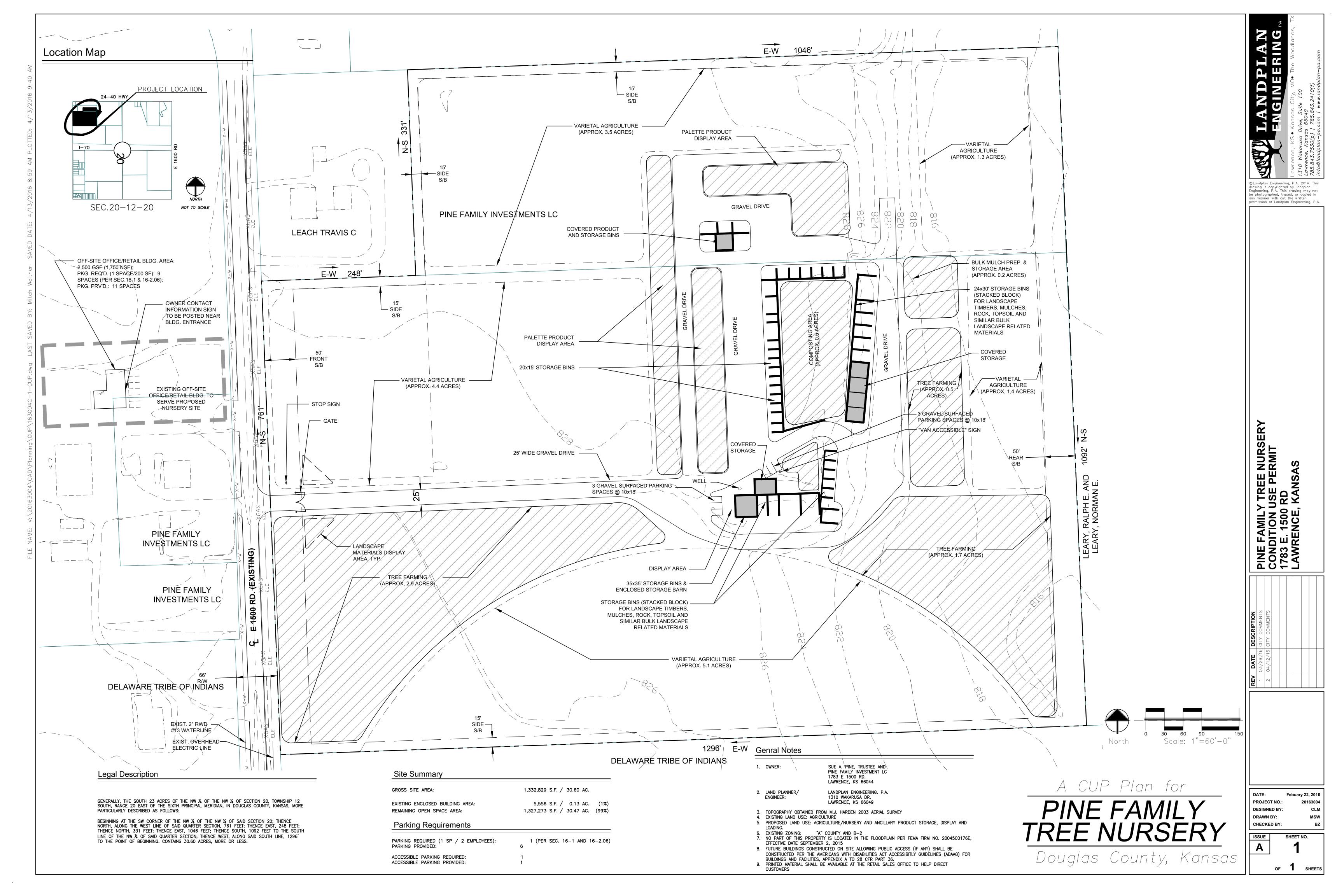


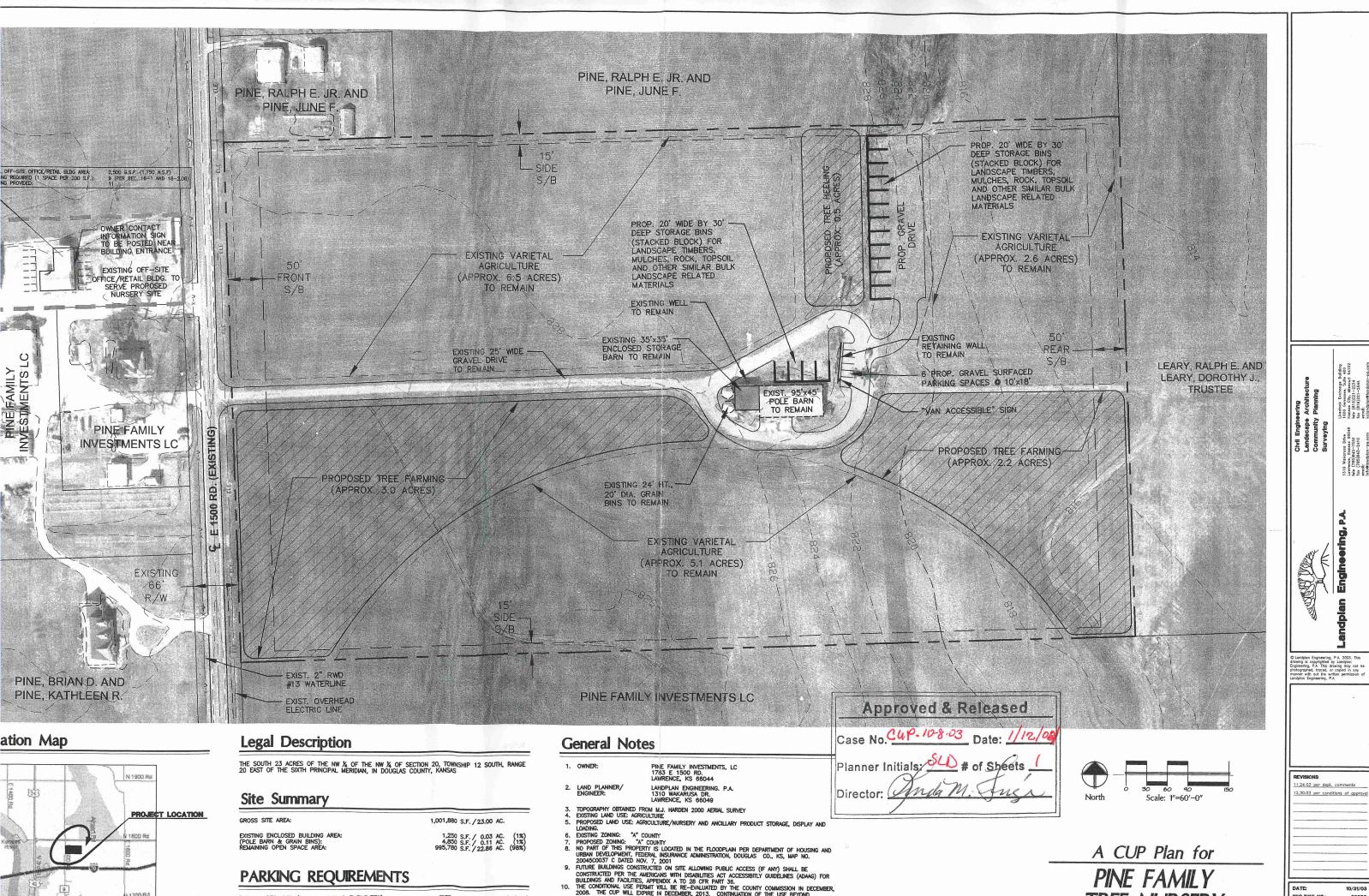
Surrounding uses to the south and west are used for agricultural crop production. Buffering is unnecessary in this application. Materials are palletized or stored in bins. This provides organization to the site and minimizes unsightliness resulting from blowing debris. A natural tree line exists on the northeast side of the activity area and provides a buffer between the existing residence located along U.S. Highway 24/40 and the subject property.

