

***MINUTES OF THE
MIAMI COUNTY PLANNING COMMISSION
SEPTEMBER 7, 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, Phil Elliott, Randy Kitchen, and Bret Manchester
ABSENT MEMBERS:	Joshua Brown, Kevin Collins, and Mark Ross
EX-OFFICIO MEMBERS:	None present
PLANNING DIRECTOR:	Teresa Reeves
COUNTY COUNSELOR:	Not Present
PLANNER:	Katie Jardieu
PC SECRETARY:	Casey d'Augereau
ECONOMIC DEVELOPMENT	Not Present
COUNTY COMMISSION:	None Present
COUNTY CLERK:	Not Present
PRESS:	Not Present

MINUTES

SEPTEMBER 7, 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 six (6) members were present, constituting a quorum. Brown, Collins, and Ross were absent.

Reeves thanked Casey d'Augereau for filling in this evening as the Planning Commission Secretary. Reeves then introduced Katie Jardieu, the new Planner.

DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST

None disclosed.

ADOPTION OF THE AGENDA

Elliott moved to adopt the Agenda, as presented. Menefee seconded, and the motion passed unanimously, 6-0, via roll call vote.

CONSENT AGENDA

- **July 6, 2021** Planning Commission Minutes (corrected)
- **August 3, 2021** Planning Commission Minutes
- **Final Plat** | 21004-SUB: Heartland Ridge

Oehlert noted Item No. VI.C. on the Consent Agenda is entitled "Final Plat | 21004-SUB Heartland Ridge", but the staff report notes the Final Plat of Heartland Estates, and asked staff to clarify.

Jardieu clarified it is the Final Plat of Heartland Ridge, as noted on the Plat itself.

Oehlert then asked staff to clarify where corrections were made to the July 6, 2021 minutes.

Reeves answered the correction was made at the request of Kelli Broers, regarding one of her comments. (Staff Note: The second sentence on Page 12 of 18 of the July 6, 2021 Minutes was corrected by deleting "is" and replacing it with "could be", so it reads: "She believes the language in recommended Condition No. 1 *could be* appropriate as written.")

There were no additional questions or comments regarding the Consent Agenda. Menefee then moved to adopt the Consent Agenda, as amended. Manchester seconded, and the motion passed unanimously, 6-0, via roll call vote.

REGULAR AGENDA

21003-SUB: Final Plat of Seim Estates

Jardieu presented the staff report for consideration of the Final Plat of Seim Estates, dividing approximately 40 acres into two lots containing 18.4 net acres each, as a Standard Subdivision per Section 6-5.02.1.A of the Miami County, Kansas Zoning Regulations. The subject property is located at the southwest corner of 215th St. and Sunflower Rd., in the NE ¼ of Section 19, Township 15, Range 22, Richland Twp. Submitted by Harvey and Esther Seim, property owners of record.

She explained a plat was previously presented to the Planning Commission as the Final Plat of Bev Lou North. However, the property owner did not record the approved final plat in the Register of Deeds Office within two years as required; therefore, it was necessary for a new Final Plat to be presented to the Planning Commission.

Jardieu noted the property owners were unable to attend this evening.

She then reported that the Applicants have submitted a request for a Rule Exception regarding recommended Condition No. 2:

“A 50’x50’ common access easement shall be added to the Final Plat at the common lot line of Lots 1 & 2.”

She explained a fairly large pond is located just north of the subject property (Lot 1) and the Applicants have reported that when the pond overflows, it drains into a tube underneath 215th Street, and floods the creek (on Lot 1). Therefore, the Applicant believes having a common access easement off of 215th Street, between Lots 1 and 2, would create difficulty accessing a future home on Lot 1—due to the overflowing creek—if a home is built in the northeast corner of that Lot.

Elliott asked if the Road and Bridge Department provided any comments regarding the Rule Exception request.

Reeves clarified that Road & Bridge Director J.R. McMahon visited the site and has updated his comments since his initial comments. She spoke with McMahon last week and explained to him the Applicants prefer to access Lot 1 from Sunflower Road, as there is an existing water meter in the northeast corner of that Lot, which Reeves believes has been there since the 1980’s, and because the Applicants cannot cross the creek with a tractor after a heavy rain. Reeves further reported that McMahon believes a culvert could be installed, but it does not appear he has a preference one way or another. She explained that the Subdivision Regulations require a common access easement between each set of two lots if they are less than 20 acres in size.

Elliott noted he has found McMahon’s updated comments, which note “No Access” should be added.

Reeves clarified that McMahon has specified there be no access at the intersection and 160' west along 215th Street, as well as no access for 350' south along Sunflower Road. She explained, however, points of access to Lot 1 could still be available from 215th Street or from Sunflower Road.

Elliott asked for clarification regarding where the Applicants are requesting access.

Reeves answered that the Applicants have stated they are opposed to the location of the common access, and access for Lot 1 should be from Sunflower Road. (Staff Note: The Applicants' request states they want access for Lot 1 on 215th St. Staff believes the Applicants intended to state they want access for Lot 2 to be from 215th Street and access for Lot 1 to be from Sunflower Rd.)

Oehlert asked if it is Lot 1 or Lot 2 for which the Applicants are requesting access from 215th Street.

Reeves and Jardieu answered it is Lot 1.

Reeves explained 215th Street was elevated four to five feet and a large culvert was installed. Therefore, the pond on the north side of 215th Street, which is in Johnson County, feeds into and floods the drainage easement on Lot 1, and that area remains wet for two to three days afterwards.

Elliott asked why the Applicants are requesting a driveway at the south end of Lot 1, if the water meter is in the northeast corner of Lot 1.

Jardieu and Reeves explained the Applicants want access on Sunflower Road, south of McMahon's proposed 350' no access restriction.

Elliott asked if the Applicants could meet building setbacks, if a house is built in the area proposed by the Applicants.

Reeves answered it is possible, but it depends upon the size of the house.

Oehlert commented it appears to be a tight fit.

Elliott commented it seems the Lots should have been split in the other direction. He then asked if staff is now recommending removing Condition No. 2.

Jardieu answered this is the Planning Commission's decision, and she is not certain if the Planning Commissioners have a strong opinion about this.

Menefee commented when considering the location of the water meter on Lot 1, as noted on the Applicants' diagram, it makes sense for access to be from Sunflower Road. He added that if the future house cannot meet building setback requirements, then the house would not be permitted anyway. Therefore, the Planning Commission can eliminate recommended Condition No. 2 and allow access for Lot 1 from Sunflower Road.

Reeves explained that when an application is submitted for a new residence and driveway entrance permit the applicant will select where they would like the entrance, and Road and Bridge will visit the site and determine whether the proposed location meets sight distance requirements, etc. She indicated if somebody decides to relocate the water meter because they want to build on the west side of the creek (instead of the east side of the creek), then they would have to choose at that time whether they want common access or a separate entrance location.

