

Jefferson County Planning & Zoning Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of the Planning Commission Meeting of Sept. 26th, 2022

Item 1. Call to Order

Item 2. Approval of the Agenda

Vice Chair Scherer moved to accept the agenda as presented and Commissioner Johnson seconded.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
DNV	Aye	Aye	Aye	Aye	---	---

Motion Passed 4-0

Item 3. Roll Call

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
PRESENT	PRESENT	PRESENT	PRESENT	PRESENT	ABSENT	---

Item 4. Approval of the August 22nd, 2022, meeting minutes.

Chairman Benyshek asked if there were any corrections for the minutes. There were no corrections to the minutes. He then asked for a motion to approve the minutes. Vice Chair Scherer moved to approve the minutes and Secretary Asher seconded.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
DNV	Aye	Aye	Aye	Aye	---	--

Motion Passed 4-0

Item 5. Public Hearing

Chairman Benyshek explained the Commission meeting procedures to the public and opened the public hearing. Chairman Benyshek asked if any Commissioners currently have any ex parte communication with the applicants or any conflict of interest towards this case that would exclude them from giving a vote this evening. There were none.

- I. **DP2022-02:** A request to consider a development plan amendment of CU2019-01 to extend their parking area. This request is being brought by Farmer Properties, LLC of 14501 US Hwy 59, Oskaloosa, KS 66066. The request is located at the same address.

During this time, staff asked who was here for the first case. The applicants, Eric & Brandy Farmer were present. There were no opponents or other public present or via Zoom.

Chairman Benyshek asked staff to give their report. Staff gave their report. After their report, Chairman Benyshek asked the board if they had any questions for staff.

Commissioner Johnson: Dustin, can you remind us of what the conditions placed on the property by CU2019-01 shall remain in effect.

Dustin Parks (Staff): Yes, give me just a second here. All right. So those conditions were any lighting placed on the property will be directed to point inward toward the property. Any signage will have KDOT approval if required due to the proximity to Highway 59 and shall be limited to on site advertising only. Should any improvements to the entrance be deemed necessary by KDOT, the property owner and or the applicant shall make those improvements at their own expense. Outdoor fabrication will be restricted between 7am and 8pm. Outdoor storage other than vehicles shall be placed behind the privacy or screening fence of at least six foot in height, and no more than one full time mechanic on duty at a time. And just as a refresher, that was a conditional use permit for the fabrication and mechanic shop, the mechanic shop was supposed to be incidental at the time. I'm sorry, fabrication and excavation.

Commissioner Johnson: Was there any auto parts or consumer...I don't know exactly how to phrase this question.

Dustin Parks (Staff): Were they allowed retail? Is that what you're asking? Not by that conditional use permit, but they do say allow mechanic work to be done on the property. That was the condition approved by the County Commissioners as well, and so there's some incidental work there, but it's not a retail store, no.

Commissioner Johnson: This may not be relevant, but is there any connection between this property and the one to the west, the 25-acre lot?

Dustin Parks (Staff): I'm unaware if there's any connection.

Chairman Benyshek: Okay, any further questions to staff before we move on here? If not, if they so choose, Eric or Brandy, this is your time, if you want to make any comments or presentation at all on your application, you are more than welcome to do so.

Eric Farmer – Applicant: I think you guys covered it. It's just for parking and space.

Chairman Benyshek: At this point and time, we'll move on to the next step here. If there's anybody in attendance or on the Zoom meeting at this time, who would like to speak in favor of the application, other than the applicants, now is your time to address the Commission here? We don't have anybody in person. I don't think we have anybody on Zoom. So, we will move on then. If there's anybody in attendance in the audience, or on the Zoom call who would wish to speak in opposition to the application, now is your time to be heard by the Commission. So, anybody who has opposed the application please stand up or make yourself known on the Zoom call there. Well, since there's no in favor or opposition, I'm going to assume there's nobody who wants to make any general comments or neutral comments either. So, at this point in time, we would normally have the applicant make a rebuttal statement on here, however, I'm going to change it up just a little bit here and ask if any of the Commission members have any direct questions of the applicant at this time?

Commissioner Johnson: Is this fully graveled?

Eric Farmer – Applicant: It is so far, yes sir. And whatever extension we make will be fully graveled also, other than the slopes and they will be grass seeded and finished.

Chairman Benyshek: Good. Anybody else have any questions direct for the applicant before we proceed on here? Okay. Well, I'm gonna go ahead and close the public portion of this hearing here. And I guess before we move on to a potential motion on this case, any questions of Commissioners or I'm sorry, any questions by the Commission for staff before we try and put this one to a vote? Doesn't look like any, so at this point in time, I would be looking for anybody on the Commission to make a motion for approval or denial at this point.

Secretary Asher: Okay, I make a motion to approve DP2022-02 as proposed with the same conditions that were placed on CU2019-01 to remain in effect.

Chairman Benyshek: That sounds good. So, we have a motion for approval on the floor. Is there a second? Matt has a question.

Vice Chair Scherer: Did Tiffany include the suggested..(inaudible)?

Dustin Parks (Staff): If you wanted to, you could say that you recommend approval with recommended conditions provided by staff.

Secretary Asher: Okay, I make a motion to recommend approval with the recommended conditions presented by staff.

Vice Chair Scherer: Second.

Chairman Benyshek: We're going to take that as an amendment and then a second. So, it has been moved and seconded for approval of DP2022-02.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
DNV	Aye	Aye	Aye	Aye	---	---

Motion passed 4-0

Chairman Benyshek asked if any Commissioners currently have any ex parte communication with the applicants or any conflict of interest towards this case that would exclude them from giving a vote this evening.

Chairman Benyshek: I am presuming none of the Commission members have any with the exception of myself. Due to being an employee of Denison State Bank and the relationship between the applicant there, I will have to recuse myself, presiding over this case. So, our Vice Chair is Matt. So, he will be presiding over this case this evening. And so, I will turn the steering wheel over to Matt here.

- I. **CU2022-02:** A request to consider a Conditional Use Permit application for a parking, storage, and laydown yard for equipment and materials as well as facilities for fleet maintenance and office space with temporary employee accommodations. This request is being brought by Matthew Bergmann, a representative of Mammoth Sports Construction, LLC located at 601 E. Wyandotte St, Meriden, KS 66512. The location of the request is generally located on the east side of Anderson Rd. between 66th and 74th Streets

During this time, staff asked who was here for the second case. The applicant's representative, Matthew Bergmann was present in person. Josh Bickel was an opponent that was present in person. Vance Collins and Alexa Surritt were present via Zoom and were opponents.

Vice Chair Scherer: I'll note for the record we still have a quorum.

Vice Chair Scherer asked staff to give their report. Staff gave their report. After their report, Vice Chair Scherer asked the board if they had any questions for staff.

Commissioner Johnson: Of the suburban development just south of this, how many of those lots are occupied?

Dustin Parks (Staff): Let's see, I know there's one structure that's been built on and I know that they have sold four of them out of the eight that are there.

Commissioner Johnson: Is there a map in our packets that shows where the existing site is. And obviously, we know where they want to move it in the request.....

Dustin Parks (Staff): They're not moving, they're expanding. This is a secondary site. Their main site will still be inside the city of Meriden. This is just a storage and equipment site for essentially like a satellite operation for their Meriden site. I can show you where their current site is if you'd like if that would help.

Commissioner Johnson: That would be great.

Dustin Parks (Staff): Okay, so keep in mind that this photography may not be completely up to date. But this is the gas station there as you enter Meriden from the south. And this is part of Mammoth's operation right there. And then the site we're talking about... can you see this okay, Paul?

Commissioner Johnson: I think so.

Dustin Parks (Staff): So, this is the site that we're talking about here. And then I will kind of zoom out so you can see.... so, then the site in question, right in here is the site is what we'll call home base, follow Highway 4, 66th right there, or the route that the City of Meriden has approved through them is up north Anderson Road and here's where it turns into Wyandotte and then to take Wyandotte across right into their home base there. Does that help?

Commissioner Johnson: Yes.

Vice Chair Scherer: Other questions for staff?

Commissioner Johnson: How does it work that we can, the staff and the County Commission can mandate a screening for this property.

Dustin Parks (Staff): Yes, we can. I don't understand your question about how it would work though.

Commissioner Johnson: I guess it was in relation to the fact that we don't have building codes in Jefferson County.

Dustin Parks (Staff): It's in relation to because part of our conditional use permit regulations specify that we can provide conditions that would help mitigate sound, noise, or visual issues with conditional use permits, and so that's where the screening comes in. So, like a living barrier can help, you know, with sight and sound and physical barriers, like fences and stuff can help with sound and sometimes dust but not as well as like a row of pine trees would, that kind of thing. So, it's actually in relation to helping to mitigate some of the issues that are raised by conditional use permits not so much on a building code standpoint.

Commissioner Johnson: That's very helpful. And then, so if you're going to plant trees, so you give them 2,3,4 years to make an impact on screening?

