

Jefferson County Planning & Zoning Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of Planning Commission Meeting of September 28, 2015

Item 1. Call to Order.

Item 2. Approval of the Agenda

CHAIRMAN SCHERER CALLED FOR THE APPROVAL OF THE AGENDA AS PRESENTED. VICE CHAIR JOHNSON MAKES A MOTION TO APPROVE THE AGENDA AS PRESENTED. COMMISSIONER WHITE SECONDED THE MOTION.

Votes were taken by Ayes and Nays as follows:

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

The motion carried unanimously, 3-0.

Item 3. Roll Call

Matt Scherer	Paul Johnson	Tim Bailey	Bret Frakes	Jerry White	Alex Noll	Vacant
Present	Present	Absent	Present	Present	Absent	---

Staff Members Sam Henderson, Zoning Administrator; Erin George, Planner I, were also present.

Item 4. Approval of the August 24, 2015 minutes.

Chair Scherer asked if there were any corrections or additions to the minutes. Chairman Scherer noted 2 possible corrections to the minutes on page 2.

Action: *VICE CHAIR JOHNSON MAKES A MOTION TO APPROVE THE AUGUST 24, 2015 MINUTES WITH CORRECTIONS, COMMISSIONER WHITE SECONDED THE MOTION.*

Votes were taken by Ayes and Nays as follows:

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

The motion carried unanimously, 3-0.

Item 5. CHAIRMAN SCHERER OPENED THE PUBLIC HEARING

PR2015-11: A request to consider the Final Plat of the Foxworthy Field West Subdivision, a two lot subdivision generally located on the northeast corner of Wellman Rd. and 106th St., at the request of Thomas and Colleen Foxworthy.

Z2015-11: A request to rezone the Foxworthy Field West Subdivision, from the “AG” Agricultural District to the “SR” Suburban Residential District, generally located on the northeast corner of Wellman Rd. and 106th St., at the request of Thomas and Colleen Foxworthy.

Mr. Henderson presented the staff report for PR2015-11 and Z2015-11.

Chairman Scherer: Are there any questions for Staff at this time? Are the Foxworthy’s present? If you could sit at the defense table? At this time do you have anything you would like to tell us about the application?

APPLICANT PRESENTATION

Applicant: Just what he said there. I’d like to have a travel easement across that Lot 2 to that Lot 1. Other than that I believe I’ve got the okay for everything to go; water, sewer. I just hope it gets approved so we can progress.

Chairman Scherer: Does anyone have any immediate questions for the applicant?

Vice Chair Johnson: I have one. So, why wasn’t the travel easement or the driveway situation settled before you brought this application to the Planning Commission?

Applicant: When I bought the property it was one lot. I asked the surveyor if it was going to be legal to split that property make two lots out of it so I could sell both lots. Both of them had the frontage requirements. I couldn’t see any reason why we couldn’t. He said there was no reason I couldn’t split properties. So that’s what he surveyed. It doesn’t have to be I’ll take it as one lot. I don’t care. If I can get one lot, I’d prefer to have 2 lots for selling purposes. I’m not going to use this property. When I bought the property, the condition was that I had to buy both properties. He wouldn’t sell just one property. He wanted to get rid of both of them so that was the reason I got these two lots or this lot here.

Vice Chair Johnson: So you could live with, instead of going two 3 acre lots.

Applicant: I can live with one, yes.

Vice Chair Johnson: Okay.

Applicant: I would prefer not to.

Chairman Scherer: Other questions for the applicant at this time? Seeing none, ladies and gentlemen at this time we’ll open the hearing to anyone who would like to speak in favor of the application beside from the applicant.

END APPLICANT PRESENTATION

OPEN OF PUBIC COMMENT

Chairman Scherer asked if there was anyone who would like to speak in favor of the application. Seeing none Chairman Scherer asked if there was anyone who would like to speak in opposition of the application.

Mike Nickels: I live at 106th and Fairview, or actually 106th and Wellman but it’s a Fairview Rd. address. I wanted to give you a little different map if I may of the neighborhood. One of the issues with this property has already been discussed is it’s been split up prior. It still contains AG classification on 100% of the original 80 acres that was subdivided. When it was done it was done, some of it by using Ag lot splits and some of it just by building a house and selling a house off separately as an unzoned property. So the map that I gave you shows that the appraisers still shows all that 80 acres as Ag including the one that’s got the house on it. They never recognized the residential. I imagine their collecting taxes off that house, but they still consider that as AG use rather than a residential lot. The others, they do was mentioned there’s a Suburban Residential lot across the street which we bought and put it in with the land that we own and it became suburban residential not by being grandfathered in by zoning it was done by a judge in a divorce so they didn’t have to go through any process but it’s now part of our farm so it doesn’t really exist. It does have a separate deed but it is part of a contiguous tract. So the method by which they came about was a little bit herky jerky and that’s kind of the issues that it has. We know what those were and how it got to be that way it wasn’t by Foxworthy splitting it up but they bought it from the guy that did that years ago and he maybe ran out of time to try to jump this through. The primary thing I think you guys still do is use the Golden rules for the factors you consider and that’s what I looked through to evaluate and see okay, does this meet them all? And in my position I’d rather not see it all chopped up if it meets all the required criteria there’s no reason to not have them done. But, as I went through them the real intent of the zoning regulations if we go through what the subdivision regs they talk about what the cost of the subdivision is and they make sure that it doesn’t place increasing demands on utilities and services roads file entrances and all those things and not ultimately cost the taxpayers so that’s what one of the primary goals is. If it’s going to be a subdivision the developer is going to pay the extra cost we’ve got to figure out a way to recover that. With these small lots it’s getting harder and harder to recover those with all those field entrances. Road and Bridge can testify to that and the driveway access. The more drivers on the gravel roads the more rock they haul and the more rock goes in the

ditch. The creation of all those more users and their accesses require a lot of public money for us to pay for and we don't have the impact fees at this point for a small lot like this to help out and so it doesn't also in the zoning regs it discusses that it's important to enhance these zoning districts and promote them and no more than you put a hog operation in next to a small lot home it's also one of those things that there are so many competing uses out in an agricultural district that won't serve a small lot subdivision well in the future whether you have a combine late at night kicking dust out or a 120 foot spray rig running next door or pen of calves being weaned for three days next door that you can't hear yourself think. That's all things out in the country that we know about but a person buying a 3 or 7 acre lot they've got no clue. Because they've got something that's zoned for rural or suburban residential that they're right in the middle of an Ag situation. So it doesn't appear that this would enhance the value of the zone if we agree it's an Ag zone. It's not going to enhance the Ag zone and it's actually going to be a disservice to someone who buys the lot and puts a home on there. And not only are they in a bad position just because the situation of the location but it's going to be a changing agricultural scene whether there's cattle on my lot or whether there's a combine working corn late at night next door on the other Ag land or a hay baler late at night or guys going out. It's not going to be the serene tract or setting that they envision of large lot subdivisions somewhere that's managed for that clientele. The other purpose of our zoning regs is stated to conserve good agricultural land and to protect it and the LESA scores are good in that they rank them and I'm glad to see that this property ranked in the category where it's worth preserving. All of those other things I listed about the noise and the night time activity that's part of the comprehensive plan guidelines along with LESA that you've got to realize that you've got things out there that are really adverse to an intrusive use whether it's something in a small-lot subdivision that doesn't fit or a small lot subdivision out in land that's almost 100% well it is 100% surrounded by Ag if you discount the suburban residential lot that is showing up on there and big discounts on that LESA score if it's a long ways from town. If it's right next to city limits why that LESA score system helps it out says well it's close enough to the city maybe we can let this piece of farmland go, but as they said this is outside the notification area of Oskaloosa so it didn't get any points towards its favor of having a lower LESA score. This is mentioned again in the regular zoning regulations as well as in the comp plan conducting an assessment of what the real costs are going to be long term rather than saying that it's going to pay for itself when out there where it is it's not going to be something that we know that the developer is going to pay for even at this point the driveway systems that we put in are now still being paid for they buy the tube but they never envisioned that the developers were going to put in 2 or 3 driveways at a time they were thinking of somebody with 80 acres needed a new driveway or better access then doing it so we've got that multiplier affect in this county now that we haven't dealt with for just driveways. Our Road and Bridge Department is still using that and putting those new driveways in on our money when any other development the developer pays for. If we go on down the line to the character and condition of the neighborhood we've already discussed that. It's Ag, that's the condition of it. The next one consideration that you look at is that nothing has changed in the neighborhood to make it necessary. Also one of the other considerations is number of like properties available if somebody wanted it. In Jefferson County right now there are about 150 lots vacant that are larger size lots. I didn't go through the small scale lots around the lake that are postage stamps. I know those are another issue that we have. We did a look at lots that are 2 acres or larger in the county that are deemed as vacant. Whereas the difference is as I noted to you that the map I've got has got 7 acre lots on it that I gave you and they're still called Ag but these are lots that have fell off the cliff and they're not even called Ag they're called vacant lots and considered to be a vacant residential lot ready to be developed or potentially to be rezoned if they haven't been rezoned and there's actually about 160 lots but 96% of them are 15 acres or less so there's a good percentage of land already split out in this county and somethings going to happen with that too. There's another 150 lots out there, it will happen sooner or later and it surprised me that these weren't part of that search. These were some that weren't even counted so there's others about these classed as vacant that are not classed as Ag. So we like to see it weigh heavily on that Ag classification. Another one that's on there for your consideration is the current zoning. As it's been restricted to Ag use on its current zoning it is suitable for that. That's one of the requirements to look at to see was it is suitable for what it's zoned as. And it is its got hay on some of it and some of the land has corn on it. So it's been used for that even though it is a small lot that was created. G is kind of a tricky one on your list of things to consider because it talks about the length of time that the property has been vacant but the kick to that is that it's not considered vacant if it's used for Ag. SO it doesn't count as a vacant lot it's in use in an Ag district as an Ag lot as it was intended. It's just a small Ag parcel. Then sewer and water has already been addressed and we dealt with there's an amount of vacant land available in the County. K goes by the comprehensive plan says whether or not the proposed amendment would be in conformance and enhance the comprehensive plan and based off the information that we got out of the comprehensive plan, it does not. One of the public policy consideration among others in the comprehensive plan was leaning to trying towards maintaining an agricultural district especially if it's not close to a town and the ones in close to town should drive that development around our cities and revitalize our cities. The only way to fix these small towns. If we keep putting stuff outside the notification

and rezoning it outside the notification areas the city is never going to get that development in close to them where they can get that mass to be able to be revitalized and keep growing. They're just going to be stagnant. The last 2 of your considerations are likely look at whether there's a balance that you look at for the public health and safety and whether that is significant in relationship to what the applicant for the rezoning and there again it talks about the value of the property which is relative to where it is its value is as Ag property right now and admittedly the money is there if it's revalued by changing the zoning but also the money is not there if you look at what the down the road costs are having these large lot subdivisions out away from our communities. You have the map and you've already got the information on the issues with one of the former owners that was done was one of the issues and the other pictures that I've got just show the agricultural district and the hay bales in the corner around it so it kind of shows what I'm talking about you don't probably need to see a picture of a hay bale. Any questions?

Chairman Scherer: Are there any questions for Mr. Nickels at this time? Thank you. There was another gentleman that raised his hand about the same time as Mr. Nickels.

Mr. and Mrs. Trinkle: We live off 106th 17272 106th St. We actually live in the property that is between the 2 lots and we want to be good neighbors. We love our neighborhood and we would welcome new folks coming into our neighborhood but the concern that we have is that in times of high water demand our water pressure drops considerably and we're concerned that if we get too many houses there then we're really going to have more issues with our water. We would be okay with one house on one side and one house on the other, we know that things change and currently we're not zoned. We were told for many years that we were not able to get our property zoned and we found that it's something that we might be able to do in the future and we'll look at that, but again our concern is more with the water situation. We're just concerned that more houses draw that much more water and sometimes at our house it's real difficult to take a shower ever. Again that's at times of really high demands on water. Normally it's fine, but when it's really hot sometimes in the early morning we lose our water pressure.

