

**SPRING HILL PLANNING COMMISSION  
REGULAR MEETING AGENDA**

**Thursday, May 6, 2010  
7:00 p.m.  
Spring Hill Civic Center  
401 N. Madison, Room 15**

**CALL TO ORDER**

**ROLL CALL**

Tobi Bitner  
Janet Harms  
Brian Haupt  
Valerie Houpt

Bill Kiesling  
Troy Mitchell  
Michael Newton  
Stephen Sly  
Cindy Squire

**APPROVAL OF AGENDA**

**FORMAL COMMISSION ACTION**

1. Approval of Minutes

April 1, 2010

• **Public Hearing**

2. Conditional Use Permit

Case No.: CU-01-10  
Request: Contractor Storage  
Address: 22504 Old KC Road  
Applicant: Newcome Trucking

• **Non-Public Hearing**

3. Site Plan Application

Case No.: SP-01-10  
Request: Covered Vehicle Storage  
Address: 19005 N. Webster St.  
Applicant: J & J Asphalt

**DISCUSSION**

4. 2011 2015 CIP Discussion

5. Report on rezoning at 701 N. Webster St.

6. Discussion on the use of flags for attention attraction and advertisement

**OTHER BUSINESS**

**ADJOURN**

## **PUBLIC HEARING PROCEDURE**

1. Chairperson opens the public hearing.
2. Commission members describe what, if any, ex-party contacts they might have had regarding this case; indicating the nature of the communication and *whom* it was with.
3. Commission members describe what, if any, conflicts of interest they may have and dismiss themselves from the hearing.
4. Staff presents a report and comments regarding the case.
5. Applicant or agent of the applicant makes brief presentation of the case or request.
6. Commission members ask for any needed clarification of the applicant or agent.
7. Public comments are solicited from the audience. Each member of the audience must fill out a Citizen Participation/Comment Form.
8. Commission members ask for any further clarifications from applicant or staff.
9. Public Hearing is closed.
10. Members deliberate the request.
11. 14-day Protest Period begins after the Planning Commission Public Hearing is closed. \*

\* **Protest Petitions:** Any protest petition must be filed in the Office of the Spring Hill City Clerk within 14 days from the conclusion of the public hearing held by the Planning Commission. Sample copies of protest petitions may be obtained from the City Clerk Office at 401 N. Madison, Spring Hill, KS 66083 (913-592-3664).

# Memo

To: Spring Hill Planning Commission  
From: Jim Hendershot, Community Development Director  
CC: file  
Date: April 29, 2010  
Re: May 6, 2010 Planning Commission meeting

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The following offers a brief explanation of items on the May 6, 2010 Planning Commission agenda. Please feel free to contact the Community Development Department 913-592-3664 if you have any questions.

1. **Approval of Minutes:** April 1, 2010 meeting
2. **Public Hearing - CU-01-10, Contractor Storage Yard, 22504 Old KC Road.** A public hearing will be held to consider allowing a landscaping business to park work vehicles and/or employee vehicles at 22504 Old KC Road. A site plan is included with the staff report identifying a privacy fence and landscaping to screen the vehicles from view as required. Staff anticipates at least one citizen to be present to speak in opposition to the application. Staff recommends approval of the application with conditions as stipulated in the staff report.
3. **Site Plan Application, SP-01-10.** J & J Asphalt has submitted an application for the construction of three covered buildings to house construction equipment at 19005 N. Webster. Staff has reviewed the application and recommends approval of the application.
4. **2011-2015 CIP Program:** At the April 1, 2010 PC meeting, copies of the draft 2011-2015 Capital Improvement Plan were distributed to the PC. Melanie Landis will be present at the meeting to discuss the CIP and possible inclusion of project suggestions from the PC.
5. **Report on City Council Action on Rezoning of 710 N. Webster.** The City Council agreed with the recommendation of the PC and denied the rezoning application for 701 N. Webster. The discussion before the City Council was similar to the presentation made to the PC on April 1 by the applicant. It is conceivable the applicant will approach the PC in the future to discuss the possibility of reducing the restrictions placed on nonconforming properties that are upgraded in use and brought into compliance with the zoning district.
6. **Discussion on flags used for attention attraction and advertisement:** City inspectors have raised the issue of individuals using flags for advertisement and/or attention attraction devices. Previously this was common at the entrances of new subdivisions, but we are now seeing them used for business advertisement. Our code is somewhat grey on this form of

advertisement. Staff is currently reviewing regulations from other communities and will make a brief presentation to the PC.

I look forward to meeting with you and please contact Mary Nolen or myself at 592-3664 if you are unable to attend the meeting or if you have question concerning the agenda.

The following minutes are subject to modification  
and are not official minutes  
until approved by the Planning Commission

**SPRING HILL PLANNING COMMISSION  
REGULAR MEETING  
April 1, 2010**

Members Present: Tobi Bitner  
Janet Harms  
Brian Haupt  
Valerie Houpt  
Bill Kiesling  
Michael Newton  
Cindy Squire

Members absent: Stephen Sly

Staff Present: Jim Hendershot, Community Development Director  
Mary Nolen, Planning Secretary

**CALL TO ORDER**

Chairman Bitner called the meeting to order at 7:00 P.M.

