

PLANNING COMMISSION REPORT
Regular Agenda –Public Hearing Item

PC Staff Report
5/18/15

**ITEM NO. 2 CONDITIONAL USE PERMIT FOR FLORY DAIRY EQUIPMENT; 702 E
1747 RD (MKM)**

CUP-15-00113: Consider a Conditional Use Permit for Flory Dairy Equipment at Vinland School, located on approximately 3.9 acres at 702 E 1747 Rd, Baldwin City. Submitted by Flory Dairy Equipment, Inc, contract purchaser of the property, for Rural High School District No. 1/Unified School District No. 348, property owner of record. *Joint meeting with Baldwin City Planning Commission.*

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit for a dairy equipment sales office, repair and accessory storage, classified as *Office and Research Facility and Farm Implement Repair Service*, and forwarding it to the Board of County Commissioners with a recommendation for approval based upon the findings of fact in the body of the staff report and subject to the following conditions:

1. The following actions shall occur prior to the release of the permit for the Conditional Use:
 - a. Applicant shall obtain an easement from the affected property owners for the long-term use of the off-site lagoon.
 - b. Applicant shall obtain a permit or easement from Douglas County for the pipe under E 1750 Road which accesses the lagoon prior to the release of the permit for the Conditional Use.
 - c. KDHE approval of the off-site lagoon, or release of the lagoon to the Douglas County Health Department.
 - d. A revised CUP plan must be provided to the Planning Office with the following changes:
 - i. Recording information for the easement for the lagoon noted on the plan.
 - ii. The ADA parking space identified on the plan.
 - iii. Total building area noted on the plan with the following note: *"Any expansion of the use or addition of a new use into the unused portion of the building will require CUP approval."*
 - iv. Label the portions of the building that are to be used for office, repair/storage, and warehouse.
 - v. Addition of the following note: *All dairy equipment repairs shall occur within the structure.*
2. The following actions shall occur prior to the release of a Certificate of Occupancy:
 - a. Repair of the lagoon fencing which include the patching of a hole in the north side of the fence and reattachment of the gate to the posts.
 - b. Reconstruction of the access on N 700 Road per County Engineer's plans and approval.
 - c. Removal of E 1747 access point on E 1750 Road per County Engineer's approval.

Reason for Request: *"We would like to move Flory Dairy Equipment from current location of 762 E 1250 Road.*

KEY POINTS

- The property is located within 3 miles of the city limits of Baldwin City; therefore, a joint meeting will be held with the Lawrence-Douglas County Metropolitan and Baldwin City Planning Commissions.

- The previous use, Vinland School, utilized an off-site lagoon. The Health Department indicated this may be used for the proposed use, with KDHE approval. An easement must be dedicated for this off-site lagoon and the pipe under E 1750 Road.

ATTACHMENTS

- A --CUP Plans
- B --Sewer Line graphic

ASSOCIATED CASES

- SP-03-18-02: Site plan for addition of a gymnasium to the school facility was approved by the Board of County Commissioners on March 29, 2002. Attachment B is the exhibit provided with this site plan for the location of the sewer line under E 1750 Road.

OTHER ACTION REQUIRED

- Approval of the Conditional Use by the Board of County Commissioners.
- Applicant shall obtain a permit for the Conditional Use from the Zoning and Codes Office prior to commencing the use.
- Applicant shall obtain a building permit from the Zoning and Codes Office for the change of use and physical changes to the building.

PUBLIC COMMENT

- No public comment was received prior to printing this report.

GENERAL INFORMATION

Current Zoning and Land Use: A (Agricultural) District; *School*, the vacant Vinland Elementary School.

Surrounding Zoning and Land Use: A (Agricultural) District in all directions; *Residential Detached Dwellings, Rural Home Occupations, Agriculture, and Non-Profit, Non-Governmental, Public Recreation Facility and Community Buildings* (Vinland Fair Grounds north of the subject property).

F-F (Floodway Fringe Overlay) District to the east and southeast.
(Figure 1)

Summary of Request

The applicant currently operates a dairy equipment supply and repair business at 762 E 1250 Road as a Rural Home Occupation. If the CUP is approved, he will move the business to the subject property.

The subject property was developed with an elementary school which consisted of three buildings: two buildings (5,000 sq ft and 12,328 sq ft) for offices and classrooms, and a 3,226 sq ft gymnasium for a total building area of 20,554 sq ft. The proposed use will consist of 5,000 sq ft of office, 1,900 sq ft of repair and storage, and 6,500 sq ft of warehouse for a total of 13,400 sq ft and the remainder of the building will remain unused at this time. Any expansion of the use or addition of a new use into the unused portion of the building will require CUP approval.