Chairman Scherer: Any questions for the witness? I have one for Staff, the rural water district didn't say anything about pressure issues?

Mr. Henderson: No. They said that water service was available for both lots on this plat and the one lot on the other plat that will come up later.

Commissioner White: Have you mentioned this problem you're having with your rural water district?

Mrs. Trinkle: We did one time and you know it's so sporadic that it's really hard to know when it's going to happen and sometimes it's early in the morning so we don't really have someone to call at that time to get it resolved. And again I think we'd be okay with one on each side of us but I just think that that third house would be that much more of a draw on our water.

Chairman Scherer: Are there any more questions? Thank you. Is there anyone else who would like to speak in opposition to the application?

Seeing no one, Chairman Scherer offered the applicant the opportunity to respond to the comments.

Applicant: Mike has 2 properties right there I don't know why he was complaining, I guess I didn't understand what he was saying. He has the property right across the street and another property within a quarter mile from me. We were told there's plenty of water, too. We're really concerned to see that water is going to be a problem.

Chairman Scherer closed the public comment portion of the hearing.

END OF PUBLIC COMMENT

Chairman Scherer: Are there any questions for any of the witness or for Staff? I have a question for Staff. You had mentioned as well as some a zoning quest was denied. Is there any background you can give us on that?

Mr. Henderson: It was this 20 acre parcel to the north of the property and the owner at the time requested to rezone it. There's not a whole lot of notes left in the casefile, it's really not a very detailed case. And it was denied. This case is similar, however the major difference between the two is that at that time there was no plat proposed to bring it into conformance with the subdivision regulations. A plat, like with other cases that have been before this body previously on parcels that were not divided correctly according to subdivision regulations normally we require them to have a plat and then request rezoning along with that plat at that time there was no plat submitted just a request to rezone and it was denied. At that time there were similar concerns brought forward to the Planning Commission about having the agricultural use maintained in the area, by actually, I believe, the same individuals.

Commissioner Frakes: If we wanted to, if the necessity if we asked them to go back to just one 7 acre lot would we need to table it so they could have time to have it redrawn? How would we deal with that on the plat because we've been issued

a 2, 3 acre lot plat and if we asked them to go back to a 7 would we make that recommendation to them and then table the matter?

Mr. Henderson: I believe it would need to be readvertised because it has been advertised as a requested plat into 2 lots and therefore anyone not at this meeting tonight would not know that it was changed to one 7 acre lot so we'd need to go back through the public notification about the change in that case. This is not the same as a zoning hierarchy in my opinion where instead of requesting one district we're changing it to one of more restrictive or less intensive use, where the effect is similar it's the same zoning district and we don't have authority in the zoning regulations to change the plat request or the subdivision regulations to change the plat request on a final plat. If it was a large subdivision and the Planning Commission wanted changes done to the preliminary plat that is something that could be done and postponed and brought back but this type of plat doesn't have a preliminary plat to do that with.

Commissioner Frakes: We're just a recommending body the County Commissioners could still okay the two lots. I just wanted some clarification on what type of mobility we had in that situation.

Vice Chair Johnson: I have a question for Staff. Could you spell out a little more detail when you say this is in the mid-range of moderately rated for preservation?

Mr. Henderson: Yes, okay, so it scored a 94 on the soil content as was stated earlier and it scored about 192 on the site assessment which takes in various factors such as the size of the lot, the uses of the surrounding properties, the zoning of the surrounding properties as well as within a mile radius and the types of transportation available, how far it is between cities and other environmental considerations, how long it takes to schools for example, and that type of thing and so it scored a 192 which is in the not rated for farmland preservation category on the site assessment and it scored a 94 on the soil valuation or the land evaluation is what it's called here which is in the highly rated for farmland preservation and so that soil evaluation which as was stated the entire site 7 acres is consisted of type 3 soils and so that is an average score of 94 which is the weighting that that type of soil is give and so that brought the total score to 286 and as you can see here the moderate range is 250 to 329 so it's closer to 250 than it is to 329 if just barely so it's right there in the middle of that moderately rated for farmland preservation category.

Vice Chair Johnson: would you say that this request is consistent with the spirit or the purpose of our comprehensive plan?

Mr. Henderson: In that the size of the property is less than 40 acres and there's really nothing we can do about the size of the property, we can't mandate that it go back to 40 acres, it's under separate ownership. That piece of property may never get back to 40 acres, I believe it is consistent with the spirit of the comprehensive plan and the zoning regulations would promote orderly growth, growth that's done to match with the sizes that we've established for those districts it doesn't make any sense to have a 7 acre agriculture lot that can't be used for any type really of agriculture purposes unless it's in tandem with other larger lots. It might can be used with some accessory farming uses, they may have a horse or two a cow or two or a large garden, but it's not going to be real productive land for hay or corn or soybeans because it's not large enough.

Vice Chair Johnson: It could be 3 or 5 acres of grapes.

Mr. Henderson: Sure. Much to the chagrin of the surrounding farmers I'm sure if it was planted in grapes.

Vice Chair Johnson: The overall thing I'm driving at is we've had part of this property broken up and if illegally is the proper term, but not following it, so it's like so that's happened, that's reality and now we're just building, you know, setting precedent here that from this if it's already happened then the adjoining properties should be grandfathered in as well.

Mr. Henderson: With respect, I believe that if you want to call it a precedent, has been set for a long time. There's nothing new with this request that hasn't been done in multiple cases in just the year and a half that I've been zoning administrator. So I don't believe that what is happening here with this request is any different from those. There's no real precedent being set it's more of a keeping in line with bringing as many properties into conformance as we possibly can with the current zoning regulations.

Chairman Scherer: Any other questions for Staff?

ACTION: COMMISSIONER FRAKES MAKES A MOTION TO RECOMMEND AGAINST APPROVAL OF PR2015-11 AS IT IS PRESENTED AS 2, 3.5 ACRE LOTS. COMMISSIONER WHITE SECONDS THE MOTION.

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

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

The motion carried, 3-0.

COMMISSIONER FRAKES MAKES A MOTION TO RECOMMEND APPROVAL OF Z2015-11 TO REZONE THE SUBJECT PROPERTY FROM “AG” TO “SR” AS A 7 ACRE LOT. COMMISSIONER WHITE SECONDS THE MOTION.

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

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

The motion carried, 2-1.

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.

PR2015-12: A request to consider the Final Plat of the Foxworthy Field East Subdivision, a one lot subdivision generally located on the north side of 106th St. about 750 feet east of Wellman Rd., at the request of Thomas and Colleen Foxworthy.

Z2015-12: A request to rezone the Foxworthy Field East Subdivision, from the “AG” Agricultural District to the “SR” Suburban Residential District, generally located on the north side of 106th St. about 750 feet east of Wellman Rd., at the request of Thomas and Colleen Foxworthy.

Mr. Henderson presented the staff report for PR2015-12 and Z2015-12.

Chairman Scherer: Do we have questions for Staff?

APPLICANT PRESENTATION

Applicant declined the opportunity to make a presentation.

END 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.

Mike Nickels: Same thing, short and sweet. I do have a couple of clarifications. It was mentioned about bringing lots into conformance and at this time the lots we’re discussing are conforming. They’re Ag and they’re used for Ag. So they’re not non-conforming lots, they’re small Ag lots, granted, but it isn’t a pressing issue to bring them into conformance just for the sake of conformity. They’re fine as is, to rezone them would allow them to be built on, but if we looked at what we talked about earlier as far as precedence of doing this out away from where our other development is, you’re out in the middle of an Ag district, our policy consideration under the comp plan are real specific about that and we’d have to ignore all the information all the advice we’ve had to keep doing this, granted we’ve been doing it, there’s no doubt about that, but under policy considerations it discusses that in an agricultural district the factors important because the zoning regulations derive from police power, that’s in our comp plan, when land is zoned other than Ag District the potential exists for non-agricultural uses which may be incompatible with agriculture Jefferson County should weigh adjacent ag zoning heavily when analyzing the land use and overall characteristics of the area. Well if you weigh it heavily and you realize that it’s outside the notification district of a city and you realize that the road access on the previous case is poor and they are being used as agriculture and they have been since before 1999 so it worked and it kept the integrity of the agriculture district there and that’s what our comp plan warns us about is doing just what we’ve been doing and establishing precedence, precedent that’s in error if you base it on our zoning regs and our comp plan, but if you choose to put those papers aside and just help somebody out, which I agree, I understand the logic behind doing this, he’s got the land, he’s already bought it, it didn’t get zoned prior to him buying it so now it’s a conundrum as a young person in our household has said. Think about it, there’s a lot of documents to support what I’m saying, but the easiest and fastest way is the way we’ve been doing it.

Chairman Scherer: Are there any questions for Mr. Nickels? Is there anyone else who wishes to speak in opposition to this application?

Candace Braksick: I don’t know if it’s in opposition, but I wanted to say, My name is Candi Braksick and I live north of what was an 80 acres before it was illegally split and I received no notice and so I received no notice of any proposed, I guess my south line apparently is over 1000 feet, but I’m the north property owner of what was this 80 acres before it was

illegally split and I have 240 acres that is all Ag, and I wanted to just point that out. I wonder if maybe we could look at the notification areas in the future, not tonight, but in the future.

Commissioner Frakes: The notification areas are State Statute.

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: This may be a question for the applicant. So, what Ag use is it now under? Is it haying?

Applicant: Hay.

Vice Chair Johnson: No livestock. No, just hay ground?

Applicant: Just hay ground.

ACTION: VICE CHAIR JOHNSON MAKES A MOTION TO RECOMMEND AGAINST APPROVAL OF PR2015-12 AND Z2015-12 BASED ON THE FINDING THAT THE REQUESTS DO NOT MEET THE INTENT OF THE COMPREHENSIVE PLAN TO PROTECT AGRICULTURAL LAND. COMMISSIONER WHITE SECONDS THE MOTION.

Commissioner Frakes: I have a feeling with these two cases, 1 it is just right across the road from the notification area of the city, 2 it's closer to a blacktop. I have a little more trouble with this actual lot because of its proximity to another agricultural lot and the land would tie in better versus the other one that is kind of over there kind of locked in a corner, but I do feel that it is just outside the notification area but it is also close to the blacktop which are two things that we push for is for new developments to be close to blacktop and close to cities obviously this is close to Oskaloosa because it is near their notification area but that's just my comments on it.

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

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

The motion carried, 2-1.

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.

PR2015-13: A request to consider the Final Plat of the Beurman Acres Subdivision, a three lot subdivision at 11301 94th St., Oskaloosa, KS, at the request of Richard Beurman.

Z2015-13: A request to rezone the Lot 3 of the Beurman Acres Subdivision, 11303 94th St., Oskaloosa, KS, from the "RR" Rural Residential District to the "SR" Suburban Residential District, at the request of Richard Beurman.

Mr. Henderson presented the staff report for PR2015-13 and Z2015-13.

Chairman Scherer: Do we have questions for Staff? Bret?

Commissioner Frakes: Do you have any background on how the singlewide was put in for a medical need or?

Mr. Henderson: There was no information on the building permit as to why that was permitted. It was just allowed in 1993. I don't know if it was for like they explained like it was for a farmhand to help work the 30 acres, I don't know if that parcel was larger in 1993 than it is now, but at that time they were under different zoning regulations they were under the '77 zoning regulations which didn't depending on what it was zoned then wouldn't necessarily have precluded them from having 2 residences on 1 property.

Chairman Scherer: Are there other questions for Staff? Seeing none, is the applicant present? If you would come up front please.

APPLICANT PRESENTATION

The applicant declined the opportunity to make a presentation.

END 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

Commissioner Frakes: I've got one question for Sam. If they left it as a 2 lot subdivision and that single-wide was left on Lot 1 is there any conflict with it that point since it's already Suburban Residential and that's not changing?