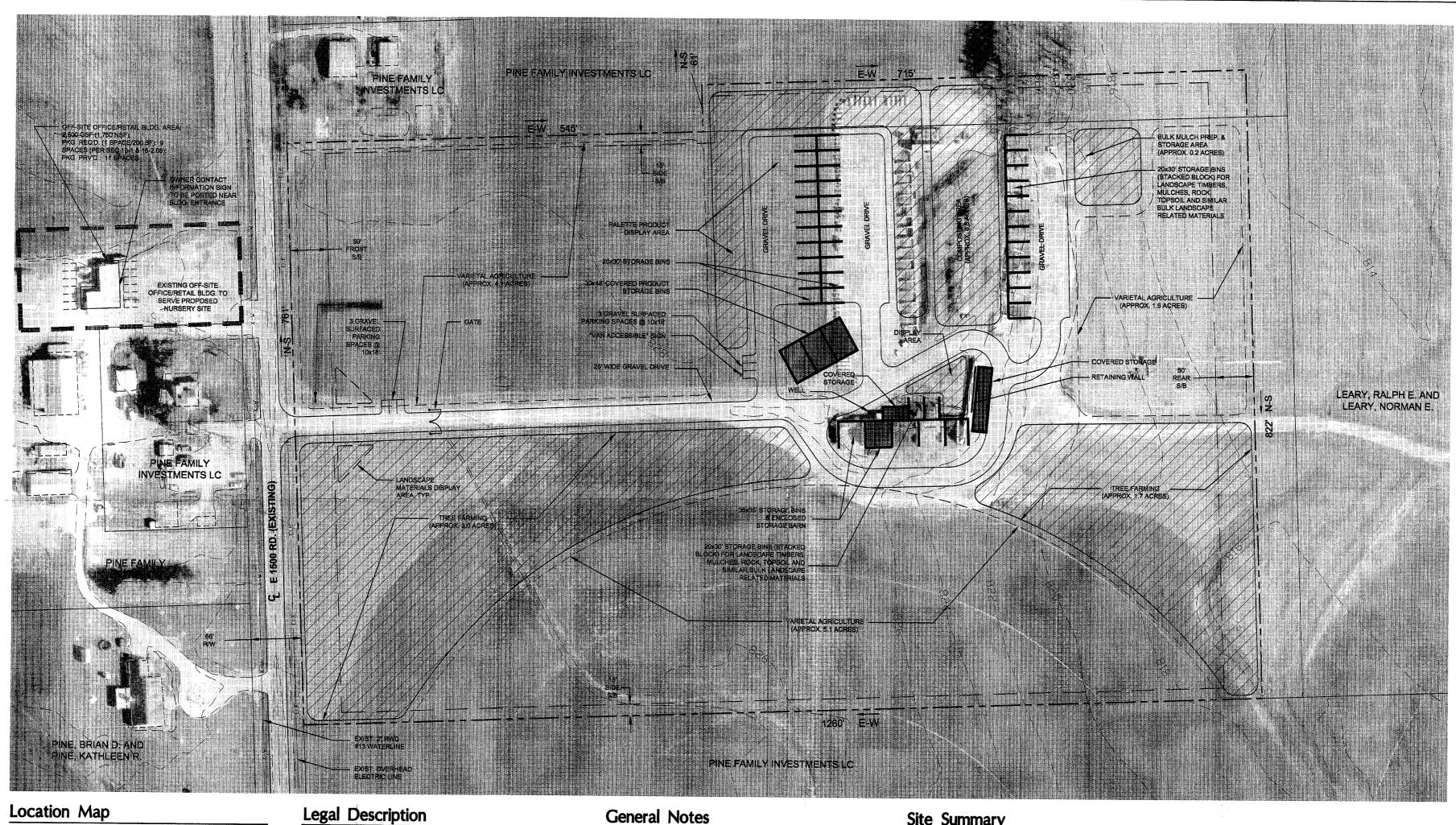


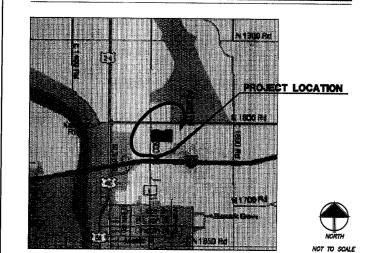
Conclusion

This application updates the site with the current operations and extends the approval of the operation into the future. Improvements to the site are limited allowing for flexibity and use of the property as demands change for various landscape materials.



