

SOUTHEAST CONSOLIDATED ZONING BOARD

Zoom Webinar

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MINUTES

Wednesday, March 3, 2021

6:30 P.M.

I. CALL TO ORDER

A meeting of the Southeast Consolidated Zoning Board, Johnson County, Kansas, was convened at 6:30 p.m. on Wednesday, March 3, 2021, and was called to order by John Loyd, Chairman, with the following members present and participating, to-wit, Kelley Rast, Dennis Bollin, Ed Schlesselman, Fred Wingert and Kenneth Klingensmith. Absent was Andrew Ramos. Also in attendance were Sean Pendley, Diane Wicklund, Karen Miller, Pamela Hayhow, Michelle Leininger, Leslie Davis and Jay Leipzig, Planning Department.

Chairman Loyd: Virtual Meeting Statement, Southeast Consolidated Zoning Board:

To reduce the spread of COVID-19, the Johnson County Southeast Consolidated Zoning Board meeting will be conducted online using Zoom Webinar. The Board members will not be physically present in the board meeting room.

*If you are using Zoom, you may participate in the meeting using your computer, phone or other electronic device. If you e-mailed the Planning department in advance of this evening's meeting and signed up to speak at the public hearing cases, your name will be called by the moderator in the order received. If you are unable to sign up in advance and you would like to speak, then prior to the start of the case that you want to speak on, click the "raise hand" function in the Zoom app. By phone, you may raise your hand by dialing *9.*

All speakers will be limited to three minutes, unless the Chair designates a different time period in order to accommodate all the speakers desiring to speak. When your name is called by the moderator, your microphone will be unmuted. Please state your name and address for the record, followed by you comments. With respect to all Board members and presenters, please state your name every time you begin talking, so the notes can be transcribed accurately for the record. This is a public hearing. We are presenting live and recording the meeting. Thank you.

Mr. Pendley: Chairman, I just wanted to also note that if there are any questions during this meeting for the public for participating in the Zoom app and in participation for the public meeting, they can call the technical support line for the County. That phone number is 913-715-9666. Thank you.

Chairman Loyd: Thank you, Sean.

II. AGENDA ITEMS

A. Add, Delete, Revise and Approve the Agenda

Chairman Loyd: We have a couple of changes from the original agenda. We're moving Item E., the Conditional Use Permit at 19220 Nall Avenue, and what was originally item G., the Rezoning and Preliminary Plat at 199th Street and Antioch Road. We're going to move both of those up,

because these applicants have requested a continuance. When we get to those, we'll need a motion from somebody for a continuance.

B. Disclosure of conflicts of interest [None]

C. Disclosure of external contacts/discussions [None]

Chairman Loyd: I missed one thing I wanted to do after the roll call. Myself and Kelley and Fred need to make a statement regarding one of the agenda items, the one that was continued from the last meeting. I would like to read my statement first.

I would like to note for the record that although I was not present at the public hearing on February 3rd when this item was previously considered and then continued by the Zoning Board, I have subsequently reviewed all of the information presented at the previous meeting, including the staff report, meeting minutes and testimonies from neighbors. Therefore, I am prepared to participate in the continuation of this item and intend to vote on the application when appropriate. That is regarding the Johnson County Topsoil application.

Mr. Wingert: Mr. Chairman, I would like to note for the record that, although I was not present at the public hearing on February 3rd when this item was previously considered and then continued by the Zoning Board, I have subsequently reviewed all of the information presented at the previous meeting, including the staff report, meeting minutes and testimonies from neighbors. Therefore, I am prepared to participate in the continuation of this item and intend to vote. I watched the Zoom meeting this afternoon. I have reviewed the property, both the current location and the previous location by the operator, and I am prepared to vote tonight.

Chairman Loyd: All right. Go ahead, Kelley.

Ms. Rast: I also would like to note for the record that although I was not present at the public hearing on February 3rd when this item was previously considered and then continued by the Zoning Board, I have subsequently reviewed all of the information presented at the previous meeting, including the staff report, meeting minutes and testimonies from neighbors. Therefore, I am prepared to participate in the continuation of this item and intend to vote on the application when appropriate. Thank you.

Chairman Loyd: All right, Fred and Kelley, thank you.

III. APPROVAL OF MINUTES

Chairman Loyd: We'll move on to the approval of the minutes from the February 3rd meeting. Does anybody have any comments on those, or a motion?

Motion by Mr. Schlesselman, seconded by Chairman Loyd, to approve the minutes from the February 3, 2021, Zoning Board meeting.

Motion passed unanimously.

IV. BOARD REPORTS

Chairman Loyd: Moving on to item IV, Board Reports, Board of County Commissioners actions?

Mr. Pendley: There actually were no Board of County Commissioners actions for the Southeast Consolidated Zoning Board since the last meeting.

Chairman Loyd: All right, thank you, Sean. Planning Commission actions?

Mr. Pendley: I would just note that the Planning Commission did meet on February 23rd, the meeting to consider and receive information regarding the Kansas City Regional Climate Action Plan. Tom Jacobs with Mid America Regional Council and Brian Alferman with Johnson County

Sustainability Program gave a presentation to the Planning Commission for that item. There were no actions at that meeting, but information was presented to the Commission. I would also like to note that there will be a special meeting next week, a Committee of the Whole meeting with the Planning Commission and the Board of County Commissioners next Thursday, March 11th, at 1:00, to consider proposed amendments to the Zoning and Subdivision Regulations and the Comprehensive Plan regarding utility-scale solar energy facilities.

Chairman Loyd: All right. Is that it, Sean?

Mr. Pendley: Yes, that's it for Board Reports.

Chairman Loyd: Okay, thank you. Ken, do you have an update on the Stilwell Community Plan?

Vice Chair Klingensmith: No update for this meeting.

Chairman Loyd: All right. Thank you, Ken.

V. BUSINESS BEFORE THE BOARD

E. Application No. SE 21-112-CUP (AU) – Conditional Use Permit – 19220 Nall Avenue

Steve LaCasse, TGB Group, LLC, applicant, and Luke Town, LC Town, LLC, landowner, requesting amendment to a Conditional Use Permit for an athletic field complex for amateur baseball and softball training (**Advanced Baseball Academy**) on 20 acres, on property zoned RUR, Rural District, in Section 5, Township 15, Range 25.

Chairman Loyd: As I had mentioned, we moved two items up, Item E., the Conditional Use Permit at 19220 Nall. Would somebody like to make a motion for a continuance on that?

Motion by Ms. Rast, seconded by Mr. Wingert, to continue Agenda Item E. to the April 7, 2021 Zoning Board meeting.

Motion passed unanimously.

Chairman Loyd: That item is continued.

