MINUTES OF THE
MIAMI COUNTY PLANNING COMMISSION
DECEMBER 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	Joshua Brown, Kelli Broers, Kevin Collins, Phil Elliott, and Bret Manchester
ABSENT MEMBERS:	Randy Kitchen and Mark Ross
EX-OFFICIO MEMBERS:	None present
PLANNING DIRECTOR:	Teresa Reeves
COUNTY COUNSELOR:	Not Present
PLANNER:	Katie Jardieu
PC SECRETARY:	Angie Baumann
ECONOMIC DEVELOPMENT	Not Present
COUNTY COMMISSION:	None Present
COUNTY CLERK:	Not Present
PRESS:	Not Present

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MINUTES

DECEMBER 7, 2021

MIAMI COUNTY PLANNING COMMISSION

CALL TO ORDER

Chairman 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. Kitchen and Ross were absent.

DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST

Chairman Oehlert disclosed he has two potential conflicts of interest regarding 21004-CUP: Patton Structural Solutions and 21004-Z: Doherty Steel, Inc. He noted he will therefore recuse himself from the hearings for these two items.

ADOPTION OF THE AGENDA

In light of his disclosure, Chairman Oehlert requested amending the Regular Agenda by placing the New Business items Public Hearing 21003-Z: SPA Farms, LLC (Item VII.B.2) and 21009-SUB: Final Plat of SPA Farms (Item VII.B.3) ahead of Public Hearing 21004-CUP: Patton Structural Solutions (Item VII.B.1.).

Menefee moved to adopt the Agenda, with the amendments as requested by Chairman Oehlert. Collins seconded, and the motion passed unanimously, 7-0.

CONSENT AGENDA

- **October 5, 2021** Planning Commission Minutes
- **Final Plat** | 21007-SUB: Moore-Carroll Estates
- **Final Plat** | 21008-SUB: Phillips Acres

With regard to the two Final Plats on the Consent Agenda, both of which propose to divide property utilizing Agricultural Preservation Subdivision standards, Elliott asked what happens when property owners want to further divide agriculturally preserved tracts.

Reeves explained the Planning Commission recommended, and the Board of County Commissioners adopted, an amendment to the Regulations several years ago that allows an agriculturally preserved tract to be rezoned and further divided when the surrounding area is

determined to be ripe for development. Until the surrounding area becomes denser, an agriculturally preserved tract must remain in agricultural use.

Elliott asked if staff has clearly communicated to the Applicant that the 80-acre agriculturally preserved tract (proposed Lot 2) cannot be divided further until it meets that criteria.

Reeves is not certain this was clearly conveyed to the Applicants. She reported, however, with regard to the Final Plat of Moore-Carroll Estates the purchasers of proposed Lot 2, the agriculturally preserved tract, have indicated to staff they have no intention of dividing it.

Elliott commented Agricultural Preservation Subdivisions have been a point of contention, which is the reason the Planning Commission recommended amending the Regulations several years ago. He is concerned there will be problems when relatively large agriculturally preserved tracts are created in this region of the County. Elliott encouraged staff to clearly communicate those Regulations to applicants.

Broers asked if the Minutes should be voted upon separately from the remainder of the Consent Agenda. She explained she needs to abstain from voting on the October 5, 2021 Minutes because she was not present for that meeting.

Oehlert responded Broers may abstain if she is not comfortable voting, based upon her reading of the information in the meeting packet.

Oehlert pointed out Page 7 of 12 and Page 9 of 12 of the October 5, 2021 Minutes note two different County Commission dates (October 20, 2021 and October 27, 2021) and asked staff to confirm this is correct.

Reeves responded she is not certain but will check into it.

(**Staff Note**: Page 7 of 12 of the October 5, 2021 Minutes notes that Reeves announced the Final Plat of Phillips would be presented to the Board of County Commissioners on October 20th. Page 9 of 12 of the Minutes notes that Reeves announced the Conditional Use Permit for Lexington Hall Stables would be presented to the Board of County Commissioners on October 27th—one week later. Reeves correctly announced both dates, and both follow the 2021-2022 calendar adopted by the Planning Commission.)

Oehlert asked for a motion to adopt the Consent Agenda. Elliott moved to adopt the Consent Agenda. Collins seconded, and the motion passed with six (6) in favor and one (1) abstaining (Broers).

REGULAR AGENDA

Old Business:

None.

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New Business:

Public Hearing - 21003-Z: Rezone from Light Industrial (I-1) to Agricultural (AG)

Katie Jardieu presented the staff report for consideration of an application to rezone approximately 326 acres from Light Industrial (I-1) to Agricultural (AG), in accordance with Section 22 of the Miami County, Kansas Zoning Regulations. The subject property is located on the south side of 215th St, the north side of 223rd St, and the west side of State Line Rd, in the East Half of Section 22 and in the West Half of Section 23, Twp. 15, Range 25, Wea Twp. Submitted by Gerry Starr, Managing Member of SPA Farms, LLC, the property owner of record.

