JOHNSON COUNTY PLANNING COMMISSION

Johnson County Administration Building
Board of County Commissioners Hearing Room, Third Floor
111 South Cherry Street
Olathe, Kansas

MINUTES OF REGULAR MEETING

July 25, 2017
5:45 p.m.

A. CALL TO ORDER

A meeting of the Planning Commission of Johnson County, Kansas, was convened at 5:45 p.m. on Tuesday, July 25, 2017, and was called to order by Chris lliff, Chairman, with the following members present and participating: to-wit: Dennis Bollin, Pete Opperman, Mark Huggins, George Lund, Teri Atwell, Randy Hutchins, Henry Deters, Jim Neese, Roxanne Morse and Roger Mason. Jason Meier was absent. Also present were Brian Pietig and Paul Greeley, Johnson County Planning Department. Leslie Davis served as secretary to the Planning Commission.

Chairman lliff: I’ll call the July 25th meeting of the Johnson County Planning Commission to order.

B. APPROVAL OF AGENDA

Chairman lliff: Any changes to the agenda? [None.]

C. CONSIDER MINUTES OF PREVIOUS PLANNING COMMISSION MEETING

Minutes for the June 27, 2017, Planning Commission meeting were approved as submitted.

D. PUBLIC COMMENTS

This is an opportunity for members of the public to address the Planning Commission on an item which does not appear on the agenda. Comments are limited to five (5) minutes.

Ken Corbet, 10351 Southwest 61st Street, Topeka, appeared before the planning commission and made the following comments:

Mr. Corbet: One of the reasons I’m here is because my name was brought up at the last meeting. I’m here to talk about anything you want to talk about. I brought the two decisions from the district court and the state Court of Appeals, the case of Corbet v. Shawnee County. I think it would be worth a good read, and if you have any questions, I’ll do the best I can to answer them.

We started in 1985 and we’ve been in business until today. That’s it in a nutshell. I think the thing that needs to be brought up is, whether you’re an apple orchard, a winery, or whatever, all great businesses started in a garage, or a shed, or over a coffee table. And you never know how big someone is going to get or how long they’re going to last unless you give them a chance. And I think most people in agritourism, or farmers, or whatever you are, there’s enough stress trying to make a living. I sometimes wish the door would be grabbed to open it instead of being grabbed to shut it.
Anyway, we’ve survived this many years. It’s not easy. It’s never easy. It’s just whatever keeps you going. That’s my soapbox, I guess. I just thought I’d come down and say hi.

Chairman Illiff: Mr. Corbet, would you answer a few questions with regard to your case?

Mr. Corbet: I’ll try.

Chairman Illiff: Okay. I have read your case. Would you refresh people’s memory if they have been here, or for people who are new, with regard to what it was that you were doing in Shawnee County that caused you to be cited by the county?

Mr. Corbet: Well, we went through planning and zoning, and the activity we were trying to engage in was hunting, sporting clays, dog training, and all the ancillaries to that. We went through the entire process, and after two or three years of the planning part of it, we were given maybe five or six legal sheets of paper, which said you can be in business if you don’t do this. Well, you can’t be in business. And my attorney argued this. He did a good job. One of the key issues with Shawnee County is they were saying I was running an illegal snack shop because in my brochure – You have to realize, this is just hunting ground. But I bought a Santa Fe caboose when they were selling them, set it on a rail, cleaned it out, fixed it up. I said in my first brochure I would be offering hunters maybe a cup of coffee out of a thermos, or a donut, or something like that, because there was no means to do anything. So, when it got to towards the end of this, they shut me down. They put paperwork up on your gate. This is a 100-acre piece of property.

So, after that, you have a choice. You hope that they make another decision other than the planning department. And my attorney said, it was about five minutes until nine, and he said, "We’re leaving now." I said, "The meeting is starting in just a minute." He said, "No, this meeting is over." That’s when he took action. He sued the county commissioners, the zoning board, the Planning Department, and whatever. And we won our court case at the district court. Remember, I’m paying my attorney, and I’m paying their attorney. So, they appealed it. A year later, we won it in a state court of appeals. Then, there was only one place to go, to the state supreme court.

I’m no different than anybody else. Most zoning cases, you would hope would be decided by just the law. One of my neighbors, Gary Berry (?), he told the county commissioners what he wanted to do. They just said, "Go get it done, good luck, hope you can make a life for yourself." He got a little big. They called him and said, "Gary, you’re doing really good." So, they talked again, and they got through that. But some of my neighbors were able to do some of the things I did without even a meeting. But I’ll tell you, when you’re a small business person, you’ve got one foot on the gas and one foot on the brake. It is hard to look your family in the eye and say, "I’m going to stick this out."

One of the side stories in this whole case was, after several years, I got a call from someone in the County. They said, "Ken, I think you’re having trouble with zoning." I said yes, I am. They said, "If you could come to lunch, bring about $3,000 to lunch. We can make some of your problems go away." I said, "I’ve already spent thousands of dollars. I want to either win it or lose it, but I’m here now." So, I think anything that this body could do to give people a chance. Probably half of them are going to fail, but if they spend all their start-up money with attorneys and legal-beagles, they’ll never have the opportunity. And there are a lot of people here who don’t want to be entrepreneurs. That’s fine. There are a few dreamers left in this country, and it’s the dreamers who are going to carry us through. You all can’t just sit there and hope something happens. Most of these small people, they sit around and say, "I think we’d like to try that." You go through high school, all your education, and no one ever tells you how hard it is to get that dream. One of my friends has a Goodcents sandwich shop. He wanted to get it open by July 4th. It was about June
The building inspector comes to him and says, "I tried to get you that permit but you don't have a grease trap. The guy says, "We don't have anything that has grease. It's Goodcents. He says, "Well, when you get it in, call me." Well, he missed the July 4th weekend. It's just little stories like that guy's, it doesn't sound like much, but it hurts. It just hurts. Whether it's raising crops, or horses, or whatever dream you have. After 30 years, if I'm going to work 7 days a week, I'd like to go to Ravenwood. We like to hire kids to work part time. We do a lot of fundraisers. We help a lot of people. And it's just like everyone in this room. There's a good chance you'll make it. Anyway, I talk too much. Sorry.

**Chairman Iliff:** I'll just say one more thing and you can comment it or not. But, to give some context to your remarks to the audience that's here, and we've got a new Planning Commission member, this is with regard to the issue of agritourism and agricultural uses. The Court of Appeals' decision, in its syllabus, made this conclusion, which I will read for the sake of the audience: *Considering the legislative policy of favoring agricultural uses and promoting the development of the farm industry, together with the liberal construction given the zoning ordinances in favor of property owners, the operation of a wildlife hunting preserve under the facts of this case is an agricultural purpose as contemplated by K.S.A. 192921, and is exempt from county zoning regulations."