Oehlert asked if the Planning Commission were to approve the Final Plat with all the recommended Conditions if, in the future, the purchaser of Lot 1 could then ask for a rule exception.

Reeves responded that at that point they would have to request either a replat or a vacation of the access restriction. She added that it takes approximately six to eight weeks from the date of the application to amend a recorded plat.

Elliott read aloud the following from the Applicants' diagram: "Road runs full of water for a week or more after any big rain." He asked if the Applicants mean Sunflower Road.

Reeves responded she is not certain whether he is referencing Sunflower Road or the drainage easement.

Kitchen noted the Applicants' diagram states it is the "road ditch".

Elliott asked when a request such as this would go before the Board of Zoning Appeals instead of the Planning Commission.

Reeves explained the common access easement is a requirement of the Subdivision Regulations; therefore, the Planning Commission should technically approve the common access easement requirement, unless the Applicants can prove to the Planning Commission that they need an exception. Reeves noted there is a provision in Section 7-1 of the Subdivision Regulations, which gives the Planning Commission the authority to make some exceptions on a plat. She added that the Planning Commission does not have the authority to make exceptions on required improvements. Reeves then read aloud the following requirements for granting a Rule Exception:

- "1. Strict application of these Regulations will create an undue hardship upon the subdivider;
2. The proposed rule exception is in harmony with the intended purpose of these Regulations; and,
3. The public health, safety and welfare will be protected."

Elliott asked staff for the dimensions of Lot 1.

Jardieu answered Lot 1 measures 623' wide and 1,286' long.

Oehlert asked how granting the Rule Exception affects Lot 2, and where access to Lot 2 will be located.

Reeves answered if the Rule Exception is granted, there will be no common access easement and access to Lot 2 will be in a different location. She recalled McMahon had originally commented spacing and sight distance requirements can be met for both Lots.

Kitchen referenced the following statement in the staff report:

“Staff would note that a field entrance may be needed outside of the common access easement in order to access the property located inside of the drainage easement.”

Reeves responded that when she discussed this initially with McMahon, she had pointed out there was enough area outside of the No Access restrictions along 215th Street and along Sunflower Road to install a field entrance, if needed. She noted this discussion took place before she realized Mr. Seim had submitted a Rule Exception request.

Kitchen asked whether a field entrance would be installed on the west side of the creek (along 215th Street) if there is no common access easement and the driveway for Lot 1 is located on the east side (along Sunflower Road). He then asked if the location of the field entrance will be determined later.

Reeves commented Kitchen raises a good point, and confirmed the field entrance location will be determined later.

Kitchen commented the County has difficulty maintaining existing culverts, so we do not need too many more of them.

Reeves explained that when lots are 20 acres in size agricultural exemptions come into play, and we try not to restrict entrances on agricultural lots.

Elliott commented a lot size of 18.4 +/- acres could easily be 20 acres if it weren't for the right-of-way.

Reeves noted if a property is 20 acres or more, we recommend—but do not require—common access.

Kitchen asked how a field entrance (on 215th Street) on the west side of the creek differs from a common access driveway in that location.

Reeves responded she believes a culvert may not be required for a field entrance, and a field entrance would not be held to the same standard as a residential entrance.

Elliott commented the approximately three to four acres in the northeast corner of Lot 1 is a decently sized homesite, which leaves the remainder of the Lot as relatively open area / pastureland, etc. He noted that flipping it the other way and forcing the driveway in on the other side would cause the area in the northeast corner to be relatively useless. He added this would seem to be the only justification for granting the Rule Exception because requiring the common access creates an undue hardship because the ditch makes it difficult, if not impossible, to access the east side (the smaller portion). He further commented if it was the other way around, he would be in favor of the common access.

Menefee added that the existing water meter is in the northeast corner as well.

Elliott asked if there is an opportunity for the subject property to be further divided.

Reeves answered that the current Regulations would not allow further division without rezoning the subject property. They would also have to evidence the property is in a location that is suitable for the rezoning desired.

Broers asked how close in proximity the subject property is to Edgerton city limits.

Reeves responded it is within one mile or ½ mile of Edgerton.

Oehlert noted it is located within a mile north and slightly east of Edgerton.

Broers asked if the subject property lies within the City of Edgerton's growth area.

Reeves answered she does not believe the County has a growth area agreement with the City of Edgerton.

Menefee moved to approve the proposed Final Plat of Seim Estates, based upon the Findings and subject to the Conditions, as amended, in the staff report, including that Condition No. 2 shall be struck, and including approval of the requested Rule Exception.

Elliott asked staff whether the Applicants have seen the remaining Conditions, and whether they any objections to them.

Reeves responded she believes the Applicants submitted a Rule Exception request because they had indeed read the staff report.

Elliott then seconded the motion on the floor, and the motion passed unanimously, 6-0, via roll call vote.

Findings

1. The subdivision complies with the Goals and Objectives of the Comprehensive Plan for Agricultural Districts.
2. The subdivision complies with the Zoning Regulations for the Agricultural District regarding lot area, lot dimensions, and the standard subdivision regulations.
3. The subdivision complies with the Subdivision Regulations

Conditions

1. "No Access" shall be added and hatching shown on Lot 1 at the intersection of 215th St and Sunflower Rd, extending west 160 feet, and south 350 feet.
2. ~~A 50'x50' common access easement shall be added to the Final Plat at the common lot line of Lots 1 & 2.~~
3. ~~The utility easement needs to be relocated to jog around the Common Access easement rather than along the road frontage at this location with a note added to the Final Plat stating, "No obstructions are allowed within the Access Easement including but not limited to fences, utility poles, telephone pedestals, etc." This sentence shall also be added to the end of the 3rd paragraph of the dedication block that discusses utility easements (UE).~~
2. 4. Delineate the 100-foot-wide drainage easement and add the note: "Non-buildable DE".

Living Proof Church – 2021 Expansion (continued from July 6, 2021 Public Hearing and August 3, 2021 Hearing)

Reeves presented the staff report for continued 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 apologized to the Planning Commission and to the Applicant because she did not have the opportunity to review, until last week, the updated Site Plan that was submitted on August 2nd. Moreover, the updated Site Plan was scaled so small she had to print an oversized copy of it to read it. Her review uncovered many issues, including that it is missing about two-thirds of the information previously requested. She pointed out that those outstanding items are highlighted in her comments to the Applicant, which she has included in the staff report.

Reeves reported that the revised Stormwater Plan, which was submitted on August 19th, shows the area of the proposed youth activities building as being 5,670 square feet, instead of 7,200 square feet. In addition, the revised Stormwater Plan does not include the area of the possible, future addition to the LP Kids building, and neither does the updated Site Plan. She suggested possibly the Applicant has decided against the future addition to the LP Kids building. Reeves commented the Planning Department is completely swamped, as are engineering and surveying firms, so she understands mistakes can easily happen.

