



STAFF REPORT

June 17, 2009

To: Southwest Consolidated Zoning Board
Fr: Paul Greeley, Deputy Director
Re: Application No. SW-CU-2919

APPLICATION INFORMATION

Agent: HDR Engineering Inc.

Applicant: Burlington Northern Santa Fe Railroad

Land Owner: Johnson County

Requested Action: Conditional Use Permit to allow an outdoor material storage yard

Legal Description: Located at New Century AirCenter, Section 19, Township 14, Range 23

Location: 16670 Conestoga Street, New Century AirCenter

Existing Land Use and Zoning: Vacant; PEC-3, Planned Research, Development and Light Industrial Park District

Existing Improvements: None

Site Size: About 7 acres

Proposal: BNSF Railroad is requesting Conditional Use Permit approval for an outside storage yard for crane parts storage. An earthen berm is planned on the north, east, and west sides of the site. The perimeter will be fenced (chain link) with a razor wire top. Pervious granular material is planned as the storage-surface-material. Stormwater runoff will be handled via grass lined ditches. Hours of operation will be daytime with no night lighting. Delivery of the crane parts will be by rail and off-loaded directly to the site. Removal of the crane parts will be by semi-truck to the intermodal site west of Gardner. Cranes will be used to move the parts from rail and to the semi-trucks. Duration of storage (between delivery and removal) will be approximately 5 years. After delivery, very little activity should occur during the 5 year storage period. The removal route is to New Century Parkway, to Highway 56 and west to the intermodal site. No buildings or lighting are proposed with this application. No sewer or water connections will occur on site. *Please see the applicant's narrative for details.*



Aerial view of site

Zoning History:

1994: The property was zoned PEC-3, Planned Light Industrial, as part of the county-wide zoning effort. Prior to 1994, the property was zoned IP-1, Planned Light Industrial.

1995: The Preliminary Development Plan for New Century Air Center was approved. No specific final development plan approvals have occurred for the subject property.

MINIMUM INFRASTRUCTURE REQUIREMENTS

Zoning Regulations - Minimum Infrastructure Requirements

The *Johnson County Zoning and Subdivision Regulations* state that the minimum infrastructure requirements shall be **guidelines** for interpretation of the minimum infrastructure required for each conditional use. The following are the Minimum Infrastructure Requirements for the PEC-3 zoning district:

A. Fire Stations Service Area:

The regulations require that tracts zoned PEC-3 be located within five (5) miles of an existing fire station.

Fire protection is provided by Rural Fire District No. 3 with the nearest fire station located within the New Century AirCenter. ***This proposal meets this requirement.***

Police protection is provided by the Johnson County Sheriff's Office.

B. Roads:

- a. All section line and 1/2-section line roads abutting the development shall be constructed to at least the Type "B" Collector Street Standard in accordance with the then applicable Street Construction and Storm Drainage Standards for New Subdivisions, as adopted by the County.

The project does not take access to or immediately abut a section or 1/2-section line road. Conestoga is adequate to handle the traffic associated with this CUP. ***This proposal meets this requirement.***

- b. A minimum of one (1) road, constructed to at least the Type "B" Collector Street Standard in accordance with the then applicable Street Construction and Storm Drainage Standards for New Subdivisions, as adopted by the County, shall provide continuous access from lots within the subdivision or development tract:
 - 1). to the nearest Highway, or
 - 2). to the nearest CARNP designated Parkway or CARNP designated Arterial Street that has been constructed to at least the Type "B" Local Street Standard in accordance with the then applicable Street Construction and Storm Drainage Standards for New Subdivisions, as adopted by the County, or
 - 3). to the nearest Collector Street that has been constructed to at least the Type "B" Local Street Standard in accordance with the then applicable Street Construction and Storm Drainage Standards for New Subdivisions, as adopted by the County.

The subject property fronts onto Conestoga St., which is a local paved street. Conestoga St. connects to New Century Parkway, a paved collector street that runs through the New Century Air Center. ***This proposal meets this requirement.***

C. Stormwater:

Storm drainage systems and facilities shall be available or designed and constructed to comply with the then applicable County design criteria, construction standards, policies and regulations for storm drainage systems and facilities. The development shall also comply with the then applicable County Flood Plain Regulations.

There is no floodplain on the property. Public Works has stated that regional detention has been provided in this area. See the attached memo from Public Works. ***This proposal meets this requirement.***

D. Wastewater:

Unless other methods are specifically allowed by the Environmental Sanitary Code, wastewater collection and treatment shall be available via approved sanitary sewers with an adequate capacity to serve the estimated wastewater collection and treatment needs of the proposed development in accordance with adopted policies and standards.

This request does not propose any connection to sanitary sewers because there are no buildings being constructed at this time. ***This requirement is not applicable.***

E. Water Supply:

The property is located within the AirCenter's water service area. There is no water connection being proposed because there are no buildings to be constructed on site. ***This requirement is not applicable.***

Infrastructure Conclusions: The proposed use meets the guidelines for minimum infrastructure requirements.

STAFF ANALYSIS

Golden Criteria

Planning staff has reviewed this CUP request for an outdoor material storage yard with respect to the *Johnson County Zoning and Subdivision Regulations*, the *Rural Comprehensive Plan: A Plan for the Unincorporated Area of Johnson County*, and the laws in Kansas, most particularly the "Golden Criteria" as established by the Supreme Court of Kansas. The following is a summary of that review.

