

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

PC Staff Report  
10/24/16

**ITEM NO. 1      CONDITIONAL USE PERMIT; PRAIRIE MOON WALDORF SCHOOL –  
PRESCHOOL PROGRAM; 1853 E 1600 RD (SLD)**

**CUP-16-00035:** Consider the renewal of a Conditional Use Permit for Prairie Moon School *Preschool Program*, located at 1853 E 1600 Road. Submitted by Melissa Watson for Waldorf Association of Lawrence tenant, Grant Township, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of the Conditional Use Permit for Prairie Moon School *Preschool Program*, 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.

**Reason for Request:** *"To continue offering our early childcare program as part of our prek-8 private school – Prairie Moon Waldorf School."*

**KEY POINTS**

- A Conditional Use Permit, CUP-1-2-05, for the preschool was approved by the County Commission on April 8, 2005. One of the conditions was that the approval was valid for a ten year period unless the CUP was renewed. This CUP application is a request for a renewal following the expiration of the ten year approval period.
- The Zoning Regulations do not require that time limits be set for Conditional Use Permits but they can be applied in cases where it is expected that the use may not be compatible with the surrounding area as it develops.
- The school includes pre-K through 8<sup>th</sup> grade classrooms.
- The previous approval included a limitation on the number of students and required a review/reapproval.
- There are no exterior improvements proposed for this site.

**ATTACHMENT**

1. Area Map
2. Existing Land Use – Northeast Area Plan
3. Site Plan

**ASSOCIATED CASES**

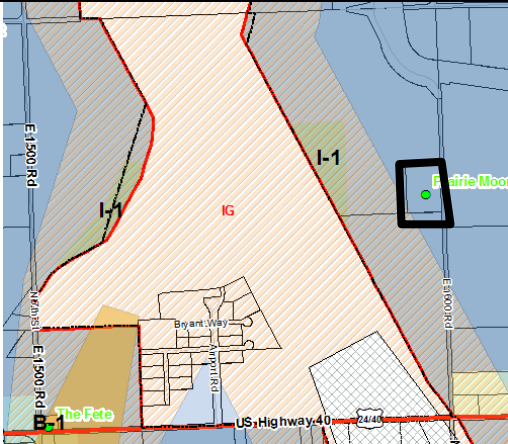
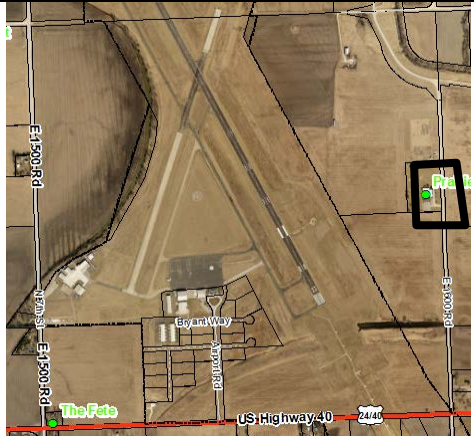
- A Conditional Use Permit, CUP-1-2-05, for the Prairie Mood was approved by the County Commission on April 8, 2005.

**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.

**PUBLIC COMMENT**

- None have been received

<b>GENERAL INFORMATION</b>	
Current Zoning and Land Use:	A (Agricultural) District; <i>School, Private.</i>
Surrounding Zoning and Land Use:	In all directions: A (Agricultural) District; Agriculture fields.  Airport Overlay Zone – Transitional Zone (City of Lawrence) to the west.
	
<b>Figure 1a.</b> Zoning of the area: Blue area is A (Agricultural), stripped area is Airport Overlay District.	<b>Figure 1b.</b> Land uses in the area.

### Summary of Request

This request is for a renewal of a previously approved Conditional Use Permit which had a ten-year approval (expired March 15, 2016). The property is located within the Lawrence urban growth area. The proposed request is for a childcare/education program within an existing building. The program initially provided early education programming for 2.5 to 6 year old children. As the program has grown additional grades have been added. There are no exterior improvements proposed for this site.

Approval of the request will allow continuation of the childcare/early education element of the program. The proposed use is included in the enumerated list of uses that are permitted as Conditional Uses in Section 12-319-4.30 *Child Care Center*. The education use (school) is not subject to a Conditional Use Permit. The *Child Care Center* use is permitted in the A (Agricultural) Zoning District only when approved as a Conditional Use Permit. The proposed use has been reviewed with the following criteria provided in Section 12-319-1.02 of the Zoning Regulations.