She then addressed each of the *Golden Criteria* to be considered by the Planning Commission when making Findings to approve or deny the request. With regard to Criterion No. 10, she noted a Stormwater Management Plan is required for all conditional use permits. However, staff would ask the Planning Commission to consider an exemption from this requirement due to the large amount of acreage, most of which is open pastureland, and the fact that less than one acre is proposed to be improved.

Staff recommends approval of the requested Rezoning from Light Industrial (I-1) to Agricultural (AG), based on the Findings provided in the staff report.

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

Gerry Starr (5306 W. 164th Place, Overland Park) approached the podium and stated he intends to reside on the property and use it agriculturally, as well as keeping cattle and horses. He explained the subject property has a significant amount of rolling terrain, which does not lend itself well to any use other than agriculture. Mr. Starr expressed it is natural to rezone the subject property to Agricultural.

Oehlert noted the portion of the property proposed to be subdivided appears to have been sold.

Mr. Starr explained three families—Starr, Petersohn, and Andersen—purchased the subject property together as "SPA Farms". Each family intends to deed an approximate 20-acre parcel to themselves to reside on and use agriculturally; and will maintain the remaining acreage as an operating farm.

There being no additional questions for the Applicant, Oehlert opened the public hearing and invited public comment.

Kathy Burton (400 W. 220th St., Belton, MO) approached the podium and explained she lives on the Santa Fe Farms cul-de-sac off of State Line Road, east of the subject property. She stated her main concern is flooding from increased stormwater runoff if a large amount of cement or asphalt is planned for the subject property. Ms. Burton reported flooding is already an issue in this area; and, she has heard houses will be built along State Line Road. She also noted that State Line Road is a gravel road and is not in good condition. She indicated additional development along this road will create further wear and tear. Ms. Burton would like to know how many new houses are proposed to be built; and, if a large amount of pavement is planned to go on the subject property, whether there is a plan for the management of stormwater to prevent flooding in additional areas.

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Tim Gallion (22001 S. State Line Rd., Belton, MO) approached the podium and expressed he echoes Ms. Burton's concerns regarding stormwater runoff and the condition of State Line Road.

Oehlert twice invited additional comments from the public. There being no additional comments, Oehlert closed the public hearing and asked staff to address concerns raised during public comment.

Jardieu explained that density in the Agricultural (AG) district is one (1) residential structure per 20 acres. She explained the Applicants are proposing four (4) Lots, with the smallest being approximately 21 acres; therefore, the Applicants meet the minimum density requirements for the AG district. She reported that the Regulations do not require paved driveways; and gravel driveways are permissible. Although she cannot speak to stormwater runoff, she can confirm that only single-family residential and agricultural uses would be permitted. She added that the property owners wouldn't be able to install large amounts of concrete that wouldn't be relevant to agriculture or a single-family residence.

A member of the audience asked where on the subject property the Lots are proposed to be located.

Oehlert asked staff to display the proposed Final Plat of SPA Farms.

Reeves announced the Applicant would like to address the Planning Commission.

Mr. Starr approached the podium and noted on the displayed Final Plat of SPA Farms the location of the top of the hill (on the east side of proposed Lot 2, approximately 0.4 miles south of the intersection of 215th Street and State Line Road). He explained stormwater runoff from proposed Lot 2 runs (north) to a creek at the bottom of the hill. Mr. Starr then noted the locations of the Petersohn, Andersen, and Starr residences on proposed Lots 2, 3, and 4, respectively, all of which are proposed to be set back a significant distance from State Line Road. He also noted an existing pond on proposed Lot 1, located north of proposed Lot 4, and explained the pond will capture stormwater runoff from proposed Lot 4. Mr. Starr stated stormwater runoff from the proposed residences will run north, toward the creek at the bottom of the hill; and, to his knowledge, there will be no additional runoff toward State Line Road. He commented it is fortunate only three residences will be constructed on 330 acres, and concluded the impact on stormwater will be quite minimal.

Elliott advised that the discussion be refocused on the Applicant's request to Rezone from Light Industrial (I-1) to Agricultural (AG).

There being no further questions for the Applicant or staff, Oehlert announced his willingness to entertain a motion.

Elliott commented Rezoning the property to Agricultural not only corrects the zoning for this property, but also realigns it with the Comprehensive Plan and the overall land use of the area. He then moved to recommend approval of the request to Rezone, based on the Findings presented by staff. Menefee seconded the motion, and the motion passed unanimously, 7-0, via a Roll Call vote.

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Jardieu announced this item will go before the Board of County Commissioners on December 29th at 1:00 p.m.

Findings for Approval

1. The proposed Rezoning conforms to the Goals and Objectives for Agricultural and Rural Residential land uses in the Comprehensive Plan.
2. The proposed Rezoning to the Agricultural district is more compatible with the surrounding zoning and character of the neighborhood.
3. The Agricultural zoning district allows a single-family residence as an allowed use; therefore, the existing residences will become conforming upon approval of the requested Rezoning.