1. Whether the use would be consistent with the zoning and uses of nearby properties.

The property to the north, east and south is zoned PEC-3. Surrounding uses consist of open space, outdoor storage, warehousing, industrial/fabrication and related industrial facilities.

The property to the west, across Moonlight Road, is a mix of commercial, single-family residential and multi-family residential zoning in the city of Gardner. The commercially zoned property is approximately 1-acre, located at the southwest corner of 167th and Moonlight Road. This property is currently vacant. The property to the west and south of this commercial zoned property is zoned R-3 and developed with residential 4-plexes. The property west and south of these 4-plexes is zoned R-1 and developed with single-family residences.

The proposed outdoor material storage yard would be similar to the storage use that adjoins the property and other uses that exist in the New Century AirCenter. The use is not consistent with the residential uses across Moonlight Road, but because the predominant surrounding zoning is PEC-3 in an industrial use setting, the proposed outdoor storage yard, if screened appropriately from Moonlight Road and the residences to the west, will be consistent with the zoning and uses of nearby properties.

2. Whether the use is compatible with the character of the neighborhood.

The AirCenter is a mixed-use development that consists of airport, business and industrial type uses. This property is located near several businesses in the AirCenter that have outdoor storage areas. The proposed use is compatible with the character of the business/light industrial neighborhood, but is only compatible with the residential uses across Moonlight Road if the storage yard is properly screened. With stipulations, staff believes the facility will be properly screened to insure compatibility with the residential uses across Moonlight Road.

3. Suitability of the property for uses to which it has been restricted.

The PEC-3 zoning restricts the property to research and development activities with or without light fabrication and assembly operations, limited industrial/manufacturing activities and wholesale trade or warehousing. The property is suited to the proposed outdoor storage of equipment and materials in conjunction with the existing wholesale lumber business if proper screening is constructed to reduce the visual effects of the storage yard.

4. Extent of detrimental effects to nearby parcels should the CUP be approved.

Effects of the outdoor storage yard include noise and diminished aesthetics on the property. Noise will be produced by the operation of equipment on site but is not out of character for the AirCenter. With the recommended stipulations related to landscaping, the effects of noise will be diminished somewhat, though noise will likely still be present offsite. The effects of noise to the residential uses across Moonlight Road will likely be similar to the noise already produced by traffic on Moonlight Road. The effects of noise should not prove detrimental to the residential uses across Moonlight Road in Gardner given the proposed screening and given the distance, over 300 feet, between the outdoor storage yard and the residential uses.

Detrimental visual effects (aesthetics) can be produced from the outdoor storage yard. The site is located near the southeast corner of 167th Street and Moonlight Road and the storage yard will be visible from Moonlight Road as vehicles travel both north and south along this road. The effects of such outdoor storage will be mitigated through the use of berming to block the view of the materials.

5. Length of time the property has remained vacant as zoned.

The property is currently vacant. The existing storage located directly to the south and has been in operation for about 2 years.

6. Relative gain to the public health, safety and welfare as opposed to the hardship imposed upon the landowner by denying the request.

There are existing outdoor storage yards with screening along this section of Moonlight Road. If this outdoor storage yard is properly screened, then the public will gain little if this request is denied. The hardship to the applicant if this request is denied is that the railroad would have to find a different location to store the materials. The hardship imposed on the applicant by denying this request outweighs the minimal gain to the public if this request is denied.

7. Whether the use is in keeping with the Comprehensive Plan.

This property is within the New Century AirCenter Comprehensive Compatibility Plan area of the Rural Comprehensive Plan. The plan designates this property Airport Industrial Park and includes “light industrial, office/showroom, warehouse/distribution and commercial-support land uses”, among other uses. The proposed outdoor storage use complies with the land use designation of the plan.

Public Works Staff: Please see attached memorandum dated April 4, 2005.

City of Gardner:

RECOMMENDATION

Planning staff recommends **approval** of the Conditional Use Permit for an outdoor material storage yard subject to compliance with the stipulations noted below.

1. Development of Site. Development of the site (outdoor storage yard) shall comply with the site plan (attached hereto as Exhibit A), as amended by these stipulations.
2. Commercial Drive Entrance. The new driveway entrance off of Conestaga St. shall be constructed to commercial standards. Approval of the driveway shall be obtained from the Public Works Department prior to issuance of the zoning permit.
3. Soil Erosion/NPDES. A land disturbance permit shall be approved by the County prior to grading on the site. Erosion control shall be installed on the site in accordance with the County’s Land Disturbance Regulations prior to grading on the site.
4. Berm. A berm shall be constructed along the railroad tracks replicating the existing berm on the adjacent property to the south.

5. Term. This permit shall not exceed a term of five (5) years, commencing from the date of Board of County Commissioner approval of this resolution.
6. Height of Storage Materials. The maximum height of the outdoor storage of materials shall not exceed thirteen (13) feet.
7. Equipment. There shall be no equipment or trucks stored on site.
8. Hours of Operation. The hours of operation for activity in the outdoor storage yard shall be daylight hours, Monday through Friday.

Staff Reasons for Recommendation of Approval

1. The requested outdoor storage yard is compatible with the surrounding industrial zoning and uses of the AirCenter.
2. The requested outdoor storage yard is be consistent with the surrounding industrial character of the AirCenter
3. If appropriately screened, the requested outdoor storage yard will not detrimentally affect the nearby uses.
4. The property is suitable for the outdoor storage yard use.

Attachments: Vicinity Map
Applicant's Narrative
Site Plan