**ROLL CALL**

Roll call by Mary Nolen.

**APPROVAL OF AGENDA**

The agenda was revised to include the oath of office for new Commissioner Troy Mitchell, a comment on a recent USD#230 issue from Tobi Bitner, and a comment on Midwest Auto by Brian Haupt.

**Motion by** Cindy Squire to approve the agenda as amended.  
**Seconded by** Mike Newton. Motion passed unanimously.

Mr. Hendershot welcomed and issued the oath of office to Troy Mitchell, who is replacing Tim Pittman on the Commission.

**FORMAL COMMISSION ACTION**

1. Approval of Minutes: February 4, 2010

**Motion by** Bill Kiesling to approve the February 4, 2010, minutes.  
**Seconded by** Janet Harms. Motion passed 4 yes 0 no 4 abstention (Bitner, Haupt, Mitchell and Squire)

• **Public Hearing**

2. Rezoning

Case No.: Z-01-10  
Request: C-2 to R-1  
Address: 701 N. Webster St.

Applicant: Steve Smyth

Chair Bitner introduced the item and asked if anyone had any contact or conflict of interest with this item. There being none stated, Mr. Hendershot proceeded with the staff report.

### **Beginning of staff report**

#### **BACKGROUND:**

The applicant, Steve Smyth, has submitted a rezoning application on behalf of the owner, Reginald Reif, for 701 N. Webster in Spring Hill. The request is to rezone the property from C-2 (General Business) to R-1 (Single-Family Residential). The property was a nonconforming residential use until February 2008 when the use was changed to commercial (The Front Porch). Section 17.344.D of the Spring Hill Zoning Regulations indicates that a nonconforming use, if changed to a conforming use or more restricted nonconforming use, may not thereafter be changed back to a less restricted use than that to which it was changed. In other words, when the use was changed from residential to commercial, it may not revert to residential use without being rezoned to residential.

#### **REZONING:**

The review of the proposed rezoning is consistent with Golden v. City of Overland Park, 224 Kan. 591, 584 P. 2d 130 (1978).

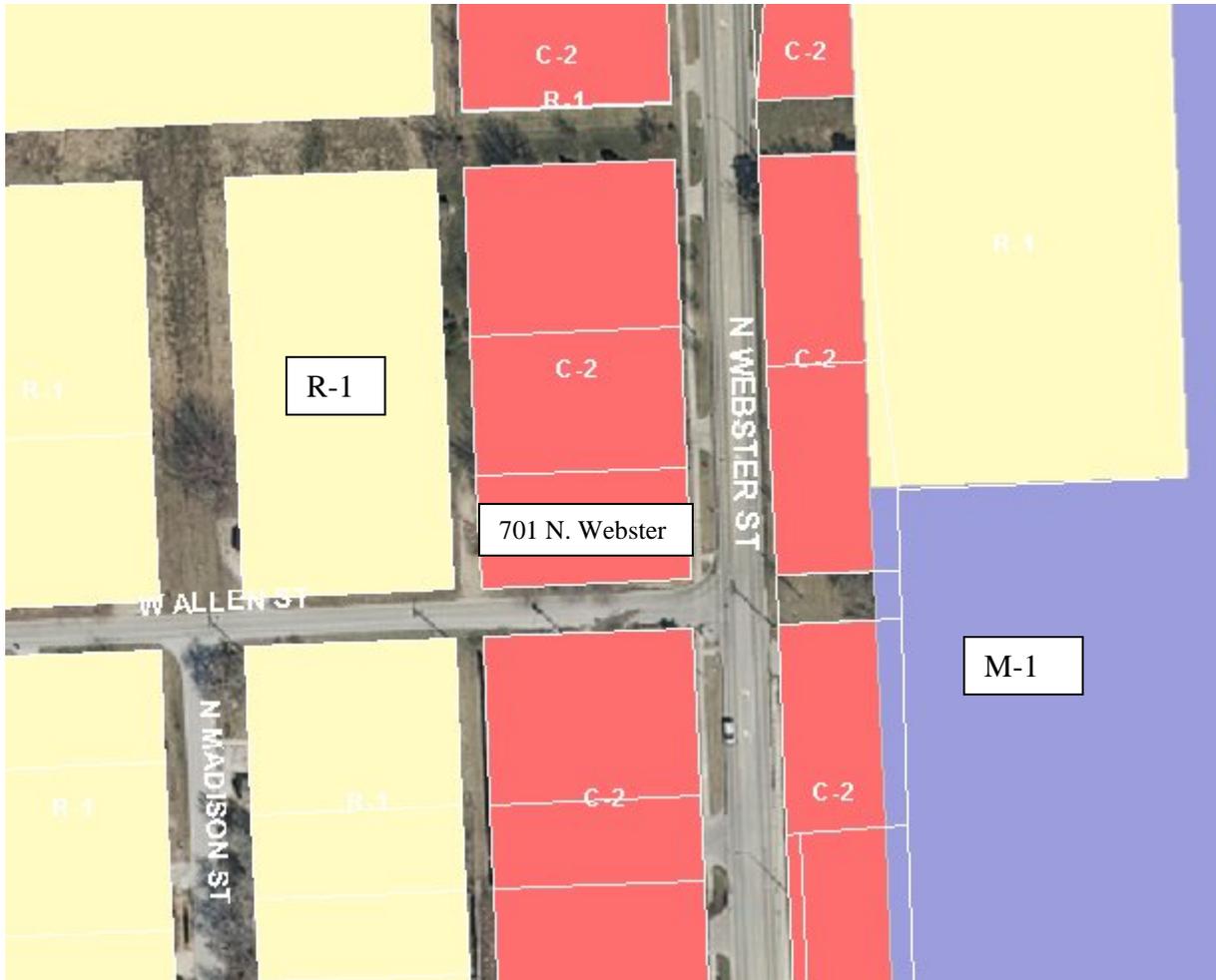
- 1. Consistent with purposes of the regulations and intent and purpose of the proposed district:** A change in zoning to R-1 would be consistent with the proposed use as a single-family, allowable in an R-1 district.
- 2. Neighborhood Character:** The surrounding neighborhood is a combination of commercial office, commercial retail, vacant land and residential.