21009-SUB: Final Plat of SPA Farms

Katie Jardieu presented the staff report for consideration of the Final Plat of SPA Farms, a Standard Subdivision, dividing approximately 145 acres into four (4) lots ranging in size from 21.03 acres to 78.31 acres. The subject property is located at the northwest corner of 223rd St and State Line Rd, in the Northeast Quarter and part of the Southeast Quarter of Section 22, and in the Northwest Quarter and part of the Southwest Quarter of Section 23, Twp 15, Range 25, Wea Twp. Submitted by Gerry Starr, Managing Member of SPA Farms, LLC the property owner of record. This application is submitted in conjunction with, and subject to the approval of a request to rezone (#20003-Z) approximately 325.86 acres from Light Industrial (I-1) to Agricultural (AG).

Jardieu noted the subject property is currently located within Johnson County Rural Water District No. 1, but the Applicant is working to transfer to Miami County Rural Water District No 2. and to obtain rural water service for each Lot. She reported staff has received a letter from Miami County RWD No. 2, which is included with the meeting packets, and which confirms the availability of rural water service for each Lot.

Staff recommends approval of the proposed Final Plat of SPA Farms, based upon the Findings and subject to the Conditions in the staff report.

Elliott noted the previous Agenda item seemed to implicate two parcels, one being 239 acres in size and another being 86 acres in size. He asked if the pending Boundary Line Adjustment involves those same two parcels.

Jardieu clarified the Rezoning applies to three (3) parcels, one of which was created via an exempt lot split. She noted, however, the parcel created through the exempt lot split is not a part of the Boundary Line Adjustment. She confirmed the pending Boundary Line Adjustment reconfigures the two remaining parcels in such a way that the shared property line will run east to west rather than north to south.

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There being no further questions for staff nor for the Applicant or staff, Oehlert announced his willingness to entertain a motion.

Menefee moved to recommend approval of the Final Plat of SPA Farms, based upon the Findings and subject to the Conditions provided in the staff report. Elliott seconded, and the motion carried unanimously, 7-0, via a Roll Call vote.

Findings

1. Pending approval of the rezoning, the Subdivision complies with the Goals and Objectives of the Comprehensive Plan for the Agricultural District.
2. Pending approval of the rezoning, the Subdivision complies with the Zoning Regulations for the Agricultural District regarding lot area, lot dimensions, and Standard Subdivision criteria.
3. Pending approval of the rezoning the Subdivision complies with the Subdivision Regulations.

Conditions

1. Prior to recordation of the Final Plat, the pending Boundary Line Adjustment application shall be approved, and the survey recorded.
2. Approval of the Final Plat is contingent upon approval of the request to Rezone from Light Industrial (I-1) to Agricultural (AG). The Final Plat shall not be recorded unless and until after the Rezoning request is approved by the Board of County Commissioners.
3. Prior to recordation of the Final Plat, the subdivider shall pay for the installation of access on each Lot.

Public Hearing 21004-CUP: Patton Structural Solutions

Oehlert announced the Agenda item and turned the meeting over to Vice-Chair Menefee to preside. Oehlert exited Commission Chambers.

Reeves presented the staff report for consideration of an application for a conditional use permit for a contractors shop and/or yard, per Sections 8-2.02.4 and 14-2.01.1 of the Miami County, Kansas Zoning Regulations, to include an exterior laydown area; equipment storage yard; a 30’ x 60’ covered parking structure; and a 40’ x 60’ shop. The subject property of approximately two (2) acres is located on the south side of the K-68 roundabout, in the Northwest Quarter of Section 34, Township 16, Range 23, Marysville Twp., and is addressed as 27980 Hedge Lane, Paola. Submitted by Patton Structural Solutions, LLC, the Applicant. Country Investments One Stop, LLC is the property owner of record.

Reeves reported after this meeting packet was published the Applicant submitted an amended Narrative and an amended Site Plan, copies of which have been provided to the Planning Commissioners this evening.

She explained the amended Narrative clarifies the typical hours of operation will be Monday through Friday, 8:00 a.m. to 5:00 p.m.; typical vehicle trips per day will be three (3) to five (5) round trips; and semi-truck/tractor trailer trips will be one (1) trip per week. Reeves reported the amended Narrative does not clarify lighting, and staff wants to ensure the Applicant is aware all lighting must be of shoebox design and directed downward to avoid any offsite glare. Reeves noted she had asked the Applicant for additional information regarding whether the proposed 40' x 60' shop will be used for equipment maintenance or for storage of items or equipment. She is not certain if the Applicant addressed this in the amended Narrative; and if not, this must be addressed.

With regard to the amended Site Plan, Reeves noted the majority of the equipment storage will be in the equipment laydown yard. Reeves also noted it appears some of the grassy area along the south side of the subject property has been removed. Reeves then displayed the amended Site Plan. She pointed out a pink outline, which represents screening (privacy fence) along the south side of the property, and partially along the east and west sides of the property. Reeves stated screening will also be necessary along the north side of the subject property. She believes there are four or five parking spaces shown on the amended Site Plan, but commented they are difficult to see. Reeves noted the Applicant submitted the amended Site Plan today, which needs to be formatted differently, as it is very difficult to read in its current format. She reported after receiving the amended Site Plan today she asked the Applicant if the aerial photo layer can be removed so the legend and labels may be clearly seen.

