

***MINUTES OF THE
MIAMI COUNTY PLANNING COMMISSION
JANUARY 4, 2022***

***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,
Bret Manchester, and Mark Ross

ABSENT MEMBERS: Randy Kitchen

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

MINUTES

JANUARY 4, 2022

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 eight (8) members were present, constituting a quorum. Kitchen was absent.

ELECTION OF OFFICERS

Reeves presented the staff report for the 2022 Planning Commission Annual Elections. Oehlert asked for nominations for Chairman. Ross nominated John Menefee to serve as Chairman, and Elliott seconded. There being no further nominations, and no objections, Mark Oehlert was elected Chairman via a Roll Call vote of 7-0 (Menefee not queried).

Oehlert then asked for nominations for Vice-Chairman. Ross nominated Phil Elliott to serve as Vice-Chairman, and Collins seconded. There being no further nominations, and no objections, Phil Elliott was elected Vice-Chairman via a Roll Call vote of 7-0 (Elliott not queried).

Oehlert noted Ross is currently serving on the Board of Zoning Appeals. Ross indicated his willingness to continue serving in this capacity. Elliott nominated Mark Ross to serve on the Board of Zoning Appeals, and Broers seconded. There being no further nominations, and no objections, Mark Ross was recommended for re-appointment to the Board of Zoning Appeals via a Roll Call vote of 7-0 (Ross not queried).

Oehlert then turned the meeting over to newly elected Chairman John Menefee to preside.

ADOPTION OF CALENDAR

Reeves presented the proposed Planning Commission calendar for 2022-2023. She pointed out two dates highlighted in orange, which represent conflicts with elections in 2022. With regard to the November 1st meeting date, Reeves reported the County Clerk's office is utilizing Commission Chambers for advance voting and prefers not to remove their voting equipment from Commission Chambers for just a few hours. Therefore, the County Clerk has suggested Monday, November 7th, as an alternate meeting date for the Planning Commission, as advance voting ends at noon that day.

Reeves cautioned against moving meeting dates one week farther out than proposed, as this impacts staff's ability to process applications for the following month. Although the Planning Commission meetings could be moved to another location, Reeves explained there would be no audio-visual equipment in another location. She believes it is important to record each meeting, in the event any item ends up in court. She suggested the Planning Commissioners review their calendars and contact her via email to advise of their availability.

With regard to the August 2nd meeting date—the date of the Primary Election—Menefee asked if Reeves is suggesting Monday, August 8th as an alternate meeting date or whether the meeting could still be held August 2nd, as proposed.

Reeves answered she is not certain whether the voting equipment will be in Commission Chambers for the Primary Election; however, it is her understanding the Clerk's office would prefer to use Commission Chambers for the election workers Tuesday evening, August 2nd. Reeves noted that advance voting closes at noon the day prior on Monday, August 1st, so she believes Commission Chambers would be available to the Planning Commission Monday evening.

With regard to the Planning Commission meeting in November, Reeves advised the meeting would need to be scheduled for the following week, on Monday, November 7th.

Menefee concluded the Planning Commission is being asked to consider Monday, August 1st and Monday, November 7th as alternate meeting dates.

Broers asked whether Commission Chambers will be staged on August 1st for the Primary Election on August 2nd.

Reeves does not believe so, but will confirm with the Clerk's office.

Menefee asked for a motion to table adoption of the 2022-2023 calendar until next month's meeting to provide sufficient time for the Planning Commissioners to check their schedules for availability.

Oehlert moved to do so.

Elliott commented it seems during the last few months and over the past year there have been several obstacles with applicants submitting documents by the deadline and staff providing review comments to applicants in a timely manner. Some of the obstacles have been applicant-created; some staff-created; and others have been a result of conditions in general. Elliott further commented he would like for us to be more efficient, and noted several applications have been presented to the Planning Commission during the last several months, but were missing required components and therefore had to be continued. Elliott believes it is important for the Board to discuss this before blindly adopting the proposed calendar. He asked if the rest of the Board members believe this is something that should be reviewed, whether submittal deadlines should possibly be revamped, and whether anything else needs to change to assist in meeting the deadlines.

Reeves responded application submittal deadlines could be moved farther away from the meeting dates. She warned, however, this would also increase the amount of time it takes for an application to reach the Board of County Commissioners. She noted the application submittal deadlines were once scheduled farther out but were later readjusted. Reeves also noted it is not uncommon in other jurisdictions to have a significantly longer review period.

Menefee commented if application submittal deadlines are scheduled for one month prior to the Planning Commission meeting date that provides 30 days to ensure an application is ready for presentation to the Planning Commission.

Elliott reasoned that one challenge with application deadlines is that some applicants will wait until the last minute to submit. However, this additional time would be of value for those applicants who submit their applications in advance. He commented he does not necessarily have a suggestion or a recommendation.

Ross commented an application should not be presented to the Planning Commission unless and until all required documents such as the site plan, stormwater management plan, etc. have been submitted. Otherwise, the Planning Commission has to keep continuing items because the applicants have not submitted the necessary documents.

Elliott suggested possibly adding a column to the calendar that provides a deadline for staff's response to the Applicant. He noted some applications have been continued because staff didn't provide a timely response to the applicant. He stated he does not have a solution to this problem, but believes it is important to discuss it.