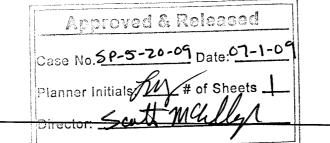






GENERALLY, THE SOUTH 23 ACRES OF THE NW 1/4 OF THE NW 1/4 OF SECTION 20, TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN DOUGLAS COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SW CORNER OF THE NW ¼ OF THE NW ¼ OF SAID SECTION 20; THENCE NORTH, ALONG THE WEST LINE OF SAID QUARTER SECTION, 761 FEET; THENCE EAST, 545 FEET; THENCE NORTH, 61 FEET; THENCE EAST, 715 FEET; THENCE SOUTH, 822 FEET TO THE SOUTH LINE OF THE NW ¼ OF SAID QUARTER SECTION; THENCE WEST, ALONG SAID SOUTH LINE, 1260' TO THE POINT OF BEGINNING. CONTAINS 23 ACRES, MORE OR LESS.



OWNER:

SUE A. PINE, TRUSTEE 1783 E 1500 RD. LAWRENCE, KS 66044

2. LAND PLANNER/ ENGINEER: LANDPLAN ENGINEERING. P.A. 1310 WAKARUSA DR. LAWRENCE, KS 66049

LAWRENCE, KS 66049

3. TOPOGRAPHY OBTAINED FROM M.J. HARDEN 2003 AERIAL SURVEY

4. EXISTING LAND USE: AGRICULTURE

5. PROPOSED LAND USE: AGRICULTURE/NURSERY AND ANCILLARY PRODUCT STORAGE, DISPLAY AND LOADING:

6. EXISTING ZONING: "A" COUNTY

7. PROPOSED ZONING: "A" COUNTY

8. NO PART OF THIS PROPERTY IS LOCATED IN THE FLOODPLAIN PER FEMA FIRM NO. 20045CO037C, EFFECTIVE DATE NOVEMBER 7, 2001

9. FUTURE BUILDINGS CONSTRUCTED ON SITE ALLOWING PUBLIC ACCESS (IF ANY) SHALL BE CONSTRUCTED PER THE AMERICANS WITH DISABILITIES ACT ACCESSIBITLY GUIDELINES (ADAAG) FOR BUILDINGS AND FACILITIES, APPENDIX A TO 28 CFR PART 36.

10. PRINTED MATERIAL SHALL BE AVAILABLE AT THE RETAIL SALES OFFICE TO HELP DIRECT CUSTOMERS

11. THE CONDITIONAL USE PERMIT WILL BE RE-EVALUATED BY THE COUNTY COMMISSION IN DECEMBER, 2008. THE CUP WILL EXPIRE IN DECEMBER, 2013. CONTINUATION OF THE USE BEYOND NOVEMBER, 2013 WILL REQUIRE REZONING OR APPROVAL OF A NEW CUP.

Site Summary

GROSS SITE AREA:

EXISTING ENCLOSED BUILDING AREA: REMAINING OPEN SPACE AREA:

1,001,880 S.F. / 23.00 AC.

7,063 S.F. / 0.16 AC. (1%) 994,817 S.F. / 22.84 AC. (99%)

Parking Requirements

PARKING REQUIRED (1 SP / 2 EMPLOYEES): 1 (PER SEC. 16-1 AND 16-2.06)
PARKING PROVIDED: 1 ACCESSIBLE PARKING REQUIRED: ACCESSIBLE PARKING PROVIDED:

A CUP Plan for

Scale: 1"=60'-0"

North

PINE FAMILY TREE NURSERY

Douglas County, Kansas

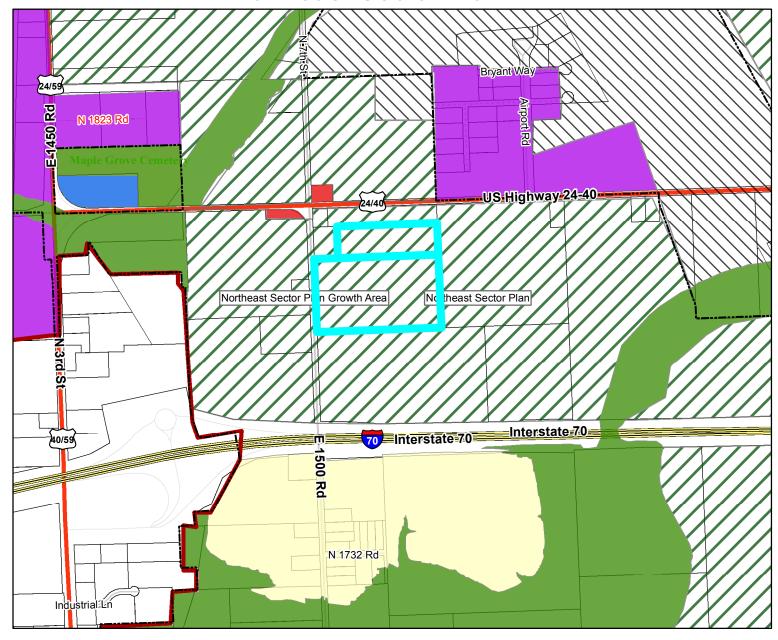
REVISIONS 11.24.03 per dept. comments 12.30.03 per conditions of approval 5.14.09 revised layout 6.12.09 per dept. comments 6.30.09 per conditions of approve

