

Jefferson County Planning & Zoning Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of Planning Commission Meeting of November 24 2014

Item 1. Call to Order.

Item 2. Approval of the Agenda

VICE CHAIR JOHNSON MAKES A MOTION TO APPROVE THE AGENDA AS PRESENTED. COMMISSIONER BAILEY SECONDED THE MOTION. Votes were taken by Ayes and Nays and recorded as follows:

Matt Scherer	Paul Johnson	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry	Jerry White
DNV	Aye	Aye	Aye	---	Aye	Aye

The motion carried unanimously, 5-0.

Item 3. Roll Call and Swearing In

Matt Scherer	Paul Johnson	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry	Jerry White
Present	Present	Present	Present	Absent	Present	Present

Staff Members Sam Henderson, Zoning Administrator; Erin George, Planner I, were also present. Erin George administered the oath of office for Secretary Noll who was not present at the previous meetings.

Item 4. Approval of the October 27, 2014 minutes.

Chair Scherer asked if there were any corrections or additions to the minutes. No corrections were noted.

Action: VICE CHAIR JOHNSON MAKES A MOTION TO APPROVE THE OCTOBER 27, 2014 MINUTES AS PRESENTED, COMMISSIONER WHITE SECONDED THE MOTION. Votes were taken by Ayes and Nays as follows:

Matt Scherer	Paul Johnson	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry	Jerry White
DNV	Aye	Aye	Aye	---	Aye	Aye

The motion carried unanimously, 5-0.

Item 5. CHAIRMAN SCHERER OPENED THE PUBLIC HEARING

CU2014-06: A request for an event venue and overnight guesthouse at 401 Kiowa Dr., Ozawkie, KS, at the request of Jeff and Rena Kilgore.

Mr. Henderson presented the staff report for CU2014-06.

Chairman Scherer: Are there any questions for Staff? Seeing none, is the applicant here? Would you like to make a presentation or say anything?

APPLICANT PRESENTATION

Rena Kilgore: Sam pretty much went over everything. I'd like to clarify as far as weekend and weekday nights on weekend nights being open to 12 midnight that would be Friday night and Saturday night and then 9 o'clock that would be Sunday night through Thursday night. We would, as far as the sewer goes, we've looked over the situation further and if the city

would approve it we'd actually prefer to build our restrooms in the basement of the existing house and have it hooked directly to the sewer that's already in the house and, of course we would fix the tap that is broken on the other side of the street from our line. I can't think of anything else for now.

Chairman Scherer: Do we have any questions at this moment for the applicant? We will probably have some later.

END OF APPLICANT PRESENTATION

OPEN OF PUBIC COMMENT

Chairman Scherer asked if there was anyone who would like to speak in favor of the application.

Chairman Scherer asked if there was anyone who would like to speak in opposition of the application.

Chairman Scherer asked once more if there was anyone who would like to speak either for or against the application and seeing none closed the public comment portion of the hearing.

END OF PUBLIC COMMENT

Vice Chair Johnson: I don't know if this goes to the Applicant of Staff here, but, right now, is this parking area that is proposed graveled at this point or would have to be done.

Mr. Henderson: That would need to be done. It's not currently graveled. Its grass, they have hay there right now. That was in the pictures in the staff report there.

Vice Chair Johnson: So, we're looking at several residential homes right across the road from this.

Mr. Henderson: There are some residences right here. You might recall from the pictures in the staff report the entryway that is proposed to be used for the parking lot is between this house and this house. There's a vacant lot that is owned by the house to the north. There's no house there. There's kind of a garage right there that is directly across from where the entryway might be, but currently there is no home there. In the future they might sell off that lot to someone to build a house but there isn't one there currently.

Vice Chair Johnson: Most of the activity is going to take place within the event barn?

Rena Kilgore: Yes, or out in the field in the corral where that barn is.

Vice Chair Johnson: And you, in your best guess, are you hoping to have weekly events?

Rena Kilgore: I'm guessing based on the people that I've talked to that have similar businesses that we'll have one event per week, maybe two at the busiest times of the summer and probably not much going on through the winter.

Vice Chair Johnson: And is there any, I guess I understand the noise levels after certain hours, I guess the more fundamental question to me is outdoor activities, music, festivals that bring a couple hundred people there to it, you said that you, or maybe staff said that you had monitoring equipment?

Rena Kilgore: We haven't bought one yet, but we can. They're not crazy in price, decibel counters, to monitor that and that's something that we can talk to, if they hire a DJ or a band, we can talk to them about that and tell them that there is a limit after this time about the noise level.

Jeff Kilgore: And, sir, the second part of that is that the barn is on 2 levels and the dance area or the reception area would be the lower level behind on the back side of the barn. We also plan on putting some shrubbery maybe even perhaps a fence and so there's some things that we can do to minimize the noise and I plan to be there from the beginning to end so that would be understood.

Vice Chair Johnson: Do we have any guidelines for that, for decibel levels relative to the residences in the area?

Mr. Henderson: As to what the current noise levels are?

Vice Chair Johnson: Yeah.

Mr. Henderson: The only guidelines that we have would be standardized tables. Traffic, your standard daily traffic, is between 60 and 80 decibels depending on the size of the vehicle so that would be the level of noise that they would be conditioned to in their statement of intent past the house of 9 and I believe 10 o'clock and there could be a condition to limit that to during all events as well to make that stricter than what they put in their statement of intent. I'm not sure what rate that decays over distance.

Vice Chair Johnson: That was part of my question. Compared to other circumstances or cases which we've heard which are much more isolated in rural areas with this buttressed up against a whole number of houses and it seems like there's a balance there that we're trying to find for them to be able to use their property appropriately for these events but peace and quiet that other people assumed with their property, too. On restroom facilities, etc. all of that has to be approved or a lagoon dug or whatever you go with before this is completely finalized, right?

Mr. Henderson: It depends on what the condition of the permit would be but yes before they could start holding events there they would need to have that approved and finished. The permit can be effective and approved contingent on them getting those facilities up and running prior to holding any events.

Vice Chair Johnson: We've had long discussions here about in other cases about the use of port-o-potties, is that a fallback position if they cannot rectify a lagoon or sewer tie-in?

Mr. Henderson: That would be up to the applicant and up to the Planning Commission. Staff's position on that will be if the Health Department said that it was okay that Planning and Zoning would be okay with it. If the applicant wants to do that, that's up to them. They appear not to want to have port-o-potties. You can also make that a condition of the permit; either you can have port-o-potties if you need them or you can't.

Chairman Scherer: Mr. Kilgore.

Jeff Kilgore: Yes, we prefer not to use the port-o-potties. Mr. Heston came to the farm and he went over our area and said that a lagoon would be very favorable for the place he would want to put it would be west of the area. We would probably exceed that yellow area there that you have we would probably come straight down right to where you have the arrow there.

Rena Kilgore: It wouldn't be that far down.

Jeff Kilgore: Oh, I'll just agree with you. He said the type of soil it was, was good for that. I'd prefer not to do that, I'd like to use the city and fix that. We'll have to wait and see.

Rena Kilgore: The farmhouse has a walkout basement so the door into the bottom floor of the farmhouse is very easy access from the barn area where everything will be and we thought it would really be handy to have that inside where they're already heated and air conditioned and the plumbing is already there. That's our favorite plan but we can also build an addition to the barn and put bathrooms there and have them go to the pond.

Chairman Scherer: Thank you, any further questions for the applicant or anyone else?

Vice Chair Johnson: I've got 2 more. Will it be the Road and Bridge? Who will make a final decision that this is properly graveled as far as for this parking lot? Or is that something that plans will be presented to Staff here?

Mr. Henderson: We don't have building codes, parking areas are actually included in building codes if you can believe that so we don't have standards, other than having the parking area be a paved area for commercial uses we don't really have standards of how it should be graveled. If the entryway is approved by Road and Bridge and the applicant is happy with how it's graveled that is basically all we have to go on as far as standard-wise if the requirement to have the pavement is waived.

Commissioner Bailey: Customers will dictate whether they have gravel or not.

Secretary Noll: Yeah, if they want a reputable business they're going to have a good driveway.

Vice Chair Johnson: Well, okay, I'd hate to see it muddy. My last question has to do with, so the applicant is not going to deal with alcohol per se, so that means then a caterer will handle all of that service. Now, is the caterer then regulated, licensed, and approved by the County?