Dustin Parks (Staff): Well, that's kind of why a lot of counties right now are doing the, if living screening is being requested, they're kind of implementing, a "then the screening when planted needs to actually be able to be screening". So that people, you know, because you're not doing it for the business as much as you're doing it for the surrounding landowners. And a surrounding landowner might not have the ability to or desire to wait three or four years for trees to grow. So, they need to be planted in a manner that provides screening somewhat initially. Now, it's not going to be perfect

right away, obviously, because they are trees, and its very time consuming and expensive to plant, full sized trees. And most of the time full sized trees when planted don't tend to live very long. But the assumption is that good sized trees can be planted to begin screening within a year, or somewhat immediately. That's why fences and berms are almost preferred because they're kind of immediate. But living is more aesthetically pleasing in a lot of places. So, it's kind of a tradeoff, where surrounding property owners can get the tradeoff of having a living barrier. But it takes a little bit longer for that to become as effective.

Vice Chair Scherer: Any other questions for staff? Seeing none, Mr. Bergmann, would you like to make a presentation for the applicants?

Matthew Bergmann – Applicant's agent: Thank you. Good evening, everyone. I have a very brief presentation. And I do not want to be duplicating what Mr. Parks has already provided. First of all, I do have to thank Mr. Parks and Ms. George, and Donna and everyone. I came over to Mammoth this spring. And this was put on my plate in July and since then, we have worked every week to come before you here today. I had immediate responses from Dustin, and we've had a lot of exchanges regarding this. It's a unique situation but I do appreciate very much obviously your time tonight and what staff has done to get us to this point. So, like I said, general counsel for Mammoth sports, Matthew Bergmann, I came over this spring. Okay, so I'm here before you on a conditional use permit. Real quickly, even though Dustin provided great detail and I appreciate that, a couple points, site plan, key points of the application, which I believe are important and then next steps and then the summary if there's any questions. So Mammoth Sports Construction is a growing entity. We are just over 400 employees right now. We've worked in about twenty states. We've performed construction work in the sports world. And because of that, we do have equipment, inventory, storage, and things that we need to be able to park so to speak at our office location in the city of Meriden and we do not have that space. And when this property came up for sale at auction, approximately 18 months ago, Jake Farrant was able to purchase that for the company. And there were existing buildings on there. It had some some elements of a commercial or industrial use, but then really two thirds of it was agriculture. So, one of the things that Dustin was very helpful about is that how we work this through the rezoning do we do a conditional use permit and because a majority of the property is still going to be agriculture, and the existing facilities were there we went the conditional use route which staff recommends is appropriate. So, what we're really going to do is a couple things on the property is one we have to have a place to park our machinery or equipment or parking that's our trucks and trailers our skid loaders and things of that nature now. Because we have crews out traveling, that equipment really cycles back maybe once or twice a year, because it's out on different projects. And we go from Texas all the way up to the Canadian border. And between the Rockies and the Mississippi, it's kind of our wheelhouse. So, it's not a situation where you're going to have a huge demobilization, like we're also construction projects with everything on the site at one time. So, there will be an ebb and flow. But we've taken it to kind of a good-sized farm where you have tractors and discs and things like that. As far as inventory from materials and storage, we need a place to where we can put a drainage pipe, where we can put reels of turf if we need to and then for our equipment, because we use a lot of skid loaders, we need places to put our attachments is what I'll call them. So that's the first part, we've got to have a place to put the machinery equipment and lay our storage. On the operational facility, which I call the north building, that's going to be an equipment repair shop, it's not open to the public, it's going to be for our use. And because we have limited space in town, we need a shop to make repairs to our equipment, we have a flat tire something of that nature. So, you're not going to see commercial traffic, bouncing back and forth on that. And then the south building I will call it, is a flex space where, as Dustin very accurately pointed out, there was a facility there and the the plan is to allow a meeting space, a workspace and when we have crews or let's say a truck driver that ends up coming in late at night, unfortunately, in Meriden and there's not many hotels, or I don't think there is a hotel. So, we have the ability for temporary accommodations. And that's really just to let them rest their head until they move on the next day. Or maybe the day after that. It is not anywhere where someone is going to establish a permanent residence, nobody's voting address is going to be there. It is temporary in nature. But because of our crews and how we operate that, I just call it a flex space, is very helpful. Dustin already pulled up the site plan, so I won't reiterate this. If I could approach just for one second, I do want to note that this screening right here is going to be I would say evergreens or some type of green product. We have spoken with our neighbors across the street, and obviously they have a wedding facility. As you know, cedars grow really good in Kansas. So as long as we can appropriately space those so they can grow together in more of a hedge type fashion, that will create not only an aesthetic screening, that will somewhat buffer the view of our our site from the road, but also act as something when you're viewing it from the silo side, that it's also aesthetically pleasing as well. The other thing I would point out into Dustin's notes, a remainder of this is going to remain agriculture. And we have discussed the I'll say the limitations on where things can be stored, and where we're at. And we're fully aware that if we would add another building, or or expand in any way, there's

another review process before we would be able to do that. So, I pulled out some points that I wanted to talk about. I never liked reading presentations on a PowerPoint to anyone but cooperation and partnership. As I said, Planning and Zoning office has been extremely helpful since I came on, I have to give credit to Mr. Dolman as well. Him and I worked very closely on the dust control. And that department has been very helpful in the traffic routes, the dust control, and getting it to a point where we've we've... (inaudible). some of those complaints because those did exist before the use of the property. Like I said, it's a little bit of a unique situation because we still have the agricultural components, which will remain. But our use is really for those, those three things that I say we're going to have a laydown yard for materials and equipment. We'll have a maintenance shop and then we'll have the the flex space or the temporary quarters for meetings and for those to sleep overnight. Dust control, that was one of the big issues that I had to tackle at the start. Even before we came before you all, we knew it was an issue, we saw it was an issue. Called Mr. Dolman immediately and he put us in contact with Scotwood Industries which was the local dust control provider for the magnesium chloride. It took about three weeks to get it scheduled and up there. But I believe I was in front of the Commissioners on July 11th. And by I know by August 10th, we had it applied and down. And we worked with Mr. Domann so that the County could come out and grade. We put a water truck in front of it and the application went very well. Three quarters of a mile, we spent \$6,500. That was our cost out of pocket. The traffic routes. And this was another point that I had to address early. The directive that we gave Mammoth employees is that, from that, that lot that we're talking about today, the traffic goes south to 62nd. And then back east to K four, and then vice versa, if you're going the other way. The only exceptions and I discussed this with the city and their attorney, Lee Hendricks, is that if we have a vehicle that is not simply safe to put on K4 because of the high speeds, like a telehandler or something like that, we're allowed to route it through the through the city along Anderson Road. The only other exception that we discussed was if there was an emergency event and you know, there was an injury and someone had to get to the clinic in Meriden as soon as they could, that back route may be quicker, but those are extenuating circumstances. On the lighting and the screening, we do not have any objection to the conditions that are proposed. On the sanitary sewer, we have received approval on a final use inspection certificate. And that came out on September 7th. And then on the storage of materials, like I mentioned, when I was pointing at the at the site plan, we understand where things were going to go, and Mr. Parks has given us very straightforward direction on that. So next steps, obviously this is subject to approval, but for you all, but we would proceed before Jefferson County for final approval, we would complete any necessary conditions required. Complete site work to begin operations and then continue our cooperation relationship with you all. I will say that I have reviewed the conditions that have been proposed by staff multiple times, and we do not have any objections to those conditions. We understand that you have a piece of property that has a, I'll say a wedding venue next to it. There's also some of those residential lots that have been developed, well, they've been platted, they've not been developed. There there's no residential homes on that north side. There's one large metal structure on I think the far southwest lot. We understand that that you all need to place some conditions on us just because of the nature of the property of where it sits. I'm before you tonight to answer any questions that you might have. Obviously, I respectfully request that you approve this, and we can move down the road and get it in front of Commission, and I'll stand for any questions that you all may have this evening.

Vice Chair Scherer: Any questions for Mr. Bergmann?

Commissioner Johnson: I guess this is for my basic information, what what is the nature of projects that Mammoth does?

Matthew Bergmann – Applicant's agent: So, I want to be respectful of everyone's time. If Jake Farrant was here, he would probably take an hour to explain everything but we work in the sports construction world. Jake Farrant started it literally with a lawn mower and weed eater and started getting contracts to do mowing around state lakes and he's built it from there. Primarily we work in the installation of artificial turf. And just for reference, and this is public information. And I won't discriminate in case wherever anybody's out on the sports realm but this summer we worked to put in the turf at Memorial Stadium in Lincoln, Nebraska. We did Oklahoma State stadium football stadium. We are doing work at K State on their baseball field and their indoor and outdoor football facility. We're doing KUs outdoor softball and indoor softball. But the bread and butter I'll say is that we developed a process where we're able to go in and either build or rehab fields and bring them to grade and install artificial turf, for sports, and locally, obviously the field at Jeff West, that was one of the first ones but Seaman, Shawnee Heights, Silverlake, Rossville, St. Mary's, all of those are Mammoth fields. And if I may expand one second, that type of work doesn't require extremely huge machinery. I mean, you got to be able to move and grade the dirt. A lot of it is is skid loaders and smaller equipment, also. So, it's it's construction oriented, there are some some vertical components to it, but the majority of the sports related as the fields.

