

**MINUTES OF THE
MIAMI COUNTY PLANNING COMMISSION
JULY 6, 2021**

**MIAMI COUNTY ADMINISTRATION BUILDING
COMMISSION CHAMBERS
201 SOUTH PEARL STREET
PAOLA, KANSAS 66071**

ATTENDANCE

CHAIR:	Mark Oehlert
VICE-CHAIR:	John Menefee
PLANNING COMMISSION	Kelli Broers, Joshua Brown, Kevin Collins, Phil Elliott, Bret Manchester, and Mark Ross
ABSENT MEMBERS:	Randy Kitchen
EX-OFFICIO MEMBERS:	None present
PLANNING DIRECTOR:	Teresa Reeves
COUNTY COUNSELOR:	Not Present
PLANNER:	
PC SECRETARY:	Angie Baumann
ECONOMIC DEVELOPMENT	Not Present
COUNTY COMMISSION:	None Present
COUNTY CLERK:	Not Present
PRESS:	Not Present

MINUTES

JULY 6, 2021

MIAMI COUNTY PLANNING COMMISSION

CALL TO ORDER

Chair Mark Oehlert called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll Call was taken and seven (7) members were present, constituting a quorum. Brown and Kitchen were absent. Brown joined the meeting shortly after Roll Call, bringing the total number of members present to eight (8).

DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST

None disclosed.

ADOPTION OF THE AGENDA

Menefee moved to adopt the Agenda, as presented. Ross seconded, and the motion passed unanimously, 8-0, via roll call vote.

CONSENT AGENDA

- **June 1, 2021 Planning Commission Minutes**

Menefee moved to adopt the Consent Agenda as presented. Broers seconded, and the motion passed via roll call vote with seven (7) in favor and one (1) abstaining (Ross), who cited his absence from last month's meeting as the reason for the abstention.

REGULAR AGENDA

Old Business:

None.

New Business:

Public Hearing 17005-CUP: Living Proof Church – 2021 Expansion

Reeves presented the staff report for consideration of an application to amend the existing conditional use permit for a church facility, per Sections 5-2.02.24 and 14-2.01.16 of the Miami County, Kansas Zoning Regulations, to include a new 120' x 60' youth activities building as Phase I of the proposed expansion; a possible future 20' x 120' addition of Sunday School rooms to the existing south building as Phase II of the proposed expansion; and allowed use of the

existing baseball fields by community groups for ball practice and tournaments. The subject property of approximately 15.75 acres is located in the Southwest Quarter of Section 28, Township 17 South, Range 23 East, and is addressed as 32401 Harmony Road, Paola.

Reeves noted that the table provided on Page 24 of 54 of the Agenda packet details the various stages of development that has occurred on the subject property.

She reported that in April the Code Services Department received a building permit application submitted by Living Proof Church. She further reported that staff informed the Applicant that this constitutes an expansion, which requires an amendment of the current CUP; and, in May the Planning Department received the Application that is the subject of this evening's public hearing.

Reeves then addressed the Applicant's Narrative. She clarified that although the Narrative states that the sanctuary seats 650, the occupancy limit for the building is 630. She also noted that in the previous Narrative for the 2017 expansion of the CUP, the Applicant had projected a traffic count of approximately 350-400 cars on Sundays; however, there are currently only 243 parking spaces, and parking is not allowed along Harmony Road. Reeves further noted that the Narrative states that the church "is working with community groups to allow them to use the fields for practices and tournaments"; however, per Resolution No. R18-02-006 use of the ballfields is restricted specifically to church related functions only and is not for public use/access such as organized sports and ball leagues.

With regard to the possible future 20' x 120' expansion of the existing "LP Kids" building, Reeves stated that the addition appears to encroach the fire lane on the south side of the building. Therefore, the Site Plan must be amended to show not only where the fire lane would be relocated, but also any parking spaces that would be removed and where those spaces would be relocated.

Reeves reported that the Applicant stated in the Narrative that "the storage building will continue to be used for storage." She then pointed out that in 2019 someone had sent to the Planning Department screenshots of the church's "Upcoming Events" posted online, which included men's study groups scheduled to "Meet in the storage unit". Reeves stated that she is not certain whether this storage building is still being utilized as a meeting place, but it is to be used for storage only.

Reeves then addressed each of the *Golden Criteria* enumerated in the staff report the Planning Commission's use when making Findings to approve or deny the request.

With regard to staff's recommendations (Golden Criterion No. 8), Reeves noted that the proposed youth activity building is consistent with church related functions. However, public/community use of the ballfields, as described in the Narrative, has never been allowed and is in violation of the existing CUP. In addition, there should be no public/community use of the proposed youth activity building, whether for ballgames, practices, or some other activity.