Mr. Henderson: They have to get a license through the County and State. The County approves liquor licenses locally and it is also regulated through the State Department of Revenue they have to get a license through the State. As far as private parties go, they're also regulated through the State, there's different rules. If they're not selling alcohol, if they just have it there, if they have a private party and they brought the alcohol there they can do that without getting a license but if it's part of a deal where they bought services from a caterer or something like that they have to be licensed. So, if the bride and groom bring the alcohol it might not require a license as far as I understand the regulations. So, again, that's not really governed by the Planning Department, but as we've done in past cases you can make a motion or make the condition that alcohol served on the premises during events does conform with state regulations. That won't make it any more or less legal to do it. It will just kind of codify it if there are any complaints.

Commissioner White: Does the City of Ozawkie, going back to noise control, does the City of Ozawkie have any resolutions or ordinances against noise?

Mr. Henderson: I am not familiar with that. I'd have to find out and get back to you on that. We do have a member of the Planning Commission here I'm not sure if she's familiar with that or not.

Ozawkie Planning Commission Member: We just have to be respectful to the neighbors on noise control. If we have a problem with noise we call the Sheriff.

Mr. Henderson: So, it sounds like they don't have anything other than to be respectful to the neighbors and if there's complaints to the Sheriff the Sheriff can enforce that, I guess.

Commissioner Curry: How far away is that barn from the house, we can see it on the map, from where the parties are going to be from the houses?

Rena Kilgore: From the middle of the street to the barn it's about 200 feet.

Mr. Henderson: So, add another 50 feet onto that to the actual house.

Chairman Scherer offered to a member of the public standing in the hall way that there was available seating in the chamber if they desired to sit.

ACTION: COMMISSIONER BAILEY MAKES A MOTION TO WAIVE THE PAVEMENT REQUIREMENT FOR THE PARKING AREA AND ALLOW GRAVEL TO BE USED AND TO RECOMMEND APPROVAL OF CU2014-06 BASED ON FINDINGS PRESENTED BY STAFF WITH THE FOLLOWING CONDITIONS:

1. Waive special events permit requirements for events up to 250 guests.
2. Events shall conclude by 9:00 PM on weekdays (Sunday through Thursday) and by 12:00 AM on weekends (Friday and Saturday) per the statement of intent.
3. Activities related to the CUP shall be restricted to the area outlined on the site plan (approximately 5 acres).
4. Proof of sewer and water service shall be provided to Staff prior to events being held at the site.
5. All amplification and speaker systems be pointed away from the City of Ozawkie.

General discussion to include a condition on the service of alcohol and to possibly change the allowed guests without a permit to 200 as per previous CUP requests ensued but it was decided not to amend the motion on the floor.

SECRETARY NOLL SECONDED THE MOTION.

Matt Scherer	Paul Johnson	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry	Jerry White
DNV	Aye	Aye	Aye	---	Aye	Aye

The motion carried unanimously, 5-0.

Staff informed the applicant when the case would be submitted to the County Commission for a final decision and let them know they would receive notice prior to the meeting.

CU2014-07: A request for a pet cemetery for burial only at 301 Kiowa Dr., Ozawkie, KS, at the request of Jeff and Rena Kilgore.

Mr. Henderson reviewed the staff report for CU2014-07.

Chairman Scherer: I don't mean to question your research but I'm curious if you contacted the Division of Animal Health?

Mr. Henderson: No, I did look on their website and looked through all the regulations that are provided there and also through KDHE and Department of Agriculture as well and did not find anything. I believe the applicant did contact the State and were told that they did not regulate the burying of pets.

Jeff Kilgore: They said it was up to the County.

Chairman Scherer: I'm just amazed that it's not governed at all.

Mr. Henderson: And like I mentioned I did find regulations governing larger animals.

Chairman Scherer: Thank you, any other questions for Staff at this time? Mr. and Mrs. Kilgore do you have anything else you would like to add?

APPLICANT PRESENTATION

Rena Kilgore: I would like to add we will bury the pets as soon as we get them unless the family request to wait until they can come and do a little self-design service if they'd like and if they want us to wait we're going to have a refrigerator or two, however many we need, to keep them refrigerated but they will have to get that done by the first weekend we have the animal. So, we'll give them until the weekend to come out and see their pet be buried and that's the limit and they'll be refrigerated that whole time.

Jeff Kilgore: I'd also like to add that you see a pretty strong terrace that's been there, and I'm not an Ozawkie historian, but it's been there for probably 50 to 75 years and unless you've driven by it it's deceptive because it really drops. This isn't something you can see from driving by with your eye. It's really very secluded. We've gone back there, and actually Rena grabbed a shovel to find out what would happen and she got down a good 3 to 3 and a half feet and we had it and unfortunately we ourselves had to use it to bury one of our 5 goats. So, it's useable.

Rena Kilgore: There is one animal out there now.

Jeff Kilgore: Mipsey.

Rena Kilgore: But, we really want to bury them so that the top of the animal's body would be 3 feet below.

Jeff Kilgore: Plus, there won't be headstones there will be rocks that lay flat on the ground so it will continue to be a brome field as it is now. That's the goal is to have a natural look to it, not something that is manicured and mowed. It won't be like that.

Chairman Scherer: Any questions for the applicants at this time?

END OF APPLICANT PRESENTATION

OPEN PUBLIC COMMENT

Chairman Scherer asked if there was anyone who would like to speak in favor of the application.

Chairman Scherer asked if there was anyone who would like to speak in opposition of the application.

Chairman Scherer asked once more if there was anyone who would like to speak either for or against the application and seeing none closed the public comment portion of the hearing.

END OF PUBLIC COMMENT

Vice Chair Johnson: I have a couple quick questions for the applicant, what does it mean that this is National Wildlife Federation certified land?

Rena Kilgore: If you get on the National Wildlife Federation website you can register your backyard as a National Wildlife Federation backyard protected area and it doesn't mean anything legally, it just means that you are committed to providing an area for wildlife. As far as having a legal conservancy, I would like to do that. I've been reading up on that. There are different ways of doing that so that if something happens to us and somebody else buys the property they will not be able to go and develop that property. There is a major conservancy that will let you design your own conservancy requirements where they would say, you know we would tell them we're not going to build anything ever here in the future but we want to be able to be able to bury animals here and then they have an actual legal conservancy plan written up and it would be registered with the County and so that anybody else that owns the property has to honor that.

Vice Chair Johnson: Another option might be the Kansas Land Trust, which is an entity too.

Rena Kilgore: Yeah, I've read about them, too.

Vice Chair Johnson: And right now it's in brome?

Rena Kilgore: Yes.

Vice Chair Johnson: And you're hoping over the period with each burial to keep converting towards prairie?

Rena Kilgore: Yes.

ACTION: SECRETARY NOLL MAKES A MOTION TO WAIVE THE REQUIREMENT TO PAVE THE PARKING AREA AND TO ALLOW GRAVEL AND RECOMMEND APPROVAL OF CU2014-07 BASED ON FINDINGS PRESENTED BY STAFF WITH THE FOLLOWING CONDITIONS:

1. Activities related to the CUP shall be restricted to the area outlined on the site plan.
2. The length of time carcasses may be stored prior to burial shall be limited to no more than 7 days and such storage shall be refrigerated.
3. Burial depth shall be at least three feet (3') to the top of the carcass.

COMMISSIONER CURRY SECONDED THE MOTION.

Votes were taken by Ayes and Nays and recorded as follows:

Matt Scherer	Paul Johnson	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry	Jerry White
DNV	Aye	Aye	Aye	---	Aye	Aye

Staff informed the applicant when the case would be submitted to the County Commission for a final decision and let them know they would receive notice prior to the meeting.

CU2014-08: A request for an event venue and overnight guesthouse at 19864 Nichols Rd., Nortonville, KS, at the request of Mary Page, Cynthia Pangburn, and Sandra Rak.

Mr. Henderson reviewed the staff report for CU2014-08.

Chairman Scherer: Are there questions for Staff at this time? Seeing none, would you like to make a presentation on your application?