Vice Chair Scherer: Any other questions? Seeing none, thank you very much.

Matthew Bergmann – Applicant's agent: Thank you, I appreciate your time.

Vice Chair Scherer: Is there anyone present and I think we'll do this with the Zoom people first. Who would like to speak in favor of the application? Seeing none. Are there any people in the audience who'd like to speak in favor of the application? And seeing none, we will go to those who want to speak in opposition to the application on the Zoom meeting?

Alexa Surrutt (7057 K4 Hwy, Meriden): Yeah, I have some opposition. And I'm with R & S properties in Meriden.

Vice Chair Scherer: Excuse me a moment. Could you give us your name and your address. I forgot to ask that.

Alexa Surrutt (7057 K4 Hwy, Meriden): Oh, I'm Alexa Surrutt. And we're at 7057 K4 Highway is our machine shop that is R & S Maintenance. But we own through R & S properties, all of the land north of this Mammoth property, the two properties north of that, including the pond that is just adjacent to the north. We also own one of the lots to the south. We're lot number seven. The lot to the north, with the pond on it, it's called the Meriden Lake, I don't know if anybody's familiar with it. There's a club called Fin and Feather that's leased that for 100 years, literally, and they go over there and enjoy a little bit of privacy in this little, it's a big pond, that's what it really is. And people pay money to have these lots over there, to fish and hunt and just relax. And so, when this all came up for sale, Mammoth bought it. And now when the leaves fall off the trees, they get to look at piles of aluminum bleachers, and used up turf that's piled up and listen to the trucks. So, it's, and it's also it's going to decrease the value of my property, that's our property. And if we wanted to do something with that, no one's gonna want to do anything next to a construction zone, a laydown yard. And as owners of that machine shop, I get that, which is kind of why we purchased the ground around so that we're not disturbing anyone else. And there's no development there. But we also own a lot on 66th and there's not going to be any screening provided there and they have absolutely pulverized the rock on Anderson and 66th Street, all the way to the Meriden city limits and all the way to K4 and 66th. It's dust and then they came in and sprayed which is appreciated. It doesn't last long. And it's it's nothing but potholes. And I mean it's destroying the roads over there. 66th Street is bad now because of those trucks. And we just personally feel that that's not the place for this type of business and being a business person I hate to say that because I'm not damning them for what they do. I just don't think this is the place for it. All those lots there along the south will be homes and that metal building that the attorney was referring to, the southwest corner there, that is going to be someone's home. You can put up trees along Anderson Road, but that doesn't solve the problem. You know, the people sitting over at the lake still get to hear those trucks and still get to eat that dust. Not very enjoyable for people that are paying money to be there and that have paid money for years and years to be there to enjoy some peace and quiet. And then, I'm also a member of the Meriden Planning and Zoning. Meriden Planning and Zoning was never notified of this. And we are, from our understanding, supposed to have been notified, not the City Council. We're supposed to receive notification within three miles of the city. And we never got notification.

Vice Chair Scherer: Thank you. Are there any questions for the witness?

Dustin Parks (Staff): Just for point of clarification, if I may, Chairman, or Vice Chairman? So, the notification was sent to the city for the city to issue as it will, our notification requirements are to the city. And when the city gets that packet, it's up to them, the City Council, to issue that to whomever is supposed to get it within their regulatory requirements. Some cities don't have Planning Commission's, some city's Planning Commissions are their County Commission's and so for our regulatory requirements, it is just to notify the city. So that is definitely an argument you want to take up with your City Council.

Alexa Surrutt (7057 K4 Hwy, Meriden): Sure. Yeah, I get it. That's fine. Will do. Thanks.

Commissioner Johnson: I'd like to follow up on your comment Dustin, about so there'll be no screening to those south suburban development lots?

Vice Chair Scherer: Excuse me Paul. Can we ask questions of the witness at this point?

Commissioner Johnson: Okay.

Vice Chair Scherer: Other questions? Seeing none, is there anyone else on the Zoom meeting who would like to testify in opposition to this application? Please give us your name and your address.

Vance Collins (409 S Palmberg, Meriden): Sure, I'm Vance Collins. I live at 411 S Palmberg in the city of Meriden, I'm also the Chairman of Meriden Planning and Zoning.

Vice Chair Scherer: Thank you, please proceed.

Vance Collins (409 S Palmberg, Meriden): Yeah, I, like Alexa, share the puzzlement as to why this didn't come in front of our board. Since we, we are the ones who took the notification area and the response. We handled that. We handled it for the Silo, we handled it for that subdivision that surrounds where Mammoth is. So, I guess I and I believe our agreement, which we hammered out many years ago, with the County does specify that that recommendation comes from our Planning and Zoning and not the City Council. That's not their prevalence. And what happens when we send that to County Planning and Zoning if they agree with our recommendation. It then takes a supermajority of the County Commission to overrule that. So, I feel like some steps were missed here. That may be the responsibility of the City of Meriden. And I'm not, but we definitely would have been interested in this. And I feel like we were bypassed. And I feel like folks in your zoning office who are used to getting correspondence from us might have noticed that irregularity. That my signature was not on that letter, nor was my name.

Vice Chair Scherer: As a County Planning Commission, we sort of understand your position. But as Dustin said, I believe it is a city matter.

Dustin Parks (Staff): If the Vice Chairman would permit, I would like to go ahead and show what we sent. So, you can see the letter if possible.

Vance Collins (409 S Palmberg, Meriden): I saw it initially, but I would like to see it again.

Vice Chair Scherer: Go ahead.

Dustin Parks (Staff): So, we sent this entire packet to the City Clerk. All we say is, you know, because we send it to the City Clerk, and then it just says we've received a request within the designated area notified by the County regarding the public hearings, here's the here's the information. We'll hear this case. If you have any questions, please contact me. And then we'd appreciate a response from the applicable review body before that date. And to case in point, when the Dollar General went in. It was the City Attorney who responded to that. And the City Council, not our Planning Commission.

Vance Collins (409 S Palmberg, Meriden): Yeah. But I wrote the letter that he used to respond.

Dustin Parks (Staff): We didn't know that. But yeah, it's whatever the agreement there is, right there. We just have to send to the applicable review body. And so, when the City Attorney responds, that's kind of the statement from the city, if you know what I mean, that's, I understand, and I can I completely agree that it was, the City probably should have absolutely sent that to you. But unfortunately, that's not what we're here to talk about today.

Vance Collins (409 S Palmberg, Meriden): Right? You have provided ample proof of the correctness of what you did. So, we don't have to debate. I'm just, I just understand that that's how you received it, how it was responded to. And please understand, that's not the way it's supposed to go. I've been in this position since 1996, so I've written letters. More than I care to count. But thank you. Thank you for your candor and your honesty.

Dustin Parks (Staff): Yeah, sure.

Vice Chair Scherer: Is there anyone else who'd like to speak in opposition to this application that is on this Zoom meeting at this time?

Vance Collins (409 S Palmberg, Meriden): This is not procedural. But it does have to do with the fact that the zonings that surrounds that property are residential. And I would emphasize that if we're talking about screening from that lay down yard, which will include for a time at least waste rock, waste, or unusable turf, things like that, that that, that that screening might, we might consider that it should cover the lake side, which is if you've ever been over there's beautiful and pastoral and those residential lots on the south side along 66th Street. That's just that's just a comment from an old Planning and Zoning guy.

Vice Chair Scherer: Thank you. Are there any questions for the witness? Seeing none. I'll ask once more if there is anyone else that wants to speak in opposition on the Zoom meeting? Seeing none. In that case I'll ask if there is anyone in the room who would like to speak in opposition to the application? Please introduce yourself and provide us with your address.

Josh Bickel – 7181 Anderson Rd, Meriden: My name is Josh Bickel, 7181 Anderson Road, just to the northwest of said property. My concern is the increased traffic. I'm currently building my permanent residence and during construction, and I've eaten more dust in the past four months than I have in the past 38 years of my life, and I grew up on a farm next to the hay fields. The dust suppression that was put down beautiful, unfortunately, a day later, the rain and around Mammoth's lot to 66th Street and K4 was basically a minimum maintenance road. And to this day, if we get a heavy dew. It is slicker than snot. I mean it is terrible. My concern is going north from Mammoth on Anderson. The dust control, I don't recall if it was going to go north, but also the increased traffic. Not the heavy traffic, semis don't go that fast. It's their personal vehicles, the pickups, and trailers. The increased speed that you guys drive back and forth on that road. It's it's a concern, I have kids, I have pets, a lot of young kids around there, to my east and to the north of me. That would be my concern is the increased traffic that we've already experienced. I don't know if it needs to come from corporate. But I think you did say that the memo was sent out for the guys to go 66th Street. I feel like that memo may have gotten overlooked by about 90% of their employees. And I think that needs to be re addressed. My concern is the increased traffic and dust control.