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**3. Zoning and uses of nearby parcels:** Adjacent zoning districts include C-2 (general business) and R-1 (single-family residential);

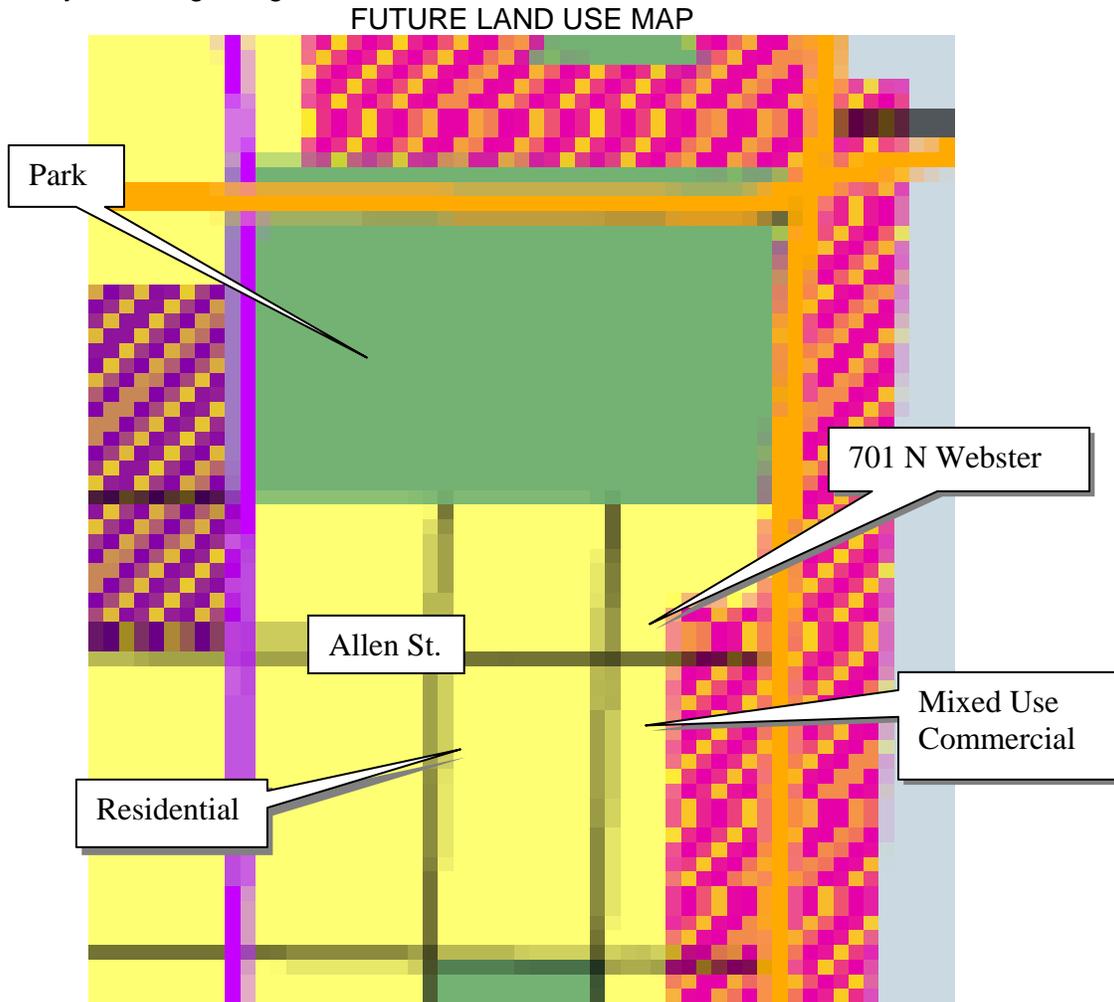
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4. **Requested because of changing conditions:** Request is based on the loss of a commercial use on the property and resulting loss of nonconforming status.
5. **Suitability of parcel for uses restricted by the current zone:** Residential uses are prohibited in C-2 districts; however the structure was originally residential in use and remains residential in character.
6. **Detrimental Effect of Zoning Change:** Parcels to the north, south and east are zoned C-2. Rezoning to R-1 could be detrimental to these properties when considering spot zoning and residential use along the business corridor of Spring Hill.
7. **Proposed amendment corrects an error:** No error is being corrected.
8. **Length of property has been vacant:** Vacancy limited to a few weeks.
9. **Adequacy of facilities:** Adequate for residential or commercial uses
10. **Conformance with Comprehensive Plan.** The Future Land Use Map identifies this property as Mixed Use Commercial. The area to the north along Webster Street is