She asked the Planning Commissioners whether they would like to approve or deny the request this evening, or whether they would like to provide the Applicant additional time to supply all the information requested.

Oehlert asked Reeves to specify which items are outstanding.

Reeves referred to Pages 2 and 3 of the staff report. She noted those items highlighted in yellow were outstanding prior to the August 3rd Planning Commission meeting. Comments pertaining to her subsequent review of the August 2nd Site Plan are provided after the highlighted items in the staff report (on Pages 3, 4, and 5).

Oehlert asked Reeves if the highlighted items are what the engineer should have provided on the Site Plan.

Reeves noted those items are what should have been included on the first Site Plan submitted.

Oehlert asked if the engineer did not know to provide this information.

Reeves clarified the engineer is working on the Stormwater Plan and the architect is working on the Site Plan. She added she does not have an email address for the architecture firm; and, because it is an older company, she is not certain it has the capability to transmit plans electronically.

Oehlert asked if staff is recommending approval of this Application.

Reeves recommended the Planning Commission continue the meeting for this Application to a future date, after all requested information has been supplied, so the Planning Commission can make an informed decision. She stated the Planning and Building Inspection Departments have had numerous, continual problems when a CUP is approved prior to a complete site plan being submitted. This leads to confusion and arguments between applicants and staff.

Broers recalled that those same reasons were the grounds for continuation of last month's meeting for this Application.

Oehlert recalled that the Planning Commission had asked Mr. Gerken at the August 2nd meeting if the Planning Commission was giving the Applicant enough time to provide the information requested.

Reeves expressed that she accepts some of the responsibility for the delay in getting review comments to the Applicant. She stated she does not like to make excuses; however, a staff member had been gone for an extended period, during which the Planning office was also significantly disrupted due to a facilities painting project. She explained these factors, in addition to a heavy workload, created a perfect storm.

Elliott asked if staff's recommended Condition No. 7 (on Page 8 of 8 of the staff report) is new:

7. *"Uses that are listed as separate Conditional Use Permits in the Countryside district or are listed as uses permitted in more intense zoning districts must have separate zoning entitlement and are not allowed to occur in conjunction with this CUP."*

Reeves confirmed. She added that Condition No. 4 is also new, and she had intended to italicize it.

Elliott asked if Condition No. 7 is an attempt to address the matter previously discussed by the Planning Commissioners regarding how to define uses that are/are not “commonly associated” with a church facility.

Reeves answered that Condition No. 7 could serve to define or address the uses that may/may not occur on the subject property.

Elliott then referenced new recommended Condition No. 4:

4. “An updated site plan needs to be submitted that includes staffs comments dated June 24, 2021; and September 2, 2021, as well as an amended Stormwater Plan to correct errors in the August 19, 2021 submittal.”

He commented this Condition wouldn’t be necessary if the Planning Commission continues the meeting for this Application to a future date—after the Applicant has addressed all of staff’s comments.

Reeves agreed.

Oehlert asked if continuing the meeting for this Application to the October 5th Planning Commission meeting would give the Applicant and the engineer (and architect) enough time.

Reeves suggested the Planning Commission hear from the Applicant.

Bo Gerken (22360 W. 303rd St., Paola) of Living Proof Church approached the podium. He reported the architect has made no changes to the Site Plan since the updated version presented at the previous meeting. He noted he thinks Reeves emailed to the architect, on Wednesday or Thursday of last week, her comments to that Site Plan. He reported he was out of town Friday for the Labor Day weekend, and he does not know what Reeves has emailed to him.

Mr. Gerken clarified that the stormwater engineer made corrections to the Stormwater Plan regarding the additional parking proposed.

Oehlert asked Mr. Gerken if he believes October 5th is reasonable.

Mr. Gerken stated he is not going to answer either way, but he will work on as many of those items as he can if that is what is needed to get a building permit. He stated the Stormwater Plan is what the Planning Commissioners had asked him to correct. Mr. Gerken reported he has paid money to have it corrected; and a revised Stormwater Plan has been submitted. He acknowledged the mistake on the Stormwater Plan, which staff noted in their review comments regarding the area of the proposed youth activities building; and he reported the architect has changed this. Mr. Gerken stated he was never told to go back to the architect/engineer based on staff’s review comments in the current staff report, and these corrections were not mentioned during the previous Planning Commission meeting. He noted this is new information for him and for the Planning Commission, as of the last eight days. He asserted that this Application has been delayed three months, and again stated he will do whatever he has to do.

Oehlert asked the Planning Commissioners whether they have any questions for staff or the Applicant.

Reeves expressed she would like to ask the Applicant several questions. She noted the revised Site Plan does not include the possible, future addition to the LP Kids building. She asked Mr. Gerken if the addition to the LP Kids building is perhaps no longer including this in the proposal.

Mr. Gerken answered, "No, we're not planning on building that anytime." He explained the addition was originally included because staff had advised them to include on the Site Plan anything the church was considering for the future. However, this means they would then be required to provide an updated Storm Drainage Study and a whole, new set of plans.

Reeves clarified that the original Site Plan submitted had included a possible, future addition to the LP Kids building, but it is not included on the August 2nd Site Plan. She explained either the Narrative or the Site Plan needs to be corrected.

Mr. Gerken responded the church wants to build an addition to the LP Kids building, but not within even the next five years. He commented if that addition needs to be eliminated from the current proposal, they will do so; and he will just return in five years to do this all over again. He once again explained the addition was included on the Site Plan because it was something the church may want to do in the future; and, if it was included on the Site Plan, then the church would not have to get approval later on.

Reeves clarified if the Planning Commission was to approve the Site Plan, which includes the possible, future addition to the LP Kids building; if all parking issues have been addressed; and if the stormwater has been calculated to accommodate the addition to that building then the Planning Commission would not need to approve the possible addition in the future. Rather, when the Applicant applies for a building permit, staff can administratively approve the building permit, so long as everything complies with the Site Plan approved by the Planning Commission.

Mr. Gerken commented he misunderstood, and stated the addition can be eliminated from the proposal for now.

Reeves then noted a number of the corrections to the Site Plan requested during the July Planning Commission meeting were not made to the August 2nd Site Plan.

Menefee referenced recommended Condition No. 4, and asked in the event the Planning Commission approved this Application tonight, as presented, then it would not be presented to the Board of County Commissioners for approval until all the outstanding items have been addressed.

Reeves answered this would not necessarily be the case. She explained she must follow a certain timeline; and, the neighboring property owners and the Applicant need to know on which date the Application will be considered by the Board of County Commissioners. She advised that the date on which this will be presented to the Board of County Commissioners needs to be announced in a public meeting; and she cannot hold this indefinitely.