Reeves reported the Applicant submitted, at approximately 4:00 p.m. today, the amended Stormwater Study. Staff has not had the opportunity to forward it to the engineer who performs these reviews on behalf of the County.

Reeves then addressed each of the *Golden Criteria* to be considered by the Planning Commission when making Findings to approve or deny the request. With regard to Criterion No. 8, Reeves reported staff is concerned the proposed use may be too intense for this size of property, which is two (2) acres or less. She explained a contractor's shop and/or yard in the Countryside (CS) and Agricultural (AG) zoning districts is required to be on at least five (5) acres if there is no open storage, and on 10 acres if there is open storage. Staff believes, however, if the proposed use can be adequately conditioned to mitigate potential negative impacts, the CUP should be approved.

With regard to Criterion No. 10, Reeves reported staff had notified the Applicant several weeks ago that a professionally prepared Site Plan was needed. However, staff did not send to the Applicant comprehensive review comments until last week. After sending those review comments, staff spoke with the Applicant, who advised he is making the necessary corrections and updates to the Site Plan, Narrative, and Stormwater Study to address staff's review comments and comments received from other departments. Reeves noted the amended documents have been submitted, and the amended Narrative and Site Plan are included as a supplement to this evening's meeting packet.

Reeves again noted the amended Stormwater Study was received at approximately 4:00 p.m. today. She reported the engineer who performs these reviews on behalf of the County had responded the initial Site Plan lacked several stormwater study elements; therefore, determination could not be made regarding the initial Drainage Plan.

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Staff is not certain the Planning Commission can make an informed decision without this information, and therefore recommends the Planning Commission continue this item to the January 2022 Planning Commission meeting to allow adequate time to review all amended documents.

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

Trevor Patton (602 E. Peoria St.) of Patton Structural Solutions, LLC approached the podium and described the nature of the business, which includes foundation repairs, house moving, house lifting, and general construction. He explained the proposed shop will be utilized for the storage of expensive equipment. Mr. Patton stated the business does not perform repairs or mechanic work for the public. With regard to potential noise impacts, he is confident the proposed use of the subject property, with the operation of skid steers 15 minutes per day, pickup trucks, etc. is minute compared to the noise from the five points of access to the roundabout and noise from K-68 Highway.

Mr. Patton noted the CUP Application was submitted on October 25th, and he did not receive comments regarding the submittal until Thursday, December 2nd, so he has been frantically trying to compile the necessary information. He displayed the amended Site Plan and noted it includes property lines, boundary lines, square footage of the property, existing grass, and proposed rock. With regard to screening, he noted it is shown on the south, east, and west sides of the subject property. He would be glad to screen the north side as well, if that is what is requested.

With regard to staff's concern the property may be too small for the use proposed, Mr. Patton commented nobody knows the business more than the business owners. He noted the owners have evaluated many different properties available throughout the County and would like to stay in Miami County. Mr. Patton reported they have a plan for properly utilizing this space for the needs of the business. He noted the business strives to maintain good, clean equipment and storage of equipment and materials.

Mr. Patton stated the amended Stormwater Study from Baldridge Engineering concludes there are no issues, and the proposed development of the subject property will not exceed any legal guidelines. Mr. Patton further stated that according to the amended Stormwater Study, any possible impact from the proposed development of the subject property would not affect surrounding properties.

Mr. Patton then clarified several additional Site Plan elements. He noted there will be a total of six (6) parking spaces; and he explained the purpose of the proposed covered parking structure is consolidation of trucks and equipment into one area. He pointed to the southeast corner of the subject property, and explained it will be screened and utilized for beams and cribbing, and for general use. Mr. Patton also clarified the existing house will be used as an office.

Menefee asked the Applicant to clarify if the circle pattern surrounding the buildings on the Site Plan represents a gravel surface.

Patton confirmed, and explained the point of entry will be from Hedge Lane; and the primary travel path will be counterclockwise.

Broers asked if the driving surface will be gravel or pavement.

Mr. Patton answered it will be gravel.

Manchester asked about the location of the septic system, and if it was installed when the manufactured home was moved onto the property.

Mr. Patton answered the septic system is in the southwest corner of the property, and was installed in 2002. He reported there are no issues with the existing system, and they will stay clear of it.

Mr. Patton noted the company is under contract to purchase the subject property. He further noted that they scheduled the closing date to provide time to do their due diligence and follow the proper procedures of submitting a CUP application for approval, as opposed to purchasing the property now and asking for forgiveness later. He expressed he is willing to provide any other information requested by staff or surrounding property owners.

Elliott asked Mr. Patton to describe specific items to be stored outside, including the relative height of those items.

Mr. Patton answered that pickup trucks, trailers, and two (2) semi-trucks for hauling steel beams and cribbing will be stored outside. He noted the height of the existing privacy fence is three and a half to four feet (3½ - 4'). He added that the majority of the items stored outside—cribbing, dollies, and beams—would be stacked no higher than that because they do not stack these items six or eight feet high. Mr. Patton also explained the subject property sits higher than Old KC Road, so the semi-trucks and pickup trucks would be seen from the road.