Staff also recommends dedicating additional area for parking to eliminate overflow parking along Harmony Road. She expressed that the church has been tremendously successful in its growth, which is to be commended. She cautioned, however, that this growth has reached a tipping point, and it is questionable whether this location continues to be appropriate,

considering the rural residential intent of this zoning district as well as traffic and overflow parking issues. Reeves noted that the Applicant may need to explore other alternatives so that the church may continue to grow, and without restriction, because the property can contain only so much growth. She concluded that staff recommends that the Planning Commission approve the construction of the youth activity building and future addition to the LP Kids building with specific conditions limiting use of the ballfields and buildings on the property to church-related functions only, and restricting public/community use of the ballfields and buildings for any events, ballgames, practices, and tournaments that are not church related.

Reeves then addressed staff's two (2) Findings and seven (7) recommended Conditions for approval. She invited questions from the Planning Commission and noted that the Applicant and the church's neighbors are present this evening.

Broers referenced the Paola Fire Chief's concerns provided in Golden Criterion No. 6 (*Page 19 of the Agenda packet*) and asked whether the Fire Chief's concerns were submitted with this Application or a previous one.

Reeves answered that the Fire Chief's concerns were raised during the previous application for the 2017 expansion of the CUP.

There being no additional questions for staff, Oehlert invited the Applicant to speak.

Bo Gerken (22360 W. 303rd St., Paola) of Living Proof Church approached the podium. He reported that the church recently had a dance recital, and that he was in Omaha during that event. He explained that the woman who owns the dance studio is active in the church and works in the kids' department. Mr. Gerken explained that she had held an outreach dance event at the church; that a Bible lesson was presented; and that modesty was addressed because the church feels that many of the girls in dance are not dressing modestly. He stated that the church was packed and that he received, from his own congregation, pictures of the parking issue. Mr. Gerken reported that he called immediately, and vehicles were moved off the road as quickly as possible. He expressed that this is the best he could do from his location. He stated that he does not know exactly how many people were there but there was no parking left, which was an issue.

Mr. Gerken then addressed Item "B" of his Narrative, which describes use of the ballfields:

"B - We have two (irrigated) 185'-200' baseball/softball fields to the south of the church buildings. The facilities main use would be for church activities and church camps. We are working with other community groups to allow them to use the fields for practices and tournament hosting. We are not installing any lights on the fields. The hours of use will mainly be two-three evenings a week during summer and Saturdays in spring for tournaments. (Nothing changing from current use)" (*Page 25 of 54 of the Agenda packet*)

Mr. Gerken stated that he obviously made a mistake while writing the portion of the Narrative regarding use of the ballfields. He commented that the church has no quarrel with restricting the ballfields to church use only; and, that the church does not want to change how the ballfields are being used right now. He apologized that his description in his Narrative of the ballfields' use has caused such a stir, and stated that he did not intend this to mean "public use".

Mr. Gerken then reported that the church has assembled five (5) tournament teams entirely from its kids' department. He stated that the boys play in the Olathe Golden Glove League and the girls are playing Blue Valley Rec. He added that the last tournament is this week and he is missing a game to be here tonight. He further reported that the church logo is on all the players' jerseys and that the players have prayer and a devotion prior to every practice and game and that this is an outreach the church does with the kids.

He stated that it seems the City (Paola) may eventually build ballfields; therefore, the church has no intentions of fighting against that and would actually like to encourage the kids to go play there. He noted that for now, however, the church has its tournament teams and uses the ballfields for practices and games. He added that he does not want to host tournaments at the church, and he is willing to include that in his Narrative. He further commented that the church has no intention of changing whatsoever the Narrative for the ballfields from what it is right now—today.

With regard to concerns raised in 2017 by the Paola Fire Chief, Mr. Gerken told the Planning Commissioners that the infrastructure in their County is not adequate for any kind of sprinkler system in any rural area, nor in most of the cities. He reported that to get by without installing sprinklers in the building, the church paid extra money for a fire alarm engineer to design and install a fire alarm system for the building. Mr. Gerken explained that there is not enough water pressure for sprinklers.

He then commented that the kids' department has experienced significant growth. He reported that 60-120 middle schoolers—6th, 7th, and 8th grade—are meeting on Wednesday nights and approximately 40-50 high schoolers are meeting after church on Sunday nights. He added that the church is busing in kids from Osawatomie, LaCygne, Prairie View, and Parker, and has 10 kids coming from the Fort Scott and Pleasanton areas. Mr. Gerken further reported that over 350 kids have attended camps at the church during the last 1-1/2 months. He then stated that the church outsourced its camp this year, which is why the number of outdoor events decreased. He stated that they went to Mound City Lake and bothered those neighbors instead. He reported that they loved it and that the church rented several of their homes on Sugar Valley Lake. He also noted that four other churches joined in at that camp.

Mr. Gerken stated that the church's leadership recognizes the church's growth, and is praying and meeting about what to do. He reported that he is currently working with the leadership team of two churches—one in Pleasanton, and one in LaCygne—about becoming sister churches, and noted that there is no means to rush that. Mr. Gerken offered that this option would free up some of the church traffic coming from communities to the south.