Broers commented if she is to make an informed recommendation to the Board of County Commissioners, then she needs to know what it is she is recommending. She further commented it seems the Applicant has had some confusion about what it is they are requesting. She suggested the Narrative may need to be amended if the original Narrative includes a building, which is not up for consideration by the Planning Commission at this time.

Reeves advised the Applicant needs to provide a revised Narrative and a revised Site Plan, and needs to ensure the Stormwater Plan matches everything.

Broers agreed this would be pertinent.

Oehlert asked if Broers would like to turn this into a motion.

Broers consented.

Oehlert announced a motion has been made to continue the meeting for Application No. 17005-CUP: Living Proof Church – 2021 Expansion until October 5th.

Elliott seconded the motion.

Oehlert conducted a roll call vote, and the motion was lost due to a tie, with three voting in favor of the motion (Broers, Manchester, and Oehlert) and three (3) voting against (Elliott, Kitchen, and Menefee).

Oehlert then invited deliberation by the Planning Commissioners.

Elliott asked Reeves to address each outstanding item to ensure he understands specifically what is needed.

Reeves addressed outstanding Item No. 3, which was originally noted in staff's **June 24th** review comments to the Site Plan (Pages 2 and 3 of the staff report):

“3) Please make sure the latest approved site plan is being used and update the site plan by identifying the buildings as they are currently used and what is being proposed.”

She reported the Applicant had previously provided various versions of the Site Plan and had submitted an updated one (on August 2nd). Reeves wants to ensure the Planning Commission is considering the most up-to-date Site Plan before making a decision. That Site Plan will then need to be further updated by identifying both the current and proposed uses for each building.

Elliott asked Reeves to confirm his understanding that she is requesting a Site Plan, which includes everything the Applicant wants the Planning Commissioners to approve at this time; however, there is a discrepancy between the original Site Plan and the August 2nd Site Plan; therefore, the Narrative does not match the August 2nd Site Plan.

Reeves answered this is not correct. She noted, as an example, the Site Plan that was approved for the initial CUP (in 2017) incorrectly identified an existing building as a “PROPOSED BUILDING”. Reeves reported there have been so many changes made; and the building identified as a “PROPOSED BUILDING” is the existing sanctuary. She again noted the current uses and proposed, future uses of all buildings should be identified on the Site Plan.

Elliott asked if staff is requesting mostly text changes within the Site Plan.

Reeves confirmed. Reeves then addressed outstanding Item No. 4, which was originally noted in staff’s June 24th review comments to the Site Plan (Page 3 of the staff report):

“4) Please provide the lateral distance between the proposed building and the floodplain area. Based on the proximity of the proposed Youth Activity building to the existing floodplain, it may be necessary to provide elevations of the lowest floor of the building and the lowest adjacent grade next to the building to ensure there is sufficient distance and elevation difference to protect the building from flooding. *Based on rough calculations, it appears the new building location may be approximately 1 foot higher in elevation than the Base Flood Elevation. Staff would encourage you to have your engineer shoot the elevations at this location to ensure you are at least 1-foot above BFE to avoid flood damage. I would encourage you to build the top of the bottom floor higher than 1-foot above BFE since storms seem to be increasing in intensity and water heights appear to be increasing with these storms. This is a recommendation only since the building will be located outside of the floodplain. Others who followed this recommendation have informed me later that they were glad they did this as they were spared from flood damage from extreme storms that they would otherwise not have been.*”

Reeves explained the Site Plan should show the distance between the proposed youth activities building and the floodplain, as it is within approximately 15’ of the floodplain, using a lateral measurement. The location of the proposed building has an approximate one to two feet difference in elevation from the Base Flood Elevation. Reeves noted her comments in red are a recommendation—not a requirement—that they build higher than proposed so the top of the lowest floor of the building is constructed one or two feet above the Base Flood Elevation for extra protection against flood damage. She added staff may need to see what the elevations are at the building site, so this is also intended to provide the Applicant with some advance notice.

Elliott commented Item No. 4 clearly addresses the matter of Base Flood Elevation, and asked if staff wants the elevation of the building shown on the Site Plan.

Reeves confirmed, and added that the Base Flood Elevation and the location of the lowest adjacent grade should be noted on the Site Plan. Then, when the building inspectors visit the site, they’ll have a shot when they do that for the top of the bottom floor.

Reeves explained that flood elevations and contours are shown on one of the plans submitted, although she is not certain they’re shown on the August 2nd Site Plan. She stated that everything should be included on one Site Plan.

Elliott asked if staff wants the Base Flood Elevation shown, as well as the elevation of the lowest floor of the building.

Reeves confirmed, and added that staff wants the lowest adjacent grade to the proposed building shown.

Reeves then addressed outstanding Item No. 5, which was originally noted in staff's June 24th review comments to the Site Plan (Page 3 of the staff report):

"5) Please provide dimensions on the new building(s), and also show the proposed building and also show the proposed future addition with the dimensions."

She noted the Site Plan does not show the dimensions of the proposed youth activities building. The Site Plan also does not show the possible, future addition to the LP Kids building; so, if the Applicant no longer wishes to include the addition as part of the current Application, it should be eliminated from the Narrative, and will not need to be shown on the Site Plan.

Elliott commented that No. 5 speaks specifically to building dimensions.

Reeves agreed.

She then addressed outstanding Item No. 6, which was originally noted in staff's June 24th review comments to the Site Plan (Page 3 of the staff report):

"6) Assuming the new building will utilize propane, please show the gas line connection to the building. The propane tank should also be relocated on the site plan to match where it is located on the ground (shown differently on aerial photos)."

Reeves noted she assumes the youth activities building will be heated using propane, as are the other buildings; therefore, the Site Plan should show where the gas line will connect to the building. She pointed out the propane tank shown on aerial photos is in a different location than shown on the Site Plan approved for the initial CUP (in 2017).

Elliott suggested Item No. 6 could be considered as part of the Site Plan clean-up; and it could be listed as a separate item such as "Verify propane tank and/or gas line placement."

Elliott referenced outstanding Item No. 7, which was originally noted in staff's June 24th review comments to the Site Plan (Page 3 of the staff report):

"7) Please also show the distance between the propane tank and the proposed building."

He commented Item No. 7 could be combined with Item No. 6.

Reeves read aloud outstanding Item No. 8, which was originally noted in staff's June 24th review comments to the Site Plan (Page 3 of the staff report):

“8) The fire lane will need to be rerouted on the site plan to accommodate for the new building (phase 1) and future 20’x120’ addition (phase 2).”

She noted according to Mr. Gerken’s statements this evening, Phase II—the possible, future addition to the LP Kids building—is no longer part of this proposal.