APPLICANT PRESENTATION

Mary Page: I think Mr. Henderson covered everything very well. You have in the proposal that we would accommodate up to 200 guests. Mr. Heston, when he came out to do the lagoon area he did propose a small lagoon because of how it would be able to be maintained easier with the option to, it would be easier to add another one if we were over utilizing the small one. I think the barn is at least 750 feet from the nearest house, if not more.

Chairman Scherer: Are there any questions for the applicant at this time?

END OF APPLICANT PRESENTATION**OPEN PUBLIC COMMENT**

Chairman Scherer asked if there was anyone who would like to speak in support of the application.

Chairman Scherer asked if there was anyone who would like to speak in opposition of the application.

Chairman Scherer asked once more if there was anyone would like to speak either for or against the application and seeing none closed the public comment portion of the hearing.

END OF PUBLIC COMMENT

Vice Chair Johnson: So, I don't know if this goes to the applicant or staff, but is Nichols Rd. rocked?

Mary Page: It is Nichols Drive, it is rocked currently.

Vice Chair Johnson: And, how many parking places have you listed here?

Mary Page: Approximately 91.

Vice Chair Johnson: And what is the status of those at this point?

Mary Page: Nonexistent. They're planned.

Vice Chair Johnson: Planned like, you're probably not going to cement them or pave them.

Mary Page: No, we will rock them.

Vice Chair Johnson: You will rock them and was that put in any of your material that you presented in this application?

Mary Page: I do believe it was.

Vice Chair Johnson: Because Staff didn't seem to indicate or speak to that issue at all.

Mary Page: I do believe. I had planned on rocking it I've got bids for rock.

Mr. Henderson: I think that we probably didn't mention that specifically based on the fact that it fronted onto a gravel road so that any special treatment of the parking area was not necessarily required by regulation, i.e. they don't have to put a hard surface on the parking area based on the regulations because it does not front onto a hard surfaced road. So, that is probably why it wasn't specifically stated as to what type of surface they plan on doing if it was included or not.

Vice Chair Johnson: So, your sequence of construction is going to be; you're going to start with the event barn?

Mary Page: We'll start with the event barn. We would probably go to the home. The home that we're speaking of is to the left. The schoolhouse is something I feel that is a family job that we can take on. The renovation of that project is a project that my mother had started and I think it's to a point that we can kind of finish it with minimal contractor help.

Vice Chair Johnson: And then the machine shed is last?

Mary Page: The machine shed is just labeled on there. The tractor and machine shed are just labeled on there as outbuildings.

Vice Chair Johnson: And are you considering outdoor concerts?

Mary Page: We would consider having outdoor, yes I guess we would consider outdoor concerts.

Vice Chair Johnson: With unlimited decibel levels?

Mary Page: We would be courteous to our neighbors. We would take our neighbors into consideration.

Vice Chair Johnson: And you said your closest neighbor is 750 feet?

Mary Page: I would guess it is 750 feet or more. We had a new neighbor go in across the driveway.

General discussion of the location of the homes surrounding the subject property ensues.

Commissioner Curry: And what would be the purpose of the guesthouse? You said you were going to have a guesthouse and event venue.

Mary Page: Overnight stay by the bride and groom.

Commissioner Curry: So you'll have two places to stay?

Mary Page: No, one home would be turned into, there are currently 5 bedrooms in there.

Mr. Henderson: The other home would be a residence for the applicant, I believe.

Vice Chair Johnson: So, is there a licensing procedure that you go through to be able to rent out such a guesthouse?

Mr. Henderson: Not to my knowledge, other than getting your business license from the State.

Commissioner Curry: And what about, I didn't ask this before, you have 91 parking spaces for an event for 200. Who looks into that if you have 200 guest show up and you don't have any place for them to park?

Mr. Henderson: 200 vehicles? The regulations for the County specify a certain number of spaces per square foot or per chair, depending on the use. I can pull out the regulations but I looked at and compared what it would be for a building that size and 91 spaces was more than sufficient.

Mary Page: I do feel that we have ample space within that 20 acres that we could overflow so we can come up with some overflow plan if needed.

Chairman Scherer: Other discussion or questions for Staff or the applicant?

Vice Chair Johnson: So, once again the development of the restrooms and construction of the lagoon is something that all would have to be approved and constructed before this fully goes into operation.

Mr. Henderson: Right.

Vice Chair Johnson: So, a building permit would be requested?

Mr. Henderson: It wouldn't be a building permit it would be through the Health Department since they're not building any new buildings. Renovation of buildings is not covered, again we don't have building codes so we don't have any go out there and inspect the actual work against anything. So basically if they're not putting up a new building then we don't really require, or they're not increasing the footprint of an existing building they're just working within the building, there are no permits that are required, a building permit for that. But the lagoon, they would need to have a permit from the Health Department to do that.

Vice Chair Johnson: And 2 restrooms are adequate for 150 to 200 people?

Mr. Henderson: Again, that is something that would be covered in a building code that we don't have so if the Health Department says that they're adequate then, yes.

Mary Page: I would plan on putting at least 2 stalls in each restroom as well as a urinal in the men's.

Chairman Scherer: What sort of, are you on septic tanks now for the houses?

Mary Page: Yes.

Chairman Scherer: Other questions?

ACTION: COMMISSIONER CURRY MAKES A MOTION TO RECOMMEND APPROVAL OF CU2014-08 BASED ON FINDINGS PRESENTED BY STAFF WITH THE FOLLOWING CONDITIONS:

1. *Waive special events permit requirements for events up to 200 people per statement of intent.*
2. *Hours of operation shall be 8:00 AM to 12:00AM except for New Year's Eve which shall extend to 1:00 AM per the statement of intent.*
3. *Improvements related to the request shall be completed within 2 years of approval of the CUP.*
4. *Event activities related to the CUP shall be restricted to the area outlined on the site plan (approximately 20 acres).*

COMMISSIONER BAILEY SECONDS THE MOTION.

Votes were taken by Ayes and Nays and recorded as follows:

Matt Scherer	Paul Johnson	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry	Jerry White
DNV	Aye	Aye	Aye	---	Aye	Aye

Motion carried unanimously 5-0.

Staff informed the applicant when the case would be submitted to the County Commission for a final decision and let them know they would receive notice prior to the meeting.

DP2014-03: A request to amend CU2011-03 to include a mobile concrete batch plant at 778 Lecompton Rd., Perry, KS, at the request of RCS Properties, LLC.

Mr. Henderson reviewed the staff report for DP2014-03.

Chairman Scherer: Are there any questions for Staff?

Commissioner Bailey: I don't understand why we're even hearing this when we have the word mobile in there. I mean this is not a permanent structure. I don't understand the need for us to approve a facility coming in that's not permanent.

Mr. Henderson: While it's not permanent, the structure itself is not permanent, it can be moved, they are proposing to increase substantially or over 50 trips a week over the current traffic and making concrete at the site is something that is not currently permitted underneath the conditional use permit it was only allowed for sand dredging and so they are materially changing the use at the location and they are projecting to have the mobile concrete plant there up to the life of the sand

plant facility there which could be up to 50 years if I read the previous application correctly. So, while the concrete plant would be mobile and could be moved on and off they are projecting to have it there for up to 50 years and they aren't currently permitted under the current conditional use to have concrete made there onsite and that's why we told them they should get a development plan amendment.

Chairman Scherer: Other questions for Staff?

Commissioner White: When you say mobile concrete plant is this kind of like a U-Cart operation or trucks coming in and out of there?

Mr. Henderson: It would be trucks like your standard concrete trucks I think they can hold up to 20 tons of concrete is the standard concrete truck size so they mix the concrete there and load it and drive it to the construction sites.

Commissioner White: They're right down there in the corner of the County will they enter past the high school or coming across Douglas County, is why I asked that question. You're saying maybe 50 trucks a week?

Mr. Henderson: That would be about 8 trips a day. They have a 6 day window they're closed on Sundays as per the conditional use permit that was approved.

Commissioner White: What is their hours of operation?

Mr. Henderson: During warm weather I think it's until 5 or 6 o'clock so 8am to 5 or 6 o'clock Monday through Saturday. If they want to increase those hours they're supposed to notify the County prior to that which is what was approved in that conditional use permit.

Chairman Scherer: Which gets to my question do we have the restrictions on the conditional use permit and development plan handy?

Mr. Henderson opens the documents from the original CUP on the computer.

Chairman Scherer: And am I correct in assuming that all of these conditions would apply to the approval of the modification?