Reeves answered that staff has discussed need to review an incoming application packet before accepting it to ensure it is complete. She explained if an application is incomplete, staff should stamp it as incomplete and return it. Reeves reported the majority of incomplete applications are a result of necessary details not being included on the site plan itself. She explained it takes time for staff to review a site plan to ensure it contains all of those details.

Elliott and Menefee asked staff to consider tonight's discussion and provide their thoughts and recommendations at next month's meeting.

Elliott proceeded to second the motion to table adoption of the 2022-2023 calendar until next month's meeting, and asked if the Planning Commission should adopt the February 1st meeting date.

Reeves answered the Planning Commission adopts the calendar for the upcoming year at the same time it adopts the calendar for the current year. She explained last January, the Planning Commission adopted the calendar for both 2021 and 2022. She noted, however, it would do no harm if the Planning Commission adopts the February 1st meeting date this evening.

Elliott commented he does not believe it is necessary to adopt the February 1st meeting date, as the Planning Commission previously adopted the 2022 calendar.

Menefee then conducted a Roll Call vote, and the motion passed unanimously, 8-0.

DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST

Chairman Oehlert disclosed he will once again need to recuse himself from the continued public hearing for 21004-CUP: Patton Structural Solutions.

Broers noted that included with this evening's meeting packet is a Resolution concerning the conditional use permit for Equus Curito Equine Center; however, this item does not appear on the Agenda. She disclosed she is good friends with, and a previous neighbor of, the owner of this business; therefore, she will need to recuse herself from any discussion.

Reeves explained if the interested party appears for tonight's meeting, she had planned to recommend this item be added to the Agenda, under General Discussion (Item No. X).

A member in the audience, Gwendolyn Strubbe, identified herself as the interested party.

ADOPTION OF THE AGENDA

Menefee asked for a motion to adopt the Agenda, as amended. Elliott moved to adopt the Agenda, with the amendment as proposed by Reeves. Collins seconded, and the motion passed unanimously, 8-0, via a Roll Call vote.

CONSENT AGENDA

- **December 7, 2021** Planning Commission Minutes
- **Final Plat** | 21010-SUB: Whispering Sage Acres

With regard to the Final Plat of Whispering Sage Acres, which proposes to divide property utilizing Agricultural Preservation Subdivision standards, Elliott asked if staff has clearly communicated to the Applicant that the agriculturally preserved tract cannot be divided further until the surrounding area is determined to be ripe for development.

Katie Jardieu confirmed she has had this discussion with Mr. Urbanek, the property owner.

Elliott moved to adopt the Consent Agenda. Brown seconded, and the motion passed unanimously, 8-0, via a Roll Call vote.

REGULAR AGENDA

Old Business:

Continued Public Hearing 21004-CUP: Patton Structural Solutions

Menefee announced the Agenda item; and 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.

She noted the Planning Commission did not close last month's public hearing, so the public has the opportunity to provide comments this evening. She reported last month's hearing was continued to provide the Applicant time to address the outstanding items on the Site Plan and Stormwater Study, and to clarify the Narrative.

Reeves reported staff has since received updated information, and pointed out staff's review comments, which are minor, outlined on Pages 2 and 3 of the staff report (pages 35 and 36 of the meeting packet). She noted the updated information received addresses the majority of the outstanding items. However, staff still needs a Site Plan that is printed to scale.

Reeves then highlighted staff's review comments to the updated information received.

She reported the Applicant received the updated Stormwater Study at 4:30 this afternoon and forwarded it to staff at 4:45 p.m. Reeves has submitted the updated Stormwater Study to the stormwater engineer representing the County. She noted if the Planning Commission recommends approval of the request this evening, there should be a Condition that the stormwater engineer who represents the County must review and approve the Stormwater Study prior to presentation to the Board of County Commissioners.

Reeves invited questions from the Planning Commission.

Ross commented it seems the Site Plan is still lacking some items.

Reeves responded the Site Plan issues are fairly minor. She added the Stormwater Study is likely the most significant item outstanding.

Ross recalled the Planning Commission had previously approved an application, contingent upon an applicant's submittal of a completed site plan. He noted the Board of County Commissioners ultimately rejected that application because it lacked the required information. Ross expressed he does not want this to happen again, and added the Planning Commission should ensure what is being presented to the Board of County Commissioners is complete.

Broers asked where staff obtained the language for recommended Condition No. 4:

“Except in emergencies, activities that cause noise, odor, smoke, illumination, heat, vibration, or similar effects shall not occur earlier than 8:00 a.m., nor later than 5:00 p.m.”

Broers is concerned that what constitutes “noise” or “similar effects” could be pretty vague. She asked what constitutes noise if a neighbor wants to be persnickety, and gave the example of a car door slamming at 7:30 a.m.

Reeves answered some of the language was taken from the Performance Standards in the Zoning Regulations for the Commercial District, and some of it was borrowed from various resolutions of the County Commissioners. She noted the Planning Commission may make this Condition more specific, if desired.

Broers suggested the Planning Commission can ask the Applicant for his thoughts. She also suggested creating a buffer on either side of the hours of operation. She assumes the Applicant may be arriving to the site prior to 8:00 a.m.