Elliott clarified the Applicant still has the option to include the addition on the Site Plan for the purpose of obtaining the Planning Commission’s advance approval.

Reeves agreed.

Reeves then addressed outstanding Item No. 9, which was originally noted in staff’s June 24th review comments to the Site Plan (Page 3 of the staff report):

“9) Please make sure to include any new light poles if any are proposed and also remember that all outdoor lighting needs to be directed downward and shielded to reduce offsite glare.”

Reeves noted she is not certain any new light poles are being proposed for the new parking areas to the south, but if so, they will need to be shown on the Site Plan.

Reeves then addressed outstanding Item No. 3, which was originally noted in staff’s June 24th review comments to Page A-1 of the Floor Plan (Page 3 of the staff report):

“3) The floorplan includes showers in the girls/boy’s restrooms. Please expand on why showers are needed in this building.”

Reeves reported the Applicant has not answered this question.

Reeves noted that during its July meeting, the Planning Commission had requested from the Applicant all these items (based on staff’s June 24th review comments). She noted she had to enlarge the August 2nd Site Plan because it was not large enough to read. She explained that her comments to the August 2nd Site Plan are the next set of comments in the staff report (beginning on Page 3 of the staff report).

She then addressed Item No. 2 from staff’s review comments to the August 2nd Site Plan:

“2) Concrete blocks are identified on the Plan to help separate the parking area from the fire lane. Two of these blocks are proposed in the Southwest parking area, but 4 parking stalls are shown south of the concrete blocks. These parking spaces will need to be removed and the total count of parking spaces will need to be revised, or the concrete blocks need to be relocated south of the parking spaces. Please make sure the traffic aisle remains wide enough to accommodate 2-way traffic.”

Reeves explained because the parking lot is graveled there are no stripes for parking spaces. So, the Applicant is using concrete blocks to identify the fire lane and prevent parking in it. She pointed out that on the Site Plan some of the concrete blocks are being proposed in the parking area west/southwest of the youth activities building; however, there are parking stalls shown south of these blocks. She noted either the blocks or those parking spaces need to be relocated on the Site Plan.

Elliott read aloud the following portion of Item No. 3 from staff's review comments to the August 2nd Site Plan:

"3) The proposed parking area south of the proposed Youth Building doesn't appear to have any ingress/egress . . ."

Reeves explained parking is shown in various areas south and west of the proposed youth activities building. She then displayed the Site Plan with her markups, and pointed out some of the parking at the southwest corner of the proposed youth activities building must be eliminated in order to create space for ingress/egress for the parking lot south of that.

Elliott commented he has no questions on Item No. 4:

"4) Please identify the designated fire lanes on the site plan with hatching or shading so it is clear where the fire lanes are designated. Please also include the width of each lane and indicate whether this is one way or two-way traffic."

He further noted it appears Item Nos. 6, 7, and 8 are all related to parking:

"6) Based on the use of the proposed Youth Activity building, the minimum number of required parking spaces as a "recreational facility" is 20 based on a rough measurement of the floor area outside of the bathrooms. 1 of the spaces will need to be ADA van accessible. I counted approximately 28 parking spaces south of the proposed Youth Building. As noted earlier, some of the other spaces shown along the west side of this parking area will need to be removed, in addition to some of the spaces located along the east side of the Youth building to allow ingress/egress into the south parking area. Even with those spaces being removed, I believe you will comply with the minimum number of parking spaces needed for this building.

7) Not all of the proposed parking spaces comply with the minimum width/length required by the zoning regulations. However, the "minimum" number of parking spaces is already provided on the site plan. I realize you're trying to create as much parking area as possible since the parking lot isn't paved, and parking spaces cannot be delineated, and people likely take more space than normal to park. I'm making this point to make sure it's on record that even though some of the parking spaces don't comply with minimum standards, you're providing more than the minimum number required to compensate for extra space people may use to park.

8) Any parking areas that encroach the floodplain will require a Floodplain Development Permit. Please use caution when grading or adding rock near these areas."

Reeves expressed she understands what the Applicant is trying to accomplish. She explained because the parking lot is graveled, parking spaces cannot be delineated, and parking is not evenly spaced. Therefore, the Applicant is proposing to add parking in various locations.

Regarding Item No. 6 she noted the parking shown south of the proposed youth activities building is sufficient to accommodate that building if the floor area outside of the restrooms is calculated. However, some of those parking spaces will have to be eliminated to create ingress/egress to the parking area to the south. She advised the Applicant should keep this in mind regarding the total number of parking spaces.

Regarding Item No. 4 Reeves expressed it is important everyone knows where the fire lanes will be located. Using hatching or shading on the Site Plan to mark the fire lanes will help Planning staff as well as the building inspectors.

Elliott noted if the Applicant provides this staff report to their architect and their engineer, to make all the requested corrections, the architect and engineer likely will need to make other small modifications in this process. He asked staff what the likelihood would be of the revised Plans being approved.

Reeves responded she thinks the revised Plans would then be in a format that could be approved. She explained she wants to ensure the Planning Commission has enough information to make a good decision.

Elliott asked if, as part of the Planning Commission's recommendation of approval, the Planning Commission could also stipulate all these outstanding items must be satisfied before the Application can proceed to the Board of County Commissioners.

Reeves answered the Planning Commission could do so, however she is concerned about not specifying a date for the Application to be presented to the County Commission.

Elliott asked when the Application would be presented to the Board of County Commissioners if the Planning Commission approves it tonight.

Reeves answered the soonest would be three weeks following the Planning Commission meeting to allow time for a protest petition; but beyond that period, it could be any week after that.

Elliott asked if the Planning Commission specified some date in the future the Application would be presented to the Board of County Commissioners if the Application would not go to the County Commission until that date.

Reeves confirmed.

Menefee commented if the Planning Commission specified a date that is five or six weeks into the future, he believes that would be enough time to make corrections as simple as these.

Elliott expressed the Applicant has provided most of the intent. He noted some technical issues clearly have not been addressed, which is further complicated by the fact the Site Plan versions, etc. don't match up. However, he doesn't believe those outstanding corrections would necessarily prevent the Application from going to the Board of County Commissioners if the Planning Commission includes a Condition that all outstanding items must be satisfied prior to approval. He then asked what would happen if the Application is presented to the County Commission before these outstanding items have been satisfied.

Reeves answered the Board of County Commissioners would either approve or deny the Application; or, they could send it back to the Planning Commission for further consideration.

Menefee commented that none of the outstanding items, which he considers to be technical issues on the Site Plan, substantially change the Narrative. He further commented seeing a cleaned-up Site Plan likely would not change his opinion.

Elliott agreed with Menefee, and explained the reason he asked staff to address this evening each of the outstanding items was to determine whether submittal of any of those items would cause him to change his opinion.