Broers noted staff's recommendation to continue this item, and asked Mr. Patton what impact this may have on the closing date.

Mr. Patton answered he has documentation that the water study is acceptable, he believes. He reported he has not yet received any objections to this proposal. Mr. Patton noted if it seems the request will be approved—pending the cleanup of clerical items, details, and font sizes, which they are more than happy to do—then they have no problem proceeding with the closing. He explained their goal is to get a general idea of whether the request will be approved.

There being no additional questions for the Applicant, Menefee opened the public hearing.

Delbert Walters (23415 K-68 Highway) approached the podium and explained he lives directly west of the subject property. He expressed he is concerned the property continues to be zoned Commercial because it hasn't had a Commercial use since prior to the County resuming zoning authority in the area; rather, the property has had a residential use. Mr. Walters stated he doesn't know Trevor Patton well, but has known his wife and her family for many years and believes they are good people. He reported he's driven past Patton's current business lot many times, and it is always neat and clean. However, he must also consider that he would be living just west of this; and, the use proposed is not what he would consider to be ideal for such a small piece of property.

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Mr. Walters stated he is a contractor and knows what it takes to move trucks around; and 1.91 acres is tight. He acknowledged Patton's current business lot is also tight, and they have been functioning well in that location.

Mr. Walters stated several of his questions regarding screening, have been answered this evening; however, he still does not know what type of screening is proposed, nor the height of that screening. He commented he definitely does not want to leave his house and see this every day, so screening would be helpful. He recommended a minimum height of six feet (6'), and also recommended the screening be at least a fence, and not just shrubs or trees. He reported he has spoken with a few of the neighbors, and this is not what they would love to see; however, he doesn't believe everyone should be telling you how to run your property.

Doyle Patton (32510 Oak Grove Rd.) of Patton Structural Solutions, LLC approached the podium and stated he votes "yes". He stated he has been in business for 20+ years, and reported the company moved its place of business to its current location a couple of years ago. He also noted he was previously operating the business from his place of residence in rural Miami County. He stated the business owners no longer want a landlord, and would like to set their roots to remain in Miami County. They believe the subject property is a perfect location for their business.

Mr. Patton stated they will use whatever screening they are asked to. With regard to potential noise impacts, he commented there will be more noise from the K-68 Highway roundabout than noise generated from their equipment going in and out of the subject property. He explained noise will be minimal because the employees will arrive in the morning, and then leave for the jobsite. He further explained most jobsites are anywhere from 20 to 300 miles away, some being as far away as Tulsa, Oklahoma, Nebraska, and Missouri. He reported the company had jobs in New Jersey for several years after Hurricane Sandy, and lifted over 350 homes during that time. Mr. Patton once again commented the subject property is a perfect location for their business. He added they want to do whatever they can to meet the County's needs and do whatever is required to make everyone happy.

Rick Chronister (28030 Hedge Lane) approached the podium and stated he lives directly south of the subject property. He expressed the proposed use is not what he would ideally like to see in that location, but it is what it is. He further expressed he is not completely against it; and with screening, he could probably live with it. Mr. Chronister doesn't believe noise will be significant. He once again commented he thinks he could probably live with the proposed use of the subject property.

Menefee twice invited additional public comment. There was no additional comment.

Elliott asked Reeves if the public hearing should be suspended, instead of closed, if the Planning Commission decides to continue this item to next month. He reasoned if the Planning Commission does not continue the item to next month, the public hearing can be closed this evening.

Reeves agreed, and noted that continuing the public hearing will give the public an opportunity to comment on the new proposal.

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Menefee announced he will not close the public hearing at this time. He then invited the Applicant to provide any further comments.

The Applicant declined.

Broers recalled the Planning Commission had recently considered an application, with an incomplete site plan. The Planning Commission continued the item; and, by the next Planning Commission meeting the site plan was still not complete. She recalled the Planning Commission ultimately felt comfortable making a recommendation of approval contingent upon the site plan meeting the Planning Department's requirements when submitted.

Menefee recalled the Planning Commission had also discussed at that time that the Board of County Commissioners wasn't going to approve the request anyway without a complete site plan.

Elliott noted Reeves had expressed concern regarding the Stormwater Study. He acknowledged the amended Stormwater Study has been submitted; however, as staff received it just this afternoon, they have not had the opportunity to forward it to the engineer who performs stormwater reviews on behalf of the County. Elliott noted the Applicant's engineering firm had basically concluded increased drainage requirements would not be necessary. He then read aloud the following from Baldridge Engineering's amended Stormwater Study:

> "If Miami County is aware of any flooding or storm water issues in the area, they may request that detention be applied."

Elliott stated the conclusion of the amended Stormwater Study is no detention is required.

He asked Reeves to confirm there are outstanding issues pertaining to the amended Site Plan.

Reeves confirmed, and added that the primary issue is she cannot read it in its current format.

Elliott stated, in consideration of public comments received and staff's comments, screening needs to be addressed—either as a Condition of approval or as part of the Site Plan.