**Mr. Corbet:** And in the opinion here it says: *Agricultural uses, the raising of crops, livestock, poultry, animals, with the production of food, or any activity connected thereof, is considered agricultural.* I mean, the reason they cut this with a pretty wide swath is because agricultural is probably the number one business in this state. I'm not a big grape eater. I do like steak. But I've read this many times. And I had to go down to the archives to get a copy of this. It even said in one place that polo, rifle ranges, and whatever, was considered ag. It also said, you know, the training of horses, boarding of horses, is ag. I mean, I don't think anybody is trying to beat anybody out of nothing. I mean, they all live here. I can understand in the right neighborhood, you've got a $2 million house and a swimming pool, that maybe you wouldn't want to see a horse or cow. I guess my answer to that is, you should have bought more ground.

**Chairman Iliff:** Mr. Corbet, thank you very much.

**Mrs. Atwell:** I have a question. Besides Ravenwood, do you do anything else for a living?

**Mr. Corbet:** No.

**Mrs. Atwell:** Do you work for the state, or --?

**Mr. Corbet:** Luckily, I have an elected office for another year. But, other than that, it's Ravenwood seven days a week. And it's amazing, and you can laugh at this, but in the 30-some years, we've done everything from funerals to weddings. And I didn't know the funeral was coming.

**Chairman Iliff:** Thank you, Mr. Corbet.

*There being no one else to speak, Chairman Iliff moved on to the next item.*

**E. PUBLIC HEARING – ZONING REGULATION CHANGES**

**Chairman Iliff:** This is a hearing that has been advertised and people can attend. It has to be open to the public before we make a recommendation to the Board of County Commissioners. Mr. Greeley?

**Mr. Greeley:** Before you tonight is a public hearing item to talk about minor clarifications, changes, refinements and updates to the Zoning and Subdivision Regulations. We've been having this conversation over the last several months. This is not to talk about agriculture or agritourism.
That's a whole other issue, a complicated issue. It may come up, but that's not really part of what we’ve been talking about with respect to these minor changes.

I’m going to go through three documents with you. You should have received those in your agenda packet. There are copies of these documents available at the back of the room. I’m going to use dates. One of the documents is dated July 18th to the Planning Commission from Karen Miller. The second document is dated June 20th of this year to the Planning Commission from Karen Miller. The third document is not a memo, but it looks like a white paper, if you will. The cover page says “Draft Zoning and Subdivision Regulations Amendments to Allow Minor Regulation Clarifications and/or Revisions.” That's dated July 25, 2017. Those are the things that I'm going to go over with you. I'd like to enter those into the record.

I'll start also by saying that what I'd like to do is give you a high-level summary of what's been before the Planning Commission to date as far as these minor changes and clarifications. I'll go through that quickly so everyone knows what we're talking about here. Get that in the record. If you want to pull something in particular out of those items that I talk about, we can pull that out later and talk in detail. Members of the public may have some comments on these things, too.

So, to start at the top with the July 18th memo, which in the middle of the page says Summary of Proposed Amendments, I’m going to walk you through these article by article. First is Article 2, the Definitions section. Three parts to that: An amended definition of “kitchen” to help clarify that a wet bar in an accessory building does not elevate that structure to a dwelling unit. The second item: Separate the terms “boarding stable” and “riding stable” to better clarify their meaning in the definitions section. Third part: Amend the definition of “wholesale nursery” to include the term “greenhouse.”

Article 6 has the following changes: Clarify that violations extend to the provisions of development plans, plats, and rezonings to planned districts.

Article 9, Rural Districts. Clarify that horse boarding and training stables located on nominal 10-acre parcels or greater do not require conditional use permits. The second part of Article 9: Add “Farm wineries as defined by State statute and policy” as a permitted use in the RUR Rural District, which is Article 9. I’m going to get into that a little bit here in a moment.

Article 15: Clarify and update the preliminary development plan terms and extensions.

Article 16: Clarify the allowed locations for temporary contractor offices.

Article 18: Dealing with accessory structures. Increase the maximum height allowed for ground-mounted solar collectors. Clarify that owner occupancy is required at the time of approval, and that waivers from that requirement are meant for emergency situations. Also, clarify which performance standards apply to ADU permits.

Article 23: The conditional use permit section of our regulations. Six parts to that: Add a conditional use permit to allow accessory solar collectors. Second, clarify CUP’s for bed and breakfast establishments when landowners reside on the premises. Third, clarify that boarding and training stables are allowed with a conditional use permit when not compliant with Article 9 provisions. Fourth, regarding communication antennas and cell towers, etc. To amend the provisions to increase the initial maximum term from 5 years to 10 years. Remove a portion of the section addressing interference, which was struck down by a court ruling some years ago. Third, include a waiver from fencing and landscaping requirements for communication antennas and towers. And, finally, encourage placement in the interior of large parcels.
The fifth conditional use permit change is to amend provisions on contractor yards that removes conflicting requirements within the specifications of Article 6(B)11. And, the last Article 23 change is to clarify that there are two alternatives for allowing landscape contractor shops and yards in the RUR district.

Article 26 changes are to update the information received from applicants in the Preliminary Plat Analysis Report.

Article 29 changes: Remove repetition regarding septic systems, and clarify that platted lots may only be divided by replatting.

Article 30, Minimum Subdivision Standards: To correct text regarding right-of-way dedication; to correct text regarding access onto local streets; and to amend regulations regarding on-site wastewater disposal systems.

Article 31, Minimum Infrastructure Requirements: Update the minimum infrastructure requirements regarding fire protection to conform with international fire code, which has been adopted by the County.

Finally, to remove or delete Appendix 3 that categorizes conditional use permits in tabular form. It’s repetitious and it’s seldom used.

All of those things that I just went through are in that one paper – Draft Zoning and Subdivision Regulations Amendments – which you received a copy of. Again, they are in regulation form. They are put in the format that they would appear in the regulations. I can go through that, too. I don’t think I need to, unless you want to pull something out specifically. This document is where the details are.

I want to revisit one item that I mentioned, which is under Article 9, Farm Wineries as defined by state statutes and policy. We’ve had some conversations on that. The Planning Commission asked for us to put that in, so it is in here as part of the changes. As you know, and as you’ve seen in the June 30th memo from Karen Miller to you, staff does not support that proposal, primarily because of the state statutes and policy aspects of that, the language under Article 9. That is spelled out in the June 20th memo.

There is an alternative in the June 20th memo that we would be comfortable with, with farm wineries, and that’s on page 2 of that June 20th memo, there in the middle where it says that farm wineries are already allowed. That’s the definition that we’re comfortable with if we were going to do something now.

The other aspect is that we think farm wineries is such a big issue under the agricultural and agritourism discussion that you’ve been having for several years now, that we should pull that out. We will address it. I know you will. I know the public is not going to let us not address that. We have to come to some decision on that as a collective here. We believe that’s the place for this farm winery discussion and decision to occur, not part of these minor changes and amendments.

On the very back page of the July 18th document are your options tonight. We have laid out four options for you. You have a public hearing you have to go through with folks to get that information into the record, give consideration to that. You’re going to have your own conversations on what you want to end up with. But there are four suggested motions there that we think will allow you to do a couple things, again, depending on how you decide to proceed tonight. At the bottom of page 4 of that memo is staff’s recommendation, if you choose to go with it. That would be the one
that I just talked to you about, where we remove that farm winery component of Article 9 and discuss that at another time.