Oehlert questioned whether it is fair to put the onus on the Board of County Commissioners to make a decision, which should be made by the Planning Commission. He commented the Planning Commission should either approve this or postpone their decision.

Elliott clarified the Planning Commission makes only a recommendation to the Board of County Commissioners.

Broers reasoned, however, the Planning Commission would then be recommending something that is incomplete.

Menefee stated the Planning Commission could send it to the County Commission if an additional Condition of approval is included.

Oehlert expressed if the Planning Commissioners would like to approve this, then they should do so; but, the Conditions should clearly state if the Conditions aren't met by the time the Application is presented at the next County Commissioners' meeting, the Application will be held. He questioned, however, whether this would be fair to Planning staff.

Elliott commented he doesn't believe what the Planning Commission is being asked to approve (i.e., function, use, and activity) is impacted whatsoever by the outstanding items—poor drawings and inaccurate data. He has always believed the role of the Planning Commission is to determine whether the intent of the Zoning Regulations is being met. In this case, he believes incomplete technical data—and not intent—is the issue.

Oehlert recalled staff had previously reported when the Planning Commission does not clearly communicate its expectations in the recommended Conditions, staff encounters problems later

Elliott referenced recommended Condition No. 4, which he believes addresses this:

4. "An updated site plan needs to be submitted that includes staffs comments dated June 24, 2021; and September 2, 2021, as well as an amended Stormwater Plan to correct errors in the August 19, 2021 submittal."

Menefee agreed. He suggested the Planning Commission could just simply vote to recommend approval tonight (with Conditions). He commented that specifying all outstanding items must be submitted to staff in time for the upcoming County Commission meeting would not necessarily be fair to the Applicant or to the architect.

Broers noted it would be one month before the Planning Commission could consider this again—if the Planning Commission continued the meeting for this Application to next month; otherwise, this would go to the Board of County Commissioners in three weeks. She reasoned the actual time lost by the Applicant is three weeks for the Planning Commission to clearly understand what the Applicant is specifically proposing.

Oehlert stated if the Planning Commission continues the meeting for this Application to the October 5th meeting, it would not go to the Board of County Commissioners until the last week of October.

Elliott stated this would delay the Applicant seven weeks.

Broers reasoned it would be a delay of one month. She explained if the Planning Commission includes an additional Condition of approval, this can be presented to the Board of County Commissioners at the end of this month.

Broers expressed her appreciation to Reeves for taking some ownership in the delays. She pointed out, however, that a number of these outstanding items were identified during the July meeting.

Reeves confirmed this is correct, and added that the items requested during the July meeting are highlighted on Pages 2 and 3 of the staff report.

Broers asked Reeves to confirm the Applicant had submitted the revised Site Plan to staff just before last month's meeting.

Reeves confirmed, and acknowledged everyone is swamped with work, including engineers and architects.

Oehlert commented whether the Planning Commission recommends approval tonight or votes to continue the meeting for this Application, the Planning Commission must clearly communicate its expectations; and the Applicant must receive very specific direction to proceed. He commented it is not necessary to continue the meeting for this Application to the October 5th meeting if the Planning Commission recommends approval tonight, based upon specific Findings, and subject to certain Conditions, which must be met.

Elliott requested the Chair's permission to ask the Applicant a question. Oehlert consented and invited Mr. Gerken to come forward.

Elliott asked Mr. Gerken for his input on what he believes would be a reasonable process to move forward.

Mr. Gerken stated he will do whatever it is the Planning Commission asks, but he hopes this will be moved on. He commented he agrees with Menefee it would be enough time if the Planning Commission sets a date five weeks from now for this to be presented to the County Commission; and he'll make sure the corrections are completed by then.

Mr. Gerken reported he waits until he believes he has received all of staff's comments before sending them to the architect to make corrections to the Site Plan, and explained this is because it seems to him whenever he submits a revised Site Plan to staff, they often request new corrections. He added the architect charges him by the hour, so he prefers to take the entire list of corrections requested and meet with the architect in person so the two of them can make those corrections together, and all at once.

Elliott noted the Planning Commission has just addressed all outstanding items, which are in the meeting packet, so Mr. Gerken should be able to do that.

Mr. Gerken responded he'll have these outstanding items completed within the timeframe specified; however, he believes three weeks' time will be difficult because he doesn't know what availability the architect will have to meet with him. He added the church is not his only job.

Elliott reminded Mr. Gerken that staff must also review the revised Plans beforehand.

Gerken acknowledged staff will need a certain amount of time to review what is submitted. He commented, however, that time is money when purchasing building materials; and, with winter coming, if the building project doesn't begin within a certain period, it will be March before they can break ground.

Elliott asked Reeves for her input.

Reeves responded staff will work within whatever timeline the Planning Commission specifies.

Elliott expressed if staff needs the meeting for this Application to be continued to the October 5th meeting to allow sufficient time to review corrections to the Plans, then the Planning Commission should continue it. He also noted staff is welcome to suggest a deadline for the Applicant's submittal of the outstanding items to Planning staff.

Reeves answered staff would prefer the meeting for this Application be continued to October 5th. However, she also understands the Applicant's time constraints.

Elliott asked when the Board of County Commissioners would consider this Application if the Planning Commission approved the Application at the October 5th meeting.

Menefee answered it would go to the County Commission on October 27th.

Kitchen asked on what date the Application would go to the County Commissioners if the Planning Commission approves this tonight, subject to all Conditions being met; if tomorrow, the Applicant submits to staff all outstanding items; and if tomorrow, staff has the opportunity tomorrow to review all of the revisions and determines all Conditions are satisfied.

Reeves answered there would be a two-week delay and then she would submit it for the County Commission's agenda. So, it is usually presented to the Board of County Commissioners usually about three weeks after the Planning Commission meeting.

Elliott advised the motion should include the specific date on which the Application will be presented to the Board of County Commissioners.

Menefee explained the two to three-week delay, as noted by Reeves, provides the opportunity for neighboring property owners to file a protest petition.

Reeves agreed, and added if the Planning Commission decides tonight to approve the Application, the period for filing a protest petition begins tomorrow and runs two weeks.

Elliott asked by what date staff would need to receive all outstanding items if the Planning Commission continues the meeting for this Application to October 5th.

Reeves answered staff would need to receive the outstanding items at least two weeks prior to October 5th.

Elliott concluded this would then give the Applicant a maximum of two weeks to submit these outstanding items to staff.

Reeves confirmed.

Oehlert suggested a motion be made to approve the Application, subject to specific Conditions, so it can then be presented to the Board of County Commissioners on September 29th. He added this would then put the onus on staff to ensure all Conditions have been met before issuing building permits.

Menefee commented he believes the Board of County Commissioners will want to see a completed Site Plan before they are willing to approve the Application; and it is unlikely the Applicant will be able to supply a completed Site Plan in time for presentation to the County Commission on September 29th nor in time for even the October 5th Planning Commission meeting.