He then stated that he would like to remind everyone that when people are coming to your town on a Sunday, this means they are shopping, buying vehicles, and eating after church in your town. He noted that this results in significant help with tax money. Mr. Gerken stated that he understands that one of the comments is going to be that the church does not pay taxes. (*Note: Staff received no written comments to this Application regarding taxes.*) Mr. Gerken countered that this could be argued all day if a person could see the church's benevolence account and how much the church hands out for rent and utilities each month.

He then invited questions from the Planning Commission.

Manchester stated that the staff report notes concerns regarding the fire lane and parking, and even suggests the elimination of one building. He then asked Mr. Gerken if the engineer will be addressing this in the plans; and he noted that the staff report states this must be addressed:

“ . . . Additional buildings will also reduce the parking available on the property. Additional parking needs to be provided so that fire access is not impeded, which may require elimination of one or more of the proposed or existing buildings or ballfields. Improved parking methods may need to be evaluated by the Applicant's engineer to accommodate the overflow and still protect the fire lanes and remove excess parking on the road.” *(Staff's comments to Golden Criterion No. 6 - Page 19 of 54 of the Agenda packet)*

“**C & G) LP Kids** building may need to expand in the future. The church is considering a 20'x120' expansion onto the south side of the Building as Phase II. Please note that this future addition onto the LP Kids building will encroach the fire lane on the south side of the building. The site plan needs to be amended to show this addition, and the relocation of the fire lane which will likely remove parking spaces. These parking spaces will need to be relocated and shown on the plan as well.” *(Staff's comments to Items “C” and “G” of the Narrative - Page 16 of 54 of the Agenda packet)*

Mr. Gerken answered that the one fire lane on the south side of the building (LP Kids building) will just be re-routed. He explained that instead of the fire lane going all the way around that building emergency responders will be able to pull up to a sidewalk, make a right-hand turn, drive in front of the proposed youth activity building, and loop around the parking lot. Mr. Gerken reported that this is already being addressed with the architect and engineer, but that he doesn't have this done yet.

Mr. Gerken acknowledged that the fire lane must meet code. He explained that he talked with the Paola Fire Chief and was told that the firetrucks have 250' of firehose, so the trucks must be able to get within 250' of a building. Mr. Gerken stated that based on the location of the fire lanes the trucks can park closely enough to pull the firehose all the way up to the building. He added that church leadership has been quite adamant with the congregation about not parking along Harmony Road, and has spent time at the pulpit telling the congregation not to do so. He commented that Harmony Road is not the church's to police; and, if they want to police this, then they are more than welcome to do so and to ticket people on Sundays. He stated, once again, that he has told people not to park along Harmony Road. Mr. Gerken added that he has even suggested that speed bumps be added (on Harmony Road). He expressed that he is just trying to get to and from church safely. He added that the church is trying to make this as safe as possible; will ensure that all fire lanes are taken care of; will ensure that signage is posted regarding no parking; and will even police the church property to ensure that vehicles aren't parking there.

Ross asked Mr. Gerken if the church is considering creating additional parking.

He answered that he asked Kate with Pfefferkorn Engineering, who conducted the stormwater study, whether parking would be allowed in the floodplain areas. He reported that her exact response was "it depends". Mr. Gerken explained that the grassy area on the north side of the property—just before the creek—could accommodate quite a bit of parking; is closer to the highway; and, according to Kate, would not affect stormwater flow if the swale is done correctly.

Mr. Gerken offered that if parking becomes a huge issue one day, the church can eliminate one of the ballfields. He expressed that the church would still have one ballfield and would just need to work around their baseball and softball schedules. He expressed that he would rather be able to provide parking for people. He concluded that, for right now, there are still areas to grow.

Ross began commenting about ensuring that vehicles are not parked along the side of Harmony Road and are all parked in the church parking lot on Sunday mornings.

Mr. Gerken stated that the dance recital is the only time this year he has been aware of this happening. He reported that the church's security team, which consists of 20 or 30 people, walks around the parking lot every Sunday morning and helps people park; and, not once—other than during the dance recital—has anyone reported to him issues of parking in the fire lane or parking along Harmony Road on Sunday mornings, nor during outdoor events. He commented that he does not believe this is a continual issue, except for Easter Sunday.

Mr. Gerken surmised that if the roads in front of any church in town were policed on Easter Sunday people would be in trouble. He suggested, regarding the Baptist Church, that a firetruck would have been unable to get through there this past Easter. Mr. Gerken commented that he would love to have a concrete parking garage, but he can't afford it. He stated that the church will do whatever they have to do to make this right and will have all the necessary studies conducted to make sure.

Elliott stated that he has served on the Planning Commission for a few years; and, he recalls that years ago the Planning Commission had advised the church that with future growth there will come a time when this location may not be the right place for such a big activity. He commented that although he is not certain the church has reached that point just yet, he believes it is getting very close. He encouraged the church's leadership team to plan and to keep in mind what that area can support.