Mr. Henderson: They are not waived. They still apply to the conditional use permit.

Chairman Scherer: Other questions for Staff? Seeing none, does the applicant's representative wish to comment to the Planning Commission?

APPLICANT PRESENTATION

Chris Storm: I'm here with MCM representing this project which is working with the property owner in question. Like was stated by Staff this is more of a function in making sure that we're covered with a new use that is different for the site which is the mobile batch plant that is producing concrete. The question about the traffic 50 trips, and I am not a traffic engineer, I did not produce the traffic study but I've reviewed lots of them. I'm a professional engineer at LandPlan. 50 trips that's estimated by the applicant, that's over a week, not a particular day, but in the big picture of things that is estimated and that will be seasonal but that is not a significant increase in what was considered with the original traffic study. The original traffic study considered the trains and everything that was on 24/40 what was projected by KDOT was reviewed by KDOT and also was reviewed by a private consultant that we had for the County. So that was done back in 2011 with the initial application for the conditional use permit and we're talking about an increase of 50 trips per week which should be covered in what was assumed variations and MCM attributes to more operational things in what's going to be happening but we're talking about concrete trucks we're not talking about loads in or anything like that.

Chris Eichman: We anticipate less sand going into Lawrence by having the concrete plant located on site where we can take straight from the stockpile to where the batch plant will be to be loaded. With that we'll anticipate adding 5 mixer trucks on site so probably 5 truck drivers and a plant operator and maybe an additional operator so 5-7 new employees would be added to the location with the original 3 employees that are hired there full time now.

Chairman Scherer: Are there any questions for the applicant at this point?

END OF APPLICANT PRESENTATION

OPEN PUBLIC COMMENT

Chairman Scherer asked if there was anyone who would like to speak in favor of the application.

Chairman Scherer asked if there was anyone who would like to speak in opposition of the application.

Sandy Jocco, Mayor of Lecompton: I wasn't he mayor at the time the original permit came up or I probably would have been over here at that time. So, you are maybe going to hear a little bit that are ramifications of the permit and I apologize if it isn't all just tied up in a bow. We would be very interested in having a new traffic study and I think that traffic study needs to not just include the trips by cement trucks, and I'm not really familiar with how you do concrete, I assume there needs to be some gravel and some additional materials involved in coming to the area as well but that's something they can address. We have had a major issue in Lecompton and I cannot tell you scientifically that every one of the trucks is due to the sand plant you know because obviously we have the big springs quarry as well so it's anecdotal on my part, but during

construction season and you know Lecompton we have a narrow two lane county road that goes through and we can experience 20 trucks or more per day coming through there. They do not observe the speed limit of Lecompton and often times we have a number of children out and about and we are concerned about safety of our residents. The other concerns we have is the wear on the road. That road was not engineered for that kind of truck traffic. Now, we do have the good fortune, when we talked to Douglas County, to get temporarily that stopped because it was a KDOT project and we were able to get them to take Highway 40 as opposed to cutting through Lecompton which is a shorter route for them. So, we are concerned about our roads. I think if you look at one of the factors that you have to consider and that is the undue burden on transportation systems and I think we absolutely have that on our side of the river through Lecompton and that's a major concern. That's why we would like to request that an updated traffic study be done. Again, like I said, I don't know 50 cement trucks, there's got to be other ancillary trucks that are going to be involved I would think. We also have, just like you do on your side here of the river in Jefferson County, the Perry-Lecompton School District our kids drive over to school. We've had situations that I think the other folks here will talk about but we also have school busses going through there. So, I think that it bears consideration when you're talking about expanding the use, and it is an expansion of the use obviously sand dredging to concrete mixing is an expanded use. So, we would appreciate you taking a real close look at it. We can't stop the sand dredging and we're not here to try to do that but we do want you to take a look at expanding the use. Thank you, are there any questions?

Chairman Scherer: Thank you, are there any questions for this particular witness?

Mayor Jocco: Thank you, and the council is concerned I have a council member here as well.

Chairman Scherer: And you had your hand raised, too.

Elsie Middleton, 401 Halderman: If you're familiar with Lecompton, that's the house right east of the post office. As you know that's a big hill going towards the east when you're coming from, I'm assuming, big springs quarry, and the tendency has been until we were able to get some help through Douglas County, they were coming from big springs, they were taking east 175 and coming over to 2100 Rd runs straight through Lecompton and then getting 1029 across the river and those big trucks loaded are not following the speed limit and they cannot stop very quickly and Lecompton has in that area on Woodson Avenue, which is 2100, has 11 driveways that the people have to back out onto the street, they can't drive forward. Also, the post office there, the parking is so that anyone going to the post office has to back out onto the street. We do have a number of elderly people and they don't back out real quickly and go forward and I'm very concerned with those trucks under the present operation cannot stop in time and we also have school bus loading and unloading at the former Lecompton High School building so there's a lot of potential for some public safety problems.

Chairman Scherer: Are there any questions at this moment for this witness?

Vice Chair Johnson: Did Douglas County then try and divert some of the trucks out of Big Springs and make them stay on 40?

Mayor Jocco: Right, and then come down 2900, or Eisenhower Dr., or Lecompton Rd. whatever it's called different things in different places.

Vice Chair Johnson: And that made a difference or they put up signage?

Mayor Jocco: They didn't put up signage and that's one of the things that we may have to consider if this continues to be a problem is putting a weight limit, asking the County to put a weight limit on the road. It is a county connecting link. I don't know whether the County would do that or not, but that is one option. We also don't have law enforcement in the City of Lecompton. We're a city of 650 so we're looking at maybe having to ask the Sheriff to sit right over the hill in the county there and do some speed traps because it was a major problem this summer.

Elsie Middleton: And it's our understanding that the County was able to avert this traffic because it happened to be involved with the KDOT project.

Chairman Scherer: Seeing no other questions is there anyone else who would like to speak in opposition to this application.

Paul Bahnmaier: I was notified because the Lecompton Historical Society has some property next to the river and so we talked to Keith Browning about the situation and I really respect the fact that you have to have sand and you have to have cement and things to have progress but I'll guarantee you that no one in Lecompton ever dreamed that we would have the problem we had this summer. It was absolutely unreal the number of trucks that were using the roads. There was no attention paid to the traffic. One individual was waiting because on 1029 there's probably 10 houses where you have to make that are on the west side of the road one individual was making a left hand turn the truck came up behind her and passed her on the right side of the road and it's really a concern for the safety of our people I again say that you got to have cement, you got to have sand but there has to be a compromise and a traffic study is certainly warranted because I cannot believe the original traffic study counted on the number of vehicles using the road this summer. It was enormous.

Chairman Scherer: Any questions for this witness at this time. Seeing none is there anyone else who would like to speak in opposition to this application?

Paul Banmaier: I'll speak for Mr. Leslie. Mr. Leslie has property to the east of the sand quarry and I know that Mr. Leslie is concerned about, and I don't know whether they can answer this, he's concerned that he may not be here in 10 or 15 years and that the mining is going to cause the ground to collapse under his property, and of course he does live along 1029 and he saw the enormous increase in traffic, which as I said was enormous. So, that was his concerns.

Mr. Henderson: Just a note for the Planning Commission, you're probably aware, but the conditional use and the conditions placed on it in 2011 aren't able to be considered with this request this is specific for the mobile batch concrete plant and any conditions that might be placed on it as an addition to that request.

Chairman Scherer: Thank you. Are there any other parties who would like to speak in opposition to this application? Seeing none Chairman Scherer opened the floor for the applicant to rebut public comments.

Chris Eichman: A lot of references were to the Big Springs quarry and that's not our quarry. And to your question about the mine, even though we're not talking about that, we have to have a mine reclamation plan under the guidance of the mining safety health act it's a federal permit that we have to have. KDHE monitors it. Your property wouldn't collapse we have to properly reclaim the land.

Chairman Scherer: Are there questions for the applicant at this time? I would like ask if you could explain the ancillary traffic that might be involved in addition to the concrete mixture trucks.

Chris Eichman: We would have cement powder trucks hauling cement into the property and then some limestone would be hauled into the property, but we also produce some of our own gravel.

Mr. Henderson: Would that be within the 50 additional trips a week or how many additional trips?