G. Application Nos. SE 21-114-REZ and 21-115-PP (AU) – Rezoning and Preliminary Plat – 199th Street and Antioch Road

Dennis Patterson, Prime Development Land Company, applicant, and Clay Blair, BFP Real Holdings, LLC, landowner, requesting rezoning from RUR, Rural District, to RN2, Residential Neighborhood 2 District, and a Preliminary Plat for 36 residential lots on 110 acres, (**Adams Farms Estates**) in Section 12, Township 15, Range 24.

Chairman Loyd: The applicant is requesting a continuance. Do we have a motion to continue?

Motion by Mr. Schlesselman, seconded by Vice Chair Klingensmith, to continue Agenda Item G. to the April 7, 2021 Zoning Board meeting.

Motion passed unanimously.

Chairman Loyd: Okay, that one is continued until the next meeting.

A. Application No. SE 20-99-CUP (SP) – Conditional Use Permit – 191st Street and Woodland Road (Continued from 2/3/21 Zoning Board Meeting)

Phelps Engineering, Inc., applicant, and Wolf Creek Investors, LLC, landowner, requesting Conditional Use Permit (**Johnson County Topsoil**) to allow mining,

processing, storage, and sales of topsoil, on 128.2 acres, on property zoned RUR, Rural District, in Section 1, Township 15, Range 23.

Chairman Loyd: This was continued from the last meeting, and we are going to just go back and follow the same procedures. Who is on hand for the applicant this evening?

Mr. Pendley: Harold Phelps will be representing the applicant.

Chairman Loyd: Okay. The staff presentation, I believe we have an update since the last meeting?

Ms. Wicklund: Yes, Chairman. I'm going to try to share screen here. I would like to enter into the record the staff memo dated February 24, 2021, along with the original staff report dated January 27, 2021. Both of those were in your packet. Just to also note that in your packet. There was one email from a neighbor in that original staff report. There are emails in the back of the packet, and all of those will be, obviously, entered into the record. They will be shared with the Board of County Commissioners. I'm trying to flip through here. In the back of the memo packet, there is an email from a Cliff and Toby Creech; one from a concerned resident who doesn't leave an address; there was one from Gerald Gollwitzer, dated February 2nd; one from Shane Johnson, dated January 29, 2021; and then one from Cheryl Engelmann, dated February 8, 2021. Those were the emails that were in your staff memo packet in the back. I want to enter those into the record.

Since the mailout to you, we have received more emails and letters, so I need to just read the names and get those into the record as well. One from Phil Elliot with the School District. I'll get to that one later, but I'm just wanting to get all of these into the record first here. One is from Jim Hendershot, who is with the City of Spring Hill; a second email from Chad Holmes, dated March 1, 2021; an email from Kevin Herndon, dated March 1, 2021; another, second, email from Cheryl Engelmann, dated March 3, 2021; an email from Steven Sly. I think that email came in today, March 3, 2021. An email from Jennifer Johnson, dated March 1, 2021; a letter from Summit Homes, dated March 1, 2021, from Brad Kempf. He had a letter in the other packet. He was just sending it again to reinforce his comments. Also, an email from Sharon Ingebrand, email dated March 3, 2021. I have those in a PDF file if anybody wants to look at them. I'm not going to read, obviously, but want to just get all of those into the record. Those will be forwarded to the Board of County Commissioners.

Just a quick recap here. On February 3rd, this Zoning Board held a public hearing. They heard this application. They received testimony from various members of the public. The Zoning Board discussed the application and then voted to continue the application to tonight's meeting. There were some suggestions on amendments to the site plan to help address some of the issues and concerns from the neighbors. Just some discussion points – part of this packet was the neighbor letters. We've already gone over that. Another point of discussion back in February was continuing to receive comments from the City of Spring Hill and the Spring Hill School District. We did, so we received an email from Phil Elliott, who is with the School District. we received that email today. I'm just going to read it. It's short. It says, "Thanks for the update. Based on the current staff report, the District does not have any comment at this time."

We also received an email from Jim Hendershot with the City of Spring Hill. I'm not sure if I should just...I think I'm just going to try to summarize it. Their main comments were Woodland to 191st is going to be used for a detour while there is a roundabout construction at 199th and Ridgeview. Then they say, Woodland Road was improved using a chip and seal process, paid for by the City. They would ask that the road be monitored for possible damage at the entrance into the site and the site operator be responsible for repairs. That's really the summary of their email, just that

concern about damage to Woodland Road and having the operator possibly address any damage. We received that, and then we received revised site plans from the applicant. That's what's up on the screen.

Here is an aerial view of the property. It's outlined in blue. a reminder that up here at 191st Street there was a proposed access drive, but it has been removed with the revised site plan. The only access point now will be off of Woodland Road, as you can see here with the red circle. Here is the original site plan. I'm not sure how this is looking to people. I don't know what people are seeing, but this is the original site plan. It had a 100-foot setback off of 191st Street and a 100-foot setback around the whole perimeter. Then, on the second drawing you can see where now they have changed it. One of the changes was they have now removed this access off of 191st Street. They have moved back, and now there's a buffer of 400 feet between the street and the beginning of these cells, or field areas (shown on the site plan), where they do topsoil removal. Here you can see, here will be the only access point driveway. If you remember, the third suggestion was to change the numbering of the cells. They did that. The Zoning Board recommended that these cells, or field areas, on the south side of the project get completed first, so they start from the south and move to the north. You can see, they have renumbered that. These field areas down here are 1, 2 and 3, and then they move north. Here is their other site plan, the original one, here where you see that entrance off of 191st Street. This is the new one with the 400-foot setback and that entrance removed.

Those were the three main changes that the applicant made to the site plan based on feedback from the neighbors and the Zoning Board. Staff reviewed these revised site plans and feel like those changes addressed the concerns of the neighbors and the Zoning Board from the last time. Really, with that, staff remains recommending approval of the Conditional Use Permit, with stipulations. You'll notice in that staff memo, I put the stipulations in again. There are a few of the stipulations where we had to change, because they referenced the entrance point off of 191st Street. We have that struck through, and we can talk about that later, but I just wanted to highlight that a little bit. I think at this point I'm just going to stop and try to answer questions.

Chairman Loyd: Thank you, Diane. Members of the Board, it's time now where we ask questions of the staff.

Vice Chair Klingensmith: Diane, when you look at field 1A, 1B – and I understand that that appears to be in numerical order in which those plots would be taken care of – is there a timing period? Like, is 1A a one-month thing, then two months, three months? So, are 1A, 1B, 3A and 3C, are those done and taken care of in the first year? Is there a timeline? Do we know that, or is that more of an applicant question?

Ms. Wicklund: I think that's an applicant question. I'm not sure of the timeframe for each field area, but yes, we can ask the applicant.