That’s it on my summary. Thank you for letting me walk you through that. I can answer questions, or we can proceed with the public hearing.

Chairman Iliff: Questions for Mr. Greeley? [None.]

Mr. Greeley: Mr. Chairman, several pieces of information have come in today that were at your seating places as you arrived tonight. There may be people here to talk about those things tonight. I think they want that information entered into the record. Staff has not had a chance to review or digest that or give you any feedback on any of that information. I just wanted to point out that we believe we’ve given you everything that was hand-delivered to us today. Thank you.

Chairman Iliff: I assume you’ll stand by for further questions and clarifications.

Mr. Huggins: I would like to ask a question. I’m curious about the reason to require pre-filing on a split of a platted lot. I know we get involved in that quite often. The splitting process is much easier than the plat, and in most cases, it’s not a terribly profitable situation. So, can you go through the reason to make that change?

Mr. Greeley: I’d be happy to. The way the statutes read and our regulations read is that a property can be split one time into two pieces. That’s really the essence of a split, as I think you’re talking about. I mean, it’s certainly as I’m referring to it. Not one time into three pieces, or one time into four pieces, but one into two. That makes sense, and that’s a manageable process that can be done often administratively with some guidelines on how that might occur, one into two. So, the next time around, one of those two should be split again, ought to be split again one into two, is that the essence of your question? Without subdividing, without platting?

Mr. Huggins: My understanding is a platted lot cannot be split unless it is replatted.

Mr. Greeley: Correct.

Mr. Huggins: And my question is, why?

Mr. Greeley: The plat is a legal document and it has legal bearing to it. So, if an administrative split occurs, that does not affect that platted document in the recordkeeping system of the County because the plat is a recorded document. And if an administrative action occurs to split that lot, then there isn’t anything of record that amends that plat to say that that lot doesn’t exist in the fashion that you see. Now, it’s been split, so, where is that information kept? How is that recorded? And to amend that, to change that plat document, it’s our interpretation – and has been for years – that that plat has to be changed. That’s the only way that you can correctly document that that plat is no longer what you see if you pull it up in the County’s records. It’s been changed. So, that’s the first practical thing that we’re up against.

Mr. Huggins: I would say that the plat is a good record of the property, but that the true record of the property is the deed, which defines the owner, who is probably the number one issue. So, in my experience, we haven’t had any trouble working with lot splits for that reason, because the first place we start is the deed. The deed will define the lot split if there was a split that was used to transfer a change in ownership. And I understand that the records are not as clean and efficient that way, but when I think about the cost to split a lot compared to the cost to replat the lot, it’s usually three or four times more expensive to replat it. So, that would be my concern. Are we fixing something that may not be broken and setting property owners up to have to spend significantly more money, or just not do the split?
Mr. Greeley: Mr. Chairman and commissioners, if this is an important enough issue to you, and it's important to staff and the County, we ought to just pull this out of the minor changes and not do anything on it, and then, have a discussion later about that. I could go into a little bit of it tonight, but I don't think I could give it justice as to what staff's concerns are. So, my advice would be to pull it out and not do anything on it. We can pick it up at a later date.

Comm. Neese: Paul, I have a question. After our last zoning board meeting, we had kind of informal discussion about the possibility of revisiting how the lot splits are looked at in different parts of the county. If that's something we're going to discuss in detail in a workshop later on, I would recommend that we withdraw that at this time. I think that's a good suggestion by Paul. I think that really needs to be looked at in detail and give definite thought to that one issue.

Chairman Iliff: Any other comments by members of the Commission? [None.] We'll take that under advisement for the time being. Thank you. Are there other comments on any of the other items on the summary of proposed amendments that are here before us on the July 18th memo? [None.] Hearing none, staff has recommended that we withdraw the issue from the proposed amendments for tonight, and just ask for a little discussion with regard to what people think about this. And what the proposed amendment would be, as I understand it — and please correct me, Mr. Greeley, if I'm wrong — is that farm wineries would not be subject to or need a conditional use permit if they complied with the definition of farm wineries under Kansas statutes and regulations. Is that correct?

Mr. Greeley: That's correct.

Chairman Iliff: Okay. I got the first part right, thank you. And as I understand it, under Kansas regulations and statute, for farm wineries to be considered farm wineries that are subject to whatever privileges or exemptions are given under Kansas statute, that at least 30 percent of the grapes that are used in that wine are produced in the state of Kansas. Is that correct?

Mr. Greeley: Correct, but not necessarily grown on the premises.

Chairman Iliff: Good point, and an important addition. Basically, the grapes can be brought in from anywhere, as long as 30 percent of them were grown in that state of Kansas, and they would comply with the statutes under the Kansas Farm Winery law, correct?

Mr. Greeley: Correct.

Chairman Iliff: Does everyone understand what the situation is? So, it could be that someone could open a winery without any grapes being grown on the property and they would comply with Kansas farm winery law. Now, the farm wineries that I know of in this area don't do that. They are, in fact, grape-producing wineries that use their own grapes as part of the product. That's part of the attraction and ambience of these places. And I will admit to having visited several of them. So, I don't know if I have a conclusion, but I do think we need to have this discussion. Many of the wineries in this country, including ones that are big-name, every-day, high-dollar, vintage wines, produce their products in wineries where the product is not grown. They don't own the land. They buy the grapes from somebody else and bring them into the winery, and then, they crush them and ferment them and turn them into wines. Some of those are very great wines. So, it strikes me as a general notion that the requirement that 100 percent of the vintage that is sold at a farm winery be grown at that location is inconsistent with the practices of the best wineries in the world. So, I'm uncomfortable with that as a way of going about this.

I'm also uncomfortable with the notion that the guy or gal who wants to start crushing grapes that they buy from wherever calls themselves a farm winery, and they are therefore exempt from
conditional use permits. I think there’s got to be some kind of happy-medium there. And I don’t know that we have either one of those propositions before us tonight, whether we can vote on that. Personally, I would be uncomfortable sending to the Board of County Commissioners just a carte blanche that says if you’re making wine and you’re in Kansas, you’re exempt from a conditional use permit, regardless of where the grapes come from. I don’t think that’s what most of the people who run farm wineries are intending for us to do. I think they’re running true farm wineries when they are growing grapes and they are using those grapes to make their wines, and they may add to it or blend it with a number of other grapes in order to arrive at a vintage that they find palatable and like to sell to their customers.

So, I’ve spoken enough, but I am certainly open to comments, suggestions or thoughts from other members of the board.

Mr. Huggins: It strikes me, if we’re thinking about finding a middle ground, maybe we ought to exam what the County’s policy would be for a winery. See how far apart those are. My next questions would be – and I’m sorry; I haven’t studied this item thoroughly enough – What other items does a winery allow? I know there have been discussions about music and partying-type activities, weddings, things like that. Are these all covered under the state law?