Chris Eichman: What will happen is that the trucks haul sand to Lawrence and will bring rock back. That's already figured into the round-trip of sand going into our Lawrence facility. They run over to the Eudora quarry and bring rock back from Eudora. Any ancillary would be cement and they would come down 24 from Kansas City for the cement hauls. We estimated, to come up with that 50 loads, we estimated 20,000 yards of concrete a year. Some of that would be into Jefferson County. Some of that would reduce our Douglas County, or our Lawrence facility's output of concrete which would also reduce some of the sand that would need to be hauled into Lawrence.

Chairman Scherer: Thank you. Are there any other questions for the applicant at this time? Is there anyone present who would like to speak further on this application before I close the public comment portion of the hearing?

END OF PUBLIC COMMENT

Vice Chair Johnson: This is probably for the applicant, as I remember 3 years ago when we did this, was the estimate of daily sand trucks 150 per day 160?

Chris Storm: I was going to say both of us have kind of picked this up from others.

Chris Eichman: That is way too high.

Commissioner Noll: I thought it was like 50 a day or 250 a week or something.

Vice Chair Johnson: It got down to every 5 minutes. I can remember us, because we were talking about turn lanes and access on that road. At that point it was thought that 90% of the sand trucks coming out of that would be going across Lecompton Bridge.

Chris Eichman: That seems reasonable.

Vice Chair Johnson: So, you're saying that that's going to be cut down a little bit and so a lot of this then may go the other direction, the concrete trucks, or they may split going through Lecompton?

Chris Eichman: Certainly we hope to expand our base in Jefferson County in Ozawkie and Oskaloosa which is hard for us to reach from Lawrence. So, some of it will be left in Jefferson County some of it back towards northwest Lawrence.

Vice Chair Johnson: Is there much weight difference between a concrete truck and a full regular sand truck?

Chris Storm: A fully loaded concrete truck would be 74000 pounds versus a fully loaded end-dump trailer that we use to haul sand is 85500 so it's somewhat less.

Chris Eichman: This year so far we're averaging about 21 loads a day.

Vice Chair Johnson: Oh, alright you are much closer. I thought it was significantly, is that at maximum? Have you geared up to full commercial capabilities? You're not going, that's not going to double two years from now?

Chairman Scherer: For the record the applicant answered "No". I don't think they can pick you up on here.

Richard Shermoen: Lawrence is in quite a bit of a growth area. Lawrence has grown quite a bit over the past year and we see that this is going to be able to, we don't see a lot of additional growth for and to out of our Lawrence plant because of this. This would give us some relief. One other point on the trucks is all of our end-dumps those are going to be fully loaded

all the time with our sand but concrete loads somebody may only want 3 cubic yards so that's going to be a lot less weight. It may be the same size of truck but at a lot less weight as opposed to a fully loaded truck would be 10 cubic yards.

Chairman Scherer: Thank you, sir. Other commentary? Do we have an objection if we hear a question from the audience? We've closed the public comment portion. Seeing no objections, yes, sir?

Mr. Leslie: I'm not knocking progress, but if any of you guys have ever lived along that road, I've lived there 80 some years. You can't believe how the traffic is getting off and on that, especially when the train has them locked up at Perry and then you have 20 plus 2 or 3 sand trucks and you try to get out on the road, at least safely, it's pretty hard to do. I've lived there all my life and I've never seen anything like it. I'm not knocking progress, don't get me wrong, because we've got to have it. And let me tell you idiots something else, we don't have the roads big enough to handle all that much traffic. It isn't only the sand trucks it's everything the other big trucks. It's unbelievable.

Chairman Scherer: Are there any other questions? I assume Staff is still looking for whatever it was?

Mr. Henderson: During peak hours the proposed maximum was about 11 in 11 out southbound. That's during peak hours, not across all hours of the day and that was projected 2030 so I'm not sure if they're at that already or not.

Chris Storm: The 2030 refers to the information we get from KDOT on their projected growth of traffic on Lecompton Rd.

Vice Chair Johnson: 11 in 11 out over an hour? So, that was every 5 minutes.

Mr. Henderson: Per peak hour, so that might be a couple hours a day at peak. It might just be 1 hour a day depending on how their load is.

Vice Chair Johnson: I don't know if this is Staff or the applicant, but in your Staff comments you talk about the site improvements noted on the updated site plan such as interior roads and cement work will require floodplain development permits including no rise certifications. So, within this they're going to lay a certain cement pad or something to set these mixers or whatever equipment you have?

Chris Eichman: Concrete in and around the concrete plant itself and then where trucks get loaded and where trucks get turned around and head back out the gate some of that will be paved.

Vice Chair Johnson: And all that will be part of the flood plain development plan?

Chris Eichman: We have some existing buildings had to have no rise certifications it had to be a certain number and we have two permanent buildings that had to meet that.

Chris Storm: In reference here this area where we're putting this mobile batch plant is an area where we had slated in the original floodplain study as volume taken out of the floodplain for storage of materials and now we're taking that storage and moving it out and allowing basically that volume the floodplain would be able to occupy that volume again because you don't have that sand storage any more so it's really opening it back up to the floodplain.

Mr. Henderson: And they would need to document that, because they're making improvements to the property the roads that are going to be there they're going to need to document that and that is something that will be provided as a part of that process.

Chairman Scherer: Sam, I wanted to ask you, are you the floodplain administrator?

Mr. Henderson: Yes.

Chairman Scherer: Other questions or a motion?

ACTION: VICE CHAIR JOHNSON MAKES A MOTION TO RECOMMEND APPROVAL OF THE DP2014-03 BASED ON FINDINGS PRESENTED BY STAFF WITH THE FOLLOWING CONDITIONS:

1. Any State and/or Federal permits required to operate the concrete plant be kept current.
2. The applicant shall update the 2011 Traffic Impact Study prior to commencing operation of the concrete plant.

MOTION DIES FOR LACK OF A SECOND.

Commissioner Curry: Is this something that you can ask for a traffic study before we make a recommendation or does it just have to be a recommendation. I think a lot of us are a little concerned with all the stuff we've heard today. We want to recommend approval of it because it is business in our county, we need that. So, I think a lot of us are probably for it but also is it really going to impact? I don't know.

Secretary Noll: Their initial traffic study showed more than adequate to compensate for this.

Commissioner Curry: What did the initial study say, if we're putting how many trucks through Lecompton and how many trucks off it, I guess that would help me.

Secretary Noll: 11 in and 11 out per hour. It was sufficient to handle that so I don't see where we need to be a hindrance by requiring it.

Commissioner Curry: That was just during peak hours, though.

Mr. Henderson: I think it found that it was about 30% in 2011 it was at about 30% capacity at that time and I think that was at peak hours. I'm not sure how that would be influenced by the weight or type of traffic. I'm not a traffic planner or engineer.

Commissioner Bailey: The one thing I look at on the traffic problem. I don't think its Jefferson County's problem in Lecompton. I think that you need to get with the Sheriff's Department and the County Commissioners in Lecompton and if you don't want them going by the post office there get it posted for 15 tons and that will stop all that truck traffic. You know if you go to the County Commissioners in Douglas County you can get that stuff changed. That's on the other side of the river from us, we don't have a lot of choice there. I know that that road going west of Lecompton is not designed for that big of truck traffic. There's a way to stop that, but we're not the answer.

Commissioner Curry: Well, I don't think getting an updated traffic study is going to make a difference if it was approved in 2011 with that much room.

Secretary Noll: That's my thoughts.

Chairman Scherer: In answer to your question, I think we could postpone action waiting for a traffic study if that is what you want to do.

Commissioner Curry: Well now, I guess I just missed how it was explained earlier. Now it makes sense to me.

SECRETARY NOLL MAKES A MOTION TO RECOMMEND APPROVAL OF DP2014-03 BASED ON FINDINGS PRESENTED BY STAFF WITH THE FOLLOWING CONDITIONS:

1. *Any State and/or Federal permits required to operate the concrete plant be kept current.*

COMMISSIONER BAILEY SECONDED THE MOTION.

Votes were taken by Ayes and Nays and recorded as follows:

Matt Scherer	Paul Johnson	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry	Jerry White
DNV	Nay	Aye	Aye	---	Aye	Nay

Motion carried 3-2.

Staff informed the applicant when the case would be submitted to the County Commission for a final decision and let them know they would receive notice prior to the meeting.