Mr. Schlesselman: Question for Diane. Excluding Mr. Elliott and Mr. Hendershot, on the other seven comments, can you summarize whether they were in favor of or opposed to this CUP request? I know Chad Holmes, the first one, I know he is opposed. We had that email from the previous meeting, but the rest, if you could just –

Ms. Wicklund: Yes. I would say yes. They're all in opposition to the Conditional Use Permit. Yes.

Mr. Schlesselman: Okay. Thank you.

Ms. Rast: I had a question on the report. It might be more for the applicant, too, as far as verification that they said that they would start with replanting and the reclamation process no

later than one month until they're...? So, even though they start on the southernmost fields, they'll leave those blank, or they won't do anything to them until they're about to pull out, one month before. Is that correct?

Ms. Wicklund: No. And the applicant can talk more about that, but this is actually addressed in stipulation number two. They remove the topsoil in each field area, but once the field area is complete, they go back, and there is a requirement that it has to have some kind of vegetative cover while the rest of the cells are being developed. So, any cell or field area that is not being actively having topsoil removed, any of those areas have to have vegetative cover. So, only the areas that they're actively working in would be where there might not be any vegetative cover, obviously. Then, when that cell is done, then they go in and put seed or grass down, or something, or even some kind of crop. What you're referring to is at the end, when they have their final reclamation plan done, which is really just going back to row crops. That all has to be done a month before they're completed with this, but absolutely anything that's not being actively removed for topsoil will have a vegetative cover on it.

Ms. Rast: Okay, thank you.

Vice Chair Klingensmith: Diane, Ed or Jason last time had commented about if there was consideration of just not doing this here, and if there was another opportunity for the applicant somewhere else within the county that isn't so residential. Was there any feedback on that topic?

Ms. Wicklund: I do not believe we have had conversations with the applicant since the meeting about any alternate locations. Harold Phelps can respond to that, too.

Vice Chair Klingensmith: Then, am I confirming that in stipulation 12, this is going to run all 365 days a year...Let me rephrase that. Every week of the year, Monday through Saturday, 7:00 to 5:00, including Saturdays, and is this also a winter-type project, or is this a spring, summer, fall project is my question.

Ms. Wicklund: I believe it's year-round, but we can confirm that with the applicant.

Vice Chair Klingensmith: And this is a five-year CUP?

Ms. Wicklund: Right now, that's what is recommended.

Vice Chair Klingensmith: I just have a concern that for five years every Saturday we could potentially have activity and dust in a neighborhood area, just as a side comment. No additional questions.

Chairman Loyd: More questions for staff? [None] Okay, no more questions for staff from the Board, so we're going to let the applicant present now. Harold?

Harold Phelps, Phelps Engineering, 1270 North Winchester, Olathe, Kansas, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Phelps: Thank you, Mr. Chairman. I am representing Jack Meyers and Johnson County Topsoil this evening. I would like – and I know this is kind of unusual – but maybe a clarification from Diane. There was a question asked by a Commissioner about the emails that were received, and I think Diane stated that they were all in opposition. I guess I'd like some clarification. We didn't get any opposition from the School Board and the City did not provide any direct opposition to the project. I just want to make sure everybody understands that.

Ms. Wicklund: That's a fair clarification. Sorry about that, Harold. Yes, that's a true statement.

Mr. Phelps: Thank you, Diane. Again, I appreciate the opportunity to speak this evening and maybe give some clarification on this whole operation. I don't want to go back and repeat a lot of

things, but I want to make sure everybody understands that Jack Meyers and Johnson County Topsoil has been doing these type of operations for almost 50 years. I submitted a list to the City Planning Department that started up at 69 Highway and Antioch in the 1970s, went to 119th and Metcalf. They've been at 135th and Pflumm. They've been in Miami County in several locations. Most recently they were at 175th and 169 Highway, and they've been at 127th and Metcalf. All of these areas have been moving south, so the progress has been, this operation happens right before development. Because it just makes sense for that to happen. These are agricultural pieces of ground that the topsoil is stripped – not necessarily mined, so nobody's digging any holes – but it's stripped by scrapers and stockpiled and then hauled off of the site.

I want to give you an idea of the users as well. I did email the list of users as well. And I stated last time that many of the users are the same people that are in these neighborhoods, so when you need a load of dirt to fill in a settlement in your front yard from a new house, where a water line has settled, or a sewer line, typically the builder or the homeowner will call Johnson County Topsoil and have dirt available to do those type of operations. But in addition to that, they supply topsoil for many of the municipalities and utility companies around the area. Within the last 12 months, they've supplied topsoil to the golf course at the City of Leawood. The City of Lenexa, the City of Louisburg, the City of Overland Park, The City of Prairie Village, the City of Shawnee, Johnson County Parks and Rec, Johnson County Public Works, Johnson County Wastewater, Water District No. 1, the BPU in Kansas City, Kansas, Overland Park Arboretum, Atmos Energy for gas, as well as local school districts, including both Louisburg and Spring Hill.

I want to make sure that everybody understands that this is kind of an operation that is a needed operation. It's not just something that happens that somebody's doing it for no reason at all. The development of Johnson County drives these types of operations, and the idea that this is happening right before this property develops is because farming operations are going on currently on the site. So, those farming operations go on, and obviously, if you have the topsoil, that's an ideal condition. When development occurs, typically we're excavating for sanitary sewers, storm sewers, storm sewers, water lines, and we're mixing all that dirt up. So, after the development occurs, the dirt is already mixed up, so really the ideal time to take it would be right before development. We anticipate this property to develop in the next four to five years, just based on what's going on in the Spring Hill area.

In terms of the operation, the operation, as I stated a few minutes ago, is not an excavation operation. It actually happens by land movers that are picking up the dirt and stockpiling it. We're not digging a hole and removing it and moving it to another location. Basically, when the operation occurs – and we have a land mover that actually goes over the ground – you don't even really know that he or she has operated the scraper across that area, because they're only taking two or three inches at a time. So, the ground stays draining, just like it is right now, and stays uniform across the site. Once the scraper has picked the dirt up, then it stockpiles it. It puts in on a pile that can be loaded from the stockpile into a truck. A lot of the dirt is taken to their plant operation, which is actually 199th and 69 Highway, where they pulverize the dirt, where they mix it with organic materials and make a garden mix out of it. Occasionally, there's dirt that's taken directly to a job site, but most of it is taken down to that site. That site was originally permitted through a Conditional Use Permit as well, through Johnson County, and then when Overland Park annexed that area, that became a Conditional Use Permit in the City of Overland Park.