Figure 1a. Zoning of the area: Unincorporated portions of Douglas County zoning shaded: blue-A (Agriculture), brown-B-1 (Neighborhood Business) Districts.



Figure 1b. Land use in the area. Off-site lagoon is circled.

The proposed uses are may be permitted with a Conditional Use Permit, as noted below:

12-319-4.26 Offices and Research Facilities, provided those facilities are located in an existing structure.

The facility, including the *Office* uses, will be located within the existing school buildings. Accessory storage will be provided in the existing structure for their products.

12-319-4.25 Farm Implement Repair Service.

The 'Dairy Sales and Service' use is very similar to 'Farm Implement Repair' in that the company is selling and servicing farm equipment. The business does some repairs, on site and at their facility, and will keep their tools on the site. In staff's opinion, the storage and repair portion of the facility fit into this use category.

The dairy equipment supply and service business would be a good reuse of the school building with an agriculturally based use. The CUP process allows the Commission to be very specific about the new use that is being permitted, rather than allowing the broad range of uses which would be permitted with rezoning.

USE INFORMATION

The following information was taken from the 5 year plan submitted with the application:

- Shop (repair and cleaning parts): approximately 1,900 sq ft
- Office & Storage: approximately 5,000 sq ft
- Warehouse: approximately 6,500 sq ft

The warehouse will be used for loading and unloading products and for layout out equipment and supplies for various dairies and jobs. The storage area will be used for unused equipment, office supplies, tools, etc. The gravel area is for truck maneuvering area and to provide additional space for loading and unloading. No exterior storage is proposed.

While the number of employees may vary, the company currently has one full-time employee who will be on the premises Monday through Friday and has multiple technician and delivery employees who will periodically be in the building seven days a week. The weekend activity would primarily be the loading of tools or equipment for an emergency service call.

The business anticipates the following delivery traffic:

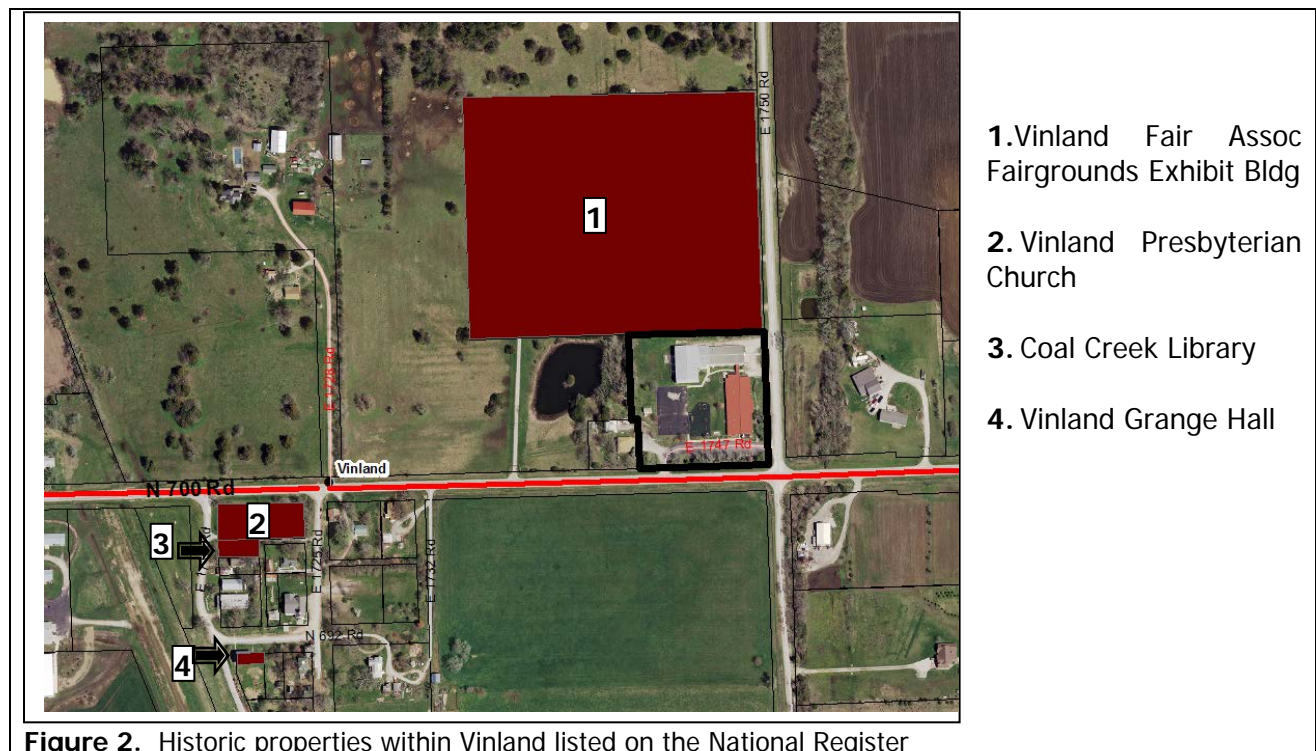
- 1 UPS truck per day
- 1 semi-truck per week
- Flory Dairy Equipment delivery truck 3 times per week

Sales people will drive company vehicles to and from work and their vehicles will be on site when they are in the office. The business currently has five employees that will park on site; however, the applicant noted that it would be unusual for all five to be there at the same time. There would typically be 2 employees on the site at one time.