Chairman Iliff: Well, it’s a matter of legal opinion, and we don’t have a definitive answer to that with regard to the issues pending in district court in Johnson County right now. We may get an opinion before too long. And I’ve read all the legal opinions that have been submitted to us by both the agritourism proponents and by our own county counselor, and I’ve listened to the arguments, and there are several things that Mr. Jarrett said last month that I completely agree with. One of them is that we’re not a judge. We do not sit and make legal opinions about what is and is not permitted. We are a policy-recommending board. That’s what we do. We listen to our staff, we talk among ourselves, we listen to people who are members of the general public, and then, we come up with what we think is an appropriate policy for the County to adopt. And then, we recommend it to the Board of County Commissioners, and they can do with it as they wish. They’re elected; we’re not. And I like it that way.

So, my sense is that we’ve got two different questions here. We could separate them, but I’m not sure we could answer either one of them tonight. The first question is whether a farm winery is only permitted to operate without a conditional use permit as long as they only use grapes grown on their property. I think that’s the County’s position. The state’s position is almost at the other extreme, which is that a farm winery is any winery that crushes grapes, as long as 30 percent of the grapes are grown in the state of Kansas. Not even on their property. So, there is a wide disparity there. I’m not comfortable with either of those definitions. I think it ought to be more like a farm winery is a winery where at least 30 percent of the grapes are grown on the property where the winery exists and where the product is sold. I’m not making a motion or anything like that. I’m just throwing this out for discussion to see if we can arrive at a conclusion.

And, keeping in mind that there is a second question: What other activities can go on at a place that claims agricultural exemption as a farm winery that either do or not require a conditional use permit? Again, there’s a wide disparity of opinions. On the one hand, you have the proposition that as long as we have an agricultural use, how-ever that is defined and how-ever the user defines it, we can do anything we want on that property, and you cannot regulate or control what we do. I’m uncomfortable with that position. By the same token, the County has taken a position that basically the only thing you can do in an agricultural endeavor is agricultural stuff. And as Mr. Jarrett repeated numerous times last month, if you do anything else – anything else – on that property, including have a house on it, it’s no longer agricultural, and it can be regulated by the
County. I’m very uncomfortable with that. I do not believe Kansas law would back that position up. That’s an extreme position that is unwarranted.

Now, I’m talking here, and I’m not giving a legal opinion here. I’m talking about policy. I think we need to recommend a policy to the Board of County Commissioners that is not extreme, either in limiting or in permitting. And Mr. Corbet gave a summary of his situation. I read his case several times. We may find out that the Johnson County District Court – and maybe the Court of Appeals of the Kansas Supreme Court – says that if it’s related agriculture, the counties or cities can’t touch it. There are no zoning regulations that you can apply to it because it has the umbrella of agricultural over it. I’m a little uncomfortable with that. I’m very uncomfortable if you start envisioning what that would mean as a practical matter. If a person bought a one-acre lot in Stilwell and decided to raise cattle on that lot with neighbors next door, and they said you can’t do anything about that because it’s agricultural, because it clearly is. The same would be true if they ran a hog operation, or anything else.

So, again, not making law, not deciding what the law is, but trying to decide what a reasonable policy is that would accommodate the state, the clearly-stated state policy of giving a liberal exemption to agricultural uses. Also, the law that says that all zoning laws have to be liberally construed in favor of the landowner. How do we arrive at a policy that is suitable for us here in Johnson County? Again, keeping in mind that we could easily get overruled by the courts and all of this discussion is meaningless. But I think it’s important that we do the best we can to get this right. That means liberally construing whatever rules and regulations we do have in favor of the landowner, and giving the benefit of the doubt to anybody who is engaged in agricultural activity, or is a certified agricultural-agritourism activity. We’re not ready to go there tonight, I don’t think. But, I’m hoping that based upon the many witnesses that we’ve had, and the legal opinions that we’ve been given, and the testimony that we’ve heard, that we are ready to engage in a serious discussion of this and give an informed opinion to our Board of County Commissioners that would not take an extreme position on one side or the other, but which would have the best chance of passing scrutiny by the courts, and would also be in the best interests of the county and the people who live here. So, that’s all I’ve got to say on that.

So, we have before us now a proposed motion prepared by our planning staff about the recommendation of draft zoning regulations. They are proposing that we exclude the farm wineries as defined by state statute and policy. Mr. Huggins is suggesting that we also exclude the tract split issue, putting the rest of the matters forward to the Board of County Commissioners. I’m not making a motion, but I think that’s the issue before us.

Comm. Deters: I agree with you. I would rather be more liberal in favor of the landowner than be more restrictive. So, I think if we put this forward like we mentioned as far as state regulations, we’re giving them the chance to be liberal in their activities until we have those discussions and decide changes need to be made. Instead of being restrictive and saying you have to wait until we discuss it, I would rather be more liberal and say, when we discuss it, we could become more restrictive. And base that on something as far as history that’s happened between now and then. That’s my thought.

Comm. Hutchins: I have an appreciation for what you said. I also want to make sure we do it well. I do have a couple of concerns. One is the time it is going to take. Frankly, the reason we put this in Article 9 is because it’s been talked about for – what? One or two years? So, when does it stop? So, we now have it on the agenda tonight where we could actually vote and push it forward. That’s one comment.
The second comment is: Are we creating a slippery slope? Today, the state of Kansas has their definition, and by the design, it’s very open. They want it to favor the local farmer and the landowners. So, it would be going down a slippery slope to where we’re opening the door to County regulation of the state statute, where it wasn’t designed to be that. So, those are two comments that I have. I am anxious to hear what my peers have to say.

Comm. Morse: My concern about leaving this in at this time is I don’t know how long it will take to come up with a solution to this. In the meantime, things could happen that could not be undone, and a precedent might be set and things allowed that we would regret when we do get around to deciding what our recommendation is.

Comm. Atwell: My concern is that if we do remove it, we’re leaving in the horse boarding and training stables, which are, from what I gather from the state, is not agriculture. So, again, we’re allowing a non-agricultural entity to be unregulated, but yet, trying to regulate something that, if you’re growing crops on your property, you’re clearly agriculture. So, if we’re going to remove one, we should remove the other one. Just my thought.

Chairman Lilly: In the months we have been discussing this, we have not had anyone come before us to suggest that there are problems with horse boarding or riding stables in Johnson County. Personally, I have no experience with that, so it seems that we don’t want to create a rule or limitation where there is not a problem. That’s a thought.

Comm. Bollin: I would go with the number one recommendation tonight, which is to continue forward with the zoning regulations for the purpose of clarifying, refining and updating the existing regulations. And, until we find out what’s coming up, or what happens with the court proceedings going on right now.

Chairman Lilly: So, setting aside the tract split issue, you’re saying that rather than following the Planning staff’s recommendation, you would propose that the amendments be recommended to the Board of County Commissioners for approval by the County, including the statement, “farm wineries as defined by state statute and policy.”

Comm. Bollin: That’s correct.

Chairman Lilly: Do you have an opinion about tract splits?

Comm. Bollin: Tract splits are working right now the way they are. I don’t actually agree with them the way they are now, but in a lot of ways, I can see the reason behind the platting.

Chairman Lilly: To keep the legal record crystal clear.

Comm. Bollin: Right.