**Table 1: Site Summary**

<b>Site Summary</b>	
Gross Area:	6.37 acres
Building: One-Story	12,946 SF (per appraisal records)
Parking:	13,576 SF
Fenced Play yard	7,136 SF
Early Childhood/Kindergarten	2 classrooms (30 students – 5 staff)
Grades 1-8	5 classrooms (59 students – 5 staff + 7 part time staff) Part-time staff works on different days and different shifts.

## I. ZONING AND USES OF PROPERTY NEARBY

The immediately surrounding area is zoned A (agricultural) in all directions. County industrial zoning is located west adjacent to the Lawrence Municipal Airport and to the south along Highway 24/40. KU Endowment owns the tracts of land immediately north and south of the property. These tracts are used for agricultural purposes.

**Staff Finding** – Surrounding land uses are agricultural. A significant land use in the immediate area is the Lawrence Municipal Airport. The continued use as an education/child care facility is compatible with the surrounding zoning and land use.

## II. CHARACTER OF THE AREA

The property is located in Grant Township and located east of the Lawrence Municipal Airport. Rural residential uses are generally located along County roads and are clustered in the northeast and southwest portions of the Township. Residential development within the Township is very low density and consistent with rural residential patterns.

The Kansas River bounds the west and south edges of the Township. Jefferson County and Leavenworth County border the north and east sides of the Township. The Kansas River and Mud Creek are also defining features of the Township. The subject property is located between these two waterways.

The KU field station is located in the northeast corner of the Township and is included in community Open Space as described in the Northeast Area Plan of Existing Uses. A copy of the existing Land Use map is attached to this report.

The Township is developed with a grid type street network and includes state and interstate highway access. E 1600 Road north of Highway 24/40 is a local road; south of the highway it is a designated collector street.

Within the Township one structure is listed on the National Register of Historic Places – the Vermilya-Boener House. (see Attached Map at end of report).

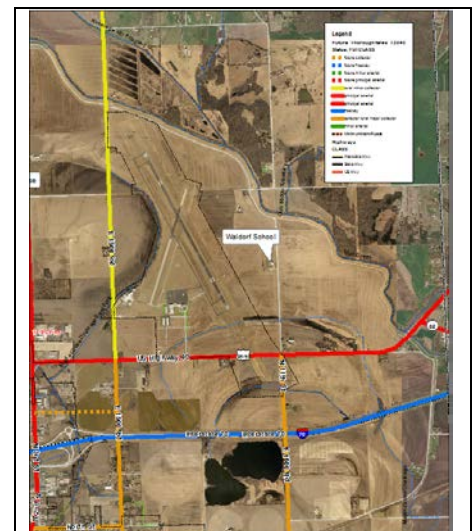


Figure 2: Major Roads Map

**Staff Finding** – The area has access to the major transportation network with the subject property taking access to E 1600 Road, a north/south local road which connects with Highway 24/40 to the south. Agriculture uses dominate the area. The Kansas River, major streams and highways through the Township as well as the Lawrence Municipal Airport are also significant features of the area.

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

Applicant's Response: *"It serves our needs well as we grow our enrollment. We'd like to continue its use as childcare."*

The subject property is zoned A (Agricultural). Section 12-306 of the County Zoning Regulations provides the following information on the A District:

*“...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. Other uses allowed include residential detached dwellings, churches, schools, hospitals and clinics for large and small animals, commercial dog kennels, rural home occupations, and agritourism.

In addition, all uses enumerated in Section 12-319, may be permitted when approved as Conditional Uses. *Child Care Center* is an enumerated use in Section 12-319. The use is defined as:

12-303-1.17 (c) *“...the care of 13 or more children for less than 24 hours, away from the some of the parent or legal guardian; and includes but not limited to child care facilities, preschools, play groups, kindergartens, and before and after school programs not operated by the public schools and other establishments offering care to groups for children for less than 24 hours for more than two consecutive weeks, ...”*

The *Child Care Center* has operated in the former Grant School since the CUP was approved in 2005.

**Staff Finding** – The property is suitable for agricultural uses which are permitted within the A (Agricultural) District. The property was developed as an elementary school and is currently being operated as a school that includes early childhood education. The property is well suited for the continued use of the building and surrounding area for a school with a *Preschool* program.

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

The property is developed with an existing building used for an elementary school. The property has been zoned for Agricultural uses since 1966 and was used for Township activities after Grant School was closed. A review of the aerial photography of the area shows the building being constructed sometime between 1954 and 1966.

