

***MINUTES OF THE
MIAMI COUNTY PLANNING COMMISSION
FEBRUARY 1, 2022***

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

ATTENDANCE

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

MINUTES

FEBRUARY 1, 2022

MIAMI COUNTY PLANNING COMMISSION

CALL TO ORDER

Chairman John Menefee called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll Call was taken and five (5) members were present, constituting a quorum. Broers, Kitchen, Oehlert, and Ross were absent.

ADOPTION OF CALENDAR *(continued from January meeting)*

Reeves referenced the staff report and noted there isn't much room for adjusting application submittal deadlines without amending the Zoning Regulations. She advised the Planning Commission first needs to decide whether they are agreeable to meeting Monday, August 1, 2022 and Monday, November 7, 2022 as an alternative to the first Tuesdays of those months, which conflict with 2022 elections. Reeves also advised the Planning Commission will need to determine whether or not to pursue amendment of the Zoning Regulations with regard to application submittal deadlines.

Elliott commented the two alternative meeting dates proposed are as good as the Planning Commission can get at this point.

Menefee commented he doesn't know if it is good or bad to amend the Zoning Regulations to require applications to be submitted 60 days prior to a hearing.

Elliott stated he would like to discuss application submittal deadlines separately. He then moved to adopt the 2022-2023 calendar as currently proposed. Brown seconded, and the motion carried unanimously, 5-0, via a show of hands.

Elliott commented he is not necessarily ready to commit to amending the Zoning Regulations regarding application submittal deadlines. He expressed he struggles with having only one opportunity to discuss an application and explained the challenge of digesting the meeting packet the weekend prior to and the night before a public hearing, taking into consideration public comments made at a public hearing, and making a recommendation that same evening. He would also like some time to drive past the subject property and gather his thoughts on a proposal. Elliott suggested possibly adjusting application submittal deadlines to 60 days prior to a public hearing; and, 30 days prior to a public hearing, staff could provide some information to the Planning Commission regarding upcoming applications. He reasoned this would provide the Planning Commission with some information in advance of the public hearing.

He suggested it would be helpful to see some internal timelines to better understand what may be accomplished if an application was submitted 60 days prior to a public hearing.

Reeves responded she now has a better understanding of what Elliott is requesting, and suggested staff could include the Planning Commission in staff's requests for comments, which are submitted to various departments and agencies. She believes doing so would not constitute ex parte communication as all information shared with the Planning Commission would already have been made public. She asked if the Planning Commission would like to receive requests for comments for awhile to see if it is helpful.

Menefee and Elliott indicated their agreement with this suggestion.

Manchester indicated he shares Elliott's sentiments and believes this is a good idea.

Reeves reported most of the subdivision applications submitted are for small subdivisions. She explained this is because none of the applicants want to install an internal road, a requirement for large subdivisions. She doesn't believe the timeline for review of subdivision applications is a major issue currently; however, she anticipates it will become more of an issue in the future when the County begins receiving applications for large subdivisions. She believes the bigger issue facing the Planning Commission is the timeline for conditional use permit and rezoning applications.

Elliott added these applications also present a challenge for staff in terms of gathering the data, analyzing it, sending comments to applicants, and compiling a complete package for the Planning Commission.

Reeves noted she is certain the application submittal deadlines were once scheduled farther out; however, there was a push to process applications more quickly so the deadlines were subsequently reduced. She pointed out there are conflicting sections of the Zoning Regulations and there appears to be a 45 to 60-day window for submitting applications. Reeves interprets Section 22-1.03 of the Zoning Regulations to mean an application must be submitted 45 days prior to a public hearing:

"22-1.03 An application for an amendment or change in zoning initiated by a property owner shall be made to the Planning Commission upon appropriate forms available from the Planning Director. Such application shall be made at least forty-five (45) days prior to a regularly scheduled Planning Commission meeting."

She reported two other factors have further complicated the application review period: the official County newspaper now publishes only once per week, instead of twice; and, County Commission meetings are now held on Wednesdays, instead of Mondays.

Reeves explained a 60-day application submittal deadline means an applicant would have to wait an additional 15 days for final approval by the Board of County Commissioners. She asked the Planning Commission to consider whether they would like staff to begin drafting a text amendment to the Zoning Regulations or whether they would prefer to wait until the Comprehensive Plan update is complete.

Menefee commented that 15 additional days would likely save some headaches and prevent an application from being continued month to month.

Elliott expressed he does not want to wait until completion of the Comprehensive Plan update, and would like to amend the Zoning Regulations at least prior to approval of the 2023 calendar. He indicated he is fine with the amendment being made sometime between completion of the Comprehensive Plan update but prior to January 2023.

Reeves anticipates the Comprehensive Plan update will be completed in June.

There was no additional discussion regarding the Planning Commission calendar.

DISCLOSURE OF ANY EX PARTE COMMUNICATIONS OR POTENTIAL CONFLICTS OF INTEREST

None disclosed.

ADOPTION OF THE AGENDA

Menefee reported staff has suggested Item Nos. 3, 4, and 5 under New Business, all of which the Board of County Commissioners has asked the Planning Commission to consider, may need to be tabled to a future meeting depending upon the length of this evening's meeting.

Reeves expressed she wants to ensure everyone is on their way home before the winter weather sets in this evening.

Elliott moved to adopt the Agenda. Collins seconded, and the motion passed unanimously, 5-0, via a show of hands.

CONSENT AGENDA

- **January 4, 2022 Planning Commission Minutes**

Manchester moved to adopt the Consent Agenda. Collins seconded, and the motion passed unanimously, 5-0, via a show of hands.

REGULAR AGENDA

Old Business:

21004-CUP: Patton Structural Solutions (*Remanded by Board of County Commissioners*)

Reeves presented the staff report for further consideration of screening (fencing), a stormwater management plan, and a survey as Conditions of approval for a conditional use permit application 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. 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. Patton Structural Solutions, LLC is the Applicant.

She noted the Planning Commission had previously recommended approval of this Application, subject to several Conditions, including that screening shall utilize the existing KDOT fence if KDOT allows mesh to be placed on its four-foot fence (see Condition No. 2(e)). She reported KDOT had sent correspondence to the Applicant granting that approval. Reeves further reported the Board of County Commissioners wants a solid fence with a minimum height of six feet that is separate from KDOT's existing fence.

With regard to previously recommended Condition No. 6 (stormwater management plan) Reeves reported almost everything had been addressed except for a couple of outstanding items, which have been the topic of back-and-forth discussion between the Applicant's engineer and the County's reviewing stormwater engineer. The Board of County Commissioners has therefore returned this to the Planning Commission for further consideration.