Chairman Lilly: Yeah, I get that, too. Two things looking forward. If you let the farm wineries in as being exempt from a CUP, there are two or three things that we need to consider. The Board of County Commissioners does not have to agree with our recommendation. They can cut it out if they want to. That’s number one. Number two, it does answer the question of other ancillary activities. That’s unrelated. That is a separate question, and really the question that is pending before the court right now.

Comm. Bollin: That’s correct. That’s why I say it’s something we can look at later, after the court case.

Comm. Morse: Once again, I want to state, yes, after the court case, but what happens in between? We don’t know how long that will be or how far it will go. Let’s say you have some
wineries that are free to do whatever they want, so they start doing some of these things. And then, when we have our options come up of whether the County should regulate or not, or when, at what point, that those things may have already been established and can go and do them. I think it’s safer to wait and really recommend that we pursue this very seriously and come to some conclusions on what we want to do about farm wineries.

Mr. Pietig: This circles back to Mark’s question. Right now, farm wineries were added. The ancillary events that you talked about would still need a CUP with our current regulations.

Chairman Iliiff: Right. Current regulations as interpreted by the County legal staff. Right. And they may be right.

Mr. Pietig: And then, back to what you said, to be determined.

Chairman Iliiff: Right. And if that were the case, then I would expect that we would, i.e., the court were to agree with the County’s position, I anticipate we would very quickly be looking at modifications related to agricultural activities that have ancillary activities with them, trying to figure out some way to make a reasonable compromise there.

Comm. Morse: If that’s the case, if the County still has some regulatory power at this point, I would agree to have these in there.

Mr. Greeley: Mr. Chairman, let me back up a minute. The June 20th memo is important if you’re going to talk about this. I didn’t go there because I didn’t know how far you were going to get into this. And, let me also remind you that this is a public hearing tonight, so don’t forget to open up the public hearing portion of this meeting.

So, one of the key things in this is the ambiguity in the state statutes and policies. If we defer to the state, we don’t know how other events would be regulated. They [State] may say they are allowed. So, we defer to that. That’s part of the complexity of this matter. It’s very clearly written in this memo that the state – We don’t know what the policies are. The state can change the rules, and then, we’re following those changes. And we wouldn’t have any input on any of that, so there is that uncertainty. Staff’s advice is to take it out, leave it for the next discussion. It’s too complicated. We haven’t figured it out, and we want to get it right. Absolutely. “Deferring to the state.” We don’t know what that means.

Chairman Iliiff: As it now stands, is it the County’s position that a farm winery has the right to exist without a CUP, and if so, is the farm winery only something where 100 percent of the wine is produced from grapes that are grown on the property?

Mr. Greeley: That’s correct. If you asked us today what the definition of farm winery should be, that’s what we would say.

Comm. Deters: You were saying that if we made a decision tonight, we could not come back later and revise it. That’s what we’re doing here with the revisions. So, I think if the state changed something that we as a county didn’t like, that we could come in and make revisions based on that.

Chairman Iliiff: Let me answer that in part. First, we’re not making any rules tonight. We are recommending a policy to the Board of County Commissioners. They will hear from both sides before they decided whether to approve what we do tonight. And as to whether it can be changed, it can always be changed. But, the essence of good policy making is that you make policies that don’t need changing very often.
Comm. Hutchins: My question is, you brought up the 30 percent factor, and I don’t know if that’s a good number or not, but –

Chairman Iliff: That’s the state regulation.

Comm. Hutchins: Okay. And that kind of makes sense because you want to promote in-state grapes. You don’t want to set up a shop and call it "Kansas wine" and be importing it all from California, New York, etc. So, I can understand that. Is that something that we would clarify in leaving this in with that determining factor, to make it clear that - ? Do you believe that would help staff and the County protect its interest, as well as the state of Kansas’s interest? Do you think that would help move us forward?

Chairman Iliff: Well, I think if we left the proposed change to exempt Kansas farm wineries as defined under Kansas statute, that would recommend to the Board of County Commissioners only this: That the winery had a right to exist, and that it could exist even if not all the grapes that they used to make their wine were grown on the property. But that a minimum of 30 percent of the grapes that they used that came from the state of Kansas. That’s what this says right now. And if we leave it out, according to the Johnson County interpretation of it, unless 100 percent of the grapes were grown on the property, it could not be considered a farm winery, and therefore, exempt from a conditional use permit. So, I think it’s a situation where you’re making a rule that we wouldn’t apply to any other good winery in the world, that they had to have 100 percent of their grapes grown on their property before they could open up a place for people to come for a wine tasting, and that sort of thing.

On the other hand, I don’t think we are saying one way or the other about ancillary activities beyond the growing and bottling of grapes and wine tasting. I don’t think we’re saying anything about that at all. And I don’t think we’re making a comment or prejudging what will happen in the court at all. But, it would make existing wineries in Johnson County that don’t grow 100 percent of their grapes, if the county commissioners agreed with our recommendation, it would mean that they could continue that operation without being cited for being in violation of our zoning and subdivision regulations.

Comm. Hutchins: Okay. You know, going back to my wife and I’s tour of Robert Mondavi and Napa Valley, one thing we learned is that it takes three to five years for a grapevine to produce. And also, learning from Robert Mondavi’s tour, is that in order to make what they call the “perfect” wine, you have to bring in grapes outside of theirs to mix and get the right taste that they’re looking for. So, I don’t think it’s realistic to think that 100 percent are going to be grown on the farm. I think we need to make sure they’re set up for success, not for failure. And with the three to five years, I mean, I’m sure there’s people that want to get going. They’re going to start investing money now, and we need to help support them, get some cashflow so they can build up that business. So, it kind of goes back to the timeframe. I’m sitting on the side of the fence that says, you know, we need to move this forward. That way, folks that want to do this, we can embrace them and help them move forward. I appreciate what you’re saying. You’re right. Of course, you know, kind of undo what we just did. But, you know what? We deal with that every day. I think what we want to do is simply say that the state put in a provision to support local farmers and the ag community. We need to embrace it.

Chairman Iliff: Mr. Greeley has reminded me that this is a public hearing, and therefore, these potential changes of the proposed amendments to the Zoning and Subdivision Regulations are open to public comment. So, anyone who is interested, step forward, give your name and address, and please limit your remarks to three minutes.
Kirk Berggren, 11917 Gillette Street, Overland Park, appeared before the planning commission and made the following comments:

Mr. Berggren: Thanks for hearing me again, every month for the last couple of years. And you're right, this has been a long discussion, and I'd like it to end. The County is finally evolving, which I'm very glad about, because up until March 17th of this year, they said farm winery was not agricultural. On that date, when I asked for even a small change required by state law to my winery, I'm required to get that form signed. Again, even after the state told the County that I meet all requirements in the form they're supposed to sign that says I'm not near a church or a school, and I'm on ag ground, they refused to sign it again. So, since March 17th, I'm glad to see that they have said that finally, farm wineries, on some perverted version, are allowed. So, I'm glad that that has happened.