Reeves agreed, and noted she recalls the Applicant saying he is typically on-site at 5:00 a.m.

Manchester echoed Ross’s comments and expressed the Planning Commission wasted three months on the application Ross referenced. He added the Site Plan wasn’t legal; therefore, the Board of County Commissioners rejected it. Manchester recalls that applicant had commented the County needs to hurry up on his application because lumber prices were increasing. Manchester expressed that the application should not have been presented to the Planning Commission a third time because it was such a mess. He believes Elliott may have been alluding to that very application earlier this evening as the Planning Commission discussed the 2022-2023 calendar. Manchester commented that the Planning Commission needs to ensure all documents are better updated before sending an application to the Board of County Commissioners.

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

Trevor Patton (602 E. Peoria St.) of Patton Structural Solutions, LLC approached the podium and expressed he’s been working well with Reeves and is trying to be very cooperative. He reported that following the December 7th hearing, staff sent a list of compiled comments with a request to have everything submitted by December 22nd. Mr. Patton stated he submitted the documentation; and, on December 22nd received from staff a list of five additional items to be submitted by December 26th. Patton then displayed Reeves’s December 22nd email, with the following requested items:

- 1) “I am not able to print a full size copy of the site plan and 8.5x11 is too small to review. **Please provide a full size PRINTED copy of the site plan that is to scale.**
- 2) Please use black font instead of the various colors. Colored font is very difficult to read.
- 3) Please make the font lighter on the contours and darker for the right of way lines, etc.
- 4) Need the distance shown between the new structure(s) and nearest property line to ensure setbacks will be met.
- 5) Need the distance shown between the new building and the existing wastewater system.”

Mr. Patton reported he provided this information on an 11"x17" Site Plan, with screening shown and indication of the sewer lines. However, the outstanding issues noted in this evening's staff report were not included in staff's December 22nd review comments, so this is the first he's seen of those issues. He commented there is a disconnect between what he proposed, what he was asked, what he has provided, and what he is seeing for the first time in the staff report.

Elliott asked Mr. Patton to articulate which items in this evening's staff report he has not previously seen.

Mr. Patton indicated he had not previously seen comments regarding the discrepancy in the 30' x 50' dimension (for the proposed covered parking building); nor the comment regarding propane (location of the propane tank and gas lines).

Mr. Patton stated the initial Stormwater Study, which is stamped by Baldrige Engineering, concludes everything is satisfactory. He further stated he has just received another Stormwater Study based on the updated Site Plan, which concludes everything is within the allowable guidelines based on the permeability of the project site.

With regard to a surveyed Site Plan, which staff recommended, Mr. Patton explained he input the legal description into CAD and plotted it out to create the Site Plan with topographical contours to comply with site plan standards. He commented he is not certain what information is still needed.

Elliott noted he would like to address with Mr. Patton each of staff's recommended Conditions to ensure he understands which Conditions are in contention. He proceeded to read aloud recommended Condition No. 1:

- 1) "Except as amended by these Conditions, the subject property shall be developed and operated upon, according to the Applicant's Narrative, attached hereto as **Exhibit "A"**."

Elliott concluded this Condition means the Applicant will not deviate from the Narrative.

Mr. Patton confirmed his understanding.

Elliott next read aloud recommended Condition No. 2(a):

- 2) Except as amended by these Conditions, the subject property shall be developed according to the Site Plan, which shall incorporate the following revisions, and which is attached hereto as **Exhibit "B"**.

- a) The Site Plan shall be drawn to a standard scale at a size that is legible.

Elliott asked if Mr. Patton believes the 11" x 17" Site Plan meets this requirement.

Mr. Patton responded he assumes some of the items under Condition No. 2 may be from some previous versions of the Site Plan.

Elliott clarified this Condition is intended to mean staff is requiring it before the County Commissioners would approve it.

Elliott then addressed recommended Condition No. 2(b):

- b) At least one ADA compliant parking space shall be provided if any public is allowed onsite.

Mr. Patton commented he wouldn't think a parking spot would be a reason to withhold approval.

Elliott responded the Site Plan just needs to show that parking space, and it wouldn't prevent him from moving this Application forward. He reiterated it needs to be shown on the Site Plan before the Board of County Commissioners could approve it.

Menefee noted this Condition is applicable only if the public would be allowed in that building.

Mr. Patton responded six (6) parking spaces are already shown.

Elliott advised this is simply a matter of designating one of those parking spaces, and ensuring it meets ADA requirements.

Elliott next addressed recommended Condition No. 2(c):

- c) The legal description shall be included on the Site Plan, and not as a separate document.

Patton argued staff had made the comment that the Site Plan was too congested. Adding the legal description would make it more so.

Elliott suggested providing a larger Site Plan.

Elliott then addressed recommended Condition No. 2(d):

- d) The separation distance between the 40' x 60' proposed new shop building and the trunk line for the wastewater system appears to be approximately three (3) to four (4) feet. Caution should be used during construction to avoid damaging the trunk line or any part of the wastewater system.

He explained the purpose of this Condition is to protect the County and ensures the Applicant is aware the wastewater system will need to be protected.

Elliott next addressed recommended Condition No. 2(e):

- e) Lighting location(s) shall be identified on the Site Plan, including the type of lighting proposed for future use. Any lighting for the parking areas or other portions of the site shall not exceed twenty-five feet (25') in height and shall adhere to standards for parking lot lighting outlined in the Zoning Regulations.