To my knowledge, that permit has been renewed several times. As I stated, Johnson County Topsoil has been doing this for 50 years, and I'm not aware of any complaints that have been addressed to Johnson County Planning. Johnson County Topsoil just most recently left 175th and 169 Highway. Again, no complaints from that site. The property, when it's left, the property for all practical purposes will look exactly like it is today, other than six inches of topsoil that will be taken

of it, so everything will drain exactly like it does today. When you drive by the site, you won't even notice the difference. The reclamation plan is putting it back on a cell by cell basis, putting in either a crop or a cover crop. So, if it happens at a time of the year where you wouldn't put in a crop, which normally we put our crops in in the spring, so if it happened in the fall, we might put in a cover crop, just to prevent any erosion on that site. But the property will continue to be farmed as the operation is going on and as each cell is developed, so this spring you'll see corn across the north part of the site, as they're developing, or stripping, the topsoils on fields 1A, B and C.

There have been a number of issues brought up by the neighbors, and I guess, again, considering we haven't had any complaints, I'd just like to touch base on some of the things that they've brought up. The lower property values. As I stated, Jack has been developing these sites, taking topsoil adjacent to development for 50 years. In fact, and it was mentioned at the last meeting, Jack wasn't doing this particular site, but there's a site south of 175th Street, over at Lone Elm that was immediately adjacent to Nottingham development, and that operation had several extensions on their Conditional Use Permit. In fact, they've moved across the street, and they're still out on 175th Street. Trucks on the road. The Public Works Department has reviewed the application and has stated that the roads are adequate for the trucks that we're proposing. Dust and dirt pollution. We have addressed that. We typically keep a water truck on the site and have taken a stipulation that if it is windy and we are creating dust, then we would stop for the day. Noise pollution. The noise isn't really any more than any farming operation. Obviously, there's some construction equipment out there, but it's the same type of equipment that we would see in a farming operation. There was an issue with an eyesore with the plant operation. There is no plant operation. I want to make sure everybody understands. There isn't anything going on here, except the scrapers stockpiling the dirt, and then loading the dirt in trucks. There is no mixing or any of that type of operation going on. Runoff from the site. We are providing a land disturbance plan that will be approved by the State. We're providing and constructing the erosion control fence, and then we're maintaining the existing grassed waterways that are on the site. So, anything that's not disturbed by farming operation today that is disturbed every year will stay intact as vegetated area. The length of term. We had originally applied for a ten-year permit, and we reduced that to five. Part of it is, we never know what the economic times are going to bring. This project, based on existing economic conditions, would be less than five years, but it could also be more than five years if we have a downturn.

I think Diane included most of the changes that we've made to the plan, but I'd like to touch base on those again. Along 191st Street, we originally had a 100-foot buffer. Based on the recommendation of the Township Zoning Board and the comments that were made by the adjacent neighbors, we increased that from 100 feet to 400 feet. Again, there will be corn. We'll continue to plant that 400 feet, so that it will continue to be farmed in a farming operation. We just won't be stripping the topsoil off of that area. We agreed to limit our truck access to Woodland Road, which was another suggestion. We agreed to do that. Finally, the phasing from the south end to the north end and take those a cell at a time, so that the idea is that we're not stripping an opening up large areas all year long. We're farming all the area that we can farm, and then just working on specific areas at any given time. In addition, as I stated earlier, we dropped it from a ten-year permit to a five-year permit, because we feel like we can be out of there in five years, and the property most likely will develop in the next five years. I'd like to also point out that the 175th and 169 Highway, as part of the reclamation and the CUP agreement that we have with the County, we did put up a \$25,000 cash bond. We will put up a cash bond that I would assume would be very similar to that for this project as well. That would be for reclamation and any damage that the trucks actually do, that there's cash available to have those repairs made. Wrapping up, Article 23.6.b.3 outlines the specific criteria for the operation of these type of facilities. I think staff feels, and we feel, like we meet all those criteria. Therefore, the recommendation that they give

is for approval of this project. With that, we would ask respectfully that you would recommend approval as well.

I would like to address a few of the comments that the Commission brought up as questions for staff, and see if I can't answer those, rather than re-asking those. In terms of the timing of the cells, we will start with 1A and 1B, and start on that south end, as I stated. We will continue to farm all the cells on a regular basis, on an annual basis, unless we anticipate stripping the soil from that area, and then as soon as one of those cells is completed, within a month, we will be re-vegetating, either with a winter crop, like a winter wheat, or putting in a temporary seed mix to provide the cover. In regard to other sites, the issue, there are some potential other sites. I'm not going to deny that. But the problem is the timing. Typically, the ground is farmed as existing farms. Everything in Johnson County for the most part is farmed that's not being developed right now. The farmers have an annual lease on these properties, so typically you have to plan some time in advance to negotiate with the farmer and make sure the farmer doesn't plan on farming that ground. Because of existing leases, it just doesn't make sense to go to another site at this time, because all the farmers have the ground under leases, and it makes it difficult to get to another site.

There was a question about year-round operations. As far as year-round operation, it's much like construction. If there's construction going on, then the operation may be happening. As I described earlier, the topsoil is moved from this site to 199th and actually mixed or pulverized. So, if there's construction activity in February and March, we have some really nice weather, and people are working in their yards or they're actually performing some construction operations, then this operation may be going on. In the wet weather, it's not happening, and in the really cold weather it's not happening. Johnson County Topsoil has a large, covered area at 199th and 69 Highway that they can stockpile the pulverized dirt, so if somebody wants dirt during the wintertime, the really cold time or during wet weather times, they've got dry dirt that they can take to those facilities, and they're not in here doing it on those days.

I'm going to say in the most part, these guys operate Monday through Friday. There are some days that Saturday they might be working. Johnson County Topsoil operation is actually not even open on Saturday, so it would typically be to a construction site or somebody that's looking for dirt specifically on Saturday as well, but in most cases, if it's a landowner or a property owner or lot owner, something like that, it's going to be pulverized dirt and will come out of 199th Street and be limited on Saturday hours. With that, I'd be happy to answer any other questions. Mr. Chairman, I'd appreciate the opportunity to respond, if I can, to any other comments that may be brought up that I can help with

Chairman Loyd: You bet. Thank you, Harold. Okay, do we have questions now from the Zoning Board members of the applicant?

Vice Chair Klingensmith: Harold, when you look at, just from a timing perspective for awareness, when you're on field 1A, is that a one-month thing? A five-month thing before you move to field B? If I look at 1A and 1B, is that sort of a two-month operation, or does it depend on the demand for the topsoil that drives the timeframe of that operation?

Mr. Phelps: It's weather. It's demand. It's availability of trucks. It's all of those things.

Vice Chair Klingensmith: Okay.

Mr. Phelps: I'm going to say we would anticipate being through this in a four- to five-year period, so I'd say in a season we'd be through a fourth of this project, so that would kind of give you an idea. Maybe we get through 1A, B, C and 2A this year. I hope that helps.

Vice Chair Klingensmith: And when would, with all the approvals and permits and things, when would you actually have trucks on the property? Are you already forecasting this summer? Next year? This fall? When does that clock start for you guys?

Mr. Phelps: We would like to get trucks in there as soon as possible. With BOOC approval and a land disturbance permit, we would like to start working. I'm going to say within 60 days.