Reeves confirmed.

Elliott asked Reeves if staff is concerned about anything else at this time.

Reeves responded the existing house cannot be used as such in this zoning district. She noted Trevor Patton clarified in his statements this evening that the existing house will be used as the business office. She also noted the Applicant testified this evening that they do not perform repairs or mechanic work for the public. Reeves assumes this means the Applicant will indeed be performing maintenance on their vehicles. She indicated the Applicant will need to comply with certain building codes if vehicles will be repaired or maintained inside a building on the subject property.

Reeves reported she had initially drafted potential Conditions of approval, but does not have them this evening.

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Elliott commented this is a situation of unfortunate timing. He expressed he wants to be respectful of the Applicant's time, which is the only reason he would consider attempting to address Conditions of approval tonight. Elliott believes the one item necessary for successfully mitigating impacts to surrounding properties is effective screening, which must be addressed. He noted that although the subject property is small in size, it is located in the Commercial zoning district, and the Zoning Regulations do not require a minimum property size for a contractor's shop or yard in that district.

Menefee agreed. He added that although the property is small, ultimately, it's up to the business to make it work.

Manchester cautioned in the event the existing septic system fails, the County may require a lagoon. He noted there is not enough room for a lagoon on two acres, especially with buildings on the property.

Reeves responded that in such a situation, she anticipates the property owners would likely be required to install a holding tank because a new wastewater system cannot be installed in the same location as existing laterals; and, there is not enough acreage for a lagoon.

Broers suggested adding as a Condition of approval that the existing residence can no longer be used as such. She also recalled from staff's presentation that the Applicant does not want a term limit.

Reeves confirmed, and noted she recommends placing a five (5)-year term on the CUP so it is reviewed to ensure the use remains compatible with the surrounding area.

Elliott commented he would be willing to entertain a 10-year term, but does not believe he can support a five-year term as that does not seem long enough. He reasoned if the Applicants are not in compliance with even one of the Conditions, the CUP can be revoked. He further reasoned if complaints are received regarding activities on the property, this could also prompt a review of the use prior to the expiration of the term.

Menefee noted staff has indicated the subject property is not necessarily the best location.

Reeves clarified it is it the size of the subject property that is a concern.

Menefee pointed out the subject property's proximity to K-68 Highway and US-169 Highway; its location on a paved road; and its Commercial zoning. He commented other than the size of the property, everything else makes sense.

Reeves suggested the Applicant may be able to clarify what they are proposing for screening. She noted one of the surrounding property owners has commented they would prefer a solid privacy fence. She believes they are referring to a chain link fence with opaque slats, which is typically not allowed in many jurisdictions. Reeves noted that although the Zoning Regulations do not regulate aesthetics, a nice privacy fence would be helpful to keep up the aesthetics in that area.

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Elliott reported he performed a quick search for the word "screening" in the Zoning Regulations to see how it is defined. He found various references to suitable screening, but what stands out to him regarding landscape screening is that the Zoning Regulations clearly specify it is to be year-round. He noted he is not necessarily supporting landscape screening; but if that's part of the Site Plan design, the Planning Commission must ensure this is clarified.

Elliott stated he believes the Planning Commission needs a more complete Site Plan; and, although he wishes he could determine a way to move this forward tonight, there are too many outstanding items for him to feel completely confident doing so. In consideration of the upcoming holidays, Elliott encouraged staff to do all they can to communicate to the Applicant what they need so the Planning Commission can take care of this in January.

Elliott then moved to table the item to the January meeting. Manchester seconded, and the motion carried with four (4) in favor (Brown, Collins, Elliott, and Manchester), two (2) against (Broers and Menefee), and one (1) abstaining (Oehlert).

Menefee announced the hearing is therefore continued to the January 4, 2022 meeting, and the public hearing is also continued to January 4th.

Public Hearing 21004-Z: Doherty Steel, Inc. - Rezone from Countryside (CS) to Heavy Industrial (I-2)

Reeves presented the staff report for consideration of an application to rezone approximately 34.3 acres (in addition to 7.14 acres rezoned in 1996) from Countryside (CS) to Heavy Industrial (I-2), in accordance with Section 22 of the Miami County, Kansas Zoning Regulations. The subject property is located on the north side of 311th St, approximately 1,700 feet west of Victory Rd and 3,800 feet east of Baptiste Dr, in the Southeast Quarter of Section 14, Twp. 17S, Range 23E, Paola Twp. Submitted by Chance Doherty, Vice-President of Doherty Steel, Inc, the property owner of record.

Reeves reported the subject property was issued a conditional use permit when it was located within the City of Paola Growth Area. The conditional use permit allowed them to expand, and the Applicant continues to do so. Reeves noted, however, expansions have reached such a point staff believes it is best to Rezone the subject property. She explained the Applicant has constructed berms on the south side of the property, along 311th Street; has created an extensive laydown yard; and plans to construct another building and implement a rail for the purpose of moving equipment in and out of the proposed building. She reported the Applicant is also requesting additional buildings.