Reeves also reported the Board of County Commissioners moved to require a survey of the property to ensure the location of the fence and proposed structures on the property comply with setbacks. She explained the Zoning Regulations require an application that is remanded by the Board of County Commissioners to be placed on the next Planning Commission meeting, which, technically, would have been the March meeting. However, because the Planning Commission meeting packets had not yet been published as of the date of the County Commission's decision (January 26, 2022) this item was placed on this evening's Agenda. Reeves stated for the record this has given the Applicant very little time to accomplish anything.

Reeves then addressed the Planning Commission's options, as outlined in the Zoning Regulations, when a recommendation is returned from the Board of County Commissioners:

1. Recommend approval of the request based on the original or new and amended Findings and subject to the proposed conditions. *(see Sections 22-7.03 and 22-7.04 of the Zoning Regulations & K.S.A. 12-757(d))*
2. Recommend denial of the request based on amended Findings. *(see Sections 22-7.03 and 22-7.04 of the Zoning Regulations & K.S.A. 12-757(d))*
3. Inaction on the request which would be to give no recommendation to the Board of County Commissioners, indicates no change on the original recommendation. *(See Section 22- 7.05 of the Zoning Regulations)*

She announced the Applicant is present this evening and would like to address the Planning Commission. She added the public hearing on this Application was closed during last month's meeting.

Reeves directed the Planning Commissioners to the staff report on Page 29 of the meeting packet, which summarizes the details of the County Commissioners' January 26th deliberation of the Application and cites the options in the Zoning Regulations that are available to the Planning Commission when the Board of County Commissioners returns a recommendation.

Manchester noted he assumes the Applicant has not had time to get a survey as required by the County Commissioners.

Reeves confirmed and noted the Board of County Commissioners made their decision just last Wednesday. However, the Applicant has at least offered to come before the Planning Commission this evening.

Elliott asked Reeves to remind him about the provisions in the Zoning Regulations concerning the preparation of a site plan.

Reeves answered Article 19 of the Zoning Regulations requires that a site plan be prepared by an engineer, architect, landscape architect, or other qualified individual.

Elliott pointed out the staff report notes the County Commissioners are requiring a site survey, but does not specifically speak to whom should prepare it.

Reeves reported during the course of the County Commissioners' discussion they at one point spoke to a surveyed site plan and at another point wanted a survey. She explained a site plan shows the location of structures on a property, whereas a property boundary survey describes a property's boundaries.

Elliott asked if the County Commissioners' general concern/issue is ensuring the proposed structures meet the setbacks from the road and the existing fence is located entirely on the subject property.

Reeves explained an old survey of the property predating the construction of the K-68 Highway roundabout is what initiated that discussion. She further explained the roads were subsequently realigned to accommodate the roundabout. So, the legal description the Applicant is relying upon is the legal description from the old survey, which now contains exceptions regarding those portions of land the State acquired for construction of the roundabout.

Elliott noted the legal description should have been updated when the State bought that extra land for the roundabout.

Reeves explained that instead of creating a new legal description, the old legal description was retained, and certain parts were described as being excluded from the legal description. Those excluded parts are known as exceptions. Reeves noted the Applicant's Site Plan assumes the location of the existing fence accurately marks the property's boundaries, but the County Commissioners want a survey to ensure the current fence and the proposed fence is truly on the property line.

Elliott asked whether there is a regulation that justifies that request.

Reeves answered there isn't such a provision in the Zoning Regulations. She noted it is important to confirm the existing fence is not located within the right-of-way and the proposed structures meet the building setbacks. She explained before a building permit may be issued for a structure proposed to be located within so many feet of a minimum setback, the Planning Department's policy is a surveyor must verify the distance of the proposed structure from the property line and certify the location of that proposed structure.

Reeves further explained she has seen too many instances when property owners thought they knew where their property lines were but later discovered their buildings were either encroaching a setback or a property line. She reasoned in the end it's more affordable for a property owner to have the property surveyed before construction begins as opposed to constructing a building and having to bring it into compliance after the fact. She stated this is one of the reasons the County Commissioners used to justify this requirement for a survey.

She recalls from her last review of the Applicant's Site Plan that the proposed new shop building appears to meet the setback; however, she'll need to review this again to confirm.

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

Trevor Patton (602 E. Peoria St., Paola) of Patton Structural Solutions approached the podium and stated he will proceed as professionally as possible while still expressing his frustration and confusion with Miami County's system, organizational structure, and processes. Mr. Patton stated there is somewhat of a disconnect regarding the way the County's staff and boards obtain and review information, make educated decisions, and interpret the regulations. He then asked the Planning Commissioners if they watch the video recordings or read the minutes of the Board of County Commissioner meetings.

Elliott responded he endeavors to do so for topics he is aware of but did not watch the January 26th meeting.

Mr. Patton asserted Planning staff's presentation and recommendations to the Board of County Commissioners on January 26th were drastically different from what staff has presented to the Planning Commission tonight. He questioned whether the Planning Commissioners or the County Commissioners are watching the meetings or reading the minutes of each other's meetings, and reasoned that failure to do so leads to misunderstandings between the County's boards.

Mr. Patton stated the County Commissioners' recent requirement for a survey is an example of such a misunderstanding. He reported when the Application was submitted at the end of October, a survey was not required; and, the Zoning Regulations do not require a survey for conditional use permit applications. Therefore, they did not obtain a survey. He further reported they prepared a Site Plan based upon the submission requirements for site plans and made numerous revisions to the Site Plan as requested.

Mr. Patton stated that since the date they submitted their Application they have made it clear their purchase of the property was contingent upon the Planning Commission's approval of the Application. He reported on January 4th the Planning Commission approved with a vote of 7-0 the Application with Conditions. Based upon that approval a \$50K check was written to complete the purchase of the property. Mr. Patton then read aloud several of the Conditions of approval. With regard to Condition No. 2(e), which states "screening shall utilize the existing fence, if KDOT allows mesh to be placed on its fence," Mr. Patton reported they obtained KDOT's approval to do so and purchased the property upon the assumption this was indeed acceptable to the County. He noted staff had insinuated to the Board of County Commissioners that it is inappropriate to use the State's fence. He commented it is inappropriate for the County to grant approval with certain Conditions and later change those Conditions.

This results in the Applicant being required to spend \$30K on a six-foot wooden privacy fence and to obtain a survey that was not originally requested, which will cost approximately \$10K. He added the requirement for a survey further delays approval of the Application by an additional 45-60 days while awaiting completion of the survey. Mr. Patton expressed they are left feeling very confused.