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identified as Residential and Park with actual uses of commercial office, residential and commercial retail. Mixed use commercial promotes a mixture of neighborhood-oriented office, retail-commercial, institutional, civic and medium to higher density residential uses intermixed through compatible site planning and building design. The zoning and future land use designations for this property are designed to promote commercial development along the Webster Street corridor. Rezoning of a parcel adjacent to parcels with zoning equal to the request is usually looked upon more favorably than spot zoning. However, a change of zoning to residential in this instance equates to spot zoning as it disrupts the continuity of zoning along Webster Street.



**11. Hardship if application is denied:** When the nonconforming residential use was upgraded to commercial, the property lost its nonconforming use classification. The structure remains residential in character thereby limiting its usefulness as a commercial structure. The sale, renting or leasing of the property as a commercial property is thereby limited.

**12. Recommendation:** Rezoning this parcel to residential is advantageous to the owner as it increases the demand for the property. However, the requested residential request is

contrary to the Spring Hill Comprehensive Plan and Spring Hill Zoning Regulations. As a result, staff recommends denial of the request.

### **End of Staff Report**

Ms. Bitner opened the public hearing.

Steve Smyth, the applicant for the rezoning, spoke to the Commissioners. He was surprised that staff did not recommend approval. He confirmed with Mr. Hendershot that the single family homes along Webster Street today, being used in a residential manner, are zoned as commercial and are commercial on the Future Land Use Map. They are considered non-conforming uses, and when the residential aspect of the property changes, they must go to the commercial level of zoning. They may not be used as residential again, and must remain in a commercial zone. Mr. Smyth acknowledged the receipt of the staff report that noted Staff's recommendation for denial.

Mr. Smyth explained the reason for the change of zoning in 2008, was due to a business leasing the property. Mr. Smyth described the number of vacant commercial properties for lease in the City, and what kind of image this creates. Commercial lags behind residential for at least a year. If the rezoning is not allowed, the house will probably sit vacant for over a year. It looks like a house; they should be able to lease it as a house.

Ms. Houpt had been in the building, and felt that for anyone to move into the house, it would require structural work. Mr. Smyth agreed there were foundation issues, but many houses in town have that issue. Mr. Kiesling asked if it was still a house inside. Mr. Smyth said they fixed the house up very well, and it's much better than it was. Mr. Smyth reiterated the amount of commercial property that is vacant.

Ms. Bitner noted that the Comprehensive Plan shows this area to become mixed use commercial. Going to residential, is a step back. Mr. Haupt offered that in the last 20 years or so, the Planning Commission has never spot zoned.

Ms Bitner asked Mr. Hendershot to provide a definition of spot zoning. He described it as a spot of zoning that is different from its neighbors. In this case, changing to residential would break the continual south to north line of zoning as it occurs now on Webster Street, made up of the commercially zoned lots that abut Webster St. The Future Land Use Map of the Comprehensive Plan shows the Webster St. corridor as a commercial area in the future.

Mr. Haupt did not want to allow the precedent that would be set for spot zoning. It is a requirement of the Planning Commission to support the Comprehensive Plan.

Mr. Smyth asked if the Planning Commission denies this recommendation, what the next step would be. Mr. Hendershot said the City Council will consider the recommendation of the Planning Commission, and then act on its own accord. Mr. Smyth feels the Planning Commission can make the change, but because they won't, the City will lose out on sales tax, and the property will be vacant. He feels this decision is just crazy.

Ms. Bitner closed the public hearing.

**Motion** by Brian Haupt to recommend denial of the rezoning from C-2 to R-1 for case Z-01-10.

**Seconded** by Cindy Squire. Motion passed 8 yes 0 no 0 abstention

Mr. Hendershot noted that this will appear before the City Council on April 22, 2010.

## DISCUSSION

### 3. 2011 2015 CIP Distribution

Mr. Hendershot discussed the Capital Improvement Plan (CIP) documents in the packet for the Commissioners. A form to add items to the Plan, was included with the packet. The Commissioners are asked to review the Plan, and if they have anything to add, they will receive assistance at the next meeting in the process to accomplish that addition. The task of the Commission is to verify that items on the Plan are in agreement to the Comp Plan.

### 4. Report on Council adoption of the Comprehensive Plan

Mr. Hendershot told the Commissioners that the 2009 revised Comp Plan was approved by the City Council in March. Changes will be implemented into the paperwork. The Commissioners were asked to bring in any old versions of the Ordinances or Comp Plan. They talked about not really needing the paper copy, and the use the web site. Each Commissioner was asked to let the Secretary know of their preferences.

## OTHER BUSINESS

### 5. Election of Planning Commission Chairman and Vice-Chairman

Due to Mr. Pittman joining the City Council, it's necessary for the Commissioners to appoint a new Vice-Chair, as well as hold the yearly elections for Chairperson.