*Colleges, and schools, public and private Schools* are permitted in the A (Agricultural) District. However *Childcare/preschool* uses require a Conditional Use Permit (CUP). A CUP was previously approved but has expired. The applicant is seeking reapproval to continue the early education (preschool) program in conjunction with the elementary education that extends through 8<sup>th</sup> grade.

**Staff Finding** – The property is not vacant. The building is actively used as a school that includes pre-K through 8<sup>th</sup> grade education.

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

Applicant's Response: *“We do not affect nearby property in any way. It is all agricultural and research.”*

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 *Child Care Center*.

Impacts from this type of use are usually associated with traffic at peak times of the day. The use has been in operation since 2005 and the traffic associated with the existing use has not resulted in complaints from nearby property owners. The Zoning and Codes Office indicated they received no complaints regarding the facility. Continuing the current operation should have no detrimental impacts on nearby properties.

If the use were to be intensified, for example through a building expansion or construction of additional parking spaces, a site plan application would need to be submitted to the Planning Office for review. Impacts of the change on nearby properties and the street network would be evaluated through the site plan review.

**Staff Finding** – The facility has been in operation since 2005 without detrimental impacts to nearby properties. Approval of the CUP will extend the use but will not change the intensity of the use. The approval of the CUP to allow the continuation of the current *child care center (Preschool)* should not result in any detrimental impacts.

## **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: *"EC (Early Childhood Childcare) resource provided in the county."*

Approval of this request would allow the continuation of the education program that includes pre-K students as well as applicable before and after school care as needed.

No benefit would be afforded to the public health, safety, or welfare by the denial of the request as no negative impacts are anticipated with the facility.

**Staff Finding** – In staff's opinion, there would be no gain to the public health, safety, and welfare by the denial of the request. Approval of the request would allow the continued use of the education facility which offers alternative learning and child care options for the community.

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

Applicant's Response: *"No changes from the last 11 years."*

The comprehensive plan does not address special uses but does state: *"Public and semi-public land uses include municipal facilities, schools, universities, parks, recreation and open space and a range of institutions."* The plan also states the need for such land uses is difficult to project partially due to the fact that such facilities are *"controlled by jurisdictions over which the City and/or County has limited (or no) control."* *"The plan therefore considers areas shown for the various residential categories as appropriate for many public and semi-public uses, provided access and buffering are considered in their location."*

The plan reiterates the importance of schools in a predominantly residential community and such facilities provide an important cultural, recreational and social role in that community. The plan encourages a cooperative effort among jurisdictions in the decision making process that affects the community but which generally focuses on the location or expansion of new facilities. This theory can also be attributed to other community type facilities such as daycare and nursing home type facilities which provide both an anchor and appropriate community services within a neighborhood area.

Regarding Educational Needs the *Horizon 2020* states:

*The need for expanded early childhood daycare to provide parents greater schedule and employment flexibility. Increased daycare and preschool services are encouraged for age one through kindergarten.*

The following ***Community Facilities Goals and Policies*** related to the proposed request are as follows:

<b>Goal 1:</b>	<b><i>Provide Facilities and Services to Meet the Needs of the Community:</i></b>
	<i>Provide quality public and semi-public facilities equitably distributed throughout the community.</i>
<b>Policy 1.1:</b>	<b><i>Maintain Existing Facilities</i></b>
a.	<i>Encourage the adaptive reuse or redevelopment of excess community facilities and sites.</i>
b.	<i>Maintain or upgrade existing facilities and services where necessary to serve existing development.</i>
<b>Policy 1.3:</b>	<b><i>Coordinate the Delivery of Services</i></b>
a.	<i>Plan cooperative use of facilities, services and land to optimize use of resources and avoid duplication.</i>
b.	<i>Encourage the coordination of services and facilities among this municipal service providers engaged in similar services in the community.</i>
<b>Policy 1.4:</b>	<b><i>Combine Facilities</i></b>
a.	<i>Encourage multiple uses of educational facilities for recreation and/or other service programs.</i>
b.	<i>Promote combined public facilities such as school/community centers, police/fire stations, or library/community centers in several locations throughout the community to improve accessibility and promote efficient delivery of services.</i>

**Staff Finding** – The proposed request utilizes existing building space originally designed as a school. The proposed request is consistent with the general principals of *Horizon 2020* outlined above.