Vice Chair Klingensmith: Okay.

Mr. Wingert: Is it my understanding that the trucks that will be going in and out of this property will be Johnson County Topsoil trucks or your contractors exclusively?

Mr. Phelps: Yes. That's my understanding, yes.

Mr. Wingert: So, there would be a set group of drivers. If I had a private dump truck company, I wouldn't necessarily be buying directly from this site? The idea is your trucks would be delivering to either your location at 199th and 69, or taking it to a site somewhere. Is that correct?

Mr. Phelps: That's correct, and in fact, our drivers typically load the trucks themselves as well. So, there would be a front-end loader there. They would load their own truck, so that kind of manages all those things.

Mr. Wingert: And would your drivers have a CDL license, I assume?

Mr. Phelps: Absolutely.

Mr. Wingert: Okay. How long has the applicant owned the property? Approximately?

Mr. Phelps: Six or seven years?

Mr. Wingert: Okay, thank you.

Mr. Phelps: You bet.

Chairman Loyd: Any more questions of the applicant from the Zoning Board members?

Ms. Rast: I just had one. I was just going to throw it out as an option for the adjacent subdivision that's catty corner – would it be possible if you didn't do the field that's at the northeast corner, since that's closest to the Foxwood Ranch neighborhood where there's lots of concerns?

Vice Chair Klingensmith: Is that field 4B, for clarification?

Ms. Rast: Yeah, 4B. Would they be open to...and then have coverage there for more...? Just because the wind does blow from the south and slightly a little east. It would give a little bit more space between. Would that be something that they would consider?

Mr. Phelps: I think they would certainly consider that. As I think everybody understands, we've given up 400 feet on the north end now, so we're a considerable distance from any residential, and in fact the Code specifically, I think, states 100 feet from residential for a topsoil operation, so we're more than five times what the existing Code recommends for the separation.

Ms. Rast: Thank you.

Chairman Loyd: Zoning Board members, any more questions of the applicant? Okay. We're to the point in the process when we are going to move into public comments. We're going to be allowing three minutes per speaker. We're going to have a timer for that, and we're going to try to let you guys wind yourself down, but after three minutes, if it doesn't look like it's stopping, we're going to cut off the audio. Just a reminder, please provide your name and address for the record. Share your concerns and comments, but if you're going to basically be repeating something that

has already been said, try to keep it brief and just reference your agreement with the previous comments. With that, let's start working through people who would like to comment.

Mr. Pendley: Excuse me, Mr. Chairman, before Leslie starts calling on names, I would just like to note that with this timer, we have to have this on the screen. If there are specific questions about the plans, just note that staff won't be able to share the screens during the comments, but we will be happy to bring up the plans or aerial photo or images following conclusion of the public comments.

Chairman Loyd: Okay, perfect. Thanks, Sean.

Ms. Davis: We do have a gentleman with his hand up, but I'm going to start off with calling the folks who we've recently received emails from, to see if they would like to talk first. I'm going to start with Brad Kempf. Brad, you can now speak. Was there something that you wanted to say to the Zoning Board other than the email that was sent to them?

Brad Kempf, [no address given], appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Kempf: No, the letter is all I wished to speak to.

Ms. Davis: Thank you. The next one, Jennifer Johnson and Shane Johnson. Shane Johnson has his hand up, so we will let Shane talk, and maybe they have the same comments.

Shane Johnson, 19020 Skyview Lane, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Johnson: We are within Foxwood Ranch Subdivision. We are – to categorize our location – we are, I would say, the nearest property to the previously-proposed entrance off of 191st Street. I guess, not trying to add the same things as I previously mentioned, but my family has done a significant outreach to families beyond the 1000-foot zone that was required to be notified. That included a number of one-on-one conversations with people that were in their yards. Overwhelmingly, the people we spoke with were opposed to this plan. These are people that are within the Wolf Creek Subdivision. They are also people within Boulder Creek as well as Foxwood Ranch. We received comments, and they may or may not have submitted emails, but comments were made to us, specifically, that if we would have known that this type of use was going to be going on, we may have not chosen to purchase our home here. We have neighbors within Foxwood Ranch who said that explicitly here as well. If they would have known at the time of purchase that this type of use was going to be allowed, they would not have purchased a home here.

I think overwhelmingly, the number of people we have spoken with across three completely separate communities bordering this property, are vehemently opposed to this use. I do appreciate the fact that Mr. Phelps and his other investors in this property made some concessions, but it doesn't change the fact that we simply don't want this use here. We don't feel this is consistent with the plans for this area. This is, at the time, agricultural, as we all know, but this area is undeveloped. The streets out here are poor condition at best. Granted, Spring Hill has done the new chip and seal, but 191st Street is really poor. There are giant craters on that road. Infrastructure around here is poorly-maintained. I would add a comment to what Mr. Phelps had said. The question was asked about how long it would take to start development of that property. I would disagree. There is actually equipment and a very large stockpile of topsoil already on that property. If you drive by, you look in the corner, and there are earth movers. There is a 20- to 30-foot tall pile of topsoil. Last comment I want to make, from the last meeting, I want it on public

record that Mr. Sanderson made extremely inflammatory comments that were very much not appreciated. The “90-foot mindset” is the people who are choosing to move here. Thank you.

Chairman Loyd: Thank you. Leslie, next?

Ms. Davis: The next person that emailed, I'm not sure if she wanted to say something. Cheryl Engelmann, you are now able to speak if you wanted to share any thoughts that Shane Johnson did not mention.

Cheryl Engelmann, Engelmann Farm, LLC, appeared before the Zoning Board via Zoom, and made the following comments:

Ms. Engelmann: Thank you. Okay, so I am from Engelmann Farms, LLC. I'm the manager of Engelmann Farms, LLC, which is the adjacent property owner to the south, the property that sits on 199th Street and is right next to this subject lot. I have a few comments that I want to go through. One is, I was glad to hear Harold say that the reclamation on these cells is going to be done, he said, within a month after the actual work has been completed. I think that needs to be added to the stipulations. The stipulations are pretty open, and I know you're going to be putting a lot of that in that reclamation agreement and plan, but I think we need to be really specific about that, because otherwise you can have a situation where maybe stuff doesn't get planted promptly. The second item that I wanted to talk about is this idea of storing topsoil there. Again, I had always understood from the previous meeting that there was not going to be any topsoil stored onsite, but then when I got all the paperwork and started going through, it looks like, even in the applicant's narrative, they are indicating that they intend to store soil from local construction sites. If that's not going to be done, then again, I think that needs to be added to the stipulations. I don't think any of the neighbors are going to want to have huge, big stockpiles of dirt there from other construction sites there.