He asked Mr. Patton if this is new to him, and explained this is a typical Condition because it is often a hot-button issue for neighboring property owners.

Mr. Patton responded that the company is not yet occupying this site. He stated he agreed in his Narrative to comply with the County's lighting requirements and asked if he needs to address lighting beyond that.

Elliott reasoned future lighting still needs to be shown on the Site Plan, so we understand the general intention. If this changes significantly from what is shown on the Site Plan it would need to come before the Planning Commission. He noted, for example, installing five lights in the laydown yard differs from lighting being installed only on the building itself. He explained the Planning Commission needs to understand the Applicant's intention to determine how this could impact the neighbors.

Mr. Patton remarked he doesn't plan to install any lighting at this time.

Elliott then addressed recommended Condition No. 2(f):

- f) Screening shall be provided around the perimeter of the parking and open storage areas. Screening shall be a minimum height of six feet (6') and shall be a solid wood or vinyl privacy fence. A fence taller than six feet (6') in height shall require engineering and issuance of a building permit.

He asked the Applicant if he has an issue with six-foot (6') screening, as opposed to the Applicant's proposed four-foot (4') screening.

Mr. Patton responded they will comply with whatever the County requests and have said so from day one. He referenced his Narrative, which notes that nothing stored outside will exceed four feet. He reasoned that Old KC Road and Hedge Lane are lower in elevation than the subject property.

Elliott noted, however, the neighboring properties aren't necessarily lower in elevation.

Mr. Patton answered the property to the south is tremendously lower.

Elliott next addressed recommended Condition No. 2(g):

- g) The location of the propane tank and gas lines, and the location and type (overhead or underground) of the electrical lines on the property shall be shown on the Site Plan.

He asked Mr. Patton if this is indeed shown on the Site Plan.

Mr. Patton answered it was originally but is not currently shown. He asserted this is not one of the items staff previously requested.

Elliott reasoned staff would not have included this in their requested items because staff would have assumed what was shown on the first Site Plan would be carried over to the updated version.

Mr. Patton answered this can easily be added to the Site Plan and explained it's a matter of turning on a layer.

With regard to recommended Condition No. 3, Elliott asked Mr. Patton if this is more palatable than the originally proposed five (5)-year term:

- 3) The term of this conditional use permit shall be ten (10) years. Change of ownership or subleasing of the property/facilities within the 10-year timeframe shall require review by the Planning Commission to ensure the use substantially complies with the original conditional use permit.

Mr. Patton responded this is helpful and makes sense with their development and usage of the space and maintaining a presence here.

With regard to recommended Condition No. 4, Elliott asked for Mr. Patton's input:

- 4) Except in emergencies, activities that cause noise, odor, smoke, illumination, heat, vibration, or similar effects shall not occur earlier than 8:00 a.m., nor later than 5:00 p.m.

Mr. Patton indicated he will be on-site prior to 8:00 a.m., and will likely be there as early as 5:00 or 5:30 a.m. He noted, however, they will not be operating machines at that time.

Elliott asked Mr. Patton if the hours should be adjusted to 6:00 or 7:00 a.m.

Mr. Patton responded he will take whatever he can get.

Elliott remarked recommended Condition No. 5 is a standard Condition:

- 5) Development shall comply with all sanitary, building, fire and other applicable County and State codes and permit requirements. Any repairs or mechanical work on equipment/vehicles inside of the proposed new shop building will require compliance with building codes.

Elliott next addressed recommended Condition No. 6:

- 6) Prior to the issuance of any building permits a Stormwater Management Plan that has been prepared by a Kansas-licensed professional engineer, and which meets Miami County Standards, shall be approved by the County.

He asked Mr. Patton to confirm this is one of the documents included as a supplement to this evening's meeting packet.

Mr. Patton confirmed.

Elliott explained the primary outstanding issue regarding the Stormwater Study is the stormwater engineer who is representing the County must review and approve it.

He then read aloud recommended Condition Nos. 7 and 8:

- 7) The existing office building shall not be converted, nor used as a residential structure without first obtaining a Change of Occupancy from the Code Services Department, and must also comply with the Zoning Regulations for residential occupancy on commercially zoned property or the property must be rezoned to a residential zoning district.

- 8) The Applicant shall provide evidence of how the trunk line to the wastewater system will be protected from crushing / damage caused by vehicles and heavy equipment being driven over it; or, an engineer's report certifying the trunk line will support the type of traffic driving over it, and thereby assume full responsibility if damage occurs.

Elliott commented although Condition No. 8 is duplicative, it communicates that caution should be used not only during construction, but also for the long-term, while trucks are driving over the trunk line during normal activities.

Mr. Patton responded that Condition No. 7 is addressed on the Site Plan and the Narrative, which note the existing house will remain as a future office. He stated recommended Condition No. 8 is new to him.

Elliott explained this Condition likely does not need to be satisfied to move the Application forward this evening, but the Applicant will be required later on to prove how this will be protected.

Broers noted Trevor Patton's name appears on the Site Plan. She asked Mr. Patton whether he is the person who will be implementing all the required changes to the Site Plan, or whether a third party will be doing so.