Vice Chair Scherer: Are there any questions? Thank you very much. Is there anyone else in the room who would like to speak in opposition to the application? Seeing none. Is there anyone else either on Zoom or in the room, who would like to speak before I close the public hearing portion of the public portion of this process. Mr. Collins?

Vance Collins (409 S Palmberg, Meriden): Sorry, I promise this will be my last. When you look at land use, and whether it's consistent with the neighboring properties, this is not. I mean from a simple standpoint of what is there and what is not, I think that's probably the the strategy of saying that a third of its going to remain agricultural because that land, where Fin and Feather is agricultural. But the surrounding parcels are Suburban Residential and rural suburban. It's just something that that we would consider in a planning and zoning setting. That's it for me.

Vice Chair Scherer: Thank you. At this time, I'm going to close the public comment portion of the hearing. No, I'm not I forgot you. Mr. Bergmann still has a shot at a rebuttal statement? My apologies.

Matthew Bergmann – Applicant's agent: Mr. Bickel, you and I have not met before, I'm happy to speak with you, the directive from our company is that from that property, all traffic is supposed to go south and then it is supposed to go to 66th and back to K4. I understand that you know, maybe we need to reiterate that again. But but that's the directive that's given and that's what I can tell you right now. On the dust control component, we worked closely with the county, and my understanding of dust control is that if an individual wants it in the county, they're responsible to pay for it in front of their residence. We took the liberty of putting three quarters of a mile down to try to address that. And in working with the county, the approval in the direction was to go from the north side of our property, south to the 62nd interchange, and then back to K4. Perhaps it's a catch twenty-two with rain, you know, it's sloppy when it rains, and if we don't put anything down and then there's more dust than ever, but other than paving the road, which I understand the county doesn't have funds for dust mitigation through that magnesium, magnesium chloride application is the best approach that we can have. Is it going to be perfect? No. But I can also point on that road that I know of at least two other commercial operators that are going to be running trucks along there, too. So, we are doing the best we can, and I think that was good for us to volunteer that. As far as Mr. Collins and Ms. Surritt's comments, I was unclear as to whether they were appearing on behalf of the city or whether they're appearing behalf individually, because if they're appearing on behalf of the city, they don't have jurisdiction to control your decision. And I hope they're not representing themselves as experts. And quite frankly, neither of them has contacted our office either. And specifically with Ms. Surritt, on August 5th, I delivered hand delivered a letter to her husband, Andy, regarding this process, and Andy and I had a very good conversation sat down, he questioned

why there wasn't a cost share between Mammoth and some other entities like Mr. Ronnebaum, who has trucks as well. He indicated to me that the pond is silted in, and they didn't know what they were going to do with it, and he was had no objection to any requests that we were making, because I explained what the conditional use permit was. As far as Mr. Collins comments on screening, to the to the properties on the south, there is a significant amount of agricultural land between where our storage will be and that property line. And on the other side on the actual owner side of the property line, for example, on Unruh's property on the southwest corner, there's crops planted there that are even an additional buffer. So, I'm, I guess I'm perplexed because I work through Lee Hendricks, who's the City Attorney and Lee, and I have a very good relationship. And then there are two individuals from the city that appear tonight who haven't reached out to us. They hadn't communicated through Mr. Hendricks. And I guess I was just completely caught off guard because there's obviously ample notice. And we've had multiple communications regarding the issue. Obviously, it's your all's decision. I'm here to happy here to answer any more questions. I just want to let you know that that was my rebuttal. And those are the communications that existed previously. Thank you.

Vice Chair Scherer: Any questions? Any questions for Mr. Bergmann?

Commissioner Johnson: So, are you aware that Meriden had a Planning and Zoning Commission?

Matthew Bergmann – Applicant's agent: Absolutely. And as an attorney, I can't contact them directly. The communication from me is Mr. Hendricks. And I believe Mr. Parks was proper and that the notice by statute is required to be given the city, the planning and zoning is a subset of the city government. And if notice under Kansas law is issued to the City Clerk, than it's it's proper notice before the city and where the city takes it from there it is their own (inaudible) But as you can tell by Mr. Hendricks's response, indicated that the city did review it and there's no objection except for the I guess the transportation is the long slow moving vehicles that Mr. Parks previously outlined.

Vice Chair Scherer: Any other questions?

Commissioner Johnson: So, you didn't think it was advisable to a since Meriden has a Planning and Zoning Commission.....

Matthew Bergmann – Applicant's agent: If I may, Mr. Chairman, as an attorney, my duty is to communicate to the attorney for the city. We communicated that as well as the county. This is a county piece of property on a county road. It falls within the K4 (inaudible), there is a notice requirement to the city, and we provided, excuse me, the county provided the notice to the city. And I spoke with Mr. Hendricks during this too. I apologize if you believe that's insufficient, but that's what the law allows and requires.

Commissioner Johnson: So, on your dust control plan, you took it from your property down to 62nd Street and then over to K4.

Matthew Bergmann – Applicant's agent: Correct.

Commissioner Johnson: Is there any consideration about dust control on 66th St?

Matthew Bergmann – Applicant's agent: Now, I'm sorry, excuse me? If I said 62nd, I misspoke. It is 62nd is paved. I apologize that if I said that. 62nd is a paved road, 66th is the gravel road where the dust control was applied. I apologize.

Secretary Asher: I have a question if that's okay. And this may be for Dustin? I'm not sure. So, are they currently operating their business before the conditional use permit is approved? Or is that okay that they can do that? I don't know.

Dustin Parks (Staff): So, initially, that's what started this. And then we were so there were talks with Kelly back in mid-2021 regarding this, and there were to be honest, several balls dropped until Mr. Bergmann kind of got on board and within a matter of a few months, everything that was supposed to happen in 2021 happened on this end. And so, they, I believe they have stopped operating while they're going through this process. Once Mr. Bergmann took over, I believe they stopped operating. Now, they may still be doing renovation to the building, but that unfortunately doesn't require any kind of conditional use permitting or building permits from us. So, I believe they're still doing what they can within the confines

of what's allowed, but I believe they stopped as soon as Mr. Bergmann and I started communicating on this when I took over.

Secretary Asher: Okay, I'm also, sorry, this is probably for you Dustin. Did you say that the screening will be moved? east, I think to be on their property and not in the right of way. Is that correct?

Dustin Parks (Staff): Correct. They can't plant anything in the right of way or use that or use the right of way for screening in any way? So, it would have to be on their property.

Secretary Asher: Okay. Thank you.

Vice Chair Scherer: Other questions for Mr. Bergmann? Seeing none. Any questions or discussion?

Dustin Parks (Staff): Mr. Vice Chairman, would it be relevant for me to go ahead and pull up the regulation that shows what we're required to do under our regulations for notification? Or do you believe that issue is null and void at this point?

Vice Chair Scherer: I think we've hashed it out well enough.

Dustin Parks (Staff): Very well.

Commissioner Phillips: I have one question. What was this? What was this property used for before it was sold? What's the history here?

Dustin Parks (Staff): So, for several years, it was owned by the US Marshals. I don't know if you remember the big auction that happened and then this came up for the plat? Initially during those conversations for the plat, the property owner was going to try to zone all of these for commercial. But when they did the plat, they didn't want to provide a development plan to show what kind of commercial they were trying to rezone to, so they just went ahead and did residential. But the property in question was just an agricultural property that was seized by the US marshals. I'm gonna say at least 15 to 20 years ago. And so, for the last 15 to 20 years, it's pretty much been vacant. We are aware of a couple, at least ownership names, like there's Unruh Freight on the corner and that kind of thing. That's why I said that this is with a conditional use permit across the street and with the Unruh Freight, LLC owning land on the south. That's why I said for conditional use permit purposes, that it is somewhat in line with the surrounding uses, because we are aware of other trucking uses in the area that may or you know, will be coming through conditional use permitting sometime soon. And with it being inside the industrial overlay for the highway, we thought that this was a good use. But I apologize. I kind of digress there to answer your question. It was basically ag ground that was owned by the US marshals.

Vice Chair Scherer: Other questions or discussion?

Secretary Asher: Sorry, Tiffany here. So did you say some of those eight lots are already planning people are planning to use those for industrial?

Dustin Parks (Staff): So, two of them, we can make assumptions on because they're owned by Unruh Freight Solutions. So, we can assume that at some point, they're probably going to do something with freight. And then we know that a property on the south on the corner of Highway 4 and 66th, Mr. Ronnebaum's property, we know that he's been kind of doing some trucking stuff out of there. Our last knowledge was that it was agricultural in nature. But we have since heard that that may not be the case. So, I assume that probably within a year, we're going to see other trucking companies come through for 66th Street. Yes.

Secretary Asher: And the others that aren't sold, I guess they would see what's there before they decide to build a house there, I guess.

Dustin Parks (Staff): Yeah. I mean, that's, you know, right now, there are there's one the most recent building permit was Unruh Freight when they built their shop house. And it is right now it is it's a large metal building, but it was permitted to also be a dwelling on the second story. So, I believe it was Alexa, who said that that it was going to be a home and she is

correct. it will be a home. But they got their building permit for that parcel on, sorry, my computer's decided that right now it's going to just be a herd of turtles.