The next thing is that, in reading the information that I got, there was reference to fuel tanks and storage being onsite. I haven't heard anybody else talk about that, and we're probably the only ones, honestly, that are affected by that issue, but because I've had to deal with that same issue on another property of ours, where we had underground contamination, I really want to know if they're going to have fuel tanks and storage onsite, and how they intend to protect and make sure that we don't have any contamination. Last thing is accountability. I know, Ken in the last meeting said he thought that we needed to have some kind of process in place, so that if issues arise, neighbors will have the ability to raise issues. I did not see that that's at all been raised in any of the documentation I've seen. I know they've proposed in the stipulations to do one inspection per year, but one inspection per year is probably not going to be sufficient to cover, I think, community concerns, so I think that somebody's got to do something to make sure that there is sufficient process for neighborhood complaints. Thank you.

Chairman Loyd: Okay. Is that it?

Ms. Engelmann: Yes. That's it, sorry.

Chairman Loyd: Thank you, Cheryl. Sean, a question, a point of order question. So, she asked several things directly that need to be directed to the applicant. Are we going to keep track of those and gather them all up at the end, or are we going to do them a speaker at a time?

Mr. Pendley: We are taking notes, and I'm sure the applicant is as well. We would recommend that we conclude and capture all the public comments, and then have the applicant respond following public comments.

Chairman Loyd: Okay. Thank you.

Mr. Pendley: Staff can provide additional response, too, as necessary. Thank you.

Chairman Loyd: Okay, thank you. Okay, Leslie, next speaker.

Ms. Davis: The last person that does not have their hand up but emailed us is Sharon Ingebrand.

Sharon Ingebrand, 18908 Skyview Lane, appeared before the Zoning Board via Zoom, and made the following comments:

Ms. Ingebrand: I do want to address a few things I've heard previously. One of the things, I'm not sure who was speaking, but he said that there are some potential other sites and that the problem is timing. The ground is typically existing farms. The farms have annual leases, and you have to plan in advance and negotiate existing leases. Well, I think the homeowners here would also say that we had to plan in advance to purchase a home and to save the money to buy these homes, and when I looked at the ground around this neighborhood, I did not find anything about this project previously, or I would not have purchased this home. If there's a transfer in my job and I have to move within five years, that would definitely impact the sale of this home, and Summit Home believes the same, because they're the ones that contacted and let the residents know. If Summit Homes is concerned and they do this particularly, I would tend to believe that there's a problem, and they're worried about the rest of the neighborhood selling at the same value as our current homes.

The other thing he mentioned was the year-round. They're not doing it year-round. They won't be doing it in the rain or really cold or wet weather. Well, that's just the silliest thing to say, because we wouldn't be outside at those times, either. We wouldn't be using the pool. We wouldn't be using our decks. We wouldn't be walking in the neighborhood, so we wouldn't be hearing the noise or the pollution or the wind blowing the dust or any of that. Some Saturdays. Those are the times we are outside and doing those things. I just think that was a silly argument and didn't make any sense. I am adamantly opposed to this. I'm really frustrated that I've spent my life savings on this, and then we find out 30 days after I've moved. I've lived here 45 days. It's just really disappointing that this is in the middle of three neighborhoods. I know there is other farmland out there. That's all I have to say.

Vice Chair Klingensmith: Chairman, I'm not seeing her email communication, Diane.

Ms. Wicklund: That was one of the emails that came after the packet was mailed out, so it just came within the last few days, or whatever. I can certainly...I scanned all this into a PDF. I can certainly show those letters if you want to, later. But it is not in your packet, because it came after that packet was mailed out.

Vice Chair Klingensmith: Thank you.

Chairman Loyd: Thank you, Ken. Thank you, Sharon.

Ms. Davis: Are you ready for the next one?

Chairman Loyd: Yes, ma'am.

Ms. Davis: Stephen Sly. He emailed and he also has his hand up.

Stephen Sly, 19429 New Castle Street, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Sly: I'm a resident of The Estates at Wolf Creek. I'm also the Chairman of the Planning Commission in Spring Hill. I had several residents approach me about this issue, and I apologize. I just found out about it yesterday, and I wrote an email today. Real quickly – and I appreciate, too, that one of the questions I had was I wanted comments from the School District, which Phil

Elliott basically said he didn't have a comment, which was good to me. Jim Hendershot also sent a comment from the City of Spring Hill, which I wanted to hear. One of the main things that Jim Hendershot brought up, which I don't think has been addressed here, is when they do that roundabout at 199th and Ridgeview, there's going to be significant backflow on Woodland there where they just did the chip and seal. It's also going to be backed up on 191st Street significantly, especially during school hours, so I wanted everybody to be aware of that. As one of the other speakers noted, it's a very poor road, no shoulders and extremely dangerous. The other issues that a lot of residents had were the dirt problem, potential dirt in the air, noise pollution, I guess, affecting the elementary school and potentially the new middle school that was supposed to be in 2022. I think it's pushed back to 2023 now, but the middle school, the entrance is right off of 191st, so there's going to be more traffic there. I wanted the applicant to be aware of that, too. That's going to be significantly more traffic on that route.

And then the last thing, I really just wanted to...you've addressed most of my questions I had. The one thing that needs to be addressed, I think is, is the operator – I think what Jim Hendershot brought up – are they going to have any stipulations to pay for repairs on Woodland? Because there's going to be a significant amount of extra traffic on that, that they just did the chip and seal. Also, what's the process if this dirt and noise pollution is really a problem, to going back to the Zoning Board or Johnson County and correcting that? I know that the typical CUP, I think if there's problems you give them 30 days and they get a written notice in 90 days, but that's a lot of time. It would be better if the public knew what the process is if there's problems, so we can address those problems going forward. I think that's all I have for now, but those are the questions that I had, and the residents had.

Chairman Loyd: Thank you, Stephen. He had several questions there, Sean and staff. Did we get those down, so we can address those at the end, then?

Ms. Davis: [distortion]

Mr. Pendley: It sounds like your audio was breaking up. I'm just going to respond to Chairman. Yes, we are taking notes and happy to bring up any of those questions of the applicant in response to the comments.

Chairman Loyd: Okay, thank you. Leslie?

[audio difficulty]

Ms. Davis: Now we have a Kevin Herndon.

Kevin Herndon, 18517 West 194th Street, Wolf Creek Estates, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Herndon: I only found out about this operation a few days ago because I live 1437 feet from the property line to the edge of my property. I sent an email in. One of my biggest concerns is noise pollution. The excavators and paddle scrapers out there run at 113 decibels. I can walk out of my house and actually hear those. I've got drone footage of those units, and they're extremely loud. I didn't spend almost \$400,000 on a house, pay \$6,000 a year in taxes, to listen to that. I moved into a peaceful neighborhood. I moved in to not be outside and covered in dust. I moved away from the farm to get away from that. My next biggest concern is how do I report that? Do I call the Planning Commission? Do I call the Sheriff's Office and file a noise complaint? Because it is already happening. I have a decibel reader, and when the paddle scrapers were running the other day, I measured it at 109 decibels. So, I want you to answer that question for me.