Reeves reported staff has received comments from a couple of property owners located north of the subject property—one of whom operates a bed and breakfast facility—who have requested the addition of screening. Reeves noted the County can ask the Applicant to do so to offset some of the noise from the existing operation.

She then highlighted several of the *Golden Criteria* to be considered by the Planning Commission when making Findings to approve or deny the request.

Staff recommends approval of the requested Rezoning from Countryside (CS) to Heavy Industrial (I-2), based on the Findings in the staff report, as Rezoning provides an opportunity to

properly zone the parcel for its current and continued use.

Elliott referenced the following background information in the staff report:

> **"August 31, 2011:** The Interlocal Agreement between the City of Paola and Miami County was terminated via Resolution No. R11-08-028(a), thereby returning zoning, subdivision, and building permit authority solely to the County. Miami County recognized the existing zoning designation of I-2 on the 7.14 acres, recognized the existing CUP, and rezoned the remaining property as Countryside (CS)."

Elliott asked staff to explain why this logic would have applied at that time.

Reeves answered that the zoning designations for many properties in the County didn't match the City's zoning designations, such as "Thoroughfare Access", so the Planning Director at that time drove up and down the streets, observed the apparent uses of those properties, and then rezoned those properties to correlate with the uses observed.

Menefee asked if only a portion of the subject property was rezoned, rather than the entire property.

Reeves answered that 7.14 acres of the subject property were rezoned in 1996, and that zoning designation was retained when the Interlocal Agreement was later terminated. The remainder of the subject property had a CUP but no other zoning designation, so it was zoned Countryside (CS).

Menefee noted the Applicant is not present this evening.

There being no additional questions for staff Menefee opened the public hearing, and twice invited public comment. There was no public comment, and Menefee closed the public hearing.

Elliott expressed he would like to acknowledge the two comments submitted by neighboring property owners and understands their concern. However, this business operation has existed for many years; and, although it is expanding it is longstanding. Therefore, he is uncertain the Planning Commission, in their recommendation, should make any requests of the Applicant.

Menefee commented considering the nature of the operation, there is no screening that could adequately minimize the noise. He also questioned whether such a requirement could even be placed on the Rezoning.

Reeves responded a Condition cannot be placed on the Rezoning; however, Performance Standards may apply for the portion of the subject property already zoned I-2. She noted she would need to research to determine what was required when that portion of the subject property was rezoned. She advised the Planning Commission could ask the Applicant if they would be so kind as to install some trees along the north side to help buffer some of the noise. Reeves noted the portion of the subject property directly west of the portion already zoned I-2 will be Rezoned to Heavy Industrial (I-2), and will be required to be screened as part of the Performance Standards in the Zoning Regulations for the I-2 District.

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Elliott acknowledged screening will not minimize the noise when an I-beam is dropped on the subject property. He reasoned the noise will carry regardless of whatever measures are in place.

Manchester expressed he wishes the Applicant was present this evening so the Planning Commission could at least ask if they would be willing to plant trees. Manchester then moved to recommend approval of the requested Rezoning from Countryside (CS) to Heavy Industrial (I-2), subject to the Findings in the staff report. Broers seconded, and the motion passed unanimously via a Roll Call vote, with six (6) in favor, and one (1) recusal (Oehlert).

Reeves announced the item will go before the Board of County Commissioners on December 29, 2021.

Findings for Approval

1. The proposed Rezoning conforms to the Goals and Objectives of the Comprehensive Plan for an Area of Regional Significance and serves to maintain and expand existing industry.
2. The proposed Rezoning is an expansion of a longstanding, existing manufacturing business located on property that is already partially zoned Heavy Industrial (I-2).

Chairman Oehlert returned to Commission Chambers and introduced the next item on the Agenda.

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

5. Whether a CUP should continue to be required for concrete plants in the Heavy Industrial (I-2) zoning district (see 11-2.02.5 of the Zoning Regulations)

6. Whether a CUP should be required for AirBnB's (see 14-2.01.14 of the Zoning Regulations regarding bed and breakfast facilities)

Reeves reported the Board of County Commissioners has asked the Planning Commission to discuss Item 5. Reeves asked if the Planning Commissioners would be willing to consider this in a future meeting and determine whether or not a CUP should continue to be required.

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Elliott asked, in general, why certain uses in the I-2 District require a CUP, while other uses in the same zoning district do not.

Reeves read aloud, from Section 11-2.02 of the Zoning Regulations, several uses requiring a CUP in the Heavy Industrial (I-2) zoning district, including: public or private airports; communications towers; sanitary landfills; public utility stations; quarrying and mining; junk yards and salvage yards; residential use of structures zoned and used for commercial or industrial purposes; construction and demolition landfills; adaptive reuse of public and semi-public buildings; petroleum refining and fuel storage; and amateur antenna structures. She explained concrete plants are included with quarrying and the processing of quarry materials.

Elliott read aloud the purpose of the Heavy Industrial (I-2) district found in Section 11-1.01 of the Zoning Regulations:

> "The Heavy Industrial District is intended for the purpose of allowing those industrial uses that are more intensive than those uses allowed in the Light Industrial District."

He asked where a concrete plant fits if it does not fit within the I-2 zoning district.