Mr. Patton answered "No".

Menefee asked Mr. Patton to confirm he is the one who drew the Site Plan.

Mr. Patton confirmed.

Broers explained she is trying to determine a turnaround time for changes to be made to the Site Plan.

Mr. Patton answered he can do so and submit it tomorrow.

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

Doyle Patton (32510 Oak Grove Rd.) of Patton Structural Solutions, LLC approached the podium and explained the reason they are proposing four-foot (4') screening is a State-provided fence exists on the precise property line. He reasoned it makes sense to utilize the State's fence. He further reasoned the street elevation is well below that of the fence. Mr. Patton explained on any side of the property drivers passing by will be looking up to the fence. With regard to noise, he noted that as was previously discussed, the majority of the noise in the vicinity comes from the K-68 Highway roundabout, and is much greater than any noise that would be generated from the subject property.

Menefee twice invited additional public comment. There being none, he closed the public hearing.

Elliott asked if staff has any concerns the required revisions will not be made to the Site Plan prior to the Board of County Commissioners meeting.

Reeves responded “No.” She added the reason why staff requested additional revisions to the Site Plan is that once staff received a legible Site Plan staff discovered additional deficiencies. She once again noted the outstanding revisions required to the Site Plan are very minor. She also explained the recommended Conditions listed are typical, and is not as though staff is making an accusation.

Ross asked Reeves to confirm she feels confident that by the time the Application goes to the Board of County Commissioners all of the recommended Conditions will be satisfied.

Reeves answered staff has already forwarded the updated Stormwater Study to the stormwater engineer representing the County.

Menefee asked staff to clarify the recommended Condition regarding stormwater because it does not specify this must be satisfied before the CUP may be issued. Rather, the Condition states this must be satisfied “prior to the issuance of any building permits”. He interprets this to mean the Board of County Commissioners may approve the CUP without having an approved Stormwater Management Plan.

Reeves responded Menefee is interpreting this correctly; however, the Planning Commission may want to consider revising the Condition to state it is the Planning Commission’s recommendation that this be satisfied before the Application may proceed to the Board of County Commissioners. She reasoned however this means the already very busy engineering firm contracted by the County would have to review the Stormwater Management Plan within a very narrow timeframe.

Elliott asked if staff had previously recommended a minimum height of six feet (6’) for screening, or whether staff recently increased the minimum height.

Reeves believes staff had asked the Applicant to clarify in the Narrative the height of the proposed screening, and that is when staff learned the Applicant was proposing four foot (4’ high industrial mesh.

Elliott asked Reeves if she recalls an Applicant being required to provide screening any shorter than six feet (6’), when the CUP involved outside storage.

Reeves responded she cannot remember.

Elliott noted he cannot remember such an instance either.

Reeves noted most CUP’s involving outside storage have occurred on properties with existing berms and tree lines, and are not as visible to passersby.

Broers asked if KDOT would allow the Applicant to add mesh to the State’s existing fence along Old KC Road.

Reeves believes this is doubtful.

Broers asked if we would then require the Applicant to install a fence inside the existing KDOT fence. She questioned the aesthetics of doing so.

Brown noted the County's screening requirement is usually more general than this, and trees are an acceptable form of screening.

Reeves answered the Zoning Regulations typically provide that screening shall be landscaping or fencing. However, the Zoning Regulations also provide that a screening plan shall be approved by the Planning Commission, the Board of County Commissioners, and the Planning Director.

Brown noted the screening would not necessarily need to be six feet (6') high if the Applicant can add screening to the existing fence.

Reeves answered the Applicant needs to utilize screening the County deems sufficient.

Menefee asked whether the State's fence is along only Old KC Road or whether it is also along Hedge Lane.

Doyle Patton answered KDOT's fence is along Hedge Lane as well. He added that the south property line is the only area of the property where there is no State fence.

For the purpose of discussion, Elliott suggested the following language for Condition 2(f):

"Screening shall be provided around the perimeter of the parking and open storage areas. Screening shall utilize the existing fence, if allowable; otherwise, a six-foot (6') solid wood or vinyl privacy fence shall be required."

He commented a double fence looks worse; however, he does not have high hopes the State will allow the Applicant to add mesh to its fence.

Menefee agreed with Elliott regarding aesthetics.

Broers asked staff to confirm that a more robust screening plan would be required and would have to be approved separately if the Applicant wanted to instead utilize landscaping or berms as screening.

Reeves confirmed. However, she does not believe berms or trees will be feasible because they will consume too much space.

Elliott noted the existing KDOT fence itself cannot be considered screening, so he is not certain how to word the Condition so it communicates that screening will be on the existing fence.

Menefee suggested the Condition include language which states screening will be affixed to the existing KDOT fence.

Elliott suggested modifying the a.m. hours of operation in Condition No. 4. from 8:00 a.m. to 7:00 a.m.

Menefee agreed.

Broers suggested modifying the hours of operation from 8:00 a.m. to 7:00 a.m. and from 5:00 p.m. to 6:00 p.m.

Menefee commented this seems reasonable.

Reeves suggested Condition 2(f) could be modified to state mesh screening will be utilized as screening on the existing fence, if allowed by KDOT.

Elliott agreed.