Secretary Asher: I mean, you've answered it. I'm sorry, maybe you said this, so the Mammoth lot and all of those lots, are they zoned the same, Rural Residential?

Dustin Parks (Staff): No, the Mammoth is zoned Rural Residential, and the southern lots are zoned Suburban Residential because of their acreage.

Secretary Asher: So, is there no requirement like Mr. Collins is talking about for buffer yards between zonings?

Dustin Parks (Staff): There aren't. We have setbacks, we have building setbacks, but in terms of buffering, there isn't. Usually the buffering requirements is along roads, but there is nothing that says that, you know, buffering couldn't be planted or, you know, volunteered to be planted along the north of their property or the south of their property, but from a zoning perspective, we have since I've been here have not requested surrounding screening for anything other than like an RV storage yard. And even still, that's visibility from roads.

Secretary Asher: Perfect, thank you.

Vice Chair Scherer: Other questions, any discussion? Anyone care to make a motion? Anybody want to get further information on something here? I can't insist that you make a motion, but we do need to take some sort of action. Is there more information that you'd like to have before we make a recommendation to the County Commissioners.

Alexa Surratt (7057 K4 Hwy, Meriden): Can Can I speak for just a second?

Vice Chair Scherer: I'm sorry I didn't hear. Oh, I'm sorry. I misunderstood who was talking to me.

Dustin Parks (Staff): I should state for the record, the public hearing portion has been closed.

Alexa Surratt (7057 K4 Hwy, Meriden): Okay. That's what that's what I was asking. Okay.

Vice Chair Scherer: Actually, I thought that was Tiffany, I apologize. Again, we have about three alternatives. Motion to approve, motion to recommend denial, or to postpone for more information if we can actually tell the applicant what kind of information that we'd like to have.

Dustin Parks (Staff): I would also like to state the recommendation for denial does require the reasons for denial.

Commissioner Phillips: I couldn't hear the options.

Dustin Parks (Staff): There's recommendation for denial with causation. There's recommend approval with conditions or conditions as amended. And then there's tabling requesting more information, citing what information we're missing.

Commissioner Phillips: My opinion is tabling doesn't get us anywhere. The notification was given to the city and the attorney who is speaking is correct that he's ethically limited to only communicate with the city attorney because he knows that city is represented by the attorney. I don't think tabling would solve anything. The city was notified and the attorney who was speaking here is correct. He was limited to talk to the city's attorney. Ethically, he couldn't talk to a representative party without going through the attorney. So, I don't see how tabling this would do anything except add time.

Vice Chair Scherer: Other discussion? Paul?

Commissioner Johnson: I guess I would disagree with the fact that tabling isn't an option. There seems to be some serious discussions that need to go on about how the properties around this development are going to be impacted. And, you know, we haven't solved this issue about buffering, you know, for those eight lots south of this or the lake and, you know, parcel north of it. And I mean, I know time is always important, but I think I think we need to get it right. And I think that there

needs to be further information about how the impact of this development and how it will be buffered against existing property owners' area.

Dustin Parks (Staff): If that is a concern, you could potentially add a condition just to screen around all residential properties.

Secretary Asher: I'm sorry, can we ask the applicant if that's something they would even want to consider? Is that allowed?

Vice Chair Scherer: You would consider buffering; we are talking about buffering on the north boundary and on the south boundary.

Matthew Bergmann – Applicant's agent: So, I guess I would need to pull up the site plan to look at it. And Dustin, I don't know if you can share your screen again, that would be helpful to be able to look at it.

Dustin Parks (Staff): Yeah, give me just a second here.

Matthew Bergmann – Applicant's agent: My point is, we can only buffer on the land that we own. Correct? But if there is significant space, I guess or I think it'd be best to look at the site plan.

Secretary Asher: I guess my suggestion for buffering would be, I mean, I'm looking at the aerial right now, where all of the stuff is stored right next to the big lake. I mean, I think you're right. I think there's a lot of property on the south between the residential lots, and they aren't even developed yet. So, I personally wouldn't buy one if I want to build a house there. But the lake, I don't know, I mean, it's pretty close to the property line. Just my thoughts.

Dustin Parks (Staff): Okay, here is the site plan for the property itself.

Vice Chair Scherer: You had a blown-up version, did you not?

Dustin Parks (Staff): I do. I can just do this here. Does this help here?

Matthew Bergmann – Applicant's agent: May I just point and speak briefly for a second.

Vice Chair Scherer: Unfortunately, the person that asked won't be able to see you but go ahead.

Matthew Bergmann – Applicant's agent: If we look at the south portion first, so if we screen along the east side under the proposed plan recommended by staff, we have to confine our storage to this area and this area, we can't go outside of that. This is going to be continuing planted into agriculture, which it's corn right now. What I'm talking about is if you're looking at the site plan, and you go south, if you're looking at the south quadrant, where it says equipment and construction material storage in the very south white blocks, the recommendation by staff was to confine Mammoth's storage areas. And you can see actually, the agricultural planting, so you have a from any site here, you have a natural buffer with, it looks like there's already existing trees there. And then you have an agricultural buffer, which will be probably be corn or beans based upon whatever the rotation is. If we go up towards the lake, there is already natural trees there. And then there is obviously, I mean, you can tell that those are hardwoods all the way through. And we're not visually there to see it so it's difficult. So, I guess I guess what efficiencies are created if there's trees here and we put trees there? That would be my question. And perhaps it's something that, that we could come back with some additional information on.

Secretary Asher: Yeah, I don't know. I'm not there. I'm just going by what the neighbor said. I've never been to the lake and looked through. But I mean, it looks like there's a lot of bleachers and other stuff just stored there. Is that allowed storage there for the site plan?

Dustin Parks (Staff): The site plan states that that would have to be moved.

Secretary Asher: Okay, okay, then that kind of helps a lot actually.

Dustin Parks (Staff): Because I'll pull back up the site plan, right quick. So, this here, they can only be stored next to this white building here. Which if I can, I don't know if I can do both of these at the same time, but I'm going to try here. So right now, the only storage area will be basically adjacent to this white structure here. And then inside that structure as well or this structure. The other thing down here, I mean, if the Planning Commission would desire to, they could recommend that this site be screened, because it is a storage location, you could recommend that that site be screened. And, you know, either by fencing or, or by the same type of screening they're going to use along Anderson Road. And that would prevent the screening from there. And we have in the past for a couple of other equipment storage yards, said that, anywhere that they have storage, they have to screen from view. Now, we haven't done one for something this large. But it is entirely possible that the Planning Commission could make a condition or a recommendation of a condition to the County Commission, please keep that in mind that that screening is planted to help prevent view from the lake so that, you know, they could plant a line of screening trees on the north side of the storage yard. And then that would help prevent that even though there are trees there. You can kind of see there's some thinning through here, not much, but there is so if that's a concern, you could request a condition to plant on the north side of that storage yard and you could request a condition that incases this storage yard in screening trees or fencing or, you could alter the condition that we have recommended to state that the site will be screened, and all storage, all outdoor storage areas will be screened from view of adjoining properties.

Secretary Asher: Okay, that really helps. I mean, just looking at the current aerial it looks like looks like landfill, just from the aerial. And so, if it's just if they have to clean it up and contain it to certain areas, what happens if they don't? What if it happens if it still looks like this.

Dustin Parks (Staff): So, all conditional use permit holders are given an opportunity, if we are notified, or we go out on inspection and we see that they're not adhering to the conditional use permits, they are given a certain timeframe, you can usually put what that timeframe is in the conditions, but by history, that timeframe is 45 days to respond. Because essentially what happens is if this were to be recommended for approval today, and the county matches your recommendations, and votes to recommend approval there, then it's the County Commission who can withdraw that conditional use permit. And so, we give permit holders 30 to 45 days to contact our office with a plan for remedy and if that time expires, and that plan has to be agreeable to the County Commission. And if that plan expires, they rescind the conditional use permit, and this process starts over again.

Secretary Asher: Okay. I don't think making a motion is in my area of expertise. It seems like very complicated. But for all the rest of the Commissioners, I would be on board if as long as there's specified storage areas that they have to just they can't just store stuff all over the place. I would be on board with supporting that.

Matthew Bergmann – Applicant's agent: Mr. Chairman, if I may respond to that. And I think there's two parts that I'll offer one is. One is that, as Mr. Parks correctly pointed out, our placement of storage will be limited to what's approved through the site plan, so it is confined. Secondly, if and I'm just going to use an example, we've already indicated that there's a condition placed upon for screening up and down Anderson Road, if on that South storage unit that we need to provide screening on the on the south side or somewhere around that. I mean, you're already going to have it down Anderson. So, on the west side of that lot, I don't know that that's appropriate. But we would screen that and if we need to provide a buffer. Even though there's existing trees there if if guidance would be given to work with Planning Commission to ensure that there's a a buffer provided on that, I would say the I guess the northeast construction area, or storage area sorry, we wouldn't have any objection to that. Now to the west, the topography takes you up on the hill and that's why I wish we could be out there to see it because there really is no view from there. It's all our land goes up to the top of the crest of the hill. So, there is no point from there, but you know, in an absolute showing of good faith we would screen up and down Anderson take the south side along that storage unit and provide some level of some you know, hemispherical protection there on the north side of that if if that would be accepted as a condition.