Collins commented that his biggest concern is parking. He added that if emergency responders cannot get access because vehicles are obstructing the way then this is a huge issue. He stressed that the church must find a way for all vehicles to park properly on the church property.

Mr. Gerken conceded that there is a parking problem. He noted that when his staff anticipates heavy attendance on a Sunday, they park at a local business bearing his name, and are then bused over to the church. He added that the Elizabeth Layton Center has been gracious to allow church parking on its property on Sunday mornings; and from there, people are bused to the church. Mr. Gerken stated that the church has tried different things, will continue working on it, and will do better. He commented that although others see this as a problem, it means the church is growing and is doing something correctly. He stated that when parking along Harmony Road becomes a consistent problem, he will be the first to address it. He then reported that on two Wednesday nights emergency medical services were needed at the church, and the ambulance arrived in

record time because the church is in very close proximity to the EMS Station.

Broers expressed her congratulations regarding the church's growth. She commented that it seems the church is already bursting at the seams; and if the church is building additional space, then it must be anticipating continued growth.

Mr. Gerken agreed, and confirmed that this is the plan.

Broers then asked how far along the church is into its exploration of additional parking. She also asked about the estimated number of parking spaces that could be created in the area closer to the highway.

Mr. Gerken answered that he does not have an estimated number of additional parking spaces. He reported that he's talked with two different engineers that he has working on this, and has been told that they can get creative and that there is still room down there. He commented that because he is very busy with work and with church camps in the summer, this is not the best time to sit down with the engineers. He stated that he had planned to do so today, but both engineers had to cancel; therefore, he has not been able to address this with the engineers. Mr. Gerken indicated that if the engineers determine there is not sufficient space available to create parking at the north end of the property then this will have to be addressed. However, Mr. Gerken believes there is enough land there for this.

He noted that the ballfield next to Harmony Road takes up a large amount of space and is already connected to the parking. He commented that the last thing he wants is to lose a ballfield, but if this is what the church must do to gain additional parking, then this solves the whole parking issue. He further reported that the engineers told him there is land available for additional parking, but the church may have to give up something to create that parking. He commented that the church will lose some of its playground to build the youth activity building.

Mr. Gerken then described the church's growth as a swinging pendulum and noted that the main auditorium was built to accommodate more adults, which resulted in more kids coming to the church; and, with more kids comes the need to create more space for the kids. Mr. Gerken stated that if continued growth happens, the plan is that the church would then have to look elsewhere to expand. He noted this as the reason the leadership team is looking at other churches and is determining where people are coming from. He stated that tons of people are coming from Drexel as well as half of the City of LaCygne. He commented, however, that this all requires money, time, and leadership. He added that he currently has staff members whose purpose is to develop leaders to send out to do this, but it takes time and the church is growing quickly.

There being no further questions for the Applicant, Oehlert opened the public hearing.

Don Bucher (32585 Harmony Road) approached the podium and stated that his is the third house south of the church. Mr. Bucher expressed that he completely agrees with the staff report and staff's recommendations. He noted that his primary concern had been public use of the ballfields; however, this no longer appears to be an issue because Mr. Gerken has apparently taken this off the table.

Mr. Bucher commented that he has no issue with the church's construction of a new building for church-related youth activities. However, he has a problem with the public's use. He expressed that he is happy to have the church as a neighbor, noting that the congregation has been courteous and respectful and has often stopped on their way to church to allow him to exit his driveway. However, the public is not familiar with the location of his driveway; and, if they're running late to a dance recital or a volleyball tournament, the last thing they will be concerned about is him pulling out of his driveway. Mr. Bucher then noted that the recent dance recital is an excellent demonstration of why the new youth activity building should not be used by the public for any purpose and that the building's use should be church related only. Mr. Bucher added that it is his understanding that practice sessions were held at the church the evening before the dance recital, which created heavy traffic on Harmony Road until after 10:00 p.m. He commented that it is fortunate an ambulance was not necessary the day of the dance recital. He then explained that unlike a dance recital, for which traffic typically arrives all at once and leaves all at once, tournament traffic is arriving every hour and at the same time traffic is attempting to exit. He once again commented that the public, unlike the church congregation, does not know the location of the residential driveways along Harmony Road. In addition, the public does not drive by at 35 mph as does the congregation. Rather, the public zips by at 55 mph.

Mr. Bucher expressed that it is important that public use of the proposed youth activity building be expressly prohibited. He noted that based on his review of the Application he was initially concerned about basketball and volleyball tournaments; however, it had never occurred to him that a dance recital would be held at the church; and a dance recital is not a church-related activity. Mr. Bucher concluded that although he is happy to live next door to the church, which is a good neighbor, he does not wish to live next to a public sports arena or a convention center.

Ron Fritts (32466 Reno Road) approached the podium and stated that his house is directly behind the church. He reported that he deals with the church's loud music on Sundays while he sits on his porch. However, now that the church is proposing a youth activity center with basketball and volleyball, he is concerned about having to listen to that. Mr. Fritts stated that the church began as a small congregation; and, although he is glad they've been able to draw in people to hear the Word, this is not the area to expand with an activity center. He commented that he and everyone else in the area is dealing with the noise and the traffic.