Z2014-15: A request to rezone 6.4 acres vacant parcel at the SW1/4 of S24 T11S R18E from "SR" Suburban Residential District to "IP-2" Planned Medium Industrial District at the request of Doyle Pearl on behalf of Violet Gottstein.

Mr. Henderson reviewed the staff report for Z2014-15.

Chairman Scherer: Are there any questions for Staff? Could you show us the surrounding area map again? You mentioned that there were residences, where are they located?

Mr. Henderson reviewed the location of the residences in the area.

APPLICANT PRESENTATION

Doyle Pearl: I appreciate the time to talk a little bit about our business. We've been in the Ag retail business since 1961 so we have some history. We started in St. Mary's and expanded our business to the Perry/Lawrence area in 2001 and as the business grew the area that we purchased from Lawrence Co-op back at that time we've out grown. As agriculture increases in volume and the speed of applications and all businesses have to keep up so we're in need of meeting those demands. The Perry area has been successful at this. We like the area and think we're in the right area so expansion to the east, we feel it is important to stay close to the area. The resources are there as far as access, water, 3 phase power, Scott Spear is also with me tonight and he's the branch manager. We operate currently 4 ammonia plants one being in Perry 3 others one in Lawrence and 2 back in the Pottawattamie and Shawnee County area in St. Mary's. We maintain a good safety record. We have a safety director that works with our company and he is in charge of safety training and then keeping us in compliance with the ever changing rules and regulations of the EPA and the Kansas Department of Health and Environment. The Kansas Department of Agriculture is the agency that oversees an Ag retailer so we will submit an application for this expansion

with the ammonia tanks and the warehouse that we'll put there. They have containment rules and requirements that will be met before any construction will be started. Other than that I think I'll be glad to answer questions.

Chairman Scherer: Thank you, Tim?

Commissioner Bailey: Okay, in your warehouse Doyle, is that going to be dry storage or just chemicals?

Doyle Pearl: That is going to be seed and eventually we will have packaged crop protection products in there. The warehouses that we built back in St. Mary's we just go ahead and contain that whether it's seed or packaged goods so they can be dual purpose. We try to stay ahead of the regulations so that we aren't trying to catch up when things change.

Commissioner Bailey: Then are you going to leave your liquid facility in Perry?

Doyle Pearl: This is phase 1 of 2 phases and so your question we will start this and we hope if everything goes right with the rezoning and the land purchase we hope that we'll have this phase completed within 12 months. A 2 to 5 year plan would be to relocate the plant out to this facility at some point.

Commissioner Bailey: Will you do all your mixing and stuff at this facility then or are you going to keep it going down in Perry?

Doyle Pearl: Until we move it out it'll all be done on the current location.

Chairman Scherer: Other questions for the applicant?

Commissioner White: Do you have, I know you're down there in Perry, you say you'll eventually move your liquid to this new location do they have any restrictions for special containment when they're moved?

Doyle Pearl: The Department of Ag has requirements for containment as far as the storage tanks go and then the loading facility so all will be on hard surface so that if there is a spill it can be reclaimed.

Commissioner White: It can be reclaimed within that containment?

Doyle Pearl: Yes. For instance like the storage tanks it's 115% of the largest tank in that storage capacity that containment has to be. That's been in place since the mid 90's and our facilities have had that for several years or have complied with that and have been very successful and that comes with hard work that we haven't have any spills. So, we've got a good record.

Commissioner White: So, your trailers that you take out on the job sites, there will be no liquid stored in that just as they're sitting there until they're ready to go?

Doyle Pearl: I don't know that I understood.

Commissioner White: What I'm saying is you have the trailers that you take out to the different locations to deliver you product. Is any stored in those type of trailers or is it all stored in the big storage containers

Doyle Pearl: There could be, they allow like on farm storage, as long as we stay below a certain tonnage per year they allow I believe it's 45 days of temporary storage on the farm. But for us when we pull back in at night we'd either stay in the load pad or stay inside the warehouse with anything loaded. The last thing we want is to contaminate a site because the remediation can be quite expensive on that.

Chairman Scherer: Other questions for the applicant? Thank you, sir.

END OF APPLICANT PRESENTATION

OPEN PUBLIC COMMENT

Chairman Scherer asked if there was anyone who would like to speak in favor of the application.

Chairman Scherer asked if there was anyone who would like to speak in opposition of the application.

Chairman Scherer asked once more if there was anyone who would like to speak either for or against the application and seeing none closed the public comment portion of the hearing.

END OF PUBLIC COMMENT

Vice Chair Johnson: I guess I have one quick question for Staff. Can you show me with powerpoint or something what the difference would be between the two options you laid out on the paving of the parking?

Mr. Henderson: The difference would be; if no waiver was made that his parking area, wherever that would be, and the entryway all that needs to be paved. This area over here could be graveled or compacted dirt or whatever surface they wanted to go with there and if there was a waiver to allow for the remaining to be graveled also at least one or two stalls, however many is required by the ADA law to be concrete there. This being a full commercial facility it depends on how many parking stalls are in the lot so 26 I think they have to have 2 spots one is supposed to be a van accessible stall and the other can be a car stall.

Doyle Pearl: Mr. Chairman, I did not address that in my original presentation. I did not realize that we had to have so many parking stalls so I was thinking of a few customers and employees so I would like to ask for a waiver to the hard surface driveway certainly we would abide by the ADA requirements for hard surface.

ACTION: COMMISSIONER BAILEY MAKES A MOTION TO WAIVE PAVEMENT REQUIREMENT FOR THE PARKING AREA EXCEPT FOR THE REQUIRED ADA PARKING AND RECOMMEND APPROVAL OF Z2014-15 BASED ON FINDINGS PRESENTED BY STAFF. SECRETARY NOLL SECONDED THE MOTION.

Votes were taken by Ayes and Nays and recorded as follows:

Matt Scherer	Paul Johnson	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry	Jerry White
DNV	Aye	Aye	Aye	---	Aye	Aye

Motion carried unanimously 5-0.

Staff informed the applicant when the case would be submitted to the County Commission for a final decision and let them know they would receive notice prior to the meeting.

PR2014-16: A request to approve the Bledsoe Ranch Subdivision, a two (2) lot subdivision, at 14830 Fairview Dr., Oskaloosa, KS, at the request of Gary Bledsoe.

Z2014-16: A request to rezone Lots 1 and 2 of the Bledsoe Ranch Subdivision from “AG” Agricultural District to “RR” Rural Residential District, at the request of Gary Bledsoe.

Commissioner Bailey noted that he had had some conversations but that they would not influence his decisions on the case.

Mr. Henderson reviewed the staff report for PR2014-16 AND Z2014-16.

Chairman Scherer: Are there any questions for Staff?

Commissioner Bailey: I’ve got one, coming back to the overview map we’ve been trying to eliminate flag lots and here we’re going creating another one. This is not going to meet the dimensions for another lot and so we’ve created what we’ve been trying to get away from for some time, the flag lot.

Mr. Henderson: Although it does not have the frontage here for a 40 acre AG lot the remaining frontage on Fairview far exceeds that requirement and also the plat itself is neither creating that or increasing any degree of non-conformity from what was basically created from when they separated that out not according to the subdivision regulations.

Commissioner Bailey: The problem I have is, you saw these two lots, then you got this lot sitting right here, that’s another flag lot. We’ve been working trying to eliminate those flag lots.

Chairman Scherer: Sam’s point is that it already exists because of the existing property line.

Mr. Henderson: And it could be split off, it has this whole other frontage for access. So, yes, there could be additional splitting of that property. At that time it depends on how large of lots, but for an agricultural property it needs to have 660 feet of frontage, access onto the road and it does meet that requirement there.

Chairman Scherer: There’s essentially no way that the north portion could ever be separated from the Ag lot and meet that requirement.

Mr. Henderson: I’m not sure what the distance there between the property lines is, we can find out. The requirement for a Rural Residential lot is 330 feet and for a Suburban Residential lot is 165 feet and so in the future if there were additional splits it would depend on how large the lot they created by that it might be possible, but I’m not sure how wide that is, we’ll have to see. 347 feet wide and the pond looks like, and again I’m not sure of the exact lay of the land but it looks like there is approximately 200 feet between the south line of the water currently, there’s about 210 feet. So there does appear to be frontage for a property between 10 and 40 acres to be created by that and Rural Residential properties are permitted to go to a depth to width ratio of 4:1 so that could potentially have a depth of over 1200 feet.