My next biggest concern is I have young kids. There are numerous young kids around. There is equipment out there, in the open, no fencing, no nothing. Kids are curious. They will walk up and

get on that equipment. I hope that they keep that life safety matter in mind. You probably won't know about it, but there will be kids out there. My next question is, what do we do when those vehicle trip logs don't add up, if we do an audit with that? What if there are more than the 40 trips going a day? Is that part of the Conditional Use Permit as well? Lastly, please think about the 96 people that spent half a million dollars in sales tax to the County, City, everybody else right next... That's one neighborhood. That's just Wolf Creek. We pay half a million dollars in tax a year to get an operation like this right here. It's surrounded on three sides by residential. It does not fit what's going on right around there. Also, from my research that the applicant, on behalf of this is a part owner in this, so it is a vested interest. I see why he wants this pushed through. It's very concerning. I've also asked the State Representatives to increase it from 1,000 to 5,000 feet, so we all know what's going on. Thank you for your time.

Chairman Loyd: Okay, thank you, Kevin. Leslie, next speaker?

Ms. Davis: [No audio]

Mr. Wingert: She said Gerald can talk.

Gerald Gollwitzer, 19000 Skyview Lane, Foxwood Ranch, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Gollwitzer: I sent a letter the first time, for the first meeting. I just want to let everybody know that we appreciate the boundary and the entrance being moved, but to be honest, it's not enough. We've spent \$400,000 on a brand new house in a brand new subdivision, with nice amenities. The fact that nobody knew about this until it was already starting to happen, it's going to hurt our property values. It's going to create a ton of dust and a ton of noise. I've driven past these operations on 175th and 169, and 175th towards Gardner. They are filled with dust. I'm pretty sure that none of these operations have ever been smack dab in the middle of three subdivisions, brand new subdivisions being built. And I'm pretty sure that you Board members would not want to spend \$400-plus thousand dollars on a brand new house, only to find out that you're going to have a pollution fest right next door. Thank you.

Chairman Loyd: Thank you, Gerald. Okay, next commenter?

Ms. Davis: That is the last of our speakers. I don't have any more hands up. Oh, I spoke too soon. I have a Tony.

Tony [no last name given], 19000 Mahaffie Street, Foxwood Ranch, appeared before the Zoning Board via Zoom, and made the following comments:

Tony: I have two questions, really directed to the Board members. The first has to do also with the process in which any violations of the stipulations can be reported by the residents, and how the Board actually substantiates. For instance, if there are any complaints, either regarding the noise or the dust, how does the Board actually...or whoever takes those complaints? I'm actually a new homeowner. This is my first time owning a home, so this is all new to me. I don't know how it works. I was just curious to know, how do they figure out whether it's actually a problem, whatever is being reported, and is there actually any stipulations that says if "X" number of complaints are received within "X" number of times, or maybe just "X" number of complaints, period, then the operator has to stop? How does that...? What are the repercussions for any complaints being leveled? Then, the second, I just wanted to see, I guess get clarification on how this approval process works. Is it just, do you just evaluate on the merits, on like how is this operation going to be conducted? Does it meet Code? Or do you actually look at, for instance, what's the benefit to the city from this versus the cost to the residents? Is it just the merits, or is it a more cost and benefit analysis? That's all my questions. Thank you.

Chairman Loyd: Thank you, Tony. I don't know if you were on for the whole session, but we're going to go back. We're taking notes, and we've had several questions about compliance and how that's measured and timeframes and things like that so we're going to try to circle all those up at the end. Thank you, Tony. Leslie?

Ms. Davis: It looks like that was our last speaker. No more hands are up.

Chairman Loyd: Okay. We're going to close the public comment period, then. Now we move on to further questions by the Zoning Board of staff, applicant or public. Zoning Board members –

Vice Chair Klingensmith: I'd like to work through the questions that were proposed.

Chairman Loyd: Yes, I agree. Sean and staff –

Ms. Rast: Can I ask a question that hasn't been brought up? What's going on right now on the property? Are they already starting to scrape? Do they have a good feel of what it is like already with what's going on? A few of the public comments made references to scraping already going on.

Mr. Pendley: I would recommend...There's a number of ways to handle this. What I would suggest – I took two pages of notes here – what I would like to do, I could certainly go through the items that I believe staff can respond to, these questions, and then for questions like what Board Member Rast just asked about the work, I would ask the applicant to answer some of those questions. I would propose, I'll try to go through my list here and address some of the comments and questions that were raised for staff, and then we'll defer to the applicant for the others. If you would like, I'll go through my notes, just starting off with some of the questions to see what I can respond to, and I'll ask Diane for additional help.

The first question, there were comments raised about need for additional stipulations and questions on the reclamation plan. Some of these items as proposed here and as recommended with the stipulations for the CUP, I think staff feels confident that those stipulations will adequately address all of that. However, certainly on any of the specific questions, like timing of planting as part of the reclamation, certainly, if the Board has additional comments and thoughts on that, we could see what the applicant would be willing to offer up. Staff would certainly add any additional requirements as needed. For stockpiles of dirt, additional stockpiles, again, that's a question, I think, for the applicant, what they're doing, how they're stockpiling the dirt. As far as fuel storage, same thing. I would defer that to the applicant.

Inspections. There was a consistent theme of questions about inspections and tracking the stipulations. Any reports or complaints of any potential violations of the Conditional Use Permit, these terms and stipulations as they're approved, or any other County regulations, staff will respond to those. The process would be that the staff would contact the applicant to notify them of the complaint. We have a process for enforcement and compliance, where the applicant would have to respond within a certain time period, as required. They work through that process. They have a time for response. There's no designated set time, but the general rule for response and compliance would anywhere from 30 to 60 days. If it's a repeat issue, something that comes up for a violation, that would potentially result in bringing the item back before the Board for consideration of the CUP and whether or not...the last resort would be an open hearing for revocation of the CUP. However, there are processes built in before that that allow the applicant time to respond.

Other comments/ questions about the repairs to Woodland Road, and any additional requirements. I believe, as Diane noted, we are aware of the requests from the City of Spring Hill for an additional comment or concern about repairs or additional bonds or guarantees for repair

of Woodland Road. Staff had considered that. Actually, Diane shared the comments from the City of Spring Hill with the County staff, consulted with the Public Works staff. At this time, staff does not feel it would be necessary to add any guarantees or bond requirements for Woodland Road. However, certainly if the Board or the Board of County Commissioners were to recommend that, certainly that's something to consider as part of this application and the applicant could respond to that.