Elliott clarified for the Applicant that the Planning Commission is a recommending board only and has no authority whatsoever. He explained the Planning Commission, after considering public comment and information provided by staff, makes a recommendation that it believes meets the spirit and intent of the regulations and an applicant's desires, while also mitigating negative impacts to surrounding properties. Elliott stated the Planning Commission tries very hard to make it clear it is only recommending approval of an application, and that the Board of County Commissioners is the final approving authority. He commented he does not completely understand what the Board County Commissioners is asking the Planning Commission to consider this evening.

Mr. Patton stated one of the County Commissioners had commented this Application should be used as an example of how the County would like to go about approving conditional use permits. Although Mr. Patton agrees change is necessary, he does not believe changes to the process should be made during their active Application, as it affects their livelihood and funds.

Menefee noted the Board of County Commissioners returned this to the Planning Commission for another reason: stormwater, which Mr. Patton has not addressed this evening.

Mr. Patton responded one of the original Conditions of approval noted a stormwater management plan would be required before any building permits would be issued. He indicated this does not become applicable until they are ready to apply for building permits. He reported staff had advised the Board of County Commissioners of their concern about the property's ability to handle a two-year flood event. Mr. Patton stated he is working through this with Baldrige Engineering, and has an email from his engineer which states there will not be an issue with stormwater if the square footage of gravel being added to the site is modified. Mr. Patton reported his engineer now cannot complete a stormwater management plan because the County is requiring a survey, which means the Site Plan and the Stormwater Management Plan must be modified to correspond with the survey.

Elliott recalled when the Planning Commission last considered this Application there was a recommendation from Baldrige Engineering at that time.

Mr. Patton confirmed.

Elliott asked why the Applicant's engineer is now recommending an adjustment to the amount of gravel to be added to the site.

Mr. Patton explained the stormwater study found that the site is just short of meeting the requirements for a two-year flood event but could handle 10-year and 100-year events. However, the stormwater study noted detention is not necessary based upon the proposed use of the site.

He stated staff has translated this as being a cause for concern and has communicated it as such to the Board of County Commissioners; therefore, the County Commissioners immediately shut down the Application.

Mr. Patton asked the Planning Commissioners to honor their original recommendation of approval because it coincides with the regulations. He questioned why they should be required to have a six-foot fence when very few businesses in the County have one.

Manchester asked Mr. Patton if he knows the cost difference between the mesh screening and a six-foot fence.

Mr. Patton answered a 50' roll of mesh is \$50, and there is 1,100 linear feet of existing fence. He reported the County Commissioners had commented the fence needs to withstand the elements. Mr. Patton stated that for the cost of a six-foot wooden fence, he could replace mesh 10 times. He reasoned wooden fences fade, shrink, and warp; and vinyl fences are easily cracked or broken.

Manchester noted it his understanding the Board of County Commissioners is requiring a six-foot fence because the surrounding property owners requested one.

Mr. Patton argued only one neighbor requested it, and no protest petition was filed. He then questioned whether a request by two (2) people for a six-foot fence justifies the County's requirement for a \$30K wooden fence.

Menefee asked if any Planning Commissioners have questions for the Applicant.

There were none.

After requesting permission to speak Mr. Doyle Patton (32510 Oak Grove Rd., Paola) of Patton Structural Solutions, LLC approached the podium. He reported he and Trevor were unable to attend the January 26th Board of County Commissioners meeting because they were on a job, but watched the video recording of it. He stated the County Commissioners made no mention of any issues with them placing mesh on KDOT's existing four-foot fence and he assumed Reeves approved of them doing so as well because they had received KDOT's approval. He reported Reeves instead recommended a six-foot fence and the County Commissioners acted on that recommendation. Mr. Patton asked the Planning Commission to explain how staff can recommend to the Board of County Commissioners something other than what the Planning Commission has approved.

Menefee explained the Planning Commission makes recommendations to the Board of County Commissioners and staff advises both boards. He believes Reeves gave her professional opinion to both boards.

Elliott remarked in the more than 25 years he's worked in public education he has not agreed with every school board decision; however, it is still his job to continue making recommendations. He believes Menefee's statement is very accurate in that Reeves advises both boards and has provided her professional recommendation to both.

Elliott noted although the Planning Commission makes recommendations to the Board of County Commissioners the County Commissioners have the authority to choose otherwise.

Mr. Patton remarked he has not seen one place of business in Miami County with a six-foot privacy fence. He noted Dale's Body Shop has a six-foot chain-link fence with four-feet high mesh centered along the length of it.

Elliott responded he would need to research this before answering that question. He explained screening requirements vary depending upon the use proposed, and screening is required in most zoning districts although it doesn't necessarily have to be a fence if vegetative screening is feasible. Elliott recalled several approved conditional use permits where screening was a combination of fence and vegetation. With regard to the fence at Dale's Body Shop he noted some uses have existed a long time and are grandfathered in.

Mr. Patton questioned why the subject property isn't grandfathered.

Menefee clarified that uses, not properties, are grandfathered.

Mr. Patton stated he does not really have a problem putting up a privacy fence but just doesn't want to do so right now. He suggested since the Planning Commission has already approved of their adding mesh to the existing four-foot tall KDOT fence, they could be allowed to screen the property in this manner for six months or a year. If the County receives multiple complaints thereafter, the County could then require a six-foot privacy fence.

Reeves asked to make several clarifications. She first thanked the Planning Commissioners for pointing out the Planning Commission is an advisory board only and the Board of County Commissioners is the final approving authority.

Reeves doesn't know what the Applicant meant when they stated she relayed to the Planning Commission something other than what was presented to the Board of County Commissioners on January 26th. She expressed what she has reported this evening was her understanding of the County Commissioners' discussion.

Reeves expressed staff endeavors to be as transparent as possible and always shares with the Board of County Commissioners applicants' narratives and site plans as well as staff reports to the Planning Commission and the minutes of those meetings. She added at least one County Commissioner always watches the Planning Commission meetings.

With regard to confusion surrounding a stormwater management plan Reeves reported she met with the Applicant's engineer, who explained the County reviewing engineer's comments are with regard to a detailed stormwater study rather than a stormwater analysis or drainage report. She stated the County Commissioners want a complete stormwater management plan. Reeves explained stormwater management on the southern part of the property, which contains the septic field, is the primary area of concern in a two-year storm and has been the subject of back and forth discussion between the two engineers. Discussion has been whether or not a berm will need to be constructed to prevent stormwater runoff onto the neighboring property in a two-year storm. Reeves further explained her concern is there is not enough room for a berm in that area of the property because of the location of the septic field.