Reeves stated the screening must be sufficient. She warned if the County receives complaints from people, evidencing the 4' screen isn't sufficiently screening the property the Applicant will be required to remedy the problem, which will be an additional cost to the Applicant.

Elliott commented if a 10-year term is placed on the CUP the County would likely be stuck with any insufficient screening for the length of the term and would then address the issue during the CUP review.

Reeves added Condition No. 2(f) should also provide that screening shall be maintained in good condition.

Elliott was agreeable.

Broers proposed striking Condition No. 2(d) as it is aspirational and is already covered in Condition No. 8.

Elliott agreed. He noted, however, Condition No. 2(d) speaks to protection of the wastewater system specifically during construction, whereas Condition No. 8 speaks to protection of the wastewater system in the long term against damage caused by vehicles and heavy equipment.

Reeves noted staff added recommended Condition No. 2(d) after receiving a legible Site Plan, at which time staff could more clearly see the proximity of the 40' x 60' new shop building to the trunk line and the traffic pattern crossing the trunk line. She warned if any part of the system is damaged, the Applicant will have a very difficult time trying to relocate a wastewater system on the property. She explained this Condition is intended to serve as notice to the Applicant that this could be a real problem if extreme caution is not used. In the event the existing wastewater system becomes damaged, Reeves anticipates the County would require, at a minimum, a holding tank that would need to be pumped routinely.

Elliott suggested Condition 2(d) could be eliminated if Condition No. 8 is modified include construction activities. He authorized staff to modify Condition No. 8 with the intent that it shall include any construction activities.

Trevor Patton asked for permission to pose a question to the Board, and Menefee consented.

Mr. Patton approached the podium and asked if the mesh proposed to be added to the existing fence is not acceptable, whether the six-foot (6') privacy fence would be required to be wood or vinyl. He reasoned mesh lasts longer and wouldn't shrink, leaving gaps. He prefers vinyl mesh.

Elliott responded he cannot visualize what Mr. Patton is referencing. He noted he is envisioning what might be placed around a tennis court and asked if that is what Mr. Patton is referring to.

Patton confirmed.

Elliott asked staff if any of the Zoning Regulations clearly identify acceptable screening materials.

Reeves answered the Zoning Regulations are fairly vague in this regard and simply describe a combination of fencing and/or landscaping.

Elliott suggested striking from Condition 2(f) the phrase “solid wood or vinyl” with regard to the privacy fence.

Reeves commented this would be fine. She noted, however, the neighbors had requested during the December 7th public hearing that a six-foot (6’) high fence be required.

Although he agrees, Elliott reasoned there is an existing four-foot (4’) high fence on the property and he would prefer to avoid a double fence if possible. He noted if screening the existing fence is not ultimately sufficient, a six-foot (6’) high fence would be required. Elliott then moved to recommend approval of the Application based upon the recommended Findings as presented by staff, and subject to the recommended Conditions as presented, except that:

- Condition No. 2(d) shall be struck.
- Condition No. 2(f) shall be modified to state something to the effect that “Screening shall utilize the existing fence, if allowed by KDOT; otherwise a six-foot (6’) privacy fence shall be required, and shall be maintained in good condition. A fence taller than six feet (6’) in height shall require engineering and issuance of a building permit.”
- Condition No. 4 shall be modified so that 7:00 a.m. replaces 8:00 a.m. and 6:00 p.m. replaces 5:00 p.m.
- Condition No. 8 shall be modified to include construction activities.

Broers seconded the motion.

Collins commented he believes a Condition should be added, which specifically states all Conditions must be met prior to presentation to the Board of County Commissioners.

Broers disagreed and reasoned only the Site Plan needs modification. She added some of the Conditions aren’t triggered until construction begins.

Menefee commented it is difficult to control when a CUP application will be presented to the Board of County Commissioners after the Planning Commission has recommended approval.

Reeves noted the previously adopted Planning Commission calendar provides the date the Application goes to the Board of County Commissioners.

Menefee asked Reeves to confirm the Planning Commission cannot delay that date.

Reeves confirmed.

Elliott expressed although he appreciates and respects the Planning Commissioners' concerns regarding presentation of a complete Application to the Board of County Commissioners, the job of the Planning Commission is to identify the issues and present a proposal that can move forward. He commented if it fails to move forward, then it fails and is not the fault of the Planning Commission.

Brown commented only one neighbor requested a six-foot (6') fence.

Reeves clarified two neighbors—the neighbor to the west and the neighbor to the south—requested a six-foot (6') fence.

Brown commented if he were in the Applicant's shoes, he doesn't know that he would like the neighbors dictating how tall his fence should be. He reasoned although the neighbors prefer a six-foot (6') fence there is no minimum height requirement in the Zoning Regulations for screening.

Reeves clarified it needs to be adequately screened.

There being no additional discussion Menefee conducted a Roll Call vote. The motion passed unanimously, 7-0, with one (1) recusal (Oehlert).

Reeves announced the Application will be presented to the Board of County Commissioners on January 26th at 1:00 p.m. She explained to the Applicant that staff must submit the meeting packet one week prior.