## **STAFF REVIEW**

The proposed request is for a childcare/education program within an existing building. The program initially provided early education programming for 2.5 to 6 year old children. As the program grew additional grades were added. Approval of the request will allow for the continuation of service provided to the community and provide for an alternative educational experience. There are no exterior improvements proposed for this site.

**Exterior Yard:** As a childcare facility, an outdoor play yard is required. A fence area is provided on the west side of the building. No changes are proposed or required.

**Future Expansion:** In discussions with the staff it is clear that the growth of the program will include a need for additional facility space. Any expansion of the existing building or the addition of other detached buildings would be subject to a site plan review and approval.



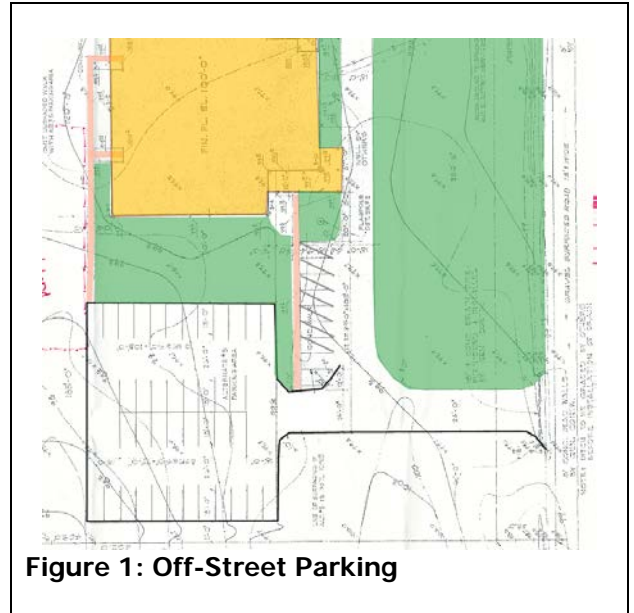
**Access to the site:** A circle driveway access is provided on the east side of the building with access to E 1600 Road. The south driveway provides access to a larger parking lot on the south side. Parking spaces are also provided along the drive as needed. No changes to the access or site circulation are proposed with this application.

**Parking:** The site includes two parking areas. A row of 6 parking spaces is located just south of the building and is angled parking. The larger paved lot is not striped but could park approximately 30 to 40 vehicles.

The facility staff includes 10 full time employees and 7 part-time employees. The part-time employees do not work all on the same day or during the same shift. Current enrollment, including the pre-kindergarten students is 89. The total number of classrooms is 7. Off-street parking for school related uses is summarized in Table 2 below.

Required Off-Street Parking for Education Uses	
Elementary or nursery school	1 per 10 seats in main assembly or 1 per classroom whichever is greater
College or high school	1 per 5 seats in main auditorium or 8 per classroom, whichever is greater.

**Table 2: Off Street Parking**



The site provides parking at 6 spaces per classroom. This parking is sufficient for the use at this time. There is adequate area for overflow parking in the fields east and west of the larger parking lot as well as parking along the east side of the circle drive, if needed.

**Review and Renewal:** The County Zoning Regulations do not specify if a Conditional Use Permit must be conditioned or limited to a period of time. Some uses by nature are appropriately evaluated at given intervals to assess the use and determine if the conditional use is still compatible with the surrounding areas. Other uses may not require periodic evaluations unless they have become out of compliance with their original approval or conditions change that make the use no longer compatible with the surrounding area.

Section 12-319-3 provides the County Commission authority and procedures to amend or revoke a Conditional Use Permit. Regardless of any time limits or expiration of approval the County Commission has clear authority to amend or revoke a Conditional Use Permit.

- The building was constructed as a school (education facility) in 1880.
- The building has been consecutively used as a school or township facility since construction.
- Current education facility designs commonly include child care and preschool options for school age and preschool programs.
- Early childhood education is a fundamental building block to successful academic success.
- The Comprehensive Plan recommends coordination of services and shared facility use for *“providers engaged in similar services”*.
- The current child care (preschool) program has operated since 2005 without incident.

A requirement to continue or extend a review period or to require a future renewal of the use is not needed in this application.

**Conclusion:** The school was originally constructed in 1880. There are no existing historic resources that are impacted by the proposed use. A Conditional Use Permit was approved in 2005 for a *Child Care Center* (accessory to a private school). The use has operated since 2005 without incident. This application is for the reapproval of a previously approved Conditional Use Permit.

**PROFESSIONAL STAFF RECOMMENDATION:** Planning staff recommends approval of the Conditional Use Permit and forwarding it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the Staff Report.