Mr. Henderson: Well, it's Rural Residential, well, the current zoning regulations don't permit 2 residences on one property so this configuration would bring it more into conformance than having the 2 on 1 lot. The current zoning regulations, like I mentioned, don't allow new manufactured homes to be put on properties that are outside of manufactured home subdivisions or manufactured home parks or used for purposes like housing farmhands on agricultural properties or in special cases authorized by the BZA for extreme hardship on other properties. So, this configuration would allow it to be the most conforming out of any kind of other arrangement.

ACTION: COMMISSIONER FRAKES MAKES A MOTION TO RECOMMEND APPROVAL OF PR2015-13 AND Z2015-13. VICE CHAIR JOHNSON SECONDS THE MOTION.

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

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

The motion carried unanimously, 3-0.

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.

PR2015-14: A request to consider the Preliminary and Final Plats of the Grollmes Creek Subdivision, a five lot subdivision at 14873 Geary Road, Valley Falls, KS, at the request of Lawrence and Alisa Grollmes.

Z2015-14: A request to rezone the Lot 1 of the Grollmes Creek Subdivision from the "AG" Agricultural District to the "RR" Rural Residential District and Lots 2, 3, 4, and 5 of same from the "AG" Agricultural District to the "SR" Suburban Residential District, 14873 Geary Rd., Valley Falls, KS, at the request of Lawrence and Alisa Grollmes.

Commissioner Frakes mentioned that he spoke with Mr. Grollmes on the way into the building but that nothing in the conversation would influence his decisions about the case.

Mr. Henderson presented the staff report for PR2015-14 and Z2015-14.

Chairman Scherer: Do we have questions for Staff? Seeing none, is the applicant present?

APPLICANT PRESENTATION

Applicant: Well, as you can see there Lot 3, I believe, is where the house is and we want to sell our house that we're living in right now and I didn't want to sell all the acreage. I just wanted to split off a 5 acre tract with the house. And I wanted to keep the rest together because the house with the barn you can see that has the residence there and I own the other 31 acres to the south. So, basically I wanted to keep it all together, but when I went to see Tufte he said that since you're doing this you might want to consider doing the rest of this because you wouldn't be allowed to do it in the future. You know, to do any more splitting if you chose to. It's not my intention to put a subdivision in and build it. I want to be able to sell the house and 5 acres or possibly there's 3 or 4 acres to the north towards the corner that, like he said, is in the

floodplain, it's full of trees, and if somebody were to want to come out and buy a house with more than 5 acres, possibly 5 or 10 acres then I'd be able to sell the house and 5 plus that one other. I wasn't doing it to split it all off and have somebody come in and build houses all over the place. As far as the dust, 150th leads straight down the boat ramp and hunters and fishermen run that road continuously, 150th and Geary. Another house is not going to make a difference as far as dust is concerned. It's there. That's about all.

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

END 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.

Jeri Clark: We live out there at 142nd and Geary Rd. We have about 60 acres. We live out in that area. We live south of where Larry's got the property, but there is so much traffic during the hunting season, there is fish and game all across the road and up and down Geary passed our house and there is farming across the road for quite a bit and to the north and behind him to the west there's farming so we would really like to see that still be Ag instead of maybe houses in there and they're adding 3 more driveways on that road and when it's hunting season it's pretty busy. The dust? We're used to the dust. We moved to the country to keep it more Ag and not have a lot of neighbors and so that's my thing.

Chairman Scherer asked once more if there was anyone who would like to speak either for or against the application and seeing none gave the applicant an opportunity to rebut comments made.

Applicant: As far as that lot 2 to me that's not even practical to put a house on that lot. It's smaller and I don't know exactly but I think 3.8 if I'm not mistaken. You know, like I said, I'm not doing this to make a subdivision and just sell off lots, I want to keep what property I have left after I sell the house because I'll still have a barn and my horses there. That's all I do there. I don't care if it's split up into that many lots, per se, you know like I said my main goal was to be able to sell the house and possibly 5 acres or the 3.8 with the 5 acres in case somebody from the city wanted to move out and have enough property to have a horse or two or a cow or two.

Chairman Scherer closed the public comment portion of the hearing.

END OF PUBLIC COMMENT

Chairman Scherer: Is there any reason why it would be necessary to divide it into 5 as opposed to 3 or 2 lots?

Mr. Henderson: Really the only reason would be to avoid weird shaped lots. The properties on Geary Rd. here if they just cut out that chunk you'd have potential to have even weirder shaped lot developed in the future if any additional platting was done out there. Also, this configuration does allow the applicant, if he wants to, to sell just the one or if he has other interested parties to purchase increments instead of having to purchase 10 or just 5 but as far as the information that was presented as no further splits would be allowed in the future that is not technically correct as far as subdivision regulations go.

Vice Chair Johnsons: I have a question for the applicant, so I understand you want to sell the house and the acreage around that and then you think that possibly that corner lot, Lot 2, is something that could potentially be attractive maybe to another buyer.

Applicant: Only to the buyer of the house.

Vice Chair Johnson: Oh, okay. So you would blend Lot 2 and 3?

Applicant: Yeah. But you know I was told by one banker that banks that sell their loans, they can't sell those loans if their more than, one banker told me 8 acres one told me 10. I don't know. It's just I don't know. I was just trying to do it. Like I told you I own all of it right now. The only thing I really want to sell is the 5.2 but you know I just don't know if somebody, if that's going to keep me from getting my house if somebody tells me I'd like a little closer to 10 I'd like to sell the 3. The lot 4 is my hay ground or my pasture. The rest of that is my pasture. I don't really want, don't intend to sell it.

Vice Chair Johnson: Once it's split like that then you have other options then. If it goes down like now this is divided then the we understand your very good intentions tonight but the future is a bit unpredictable so if these are marked out like there are for us tonight then I'm more of the agreement that if your real intent is to hold on to most of the land except for lots 2 and 3 basically then.

Applicant: The lot 5 is already been split, but yeah that's my real intent I have no desire to sell lot 4 and Steve Tufte is the one, all I went to him for was to see if I could split off the 5 and I wanted to be deep enough to encompass the creek on the north and the west so I didn't have to build as many water gaps.

ACTION: COMMISSIONER FRAKES MAKES A MOTION TO RECOMMEND APPROVAL OF PR2015-14 AND Z2015-14 BASED ON STAFF RECOMMENDATIONS. COMMISSIONER WHITE SECONDS THE MOTION.

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

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

The motion carried, 2-1.

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.

PR2015-15: A request to consider the Preliminary and Final Plats of the J & V Green Acres Subdivision, an eleven lot subdivision at 15362 Mooney Creek Rd, Winchester, KS, at the request of James and Vickie Jones.

Z2015-15: A request to rezone the Lots 4, 5, 6, 9, 10 and 11 of the J & V Green Acres Subdivision from the "AG" Agricultural District to the "RR" Rural Residential District and Lots 1, 2, 3, 7, and 8 of same from the "AG" Agricultural District to the "SR" Suburban Residential District, at 15362 Mooney Creek Rd, Winchester, KS, at the request of James and Vickie Jones.

Mr. Henderson presented the staff report for PR2015-15 and Z2015-15.

Chairman Scherer: Do we have questions for Staff?

Vice Chair Johnson: Well, a couple. Earlier in your report you said that initial discussions were that there would just be proposed Lot 2 in an Ag Split with the rest of the property remaining in one chunk.

Mr. Henderson: Right, and I'm not sure what happened to change their minds between the Ag Split and what turned in to an 11 parcel plat. I'm really not privy to that information also it really doesn't necessarily matter what those motives were.

Vice Chair Johnson: I guess the second question is, in most of your reports tonight you're very consistent saying that these appear to be consistent with the intent and purpose of the County Zoning Regulations or Subdivision Regulations, at what point do we bring the Comprehensive Plan back into the discussion? Is this request consistent with the intent and purpose of our Comprehensive land use plan?

Mr. Henderson: Again, the Subdivision Regulations and the Zoning Regulations are independent of the Comprehensive Plan the request meet the requirements of those and the LESA evaluation is proposed by the Comprehensive Plan and it states on there that the land is moderately rated for the preservation of agricultural uses, the size of the lots, again, don't preclude using agriculture accessory uses on the properties. Every one of those lots with the possible exception of Lot 1 can be open to agricultural accessory uses including livestock or a number of other crops or hay or pasture uses. So the density is not extreme to preclude agricultural uses and so I don't believe that the spirit of the Comprehensive Plan is necessarily not met with the proposal. If it was a proposal to split the section up into you know 100 one acre lots with roads going in there that would necessarily not allow for agricultural uses to continue in the area and would not necessarily meet that. Again, I believe that the current format or layout while it technically meets the Subdivision Regulation requirements and the zoning requirements doesn't necessarily go against the intent of the Comprehensive Plan.

Vice Chair Johnson: Well, this is going to be a philosophical debate and I'll keep it short but this just seems like a block that you know 1. We're going to have so many road cuts off of 150th and Mooney so the county is going to have to deal with that cost, etc. a creative way would be to have the same number of lots, have 1 entrance, do a cluster development in some part of this reserving larger chunk of this land to be really used for farming and agriculture what you're going to see with 8 different people knowing what to do with 20 acres. I know it's not your job, but part of what the spirit of the Comprehensive Plan was how do we find that balance with people who want to live in a rural area but you also want to keep

viable serious farming operations going as well and this to me looks like a cookie cutter effort to sell 160 acres. That's my editorial comment.

Chairman Scherer: Are there other questions for staff. Seeing none, are Mr. and Mrs. Jones here?

Mr. Henderson: I've never actually met the Joneses I've only dealt with their surveyor.

Chairman Scherer: Well, if the applicant is not here they don't need to be here for us to go through this but they won't be able to make a presentation.

Mr. Henderson: That's true. You could also postpone the hearing until next month to give them an opportunity to do that if you desire.

Chairman Scherer: We'd like to see a show of hands how many people are interested in this particular case. I see 1 person, 2 people.

(Inaudible discussion)

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.

Matt Noll: I live right across the road to the north at 18728 K-192 Hwy. My wife and I would just like to point out a few things. The first is this is good agricultural land and there are people in our community that would like to have it as a chunk, including myself. Another point that I'd like to make, I'm trying to keep this short and get it on the record that we are against this. The hill right there is very steep. Is Lot 1 in the northeast corner?

Mr. Henderson: Lot 1 is in the northwest corner.

Matt Noll: Okay, that lot there is almost entirely wooded. I just want to point that out and there is an entryway right there and it's just right across from my place, I was told, we tried to move our mailbox there because we didn't have the turn, the widened out part of the road for a mailbox, so we were initially allowed to put our mailbox there and then we were told that was too dangerous of a place for the postmaster to be backing out of or to swerve in and out of, so that is a very steep intersection right there and I wanted to point that out. That's all.

Matt Warner: I live about a mile south of this proposed split on the gravel road and seeing with that many parcels the increased traffic that would be going cross country to get to McLouth or to Oskaloosa or wherever to Kansas City, I just, because this road turns and comes to a T at that to the south and kind of a dangerous steep hill, trees, I don't see, I guess my biggest deal is the increased traffic in the rural area. That's all I have.

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

Chairman Scherer: Do you have an opinion on whether or not we should postpone?

Mr. Henderson: Unless you really want to hear from the applicant, if you have a motion in mind I don't think there's any objection from Staff's point of view to moving forward other than the fact that the applicant's haven't been allowed to speak on their behalf yet. They were notified.

Chairman Scherer: I leave that to the Planning Commission.

ACTION: VICE CHAIR JOHNSON MAKES A MOTION TO POSTPONE DISCUSSION OF PR2015-15 AND Z2015-15 TO THE OCTOBER MEETING SO THAT THE APPLICANTS CAN BE PRESENT. COMMISSIONER FRAKES SECONDS THE MOTION.

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

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

The motion carried unanimously, 3-0.

Chairman Scherer declared a recess and stated the meeting would be reconvened at 9:10 PM.

Meeting reconvened at 9:10PM.

CU2015-03: A request to allow land application of treated septic waste and storage and parking of trucks used in same at 4999 Pawnee Rd., Oskaloosa, KS, at the request of Richard Hird.

Mr. Henderson presented the staff report for CU2015-03.

Chairman Scherer: Do we have questions for Staff?