Recommended Findings

1. The Applicant anticipates minimal heavy truck traffic; the subject property has immediate access to several highways; will be adequately screened to protect the aesthetics of the area; and noise impacts will be limited to 15 minutes in the morning and 15 minutes in the evening, but not later than 6:00 p.m. Therefore, as conditioned, the proposed use complies with the purpose and intent of a CUP in the Commercial (C-2) zoning district.
2. The proposed conditional use permit conforms to the goals and objectives of the Comprehensive Plan, as the subject property is located within an Area of Regional Significance, with adequate road infrastructure abutting it.

Recommended Conditions

- 1) Except as amended by these Conditions, the subject property shall be developed and operated upon, according to the Applicant's Narrative, attached hereto as **Exhibit "A"**.
- 2) Except as amended by these Conditions, the subject property shall be developed according to the Site Plan, which shall incorporate the following revisions, and which is attached hereto as **Exhibit "B"**.

- a) The Site Plan shall be drawn to a standard scale at a size that is legible.
- b) At least one ADA compliant parking space shall be provided if any public is allowed onsite.
- c) The legal description shall be included on the Site Plan, and not as a separate document.
- d) ~~The separation distance between the 40' x 60' proposed new shop building and the trunk line for the wastewater system appears to be approximately three (3) to four (4) feet. Caution should be used during construction to avoid damaging the trunk line or any part of the wastewater system.~~
- d) Lighting location(s) shall be identified on the Site Plan, including the type of lighting proposed for future use. Any lighting for the parking areas or other portions of the site shall not exceed twenty-five feet (25') in height and shall adhere to standards for parking lot lighting outlined in the Zoning Regulations.
- ~~f)-e)~~ Screening shall be provided around the perimeter of the parking and open storage areas. ~~Screening shall be a minimum height of six feet (6') and shall be a solid wood or vinyl privacy fence. Screening shall utilize the existing fence, if KDOT allows mesh to be placed on its fence; otherwise, a six-foot (6') privacy fence shall be required and shall be maintained in good condition.~~ A fence taller than six feet (6') in height shall require engineering and issuance of a building permit.
- ~~g)-f)~~ The location of the propane tank and gas lines, and the location and type (overhead or underground) of the electrical lines on the property shall be shown on the Site Plan.
- 3) The term of this conditional use permit shall be ten (10) years. Change of ownership or subleasing of the property/facilities within the 10-year timeframe shall require review by the Planning Commission to ensure the use substantially complies with the original conditional use permit.
- 4) Except in emergencies, activities that cause noise, odor, smoke, illumination, heat, vibration, or similar effects shall not occur earlier than ~~8:00~~ 7:00 a.m., nor later than ~~5:00~~ 6:00 p.m.
- 5) Development shall comply with all sanitary, building, fire and other applicable County and State codes and permit requirements. Any repairs or mechanical work on equipment/vehicles inside of the proposed new shop building will require compliance with building codes.
- 6) Prior to the issuance of any building permits a Stormwater Management Plan that has been prepared by a Kansas-licensed professional engineer, and which meets Miami County Standards, shall be approved by the County.
- 7) The existing office building shall not be converted, nor used as a residential structure without first obtaining a Change of Occupancy from the Code Services Department, and must also comply with the Zoning Regulations for residential occupancy on commercially zoned property or the property must be rezoned to a residential zoning district.

- 8) The Applicant shall provide evidence of how the trunk line to the wastewater system will be protected from crushing / damage caused by *any construction activities and vehicles* and heavy equipment being driven over it; or, an engineer's report certifying the trunk line will support the type of traffic driving over it, and thereby assume full responsibility if damage occurs.
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Oehlert returned to Commission Chambers.

GENERAL DISCUSSION

Menefee announced upcoming discussion regarding the conditional use permit for Equus Curito Equine Center, and Broers exited Commission Chambers.

Reeves explained one of the Conditions of approval for this existing conditional use permit is that any change in ownership shall require the new owner to come before the Planning Commission to review and discuss the Conditions of approval. She further explained the purpose of that particular Condition is to ensure so the new owner understands what is required, and is a matter of accountability. Reeves invited the purchaser of the property, Wendy Strubbe, to speak.

Gwendolyn "Wendy" Strubbe (30850 Metcalf Rd.) approached the podium and reported she is purchasing the Equus Curito Equine Center, which is located directly north of her 80-acre property. She reported she does not have an equestrian business background, but is purchasing the property for the purpose of controlling what occurs on the property next to her property. Ms. Strubbe expressed she desires to continue the business operation in much the same fashion as it has been. She explained she wants to ensure the conditional use permit transfers without interrupting the current business operation; therefore, one of her purchase contingencies is the CUP must be approved for a new property owner.

Ms. Strubbe noted she does not know enough about this type of business to make any significant changes to the business operation at this time, and acknowledged any significant changes mean a new conversation. She reported she is fortunately retaining the current manager, which helps ensure operations will continue materially in the same fashion.

Menefee asked Reeves for guidance in how to proceed.

Reeves advised the Planning Commission address each of the Findings and Conditions of the CUP.

Menefee asked Ms. Strubbe if she has reviewed the Findings and Conditions.

Ms. Strubbe confirmed.