Chairman Scherer: Other questions for Staff? Seeing none, does the applicant wish to make a statement?

APPLICANT PRESENTATION

The applicant declined the opportunity to make a presentation.

END OF APPLICANT PRESENTATION

OPEN PUBLIC COMMENT

Chairman Scherer asked if there was anyone who would like to speak in favor of the application.

Chairman Scherer asked if there was anyone who would like to speak in opposition of the application.

Chairman Scherer asked once more if there was anyone who would like to speak either for or against the application and seeing none closed the public comment portion of the hearing.

Mike Nichols: My questions are not really for or against but just really operational things. I was researching on other zoning things and happened to come up with this one. The first was access and you talked about the driveway and there's access for that and there's a discrepancy, this is probably more for the Commissioners but you should probably be aware that Road and Bridge is in one position on how a driveway is put in, and there are no specifications for a driveway, and this particular deal on this other lot there's a tough place to put in a driveway but it's not undoable, it might cost some money. Well, according to Road and Bridge, you get to pay for it because they do the work and they won't charge except for the new owner has to pay for a tube. I was unaware of that. Road and Bridge will put in a new driveway, so if you want one buy the tube and they'll do it. So, this would be an expensive driveway for us to pay for but that's the way we're doing it so as long as you guys are happy with that, I don't expect other people to pay for my driveways, but that's what the County's doing right now and I was unaware of it. There's no specs, but Road and Bridge says we don't need specs we do it the way we want to. And the other question was, is that driveway going to be required for that second lot? And there was discussion that it could be accessed by easement. It's a requirement in the zoning regulations that you have road frontage and there's a requirement that there's driveway space available on the road frontage, but you don't have to put it in to get a building permit for that lot once it's rezoned. Is that correct? As long as you've got a dedicated easement coming across the other property we've still got a flaw in our regs that you can still have a private easement access to a lot without utilizing your own private driveway which always opens up a can of worms when somebody does something inconsiderate like dying or getting in debt or something. So, that's another zoning thing that I thought we took care of a long time ago and should be fixed for these people or for anybody. That just doesn't make sense. The other oddity is that on this farm this is the way it was done for another purpose and won't allow this other so now this will allow it if it was rezoned and it's also interesting to look at property from different views and the way the appraiser looks at this property is different than the way zoning looks at it and according to our appraiser there's three residential lots on that farm already. There's one at 14430 Fairview Road which is on the corner. There's one at 15200 Fairview Road, and one at 15394 Fairview Road. That's what our appraiser says is on that farm and the Bledsoe's are probably not aware of this but that one at 15200 Fairview they'd tell you was worth \$30,000 an acre for that 4/10 of an acre they're calling a lot and you're paying taxes on \$30,000 of land there and that's just one down there that's not being used right now. There is a vacant manufactured home on that one they've ceased to tax that at anything but they're still taxing as if that ground was worth \$30,000 an acre.

Chairman Scherer: May I interrupt you and ask Staff if they can provide or flesh that statement out a little bit, I'm not quite sure I understand that.

Mr. Henderson: There is on the larger piece of property, there's a home here on the very east side and the mobile home and the mobile home that was the subject of the case in 2000 for the BZA is located here, which is the mobile home he's referring to, and is basically valueless as far as the structure but the value of the residential property that's classified by the appraiser he's taxed at 30,000 and then the other property is the home on the lot that was divided without going through the proper subdivision process and so the appraiser's valuation and their process is completely different than the zoning and so they do it based, so if this was a farmhand and helping them on the farm, which is how it was requested to be on there and how it was approved with the regulations supporting it, and so how the appraisers classify that is their policy on how they do that and so as long as it meets the zoning regulations the requirement for that is how it goes and they don't split out a property for that to be placed on they just place it on the farm.

Chairman Scherer: Thank you, sorry for interrupting.

Mike Nichols: That's alright, anyway that's just the thing is they're more operational than for this particular it could apply to anyone who appears before you who could have something like that on their property. The driveway issue is the one that was the most troublesome to me that our Road and Bridge people are perfectly glad to spend our money putting a new driveway in if you pay for the pipe and I thought we had taken care of that earlier. It was mentioned about the driveway for down there at the commercial site did you say that would be at their expense and not at the County's?

Mr. Henderson: The letters that we receive from the Road and Bridge Department state that if there's not an existing entryway that it's installed at the applicant's expense and apparently they pay for the materials and not for the labor.

Mike Nichols: That's not for this group, I'll have to talk to the Commissioners about that.

Chairman Scherer: That really isn't something we can address very well.

Mike Nichols: It's of interest that the idea that the driveway is not necessary is my point. We're still willing to allow a dedicated easement to come across those properties as long as it meets the criteria that it has road frontage and in the future if that becomes necessary but I thought we had gotten past that and our zoning required that you had to have access at the time you were going to get a permit. But I was wrong.

Mr. Henderson: In the subdivision regulations it's that it exists or can be provided basically is what the zoning regulations provide for and if they chose not to access through the frontage but through an easement, that's also a legal way to access property so I don't think that is something that can be outlawed by the County through zoning regulations.

Gary Bledsoe: The residence he referred to at 15200 is in the process of being torn down and will be removed so there will be no home site there.

Chairman Scherer: Thank you for that clarification. Again, I'll ask if there's anyone who wishes to speak to the application before I close the public comment portion of the hearing. Seeing none;

END OF PUBLIC COMMENT

Commissioner Bailey: I still have a problem with the flag lot and knowing that the bank coming up off of 59 Highway is almost virtually impossible to get access there it's going to cost a slug of money if you try to do it so I would vote for or make a motion for denial.

ACTION: COMMISSIONER BAILEY MAKES A MOTION TO RECOMMEND AGAINST APPROVAL OF PR2014-16 AND Z2014-16 BASED ON THE FINDING THAT THE PLAT WILL CREATE A FLAG LOT ON THE REMAINING PROPERTY. SECRETARY NOLL SECONDED THE MOTION.

Votes were taken by Ayes and Nays and recorded as follows:

Matt Scherer	Paul Johnson	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry	Jerry White
DNV	Aye	Aye	Aye	---	Aye	Aye

Motion to recommend against approval carried unanimously 5-0.

PR2014-17: A request to approve the Turkey Creek Subdivision, a two (2) lot subdivision, at 14312 Stitz Rd, Winchester, KS, at the request of Charles and Diana Pettit.

Z2014-17: A request to rezone Lot 1 of the Turkey Creek Subdivision from "AG" Agricultural District to "SR" Suburban Residential District and Lot 2 of same from "AG" Agricultural District to "RR" Rural Residential District, at the request of Charles and Diana Pettit.

Mr. Henderson reviewed the staff report for PR2014-16 AND Z2014-16.

Chairman Scherer: Are there any questions for Staff?

Vice Chair Johnson: So you say it's a 50/50 call on agricultural preservation here.

Mr. Henderson: I wouldn't know that it's a 50/50 but it says that it's moderately rated for preservation that's not a strong recommendation it's also not rated for easy consideration to be anything but Ag there. So not necessarily 50/50 but if in your mind if it's 50/50 and in anybody else's mind it's 60/40 or 70/30 that can be for you to discuss as the Planning Commission.

Vice Chair Johnson: How does that play against, how is that consistent with our Comprehensive Plan then to carve this out?

Mr. Henderson: The LESA is what is required and the recommendation based on the calculations from that don't say that yes, the primary purpose of this is agricultural. It can be changed. It's only moderately. If it was one way or the other it might be helpful but there's a middle ground there. Changing it would not be against the Comprehensive Plan. Leaving it the same, as Ag would not be against the Comprehensive Plan. As far as the Comprehensive Plan is concerned I think either way, especially since it's not being split up into small lots where the only use is residential and you can have supplementary uses as far as agricultural out there would be that would be a consideration that would be something that is in compliance with the Comprehensive Plan in my opinion.

Chairman Scherer: Could you tell us what the current use is? It appears to just be grass land.

Mr. Henderson: It's pasture.

Charles Pettit: It's pasture and hay and about 17 acres of crop. It's all in agriculture.

Mr. Henderson: Except for obviously where the house is located.