Vice Chair Johnson: I noticed that there's not a letter in here directly from Mr. Heston. It says that the area in question is preapproved, I'm assuming that there's more to it than that. That there's limitations to the use, on the quantity, and a couple other questions in reference to that. Do you have a picture that shows where this creek goes?

Mr. Henderson: Yeah, I can bring that up on GIS. Basically where it goes is it eventually ends up flowing into I believe what's called East Stonehouse Creek, which then flows into Stonehouse Creek, which then is a tributary to the Kansas River.

Vice Chair Johnson: And you have a, I don't know if this is the right term, topographical map or some depiction of slope and the lay of the land of the 20 acres?

Mr. Henderson: Yeah, we can add some, I believe we have 10 foot intervals of elevations that might be available and it's not technical but the pictures that were in the staff report give a pretty good idea. Pawnee Rd. is elevated above the site. The 2 areas where the applicant has outlined for the application are fairly level and then there's the stream bed. As far as your first question as far as preapproval I imagine that John can clarify that but that would necessarily indicate that it's an acceptable location, not necessarily a location that might be ideal but if there's anything that he might add he's welcome to do that.

John Heston: I don't even know where to start actually. All of our pumpers are licensed through Northeast Kansas Environmental Services which we are in a coalition with 6 other counties that are all north of us, so they are licensed through them. So when they apply for this this is there, and I'll give each one of you one of these, this is when they apply you'll see the 6 requirements on there. This is all done through the EPA, nothing to do with the Health Department. This is all EPA regulations, by the United States government. They have to keep all the records. The county can be more stringent than what's on here. It states everything. They sign their name. We can be more stringent, but we don't have any more stringent than what the EPA does. We will have to follow them if he's approved. There's nothing there for me to regulate. He has to keep everything that goes there have to be recorded, every load. It all goes in, they have to have records. We can look at them records any time we wanted. We can also go and request some soil samples to make sure the nitrates are staying. That is really about all of what we would do at that site. And they'll probably do that through the Northeast Kansas instead of the Health Department which I do work in 2 counties now, I could be the one to do that. We have some more of these coming up in Jackson County. To everybody, this is becoming a pretty, and I don't know where a proper site, I'm not here, it doesn't bother me but you know I stick my head in septic tanks every week, so I'm a little different than the people who live right there. I'm not here for or against, I'm just here, I've been to the site in Douglas County, it doesn't bother me. But, you've got to remember we're pumping all this and someday we're going to have decisions to make in this county and I'm not saying this is the right time, but when we pump septic tanks here all of our waste is going to other counties, Douglas, Shawnee, someday and I say it'll be maybe in 10 years may be less maybe a little more we're going to have to something with our own waste that we're pumping in this county. Don't know what that'll be either land applied or put in a lagoon with a liner or something. That day will come someday, because there is so many of these tanks that get pumped and you have to do something with that waste. Now, KDHE got the call from the EPA this is already been turned in to the EPA. KDHE got the call and visited with them. Yeah, their recommendation is that it goes to a treatment plant, but it is not feasible anymore to take them to a treatment plant so that's why we have people that land applicate.

Vice Chair Johnson: Is that because it's too costly?

John Heston: Too costly, yes. It's gotten really expensive. You know I've visited, like I said, the site in Douglas County. It didn't bother me none, but like I said I stick my head in septic tanks all the time. So you just look at it in a different perspective when you do that. Other than that, you know.

Chairman Scherer: Who then specifically did preapprove the site? Was that you or an EPA staffer or a KDHE staffer?

John Heston: I don't, Richard, probably the land guy applying probably knows more than that. I don't know how any of that works. Now Dennis Foster up in, he's been working for 40 or 50 years in this field that does this stuff. We've never had this come up in our county. He's dealt with it in other counties and had issues but dealt with it and went through the process and there is land applying in some of the other counties, to what extent I don't know. This is grassland you put the lime in there and turn the pH up to kill all the pathogens you don't have to be incorporated into the soil so it can be applied right on top of the grass. But there is your 6 requirements it can't be put on snow, it can't be wet, 33 feet from a stream. I mean that's the requirements by the EPA this is the EPA regulations now the whole book is pretty thick but a lot of that is recording all your loads and everything that you do on that piece of land but like I said Richard can answer those questions better than me because he's done it for 15 years there. This is a pretty flat piece of ground and other than people that live around there. I mean it's a pretty prime place to go and do something, you know. I guess I should say, it's not me who's going to approve or allow something like this to take place.

Mr. Henderson brought up the property in ArcMap and showed the commission the aerial image with 10 foot contour intervals.

Chairman Scherer: Are there other questions for Staff at this time? Seeing none, is the applicant present?

APPLICANT PRESENTATION

Applicant: I'm Richard with HoneyBee Septic Service. I've been pumping septic and taking care of Jefferson County and surrounding counties for 20 years. I'm applying for a CUP for land application at 4999 Pawnee Rd.

Chairman Scherer: If you have anything you'd like to present to us before we start grilling you, please do so.

Applicant: I was just going to wait for your questions so I can answer them.

Vice Chair Johnson: So why was this property selected?

Applicant: It's relatively flat and also you have tree cover, you have trees surrounding kind of a "secluded" type of area. You have trees around the one area.

Vice Chair Johnson: So, have you owned this piece of property?

Applicant: Yes, I bought it back in July of this year.

Chairman Scherer: I have a question about the setbacks you show. You just wrote down the numbers of apparently the minimums but I notice that the setbacks you actually drew are more like actually 100 feet from the stream.

Applicant: I didn't scale it but 33 feet is what the regulations call for.

Chairman Scherer: So you intend to go to the 33 feet?

Applicant: More or less.

Commissioner White: Is this something new that you're starting? I mean you say you've been in business for 15 years have you been using land application?

Applicant: I've been land applying in Douglas County for 15 years. When I first started 20 years ago we used the Douglas County wastewater treatment plant and at that time it was \$13.40 per 1000 pounds and then they did a 50 million dollar renovation to the wastewater treatment plant 15 years ago and they wanted to raise our rates to \$370 per thousand which was just absurd and we've had to use alternative methods. So, we can go into the surrounding counties and take care of it at my place with land application. I have an 85 acre farm and have 30 acres set aside for land application. The Douglas County Health Department I do what it takes whatever they require to be met.

Commissioner White: How many trucks do you plan on leaving at that?

Applicant: It'll be 1 probably 2.

Commissioner White: And your trucks are inspected annually?

Applicant: Yes. And going by the past 2 years I average between 12 and 13 septic pumps a month here in Jefferson County. Basically we do a lot of work here in Jefferson County and we'll be a little closer and Jefferson County doesn't

have a place so I've been trying to get something going and I figure it's my turn because no one is wanting to help us out on this. It's an important process of owning a home in the county is pumping your septic tank, it's very important, it's like changing the oil in your car. You'll find people say you don't have to change the oil in your car either but they're never around when you pump a tank. You keep a happy and healthy septic system it's important to keep up on the pumping. It's an important part.

Commissioner White: How big are the trucks that you're using?

Applicant: 32,000, no I'm sorry 42,000 I'm sorry.

Chairman Scherer: Describe for us real quickly just in general terms how you apply.

Applicant: What we use, my trucks will vacuum but also pressure. And so what I use is a 90 degree fitting with about a 2 foot piece on it so when you apply you pressurize the tank and spray the fluid out on the field and my trucks are set up where you can actually move and kind of creep on down and keep it from piling in one spot.

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

Commissioner White: I'm just curious, I assume this is the way that you've chosen to do it for economic reasons, you couldn't put it in a lagoon or anything?

Applicant: KDHE won't let you use a lagoon. It's not allowed to put septic waste in a lagoon. The lime is there to raise the pH. The lime is there to raise the pH to 12 and whatever governing body has decided that's what it takes to basically change it to dirty water. Something else to keep in mind land application is done all over the country. All wastewater treatment plants land apply also. You don't have wastewater treatment plants in Jefferson County except for lagoons. In the spring and the fall, the main difference between me and wastewater treatment plants is wastewater treatments deals with millions of gallons a day and you can't land apply millions of gallons a day so what they do is they dewater, when you use the lime it's called stabilization, basically stabilize means that you're sterilizing in the layman's world. So what wastewater treatment plants do is they stabilize the load and then they dewater the sludge. They pile up the sludge, wherever, and then they land apply it in the farmer's fields in the spring and fall, before cropping and after cropping to not interfere with the crop. Douglas County has a wastewater treatment plant and they land apply. Shawnee County has a wastewater treatment plant and they land apply. There's a place out of Wichita called NutraJet and that's how they make their money is they land apply sludge for wastewater treatment plants. Since I don't deal with millions of gallons a day they allow me to get the 30000 gallons per acre regulation they let me land apply the water and sludge at the same time after it's been stabilized with the lime. And I can prove the process, I've done it for the Douglas County Health Department. I'll do it for John Heston. We use pH paper and the pH paper basically tells you the pH and that's what you're wanting to see. They require a 50 pound bag per 1000 gallons, a 35 pound will do it, a 50 pounds is like killing flies with sledgehammers, just making sure it happens and I don't argue with them I use 50 pounds, I don't care that it only takes 30 I use 50 pounds per 1000. We do something different, the formula calls for dry lime we actually wet the lime. It's a technique I came up with by doing it we use wet lime it's a slurry it mixes quicker the kill rate is faster you get a much more complete process. With the powder you get clumping, chunking stuff the reaction rates with water makes it more usually. It's about 10-15 gallons per 50 pound bag. It makes for a real complete. We can pH it when we unload, when we start to unload and our pH paper turns purple any time.

Chairman Scherer: Are there any more questions for the applicant? Seeing no further questions I'll ask the audience if there's anyone who would like to speak in favor of the application.

END APPLICANT PRESENTATION

Randy Russell: I've been working with Richard for quite a few years. I just want it to be known that Jefferson County requires every sale of a home to be pumped. SO, it has to go somewhere and Richard does a great job. I've watched him over the years and he's very particular and very meticulous about what he does. He's taking care of us here.

Chairman Scherer: Any questions for the witness? Is there anyone else who would like to speak in favor of the application?

Vicki Lawrence: I'm speaking on behalf of the Jefferson County Conservation District, I'm also a realtor so we use him all the time. Most of the time. But I have questions and because I am a Jefferson County Conservation District President I am

not for or against. I would like to ask questions. Do I understand that your land is on south of Lawrence on the side of the hill that I can see off of US 59?

Chairman Scherer: Please address your questions to us rather than the applicant.

Vicki Lawrence: Okay, what I witnessed his land one day. I saw a very big truck going across it and I guess it's not a question it's a statement. I saw a field and I had no idea what that field was used for. It was only because of his truck that I knew what he was doing, but has land value around your home gone down?

Applicant: No.

Vicki Lawrence: About how much per acre does your land go for in that neighborhood?

Chairman Scherer: Excuse me, ma'am. I would like you to address the Commission rather than the Applicant.

Vicki Lawrence: I guess I can't ask that then, can I? Okay.

Chairman Scherer: Perhaps one of the Commissioners will ask later.

Vicki Lawrence: And then I also have concerns over water quality and I believe that on the Conservation District that I will be bringing up this to see how the Kansas Department of Water Resources will trickle down to our conservation group. Again, not for or against, just those questions that I think should come in front of the whole public here.

Chairman Scherer: Thank you. Are there any questions for the witness? Is there anyone else who would like to speak in favor of the application? Seeing no one is there anyone who wishes to speak in opposition to the application? I guess we'll just start from the front row on the left side.

Don Storm: I live across the street. We have tried for about 10 years. Jim Vance and there his wife, they moved in there about same time as I did 10 years ago and we tried to get them to work on the roads alone and we've been very patient and they just hemmed and hawed around and said we don't have the money, stuff like that. In the last 4 years there's 4 people in this room including me that's had major heart surgery. 2 of them that aren't out of the four one across the street died of a heart attack the guy down the road a hundred feet died of a heart attack. That road's not healthy. With the wind blowing he said 15 feet in the air, it's going to spray up. That wind, south wind, going through there 30 miles an hour is going to throw that somewhere. Along with the dust in the road, those trucks, we get 75 trucks on the weekend going up and down those roads. Throwing on the house, we've checked it 75 foot high and about 200 foot going around and it's a dust hazard and that's just my side. These other folks have got a lot to say, too.