Menefee then read aloud each of the Findings, which, he explained, were applicable when the CUP was approved in 2018:

1. The proposed CUP complies with all requirements of the Miami County Zoning and Development Code.
2. The CUP, as proposed, is consistent with the Miami County Comprehensive Plan.
3. The use is not detrimental to the public health, safety, and welfare, as the roads and public services in the area are sufficient to accommodate the increase in future activity.
4. The use is compatible with the existing neighborhood character and will not adversely affect surrounding land uses.

Menefee next read aloud each of the Conditions and welcomed Ms. Strubbe and the remaining Planning Commissioners to interrupt with any questions or requested clarifications:

1. Except as amended by these conditions, the property shall be developed according to the site plan, attached hereto as Exhibit A.

Menefee explained the addition of any future buildings, which changes what is shown on the Site Plan, would require an amendment to the CUP.

2. Except as amended by these conditions, the property shall be developed according to the applicants' narrative report, attached hereto as Exhibit B.
3. Hours of operation shall be from 7am to 9pm 7 days a week, with no outdoor activities / events before 8am or after 7pm.

Menefee explained any activities outside of those specified times would need to take place indoors.

4. Any on-site lighting will be full cut-off design so as not to create offsite glare or have any other detrimental impact on adjacent properties. The outdoor riding arena shall not be lighted for riding at night. Any lights associated with the outdoor riding arena shall be limited to localized security lighting no taller than nine feet and utilizing full cut-off design (shoebox design) to minimize glare onto adjacent properties.
5. Amplified sound systems may be utilized in the indoor arena and on a limited basis outdoors. Amplified sound or other noises generated by activities or events on this property shall not exceed 75 dBA at property lines.
6. The term of the conditional use permit shall be 10 years from the date of approval by the County Commission, at which time the applicant may reapply for a new CUP. Any change of ownership or subleasing of the property/facilities during the term of the CUP shall require review by the planning commission to ensure the use substantially complies with the conditions of the conditional use permit.
7. Development shall comply with all sanitary, building, fire and other applicable county codes and permit requirements.

8. Floodplain areas on the property shall not be altered in any way without first obtaining an approved Floodplain Development Permit.
9. Waste management for disposal of manure shall comply with KDHE regulations.
10. All horses on the property, whether short or long term, shall be current on all relevant vaccinations and cleared on current Coggins tests.

Menefee then invited questions.

Ms. Strubbe noted this is approximately the third year of the 10-year CUP term, and asked if the term could possibly be extended so that the 10-year term may commence from today's date.

Reeves explained the only way of modifying the existing conditional use permit is to apply for an amendment to the CUP and go through the public hearing process again.

Ms. Strubbe responded she will not seek an amendment of the existing term.

Oehlert asked if staff has received any complaints from neighboring property owners regarding the current operation.

Reeves responded there have been no complaints. She reported staff was previously made aware that events were occurring on the subject property, at which time staff contacted the property owner, met with him, and he subsequently applied for a CUP. She confirmed staff has received no complaints since approval of the CUP.

Ms. Strubbe reported the current property owner has been a good neighbor. She once again stated she is purchasing the subject property to control what is occurring on the property.

Oehlert asked Ms. Strubbe if she anticipates an increase in traffic.

Ms. Strubbe responded she does not.

Menefee asked Reeves if the Planning Commission needs to take a formal action.

Reeves believes no formal action is necessary.

Menefee thanked Ms. Strubbe for appearing this evening.

Ms. Strubbe thanked the Planning Commission and expressed Reeves has always been wonderful to work with.

Elliott noted he wishes to address Brown's comment made during deliberation of the Patton Structural Solutions CUP regarding the neighbor's request for a six-foot (6') tall fence. Elliott commented it is necessary to take into consideration the neighbors' concerns when a conditional use—a use that isn't otherwise allowed by right—is proposed. He noted that per State statute the Planning Commission exists for three reasons: health, safety, and welfare.

Elliott believes the public welfare component of the screening is where this fits, and he explained the neighbors requested a six-foot (6') tall fence in order to allow something that would not otherwise be permitted in their neighborhood. He added this isn't necessarily what the Applicant wanted, but more than one neighbor asked for this, which is the reason there is a Condition requiring a six-foot (6') fence if KDOT won't allow mesh on its fence. He asked staff to clarify if he has made any incorrect statements.

Reeves responded she agrees. She suggested these are all things that may need to be added to the list of possible future amendments to the Zoning Regulations, so there is a better outline for applicants with regard to screening requirements.

Broers returned to Commission Chambers.

ANNOUNCEMENTS BY STAFF / COMMISSIONERS

Oehlert asked if staff has any updates regarding the Comprehensive Plan.

Reeves responded the Comprehensive Plan update is supposed to recommence sometime after the first of this year. She reported the consultant has proposed a rough draft of the schedule, and she will confirm the dates soon.

Menefee asked if staff has any update regarding the appeal of the County Commissioners' decision in the Petition for Incorporation of the City of Golden.

Ross reported he had learned the Court has been asked to dismiss the case and is supposed to render its decision in the next week or so.

Reeves confirmed this is her understanding as well.

There being no further announcements, Elliott moved to adjourn the meeting, Collins seconded, and the meeting was adjourned by unanimous vote, 8-0, at 8:25 p.m.

Approved this 2 day of February, 2022.


Angie Baumann, PC Secretary


John Menefee, Chair / Phil Elliott, Vice-Chair

Minutes written by Angie Baumann