

**STAFF REPORT**

**ON AN APPLICATION FOR:** A VARIANCE request under the terms of the *Zoning and Land Use Regulations for the Unincorporated Territory of Douglas County, Kansas*, from J. Dean Grob of Grob Engineering Services, LLC for Vernon Clay Heine requesting a Variance to allow gravel surfacing in lieu of the required asphalt or concrete pavement for all off-street parking spaces and access drives for nonresidential uses taking access from adjoining roads paved with asphalt or concrete, located at 1723 E 1500 Road.

<b>APPLICANT:</b>	J. Dean Grob of Grob Engineering Services, LLC
<b>OWNER:</b>	Vernon Clay Heine
<b>LOCATION:</b>	1723 E 1500 Road
<b>AREA:</b>	8.01 acres
<b>DATE OF PUBLIC HEARING:</b>	March 18, 2024, 10:00 am.
<b>DATE PUBLIC NOTICE PUBLISHED:</b>	February 27, 2024
<b>PRESENT LAND USE:</b>	LI – Light Industrial District and ASO – Airspace Overlay, used as heavy equipment sales and rentals, contractor shop/yard, equipment storage, exterior storage, and as a wireless facility; proposed manufacturing and production.

**ASSOCIATED CASE:**

- SP-24-00031: Site plan

**SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:**

- 12-311-302: Surfacing. Reads in part: “All off-street parking spaces and their access drives required for all (non-residential) commercial and industrial uses shall be paved with an asphalt or concrete surface if the adjoining road is also paved with asphalt or concrete.”

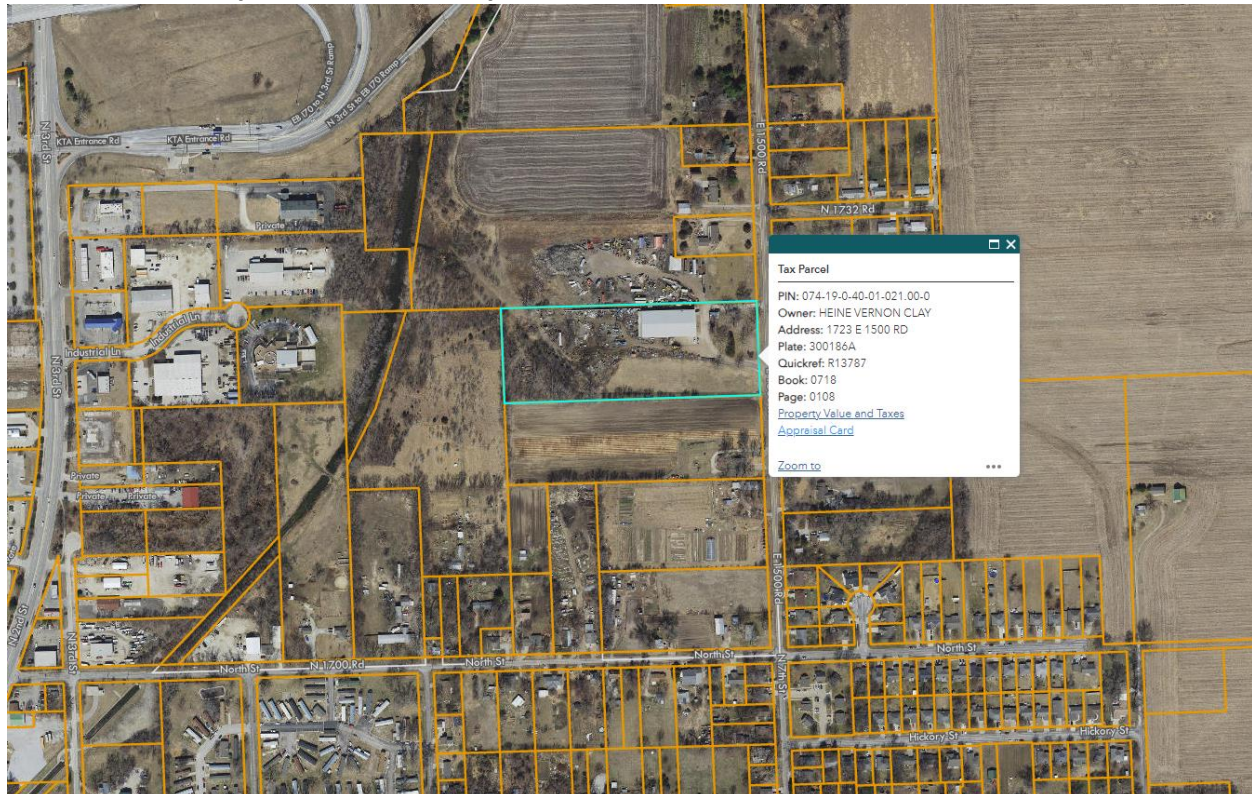
**DESCRIPTION OF VARIANCE REQUESTED:**

The subject property, 1723 E 1500 Road is approximately 8 acres in size and used as heavy equipment sales and rentals, contractor shop/yard, equipment storage, exterior storage, and as a wireless facility. Structural development includes a one-story metal building, an accessory building, and a telecommunications tower. The applicant and landowner are not proposing any new structures, though a manufacturing and production use are proposed.