I. ZONING AND USES OF PROPERTY NEARBY

The subject property is located in close proximity to the unincorporated town of Vinland. The property and surrounding area are located in the unincorporated portion of the County which is zoned A (Agriculture). There is floodplain and the F-F (Floodway-Fringe Overlay) District to the east and southeast. The area contains rural residences, rural home occupations, and agricultural land uses as well as the Vinland Fairgrounds to the north. There is a property to the west, within Vinland, that is zoned B-1 and is developed with a *detached residence*. The town of Vinland is zoned A, but has various uses including residences, and a church. Several of the buildings and the Vinland Fairgrounds are listed on the National Register of Historic Places (Figure 2)

To the west of Vinland is the Vinland Airport. The hangars and buildings used for the aviation industry are zoned I-1 (Light Industrial) District. The dairy services and supplies business would be permitted on property that was zoned for industrial uses; however, the broad spectrum of uses that are permitted in the industrial districts may not be appropriate for the subject property, given the close proximity of residential land uses. The CUP allows for a specific use to be identified and conditions can be applied, if needed, to insure compatibility and appropriate reuse of the existing vacant school facilities.



Staff Finding –Surrounding uses are predominantly rural residential and agricultural. The proposed use would consist primarily of offices, storage for dairy equipment and supplies, and a repair facility. Given the limited scope of the proposed use, and the property's location on N 700 Road/County Route 460 (a principal arterial) the use is a good fit for the area. It should be compatible with the surrounding properties.

II. CHARACTER OF THE AREA

The area contains a mix of uses, with the small lot residences and other uses within the town of Vinland, the industrial uses associated with the Vinland Airport, various Home Business Occupations, agriculture, rural residences, and a fairground. Floodplain associated with Coal Creek is located in the area to the east of the subject property. The area has the intersection of 2 principal arterials: E 1700 Road/County Route 460/1055 and N 700 Road/County Route 460. The property was previously developed with an elementary school and few site changes are being proposed with the new use. Proposed changes include the addition of a gravel area in the northwest portion and the addition of 2 gravel drives. At some point in the future, a loading dock is planned on the north side of the north building. The minor changes proposed to the site and the low intensity of the proposed use would not alter the character of the area. (Figure 3)