Mr. Fritts added that this part of Kansas has severe and frequent storms. He asked the Planning Commissioners to imagine a scenario with many people trying to exit onto Harmony Road while emergency responders are trying to gain access. He noted that what was once a small deal is now out of hand, must be addressed, and should perhaps move on to a different area.

Mr. Fritts then expressed that the church needs to know that Harmony Road does not belong to the church, and is a public road. He went on to report that the church called law enforcement while he was taking pictures from Harmony Road. Mr. Fritts explained that he was taking photographs to evidence the loudspeakers outside the church, which the church was not supposed to have. He further reported that this incident resulted in a restraining order, a stalking charge, and attorney fees.

Cindy Beeves (32551 Harmony Road) approached the podium and reported that vehicles had been parked along the side of Harmony Road during the dance recital. She further reported that it was very dry at the time, and that the County had happened to mow the easement that same week, so the dry grass was short. She noted that there would have been a problem if the grass had been knee-high, as it is currently. She stated that she does not go all the way down the road on Sunday to see whether the vehicles are parked in the church parking lot, but that they had never parked along the road in front of her house until the dance recital. She added that the congregation has been very considerate. Ms. Beeves noted that Mr. Gerken probably did not tell people not to park along the road during the dance recital but there are "No Parking" signs posted. Ms. Beeves reported that the recital began at 10:00 a.m. and there were vehicles parked along the road at 9:30 a.m., with the last vehicle leaving at 12:30 p.m. or 1:00 p.m.

She then expressed her concern about baseball tournament traffic and explained that ballplayers must arrive 30 minutes in advance of their game—while the previous teams are still playing. She reasoned that if four teams are playing and another four teams are scheduled to play right afterwards, then the ballplayers for the upcoming games are arriving while games are still in progress and there is nowhere to park, except for the road. She commented that this is a moot point if public ball tournaments are off the table.

Janet Bucher (32585 Harmony Road) approached the podium and commented that the church's growth, the youth group's growth, and the church bus for youth activities are all good things. She expressed that she does not fault the church for growing its membership; however, the problem is the constant drifting into use of the church for non-church activities. Mrs. Bucher noted that the property is zoned for use as a church—not for baseball leagues, not for hosting tournaments, not to run flag football, and not as a dance studio. She further commented that the church comes up with half-baked, poorly thought-out ideas such as a baseball league and a dance recital, and that this is a constant problem.

Mrs. Bucher pointed out that the dance recital would have had to be planned weeks in advance and that this was not a matter of Mr. Gerken being notified of it last-minute, while out of town. She noted that the church apparently had no idea about the attendance the dance recital would draw and there was not enough parking. She commented, however, that they charged admission for the event, so this was to the church's advantage.

She stated that nobody is acknowledging that Harmony Road is a dead-end road with no shoulders, which makes it very narrow. She reported that on the day of the dance recital vehicles were parked along Harmony Road up to her driveway. Mrs. Bucher stated that the constant stream of traffic going to and from services on Sunday mornings is not in a rush, but there also is no penalty for arriving late to church. She reasoned that the deadlines for arriving to tournaments, games, and dance recitals creates traffic urgency on this narrow, dead-end road within a rural setting.

Mrs. Bucher questioned how parking spaces on the church property will be affected by the additional buildings being proposed.

She then commented that as with the current Application, Living Proof Church does not always tell the whole story. She pointed out that in the 2017 Application (to expand the existing CUP), the Applicant said nothing about the website that was already live for teams to sign up to play on the church's baseball league at the church's newly constructed baseball complex. She reported that backstops were sunken and concrete work done, all without a permit. She further reported that two baseball fields were mostly constructed with only a slight mention that maybe, in the future, those fields would be used for league games and tournaments.

Mrs. Bucher expressed concern that a large gymnasium—complete with showers—has a plan for basketball and volleyball tournaments. She noted that showers are not needed for Sunday School classrooms. She stated, once again, that the church has more in mind than a mere Bible study.

She expressed that the neighbors are left to put up with the intrusion, noise, traffic, and whatever next bad idea the church comes up with. She concluded that she wishes the church would respect the rules that have been set out and stick with being a church.

Oehlert twice offered the opportunity for public comment. There being no additional comments, he closed the public hearing and invited deliberation among the Planning Commissioners.

Ross suggested that it needs to be clarified what is considered an “event”. As an example, he posed the question of whether one team's baseball practice would be considered an event.

Elliott commented that he is struggling with the following portion of recommended Condition No. 1: “or other events that are not commonly associated with a church facility are specifically excluded and denied.” He expressed concern with defining “commonly associated”.

Menefee agreed, and noted that there are churches—even in our own community—that have athletic facilities with them. He stated that he's served on church boards and is active in his own church; and although it would be helpful to have this clearly defined, he doesn't believe the church can be pigeonholed into a “Sunday School” church format, because that is no longer what churches are. He commented that we must realize that church looks much differently than it did 20 or 30 years ago.