Reeves read aloud the remainder of the purpose statement in Section 11-1.01 of the Zoning Regulations:

> "Of special concerns are the volume of traffic, the potential need for rail access, and the presence of noxious or offensive emission."

She reported she has checked with neighboring jurisdictions regarding their use regulations for concrete plants, and found that they all require a conditional use permit or a special use permit, even if the concrete plant is in an industrial zoning district.

Elliott commented this is exactly his point. He reasoned the CUP requirement exists to mitigate the impact of a particular activity. Therefore, he does not know what the Board of County Commissioners is asking of the Planning Commission.

Menefee commented he also doesn't know what the Board of County Commissioners is asking of the Planning Commission. He wonders if they want concrete plants added as a permitted use in the I-2 District so that a CUP is no longer required for concrete plants.

Reeves believes the County Commissioners want to ensure the Planning Commission considers this regulation and determines whether impacts from concrete plants should continue to be mitigated through a CUP in the I-2 District; or, whether it would be appropriate to make concrete plants an allowed use in the I-2 district.

Menefee reasoned it seems a concrete plant could fit within the Light Industrial (I-1) district as manufacturing, processing, fabrication, and assembling of a commodity, all of which are listed in the Zoning Regulations as allowed uses in the I-1 district. He commented it could be strongly argued that concrete classifies as a commodity.

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Elliott noted the majority of allowed uses in the I-2 district seem to pertain to storage or indoor activities, and a CUP is required for those uses occurring mostly outdoors, such as petroleum refineries, construction and demolition landfills, and junkyards.

Broers asked how the Planning Commission would go about learning the environmental hazards of a concrete plant, other than researching them online.

Reeves answered staff would compile research as well as gather information from other jurisdictions to present to the Planning Commission for discussion. The Planning Commission could then decide whether to proceed with drafting a text amendment; and if it decides a text amendment is needed, a public hearing would be scheduled.

Broers reasoned if the Board of County Commissioners is asking the Planning Commission to consider this, then the Planning Commission should do its due diligence and send up a recommendation that is more fulsome.

Reeves offered to gather information to present to the Planning Commission.

Oehlert commented the more information the Planning Commission has, the better informed it will be when making its determination.

Broers suggested, as January is fast-approaching and with the holidays this month, that February would be a more reasonable deadline.

With regard to whether a CUP should be required for Airbnb's, Menefee asked if they are regulated under any method in Miami County.

Reeves answered the Planning & Zoning Dept. does not differentiate between a bed-and-breakfast that is advertised as such, and something that is advertised on Airbnb or VRBO. She explained the County has always regulated bed and breakfast facilities because they have a transient occupancy, and therefore fall under a higher level of regulation. She further explained regulation of bed-and-breakfast facilities ensures surrounding property owners are aware of what's going on; and, most importantly, ensures fire protection measures are in place for guests who will be unfamiliar with the building they're staying in.

Broers stated she had previously thought Airbnb's were not permitted in Miami County.

Reeves answered the County considers Airbnb's to be bed and breakfast facilities. She reported some owners, who plan to be gone for six months or so, want to advertise their homes on Airbnb but do not want to be required to comply with all of the regulations for bed and breakfast facilities.

Oehlert asked staff to distinguish the difference between an Airbnb and renting out a residence for six months.

Reeves answered a six-month rental is a regular rental. The issue, however, is with transient occupancy, which she believes is a period of less than 30 days. She explained that transient occupancy involves more stringent building and fire codes.

Elliott asked Reeves why this would be.

Reeves explained the Planning Department receives calls from neighbors who report people coming and going on a nearby property. The neighbors don't know who these individuals are and are concerned about protecting their children. Reeves further explained the Zoning Regulations require the owner to occupy the residence, which ensures it will not become a party haven that is troublesome for the neighbors.

Elliott suggested staff gather information for the Planning Commission's review and consideration.

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

ANNOUNCEMENTS BY STAFF / COMMISSIONERS

Menefee asked if the appeal of the Board of County Commissioners' decision in the Petition for Incorporation of the City of Golden will delay the Comprehensive Plan update.

Reeves responded the Comp. Plan update is moving forward.

Elliott asked if there will be an opportunity to incorporate in the Comp. Plan update some of the concerns from the residents in that area.

Reeves believes so.

Elliott asked how we can ensure their concerns are indeed included.

Reeves answered she will mention this to the Comp. Plan consultant. She reminded the Planning Commission the draft of the updated Comp. Plan will be presented to the Planning Commission for a detailed review during a public hearing. She also noted the Comp. Plan consultant will hold a workshop with the Planning Commission.

Oehlert reminded the Planning Commissioners to keep in mind nominations for a Chair and Vice-Chair, as officer elections will be held during next month's meeting.

There being no further announcements, Menefee moved to adjourn the meeting, Broers seconded, and the meeting was adjourned by unanimous vote, 5-0, at 8:52 p.m.

Approved this _____ day of _____, 2022.

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Angie Baumann, PC Secretary , Chair / , Vice-Chair

Minutes written by Angie Baumann

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