Chairman Scherer: Are there any questions for Mr. Storm? I'm sorry I didn't keep track of who all raised their hands, but the next person in the row, would you like to speak?

Jim Vincent: I too am concerned with the dust these trucks will raise. I'm more concerned with the low lying bridge at 46th St. it's a small bridge and if that bridge goes out it's going to be a 4 mile detour. It is a low bridge.

Chairman Scherer: Members of the Commission, if you have any questions just say so rather than me asking you.

Kristi Bandel: I live at 5480 Pawnee Rd. So I'm right on the corner of 54th and Pawnee. I'm just going to kind of state some very basic concerns but I'll have it on the record that the ones that are following me are also my concerns, too. I really feel like this location really is not ideal. I think all of us moved to this area because it's very quiet, very low traffic area. I myself have 5 children and the road that they would be accessing that property, too, we walk and run on almost daily down that way. I also have a dog that's always with me and I always wonder what's going to happen if he goes and gets into that stuff that is going to be right of the road. I've seen the views of his location in Douglas County. It's right off of the highway as we're coming in it's over a mile off of highway 59 to get into that area you know I'm not crazy, even if there are 2 trucks, I question how often they're going to be coming and going and also how is that going to be monitored, I guess, that there are only 2 trucks coming with it being a business like that. We don't know who is going to keep track of that. So you know it's an agricultural area and I think that's why a lot of us moved to that area where this is going to be used more for a business it's a big concern to me. I think that kind of basically is my basic concerns but again there's some other issues with health concerns too that I would have.

Chairman Scherer: Thank you.

Steve Morey: I'm a resident. I live about another half mile past there to the west and my property is a 45 acre piece of property. It's named Wagner Farm it's a technical sanctuary and a place that we teach sustainable agriculture. My concern

is 1. Traffic and 2. The potential biological hazard. Right now 54th Street is fairly well maintained, we recently had a culvert collapse because of the heavy traffic. There's a fair amount of dust being kicked up my concern is he's going to store 2 trucks there. 2 trucks doesn't mean he's not going to be only using 2 trucks. He could be using 10 trucks and only park 2 of them there. My concern is the traffic the contents in the vehicles and the other concern I have is the biological waste. Now, I'm a little bit unlike most people I have a master's degree in biochemistry I study biology and microbiology I worked as a consultant for clients having to deal with waste treatment. I do know when you spray something that you haven't got completely disinfected you're creating aerosols constantly, My understanding of applying certain hydrides, potassium hydroxide to a slurry, you may kill 99% of bacteria but you don't kill 100%. You have biomass that is not completely digested that means once it's applied to the soil and the sodium hydroxide leaches out into the soil which is a lot of salt getting in to the stream beds going down stream potentially polluting and undecomposed organic material and putting it on the he's talking about it's kind of like having a pet and it poops a lot in your yard in one place and if you multiply that animal by 1000 times having pooped in the same place you would have a massive problem. That being said, sewage sludge that comes from septic tanks in one case maybe relatively clean in regards to organic content, but there are a lot of people taking medications, people are throwing away chemicals, throwing away all kinds of other things, battery acid going right down your septic system. That stuff goes up. One of the characteristics of sludge is the heavy metals and I would imagine if you were to do this for 10 or 15 years that land would not be usable for the next 100 years. When it's applied to the soil, it dries up, putting in a lagoon would make more sense from a biological point of view and cover it with wood chips and let them break down naturally but in this case it would be on the soil surface and the lime or lye would kill the grass and turn it into basically a little dust bowl and when the wind picks up all that fecal material starts spreading in the atmosphere in the form of a plume it could drift as much as 5 to 10 miles. I think that's really a concern. It's interesting to say about the amount of bacteria that could survive treatment like that. NASA scientists worked really hard to sterilize the Surveyor probe that they sent to the moon and one Apollo mission that came back and took the camera off they found bacteria inside that come from the Earth survived about 5 years of the environment of the moon which is a complete vacuum and the extreme temperatures from minus 150 to 20 degrees and so I think not having a better way to treat this material that it is useful but it doesn't solve the problem. I think the real issue is not so much we all have septic tanks, I have a septic tank, and I would just like to be sure that whoever pumped my tank was putting it some place that was better suited than this location. You could contract with Hamm, you could go up to the landfill and spread that stuff on the landfill and fill it up with more garbage and just put all the nasty stuff we don't like in one place instead of spreading it all around the county. The last thing I'll say is that I'm very familiar with the land and these landowners and somewhat familiar with the soil and I would imagine in a very short period of time that water coming out of the creek would be polluted and continued to be polluted with high levels of phosphate and high levels of nitrate and possibly traces of metals and then small amounts of fecal bacteria and the question would be I would venture to guess that a short period of time that if you went down there to take water samples that you'd find that E.coli counts would be off the charts. Anyway, that's my concern. I just don't think this is the place to do that. I do think that what he provides the community in terms of service is a valuable service it's just not the place to do it.

Steve Peine: I live on 59 highway exactly west of this piece of property. I'm concerned about the traffic on the road, the smell of it airborne pathogens the pollution of it, what it does to our streams, whether it's going to come down into the creek, I live on stone house creek. It does bother me that it's a pretty high (inaudible) residential area. There's some really nice homes and it will devalue that property. The taxes will remain the same but the value of property on sale will just plummet. I'm totally against this.

Fred Doores: We live directly across the street within a few feet relative to the property line. I had Mr. Hird actually come out a couple months ago and pump our septic and he did a good job. His work was good, and I have no problem with the man and how he earns his living it is a necessary, I don't want to say evil, but it's a part of life that you know nobody wants to think about. It's a service that he does to people. I absolutely am opposed to this because of our proximity for one thing. It's so close all the reasons the other folks were talking about. We came here because it was clean and agricultural. I grew up in the country south of Lawrence and miss that. It's gone to urban areas for a long time and

moved back. Bought this property paid good money for it, don't mind paying our taxes. I put \$50,000 into an addition recently which you know I was really looking forward to spending more, I had more plans for another \$25-50,000 but now I don't know what to do. Everything has come to a stop because of this project that is kind of dropped in our laps all of a sudden. It's very concerned about it and we have friends and family that like to come out and visit. No one's really addressed the issue of the odor, but I know that once it gets in the air when it's fresh when it rises up again later after it dries out, even if the pathogens are mostly gone there's going to be an odor and it's strong, I didn't know how you cannot have it. The traffic, the extra traffic, is really horrible to think about as well. We deal with farmers who come up and down and the 4 wheelers and ATVs and that's all natural traffic for the people who live out there, the country folks, and farms who are doing their agriculture job but this is something completely different and he's asking to change the zoning to a commercial enterprise and according to him I see our property value immediately being cut in half. I don't think we'd want to live there anymore. Who would we be able to sell it to? We have disclosure if we want to sell it we have to disclose what's going on there. Who's going to want to buy it besides perhaps Mr. Hird and he can expand his enterprise? I don't speak for him of course, but these are my concerns and my wife and I think you very much for your time.

Someone from the public made an inaudible comment which led to an exchange where Mr. Doores described how close he was claiming to be within 75 feet to the property. Chairman Scherer asked them not to turn the meeting into a debate and called for the next commenter.

Marlene Williams: We own property that abuts this to the north and concerns that have already been expressed are my concerns. I was trying to mention that there are no trees along the road to block this out. That's one thing that was mentioned earlier was there were trees but there are no trees along the road. All the other concerns most of them have been mentioned that I'm concerned with I am concerned that Pawnee Rd. pretty much falls apart if there's rain or if there's snow it kind of takes out to the north of this so we are against it. We don't feel this is a good location out there in that area. Other concerns I agree with.

Rory Maul: Me and my wife own property directly to the west of this and you can see the tree lines that come down through that property there's a creek that runs to the backside of our property that drains on there. We purchased our land because we planned on living in this area until we die and we built our home here so we could raise our children in a safe healthy environment that is close to nature as actual as it can be. The stream I spoke of like I said drains that land, me and my children play in that creek several times out of the year. My children eat things growing in the ground around that I don't want my kids to play on or eat things grown in human waste or the chemicals used to treat it. As mentioned studies have shown that viruses, pharmaceuticals, and metals and other pollutants end up in water land and air by or around these operations I do not want my kids, wife, or animals exposed to these things. My family's future health needs to be protected and a human waste facility next door cannot guarantee that in any way. I don't want any ground polluted anywhere. There's got to be a better location that's already polluted or more suited to do this other than next door to my house where my kids play. I think many people have said I know Richard, he's come to my mom's house several times and I know this is something that needs to be done, but I don't feel that this process or request is in the best interest of our neighborhood, the people that live there, the county commission, or the county itself. That's all I have to say. Thank you.

Steve West: I live at 14546 46th Street, just above where Rory lives up on that bluff and the only think that keeps coming to mind is there a tributary around here, I mean right through the center, and I don't know where everybody was in 1992 but I saw 8 inches of rain fall in this area in about 40 minutes killed several dairy cows that belonged to the neighbor washed out pond dams, bridges and everything else and I guess if that happened again or anything remotely close to it, what would you do, say oops? I mean that what the EPA did when their little mine bust. So, I know they're regulating this and they're the ones that draw the guidelines, but there's your sign folks.

Chairman Scherer: Is there anyone else who wishes to speak?

John Keller: I live directly across from the proposed site change. You know it's interesting, I agree with everything that will be said tonight and with everything that is unsaid in opposition to this project. You know I grew up in western Kansas and went away for a long time because I had to. But I always had a dream of moving back, and so I did. What's funny is that my last couple years of training at KU in Kansas City my wife and I would drive to Lawrence because we thought that that was where we wanted to live. But we found ourselves on Buck Creek Road in Jefferson County and so I told myself at that time that this is my dream. This is where I want to live. This is where I want to raise my family. These are the type of people that I want my kids to grow up around. These are the type of people that I want living next to me. Unfortunately this will change it. Without question. In this dream, we purchased this property in 2002 since that time I've spent almost every evening, every weekend, and a very large sum of money making this a dream come true. My backyard where we entertain a number of people is less than 200 yards from the dumping site. I think we could debate from the health department or from the EPA heavy metals, bacteria, etc. but really there's not going to be much of a debate. The reality is that I can prove that I have papers that would suggest that the EPA regulations which were done in 1993 are considered by most in regard to this process to be outdated. I have papers from universities that show that. We've spoken a little bit about, we have a biochemist talk about the other products that are found in waste and you know it's kind of funny because we never think about it. Everything that you consume aspirin, Advil, stomach medicine, heart medicine, antibiotics everything comes out and even when these products when waste is treated according to EPA standards, all these things are still left. It has been shown by many studies whether it is from Yale, whether they're from Cornell, whether they're from K-State, whether they're from Kentucky, whether they're from Arizona State, whether they're from the University of Colorado that all these things are taking up by the smaller things that live in the soil and as things get magnified as you go up in the chain it's kind of like eagles and DDT for those of us who are old enough to remember that. We almost had none because of the softening of the eggs. It's the same thing. The higher up you go in the food chain the more these things get concentrated. I can show you as a physician that there have been studies not in our country but in other countries who treat their waste in a similar fashion that are indicating that we are actually perpetuating the resistant bacteria to humans, to animals, our livestock and it's creating more and more of an issue. I see that every day. You can't go into the hospital today without making sure that you don't have MRSA methicillin resistant staphylococcus aureus, same thing with vancomycin resistant bugs. The reality is that we cannot make antibiotics quick enough to combat these things. There are articles out there that question the environmental justice of land application of sewage. The reality is that there are also articles that would suggest that this is not the ideal method of treatment. That other methods are available, yes more expensive, but more environmentally sound. We can show that I think your staff commented on the use of the property up to a year or at least a year after it's been applied. There have been studies in western Colorado that show even in areas which are arid that these chemicals will remain for years and years and years beyond application. In regard to the topographical areas since I run down that road, I'm down that road every day, is that everything from my hillside to our neighbor's hillside drains right through that area. It drains right to that creek which drains into a pond which there's a German Baptist family who is routinely swimming in the pond in the summer and fishing. You know, there was a comment made in the initial staff comments on the slides that Douglas County had not reported any health concerns related to the areas that had been treated. It's funny because I found 2 articles one out of Kentucky and one out of North Carolina that would also suggest that most people in those areas may not complain but when provided with a questionnaire they found statistically significant

increases in health issues. We could go into all those, but it's not significant. A reduction in the quality of life in general. I don't think, me included, that anybody in this room is anxious to have their quality of life reduced and nor would you. And that's what will happen. Any questions?