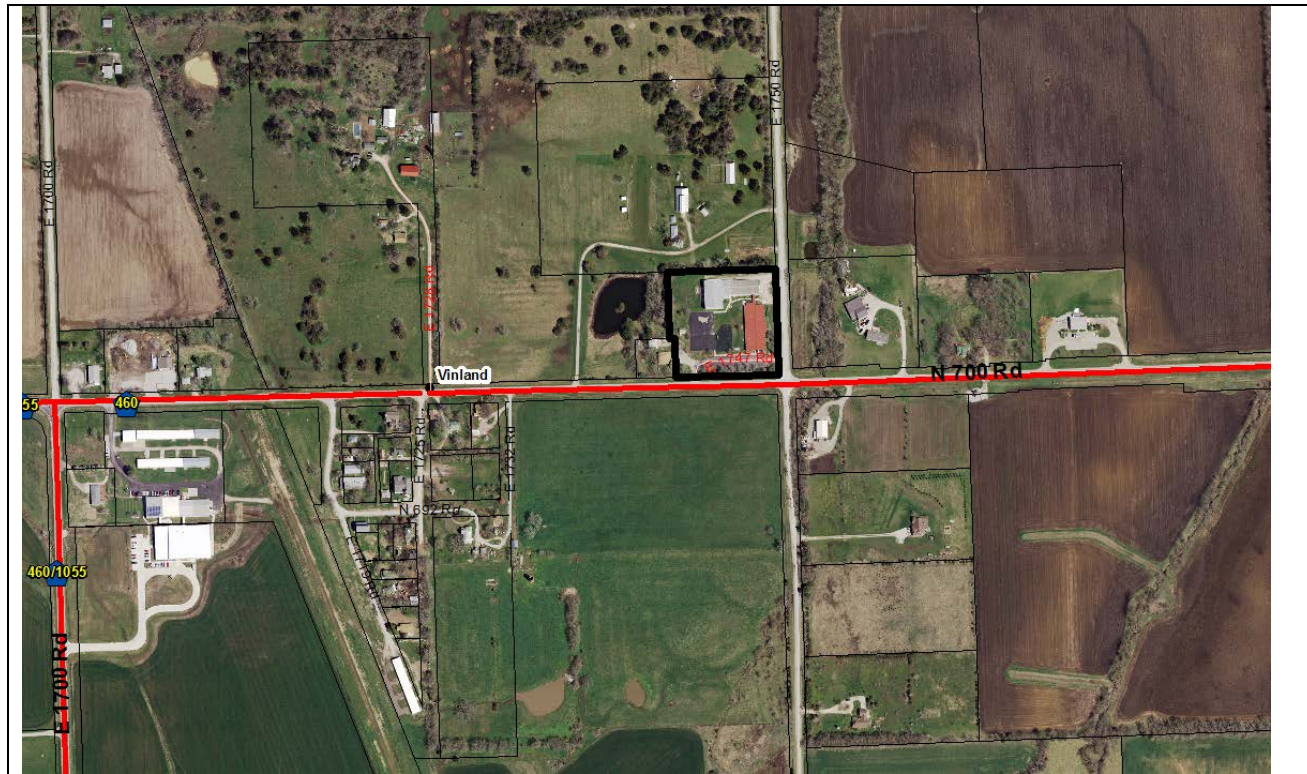


Figure 3. Aerial photo of surrounding area.

Staff Finding – The area is rural in character and is zoned A (Agricultural) District with land to the east zoned F-F (Floodway Fringe Overlay) and F-W (Floodway Overlay) Districts for the floodplain associated with Coal Creek. Several nearby properties are listed on the National Register of Historic Places, including the Vinland Fair Ground to the north. The minor changes proposed to the site should maintain compatibility with the nearby historic properties and the area.

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

The subject property is zoned A (Agricultural) District. Section 12-306 of the County Zoning Regulations notes *"...the purpose of this district is to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises, and at the same time, to offer protection to agricultural land from the depreciating effect of objectionable, hazardous and unsightly uses."* The A District is associated with a majority of the unincorporated portion of Douglas County.

Uses allowed in the A District include: farms, truck gardens, orchards, or nurseries for the growing or propagation of plants, trees and shrubs in addition other types of open land uses. It also includes residential detached dwellings, churches, hospitals and clinics for large and small animals, commercial dog kennels, and rural home occupations. In addition, uses enumerated in Section 12-319 which are not listed as permitted uses in the A District, may be permitted when approved as Conditional Uses. The property has been developed with a school and is suited for use as a school and could be suitable for use as a church but is not well suited for other uses to which it is restricted in the A District. The property is suitable for the proposed use, which is permitted in the A District when approved as a Conditional Use.

Staff Finding – The property has been developed with a school and would be suitable for a school or church use but is not well suited for other uses which are permitted within the A (Agricultural) District. The property is suitable for the proposed use, when approved as a Conditional Use.

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

Staff Finding – The property was developed with a school in 1994. The school closed in May of 2011 and has been vacant since that time.

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

Applicant's Response:

"This shall not effect nearby properties."

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 use is included in the Conditional Uses enumerated in Section 12-319-4 of the Zoning Regulations for the Unincorporated Territory of Douglas County as *Office and Farm Implement Repair*.

The applicant currently operates his business at his residence at 762 E 1250 Road as a Rural Home Business Occupation. He proposes moving it to this location so that the larger buildings can be used. A Rural Home Business Occupation is limited to no more than 3,500 sq ft in a structure outside the residence. The Conditional Use would also allow a larger number of employees. The move from a Rural Home Business Occupation would allow the business to grow, while the

Conditional Use will allow conditions to be applied to insure the use is compatible with nearby land uses.

The proposed location is adjacent to a Principal Arterial. Delivery trucks will access the site through the large drive area on E 1750 Road, which was used by school busses previously. The sales people and other employees will use the access on N 700 Rd/County Route 1055. Access to this road is provided via the private road E 1747 Road. This road provides access to the school and to the residence at 701 E 1747 Road.

The amount of traffic generated by the site should be fairly similar to, or less than, the traffic generated by the school.



Figure 4. Company delivery vehicle.

To insure compatibility with the surrounding land uses, the following conditions are recommended:

1. All equipment and materials used in the business must be stored indoors.
2. Any new parking areas shall be screened from view of adjacent road rights-of-way or residences.
3. No retail sales of product shall occur on the site.
4. Deliveries from trucks with a GVWR (Gross Vehicle Weight Rating) of more than 5 tons are limited to no more than 2 per day. This does not apply to incidental deliveries such as Fed Ex, and UPS.
5. All dairy equipment repairs shall occur within the structure.

These standards have been noted on the face of the plan with the exception of No. 5. This should be added to the plan.