Some things on what were written here by the County. They asked here what is allowed as a farm winery is bottling the wine, as long as the bottling operation does not become the primary use. Now, I have no idea what that means. I bottle all of my wine. So, it's a primary use. I don't bottle other people's wine because that's against state law. I have to bottle my wine. I have to do everything on my property. So, I don't know what that means. And it says it only accounts for wine from grapes grown on the premises, the 30 percent thing. That's state law. The state decided 30 percent has to be from Kansas-grown products. It doesn't necessarily have to be from the farm.

Now, in the policy in the handbook, it says that if a guy has a building and calls himself a farm winery, and none of it comes from him, none of the grapes are his, he doesn't own or lease any property to grow grapes, that there's an argument that it's not a farm winery. And it would be a good argument, in my opinion. The state law does not say that, but it would be a good argument. So, the County could always sue somebody that did that, cite them for not following state statute and let the courts decide it.

I'll give you an example of what I consider farming. Say a guy is working his regular job and decides he wants to be a farmer, but he has no money.

Chairman Iliff: One minute.

Mr. Berggren: Well, I've been doing this for two years. I'd like a little bit of leeway on that, if I could.

Chairman Iliff: We'll give you just a little bit.

Mr. Berggren: All right. Thank you. He leases land, and he meets the magical 10 acres that we have to have in Johnson County before you're allowed to be a farmer. He buys livestock, brings it home, but he can only afford to lease — not own — some crappy property. So, he has to go out and buy hay because he doesn't have any hay. And, it's crappy property, so he has to bring in water, he has to bring in oats, corn. He has to purchase everything that is not his. He didn't grow any of it. And then, he takes it to a sale barn, but he doesn't have a three-quarter ton truck, so he has to lease a truck and stock trailer to take it to a sale barn. Is he a farmer? Is he a cattle farmer? None of it was his. None of it was on his property. But I would say he's a farmer. So, now we've got my case, where, let's say the neighbors to the north sprayed something and it ruins your crop this year, because grapes are very susceptible. So, now, under the County's having to have 100 percent of mine, all my grapes are killed or severely damaged for two or three years. I have to close shop because I can't go out and get any grapes from someone else because my neighbors ruined my property? Well, state law, they took things into consideration. They said you have to have 30 percent. Why do we get to pick and choose and say, well, you're only a farm winery if you grow 100 percent of your grapes. You can't parse out the law and only follow parts of the law.
It is the law. And what we’re asking for is, this is very simple. It’s not a complex issue. It’s very simple. I’m asking you to put in the ordinances that will follow the state law. It’s that simple. If the state law and state policy changes, if they changed it tomorrow and said I have to have 100 percent of my own grapes, I have to follow state law. I can’t say, "Well, Johnson County said 30 percent, or 50 percent, so I’m going to follow Johnson County." We can’t do that. I have to follow state law, and I have to follow state policy. If you don’t like that, I would recommend you go to the legislature and tell them to change the law and make it 100 percent. We’re trying to change the law here when that’s not the way to do it. The County’s number one agenda this year was to get home rule for the counties, because if you have home rule for the counties, you could regulate agriculture. And Johnson County didn’t even show up to the meeting for that. They knew that in the past, no one was going to give that up.

So, I’m asking you — and I’ll conclude right now — to pass it as is. All I’m saying is I’m going to follow state policy, and I’m going to follow state law. It’s that simple. It’s not a complicated issue. It’s not complex. If the state doesn’t allow me to do it, I can’t do it. I have to ask them, and they can pull my license for anything that I’m not doing properly. So, are there any questions?

Chairman Iliff: I have a question. Are you making any comments here tonight or taking any position with regard to other ancillary activities at the winery, such as parties, concerts, weddings, and that sort of thing? Are you addressing that issue tonight?

Mr. Berggren: If you’d like, here’s —

Chairman Iliff: I don’t really want to.

Mr. Berggren: I don’t really want to, either, but I will say this, because it had been brought up. We do what the state law allows. No more, no less. If I have a marketing event, as has been said, I have an acoustic guitar guy come out. We have yard games that aren’t agriculture. But that markets people to come in. So, as soon as I put some yard games like throwing some washers, have I lost my ag exemption? Because it’s not 100 percent agriculture? I drew people in there under false pretenses? I don’t know. So, you know, as the County says here, I have a food truck, and the next thing you know, I have a diner, and the next thing you know, I’m selling other liquor — which is against the law, by the way, but maybe I disregard that because I have a farm winery and an ag exemption, so I think I don’t have to follow any laws. And then, I have adult entertainment because I’m going to be ag exemption. Well, there are still laws that I have to follow, believe it or not. The ag exemption does not allow me to not follow any laws. So, if you don’t like the state policy, get the state policy changed. I’ve asked for clarification on anything I’ve done, any time. But you shouldn’t say you don’t know what the state policy might be, so you’re not going to follow the law. Which is really all I’m asking you to do is say, hey, we’re going to follow the law, and we’re going to follow the policy of the state. If you don’t like it, at least make the Board of County Commissioners tell me no. I would rather you don’t tell me no because they won’t add it in, but they can take it out. And I can handle that.

Chairman Iliff: Questions? [None.] Thank you. Anyone else who would like to address the commission tonight on any of the proposed changes, not just those relating to farm wineries?

Cassandra Sloan, Hickory Creek Ranch, 20220 South Lackman Road, appeared before the planning commission and made the following comments:

Ms. Sloan: I understand we’re not talking about agritourism tonight, but what I do want to make everyone aware of on the board here tonight is the K.S.A. 60-4001 through K.S.A. 60-4004. I think it’s a misunderstanding that the boarding of horses and horses training are not agricultural use.
The domestic animal activity here, which I could read to you guys, but it’s very long, specifically states that, "...engages in a domestic animal activity," meaning riding, training, boarding, loading, hauling – it goes on and on. It specifically states the definition of a domestic animal, and it does include horses, cows, poultry, rabbits, etc. And it goes into the different disciplines or activities that you would do with a horse. The reason I say that is because when we started back in March, there was no changes with horses in how it read. But, as we’ve gone along, there have been some slight changes, and now, as of tonight, there are significant changes with regards to stable boarding, stable training, stable riding, stable private, what does need a CUP, or what does not. I have a copy of this and will make copies for everyone to have. It is under Kansas statute.

Also, I want to bring up Mr. Corbin’s case, the Court of Appeals and the State of Kansas. Quote: "Boarding horses is an agriculture use." Okay? I just wanted to make sure that we’re all on the same page of what Kansas statute states with the definition of horses, and that it is agriculture and agriculture use. Any questions? As a ranch, we raise our animals’ feed, and we also sell our horses’ hay. We buy their feed from other farmers. Any questions? I’ll make copies for the board.

**Mr. Greeley:** Do you want the commissioners to get a copy of 60-4001?

**Ms. Sloan:** Domestic animal activity, yes.

**Mr. Greeley:** We will provide that to the commissioners, yes.

**Ms. Sloan:** Thank you. I appreciate your time.

**Stacy Swopes, 29140 West 199th Street, Gardner, appeared before the planning commission and made the following comments:**

**Mr. Swopes:** We moved here from West Texas in 2000, and I remember as I crossed over the state line, I remember seeing the big sign there on I-35 that talked about Kansas farming. I think Kirk and his family have done a great job. They’re a good citizen of the community, and I think at the end of the day, we just want the wineries to be defined by the state statute. Keep it simple, no need to fight a great agricultural state like we have here. Thank you.