Chairman Scherer: Thank you. Is there anyone else who wishes to speak?

Pam Keller: I'm John's wife and probably I should have just left it at that, obviously I agree with everything he said and I want to say on the record that I think our neighbors have certainly communicated all my concerns as a neighbor, as a mother, as a person who walks up and down that property, I thought what I can add is just to look at some of the factors that you're supposed to consider as you decide whether to allow this conditional use. From my standpoint starting from the proposition that it's not permitted now. It is not a permitted use, so the question is, is really whether it should be. That is the question, not whether it's going to be lawful, not whether the EPA allows it. We've already heard that the EPA said that you should use a different method. Even though it is consistent with the regulations the EPA says you should use a different method. So the question is whether we should grant this permit. So, you're supposed to consider whether this use places an undue burden on the existing transportation facilities and issues regarding transportation and I'm certainly not an expert but we've heard from multiple people and we've heard that the ingress/egress to the actual property would have to be changed because it's not compliant. We've heard about the concerned about the bridge and I know that to be true give that sometimes buses, school buses, are not allowed to drive down that bridge. We've had other construction vehicles that have taken different routes because of that particular bridge so there's significant concerns about the type of commercial traffic that's going to be coming through even if it's limited to a couple times a week. And that doesn't address, as folks have said, the extent to which it's going to raise the level of dust and debris that many of the neighbors who are close to the road are currently suffering from. So, that's a consideration. The length of time the property has remained vacant or undeveloped. It's not been vacant or undeveloped. It's had an owner up until a month ago when Mr. Hird just chose this particular piece of property so that doesn't lay in his favor. Whether the property is suitable for the proposed use. Now it's not suitable for the proposed use for all the reasons you've heard tonight. There's a creek that runs through the property directly into a pond that kids swim in, that dogs jump in, that livestock then graze from that creek just a little bit further down. It's not suitable. We've heard testimony that the poisons that end up in the land will stay there for many, many years. So, as that creek runs through we've also heard today that ultimately is going to exit into the Kansas River, so it's going to affect many creeks as it goes through. Whether the conditional use would further enhance the Comprehensive Plan or is even consistent with it. Again this is something Mr. Hird wants. We've heard absolutely nothing that this in any way consistent with some sort of Comprehensive Plan. We've only heard that this particular piece of land was chosen because it's flat and it has trees. There's plenty of other property that meet that criteria. We've heard from the neighbors that it doesn't even have trees. The trees are in the center of the property. So, there's no question that in certainly my view that better planning can take place. Would the property use adversely affect the property in the area affected, to me there's simply no way that you can't say with all these folks behind me that the neighbors won't be negatively affected in some way whether it's their daily activities, whether it's potentially their health, whether it's the hunting that might end up having problems with the animals that are currently living there, the list goes on you've heard them all tonight. Even if he complies with all the regulations, again we've heard that that land will be contaminated for all time. That piece of land, 100 years in my view is all time. So, whether it's compatible then for all those reasons simply not compatible with the uses that are already there. Right across the street, as Fred said, within 75 feet is a residential piece of property, zoned residential. It's not compatible. It's not consistent with the uses. While it's

agricultural all around, there are residences at every property in the area you put up there and talked about. Finally it's whether the relative gain to the public health, safety, and general welfare if the permit is denied outweighs the hardship on the applicant. There's no hardship on the applicant if this petition is denied. HE can resell the property just like he bought it a month or two ago. However, the hardship on everyone else, the risk is very great and that weight in balancing those factors the risk is very great that there will be harm to the public health, safety, and certainly the general welfare of the folks around. Thank you.

Chairman Scherer: Is there anyone else that would like to speak?

Jennifer Doores: I live 75 feet right across the road and our house is really close to that road and there are no trees between us and the road itself and it's constantly a source of dust. We had to try to treat the road, done a lot of things to try to keep the dust down, we've grown hedges and what have you it's an ongoing process and this will. This will just aggravate that. I have no doubt that Richard Hird is providing a service to the community and that his intentions are to make it work for Jefferson County, I understand how Jefferson County has not dealt with this problem sufficiently and is not dealing with its own waste management, but I think we're going to have to think outside the box on that. So far, all the neighbors have said I'll pay more to dump my sewage as long as I don't have to be breathing it or having it in the neighborhood so close. People are willing to step up and think of other ways of paying for it as it turns out and that's just off the cuff and may not apply but I really think that Jefferson County is going to have to come up with, maybe we can be leaders in terms of a solution to this kind of a problem because it doesn't sound like this is working and I'm definitely against it happening here even though I appreciate Mr. Hird's service to the area. Thank you.

Kerry Kramer: I own the property that is straight down from this creek that they're talking about across 46th and Pawnee. My concern is that I run a lot of cattle. I have nothing against Richard on that deal. I really feel for him. He's really wanting to do our county some good. But we've got to look at the situation and really finding the right spot, situation, for this because our county really needs to start doing something because I work for a construction company and we have done a lot for a lot of other counties. Building things and doing things for them to get their things going. We just got done doing one for the City of Lawrence, waste treatment plant, and our county is going to have to start getting something too, one of these days. My concern is if we start having problems going down this stream and we get this into our stream down there, that's the only water source I have for my cattle and that just concerns me a little more and it just goes right on down further yet and there's a lot of guys down through there that's got a lot of cattle. I appreciate your time.

Chairman Scherer: Is there anyone else who would like to speak?

Don Storm: Tom Anderson couldn't be here today, he's the doctor who lives up the hill from me, but he tried to buy this land when he first moved in and the gentleman said they weren't going to sell it they were going to use it for farming so that's an option for him down the line it was tried to be purchased before.

Chairman Scherer: Any further comments?

Nicole Roth: I live where Ron lives, right catty-corner, we have property our tree line is back in there. I just wanted to say that there were a few other people that were here that wanted to talk but because it took so long they had to go home. So, it's not just right there, it's like continuously down 46th Street on to 59 Highway even. Thank you.

Chairman Scherer: Again I'll ask if there's anyone who wishes to speak. Seeing no one, Mr. Hird would you like to respond? We appreciate your patience. I know you've been sitting there a long time.

Applicant: My whole thing is to try to get along with people and this whole deal is trying to keep costs down for people so they pump their septic tanks because it's important to do. I've heard a lot of concerns here and I'm going to have to lean on my considerations also. We need to start figuring out what we're going to do.

Chairman Scherer: Commissioners I'll to ask if anyone has any questions they'd like to ask someone before I close the public comment portion of the hearing, not that you can't ask afterwards. Unless there's someone else who wishes to speak I'm going to close the public, yes sir?

Charlie Stutzman: 930 Frazier, Valley Falls. I just got some questions that I'd hope the Commissioners would ask Mr. Hird here. I'd like to know what the concentration of the nitrates, phosphates, heavy metals prior to treatment versus when it comes off your truck and onto the ground. I would hope that you'd ask the difference between this application and people who go in and clean feed lots and dump that manure just straight on their farm ground with no lime application. I guess I'd like to know what the differences are there. There's a lot of studies, statistics sited tonight and quite frankly I would ask that you and respect that you would give those people the opportunity to produce that evidence of just how bad this application is before you make a final decision. Thank you.

Chairman Scherer: Again, is there anyone who would like to speak before I close the public comment portion of the hearing? Seeing no one I'm going to close the public comment portion of the hearing so we can debate the issue before we make a recommendation to the County Commissioners.

END OF PUBLIC COMMENT

Chairman Scherer: I do have a couple questions of the applicant. How many trips per week would you anticipate?

Applicant: Like I said we range between 12 and 13 pumps in Jefferson County a month and so that's what I can describe it. You know 20 working days a month probably so one a day, but some days it might be 3 and then you might go 3 days and have nothing, but at least that's a monthly average.

Chairman Scherer: Are you aware of the, I'm sure you are since you do most the record keeping, but the testing requirements. You have to periodically do soil test?

Applicant: In Douglas County it's not required. I think a little more I was saying here with Jefferson County with the NEKES I think they were suggesting soil samples.

Chairman Scherer: John, can you address that?

John Heston: I just assume that, I mean like I said this is all new to me, I do know that Dennis Foster has done it before in other counties that's land applicated he has done especially nitrates to make sure that they are within of the soil and that's the only thing I know of that he does.

Chairman Scherer: Thank you. Other questions?

Commissioner Frakes: I'm not saying that this is the ideal location for this, but nobody wants this near their property. Nobody wants a landfill near their property. Nobody wants a rock quarry near their property but there are necessities that we have to need. My concerns are with the tributary, though, and the actual application.

Chairman Scherer: I was concerned about that myself. The limitations on what can be applied. If he could apply everything all at once it amounts to a fluid depth of 1.1 inches for the entire area. That would give you some sense of how much fluid we're talking about. It doesn't address the fact that it's being sprayed. You're quite I assume somebody wants to make a motion?

Commissioner White: John, Mr. Hird said here a while ago I asked him a question that lagoons are not legal in Jefferson County?

John Heston: The only way lagoons, they will let you, they are legal for onsite which is for the individual home, but for the treatment for the dumping of waste like this I think the only way KDHE will allow it is that it has to be a lined lagoon. There's only one place I know that makes it. They're coming out of Texas and then you get back into expenses and it also depends on how big and I don't know I would think you'd have more of a problem with a smell from a lagoon than you would from this land application because you don't have that much water in it like you do an onsite and it's not going to

evaporate like that onsite lagoon does so it would have to be awful large and lined in order for it to be used by KDHE's recommendations.

Commissioner White: Thank you.

Chairman Scherer: Further discussion or a motion? Do we wish to postpone this? I'm not sure on what basis we would do so.

Commissioner Frakes: We could also send it with no recommendation.

Chairman Scherer: Sam, is there any lack of our action or are we supposed to take some sort of action?

Mr. Henderson: If you don't make a recommendation for or against you basically lose your opportunity to recommend conditions for the permit if the County decides to approve it. One downside to not making a recommendation. That is an option, it's not a preferred option.

Chairman Scherer: Does it require us to make a motion of no recommendation?

Mr. Henderson: That would probably be best.

ACTION: VICE CHAIR JOHNSON MAKES A MOTION TO RECOMMEND AGAINST APPROVAL OF CU2015-03 BASED ON EVIDENCE PRESENTED BY THE NEIGHBORS AND THE QUESTION ABOUT TRAFFIC AND THE BRIDGE IN THE AREA, GIVEN THE PUBLIC HEALTH CONCERNS AND THE VALUE TO THIS WHOLE NEIGHBORHOOD AND THE FINDING THAT THE REQUESTED USE IS NOT COMPATIBLE WITH USES IN THE SURROUNDING AREA. COMMISSIONER FRAKES SECONDS THE MOTION.

Commissioner Frakes: I agree with Paul but, like I said, we have a lot of statistics pointed out to us tonight as Charlie said with no supporting documentation. That's the only concern on that. I'm not an expert in this field by any means, that's why if people are going to come up and speak of specifics and use reports and studies it would be nice to present them to us so we can see. That has more weight.

Members of the public submitted copies of various reports to be included in the record.

Chairman Scherer: Is there further discussion of the motion? The motion is to recommend to the County Commissioners denial of CU2015-03.

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

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

The motion carried unanimously, 3-0.