Staff Finding – The use will reuse an existing building for a dairy supply and service business. The primary on-site use will be *Office* and the warehousing of supplies. Some equipment repair will occur on site, within the structure. The majority of the traffic anticipated each day consists of employees in company vehicles coming to work in the office or to pick up equipment for delivery. The proposed conditions should insure compatibility with nearby land uses.

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

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 this request would accommodate the reuse of the vacant school building with an existing agricultural based business in the area. This will allow the business to grow while maintaining the agricultural character of the area. Approving the CUP rather than rezoning the

property to an Industrial zoning district allows particular uses to be permitted and conditions to be applied to insure compatibility with nearby land uses.

No benefit would be afforded to the public health, safety, or welfare by the denial of the request as the business operation is small scale, a low traffic generator, and would be located on a principal arterial.

Denial of the request would require the applicant to seek rezoning of the property to an industrial zoning district or to relocate the business into a city. The B2 District (General Business) would permit the proposed use; however, the location is not compliant with recommendations in the Comprehensive Plan for Commercial Zoning. The plan recommends only one new location for B2 zoning in the county and that is in the southeast portion of the county.

Staff Finding – In staff's opinion, the approval of this request, with the proposed conditions will result in a use that would be compatible with the nearby land uses. Approval would allow the reuse of the vacant school with an agricultural based business, which would maintain the agricultural character of the area. Denial of the request would require rezoning of the property to an industrial district prior to the installation of the use, or location of the use on industrially or commercially zoned property.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan recommends that agricultural uses continue to be the predominant land use within the areas of the county beyond the designated urban growth areas and that uses permitted in the rural area should continue to be limited to those which are compatible with agricultural production and uses. The subject property is not located within an identified urban growth area and is currently developed with a vacant elementary school. The only physical changes being proposed is the addition of a graveled area for truck maneuvering, the improvement of the access point on N 700 Road and the removal of an access point on E 1750 Road. The proposed use, as conditioned, would result in the reuse of an existing building with an agriculturally related use that would be compatible with agricultural production and uses.

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 conditioned, the proposed use is in compliance with the Comprehensive Plan.

CUP PLAN REVIEW

The proposal is to convert the vacant school on the property to a dairy supply and service business. Proposed site improvements include the addition of a graveled area to provide area for loading and unloading and truck turning maneuvers and the addition of graveled drives through the property.

Parking and Access: The property was developed with 20 parking spaces adjacent to E 1747 Road.

Parking Summary			
USE	REQUIREMENT	REQUIRED	PROVIDED
Office	1 sp per 400 sq ft	5,000/400=13 spaces	20 spaces
Repair	1 sp per 3 employees	*3 spaces	
Warehouse	1 sp per 2 employees		
ADA	1 space for 25 spaces	1 space	1 space

- The repair and warehouse uses include the same employees. The more stringent parking requirement, 1 space per 2 employees, was used to cover both uses.

Access: The property has 2 access points on E 1750 Road and a private road E 1747 Road accesses both N 700 and E 1750 Road. This private road provides access for both the proposed use and the detached dwelling to the west. Per the County Engineer's recommendation the access point for E 1747 on E 750 Road will be removed. This access point is approximately 50 ft from the intersection and the removal will improve the safety of the intersection. The private road's access on N 700 Road will need to be improved to county standards with this project and the radius increased to accommodate turning traffic. The County Engineer indicated the Public Works Department would prepare the plans for these improvements and these would need to be completed prior to the issuance of a Certificate of Occupancy for the use.

Landscape and Screening: The equipment and materials will be stored inside. No new parking areas are proposed at this time. If a new parking area is proposed in the future, screening will be required.

Utilities: Water is provided by Rural Water District No. 4. An off-site lagoon was used for sewage management with the school use. The easement for the use of the lagoon was tied to the school use/ownership of the property; therefore, the applicant must obtain an easement from the property owners for the off-site lagoon. The County Health Official inspected the lagoon site and determined that minor repairs were needed to the fencing; otherwise, the lagoon was in good working condition. He indicated that KDHE approval may be necessary for the continued use of the lagoon. The County Engineer recommended that a permit or easement be obtained for the sewer line which is located under E 1750 Road.

Limits and Conditions:

Conditions listed earlier in this report are recommended to insure compatibility with the nearby residential uses. The use should be administratively reviewed by the Zoning and Codes Office every 5 years to insure compliance with the standards of the Conditional Use Permit. Expiration dates are often applied to Conditional Uses so they may be re-evaluated to determine if they remain compatible with the development in the area. Given the low intensity of this use and its agricultural nature, staff does not recommend an expiration date. This requirement for a 5 year review is noted on the plan.