**Jeanette Goss, 15125 Woodson, Overland Park, appeared before the planning commission and made the following comments:**

**Ms. Goss:** I want Johnson County to follow the state and policy in regard to farm wineries. Thank you.

**Kathleen Rohr, 27010 West 73rd Street, Shawnee, appeared before the planning commission and made the following comments:**

**Ms. Wore:** I would hope that we would follow the state statutes for wine grapes here in Kansas.

**Andrea Kleinsager, 645 N. Pine Circle, Gardner, appeared before the planning commission and made the following comments:**

**Ms. Kleinsager:** I just agree that I would also like the state to define the statutes for wineries. Thank you.

**Brad Calhoun, 14480 Gardner Road, Gardner, appeared before the planning commission and made the following comments:**

**Mr. Calhoun:** I agree. I would urge the commission not to regulate something that the state of Kansas would define as exempt.
Carol Clune, 10218 West 96th Street, Overland Park, appeared before the planning commission and made the following comments:

Ms. Clune: I have a question. Why is the County even bargaining with the state policy? How does the County go against the state? I don’t understand. Can somebody answer that question for me?

Chairman Iliff: I don’t think I can answer it satisfactorily. The County has duties and obligations that are different from the state. The state isn’t concerned with zoning regulations in Johnson County. We have 105 counties in this state. Most of them are highly rural, agricultural, not urban, with very low densities. And then we have three or four counties with very high densities, and it’s necessary for the cities and counties in those areas to come up with suitable zoning and subdivision regulations that are appropriate for that kind of use. There is an important distinction to be made there. That’s why it’s probably unwise for the state to make one-size-fits-all regulations and not permit counties and cities to make rules and regulations that are suitable for the citizens for those communities. So, there’s a difference, a distinction. In other words, they have different duties. Again, I’m not prejudging this particular issue here. I think it is also true that the County cannot override the specific statutes that the state has made that are applicable to everybody, whether they are wise or unwise.

Ms. Clune: Then, why bother? I mean, if the state is going to tell you what to do, why would the County get involved? I know what you just said, but it just doesn’t make sense. Just listening to it, it seems like if the state says that’s the way you should go, I think it’s just common sense.

Chairman Iliff: I’m not arguing with you in any way. I was simply saying that many times state statutes are less clear than it might appear to a person who, you know, first read. That cuts both ways, okay? And that’s why we try to make reasonable rules and regulations that are consistent with state law. Sometimes we find that we’re wrong.

Ms. Clune: I think you’re wrong. But I agree with –

[Overlapping dialog.]

Chairman Iliff: You don’t know what the rules are–.

Ms. Clune: I realize that I don’t.

Chairman Iliff: You’re expressing opinions about –

Ms. Clune: And so is everybody else. Thank you.

Chairman Iliff: Let me interrupt for a second to remind everyone that has spoken tonight to please sign in at the back of the room so your names and addresses will be there for the record. Thank you.

Jack Rohr, 27010 West 73rd Street, Shawnee, appeared before the planning commission and made the following comments:

Mr. Rohr: I would like to see Johnson County follow the state statute. Thank you.

Kristi Dickinson, 2310 West Layton Drive, appeared before the planning commission and made the following comments:

Ms. Dickinson: I’d like the County to follow the state statute also.

Denise Slaven, 10100 Barton Street, Overland Park, appeared before the planning commission and made the following comments:
Ms. Slaven: I agree with the state statute. I hope you will follow it. Thank you.

Gerald Sloan, 20220 South Lackman, appeared before the planning commission and made the following comments:

Mr. Sloan: I want to clarify something that my wife, Cassandra, said earlier. On the agenda it says revisions to Article 23 regarding conditional use for horses, riding stables, show arenas. Seems to be somewhat contradictory to the additions to Article 9 regarding boarding and training stables. I ask that maybe you guys pull the provisions to Article 23 from this tonight, in the event that, one, there seems to be confusion regarding whether a horse is agricultural, or not. Somebody call Fisher Price because little farm has a horse in. I have to get rid of that now, I guess. Second, again, I think these two things might be contradictory, unless they can be explained, Paul.

Chairman Iliff: Mr. Greeley, do you have anything to say? I don’t understand what you’re talking about.

Mr. Sloan: This is Article 9 regarding boarding and training stables. Permitted uses in the rural districts. Revisions to Article 23 regarding conditional use permits for bed and breakfasts establish riding stables. Okay? Training stables. Riding stables. These are the same things, are they not?

Chairman Iliff: Mr. Greeley, do you have any comments on that?

Mr. Greeley: I’m not following where Mr. Sloan is referring. What are you looking at? The agenda that says this? One of the memos?

Mr. Sloan: It’s just Article 9, the third bullet point in the agenda. Additions to Article 9 regarding boarding and training stables. Permitted use in rural, right? And then we go to revisions to Article 23, and it says conditional use permit for riding stables and show arenas. Okay? Training stables and boarding stables are riding stables, and many, many times show arenas. So, these two seem to be in conflict with each other. If that is the case, I’m suggesting that the revisions to Article 23 be pulled out of tonight’s discussion and forwarded to another night, because there is a conflict between the two.

Comm. Deters: I think I understand what he’s saying. He’s reading off of the agenda, but if we read off of the July 18th letter, I think that covers what you’re talking about. Article 9 changes dated July 18, it says that they are permitted on 10 acres or greater. They do not require CUPs. And then, Article 23, which is a little different than what we see on the agenda, what’s actually in the paper is, Article 23 says that boarding and training stables are allowed with a CUP, with the exception of those that are permitted on 10 acres or more. If it’s under 10, they need a CUP; if it’s over 10, they do not. I think the agenda paraphrased it.

Mr. Sloan: I apologize. I was reading straight from there. But, in some realms, I still believe it’s a conflict because you’re saying it’s okay for 10.1 acres and not okay for 9.9 acres. You’re going against what the state says. I think everyone in the room tonight wants to follow state law, as opposed to Johnson County creating its own laws that might be in conflict with state law.

The second point that was brought up earlier, too, that you should reconsider pulling that revision to Article 23, simply for the fact that horses are agriculture. It’s been defined twice here tonight. So, to go further with this would also be a change in the definition of what a horse is and its use in the state of Kansas. Thank you.

Bob Specht, 10520 Barton Street, Overland Park, appeared before the planning commission and made the following comments:
Mr. Specht: I would agree. I would like to see the County follow the state statute on wineries.

Unidentified Speaker: You yourself said that the commission is only making a recommendation, not a ruling. So, no harm, no foul, right? If you follow the recommended state statutes for wineries. Thank you.

Chairman Liffl: Let me remind everyone to sign in.

Charles Allen 15512 Lamar, Overland Park, appeared before the planning commission and made the following comments:

Mr. Allen: I think the additions to Article 9 should be defined by state policies and statutes. Thank you.