She reported the Applicant's engineer has suggested the possibility of putting in a drainage swale. Reeves believes the stormwater management plan can wait until after approval of the CUP. However, until the County reviewing engineer approves a stormwater management plan and confirms a neighboring property will not have problems the Applicant should not be permitted to construct any buildings or lay gravel until the matter of stormwater is resolved.

Reeves recalls the regulations provide that screening consist of fencing and/or landscaping. She commented a four-foot fence does not constitute screening but rather containment. She added the regulations specify a screening plan shall be approved by the Planning Commission, the Board of County Commissioners, or the Planning Director.

Elliott read aloud the Section headings in the Regulations for Article 14 – Conditional Uses. He noted he cannot find whether there is a limit to the Conditions the County can place on a CUP.

Reeves does not believe there is limit. She added the Regulations provide the Planning Commission and Board of County Commissioners with the authority to place a Condition of approval on a particular application as they deem to be appropriate.

Elliott stated this is because every property and application is unique. He then asked where in the Zoning Regulations he can find the requirement for a stormwater management plan.

Reeves answered it is in the article regarding Parking Regulations. She commented the subject property is somewhat unique in that it is zoned C-2. She explained in the Countryside (CS) or Agricultural (AG) districts the Zoning Regulations require a property with a contractor's shop and/or yard with open enclosed storage to be a minimum of five acres, and if open storage is proposed the property must be no less than 10 acres.

Elliott asked if the Zoning Regulations differentiate between a stormwater management plan and a stormwater study.

Reeves answered not that she can find.

Elliott noted the Planning Commission had already made the stormwater management plan a Condition of approval, based on the recommendation of the Applicant's engineer. He asked why this Condition is not sufficient.

Reeves explained staff had not received the recommendations of the County reviewing engineer (Pfefferkorn Engineering) in time for the January Planning Commission meeting. She reported Pfefferkorn has since commented the Patton stormwater study has not yet fully complied with the APWA Section 5600 criteria. Reeves believes the issue is with regard to when the stormwater management plan should be completed. She read aloud recommended Condition No. 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.”

Elliott described the situation as a chicken and egg scenario and commented approval of the CUP Application shouldn't be made contingent upon a stormwater management plan because stormwater isn't impacted by a change in use; rather, it is impacted by the construction and development on a property.

Reeves stated the regulations are somewhat conflicting regarding the timing of a stormwater management plan. She reported one part of the regulations provides that no building permits may be issued until a stormwater management plan is approved but other parts of the regulations provide that the Planning Commission and Board of County Commissioners must approve a stormwater management plan. Reeves suggested rather than tying stormwater approval to just the building permit, perhaps it should be required before any development such as the parking and outdoor storage areas may commence on this property. She reasoned the development of parking and outdoor storage areas also affects stormwater. She further reasoned that including such a Condition would still serve to move the Application forward and enable the Applicants to obtain approval of the CUP itself.

Elliott asked if the County requires a land disturbance permit.

Reeves answered it does not.

Elliott suggested modifying existing recommended Condition No. 6 to read:

“Prior to the issuance of any building permits *or site development* . . .”; or,

“Prior to *site development* or the issuance of any building permits . . .”

Reeves reported the Applicant's engineer told her that putting in a drainage swale may required the Applicant to shift the parking area farther north a bit to provide room for the swale.

Elliott asked if modifying recommended Condition No. 6 as he has proposed would meet the County Commissioners' expectations.

Reeves answered it meets her expectations, but she cannot speak for the Board of County Commissioners.

Elliott stated he has conducted a key word search of the regulations and has not found any requirements in the regulations for a “site survey”.

Reeves responded there are no requirements for a survey in the regulations.

Elliott asked how the County can require a survey, and whether this is a normal Condition of CUP approval.

Reeves explained although the Regulations do not require a survey, the Planning Department's policy is to require a survey before a building permit may be issued for a structure that is proposed to be located within a certain number of feet of a minimum setback. She commented it seems reasonable to require that a surveyor at least mark the property lines so there is no question about the location of fencing or screening.

She reminded the Planning Commission that screening is being required for the outdoor equipment storage areas only—where there will be open storage—and not the entire property.

Elliott commented he would feel potentially comfortable adding a Condition requiring a survey prior to any site development or issuance of building permits. He reasoned the CUP, which is a change in use of the property, could be approved with this added Condition because a CUP does not constitute development of the property. He added the Planning Commission does not have authority regarding building permits but does have authority regarding general site layout.

Reeves noted her agreement with the survey Condition proposed.

Elliott remarked there still seems to be a reasonable concern that perhaps the site doesn't totally fit as proposed on the Site Plan; and if it doesn't fit, the Applicant needs to know this before commencing site development and building construction.

Reeves asked Elliott if he is referring to a boundary survey or a site plan prepared by a surveyor.

Elliott responded he's looking for a solution that is a happy medium.

Reeves reported she has just reviewed the Site Plan once again, and the proposed new shop building appears to meet the setback but there isn't much room for adjustment. Therefore, the Planning Department will require a survey to ensure the structure can comply with the setback.

Elliott stated this would be part of the building permit process. He commented changing the proposed location of a building by two feet in one direction or another doesn't necessarily have a bearing on approval of the conditional use.

Reeves explained Planning staff reviews building permit applications to ensure a building is the same size as proposed on the site plan, to confirm the setbacks are met, and to verify that no additional buildings or parking areas are proposed beyond what is shown on the approved site plan. She remarked as long as there are no issues with these items staff will try to work with an applicant, even if the site is laid out a bit differently than originally proposed.

Collins suggested perhaps a Condition could be included, requiring the Applicant to evidence they have a contract with a surveyor to do the site survey, even if the survey has not yet been completed.

Reeves believes this is a good idea. She noted surveyors are currently extremely busy, and it may be two or three months before a surveyor can visit a property.

There were no further questions for staff.

Menefee expressed he is incredibly frustrated and disappointed by this whole process. He commented it seems the Board of County Commissioners could easily have approved the CUP with the Conditions recommended by the Planning Commission. He noted he is still in favor of allowing the Applicant to place mesh on the existing KDOT fence. Menefee reasoned if the Applicant is required to install a separate fence cedar trees and brush are likely to grow between the two fences and it would look worse than before.

He remarked we have kicked this can down the road for three meetings now, and he wonders how difficult the County is going to make the process of opening businesses here.