Conclusion

The proposal complies with the County Zoning Regulations and the land use recommendation of *Horizon 2020* and the standards placed on the Conditional Use should insure compatibility with surrounding properties. The building must comply with minimum building code standards for non-residential uses and a building permit will be required for changes to the structure. The use requires a Conditional Use Permit which shall be obtained from the Douglas County Zoning and Codes Office.



LEGAL DESCRIPTION: 3.92 Acres; Beginning at a point 25.3 rods west of the Southeast corner of the Southwest Quarter of Section Ten (10), Township Fourteen (14), Range Twenty (20), thence North 175 feet, thence West 125 feet, thence South 175 feet, thence East 125 feet, to the point of beginning.

General Notes:

1. Site: 702 E 1747 Road
2. Site Area: Approximately 3.9 acres
3. Existing Zoning: A (Agricultural) District
4. Current Use: Vacant School
5. Proposed Use: *Office, Farm Implement Repair* and associated storage/warehousing (Dairy Supply and Service Business)

CUP CONDITIONS:

- 1) Commercial vehicles that exceed 5 tons (gvw) in capacity are limited to 2 trips (to and from the site) per day. This does not apply to incidental deliveries such as Fed Ex, and UPS.
- 2) All equipment and materials used in the business must be stored indoors.
- 3) Any new parking areas shall be screened from view of adjacent properties.
- 4) Product shall be enclosed within a building or structure so it is not visible from the site boundary lines. No retail sales of product shall occur on the site.
- 5) An easement for the offsite lagoon has been recorded at the Register of Deeds at Book_____, Page _____
- 6) The CUP will be administratively reviewed every 5 years following approval.
- 7) E 1747 Road's east access to E 1750 Road will be closed and the access to N 700 Road will be improved per the County Engineer's plans and approvals prior to the release of a Certificate of Occupancy.

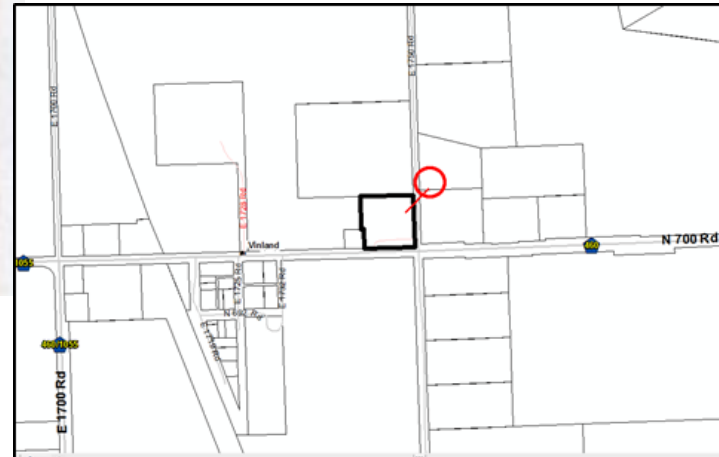
SITE INFO

Office: approximately 5,000 sq ft
Repair and Storage: approximately 1,900 sq ft
Associated Warehouse: approximately 6,500 sq ft
Total Building Area: XXXX sq ft