Julie Berggren, 11917 Gillette Street, Overland Park, appeared before the planning commission and made the following comments:

Mrs. Berggren: This has been a very long road. We have done this for four years, almost to the date. We finally get something settled. We have been together almost feels like a break up if we finally get something settled. The state statute is that a farm winery is defined by the legislature, and the policy is also legal. So, if Paul decides that I have to have 100 percent of my grapes, I could be shut down tomorrow. That is ridiculous. And it's not the law. And I would urge every one of you. I have stood up here every single month for at least two years and given you state statutes. And I would suggest and pray that you do the right thing and follow the state statute. I know it's not easy to go against the County. I have been cited by the County. My livelihood is threatened. It's been a full-time job to present to you, this state statute. The following agencies, I have provided letters to you: Department of Agriculture; Jackie McCaskey, Secretary of Agriculture. Robert Large, legal counsel of the Department of Agriculture. The Department of Wildlife. Robin Jennison has submitted to you a policy letter. ABC has given the County direction. When I went to open my winery, I had to have an informal hearing against Johnson County. Who was the fellow Doug Taylor? The attorney for ABC. And I had to take an attorney up to the state to argue my position. And I was given my license. Johnson County did not win the position; I won the position. And when we came out of that room, I walked out with several attorneys from every organization, and at that time, it hadn't been determined if they were going to give me my license, or not. And someone said to the Johnson County attorney, "I think the Berggren's are going to get their license. What are you going to do then?" And he responded, "I am going to shut them down." This has gone on for two years. It can be validated by every single person that heard it.

I am asking you to simply follow state statute and policy, and please stop the bullying in the County. Thank you.

Chairman Liffl: That concludes our public hearing, so we will close this to the public. At this point, I don't want to cut off conversation here, but if there are any other comments before a motion is made, this would be a good time to do it.

Comm. Hutchins: You know, the sentiment is just overwhelming. I know what the state was trying to achieve when they put this in place, and it's to grow, you know, income not only for agriculture, but also for the state. It's very clear from the public's perspective, it's been very clear from the state's perspective, where everyone stands with this. I think Mr. Corbet had a very moving testimony of what he went through, and I think anyone two years is able to recognize what's transpired here, and I think we can challenge ourselves on why it's taken two years to get to this point. And I think we need to challenge ourselves to make sure we do the right thing tonight, and get this statement to the Board.
Comm. Opperman: Mr. Chairman, especially after hearing what I’ve heard here tonight, if I had a winery, regardless of how many acres I have in Kansas, I think if I’m limited to having to grow those grapes on that ground, the ability to make the best wine I could possibly make – Say I’m the best winemaker in the world, but I’m limited to only growing those grapes on my property. I consider that extremely limiting. So, I think I would support the state statute.

Comm. Opperman: The best wineries in the world don’t grow their own grapes. Thank you.

Comm. Deters: Being the new guy, I may be stepping over protocol, but I’m willing to bring forward a motion. I would recommend that the Board of County Commissioners adopt the draft zoning regulations dated July 25, 2017, for the purpose of clarifying, redefining and updating the existing regulations, with the following revisions: Strike the changes that are noted to Article 29 pertaining to the lot split provisions, and no other change.


Chairman Iliff: It’s been moved and seconded, a motion to recommend the adoption of the draft zoning regulations to the Board of County Commissioners, with one exception.

Motion passes unanimously.

Mr. Greeley: We’ll take this recommendation of the Planning Commission to the Board of County Commissioners on Thursday, September 14, 2017, at 9:30 a.m., in this room. That is an open meeting. We will present this recommendation to them, as well as a record of this meeting tonight. Thank you.

F. UPDATES/OTHER BUSINESS

Mr. Greeley: Something we want to share with you, ask if you’re interested in having a conversation. The County has been seeing a number of 10-acre piano key lot subdivisions. We think this deserves taking a look at in terms of the current regulations the County has. So, we would like to propose for your August 22nd meeting to introduce an item for initial consideration and discussion, to talk more about the 10-acre lot development patterns that the County’s regulations currently supports, those patterns that they don’t support, taking a look at subdivisions with new streets, which is one of the patterns that the County does support. Access control to CARNP. All those things kind of fit together. So, we’d like to introduce that, start a conversation. If you’re interested, we’ll put that on your next agenda.

Chairman Iliff: I would be very interested. Piano key lots are a very inefficient way to develop. They have a lot of unsafe circumstances with them, and they also limit and prohibit future development in those areas. So, I would love to see proposals that would find alternative ways to develop property.

Mr. Pietig: As Paul said, this would just be a starting conversation, and the workshop that we’re looking at in September, we’re going to go into the history of our regulations, why they do it. Chairman, you mentioned a couple of the reasons why, back in 2000-2002, the County adopted these regulations. So, it would just be a start to those conversations.

Chairman Iliff: Anything else?

Mr. Pietig: I said I would update you on zoning board consolidation. We’re going to have a study session on August 10th with the Board of County Commissioners, which is different than taking an item to the Board for action. This is in deference to the conversation we had last time, where there was a lot of opposition to the consolidation. The thought is that we will have a presentation
similar to what we gave to the Planning Commission and zoning boards, discuss what the thoughts are, and get a reading from our Board as to whether or not they want to move it forward before we put it as an action item. That will be August 10th at 2:30 p.m., in the lower level. You will receive a written notification, too.

**Comm. Hutchins:** Will we be invited to participate? How will that be managed?

**Mr. Pietig:** The structure of the study sessions is that it is staff informing the Board of an issue, and for them to listen to that issue and hear what the recommendations are. They do not look for public comment at that time. It's literally a session for them to look at an item, study it, and understand it.

**Mr. Greeley:** It is a public meeting, so you can come. It will be in the lower level of this building.

**Comm. Neese:** Could you give us an overview of where each of the zoning boards stood on the consolidation? I know our board was not in favor of it. What about the other boards?

**Mr. Pietig:** Four zoning boards. We had the same discussion with them, and they had very similar comments that this commission did. There were a couple of members who thought it was a good idea, but again, the total of the comments was similar to what we had here.

**Comm. Neese:** I couldn’t remember what the other three zoning boards said.

**Mr. Pietig:** The other three had similar comments.

**Comm. Neese:** Has the staff's position changed the attitude at all?

**Mr. Pietig:** In the fact that we're going through a process that's a little different instead of just putting it right in front of the Board for the consideration. Yeah, we think this is a good idea to do this. Not to rehash the issue again, but development is going on, and we're trying to be proactive rather than reactive. You look at the areas of Gardner and Edgerton and how much they are annexing. This would be the seventh consolidation.

**Comm. Neese:** I know what your arguments were in front of us, and the previous comments. I really can't figure out why you all -? If you're having something come before the Board, you're going to have to prepare the same information for the boards, whether it's two, three or four. I know one of the reasons was some of them were having a hard time getting their numbers filled.

**ADJOURNMENT**

The next regularly scheduled Planning Commission meeting will be Tuesday, August 22, 2017, at 5:45 p.m.

[Signature]

Ch. Iliff, Chairman

**ATTEST:**

[Signature]

Secretary to the Board