Kitchen added staff will need two weeks to review the completed Site Plan.

Oehlert asked staff if there is any precedence regarding holding an Application until all Conditions recommended by the Planning Commission have been met. He also asked if the Planning Commission has the flexibility to delay when an Application is presented the Board of County Commissioners. Oehlert expressed he wishes the County Counselor was in attendance this evening.

Reeves answered the Planning Commission must adhere to the adopted Planning Commission calendar, which also includes the dates an application will go to the Board of Commissioners. If the Planning Commission determines an application is incomplete or more information is needed the Planning Commission can continue it. However, it cannot be continued indefinitely.

Oehlert asked whether some statute would be violated if the Planning Commission makes a decision tonight and publicly announces during tonight's meeting the date of the County Commission meeting, but staff doesn't present the Application to the County Commission meeting until a later date.

Reeves answered she is not aware this would violate a statute.

Oehlert asked what would happen if someone attends the County Commission meeting on the date specified and publicly announced by the Planning Commission, expecting an application to be presented to the County Commissioners, but staff does not present it.

Reeves answered unless the Planning Commission specifies another date for the Application to be presented to the Board of County Commissioners, she is required to present it on September 29th, per the 2021-2022 calendar the Planning Commission adopted. According to the statute (K.S.A. 12-757(f)) an application cannot be presented to the Board of County Commissioners until the 14-day period for protest petitions has expired. When considering the 14-day protest petition period, as well as the fact the Planning Commission meets on a Tuesday and the Board of County Commissioners meets on Wednesdays, the period of time to place a CUP Application on the County Commission agenda is three to four weeks.

Reeves reminded the Planning Commissioners that an applicant, as well as the property owners within the 1,000' notification area, need to know when an application will be considered by the County Commission. She explained it is a matter of transparency.

Elliott asked if the Applicant submits a building permit application through the Building Inspection Department, but the Conditions of the CUP have not yet been met, whether the building permit would be issued.

Reeves answered if the Planning Commission included this as a recommended Condition, then the building permit would not be approved. She reported the Applicant has already submitted a building permit application, which is what prompted this Application for expansion of their existing CUP.

Elliott then read aloud recommended Condition No. 4:

4. "An updated site plan needs to be submitted that includes staffs comments dated June 24, 2021; and September 2, 2021, as well as an amended Stormwater Plan to correct errors in the August 19, 2021 submittal."

He asked staff to confirm if the Applicant does not submit the items noted in this Condition the building permit would not be issued.

Reeves answered it would not be issued, because submittal of those items is a Condition of approval.

Elliott asked the Planning Commissioners if there are any Conditions they would like to add before he makes a motion.

Broers asked Mr. Gerken for clarification regarding what it is the Planning Commission is being asked to approve tonight. She noted the proposed addition to the LP Kids building has been removed from the most recent version of the Site Plan, but is still included in the Narrative.

Mr. Gerken answered the Planning Commission is being asked to approve the youth activities building, and explained the possible, future addition to the LP Kids building was included in the original Site Plan due to his misunderstanding. He stated for now he will remove from the proposal that building addition because he has no plan or finances in the near future to build it. He commented he will just tackle that when the time comes.

Elliott asked Gerken to clarify what is no longer being proposed.

Gerken answered, "Attaching that on the whole length of the LP Kids building". He added the Planning Commission is being asked to approve the youth activities building because that is what the church would like to build now.

Broers asked Mr. Gerken to confirm the Applicant is requesting approval of the 7,200 square foot youth activities building, and is striking the 2,400 square foot addition to the LP Kids building.

Mr. Gerken answered "Yes" to both.

Oehlert reminded Mr. Gerken this means the Applicant will be required to come before the Planning Commission when they are ready to build the addition to the LP Kids building.

Gerken confirmed he understands, and commented he does not want to pay an engineer now for drawings he may never use.

Elliott explained to Mr. Gerken a Site Plan and a Stormwater Plan are what is required at this time for the Planning Commission to approve the future 2,400 square foot addition to the LP Kids building. He further explained the reason the Planning Commission wants to verify the addition to the LP Kids building is being removed from the proposal is the addition could be approved now, as part of this Application, so long as is included on the Site Plan and Stormwater Plan approved by the Planning Commission. Therefore, the church will not have to apply for an expansion of the CUP if they decide in the future that they want to pursue the addition to the LP Kids building. Rather, they would be applying for a building permit. Elliott noted fire codes, etc. would still have to be met but the Planning Commission would not be involved.

Mr. Gerken indicated he understands. He then reported that after discussing this with the fire engineer he does not think he is going to be able to afford the addition anyway. He also does not think there would be enough water pressure to build the addition in the future because the church would be required to install sprinklers or a different fire protection system. He expressed he is fine with removing from the proposal the addition to the LP Kids building, and stated the church will figure something else out.

Broers asked in which building showers are being proposed.

Reeves answered that the showers are proposed for the youth activities building.

Elliott then addressed Finding No. 1, and noted the portion which states “and future 2400 sq ft addition onto the LP Kids building” should be struck:

1. “The proposed conditional use permit for the construction of a 7200 sq ft youth activity building and future 2400 sq ft addition onto the LP Kids building, are appurtenant facilities to the existing church and commonly associated uses of the church. The public / community use of the ballfields, youth activity building and events in other buildings on the property that are not commonly associated with church activities are not permitted with the approval of this CUP expansion.”

Menefee noted recommended Condition No. 1 also includes the LP Kids Building addition:

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 as part of this CUP.”

Elliott then moved to approve the Application to amend the existing conditional use permit for a church facility, based on staff’s Findings and subject to staff’s recommended Conditions, except the Findings and recommended Conditions shall be amended by striking references to the 2,400 square-foot addition to the LP Kids building.

Menefee seconded.

Oehlert restated the motion, and noted the Planning Commission is not recommending a date for the Application to be presented to the Board of County Commissioners, other than the date that is published on the adopted 2021-2022 Planning Commission calendar (September 29th).

Elliott agreed and added this puts a lot of onus on the Applicant to get the job done and to submit everything to staff in the next two weeks.

Oehlert commented he does not know it necessarily must be in the next two weeks if the Planning Commission is approving the Application subject to Conditions, which must be met before a building permit may be issued.

Elliott agreed.

Oehlert once again restated the motion, noting the Planning Commission is recommending approval of the Application as submitted, based on staff’s recommended Findings, and subject to the recommended Conditions in the staff report, except the Findings and recommended Conditions shall be amended by striking all references to the 2,400 square-foot addition to the LP Kids building.

Elliott confirmed Oehlert has correctly summarized / restated the motion.

The remaining Planning Commissioners indicated they understood the motion.