PARKING SUMMARY

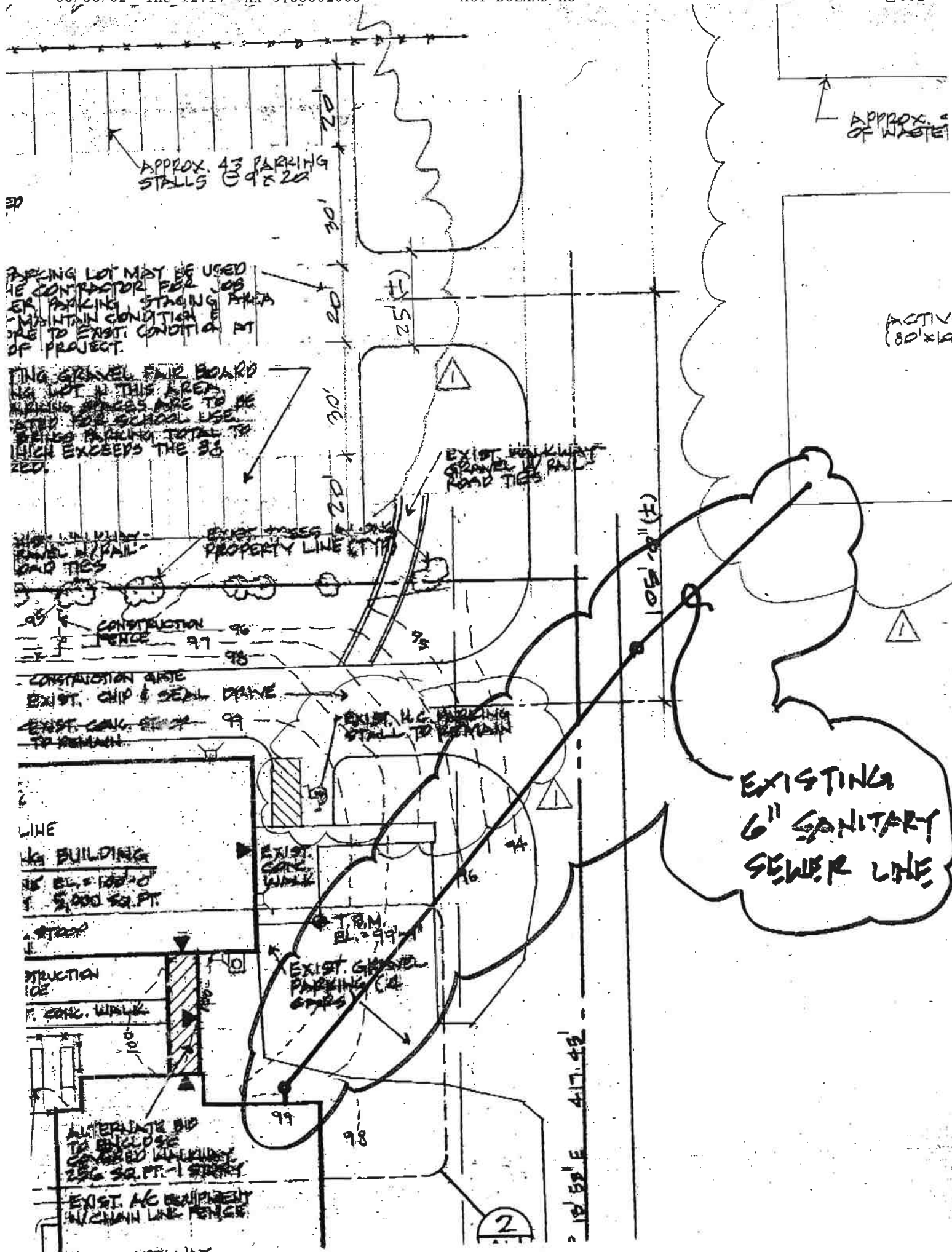
Office 1/400 sq ft area: 13 spaces
Repair and storage: 1/3 employees; Warehouse 1/2 employees
5 employees total: 3 parking spaces
Parking Required: 16 spaces
Parking Provided: 20 Spaces
ADA spaces required: 1 ADA spaces provided: 1