Janet Harms moved to have Tobi Bitner remain as chair, seconded by Michael Newton. Bill Kiesling closed the nominations. All were in favor. Ms. Bitner remains as the Chairperson.

Valerie Houpt nominated Janet Harms as the Vice-Chairperson, seconded by Cindy Squire. Bill Kiesling closed the nominations. All were in favor of Ms. Harms becoming the Vice-Chair person.

The Planning Commissioners nominated and approved Mary Nolen to remain as the Planning Commission Secretary. ☺

### 6. Possible future plans or changes to be considered by USD#230.

Ms. Bitner attended a meeting on April 5 for the School Board. They discussed the idea of a 4 day school week, which would be considered due to financial issues of the school. She is concerned how a change like that might impact the growth of Spring Hill and how it would

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impact the desire of young families to move here. Ms. Bitner would like the School Board to communicate with the City in the light of these talks.

The Commissioners talked about various aspects of the issue, if surrounding areas will do the same thing, the sizes of incoming classes, what about daycare problems? Ms. Bitner wanted the Planning Commission to consider how possible changes may impact our Comprehensive Plan. Changes may also impact the use and staffing of the pool. Ms. Bitner said the USD230 Board does not plan to communicate a plan until it has a clearer picture of what they may do. She thinks the communication should occur now.

#### 7. Discussion of Midwest Auto

Mr. Haupt asked Mr. Hendershot about a big red Volvo semi tractor that is parked in a commercial area, behind Midwest Auto. It has been there more than 3 months. Mr. Hendershot said he'd take care of the issue. Ms. Squire also talked about vehicles parked in the street next to the curb, which could cause an accident.

### ADJOURN

**Motion by** Janet Harms to adjourn.

**Second by.** Bill Kiesling. Motion passed unanimously.

Meeting adjourned at 7:45 PM.

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Mary Nolen, Planning Secretary

**SPRING HILL PLANNING COMMISSION  
CONDITIONAL USE STAFF REPORT**

**Case #:** CU-01-10

**Meeting Date:** May 6, 2010

**Description:** Conditional Use application for contractor storage in the Miami County Growth Area.

**Location:** 22504 Old KC Road

**Applicant:** Clyde Newcome, 22504 Old KC Road, Spring Hill, KS 66083

**Engineer:**

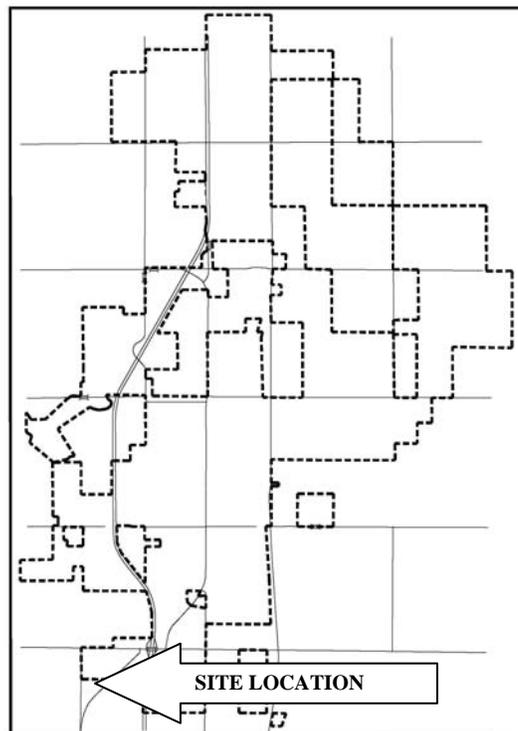
**Current Zoning:** AG (Agricultural)  
Miami Co. Growth Area

**Site Area:** 3 acres

**Number of Lots:** 1

	Current Zoning	Existing Land Use	Future Land Use Map
<b>Site:</b>	“AG”	Residential	Rural
<b>North:</b>	“C-1”	Vacant	Residential
<b>South:</b>	“AG”	Residential	Rural
<b>East:</b>	“AG”	Residential	Rural
<b>West:</b>	“AG”	Residential	Rural