Vice Chair Scherer: Thank you Mr. Bergmann. I think you can stop sharing your screen now Dustin. Tiffany did I understand you were making a motion?

Secretary Asher: I'm not even sure I did the last one appropriately. So, I'm just giving you, my thoughts.

Commissioner Phillips: I would move we approve this, with the conditions recommended by staff and the added conditions of and people help me out here, the screening buffer on the south, for any storage areas, and on the northeast for any storage areas there. Does that cover it?

Dustin Parks (Staff): Let me, if I may, Chairman, go ahead and share my screen again, so I can pull up the conditions. So, Steve, are you wanting to go ahead and amend condition one? Currently says screening, either living or artificial, shall be erected in a manner that obscures the site from Anderson Road. Do you want to add to include screening from site for all storage areas?

Commissioner Phillips: Yeah, that would that would work.

Dustin Parks (Staff): Matt, you seem to enjoy picking apart my language sometimes. Is that copacetic with you?

Matthew Bergmann – Applicant’s agent: Mr. Parks, I appreciate that. If that’s the recommendation from the County Commissioners. I appreciate that. Thank you for the help.

Vice Chair Scherer: I’m actually the Matt he was referring to.

Matthew Bergmann – Applicant’s agent: I apologize.

Vice Chair Scherer: We might want to say to screen from the north and south rather than the property.

Dustin Parks (Staff): Okay, so, screening on the north and south storage areas?

Vice Chair Scherer: I think you said screening storage areas to the north or to the south. I don't know why Steve doesn't take care of all this. Steve, does that meet your.....

Commissioner Phillips: It does, that's what I was trying to get to.

Dustin Parks (Staff): Okay, I will share my screen again right quick. Now, obviously, this is going to say as recommended by staff, but that includes the addition. Okay, so the current condition as recommended ended here. It says screening, either living or artificial shall be erected in a manner that obscures sight from Anderson Road. I added to include screening storage areas to the north and to the south.

Commissioner Phillips: About saying ‘and’ to include.

Dustin Parks (Staff): No, I'm sorry. I thought you asked if I had written ‘and’.

Commissioner Phillips: I’m just suggesting adding the word ‘and’ before ‘to’.

Dustin Parks (Staff): There we go. ‘And’ to include screening storage areas to the north and to the south.

Vice Chair Scherer: Do I hear a second?

Secretary Asher: Tiffany, I will second.

Vice Chair Scherer: Ladies and gentlemen. I apologize if you can't read the motion. But we have a copy of it before us, so we actually do know what we're looking at. Are there any further comments or further discussion?

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
RECUSED	DNV	Aye	Aye	Nay	---	---

Motion passed 2-1 (With Chairman Benyshek recusing due to potential conflict of interest)

Chairman Benyshek asked if any Commissioners currently have any ex parte communication with the applicants or any conflict of interest towards this case that would exclude them from giving a vote this evening. There were none.

- II. **CU2022-03:** A request to consider a Conditional Use Permit application for a Pet Boarding Facility. This request is being brought by Marilyn and Patrick O'Donnell of 6404 Buck Creek Rd, Oskaloosa, KS 66066. The request is located at the same address.

During this time, staff asked who was here for the case. The applicants, Patrick & Marilyn O'Donnell were present. There were no opponents on Zoom. Janet Reno was present and had a few concerns.

Chairman Benyshek asked staff to give their report. Staff gave their report. After their report, Chairman Benyshek asked the board if they had any questions for staff.

Chairman Benyshek: All right. Thank you, Dustin. Before we move on to the applicants here, do any of the Commissioners have any questions of staff before we move on? I just have one quick question. Dustin, on the environmental consult, I noticed, and I just looked at it here, you said this was done in September of last year, and I am sure it is probably still valid. I just didn't know. In general, how long are those environmental consults good for? I'm sure if property conditions haven't changed, I'm sure it's still valid, but I just didn't know if it needed to be recertified since it was over 12 months ago.

Dustin Parks (Staff): No. So, they actually started this application process back then. And they were just getting everything in line. And then in February, when they were working with Road and Bridge, we checked with the Health Department at that time, and they said that as long as property conditions haven't changed, they didn't feel like they needed to send a new letter. And property conditions haven't changed, other than the driveway.

Chairman Benyshek: Sure, sure. Very good. That's all I had. Any other Commissioners have any questions of staff? Seeing none, we'll go ahead, and I believe we have the applicants present here. If you'd like to make a statement or presentation, we'd be happy to hear it.

Patrick O'Donnell – Applicant: I think Dustin has summed everything up very, very well. The one concern from the previous one, screening, I actually worked with Dustin's predecessor in regards to all the trees around there, they got all the photos of the trees that are being within there. And then the other one that has come up from one of the neighbors is just what type of increased traffic is going, this is going to cause. The majority of it, it won't cause, in our opinion, very much. We're looking at probably anywhere between eight and 20 dogs, but she's gonna get a minibus, and pick up in Lawrence, and Topeka. So, the majority will be either transported by her or by people going on vacations.

Marilyn O'Donnell – Applicant: Instead of a daily doggy daycare, it's going to be more of a resort for holidays and things.

Chairman Benyshek: If it's anything like the one over by Ozawkie, I'm sure you won't have any trouble getting customers. Okay, well, very good. Thank you for your comments there. Is there anybody on Zoom or in the room at this point in time who would wish to speak in favor of the application? Seeing none on Zoom, is there anyone present in meeting here who would like to speak in favor of the application? Seeing none as well. So, we'll move on then to if there's anybody on Zoom or in our audience who would wish to speak in opposition to the current application? Okay, if you would take the take the podium and state your name and address there.

Janet Reno – 7393 Buck Creek: I just had a couple of questions. I'm Janet Reno and I live at 7393 Buck Creek, so just north of you. Dust was my concern and the traffic. But is it going to change any zoning on Buck Creek?

Chairman Benyshek: This is a conditional use permit application. So, this is not a rezoning request of the property. So no, and Dustin, feel free to correct me if I'm wrong here. But this is just a permit to seek approval for essentially the doggy daycare, pet hotel or however you want to word it. We're not looking to change the current zoning of the property, or the applicants are not applying to change the current zoning of the property.

Janet Reno – 7393 Buck Creek: Another concern was, is it going to open up more commercial type businesses down our road.

Chairman Benyshek: This probably isn't a professional answer. That's the million-dollar question and I have no idea. I don't think any Commissioners or applicants are going to have any idea. Generally speaking, and this is just opinion not fact, I personally cannot see a doggy daycare being a huge commercial push for more business to go up and down Buck Creek Road, but I could be wrong I could be right. But that's the best answer at this point in time unless any other Commissioner would care to take a stab at that one. But generally speaking, in a rural setting, I'm going to say no, that that's not going to open you up to a construction business, maybe putting a lot yard next door.

Dustin Parks (Staff): I can state that, if the chairman would permit me, that any type of commercial use since these are agriculturally and residentially zoned just like the previous case, any type of commercial use would have to go through a public process, just like this. And since the property is not being rezoned the conditional use permit. One of the bonuses or I guess one of the plus sides of conditional use permitting is that it's very specific to that property. So, like with the previous case, where yes, you know, there was a conditional use permit across the street from it. It was a wedding event venue, and even that being there actually was kind of a detriment to the other conditional use permit that was being applied for because it required different stuff and it was there first. So, they kind of play off of each other that way. So just a conditional use permit does not inherently allow for more commercial.

Janet Reno – 7393 Buck Creek: Because I moved here 35 years ago to get out of the commercial.

Chairman Benyshek: Sure. Understood. So, any further comment or questions?

Janet Reno – 7393 Buck Creek: No. Thank you for your time.

Chairman Benyshek: Once again, just real briefly, if there's anybody else who would like to speak, in opposition, we would hear that now, but I don't believe we have anybody. Nobody's flagging me down or coming off mute there. So, I guess at this point in time, if the applicant would like to make a rebuttals, rebuttal statement, now is your time to do so.

Patrick O'Donnell – Applicant: From a rebuttal statement. I mean, really, you know, I've already stated you know, in regards to the traffic, I think the majority of the traffic is going to come from the south anyhow. If it's her driving the bus or you know, somebody coming from Lawrence or Topeka that's my assumption. As for commercial property, I mean, it's all owned, residential, or agricultural. So, and then also there was question in regards to the fence because of all of the items that we have presented. The fence structure will actually run to the west, northwest of the building back towards the agricultural shed is where that 85, originally, we thought 85 by 150 but it's going to be roughly 85 by probably 100 is what that fence is and that's going to be a six-foot privacy fence there again to restrict the animals and noise.

Chairman Benyshek: Yes Paul. Go ahead.

Commissioner Johnson: Couple questions. So, when you say coming up from the south, mean coming up 59 and then over to 62nd?