Elliott echoed Menefee's frustration and Menefee's comments regarding fencing. He believes the Board of County Commissioners needs to know that one of the Planning Commission's primary reasons for allowing the Applicant to add mesh to KDOT's existing four-foot fence is the Planning Commission didn't want two fences located so closely together. He reported he has driven past the property and has considered the Applicant's comments about the elevation of the site in comparison to the adjacent roads. Elliott suggested perhaps the Applicant could be required to install a six-foot, solid privacy fence around the outdoor equipment storage areas, except for that portion of the property along the KDOT right-of-way where the Applicant could be allowed to place mesh on the existing four-foot KDOT fence. He commented installing a separate fence creates more problems than it solves.

Reeves reminded the Planning Commissioners landscaping is also an acceptable form of screening as long as it meets the intent of adequately screening the outdoor storage.

Menefee restated the three options available to the Planning Commission, as previously outlined by Reeves. He explained the third option—inaction on the request—would send this back to the Board of County Commissioners with the Planning Commission's same recommendations as before.

Reeves confirmed this is correct.

Elliott asked the Planning Commissioners to provide their feedback regarding screening.

Brown stated he is in agreement with the comments already made regarding the fencing.

Collins commented he is not in favor whatsoever of the mesh. He explained he has dealt with six-foot mesh, which continually needed mending due to the wind and tumble weeds being blown into it and tearing it up. He added it is pretty windy in that area.

Elliott asked Collins if he has any concerns with having a separate fence next to the existing KDOT fence.

Collins answered he does not.

Manchester moved to send the item back to the Board of County Commissioners as it was originally presented (option 3).

Menefee restated the motion.

The motion died due to lack of a second.

Elliott noted the Applicant (Doyle Patton) commented this evening they would be willing to consider a six-foot, solid privacy fence as long as it could be a staged process.

He asked if Collins would be interested in allowing the Applicant to place mesh on KDOT's existing fence for one or two years, and then requiring them to install a solid, privacy fence in year one or year two if they are not maintaining the mesh adequately.

Collins reasoned the Applicant was originally under the impression they would be required to fence the entire property rather than just the outdoor equipment storage areas. He once again stated mesh doesn't work.

Reeves read aloud the Performance Standards in the Commercial (C-2) district provided in Section 8-6.01.5 of the Zoning Regulations:

“Upon development, this district shall be adequately screened from adjacent residential districts with fencing and/or landscaping. Except for the display of merchandise as described above, outdoor storage shall also be adequately screened from adjacent streets with fencing and/or landscaping, while maintaining safe and adequate sight distance for the traveling public and those who will be entering and leaving the site.”

Elliott asked what “adequately” is intended to mean.

Reeves believes the term “adequately” was used because it is impossible to completely screen anything. She pointed out, however, that the beginning of this provision states “Upon development, this district shall be adequately screened”; therefore, she does not believe screening may be done in stages as suggested by Doyle Patton.

Elliott asked the Planning Commissioners whether they would like to address the County Commissioners' comments by adding a Condition requiring a survey prior to site development or issuance of any building permits; or, whether the Planning Commissioners are comfortable with relying upon just the site plan requirements.

Menefee noted Reeves had explained the Applicant will be required to have a survey done anyway when they apply for a building permit.

Reeves commented she tries to help applicants save money. She explained if there is a question of the proximity of one building to one property line she requires that a surveyor certify the location of that building in relation to that property line. It is her understanding the County Commissioners want to ensure location of the property line is confirmed wherever the Applicant would be installing a privacy fence; that is why they were requiring a survey. She noted the County Commissioners had also wanted to ensure proposed buildings meet setbacks. Reeves stated the proposed new shop building is the only building in question because it is shown on the Site Plan as being approximately 36' from the property line.

Elliott reasoned the proposed building's proximity to the property line is not really pertinent to the approval of the CUP, but rather a building permit.

Reeves stated the structures meet the required setbacks according to the current Site Plan. However, the Site Plan is only conceptual and before a building permit is issued for the proposed new shop building the Applicant will be required to have a surveyor certify the distance between the proposed building and the property line.

Elliott asked if a permit is required to build a fence.

Reeves answered a permit is required only if the fence is taller than six feet. She explained this is due to wind resistance and the need for engineering.

Elliott expressed the only Condition he feels very confident about modifying is recommended Condition No. 6 by adding “site development and/or” after “Prior to” so that it reads:

“Prior to *site development and/or* 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 commented although he understands the Site Plan is part of what the Planning Commission is approving, a CUP is about approving activity on the property and not necessarily development of the property.

Menefee argued the Site Plan is just that—a plan—and not a building permit.

Reeves noted the regulations provide the Planning Commission, Board of County Commissioners and the Planning Director should come up with a screening plan.

Elliott asked for the Planning Director’s screening plan.

Reeves answered it is a minimum six-foot, solid privacy fence around the outdoor equipment storage area and parking. She noted landscaping or a combination of landscaping and fencing could be an option, although landscaping on the south end of the property may not be feasible due to the wastewater system.

Elliott and Menefee pointed out the current Site Plan (on Page 77 of the meeting packet) shows “Equipment Storage” on pretty much the entire site, with the exception of the triangular portion on the northern end of the site and the portion that lies directly east of the existing building and the proposed new shop building.

With regard to Collins’s comments concerning mesh, Brown suggested problematic maintenance of mesh should be a concern of the landowner, who will be responsible for maintaining it, and not the Planning Commission.

Elliott suggested modifying the term of the CUP (recommended Condition No. 3) to two years, during which time the Applicant may use mesh on the existing KDOT fence. After the two-year term the Applicant could come before the Planning Commission for a review of the CUP, at which time the Planning Commission could require a more substantial fence if the mesh is not meeting the surrounding property owners’ expectations.

Reeves suggested instead requiring the Applicant to install a privacy fence in two years’ time.

Elliott commented he is willing to take Reeves’s suggestion and is comfortable with the mesh. He agreed mesh is a maintenance challenge but that is the Applicant’s responsibility.

Menefee commented the Applicant likely will not want to go through a CUP review in two years.

Elliott asked Collins if he would be agreeable to providing the Applicant two years to install a privacy fence and allowing the Applicant to utilize mesh on the existing KDOT fence in the meantime.

Collins answered he is not agreeable to this.

Elliott moved to recommend approval of the CUP, based upon the Findings as previously presented, and subject to the Conditions as previously presented with the following modifications to the recommended Conditions of approval:

- Modify Condition No. 6 (stormwater) by adding “site development and/or”
- Add a Condition similar to Condition No. 6, which requires a survey prior to site development and/or the issuance of any building permits
- Modify Condition No. 2(e) (screening) to add “and two years after the issuance of the CUP a 6’ screening shall be required around all outside storage areas” at the end of the existing phrase “screening shall utilize existing fence if KDOT allows mesh to be installed on the fence”.