Chairman Scherer: Other questions for Staff at this time? Seeing none, I'll ask if the applicant wishes to speak to this application.

APPLICANT PRESENTATION

Charles Pettit: It's been explained. The reason I want to split it is my wife and I have got a house there that we was using at one time when I'd go up there to farm and we have to live there. We're getting aged and we have no use for the house and I want to sell the tract off with the house but I want to keep my farm. So I'd like to sell tract 1 that has a house. I do not

want to sell tract 2. We just split it down maybe for the purpose of my kids or my grandkids later on. That's where I'm at. Any questions, feel free to ask me.

Chairman Scherer: Are there any questions for the applicant?

END OF APPLICANT PRESENTATION

OPEN PUBLIC COMMENT

Chairman Scherer asked if there was anyone who would like to speak in favor of the application.

Matt Werner: Basically, I'm just here to hear what's involved in the process. I'm not one who had called in. I'm not a fan of dividing into small tracts because of the agriculture in the area. If it starts there then someone else buys and divides smaller and smaller and smaller then you end up with 10-15 neighbors. You know the area, there's a wonderful view right there and you start selling off 5, 10, 15 acres you don't have the view anymore.

Charles Pettit: I have no intentions of even selling lot 2. Which is right across from you.

Matt Werner: And that's part of why I was doing this was clarification as to what the plan is. Like he said, they're not full time neighbors there and I'm gone to work all the time so we don't communicate.

Charles Pettit: We've never met.

Diana Pettit: We take care of our properties and we cannot keep, we want our properties kept up well, our home and it's getting to a point where I can't keep up with a big house in Johnson County so we just wanted it kept up to where it keeps the property looking good.

Chairman Scherer: Thank you both.

END OF PUBLIC COMMENT

Vice Chair Johnson: I would just make a general comment and then I think we all wonder what the future holds for property development and now that you've taken this step with lot 2 the ideal is that you would pass it on to relatives, but if somebody else bought this lot number 2 there would be some options to break that up further?

Mr. Henderson: Potentially. They could re-plot it or do a lot split.

Vice Chair Johnson: I only say that, to say that there's wonderful intentions all the way around and that was my concern my earlier questions about taking this out of Ag is where the slippery slope starts. Who knows who'll be around but I think I guess I say that for the record.

Commissioner Bailey: I come back to one of my pet peeves or concerns I like straight lines, I don't like angles. I just don't like bending around a creek or whatever we want to do. I think if we make a split it needs to be a specific block.

Chairman Scherer: Could you explain why you chose to do it that way? He's talking about the angle on lot 1.

Charles Pettit: Yes, whoever buys lot 1 I would like them to be able to use the creek down there, it's pretty, and go down that creek go over to that field and have a nice little garden there in the low ground. The ground is very good down there. It just makes the lot so much more desirable in my opinion. Was that your question?

Commissioner Bailey: No, the question I have is why you didn't go straight north with it instead of angling across.

Charles Pettit: I can explain that, the reason being this is my bean patch down here and I didn't want to interfere with the bean patch. So, the way I did it goes across like this and would not interfere with my farmer Shukart is the guy that farms it and that way if I come out here it takes part of the bean patch. You see, this is all beans down here, all this. Whoever buys this is not going to be a farmer. He's just buying 9 acres. So, that's why I did it at an angle.

Commissioner Bailey: I realize that. I just have a problem with it, not having straight lines. I like things in blocks.

Secretary Noll: In reference to that, Tim, I have a big problem with splitting off two tracts out of a full quarter, too, in that area especially. And like Paul made the comment, you know, good intentions, lot number 2 there'll be two more houses on there that is not congruent with that area. At all.

Chairman Scherer: Other discussion?

Charles Pettit: May I say something?

Chairman Scherer: Certainly, sir.

Charles Pettit: I'm sure that I'm allowed to do a one tract split is that correct?

Mr. Henderson: As an Ag Split.

Charles Pettit: As an Ag Split, yes, but it was recommended that while I'm doing it why not just do it this way and that's why I chose to do it. I originally wanted to do one split which is really all I wanted in the first place. I went ahead and done

this because going through all this would be the right time to do all this. I suppose if it's denied that's what I'll have to do. Do a one tract split. You're still subject to having this, your concerns will still be there if I do a one tract split. Right, agreed?

Secretary Noll: Not to that magnitude.

Chairman Scherer: You'd still have to come in at that point.

Mr. Henderson: Well, for an Ag Split it's not subject to Planning Commission review.

Chairman Scherer: Right, but once the Ag Split is done there can't be another split.

Mr. Henderson: Without platting and rezoning. The applicant came in to the office with his real estate agent and they had mentioned they weren't sure if a lot of that size would be attractive to a potential buyer and so they weren't sure if they wanted to do a onetime split and then somebody might want to purchase more property so there's an additional process there so they decided to request the 2 lot subdivision and that is how it was viewed from Staff's side. We're not privy to the discussions they have after they leave the office. The plat does meet all technical specifications for a plat and as far as that goes there's not really very many options when a plat does that it's either approve it or if it's not a legal split to recommend denial of approval for it. As far as rezoning goes, if it's a legal plat and it no longer meets the requirement to be agriculturally rezoned then it should be rezoned to an appropriate district.

Chairman Scherer: I'm not sure my question is quite appropriate, but if you were just doing a one lot split what would the lot look like?

Charles Pettit: Pretty much like number 1 looks now.

Chairman Scherer: So you would carve that out rather than combining the two lots together.

Charles Pettit: Yeah, I think it makes it real desirable. I wouldn't want to do my survey again and he's much better doing it than I am. I recommended square, too and that's what I recommended but doing that is going to interfere with my farmer and the bean patch. It just didn't seem like the right thing to do. With the creek the way it is and the bean patch the way it is it just works so much better.

Vice Chair Johnson: What confuses me is if you did the Ag Lot Split and you said it would just basically be lot 1, it would stay pretty much that same size then?

Mr. Henderson: Again it's if someone in the future wanted to come in and do any further splits it would be subject to the platting and rezoning procedures at that time. So, just because the split off one it doesn't mean that it will stay that way it just means that is what's permitted at this time and if anything further changes it has to go through the full platting and rezoning process at that time. A plat doesn't set anything in stone. It basically says this is what's there and this is how it should be developed, but if somebody wants to change that they have the option to re-plate it or do a lot split and so it's not really set in stone and there's no guarantee that it will stay that way and there's no guarantee that it will change. As far as vesting development rights go they have 10 years to sell the properties and build a house on there. If they don't sell a property within 10 years their vesting rights go away which basically means that if at that time the lots don't conform to the zoning regulations then they have to go through an make a new plat or vacate that plat.

Chairman Scherer: Further discussion or action?

ACTION: SECRETARY NOLL MAKES A MOTION TO RECOMMEND AGAINST APPROVAL OF PR2014-17 AND Z2014-17 BASED ON THE AG ENHANCEMENT OVERLAY AND A ONETIME AG LOT SPLIT WOULD BE MORE FITTING. VICE CHAIR JOHNSON SECONDED THE MOTION.

Votes were taken by Ayes and Nays and recorded as follows:

Matt Scherer	Paul Johnson	Tim Bailey	Alex Noll	Bret Frakes	Kelli Curry	Jerry White
DNV	Aye	Aye	Aye	---	Aye	Aye

Motion to recommend against approval carried unanimously 5-0.

Item 6. Public Comment

There are no members of the public present to comment.

Item 7. Old Business and General Staff Report:

Old Business: None.

General Staff Report: Staff updated the Commission on the status of cases from the previous month.

Item 8. New Business

Item 9. Adjournment

Action: Commissioner Bailey made a motion to adjourn. Commissioner Curry seconded the motion. Motion carried unanimously. The meeting was adjourned at approximately 10:35 PM.

Minutes taken by:



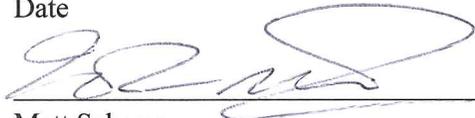
Sam Henderson, Zoning Administrator

Approved:

Dec. 22, 2014

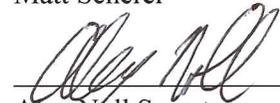
Date

Chairman:



Matt Scherer

Secretary:



Alex Noll Secretary