Ross commented that he does not have a problem with the church's teams holding baseball practice on the property, but that he would like to know how to quantify the number of events. He then referenced the number of events in Item “F” of the Narrative:

“F - Lp church would continue to host about 4-5 outdoor events per year.”
(Page 25 of 54 of the Agenda packet)

He suggested that if ball practices and the like are to be included in this count, then the number of events may need to be increased.

Ross then asked Mr. Gerken how many church services are held on a Sunday.

Mr. Gerken answered that there is just one church service on Sundays.

Broers cautioned against regulating what does and does not constitute a church activity. She believes that the language in recommended Condition No. 1 could be appropriate as written.¹ She suggested that if complaints are made about an activity it would be the responsibility of other entities to determine whether it is or is not a church activity. She noted that the dance recital is a perfect example, and explained that it could be questioned whether a dance recital is a church activity, but the pastor says it was used as a ministry. Broers again warned against getting into too much detail regarding whether something is or is not a constitutionally protected activity.

Elliott commented that part of the Planning Commission's responsibility is to define what the neighbors should expect.

Reeves suggested asking the pastor to provide some examples of what the neighbors may see.

Elliott suggested that the Planning Commission needs a recommendation from legal counsel, as he expects this matter is going to come back.

Menefee agreed that legal counsel needs to review this matter and make that decision, instead of the Planning Commission.

Elliott explained that part of his concern is that unless there is a good definition, he cannot vote one way or another until he knows how this will affect the neighbors.

Broers asked Elliott whether he's referencing the building or the ballfields. She stated that the pastor has corrected his Application to say that he doesn't want to expand use beyond what has already been approved by the County Commission.

Elliott responded that this is not what Mr. Gerken has said; rather, Mr. Gerken has said that he does not want to expand use of the ballfields from what is currently being done:

"B - We have two (irrigated) 185'-200' baseball/softball fields to the south of the church buildings. The facilities main use would be for church activities and church camps. We are working with other community groups to allow them to use the fields for practices and tournament hosting. We are not installing any lights on the fields. The hours of use will mainly be two-three evenings a week during summer and Saturdays in spring for tournaments. (Nothing changing from current use)" *(Page 25 of 54 of the Agenda packet)*

Elliott stated that he is not certain that what the County Commission had approved and what is currently being done are the same thing. He explained that four teams practicing is not the way in which the Applicant's proposal was presented when it initially came to the Planning Commission. Rather, it was presented that the ballfields would be for church activities, which to him meant kickball games during youth night, etc. He commented that he is not saying this information was misrepresented to the Planning Commission, but it is a matter of how it was interpreted by the Planning Commission at that time and by the people who were present at that public hearing. Elliott expressed that this is the reason he is concerned about further defining recommended Condition No. 1.

¹ Original sentence read: "She believes that the language in recommended Condition No. 1 *is* appropriate as written."

Broers stated that the Applicant already has permission for use of the ballfields, with conditions. She then asked Reeves about potential consequences if the neighbors believe the ballfields are being used in a way that does not align with the CUP.

Reeves answered that staff typically will receive complaints from the neighbors, whose stories usually match. Staff will investigate the complaint, which is difficult to do when the complaint is regarding an activity that is occurring outside of working hours, such as in an evening or on a Sunday. Reeves further explained that if staff determines that the complaint is valid and the violation is significant, staff can bring the CUP back to the Planning Commission to consider modification or revocation of the existing CUP. She added that these provisions are included in the Zoning Regulations.

Broers noted that her question was specifically with respect to parking because she believes the church will continue to grow; and, if the church is not splitting services or planting churches elsewhere, parking will be a continuing problem. She asked Reeves what recourse is available to the neighbors when parking becomes a consistent problem, such as every weekend. She then asked if the Applicant can be required to add parking to the property; or, if a condition may be added that the Applicant must amend the Application and come back with plans for added parking.

Reeves responded that this would be a possibility.

Elliott then read aloud a new possible condition: "Provide a parking and traffic plan to meet the needs of all activities." He explained that such a condition communicates that this is the Applicant's responsibility because, as Mr. Gerken previously mentioned, Harmony Road is not his to police.

Elliott noted that the neighbors have indicated that church activities have not directly been an issue but that there should be something in the Conditions, which prompts the church to address attendance. This could include using the parking lot at the Elizabeth Layton Center, busing attendees to and from a business parking lot, etc. He added that many large event centers are required to have a traffic plan.

Ross referenced the Narrative, and noted that the Applicant has limited the number of events:

"F - Lp church would continue to host about 4-5 outdoor events per year."
(Item "F" - Page 25 of 54 of the Agenda packet)

He noted that he is concerned about quantifying the events.

Menefee asked Reeves if the County has some type of standard for qualifying an activity as an event.

Reeves answered that the County does not.