Elliott noted the Board of County Commissioners specifically wanted the screening to be wood or vinyl fencing but he prefers to use the word “screening” in order to be consistent with the terminology in the regulations.

Menefee restated the motion and twice called for a second on the motion. The motion died due to lack of a second.

Reeves suggested the Planning Commission may consider making a motion on only the modifications they can agree upon (stormwater and survey).

Elliott moved to recommend approval of the CUP, based upon the Findings as previously presented, and subject to the Conditions as previously presented with the following recommended modifications to the Conditions of approval:

- Modify Condition No. 6 (stormwater) by adding “site development and/or”
- Add a Condition similar to Condition No. 6, which requires a survey prior to site development and/or the issuance of any building permits

Brown seconded, and the motion passed unanimously, 5-0, via a show of hands.

Menefee announced the Planning Commission has taken no action with regard to screening; therefore, that Condition (No. 2(e)) will be returned to the Board of County Commissioners as previously presented.

Reeves announced there is not enough time to place this on tomorrow’s County Commission agenda. Therefore, this will go back to the Board of County Commissioners on Wednesday, February 9th.

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 *site development and/or* 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.
 - 9) *Prior to site development and/or the issuance of any building permits a survey shall be prepared by a Kansas licensed surveyor and submitted to the Planning Department.*
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New Business:

Public Hearing 21005-Z: Rezone from Countryside (CS) to Commercial (C-2)

Reeves presented the staff report for consideration of an application to Rezone all of the property associated with the Hillsdale BP Gas Station and the boat storage facility from Countryside (CS) to Commercial (C-2), in accordance with Section 22 of the Miami County, Kansas Zoning Regulations. The subject property of approximately two (2) acres is located at the southwest corner of 255th St and Old KC Rd, in the Northwest Quarter of Section 15, Township 16, Range 23, Marysville Twp. Submitted by Grant Merritt, President of Sunset Ventures, Inc., property owner of record.

She reported when Countywide zoning was adopted in 1991 a 200' x 200' area in the northeast corner of Section 15 was granted Commercial (C-2) zoning and was assigned a zoning identifier to recognize its existing use as a gas station/convenience store. Reeves explained, however, the Section corner is located farther east than where everyone had assumed it to be (normally, the center of the road); therefore, a portion of the gas station/convenience store lies outside those zoning boundaries and does not have the proper zoning.

She added the purpose of this Application is to not only Rezone to C-2 that portion of the subject property, but also the remainder of the subject property, including the boat storage facility, so the zoning will be consistent with properties to the west and south.

Reeves took a moment to briefly introduce related Application No. 21005-CUP: Sunset Ventures, an application to expand the existing conditional use permit for a boat storage facility (98006-CUP: MRC's Boat Storage), per Sections 5-2.02.15 and 14-2.01.7 of the Miami County, Kansas Zoning Regulations. She noted it appears the boat storage facility was expanded at some point. Reeves explained the purpose of the Application for a CUP is to bring what is existing into compliance, and a CUP is still required for this use, even with C-2 zoning.

Reeves reported the new owner of the property to the south (Robbie Ballard), where the photography studio is located, reported to staff his property is receiving stormwater runoff mostly from the boat storage facility and possibly some stormwater runoff from the gas station. Reeves explained she did not require the Applicant to submit a stormwater management plan because the Applicant was not proposing any new construction nor the addition of gravel. She noted staff had forwarded to Mr. Merritt earlier this evening the emails received from the neighbor late this afternoon. Mr. Merritt's response is also included with the meeting packet.

Elliott asked about the term expiration of the existing conditional use permit.

Reeves answered she does not believe the existing CUP has a term expiration. She directed the Planning Commission to Pages 101 and 102 of the meeting packet for staff's recommended Findings and Conditions. She noted staff has added a Condition (No. 8) that a stormwater management plan must be obtained within 60 days of approval by the Board of County Commissioners to ensure stormwater is not being pushed onto the neighboring properties. It is Reeves's understanding the neighbor to the south had talked with an employee at the convenience store, and Reeves had suggested the neighbor instead communicate directly with the property owner. Reeves believes the two parties are now working together to resolve this issue. She reported the Applicant has been very responsive to staff's requests for information and has submitted documentation to the department in a timely manner.

Elliott asked Reeves for clarification as to why an Application was submitted for a property with an existing CUP, and whether it is only because of the request to Rezone.

Reeves answered it is not as a result of the Rezoning request, but rather as an attempt to bring into compliance the existing use. She explained that at some point in time, the boat storage facility expanded beyond the property boundaries described in the approved CUP.

Reeves reminded the Planning Commission the CUP and Rezoning Applications are both public hearings. She announced the Applicant is present this evening.

There being no additional questions for staff, Menefee invited the Applicant to speak regarding the requested Rezoning (Application No. 21005-Z).

Grant Merritt, President of Sunset Ventures, Inc. (25500 S. Old KC Rd.), approached the podium, and explained Rand's consists of two tracts: the tract with the gas station and the tract with the dry lot (boat) storage.

He reported when Sunset Ventures, Inc. purchased the gas station/convenience store in 2007 potential dry lot (boat) storage customers had to go into the store to inquire about renting a space, and store clerks had to walk those customers to the lot, check out a key, and sign the rental agreement. Mr. Merritt noted it came to their attention it was completely inefficient for the store clerks to be interrupted like this, instead of helping store customers. Therefore, their marina—Jayhawk Marina—began leasing from Rand’s the dry lot (boat) storage and operating it, which also includes slip rental and boat rental.

Mr. Merritt reported Sunset Ventures had applied for a boundary line adjustment of the boundaries between the tract with the dry lot (boat) storage and the tract with the gas station/convenience store. During Planning staff’s review of that application, staff discovered the fence on the east side of the tract with the dry lot (boat) storage was encroaching onto the tract with the gas station/convenience store, something the Applicant had not previously been aware of. The boat storage facility is not in compliance with the terms of its CUP because the area containing the boat storage facility expands beyond the legal description in the approved CUP. He explained a CUP application is therefore required.

With regard to the Rezoning application, Mr. Merritt explained Reeves and his surveyor have determined that years ago, the legal description for the tract containing the gas station/convenience store was created based off of the location of the Section corner (usually the center of the road). The location of the Section corner is much farther east. Therefore, the tract containing the gas station/convenience store is only partially zoned C-2, and a Rezoning application is being submitted to correct the zoning. He also noted that both tracts are being Rezoned.