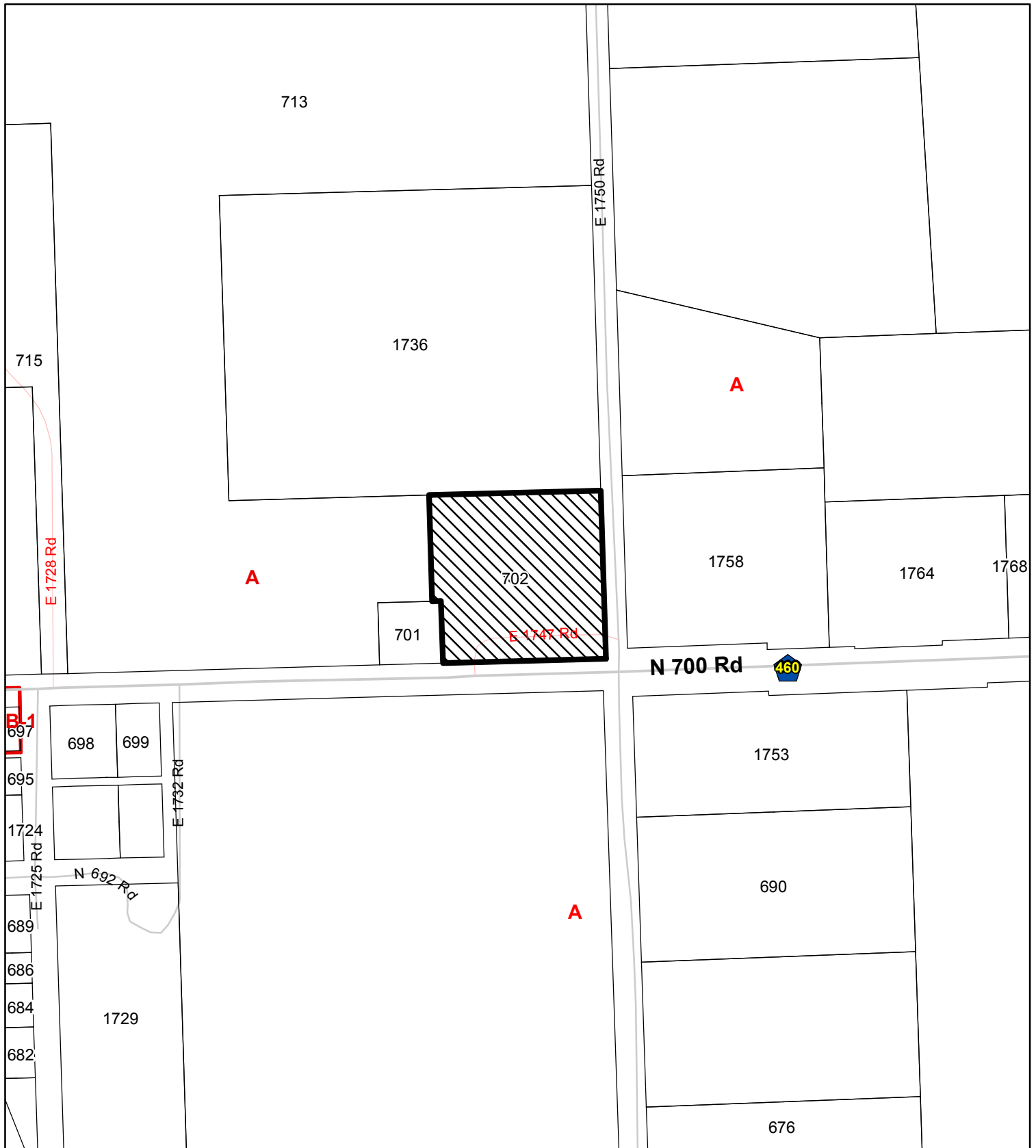
GENERAL LOCATION



- Approximate location of off-site lagoon and sewer line in red.


Conditional Use Permit
Flory Dairy Supply & Service
702 E 1747 Road





**CUP-15-00113: Conditional Use Permit for Flory Dairy Equipment
at the Former Vinland School Located at 702 E 1747 Road**

Lawrence-Douglas County Planning Office
May 2015

 Subject Property



From: jennifer flory [<mailto:darjenflo@gmail.com>]
Sent: Friday, May 15, 2015 11:04 AM
To: Mary Miller
Cc: darren floru
Subject: request to defer Flory Dairy Equip CUP

May 15, 2015

To the Planning Commission

This is a request to defer the decision of the CUP for Flory Dairy Equip regarding the Vinland School from May until the following meeting in June. I am unable to attend the May 18 meeting as it is also the Baldwin Junior High 8th grade promotion. I would appreciate having the discussion at a time when I would be able to be present.

Thank you,
Darren Flory

RECEIVED

MAY 14 2015

City County Planning Office
Lawrence, Kansas

May 15, 2015

City of Lawrence Douglas County Planning and Development Services

RE: Conditional Use Permit CUP-15-00113 for Flory Dairy Supply & Service

I, Bryan Stober, property owner at 701 E 1747 Rd Baldwin City, KS adjacent to the vacant Vinland Elementary School located at 702 E 1747 Rd have the following concerns:

1. Safety for my children in close proximity to the use of semi trucks and other utility trucks passing within 60 feet of my front door.
2. Fear that my property would lose market value due to having a road that semi trucks pass within 60 feet of our home, as well as having a business so close to a residence.
3. The concern that semi trucks will sit running during loading and unloading on the west side of the school will pollute my home with unwanted odor and carcinogenic diesel exhaust that could negatively affect my family's health.

Diesel Exhaust and Cancer by American Cancer Society.

<http://www.cancer.org/cancer/cancercauses/othercarcinogens/pollution/diesel-exhaust>

4. Noise pollution resulting from semi trucks entering and exiting within 60 feet of our home, including loud breaking, loud engine noise while idling during the loading and unloading process, knowing that a semi truck creates 90db noise, which is 10db louder than a jack hammer.
5. Knowledge that having this business and the traffic so close to our home would likely manifest the inability to resell my property and that the property value could dip below the amount I currently owe.
6. I have concerns regarding a gravel road within 60 feet of my front door and the proposed gravel parking lot would create undue dust that will create health problems and again make my property unattractive to prospective buyers.
7. The possibility that the owner could block the only access I have to my property, which could land-lock me to have limited access to driveway and parking area.

Thank you for your time and consideration regarding these very important concerns that my family has and we ask you to try to stand in our shoes being the closest residence to the proposed business that when we purchased this property 6 years ago we had chosen it based on the fact that it was a quiet rural home located next to an elementary school that our 7 year old daughter would attend and we had no idea it could become a distribution center that large semi trucks could be passing within 60 feet from our front door and

where we park our vehicles. This property is our only asset that we have and it's good standing value is key to my family's well being.

Sincerely,

Bryan Stober
Natalie Nall-Stober
Johna Stober
Brandon Jaiser