The motion passed unanimously, 6-0, via roll call vote.

Findings for Approval

1. The proposed ~~conditional use permit for the construction of a 7200 sq ft youth activity building and future 2400 sq ft addition onto the LP Kids building,~~ *are is an* appurtenant *facilities facility* to the existing church and *is a* commonly associated uses-of the church. The public / community use of the ballfields, youth activity building and events in other buildings on the property that are not commonly associated with church activities are not permitted with the approval of this CUP expansion.
2. Restriction of the ballfields, youth activity building and other buildings and parts of the property to church related functions excluding public / community access for more intense uses such as organized sports, ball games, practices, and tournaments, and events not commonly associated with a church protects the rural character of the neighborhood and reduces negative impacts such as excessive noise and traffic commonly associated with such types of uses.

Recommended Conditions

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 as part of this CUP.
2. Approval of this Conditional Use Permit (17005-CUP) incorporates the previous Conditional Use Permit (13002-CUP, approved on May 29, 2013 by Resolution R13-050-020, and 17005-CUP by Resolution R18-02-006) with the exception of the daycare. Upon approval of 17005-CUP approved on February 21, 2018, the previous conditional use permit (13002-CUP) was considered null and void.
3. Any illumination associated on the new building ~~or addition~~, parking or outdoor activities shall be shielded so that the light source (bulb) is not visible from, and so that it does not cast light upon, adjacent properties or rights-of-way. Any lighting for the parking areas or other portions of the site shall not exceed twenty-five (25) feet in height and shall adhere to standards for parking lot lighting outlined in the zoning regulations.
4. An updated site plan needs to be submitted that includes staffs comments dated June 24, 2021; and September 2, 2021, as well as an amended Stormwater Plan to correct errors in the August 19, 2021 submittal.
5. The storage building shall only be used for storage purposes and shall not be used as a meeting place. Any change in use shall require approval of an amended conditional use permit and change of occupancy with code footprint.

6. The term of this conditional use permit shall remain February 21, 2028, as approved with Resolution No. R18-02-006.
 7. *Uses that are listed as separate Conditional Use Permits in the Countryside district or are listed as uses permitted in more intense zoning districts must have separate zoning entitlement and are not allowed to occur in conjunction with this CUP.*
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GENERAL DISCUSSION

Reeves reported that staff, Economic Development Director Janet McRae, the Building Codes Director, and Road & Bridge Director J.R. McMahon met with potential applicants regarding a proposed mini fiber mill. Reeves noted the proposed use appears to be a blend of agriculture and industry; therefore, she is seeking the Planning Commissioners' input regarding whether this use may be considered as a CUP in the Countryside (CS) zoning district. She then distributed the pre-application Narrative for a mini fiber mill.

Menefee asked staff to confirm the Planning Commission is providing only their opinion at this time, and is not making a decision.

Reeves confirmed. She further explained the proposed use would normally be considered an agricultural use, except the materials to be milled will not be from animals raised on the property.

Menefee asked if the potential applicants own any of their own animals.

Reeves answered the potential applicants plan to raise a small number of their own animals, but most of the fiber materials will be shipped in, which eliminates agricultural use by right.

Elliott noted the potential applicants are proposing only a couple of employees.

Reeves confirmed. She then pointed out photographs of the machinery typically associated with such a mill.

Kitchen asked how the proposed use compares to a winery that uses grapes grown mostly offsite.

Reeves answered that wineries are required to produce a certain percentage of grapes onsite; and there are statutes, which specifically address this.

Oehlert asked if the potential applicants could find another location.

Reeves answered this is possible; however, the potential applicants prefer to utilize their personal property. She explained certain uses are allowed by right; certain uses require a CUP; and certain uses are considered home occupations.

Oehlert asked about possible impacts, such as noise, to the neighbors.

Reeves reported that staff asked the potential applicants this same question and were told the sound inside the mill would generally be approximately 60 decibels, and 70 decibels at most.

Reeves asked the Planning Commissioners whether they believe the use proposed could be considered appropriate for this zoning district, upon the approval of a CUP; or, whether staff should advise the potential applicants the use should occur on a property with Industrial zoning.

Kitchen asked whether using the grinder mixer on his property to grind someone else's corn would be considered an agricultural use; and if so, whether it would still be considered agricultural if this was the primary function of his property.

Reeves answered, by definition, it would not be an agricultural use. However, she would need to review the Regulations regarding grain processing to confirm that.

Oehlert asked whether the Pioneer Seed business formerly located south of Paola, was an agricultural or industrial use.

Reeves reported that as Pioneer was selling the seed, the business had to be in a Commercial zoning district.

Menefee commented he sees how the proposed use could be industrial; however, he also considers this an agricultural processing business.

Reeves noted it is a value-added product.

Menefee commented he would advise the potential applicants to purchase the amount of sheep required to qualify as an agricultural operation.

Reeves reported the potential applicants have 15 acres.

Elliott asked Reeves what harm there would be in having the potential applicants apply for a CUP.

Menefee asked what the cost to the applicant would be just to file the initial CUP.

Reeves answered it is \$720, plus postage. (Staff Note: the CUP application fee is \$770, plus postage.) She noted that most of the time 10-12 surrounding property owners are required to be notified of a CUP application.

Elliott commented he would advise the potential applicants of their option to go to an area with Industrial zoning and their option to apply for a CUP under their current zoning. However, he cannot make any guarantees on the outcome of a CUP application, as it will all depend upon road access and additional information submitted.

Menefee noted if the potential applicants chose to do this as a hobby, the County would not regulate the use.

Reeves confirmed this is correct.

Oehlert commented he believes everyone deserves a hearing.

Reeves explained she needs the Planning Commission's direction regarding whether the proposed use is agricultural or industrial.

Oehlert commented he believes this would be an Industrial use.

Reeves agreed, but noted she sees it both ways. She added that the only way the potential applicants may utilize their property in this way is with a CUP. She noted the property also has a residence.

Menefee asked if the subject property is south of Louisburg.

Reeves confirmed.

Menefee commented this is a rather populous area, which also consists of some nice homes.

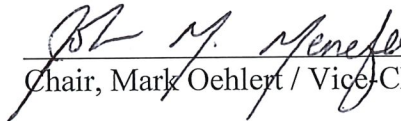
The Planning Commission then briefly discussed the State's stance regarding the regulation of wineries that utilize grapes grown offsite.

ANNOUNCEMENTS BY STAFF / COMMISSIONERS

There being no further general discussion, and no announcements, Elliott moved to adjourn the meeting, Menefee seconded, and the meeting was adjourned by unanimous vote, 6-0, at 8:40 p.m.

Approved this 5th day of October, 2021.


Angie Baumann, PC Secretary


Chair, Mark Oehlert / Vice-Chair, John Menefee

Minutes written by Angie Baumann