With regard to the neighboring property owner’s concerns about stormwater runoff, Mr. Merritt reported the property to the south was undeveloped when Sunset Ventures purchased Rand’s in 2007. He further reported Sunset Ventures has continued to maintain its dry lot (boat) storage and gas station lots, has not erected any buildings, and has not changed the ground cover. He commented the gravel parking lot is about as permeable as can be. Mr. Merritt indicated it is common knowledge that even if you aren’t modifying the landscaping or erecting a building on a property, there will still be runoff. He expressed they are agreeable to the recommended Conditions; however, they do not believe a Stormwater Management Plan should be required because they are only trying to bring into compliance what existed when they purchased the property. He commented the legal descriptions for this area are incorrect through no fault of their own.

Elliott noted it appears the Applicant’s structures meet the setbacks on the south side of the subject property. He asked Mr. Merritt if he has seen a survey and whether the structures south of the subject property are located too closely to the Applicant’s property line to meet setbacks. Elliott referenced Page 93 of the meeting packet (aerial image of the subject property), and noted the Applicant’s Site Plan understandably does not include the neighbors’ buildings, which appear on the aerial image. He suggested if the neighbors’ buildings are located too close to the Applicant’s property line, rather than the opposite scenario, perhaps it is more appropriate that the Applicant and neighbors determine cooperatively how to mitigate stormwater runoff issues. He added it seems the Applicant likely will have to give the neighbors the right to install a drainage swale on the Applicant’s property.

Mr. Merritt responded he agrees the neighbors' structures are fairly close to the property line. He mentioned he has a copy of their proposed site plan from 2008—one year after Sunset Ventures purchased the store. Mr. Merritt reported in the 12 years they have owned the subject property they have never received a complaint; the previous owner also reportedly never had any problems. Mr. Merritt once again stated the property to the south was not developed until 2008.

Elliott asked Reeves which building the neighbor (Ballard) is referencing in his comments.

Reeves answered it is the building located the closest to Old KC Road.

Elliott asked if it is the building that faces Old KC Road.

Reeves confirmed.

Elliott asked in which direction stormwater flows off of those stores.

Mr. Merritt answered stormwater flows south but a berm directs it to the east. He reported they have identified one area of the neighbor's property needing maintenance. He further reported the locates have already been marked and they have the neighbor's written permission to access the property to perform the remediation work both parties have agreed to. Mr. Merritt stated they had been preparing to commence this work until they received staff's report last Friday evening. He explained the neighbor's property has ruts, evidencing stormwater is entering the drainage area outside of the berm because the neighbor's property is located such a short distance away and is at a lower elevation than the parking lot.

Menefee asked Mr. Merritt to confirm this is something he and the neighbor is already working to resolve.

Mr. Merritt confirmed, and noted a licensed contractor will be visiting the site, shooting the topography grade, and ensuring the site will continue to drain properly.

There being no additional questions for the Applicant, Menefee opened the public hearing. He once again invited comments. There being no public comments, he closed the public hearing.

Reeves noted the neighbor (Ballard) had told staff he would be reaching out to Mr. Merritt. It is her understanding they are working together.

Menefee asked Reeves to confirm stormwater has no bearing on the Rezoning application.

Reeves confirmed.

Elliott moved to recommend approval of Application No. 21005-Z as presented, based on the Findings in the staff report. Collins seconded, and the motion passed unanimously, 5-0, via a show of hands.

Findings for Approval

1. The proposed Rezoning conforms to the Goals and Objectives of the Comprehensive Plan as the subject property is located within an area that has an adequate, paved road network, and is within an Area of Regional Significance with short-term potential for future commercial development.
2. The uses permitted in the proposed Commercial (C-2) district are compatible with the commercial uses occurring on adjacent properties, and with the mixed uses in the Hillsdale vicinity and the US-169 / 255th Street interchange area.
3. The Rezoning assigns the proper zoning to the gas station property as intended in 1991; and the Rezoning of the boat storage property from Countryside to Commercial eliminates potential conflicts with residential zoning surrounded by Commercial zoning.

Public Hearing 21005-CUP: Sunset Ventures

Menefee announced the application to expand the existing conditional use permit for a boat storage facility (98006-CUP: MRC's Boat Storage), per Sections 5-2.02.15 and 14-2.01.7 of the Miami County, Kansas Zoning Regulations. The subject property of approximately 1.24 acres is located on the south side of 255th St, approximately 300 feet west of the intersection of Old KC Rd, in the Northwest Quarter of Section 15, Township 16, Range 23, Marysville Twp. Submitted by Grant Merritt, President of Sunset Ventures, Inc., property owner of record.

Reeves noted she does not have anything to add beyond what has already been discussed. It is her understanding the property owner to the south and the Applicant are working together to correct the stormwater runoff issue. Reeves reported when the neighbor's building was built south of the subject property, that property owner was required to install a stormwater drainage system, which is located more toward the southeast portion of that property, along the north side of the driveway. She confirmed the property indeed has a stormwater detention area. Reeves explained, however, that because Hillsdale is flat drainage is a huge problem.

Elliott asked about recommended Condition No. 5 regarding screening, and explained he would like to address this with staff prior to hearing from the Applicant.

Reeves answered there are some existing trees and she believes the Applicant may be working on additional screening. She explained staff is recommending this Condition as a means of noting that the property needs to be better screened. She further noted screening is also a Performance Standard in the Commercial (C-2) zoning district.

Reeves pointed out recommended Condition No. 5 addresses fencing and/or landscaping, and recommended Condition No. 8 addresses stormwater.

There being no additional questions for staff Menefee invited the Applicant to come forward and speak.

Grant Merritt, President of Sunset Ventures, Inc. (25500 S. Old KC Rd.), approached the podium and noted with regard to screening they have removed some of the volunteer trees from the existing evergreen bushes. He commented they truly believe landscaping is a better means of screening. Mr. Merritt advised they will closely monitor the condition of the screening, and if additional plantings are necessary or clean-up is needed, they will do whatever is required to be in compliance.

Mr. Merritt asked the Planning Commission to reconsider the requirement for a stormwater management plan and explained although there will still be stormwater runoff from the subject property, even if they aren't doing anything to increase the volume, they will try to be a good neighbor and do what they can to detain it. He stated, however, there has never been an issue with stormwater previously, and they have not made any improvements or changed anything. He reported they have identified one area with some erosion on the property to the south. He further reported Sunset Ventures is not only addressing the erosion but is also taking steps to ensure that property drains as it should.