The County’s parking surfacing standards require pavement for commercial and industrial uses taking access from a paved road. The property takes access from E 1500 Road, a paved road maintained by Douglas County Public Works. The applicant is requesting the variance to allow the existing gravel driveways and the mostly gravel parking to remain. The applicant’s site plan indicates that there are existing parking spaces paved with concrete and additional concrete aprons will be constructed. ADA parking will be concrete-surfaced.

During the public processes for site plans, variances, and rezonings on nearby properties, nearby residents have delivered public comment regarding concerns over stormwater drainage in the area and that would be amplified by a higher density of structures and impervious surfaces. Additionally, much of this property is within the floodplain and floodway, where drainage and permeability are of greater concern.

### VICINITY MAP (IMAGERY: 2022)



### STANDARDS FOR VARIANCES:

- A. **That the variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning district; and is created by this Resolution and not by an action or actions of the property owner or the applicant**

Public comments on previous applications related to nearby properties have indicated there are stormwater retention concerns in the area and increasing the amount of structures and impervious surfaces would exacerbate the problem. Additionally, much of this property is within the floodplain and floodway.

- B. **Granting the variance would not adversely affect the rights of adjacent property owners or residents**

Part of the intent of the requirement for paving in this situation is to limit the amount of gravel carried onto paved roads, especially from high-traffic commercial and industrial uses. No changes are proposed to the existing gravel driveways, and Zoning and Codes staff has no documented complaints regarding gravel on the roadways coming from this property. Trees on the property serve to partially screen neighboring properties from dust. Other nonresidential uses in the neighborhood have gravel driveways and parking areas.

**C. The strict application of the regulations for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application**

As mentioned, public comment on previous applications related to this property have indicated there are stormwater retention concerns in the area and increasing the amount of structures and impervious surfaces would exacerbate the problem. Additionally, the proximity of the developed portion of the property to the floodplain and floodway further generates concern over permeability and runoff. A gravel parking area would allow water to drain more freely. Requiring additional paved surfaces may constitute an unnecessary hardship.

**D. The variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare**

The applicant is proposing uses that are permitted in the Light Industrial District. Staff have not identified any adverse impacts to the general public by allowing a portion of the required parking to remain gravel-surfaced.

In the review of this request, staff sent the application materials to other agencies for comment. Lawrence-Douglas County Fire Medical, which provides fire service to Grant Township, submitted comment that they support the pavement requirement. They indicated that they rely on maintained access drives in order to respond to emergencies. As such, staff is recommending a stipulation that the access drive be maintained in a manner consistent with allowing a fire truck to enter the property.

**E. Granting the variance desired would not be opposed to the general spirit and intent of these Regulations**

Part of the intent of the requirement for paving this driveway and parking area is to limit the amount of gravel carried onto paved streets from high-traffic uses. Because the applicant is not making any major changes to the existing layout and in an effort to limit impervious surfaces adjacent to the floodplain, staff find this variance to meet the general spirit and intent of the zoning regulations.

## **PUBLIC COMMENTS:**

As of March 4, 2024, no comments have been received. One neighboring property owner has reached out requesting additional information

## **AGENCY COMMENTS:**

- Douglas County Public Works: no documented concerns.
- Lawrence-Douglas County Fire Medical Prevention Division: "As you are aware that we do not have jurisdictional code authority for this location. We do support the county's code that would provide an improved surface for the parking lot and access to the building. We rely on a maintained access to all properties we respond to in the event of an emergency. If the variance is granted, we would recommend that the approved surface be maintained to provide access for our apparatus."

## **STAFF RECOMMENDATION**

County Staff recommend approval of the variance request from J. Dean Grob of Grob Engineering Services, LLC for Vernon Clay Heine requesting a Variance to allow gravel surfacing in lieu of the required asphalt or concrete pavement for all off-street parking spaces and access drives for nonresidential uses taking