Patrick O'Donnell – Applicant: It's going to be 54th. 62nd would come around and then have to come south down Pawnee and then over to 54th. The main road that people travel to Topeka, you know, from the from the lake, you know, the lake property over there is 54th St. So, coming from Topeka, it's going to be across 54th St. Coming from Lawrence it'd be up Wellman again across 54th and then up Buck Creek Rd.

Commissioner Johnson: And the conditions by staff was a maximum of 25 animals.

Patrick O'Donnell – Applicant: We don't want more than that.

Marilyn O'Donnell – Applicant: It will be more like 10.

Commissioner Johnson: So, when you say extended stays, you're thinking keeping an animal for long holiday weekends?

Patrick O'Donnell – Applicant: And vacations. People are more than likely willing to drive that far for extended stays. People going from Topeka to the airport, you know, it's on the way.

Commissioner Johnson: And with the gate setup that you have, then they will have these patients will have certain access through a code to get through the gate.

Patrick O'Donnell – Applicant: Its proposed, it's not there. I wasn't going to spend the money on it unless we were able to do this. But yes, yeah, it'll be a code entry that we will have access to change the code.

Commissioner Johnson: Last thing, how common is it to have a blending of having dogs and cats?

Patrick O'Donnell – Applicant: No, I mean, the instances that you would have a cat it would probably be for, you know, a longer period and just when someone goes to the hospital or something of that nature. That's what that would be. Somebody who was on vacation with a cat, they may have a neighbor come over and make sure. Having a lot of cats. no.

Chairman Benyshek: Any further questions of the applicants before we would close the public hearing portion of this here? Okay. So, we'll go ahead and close the public portion of the hearing here. So, I will ask once again, Commissioners, are there any further questions or comments by Commissioners or staff or discussion? And if there is none, I would entertain a motion if we have one.

Vice Chair Scherer: Yeah. He asked too many times Dustin. Could you explain why the first three conditions offered in there, recommended conditions.

Dustin Parks (Staff): So, I tried to edit them. Pretty much specifically for you. So, the first three conditions, KDHE has, Jefferson County Health Department, references the animal waste disposal guidance documents as their guiding document for how to handle animal waste for these kinds of things. So, I put that in there. So that if, if it changes, it hasn't been changed since 2009. But if it changes, they'll have to make sure that they're maintained up to that document. Now, like I said earlier, that document has everything from, it's literally a flowchart and it has everything from this type of use all the way up to CAFOs confined animal feeding operations. But if that guidance changes, they'll they don't have to come back through. They just have to keep it up to date. I didn't, I just said a copy of all state permits not that all permits would be obtained or just whatever, whatever state permits they get. We just want a copy of and a copy of the inspection reports because they do inspection reports to get those permits. It's not so much a policing thing as it is a records thing.

Vice Chair Scherer: Thank you.

Dustin Parks (Staff): It's it was it was my middle ground, Matt. We have to make sure state permits are achieved, but we're just asking for the copies.

Vice Chair Scherer: Well, of course I think the state agency will do a fine job of making sure the permit is achieved, as you put it, but thank you for the thought.

Chairman Benyshek: Any further questions? All right. Well, if there's no further questions or comments, yes, I am ready for a motion.

Commissioner Johnson: I would move approval of CU2022-03 with staff recommendations.

Chairman Benyshek: It’s been moved. Is there a second?

Vice Chair Scherer: Does it include all five conditions?

Commissioner Johnson: Yes.

Vice Chair Scherer: Second.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
DNV	Aye	Aye	Aye	Aye	---	---

Motion passed 4-0

Chairman Benyshek asked if any Commissioners currently have any ex parte communication with the applicants or any conflict of interest towards this case that would exclude them from giving a vote this evening. There were none.

- III. **PR2022-05 and Z2022-05:** A request to consider the Preliminary and Final Plat of the Heston Farms Subdivision, a three-lot plat, as well as a request to rezone lots 1, 2, and 3 of said plat from Agricultural to Rural Residential. This request is being brought by Duane Heston of 8923 Kingman Rd, Oskaloosa, KS 66066. The request is located at the same address and is generally located on the west side of Kingman Rd between 86th and 90th Streets.

During this time, staff asked who was here for the case. The applicant, Duane Heston was present. Dale Heston was present as a supporter. There were no opponents or other public present or via Zoom.

Chairman Benyshek asked staff to give their report. Staff gave their report. After their report, Chairman Benyshek asked the board if they had any questions for staff.

Chairman Benyshek: All right, thank you, Dustin. Any initial questions by Commission members of staff at this point in time.

Commissioner Johnson: One quick one.

Chairman Benyshek: Sure. Go ahead Paul.

Commissioner Johnson: What's the unapproved entrance that Road and Bridge was talking about. Was that for lot 1?

Dustin Parks (Staff): I will pull up the letter right quick if that's all right. I believe it's lot one but let me get to the letter because they actually started doing maps to indicate where these are going. I'm going to share my screen again right quick. So, Paul, this property up here where the house is, this is lot one, where the house currently is and the southernmost entrance is, of lot one, is where it was denied. So, it still has two others, and then the southern portion still has two and then the other one can get them either on Kingman or 86th.

Chairman Benyshek: Okay, Matt.

Vice Chair Scherer: I just have a real quick frontage question. I assume the frontage meets because of the frontage on east west road, which, which I just forgot. 86th?

Dustin Parks (Staff): Yes.

Vice Chair Scherer: Thank you.

Chairman Benyshek: Any further questions of Commission for staff at this point in time. If not, go ahead and move on to the agenda here. So, if the applicants or applicant representative is present, now is your time to make a statement or make a presentation to the Commission here. So go ahead.

Duane Heston – 8923 Kingman Rd: Yeah, my name is Duane Heston, I live there at 8923 Kingman Road. We're just dividing it up because I'm getting older. And my kids, I wanted to make sure it was divided, so they knew what it was. And that's basically the only reason. That denied driveway, I cannot figure it out. I've called them three times, and nobody's come out. So, we haven't proceeded any further on that yet.

Commissioner Johnson: What's the existing use of say, the land in lot three?

Duane Heston – 8923 Kingman Rd: That's its crop ground. Yeah, it's going to stay in crop ground.

Commissioner Johnson: You have any grass or pasture?

Duane Heston – 8923 Kingman Rd: Not on lot three. But on lot two there is and lot one's got some, just grazing ground. I've got a few cattle and that's all. I got like 14 cows.

Commissioner Johnson: So, you row crop it with beans or corn.

Duane Heston – 8923 Kingman Rd: Yes, yeah. Steve Brey does the farming, and he rotates the crops.

Chairman Benyshek: Okay, any further question of Commissioners for the applicant?

Jess Noll – Applicant's agent: Jess Noll of Landplan Engineering. I represent Duane on this. On that denied entrance, I just, I'm with Duane, I don't understand why. That entrance that he has that they denied, if you look at the neighbor across the street, and his brother John just added another entrance to the south of it. Dustin, can you pull up that map real quick? So, if you look at these three driveways, so the southernmost drive that Dustin has got pulled up there, you can see the neighbor right across the street. You could you could drive right out at Duane's driveway right into the neighbors. And John added one on the south line of that adjoining line right about where Dustin has got his pointer. Go back up. Just a little bit. Dustin. Right in there.

Dustin Parks (Staff): Yeah, there's an address point.

Jess Noll – Applicant's agent: Yeah. Duane's driveway on the west side got denied, and it was there before the other two even existed. So, and I don't understand why. So, if sight distance doesn't work for him on the west side, why does it work for the other two on the east? It's the same spot. I don't I don't see it in my professional opinion, why are we going to rob him of an entrance that was there far preexisting the other two and allow the other two to exist and he has to block that one off. It's it's a farm drive. He uses it for hay. It's not like he uses it every night to go in and out. It's handy to load cattle out of and haul hay in and out of. And I can't see taking that entrance away from him but allowing the other two on the other side of the road. I think it needs to be noted so the Commissioners are aware of it.

Chairman Benyshek: Yeah, and I'm looking at two different statements here from the Road Department here. One is dated all the way back to 2018. And then there's another one on here that has topographical maps from August of this year, but they unfortunately both have the same results on there. But like I said unfortunately this Commission doesn't have the authority to approve or deny driveways on there that is fortunately or unfortunately for whose side of the table you're sitting on a Road and Bridge department question there. So, all I can do is highly encouraged you to call your Road and Bridge Director and state your case on that one there.

Chairman Benyshek: So, apologies, a little off track there. But any other further questions of Commissioners to the applicant before we move on here? Seeing none. If there's anybody still on Zoom or present in the room here who wish to speak in favor of the application? Speak now or unmute yourself on Zoom there. Any takers?

Dale Heston – 10955 90th St: So, my name is Dale Heston. I live at 10955 90th St. I'm a neighbor to Duane and also his brother. And I really appreciate what he's done for his kids in splitting this up. It's very awesome that he's doing it and I hope you all can see in your hearts to allow him to proceed.