**Related Applications:** n/a

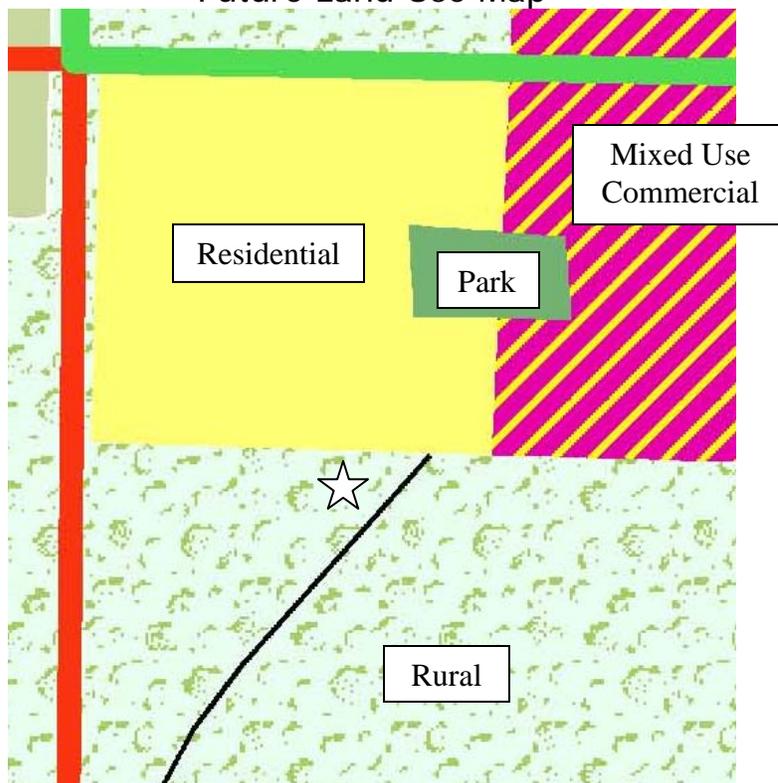




### Zoning



### Future Land Use Map



## **BACKGROUND:**

In the recent past city inspectors have been in contact with the applicant, Clyde Newcome, discussing a citizen complaint of an illegal business being conducted at 22504 Old KC Road. Mr. Newcome responded by contacting Mr. Hendershot for guidance to bring the property into compliance. This discussion led to the conditional use application currently under consideration.

Section 17.306 of the Spring Hill Zoning Ordinance provides for a contractor storage yard as a conditional use in an AG District provided the storage area is properly screened with fencing or landscaping.

Mr. Newcome has provided a site plan (included with staff report) that identifies a privacy fence along the south property line in combination with landscaping trees. The plan also shows an entrance gate into the parking area that attaches to the existing metal shop building. Use of the storage area will be limited to parking of landscaping equipment and employee vehicles. As seen in the aerial photo above, the west property line currently has a tree row of sufficient density to screen the property.

## **GOLDEN FACTORS:**

The review of the proposed conditional use permit is consistent with Golden v. City of Overland Park, 224 Kan. 591, 584 P. 2d 130 (1978).

- 1. Neighborhood Character.** The property is located adjacent to the city limits of Spring Hill and within the Miami County Growth Area. The surrounding area is primarily rural residential with the exception of vacant property to the north.
- 2. Adjacent Zoning.** Adjacent zoning consists of AG (agricultural) to the south, east and west and C-1 (restricted commercial) to the north.
- 3. Suitability for Current Zoning.** The site is suitable for a contractor storage yard provided any and all provisions of a conditional use permit are met and complied with in the future.
- 4. Detrimental Effect of Zoning Change.** Provided adequate conditions are placed upon an approved permit, the proposed use should have little detrimental effect on the surrounding area. However, staff has been contacted by one area resident who is opposed to the application stating it will devalue area properties. Enforcement of any conditions placed on the property will be key to area residents.

5. **Length of Time at Current Zoning.** The site has been zoned AG (Agricultural) for many years.
6. **Public Gain Balanced by Landowner Hardship.** Public gain includes regulating the property with a Conditional Use Permit. Hardship to the applicant would be not allowing him to use his rural property to operate a storage area for contractor vehicles and possibly financial hardship to relocate.
7. **Conformance with Comprehensive Plan.** With an approved conditional use permit, including proper enforcement, and yearly review, the proposed use would be in conformance with the Comprehensive Plan.

**ANALYSIS:**

Considering the distance from Old KC Road to the proposed parking area, the construction of a six-foot privacy fence and gate along with the existing trees and metal shop building, will provide adequate screening of vehicles parked behind the gate and building. However, to protect the interests of the surrounding area, limits should be placed on the number of vehicles to be stored in this area. In addition, a neighboring resident has indicated that currently vehicles, including trucks, come and go from the property during the early morning hours. This is viewed as a nuisance to the neighborhood from a noise perspective.

**RECOMMENDATION:**

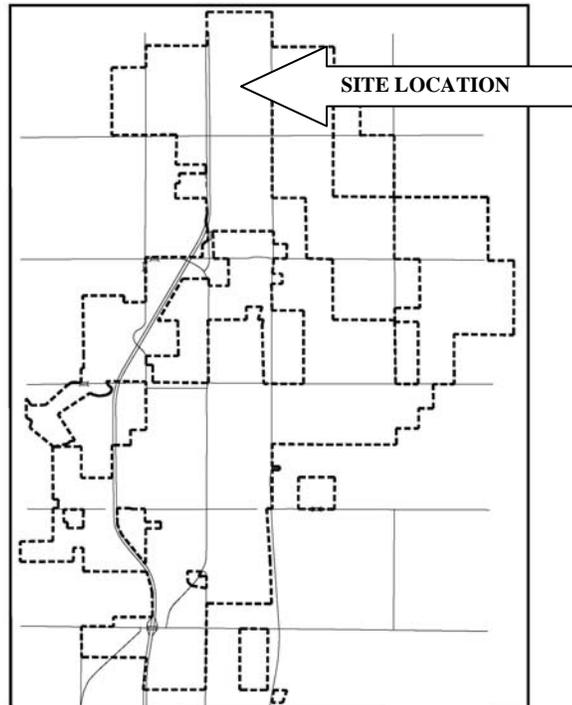
It is the recommendation of staff that Conditional Use Permit CU-01-10 be approved subject to the following conditions:

- 1) Hours of operation of the business including vehicle movement are limited to the hours of 6:00 am to 6:00 pm.
- 2) The parking of vehicles is limited to the area west of the gate and metal building, and no further north than the north wall of the shop building.
- 3) Maximum of seven construction vehicles and/or employee vehicles be parked in the designated area.
- 4) The privacy fence and gate are constructed of new quality materials and maintained in good condition.
- 5) The CUP be reviewed on an annual basis

**SPRING HILL PLANNING COMMISSION  
SITE PLAN STAFF REPORT**

**Case #:** SP-01-10 **Meeting Date:** May 6, 2010  
**Description:** Proposed Site Plan, Covered Vehicle Storage, J & J Asphalt  
**Location:** 19005 N. Webster, Spring Hill  
**Applicant:** J & J Asphalt  
**Engineer:** Payne & Brockway  
**Site Area:** 7.78 Acres - 338,897 sq. ft.

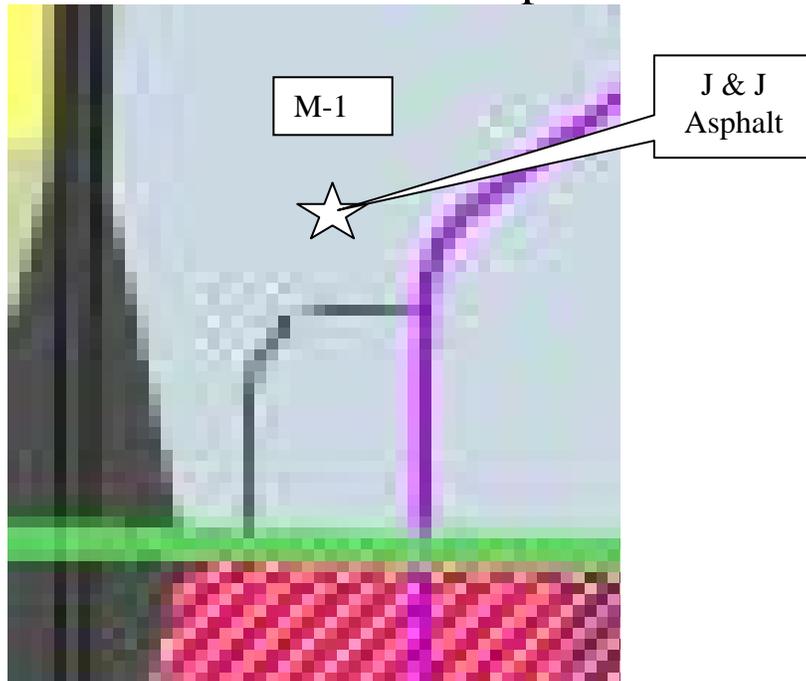
<b>Minimum Lot Area:</b>	No minimum size	<b>Related Case:</b>	N/A
<b>Current Zoning:</b>	M-1 (Gen. Indust.)	<b>Proposed Use:</b>	Contractor Vehicle Storage
	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map</b>
<b>Site:</b>	M-1	General Industrial	Industrial
<b>North:</b>	M-1	General Industrial	Industrial
<b>South:</b>	M-1	General Industrial	Industrial
<b>East:</b>	M-1	General Industrial	Industrial
<b>West:</b>		Highway R-O-W	



# Zoning Map



# Future Land Use Map





**BACKGROUND:**

J & J Asphalt has submitted a site plan application for the construction of three 30 ft. x 60 ft. covered buildings to be used for vehicle storage at their current location of 19005 N. Webster. The proposed buildings are identical in style to the city owned structure located at the waste water lagoon location as shown below:



The project proposed by J & J Asphalt will include doors on the end (possibly both ends) of the buildings to further protect and screen the vehicles inside the structures.

**STAFF REVIEW:**

Staff has reviewed the site plan under the requirements of Section 17.340 of the Spring Hill Zoning Ordinance as follows:

- All lot lines and rights-of-way are identified.
- All existing and proposed structures with applicable dimensions are identified.
- All parking and loading areas are currently gravel and/or asphalt.
- Existing landscaping on the property has been identified.
- Existing parking is adequate for the facility and meets the requirements of Section 17.350. The proposed project does not affect current parking provisions.
- There is no exterior lighting with this project.
- Existing landscaping is identified on the site plan.

