

Planning Commission Staff Report

Applicant

Neil Hett
1509 E. 120th
Peabody, KS 66866

Application

Application number ZP04.099. Applicant is requesting a Conditional Use Permit for Landscape Materials Storage and Retail Sales in an "A" Agricultural Zone District.

Project Description

Mr. Hett owns approximately twenty (20) acres in the northwest quarter of Section 9, Township 21 South, Range 3 East. This property is located five miles north of the City of Peabody on Nighthawk Road.

The Conditional Use Permit requested would apply to approximately eight and four tenths (8.4) acres in the northwest corner of the northwest quarter.

Refer to Development Plan and attachments for proposed material storage and retail sales. Applicant intends to construct a business building.

Planning Issues

The Public Hearing Notice and Adjacent Property Owner Notification has been completed in accordance with the Marion County Zoning Regulations and Kansas State Statutes. No written public comments have been received as of January 13, 2005.

In approving a conditional use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met unless otherwise reduced by specific reference in the recommendation of the planning commission or the approval of the governing body. The requirements may be made more stringent if there is potentially injurious effect, which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public.

Factors to be considered in a conditional use permit recommendation:

- 1) Whether approval of the conditional use would be consistent with the intent and purpose of the Marion County Zoning Regulations.
- 2) Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood.
- 3) Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional

- transportation and service facilities can be provided.
- 4) Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected.
 - 5) The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped.
 - 6) Whether the applicant's property is suitable for the proposed use.
 - 7) The recommendations of permanent or professional staff.
 - 8) Whether the proposed conditional use would be in conformance to and further enhance the implementation of the comprehensive plan.
 - 9) Whether the relative gain to the public health, safety and general welfare outweighs the hardship impose on the applicant by not upgrading the value of the property by approving the conditional use.
 - 10) Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected.
 - 11) Such other factors as may be relevant from the facts and evidence presented in the application.

Property is located adjacent to a paved road.

Operation will increase semi-tractor traffic on Nighthawk Road.

Parcel contains Flood Hazard Zone (100year floodplain).

Staff Recommendation

Approve a recommendation for a Conditional Use Permit on less than ten (10) acres for landscape materials storage and retail sales as presented in the development plan. Include recommendation that all structures, material storage and material sales will occur outside of the Special Flood Hazard Zone A. Include recommendation that all landscape materials will be fenced and secured with a minimum of a six (6) foot screened fence. Include recommendation to allow one (1) Business Sign to comply with Article 18-District Sign Regulations and be no more than sixteen (16) square feet. Include recommendation that any required State and Federal Permits be obtained and maintained.