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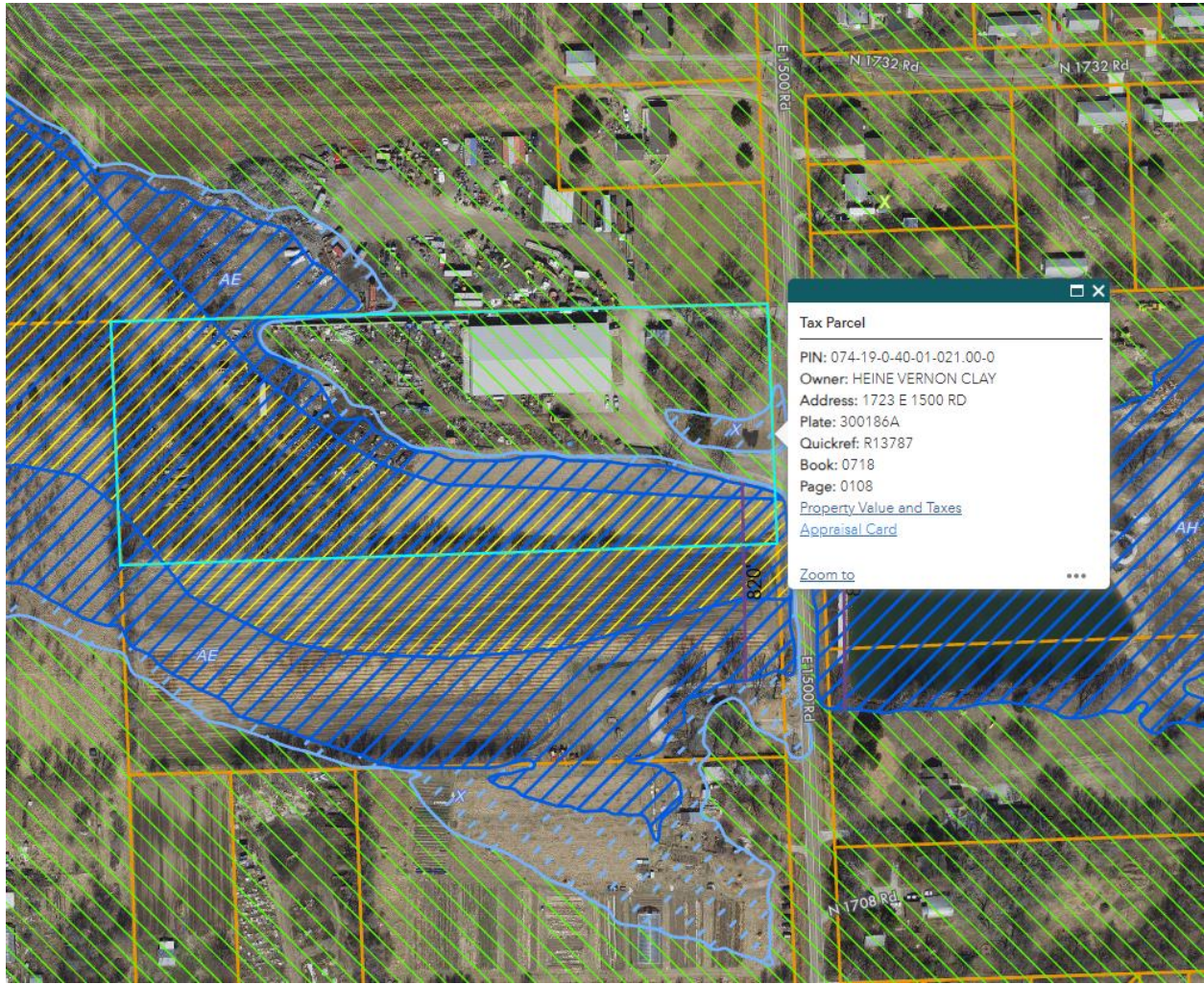
access from adjoining roads paved with asphalt or concrete, located at 1723 E 1500 Road, with the following stipulations:

1. This variance shall apply only to waive pavement standards for uses approved with site plan SP-24-00031. Any expansion of the nonresidential uses that increase the parking requirements will require another variance to be obtained from the Douglas County Board of Zoning Appeals;
2. The conditions of approval from site plan SP-24-00031 shall be maintained;
3. Article 5 of the County Code: Public Roads Access Management Standards shall be maintained;
4. Access to the property shall be maintained in a condition that would allow a fire apparatus to enter the property, and;
5. Americans with Disabilities Act parking shall be paved with asphalt or concrete.

Prepared by: Karl Bauer, County Planner

Date: March 4, 2024

# APPENDIX I: FLOODPLAIN MAP



1 percent chance (100 year) floodplain



0.2 percent chance (500 year) floodplain



Floodway



X protected by levee



# APPENDIX II: PARKING SURFACING STANDARDS

## **12-311-3.02 Surfacing**

a. An off-street parking space is an all-weather surfaced area that is not located within a street or alley.

1) All off-street parking spaces and their access drives, including residential, shall be paved with gravel at a minimum.

2) All off-street parking spaces and their access drives required for all (non-residential) commercial and industrial uses shall be paved with an asphalt or concrete surface if the adjoining road is also paved with asphalt or concrete. Said paving shall be completed before the activity or use can commence.

i. This requirement does not apply to over-flow parking (parking in excess of that required for the use, typically for infrequent activities with heavier parking demand).

## **12-311-3.03 Stormwater Drainage**

All off-street parking spaces, and their access drives, shall be planned and engineered to assure proper drainage of surface water. Positive drainage shall be provided on such lot or parcel and discharge of the same shall be through defined drainage courses. No drainage shall be directed over adjoining lands unless approved by the County Engineer.

# APPENDIX III: SITE PLAN

See next page