Ross expressed that he does not want to restrict the church from carrying out ministry activities on the church property. He added that he is concerned about approving the Application, thereby adopting the Applicant's stated number of events.

Menefee suggested that language could be added, which provides that the stated number of events does not include ball practices. He explained that this would avoid having to define specifically what is considered an event. Menefee then read aloud from the Narrative that was submitted with the church's 2017 Application to expand the existing CUP:

“We probably as of right now host about 5-10 outdoor activities a year at the moment including kids camps and holiday celebrations or special services.”
(Page 35 of 54 of the Agenda packet)

He noted that it seems the Applicant was not including ball practices in this number of outdoor activities.

Mr. Gerken responded that this is correct.

Elliott encouraged the Planning Commissioners to again review staff's recommended Condition No. 1:

“The construction of a 7200 sq ft youth activity building and future 2400 sq ft addition to the LP Kids building is approved with this CUP expansion. The use of the ballfields, youth activity building and other buildings or parts of the property for public / community use for ball games, practices, tournaments, or other events that are not commonly associated with a church facility are specifically excluded and denied.”
(Page 22 of 54 of the Agenda packet)

Oehlert asked Elliott if he would like “commonly associated” to be defined or further expounded on by listing certain activities.

Elliott replied that he does not know if the Planning Commission can do that. He expressed that he is concerned that using the phrase “commonly associated”, which is open-ended, sets up future staff and enforcement groups to have to determine what this means.

Ross added that it is further problematic to define “practices”. He asked whether a practice is a church activity if it involves a church ball team.

Elliott asked whether simply restricting use by outside groups means that more than 50% of the participants would have to be attending the church for it to qualify as a church activity. He explained that the facility use documents in the school district where he is employed state that an activity is a school district activity if more than 50% of the participants are school district patrons; otherwise the activity is not a school district activity, and different rates and usage priorities apply. Elliott commented that the neighbors need a clear expectation.

Broers expressed that she struggles with putting a number on it because ministry and outreach are the pillars of some churches. She also questioned who would even enforce this.

Elliott commented that the root of this whole issue is whether this is an appropriate location for an expansion if we cannot clearly communicate to the neighbors what they can expect.

Broers then asked Reeves from where she obtained the language in recommended Condition No. 1.

Reeves answered that although she does not recall the specific source of that language, she believes it was taken from another definition with respect to uses commonly associated with accessory buildings.

Elliott expressed that he wants the church to grow and believes that the church is doing great things for the community. However, his concern, which is the same concern he raised in 2013 and in 2017, is whether this is the right location for the church to grow.

Broers noted that she has the same concern—whether it's respect to parking or increased traffic.

Reeves asked the Planning Commissioner if they would like legal counsel to weigh in on this.

Elliott answered that his opinion is that this needs to be more clearly defined because history tells us that this will probably be contested or ignored.

Oehlert asked for a consensus among the Planning Commissioners regarding whether they would like recommended Condition No. 1 to be reworked so that "commonly associated" is better defined or to have the County Counselor provide specific language to be brought back for consideration next time.

Menefee commented that although he is not opposed to a review by legal counsel, he doesn't think this will solve anything. He added that the Condition could provide 100 examples of activities; and, six months from now, something else that had not been previously considered will come up. He doubts there is any language that would alleviate all these concerns and potential conflicts.

Elliott asked Menefee what he would tell the neighbors to expect if the Application was approved with recommended Condition No. 1, as currently written.

Menefee responded that he is active in his own church and attended a meeting for nearly three hours this morning for the purpose of coming up with ministry ideas. He commented that if you try to limit a church to certain ministry and outreach activities you have broken the law.

Elliott asked Menefee to momentarily set aside the fact that the property is owned by a church. He then asked Menefee to describe what he would advise the neighbors to expect in their backyard.

Reeves agreed that this needs to be viewed from a planning and zoning perspective.

Menefee replied that although you can ignore it, the Planning Commission is here to discuss the church this evening.

Elliott clarified that from a planning and zoning perspective, the Planning Commission's responsibility is to mitigate impacts by attaching conditions to uses. The Planning Commission is responsible for denying uses if they are not acceptable for the neighborhood.

Menefee responded that based upon what he has heard tonight and what he has read in the Agenda packet, he truly believes there will not be an increase in the number of events from what is currently occurring on the church property. He reasoned that the youth activities described are already occurring. He added that he believes that the church ball teams are a ministry and outreach.

Oehlert commented that it seems the Planning Commission does not necessarily want “commonly associated” defined nor a list of activities, but rather language that better satisfies their concerns.

Menefee commented that he understands that the neighbors have a right to know that the integrity of their neighborhood will not be compromised.

Elliott added that this would also serve to give the church clear direction.

Oehlert queried the Planning Commissioners for any concerns regarding the remaining Conditions proposed in the staff report.