There being no questions for the Applicant, Menefee opened the public hearing. He again invited public comments. There being none, he closed the public hearing.

Elliott stated he would like to address the existing CUP and clarify the reason for this CUP application, specifically as it relates to recommended Condition No. 8 (stormwater).

Reeves answered she had not initially required the Applicant to provide a stormwater management plan, as would normally be required with other applications for conditional use permits because the Applicant wasn't proposing any new development (i.e. buildings, gravel, etc.). She explained they are applying for a new CUP because the current boundaries of the dry lot (boat) storage differ from the legal description of the approved CUP, based upon aerial photographs and the original legal description provided in the boundary line adjustment survey.

Elliott asked if recommended Condition No. 8 can be justified, especially because there is an existing CUP and the Applicant has stated they are not proposing any changes to the property from what currently exists.

Reeves noted this is true and also noted the ground has been covered to this extent for a long time. She reported staff has reviewed aerial photographs of the subject property over a period of years, but could not determine when the use expanded beyond the bounds of the legal description in the approved CUP. This is one reason why staff didn't require a stormwater management plan initially; however, because the property owner to the south is complaining about stormwater runoff, she believes this may be worth addressing.

Mr. Merritt asked for permission to further clarify. He explained that upon completion of the boundary line adjustment, Sunset Ventures planned to install an entrance onto 255th Street to create a separate entrance to the dry lot (boat) storage. He stated the fence on the east side of the tract containing the dry lot (boat) storage is encroaching onto the tract with the convenience store. Mr. Merritt doesn't believe anyone was previously aware of this encroachment, and he explained they had intended to remedy the issue with a boundary line adjustment. He stated the staff report suggests there has been an expansion of the dry lot (boat) storage, as though they had moved the fence. Mr. Merritt asserted this is not the case.

He explained the boundary line adjustment was intended to correctly reflect the boundaries of the dry lot (boat) storage.

With regard to recommended Condition No. 5 Elliott noted he is comfortable with the phrasing “adequately screened” but sometimes a minimum height requirement is also included. He asked if the height of screening should be clarified or whether the height of the existing screening will be sufficient, so long as the Applicant adds additional screening.

Menefee noted that based upon the photograph in the staff report, which photograph appears to have been taken from the opposite side of the road, the existing evergreens appear to provide adequate screening.

Elliott commented it seems to him that the property would be adequately screened if those evergreens were planted along the entire frontage of the dry lot (boat) storage.

Menefee noted he does not disagree and was stating the height of the existing evergreens is sufficient. He questioned whether additional evergreens should be required.

Reeves responded screening may possibly include trees or shrubs. She commented she prefers screening in the form of landscaping rather than fencing.

Elliott moved to recommend approval of 21005-CUP: Sunset Ventures as presented, based upon the Findings and subject to the Conditions in the staff report, except that recommended Condition No. 8 shall be struck.

Brown seconded.

Elliott clarified for the record that he does not believe a stormwater management plan should be required because this is an expansion of an existing CUP, which expansion has existed for a long period of time, and the Applicant is not proposing any changes to the subject property.

Menefee agreed. There was no additional discussion.

The motion on the floor passed unanimously, 5-0, via a show of hands.

Menefee announced 21005-CUP: Sunset Ventures will be presented to the Board of County Commissioners on February 23, 2022 at 1:00 p.m.

Findings

1. The requested use, as conditioned, will be compatible with the surrounding commercial uses and character of the area.

2. The current zoning of Countryside (and proposed Commercial) zoning district permits Boat and RV Storage facilities with a conditional use permit when appropriately sited. The requested use is a small expansion to the existing use, has minimal impacts; and, as conditioned, will be consistent with the surrounding Commercial zoning of the intersection.
3. There is no evidence to suggest that the requested use, as conditioned, will detrimentally affect nearby properties or property values.
4. The anticipated vehicle trips generated by the proposed use will not impact the traffic or conditions of the road.

Conditions

1. Except as amended by these Conditions, the property shall be developed according to the Applicant's Narrative, attached hereto as Exhibit "A".
 2. Except as amended by these Conditions, the property shall be developed according to the Site Plan, attached hereto as Exhibit "B".
 3. The term of this Conditional Use Permit shall be ten (10) years, commencing from the date of County Commission approval.
 4. Development shall comply with all sanitary, building, fire, and other applicable County codes and permit requirements.
 5. Outdoor storage shall be adequately screened from adjacent streets with fencing and/or landscaping, while maintaining safe and adequate sight distance for the traveling public and those who will be entering and leaving the site. Additional landscaping shall be planted along the north side of the property and maintained in a healthy condition to adequately screen the property, or a 6-foot wood or vinyl fence shall be installed to properly screen the storage facility.
 6. A commercial entrance permit shall be obtained from the County for an entrance along 255th Street, directly in front of the boat storage facility, and the entrance installed and approved within 60 days of County Commission approval of this CUP. A copy of the installation permit shall be forwarded to the Planning Department for the file.
 7. Signage for the boat storage facility must comply with the Sign Regulations and be approved by the Planning Commission. A separate building permit must also be obtained.
 8. ~~A stormwater plan must be obtained within 60 days of approval by the Board of County Commissioners to ensure stormwater is not being pushed onto neighboring properties.~~
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VIII.B.3. 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)

VIII.B.4. Whether a CUP should be required for AirBnB's

VIII.B.5 Discussion of 1-year requirement between application of a CUP and re-application without substantial modifications.

With regard to the final three items under New Business, for which the Board of County Commissioners has requested the input of the Planning Commission, Menefee recommended postponing and called for a motion.

Elliott moved to postpone Item Nos. B.3., B.4., and B.5. under New Business to a future meeting as time permits. The motion passed unanimously, 5-0, via a show of hands.

GENERAL DISCUSSION

There was no General Discussion.

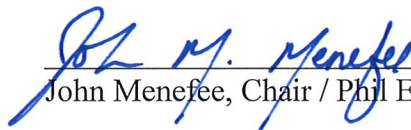
ANNOUNCEMENTS BY STAFF / COMMISSIONERS

There being no announcements by staff or the Planning Commissioners, Menefee called for a motion to adjourn.

Brown moved to adjourn the meeting, Elliott seconded, and the meeting was adjourned by unanimous vote, 5-0, at 9:13 p.m.

Approved this 1st day of March, 2022:


Angie Baumann, PC Secretary


John Menefee, Chair / Phil Elliott, Vice-Chair

Minutes written by Angie Baumann