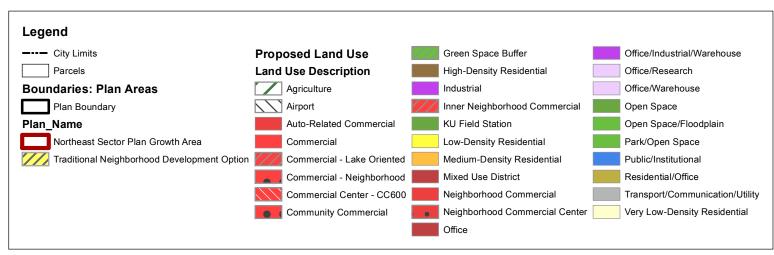
DATE AMENDED: PROJECT NO.: 03686 AMENDED PROJ. NO.: 09620 DWG. ID: DESIGNED BY: DRAWN BY: AVQ/B8 CHECKED BY: TAH/PWA

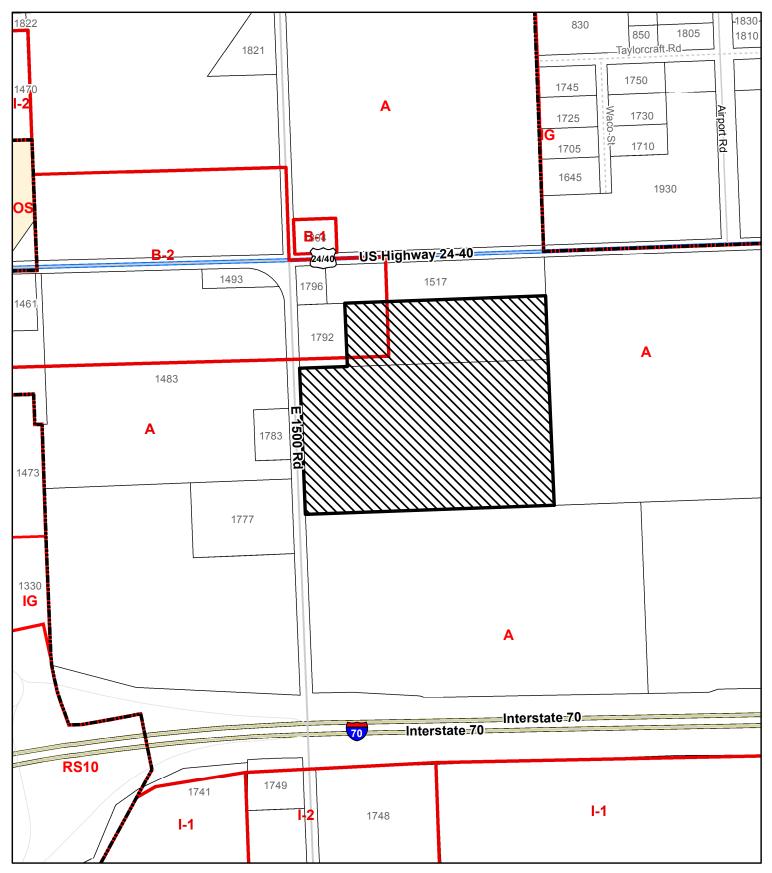
SHEET NO. 1 OF 1 SHEETS



Future Land Use Map Northeast Sector Plan







CUP-16-00070: Conditional Use Permit for Renewal of Pine Family Tree Nursery, Landscape Center, Located at 1782 E 1500 Road