Manchester referenced staff’s comments regarding Golden Criterion No. 4:

“According to information provided on November 28, 2017, the church was already holding 5-10 outdoor activities a year, which was beyond what had been approved and presented in the original CUP. This number has reduced to 3-5 outdoor activities per year with this current request to expand. The Applicant needs to clarify which number is correct for the record.”
(Page 18 of 54 of the Agenda packet)

Menefee read aloud a portion of recommended Condition No. 5:

“An updated Narrative needs to be submitted that corrects the Occupancy listed”

Oehlert suggested that the phrase “not commonly associated with” appears in recommended Condition No. 5 and should be addressed as well:

“An updated Narrative needs to be submitted that corrects the Occupancy listed from 650 to the approved Occupancy of 630; and removes the public use / community use of the ballfields (including other buildings and parts of the property) for such uses as ball games, tournaments, etc., and other events that are not commonly associated with a church.” *(Page 23 of 54 of the Agenda packet)*

Reeves asked the Planning Commissioners if they would like to provide the Applicant adequate time to address these open-ended issues such as the number of events being proposed and whether that includes ball games, and to update the Site Plan. She suggested that the Applicant could then bring all this additional information back to the Planning Commission, so the Planning Commissioners have a better understanding of what is being proposed.

Oehlert asked Reeves if she is referring to showing parking on the Site Plan.

With regard to the Site Plan, Broers noted that the fire lane will need to be rerouted.

Elliott referenced staff's recommended Condition No. 7 and noted that the Applicant is requesting to amend an existing CUP that has a term expiration of February 21, 2028. He asked whether the Planning Commissioners would prefer to keep that term expiration date or set it for ten years into the future.

Menefee asked Reeves if there is a precedent for setting CUP term expirations.

Reeves answered that the originally approved CUP had a term expiration of 2023; and when the Applicant requested to expand the CUP in 2017, the term expiration was changed to 2028. Reeves explained that as the current Application is a request to amend the 2017 CUP, she kept the term expiration associated with the 2017 CUP. She recommended keeping the February 21, 2028 term expiration.

Oehlert then summarized the Planning Commission's direction for staff and the Applicant, including: 1) staff's referral of recommended Condition No. 1 to the County Counselor for legal input regarding the phrase "commonly associated" and suggested language that more specifically addresses the concerns raised this evening; 2) staff's addition of new Condition No. 8 to the Recommended Conditions, which provides that the Applicant provide a parking and traffic plan; 3) the Applicant's clarification of the proposed number of events and proposed use of the proposed youth activity building; and 4) staff's referral of recommended Condition No. 5 to the County Counselor to address the phrase "not commonly associated with".

Reeves clarified that the fire lane and the parking—if additional parking is needed—are to be addressed as part of the required Site Plan updates:

"4. An updated site plan needs to be submitted that includes staff's comments dated June 24, 2021 and incorporates the stormwater updates dated June 25, 2021, i.e.:

- e) The fire lane will need to be rerouted on the site plan to accommodate the new youth activity building and future expansion of the LP Kids building." *(Staff's Recommended Condition No. 4(e) on Pages 22 and 23 of the Agenda Packet)*

Elliott explained that he intended the proposed new Condition No. 8 (parking and traffic plan) to be something that perhaps isn't everchanging based on the event. He commented that he believes the Applicant has already thought this through, but he would like something to reference if there is an utter disaster in the future.

Reeves asked Elliott whether the "traffic plan" should be designed by an engineer or provided by the church leadership.

Elliott responded that this can be done by the church leadership. He added that a traffic plan will be helpful for future discussions.

Elliott moved to continue consideration of Application No. 17005-CUP: Living Proof Church – 2021 Expansion to the August 3rd Planning Commission meeting. Menefee seconded, and the motion passed unanimously, 8-0, via roll call vote.

GENERAL DISCUSSION

Possible Future Amendments to Zoning and Subdivision Regulations

1. Common Access Easement requirements
2. Sign Regulations
3. Telecommunications Regulations
4. Height limits for radio, television, internet antennas and satellite dishes designed for individual residences.

There was no discussion among the Planning Commissioners regarding possible future amendments to the Regulations.

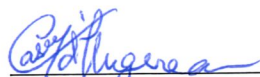
ANNOUNCEMENTS BY STAFF / COMMISSIONERS

Reeves announced that Kenny Cook has accepted a position with Franklin County as their Planning Director, and today was his first day there.

She reported that the Planning Department is carrying on as best as it can, and is modifying how it conducts business until additional staff members are hired. She noted that the positions of Planner I and Planner II have been advertised. She further reported that the Planning Department cannot accept walk-in inquiries and that meetings with Planning staff will need to be by appointment only unless an individual has an active permit or application.

There being no further announcements, Oehlert asked for a motion to adjourn. Elliott moved to adjourn the meeting, Collins seconded, and the meeting was adjourned by unanimous vote, 8-0, at 8:30 p.m.

Approved this 7th day of September, 2021.



Angie Baumann, PC Secretary

Casey D'Angereau

Minutes taken by Angie Baumann



Chair, Mark Oehlert / Vice-Chair, John Menefee