Members of the public asked about being notified for the County Commission meeting Staff informed them that they will not be notified as the statute does not require that. Staff also advised the public that they can check the agendas posted on the County website to know when the case will be heard by the County Commission.

Chairman Scherer called a recess before hearing the final items on the agenda.

Chairman Scherer reconvened the meeting at 10:45 and asked if the Commissioners would like to postpone hearing the remainder of the agenda to the following month. Consensus was to proceed with the agenda.

TA2015-03: To consider a text amendment to the Jefferson County Zoning Regulations regarding sign regulations in the various districts of Jefferson County, KS, at the request of the Jefferson County Board of County Commissioners.

Mr. Henderson presented the staff report for TA2015-03.

Chairman Scherer: Do we have questions for Staff?

Vice Chair Johnson: The highlighting that you've done in yellow on the staff report, those are your modifications?

Mr. Henderson: Some of the modifications, especially in the definitions it probably should be noted that there are some options in there that you probably want to consider where there's an "or" it's not intended that both of those definitions necessarily be adopted.

Mr. Henderson reviewed the changes proposed in the amendment presented by Staff.

Commissioner Frakes: I would like to see it be handled more on a case by case because everything we do is either agricultural or residential zoning. I've yet to do a commercial zoning yet in the 20 years I've been here. So, I think if we're going to do a conditional use for the Ag or RR which is about the only 2 zonings that we deal with it should be on a case by case because there may be one business that wants to do it that there's no residential structures around it that maybe it's not feasible to have the time limits on it. Maybe their customers are in the timeframe you want to shut it down, maybe it's an overnight repair shop, or tire shop, whatever. You're basically handicapping them if it's in an Ag area where there's no area versus you know we put something right next to a house, I could see. I think that should be done on a case by case basis based on location and demographics, what's happening in that area at the time.

Chairman Scherer: Are there any other questions for Staff since we've transitioned into that?

Mr. Henderson: Everything else is the same with the exception of the illustrations, and those can be taken out. Those make the regulation a little longer and they may or may not be helpful to some folks. And that concludes the staff report.

Chairman Scherer: Questions for Staff? I've got a comment. This is 107 there's a reference to 20-107.9.a we might want to just delete that. Are there any other questions for Staff? Seeing none, is there anyone who would like to speak on this particular text amendment?

OPEN OF PUBIC COMMENT

Ron Ellis: I have a lot of questions. Hay for sale, tomatoes, eggs, 90 day permit? If you have them go for 90 days and don't remove it do you get a fine, up to \$500? Family reunions that's a special event? It seems like it. Just think, you know, maybe I didn't understand. Now if a business has more than 2 signs, like if you have lawnmower repair, a tractor sales, you can only have 2 signs? That's what it seems like. You're only limited to 2 and is the sign on your building, does that count too? You know those questions there's so many questions like you said everyone needs special attention. Hospital banner signs, we had a hospital fundraiser in Winchester, we had a banner out there for 2 weeks, was that not allowed? Do we need to get a permit for that? Church summer bible school, I know Rock Creek down the road from me has a banner out there for 2 or 3 weeks should they have, did they break the law? Signs for poor families, like you're doing a fundraiser for a little girl who has cancer. We had one over at Meriden, we raised \$5,000 for her. Was that against the law? You know those things like that. I know there's a trail ride going to be for cystic fibrosis October 4, they're going to have signs out. Should they have a \$15 permit? Our church had a fundraiser like a German Fest for Alpha Christian home right south of Oskaloosa, should they, we had it out there for a couple of days, do we need to buy a \$15 permit for a fundraiser. No new signs replace old signs, the same signs, do we need to do another permit for that? A lot of questions, I mean I don't understand there's so many different questions on each one of these signs. Now if you get a damaged sign, let's say you have a sign tornado hits it, hail damage 50% you replace it, do you need to do another \$15 permit? And so, there's so many questions that, and it's up to you to ask those questions. Hopefully you do. Thank you, sir.

Chairman Scherer: Is there anyone else who wishes to speak?

Charlie Stuzman: I guess the first question is what's the catalyst? Why are we reviewing the sign ordinance now? We had a outcry from the citizens of Jefferson County about signs for hay for sale, eggs for sale so on and so forth, is this something that we're trying to, what's the catalyst? I'm hearing that we paid for somebody from Johnson County to come in and consult with us on this and pay for this. To be quite honest we raised property taxes from 2015 to 2016 almost 2 mill we can't even fix that door back there, it squeaks. Electronic flashing signs, as I look at your regulations here 20-104.5 those are just general sign requirements, there's nothing in there about the candle light or whatever you call it, the brightness of the sign and yet when I get into 20-107.2.c.2 which is commercial districts and we'll also go into the industrial districts now we have lighting restrictions at night, what are commercial districts and industrial districts? I mean bright is good. Question I'd have to ask when you're putting regulations on candle lights, has anybody gone and asked the insurance industry how many claims do they pay out every year because of a animated sign? We talked about billboard signs, big grain bins Brock, Dryland, Brocks Sukep, these big grain bins on the side of the road, do these classify as signs? Are the farmers going to have to buy a permit when they buy a grain bin just to put up a sign? There're just, and if we're going to go out there for

eggs for sale, hay for sale, tomatoes for sale little girls out here for 4H project buys some chickens, she's going to have eggs for sale year round maybe \$2.75 a dozen, you're going to make her buy a permit but yet the real estate agent that makes a 6% commission off a sale, we'll just use a \$100,000 home that's \$6,000. Do you know how many eggs that little girl would have to sell and she's got to pay for a permit but that real estate agent doesn't. This thing is just kind of out there. I kind of hope that there's some more thought in this and ask some questions get answered here. Thanks.

Chairman Scherer: Is there anyone else who wishes to speak?

Joy Neeley: I own the campground down Ferguson Rd. and I'm a realtor and I've had to pay for resurfacing the sign, I've had to take down temporary signs that I've had on the road, multiple sign violations and I think these need to be addressed. I'd like an actual copy of the ones that are being proposed which I guess I'm maybe a little bit delayed but I'd like a copy of those so I can review those so I can have a little bit more comment.

Chairman Scherer: Is this posted?

Mr. Henderson: No.

Joy Neeley: Is it?

Chairman Scherer: Apparently not.

Don Hansen: I didn't take any notes. I wasn't well prepared or anything. Maybe I don't accurately understand what's going on here. I've lived a long time, I've lived in Valley Falls a long time. Gosh, this is insanity to me. I feel like this is Obamacare or something. What the hell are we doing? You know I can't understand it. We got along very nice as a community before we considered any of this. Why do we need any more government restriction than we got and pay more taxes? I'm sitting there and I think and those signs on the road that says realtor, people who want to get off the entitlement program, kids, maybe they're young people, they're starting out they are trying to get ahead. They want to make an honest living so they sell Mary Kay or Avon products and they put a little sign out there. We got to start out like that? If they grown into it they are going to be paying taxes on whatever they sell. I don't get it. I don't have much more to say than that, but Wyoming is looking awful good, I'll put it that way to you.

Chairman Scherer: Does anyone else wish to speak?

Dave Taylor: My wife and I have had a business on the south edge of Oskaloosa for a number of years. We went through the conditional use permit, many times. Making changes. Growing our business. Working hard at doing what we do and have been pretty successful. Signage, I'm not going to say it's been the most important thing to us, but it's been very, very helpful. Our sales tax revenue went to zero when I received a letter to take our signs down because I didn't have the proper permit and we filed for the conditional use permit, we came in and went through the process and we came to a very reasonable agreement. What we've got. So, now is some of that thrown out the window now? I went through the process twice to get the signage right and now I'm going to have to pay a fee for the things we have that were approved? It's very hard for a small business as all of you know to survive. Most of them don't make the first year because they couldn't get enough people through their front door. Signage is very important in getting people through that front door and signage is a lot more effective than an ad in the paper because not everybody takes the paper and not everybody reads the ad that you can afford that may be only this big. So, we've got to be reasonable in what we do here and I don't know that we have a huge problem. If it ain't broke, don't fix it. You know if this appears to be too cumbersome to administer are we going to have to hire a couple more people in this office to administer and control all these regulations? We can't hardly afford the employees that we have. Do we want to add more? The county invest, here's something that really gets me, I've been on economic development I've been involved in shop at home first, I've lived and died that even if it costs me more I try to buy at home first. The county's investing tons of money right now in trying to get a jump start on economic development and they're also trying to do a program called think local first and you're going to see more about that and the county is going to be spending money for that. So, if we can't think about the businesses we've got here already, if you don't know they are here, because they can't have a little signage. How are we going to survive? And why are we spending all this money to chase other dollars? So, I think we need to think this through. I'm not going to say that some things don't need to be changed and corrected, but I don't think we need to go to a big extreme to do it.

Doug Wallbridge: My wife and I own just a couple small businesses in McLouth. Like Mr. Taylor said it's been tough. My rental storage buildings you wouldn't believe how many people don't pay the bills. I got to deal with a guy the other day and that's the only thing that I have is my sign out there for my phone number. I've got one at my farm for my Angus business. I do residential stuff, plus I do work full time to support my business that I hope to someday retire early to do full-time but you know why are we doing this? I mean we're taxed out the, I had a friend that come from Johnson County moved out here owned a big bridge company, his taxes were higher in Jefferson County on his cars and houses than they were in Johnson County she moved back and now we're wanting to put more fees on our business. We put up a sign for hospital hands, I'm president of the hospital board in Winchester and I have been since 2005, about 10 years, we were asked to take

that sign down because it didn't meet regulations, and it was from KDOT but that hospital hands takes in \$200 a month. We had volunteers there and when we put that sign in we upped it to \$300 a month. That money goes back to the hospital where we sell clothes to people for \$.10 jeans, you know, signs are very important to our businesses. We're making this really cumbersome because I work with your road department because I run a major highway that runs from Kansas City to Wichita to Oklahoma you'll know what that is. I run the north end and I talked with your road people, they can't even keep up with their signs that they got to put on the roads, stop signs, now let's go take these other ones down and what would we do hire 2 more people? We can't even keep the ones cool in the summer because we can't fix the air conditioner here. Think about that. This is just getting out of hand. I appreciate what Mr. Frakes said, because we set in here for 3 hours listening to zoning things and I love my farm. I love my parent's farm. I've loved everything about it and it's hard because of the earlier zonings a mile and a half from me and I seen that house being built and I knew the guy that did it went the wrong way to do it. We work so hard to keep it agriculture and keep the local people that grew up in this county and welcome the people in then we tell them we can't put a sign up for their business. You know, I just ask that you just leave it alone and let us continue on. Let us, we can't be Johnson County, we can't be Douglas County, you know. I work with counties all up and down the turnpike and Jefferson County is good and Leavenworth County is awesome but I don't see all this regulating in there. So, I just wanted to ask if you leave it alone. I think there's a lot of things in there that with my job I do work with the QCD book and I do have some questions on your regulations because they don't really follow the QCD book and that book is about this thick but I do have to keep up with that. I would like to see you leave it alone, please. It's tough enough to survive and make it all year round and do things and there's people in our community that are hurting and we need those signs and we need to come in like Mr. Taylor said that's (inaudible) in there. So, I ask you leave it alone. Thank you.

Commissioner Frakes: I think one thing that is misconstrued on this is actually what has been submitted here is actually less regulation than what our present ones are. Now if we need to tweak it and make it even more less restrictive that's what you people need to tell us, but what Sam has presented right now is less restrictive than what we had before.

Unknown Public Comment: We haven't been following it I can tell you that.

Commissioner Frakes: Exactly! No, I'm not saying that. But, what he's saying is if you've ever had somebody come in whether it be a commissioner push it or an individual push it with the regulations we have now there could be a lot of fines issued, if it was pushed. We're trying to make it less restrictive and better on people. We want your input on what we can do to make it even less restrictive if that's what you want, but what I feel is offensive may not be what you feel is offensive. So, it's hard to find that happy medium on what works for everybody and that's what we're trying to do is find a happy medium that isn't too intrusive on businesses yet looks out for the other citizens of the county, is what we're trying to do. We're trying to work towards what you're asking for, to be less intrusive on businesses because if you read our present regulations they are a lot more restrictive than what has been presented tonight.