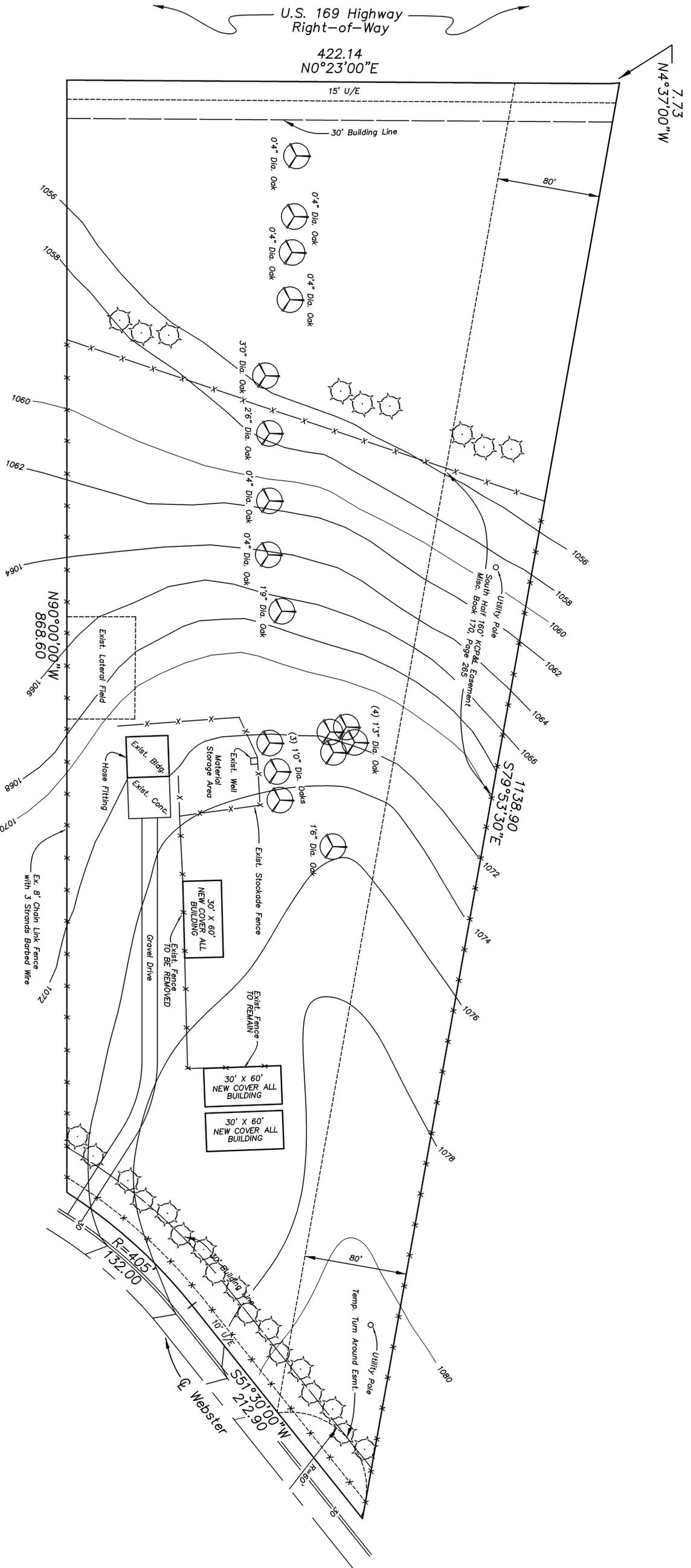
In addition to the above noted items the site plan has been reviewed for compliance with the following standards:

1. *The extent to which the proposal conforms to the provisions of the Code.*  
The site is zoned M-1 General Industrial and the existing and proposed use are allowed uses.
2. *The extent to which the development would be compatible with the surrounding area.*  
The proposed project is compatible with the surrounding area as all neighboring property is zoned M-1 with the exception of the highway right-of-way to the west of the property.
3. *The extent to which the proposal conforms to the recommendations of the Spring Hill Comprehensive Plan including but not limited to the Vision Plan, the Community Development Recommendations, and the Planning and Principles and Design Guidelines.*  
This project is in compliance with the Comprehensive Plan in that it further screens vehicles from view of the public, thus improving the property status.
4. *The extent to which the proposal conforms to customary engineering standards used in the City.*  
The buildings are designed by recognized and licensed architects and engineers.
5. *The extent to which the location of streets, paths, walkways, and driveways are located so as to enhance safety and minimize any adverse traffic impact on the surrounding area.*  
This project contains no alterations to existing and previously approved entrances and parking area.
7. *All structures shall be required to have permanent or continuous footings and foundations.*  
All structures are adequately designed and engineered.

**RECOMMENDATION:**

It is the recommendation of staff that the site plan SP-01-10 for J & J Asphalt, for three 30 ft. x 60 ft. covered vehicle storage buildings, be approved by the Planning Commission and forwarded to the City Council for final approval on June 11, 2010.

REVISIONS		
NO.	DATE	DESCRIPTION



COMMON NAME	BOTANICAL NAME	QTY.	SIZE
Scotch Pine	Pinus sp.	28 Ea.	5'-6' Ht.



1"=40'

30' X 60' COVER ALL BUILDING ADDITIONS

East property line shall be screened with landscaping as shown. Machinery and Equipment shall only be stored within chain link fence area. Material shall only be stored within the stockade fence area.

Setting Schedule  
 West & South Lines: February 28, 1997  
 North Line: September 30, 1997

Chain link fence shall be sited with vinyl strips to screen the property.

Lot 3, COUNTRY MEADOWS INDUSTRIAL PARK, 2ND PLAT  
**PAYNE & BROCKWAY P.A.**  
 426 SOUTH KANSAS AVE  
 OLATHE, KANSAS 66061  
 TELE: (913) 782-0590

DATE	SCALE	SHEET	OF
3/29/10	HOR: 1"=40' VERT: 1"=40'	1	1