Chairman Benyshek: Thank you. Anybody else in person or on the Zoom call, who would like to speak in favor of the application at this time? Seeing or hearing none, we'll move on. If there is anybody on the Zoom portion of this meeting or in attendance tonight who would like to speak in opposition to the application? Okay, seeing none, I would offer the applicant a rebuttal statement, but he has nothing to rebut, so we are going to close the public hearing, or I'm sorry, the public process on here or for public comments, and open it back up to Commission members if they have any final questions of staff or comments that they'd like to make. Speak now before we choose to move on here. Seeing none, I'll be glad to entertain some form of a motion here. Don't be shy.

Secretary Asher: I make a motion to recommend approval just the way it is.

Chairman Benyshek: It has been recommended approval of Z2022-05 and PR2022-05 with the recommended motion presented by staff here. Is there a second?

Commissioner Phillips: I second that find motion?

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
DNV	Aye	Aye	Aye	Aye	---	---

Motion passed 4-1

Chairman Benyshek asked if any Commissioners currently have any ex parte communication with the applicants or any conflict of interest towards this case that would exclude them from giving a vote this evening. There were none.

- IV. **Z2022-06:** A request to rezone a tract of ground from Suburban Residential to Rural Residential due to a boundary line adjustment that is adding acreage to the tract. This request is being brought by David Bellinger of 7311 Buck Creek Rd, Oskaloosa, KS 66066. The request is located at the same address and is generally located on the west side of Buck Creek 0.6 miles south of 78th Street.

During this time, staff asked who was here for the case. The applicant, David Bellinger was present. Jess Noll, surveyor for Landplan Engineering was present on behalf of the applicant. Janet Reno was present. There were no opponents or other public present or via Zoom.

Chairman Benyshek asked staff to give their report. Staff gave their report. After their report, Chairman Benyshek asked the board if they had any questions for staff.

Chairman Benyshek: Any questions initially by Commissioners here of staff? If the applicant or applicant representative is present, and wishes to make a brief statement or presentation, now is your time to do so.

David Bellinger – 7311 Buck Creek Rd: David Bellinger 7311 Buck Creek Rd. I mainly think because I wanted to see the process. I haven't been to one of these before and can't say I'll come on a regular basis. The original property was purchased by my wife's folks. And they bought thirteen acres. And then they bought the thirteen acres next to it and they convinced us to move next door. They had a method in their madness because we took care of my wife's mom for 25 years after that. So, she passed away. And she had let it know to the kids, my wife and her two sisters that they wanted, they originally deeded us that six acres of the thirteen acres and that they wanted that additional acreage to go back to us once once she had passed. And the property was done with whatever, and so we're just honoring our wishes. So, I thank you for your help. Because then I thank you for your help. And Jess, yours. And then by the way, it was 1989 we moved out there.

So, they purchased it in 1989. So, on that second 13-acre but it's just the family place and and we want to make it whole again.

Chairman Benyshek: Thank you. Any questions of Commission members for the applicant at this time. Okay, seeing none. I think we can move through the next steps pretty quick. Anybody who wishes to speak in favor the application, now's your time to be heard, whether that be via Zoom, which I don't think we have anybody other than staff and Commission members on Zoom. And looks like we don't have a whole lot in attendance in the crowd either. But anyone who wishes to speak in favor, please speak now. Okay. If there's anybody who wishes to speak in opposition of the application, they would be heard now. I don't think we have any opposition either. So, and we are going to once again skip over the rebuttal statement here. There's nothing to rebut. So, we'll go ahead and close the public comment portion of the case here. Are there any further questions of staff by Commission members before we move forward here? Yes, Matt.

Vice Chair Scherer: Dustin, I noticed you had the usual language in there but is there actually any right of way or easements dedicated on the.....

Dustin Parks (Staff): Oh, not for not for the rezoning? No. None that already didn't exist.

Vice Chair Scherer: Thank you.

Chairman Benyshek: Okay. Any further questions, comments, concerns? I there are none moving forward. I would entertain once again a motion on this case.

Vice Chair Scherer: Mr. Chairman, I move we recommend to the County Commissioners approval of application Z2022-06 based upon staff's analysis.

Chairman Benyshek: Okay, thank you. Matt has motioned. Is there a second to that motion? Paul has seconded unless there's any further discussion on the matter let's take it to a vote here.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
DNV	Aye	Aye	Aye	Aye	---	---

Motion passed 4-0

Item 6: COMMENTS FROM THE PUBLIC ON ITEMS THAT ARE NOT ON THE AGENDA

No public present at this time.

Item 7: OLD BUSINESS, GENERAL STAFF REPORT

Dustin Parks (Staff): So, I'm gonna be brief. And I've got bad news for Paul, I have no news on the comprehensive plan just yet. The old business for that is essentially that I'm still waiting on an answer. So, I'm going to all three of them are supposed to be present at the meeting on Monday. So, I'm going to kind of during open session requests, they're up to date response. And everything seems to be copacetic with the RFP as it is in terms of, you know, being able to be sent out. It's just a question of if they'll approve it for us to do that. So, once I get that answer, I'll let you guys know by email just so that you're all up to date. But I'm hoping to at least get a here's where we are in the decision process on Monday. The big reason that we haven't heard anything yet is because previous cases have taken up quite a bit of time and occur a couple of new, exciting things that are going to be coming down the line that I'll talk about new business, old business, the Washington estates, they tabled requesting more information from the engineer regarding the drainage basically, to describe the drainage and the hydrant process. They wanted clarification that in writing that the hydrants were going to be used for to fill bladders and trucks not to be pumped directly on to fires. And then they do have the clarification that there is a well,

access in the pond, the retention pond for fire use as well. That is really the only old business that I have. Nope, I apologize. There's one more thing that Erin will yell at me about if I don't ask. So, we need clarification from the board. This is a board decision. So, it can be consensus or by vote or by vote. But would you like us to do the oath of office at reappointment or at every April reorganization meeting? Technically, they're supposed to be done once a year, either during those reorganizations or when you're reappointed every couple of years, but it's up to the board. So, whatever the board would like us to do.

Chairman Phillips: What do you recommend?

Dustin Parks (Staff): I recommend we do them all during the reorganization because it's just easier for us to keep track of that when we do the officers, we also just do oaths of office at the same time.

Commissioner Phillips: That works for me.

Chairman Benyshek: Do it all in April, if I'm hearing that correctly?

Dustin Parks (Staff): That would be my recommendation, actually, I won't say recommendation that would be my request.

Chairman Benyshek: I don't have any objections to that? Or do we? I have no objections by any means.

Dustin Parks (Staff): Okay, so for the record, it seems like the consensus is that we can go ahead and do that in April.

Chairman Benyshek: That is a yes. Okay. Yeah.

Dustin Parks (Staff): So, that is the end of old business for me.

Commissioner Johnson: A quick follow up on old business. So, I'm gonna go back to, have you had that discussion with the County Counsel about how open are these RFP responses are going to be?

Dustin Parks (Staff): Yes. So basically, we get to review them entirely. They're not closed. They're not like closed bidding. Because of the type of project, it is, we'll get to review all of them. We don't have to do sealed bidding for these. So, we'll be able to go through them, we'll be able to comb through them and choose the appropriate one.

Commissioner Johnson: So that's settled for that.

Dustin Parks (Staff): Yes.

Chairman Benyshek: Anything else? I don't think there's any other old business. So, we would move on into new business for anybody who's got some.

Item 8: NEW BUSINESS

Dustin Parks (Staff): I have two things. One, we're all going to become very familiar with something called cryptocurrency in the next three months. We have a request for a crypto mining facility that is either coming down the pipe next month or the month after, just north of McLouth, it was kind of by surprise. We didn't know it was coming. We only found out about it because somebody called to talk to us about our requirements for their turbines, not wind turbines, like power turbines to keep everything cool. I don't know more because the plan is changing. So, until I have an application, I'm not going to be able to really provide more information than that. But I know it's coming.

Chairman Benyshek: To add comment to that Dustin. This is banking news. The feds have have it on their table to put in front of them consideration cryptocurrency to be regulated by the Consumer Financial Protection Bureau here. I'll just be honest with you, I'm speaking freely, I don't know if that's going to pour gas on their fire or put it out. Given the head of our current CFPB. I have my speculation that might pour gasoline on a fire. But I'm not excited about that news. Don't give me any more news like that.

Dustin Parks (Staff): Well, here's news to excite you and you can request a motion for adjournment immediately after. We have no October meeting.

Chairman Benyshek: Okay.

Dustin Parks (Staff): I was going to wait to see if we had a case so I could bring forward the accessory dwelling unit stuff, but we don't. And frankly, having that time off would be very nice for my office. So, we're not having an October meeting.

Chairman Benyshek: Very good. I have nothing further to discuss or go over. I'm ready for a motion for adjournment.

Vice Chair Scherer moved to adjourn the meeting. Commissioner Johnson seconded. All said aye.

Item 9. Adjournment – 10:19 PM

Minutes taken by:


Erin George

Approved:

Nov. 28, 2022
Date

Chair:


Tim Benyshek

Secretary:


Tiffany Asher