Doug Wallbridge: Well, I appreciate if there's a commissioner doing that I wish you'd use your influence on the commissioner to lessen it up because you know folks we've opened up a clinic in Perry and we can't get people over there without signs and what you're asking for Jefferson County Memorial Hospital, F.W. Houston Medical Center is violating what you're doing and I'm going to tell you what we've got 100 employees at that place and we make enough money to keep the doors open but we've got 30 people that make less than \$15 an hour and that's why I go up there every month and try and figure out a way to keep that going and keep these other businesses going in Jefferson County because we're struggling, I mean, with the economy and I hate to say it, here comes the second on a seven year cycle and I appreciate what you're doing Mr. Frakes and I'd like to be less intrusive and be able to do it because we are a rural community and we're proud of what we have and we'd like to keep it that way. I appreciate that's the direction you're going. I misunderstood to be more regulatory because to me driving through the towns I don't see that huge a problem.

Commissioner Frakes: This is even less than what we had previously.

Doug Wallbridge: But, when you hear fines and fees you get nervous, trust me.

Joy Neeley: The fines are in the current regulation, it's already there. That's why I had to pay them.

Doug Wallbridge: Thank you.

Charlie Stutzman: May I readdress?

Chairman Scherer: Let me ask if there's anyone else who wishes to speak first?

Bill Heinen: Brett kind of answered one of my questions right there. What is being presented here what change is that going to have? Is that actually going to be less restrictive than what we already have and just from looking through some of our current regulations I see what he's talking about and basically this may clean up some of that but that's still looks like there's further to go than just what's been done right here and there again we always are concerned about what affect and change is it going to have on our business and where our business is located our signage is along K-4 and I have dealt with KDOT on that type of signage already, but should I actually have been dealing with Jefferson County on that too? Because right at

this point from reading the regulations it looks like we're completely out of compliance with the number of signs that we have up and there again my question kind of goes along with what some of the others have mentioned, too, as far the signage on the building what is our regulation and are we going to be taxed for those signs? Are we going to be fined for having too many signs up there and I don't have a problem with abandoned signs and something like that being cleaned up as my son-in-law attests I am very anal about being clean and neat. So, you know anything that is done to help keep things looking good, you know, I'm all for that and I don't have a problem following if we have to go out on our signs that are in the wrong location or call me if we're doing something wrong, but there again, like I say I think more concerned than anything is what this can change for our business and as I said I think Brett's already answered one of my questions. Thank you.

Chairman Scherer: Is there anyone else who would like to speak who hasn't spoken?

I want to be last. It will be very short.

Chairman Scherer: I guess you're up.

Charlie Stutzman: I appreciate what Brett said because I think there was a commissioner around at some of the meetings that said we took our regulations from 17 down to 10 pages I want to see it down to 1. But the real question I've got is the enforcement. We've got 17 pages right now in our current deal and we have no enforcement. Other than when they get assigned to go get somebody. I guess my concern is now that we've put this new program together, well we've got to justify the amendment so let's enforce it. Well, how do we, how are we going to enforce it. Do we have staff to enforce it? Are we going to have to hire somebody, are we going to have to generate the fines and the fees in order to pay that people and that's, I guess, what I'm concerned about is that, another thing I'm concerned about is, you know, is this just going to be just we're going to go out there and hammer for these permits and catch all these violators for their eggs for sale signs and just fine them just so we can pay for somebody to have a job.

Commissioner Frakes: Let me ask you a question, sorry Charlie didn't mean to interrupt you, how many people have been contacted because of signage? Was it a complaint based on the sign?

Joy Neeley: No.

Mr. Henderson: Ms. Neeley's case was she had a complaint on the business and she was going into a discussions with the County Counselor on abatement of that so the County Counselor said bring the whole property into conformance.

Commissioner Frakes: And so it's a complaint basis is what I'm trying to get to. They don't have the time for 2 people to go out and enforce it, so it's a complaint basis only. At this time. I'm not saying in 10 years that Jefferson County can't start to grow and we can actually put in some building codes and actually put in a building inspector. But you know everybody who wants to keep this county pristine and that's the way to do it. You get a building inspector and building codes and you can enforce some of this. But right now when you got 2 people in the office I'll guarantee you the time they do have to spend out looking at violations it has to be complaint basis because they don't have the time to go and drive around to look for them.

Barclay Mead: I own Hog Holler Saloon it's the old Apple Valley Theater property over there business anyways. I kind of got to respond back to you. I wasn't going to speak until you spoke just now and it's the idea that it's complaint basis. I'm a business man, I've done this for a very long time in a lot of different places. It's been 20 years ago, it's not my first place in Jefferson County, I had a café in Valley Falls 20 years ago. Upon return it's a very different environment from 20 years ago. 20 years ago it was very welcoming to business entities, things of that nature, not this time. That's not the experience that you get this time, because it's complaint basis. Now define, if down by where we're at the really the people who say they're going to complain will be somebody who wants to get you like a Sheriff's Deputy or somebody will file a complaint well this or that they're out of compliance. As we went through it, we've spent thousands upon thousands on legal fees to prove that we're not out of compliance on anything, but still I've spent close to \$30,000 in the last year to prove that we're not out of compliant. So, making it a complaint basis makes it for a pretty unfair application of these regulations. It makes it so it's not fairly done that it's not fairly done to everyone and everyone is treated the exact same by the regulations. It makes it so that, what he said before, it's only once they're out to get you that we start applying these little regulations. So, if you disagree on one topic of planning and zoning, even if you're proved right, well now we're going to try and get into every part and aspect and piece and you're one of the very few who are then having to live by these regulations. So, I'm a little concerned because it's a complaint basis process and it's just something to throw out there. We're talking about what do we do that's not a development out there. Last year I raised \$40,000 in this county for charity, this year a little over \$30,000. That's \$70,000 that I pulled in just for charity alone. I employ 30 people, most making an average of \$20 an hour, so good jobs, we can do a lot more. I bring a heck of a lot of tourism into this county bringing people from Kansas City, Lawrence, Topeka, Wichita, Omaha, even as far away as Colorado. So, we're getting a lot of tourism over by us. Doing things there that have been done there for 50 years. They're talking about limiting us to 2 signs. I've got a restaurant there, we've got a theater there, things of that nature so we may have an activity going on in the restaurant or we may have a sign

for the restaurant and a billboard for what activity is happening inside the theater there's a small barn that we're looking at getting a souvenir shop. Does souvenir shop count as a sign? There's a lot of this piece here that needs to be looked at and it seems like it's kind of a broad statement one or 2 signs per zoned or fined area I'd like to see it more on an individual basis where it makes sense. I do think it makes sense that you can't have 800,000 signs. I understand that you guys want to keep it pristine and nice and I can see where people take things to extreme and obviously why they have to be regulated. But there are so many different variables and possibilities involved that we've got to try to write regulations that leave things as open as possible for individual case by case basis for what makes sense. For instance you might have an area where somebody's at the end of the road like we are where they're not going to have a whole lot of traffic it's not put in the way, it's not a danger, things of that nature or the example of lights in the commercial or the industrial areas where it makes sense it's not hurting anybody it's not put where anybody can see it versus a residential area. I think case by case basis is what you're really going to try and go for what I've seen in other counties and other states. Like I said I do business in a lot of different states. I retired as Director of IT for the largest company in the world that does ambulatory infusion pumps 85% oncology clinics across the country go through my software platform. I deal a lot with regulation and understanding their impact on what it does. Trying to get economic development here and create jobs and bring income in and have the money to fix that squeaky door back there but we're not going to have that if you drive all the business out. We're considering closing the door, we've closed 2 months early because of a lack of working with us. I'm not saying that we've asked him to do everything that we asked but it's not even a reasonable conversations anymore. And some very simple little adjustments here or there could make this more of a pro-business environment without changing the pristine atmosphere of the county. My point is I think that you need to go back and look at making this more of a case by case basis and looking at those impacts and things and maybe a little bit more work around something that does create that economic development. It's important. You've got a lot of things coming up. You've got sewage treatment issues you're going to have to deal with, they're expensive. Trust me I'm at Lakewood Hills and we've had to deal with that and our sewage rates are through the roof because we got our pipe(?) so a lot of things coming up here a lot of things that the county needs. We create a lot of tax revenue and we're asking for help because everyone else has said it's hard around here especially when you're trying grind any business and economic development and we're just asking for a fair shake out of it. Thank you.

Chairman Scherer: Is there anyone else who would like to speak? Before our last person speaks?

Candi Braksick: I grew up about 4 blocks from here. I've lived in this county my whole life. I want to thank you guys for serving in your capacity I know it's a thankless job. I've been a court reporter for 42 years. I've been to 2 planning commission meetings when I wasn't working. I've spent hundreds of hours mostly in Lawrence at these meetings late at night. I'm looking at my watch and I would encourage all of you to simplify this, if this is less than what we have now, even less would I think be better. I didn't realize that we a problem with signs in the county. SO, visualize this and this is my closing remark. In all the applications for rezoning in Lawrence for suburban malls in the 80's and 90's we had these hearings 6:30 to 10 twice a week for months and at midnight one night at Central junior high somebody runs through the back through 2 doors. It was a naked woman being chased by her boyfriend. 300 people sitting there at the meeting and we were distracted and they adjourned the meeting and it's probably time we adjourned the meeting now. I think you have jobs to get to. I thank you and I hope you would consider even minimizing this a little more if this is less than our current. Thank you.

Chairman Scherer: Is there anyone else who wishes to speak in regards to this proposal? Seeing no one I'm going to close the public hearing portion.

END OF PUBLIC COMMENT

ACTION: *COMMISSIONER FRAKES MAKES A MOTION TO POSTPONE DISCUSSION OF TA2015-03 TO THE OCTOBER MEETING. VICE CHAIR JOHNSON SECONDS THE MOTION.*

Vice Chair Johnson: I just have an informational question. I guess one is that now that this is part of the public record it's not possible to put this online at this point?

Mr. Henderson: We post the minutes online but we don't normally post the documents from the cases online but as was mentioned we are able to give copies on request.

A member of the public suggested to not post the proposed regulations online to avoid having people think that they'd been adopted.

Vice Chair Johnson: My second question is some of this was driven by US Supreme Court rulings in the recent past that really challenged some of our existing regulations and rules, political signs particularly, I guess I was going to ask where that specifically showed up.

Mr. Henderson: It showed up in the lack of reference to content on signs. Again compared to the existing regulation, I tried to eliminate as much as possible any reference to the content of a sign rather than the type or location where a sign is erected or constructed. There is an exception again for that political sign for the state law and there may be one or two other minor exceptions in there. On premise/off premise, although it might be tangentially related to content is the location of the sign, but also on premise/off premise is a type of regulation that has been found by the Supreme Court to be a valid regulation.

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

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

The motion carried unanimously, 3-0.

COMMISSIONER FRAKES MAKES A MOTION TO POSTPONE THE REMAINDER OF THE AGENDA TO THE OCTOBER MEETING. COMMISSIONER WHITE SECONDS THE MOTION.

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

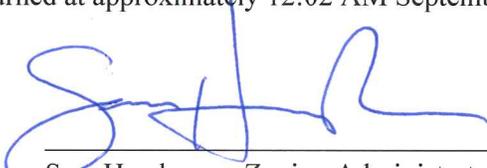
Matt Scherer	Paul Johnson	Tim Bailey	Bret Frakes	Jerry White	Alex Noll	Vacant
DNV	Aye	---	Aye	Aye	---	---

The motion carried unanimously, 3-0.

Item 10. Adjournment

Action: Commissioner White made a motion to adjourn. Vice Chair Johnson seconded the motion. Motion carried unanimously. The meeting was adjourned at approximately 12:02 AM September 29, 2015.

Minutes taken by:



 Sam Henderson, Zoning Administrator

Approved:

Oct. 26, 2015

 Date

Chairman:



 Matt Scherer

Secretary:



 Alex Noll Secretary