### Figure 4: Historic Properties

A detailed survey of the Township was completed in August 2016 and is online at

<https://www.douglascountyks.org/sites/default/files/media/groups/hcc/pdf/2015intensivesurveyreportgrantpalmyratwpswithoutappendix.pdf>

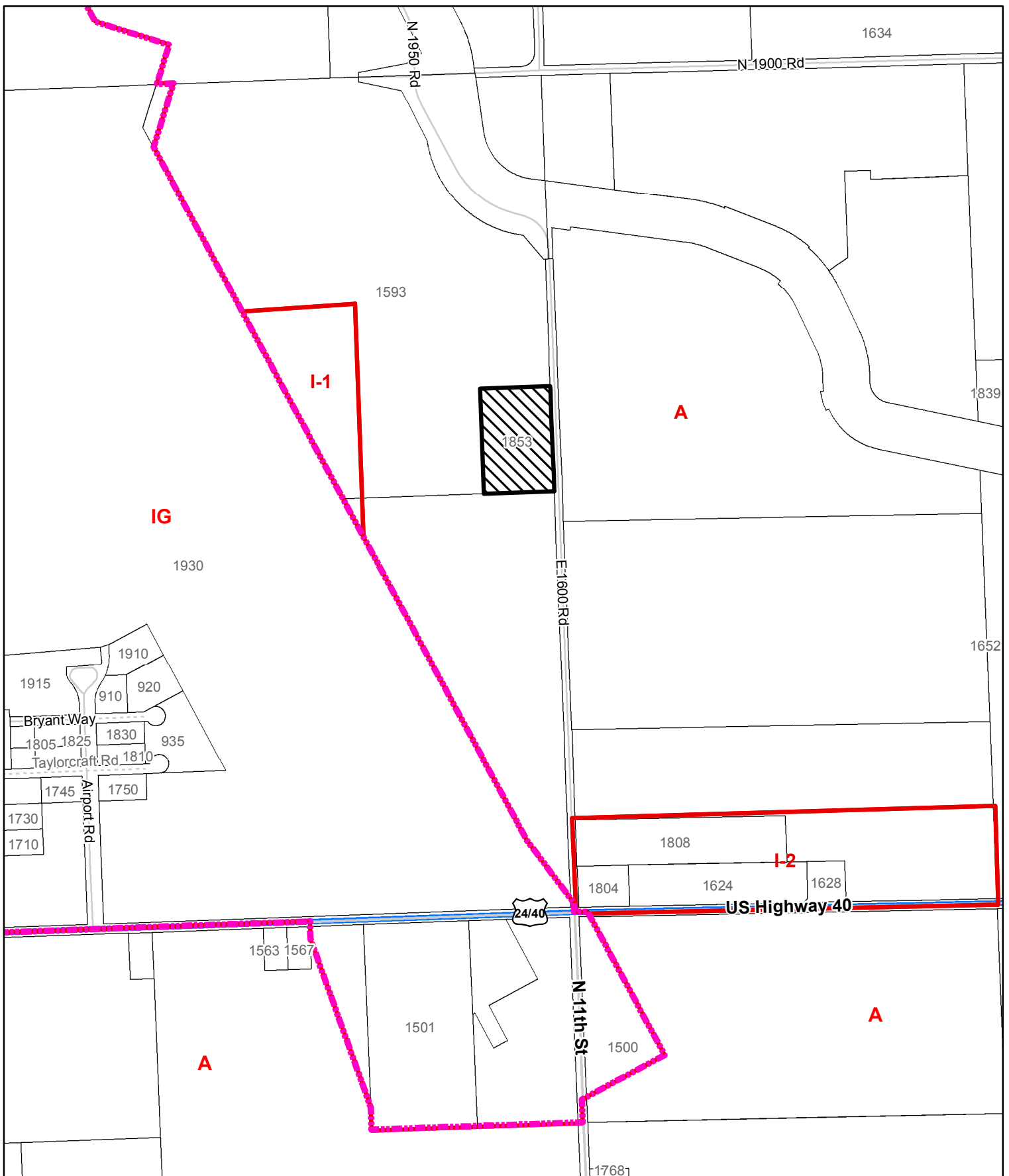






## Northeast Sector Plan





**CUP-16-00340: Conditional Use Permit for Child Care at Prairie Moon Waldorf School  
Located at 1853 E 1600 Road**

Lawrence-Douglas County Planning Office  
October 2016

 Subject Property