As far as noise pollution, any complaints of noise pollution, same process. If there are complaints that are filed to the County staff regarding potential noise violations, staff can go out to take measurement and readings for the decibels at the property line. There are regulations, and there's a stipulation that is included in this CUP for measurements of the noise levels. That is something that can be tracked. Again, if there are violations, the applicant would have to respond to that and bring the operation into compliance. I think that covers just the general summary that I had for the notes that the staff would respond to in questions. I would certainly defer to the applicant for any additional comments and questions, and then open it up if Diane had any additional thoughts or response to those comments.

Chairman Loyd: Okay. Thank you, Sean. Before we try to re-direct them to the applicant, just to try to limit the back-and-forth, so Board members, before we go back to questions with the applicant, was there anything anybody else from the public comments that they would like specifically addressed back to the staff?

Vice Chair Klingensmith: I think that Sean did a good job going through the ones I had. I still believe a 30- to 60-day process, I have concerns. I'm not sure that the process by which neighbors can express concerns, considering that if this gets approved, it's in between three neighborhoods. If there is a way that we could have an expedited process to address dust and noise and things in that manner, as opposed to a 30- to 60-day process, but that it's still a weighing concern on me, should this get approved.

Chairman Loyd: Okay. Thank you, Ken.

Vice Chair Klingensmith: But Sean, thank you for your comments.

Mr. Pendley: Thank you.

Chairman Loyd: Okay, let's try now to go back to the applicant and let him respond to questions he heard, and then we'll audit that from what the staff and Board members and see if there was any further follow-up, so Harold can you come back on and respond to the things that you heard?

Mr. Phelps: Absolutely. I'll try to go down...obviously, there are several items here I'd like to address. The stipulation on the reclamation, we have no problem with trying to clarify that and would be happy to work with staff on something that they're comfortable with that we could be comfortable with. The ground sits fallow most of the winters. If you don't plant winter wheat, it does sit fallow. The intent is to get a cover crop back on the soil as soon as possible, but there may be reasons for slowing that down a bit, but would be happy to work with staff on that. Regarding the storage of topsoil on the site, I did go back and look at that, and I see that there is a stipulation that allows us to do that. We don't have a problem with eliminating that. I think that was in stipulation number 11. "Topsoil originating from locations offsite is allowed to be stored in the future stockpile area shown on the plan." I certainly don't have a problem with eliminating that sentence from that stipulation, or from the conditions.

There was a question about fuel tanks and gassing. The trucks themselves are gassed up at the Shell station on 199th Street, so there's no fueling of the trucks themselves. There will be a trailer

or a storage tank on wheels that is kept on the site for the scrapers and the backhoe, all kept within regulations of the State requirements.

Regarding the complaint items, I think Sean has covered that. We're obviously at risk of being shut down. We understand that if the complaints are valid, we're going to address them, and get them taken care of, because we certainly don't want to come back before this Board and try to explain why we're not doing what we said we're going to do.

Ms. Wicklund: Harold, if I could interject real quick while we're talking about noise, just a quick observation. We have a stipulation on noise, and it talks about a 70 dba right now. Nothing can exceed 70 dba as measured from any point along any property boundary line. I know somebody mentioned that they measured something at 109 decibels. Can you just talk briefly about maybe what that difference is and any equipment? Is that 70 dba realistic, I guess? So maybe if you could talk about that a little.

Mr. Phelps: The 70 dba, I think is what we've lived with in the past, so I don't have any specific comment on that and where the 109 was taken from. I certainly don't know how it was taken. At this point, I guess I'm comfortable with the 70 dba, as we've done in the past.

Ms. Wicklund: Okay, thank you.

Ms. Rast: I have a question when you say that you lived with the 70 dba in the past, is that just because that was on paper and nobody ever brought it up? Like, is this an arbitrary number, or if somebody had actually gone out and measured the decibels at your other sites, would it, in fact, be higher than 70 dba, but you just actually so far have lucked out without anybody knowing it's higher? So, is this an arbitrary number, or do we know for sure 70 dba is an appropriate number for what you're going to be doing?

Mr. Phelps: Honestly, we've not done any sound test. To be straight with you, I don't know what that number is. That's why I said we would live with the number that the County requires for noise, of any noise operation.

Ms. Rast: Do you know what the equipment typically runs at? Is that a standard...?

Mr. Phelps: I do not.

Ms. Rast: Okay.

Chairman Loyd: Kelley, I'm not going to speak for Harold or the applicant, but I do have some experience in that, and 60 to 80 decibels at the property line or 100 feet away, those are pretty typical parameters for construction sites in any municipalities that have noise ordinances. So, most of the equipment that's on the market does operate within those parameters.

Mr. Leipzig: Mr. Chair, if I could just make a quick comment about that, in terms of that 70-decibel figure that is included. That is regarded as a best practice in construction. It's just kind of a standard reference limit for noise, depending on various uses. So, your assumption is correct that it's typical. It's right in that general range of noise. That just came from a best practice from our County Code.

Chairman Loyd: Perfect. Thank you, Jay. Harold, did you hear anything else from the public comments that you wanted to address directly?

Mr. Phelps: No, I don't think so, John. I think that's it.

Chairman Loyd: Okay. I'm going to circle back now with the Zoning Board and staff. Is there anything that we heard in comments that we still need to have Harold address?

Vice Chair Klingensmith: I don't believe so, but I do have a question, if I may, of the applicant.

Chairman Loyd: Sure.

Vice Chair Klingensmith: Harold, the project on 175th Street, did that project have dust control measures, or did that not have dust control measures because of the location of it?

Mr. Phelps: I believe that we did have dust control. I think they kept a water truck out there at site as well.

Vice Chair Klingensmith: Okay.

Ms. Wicklund: And I think it was also a stipulation on that site.

Chairman Loyd: Harold, I have a follow-on question about the dust control. Do you guys use just water, or do you ever have to use calcium chloride with the water? Do you know?

Mr. Phelps: Usually we're just using water, and primarily it's on the gravel drive. If it's windy enough that we're creating dust by the operation, they stop the operation.

Chairman Loyd: Okay. Thank you, Harold.

Mr. Wingert: Harold, I think you said this, but you'll start on cell 1A in our exhibit, which is 3.8 acres, and that would be the area that would be "open," and then you would close that up, seed it down, and then move to the next quadrant. Is that correct?

Mr. Phelps: That's correct.

Mr. Wingert: So, at any one time, percentagewise on this property, would it be three percent? Five percent, approximately, that would be "open" and not seeded down? What percentage would you estimate?

Mr. Phelps: Well, understand that in its existing condition right now without a winter crop on it, it's 90 or 95 percent open right now. And they don't put a winter wheat on it every year. So, during the wintertime, it may stay open, a significant part, like any agricultural field would.

Mr. Wingert: Okay. It was my understanding from your comments last week that you thought there would be two trucks running nine trips, approximately, per day, one way. A round trip would be a total of 18 trips, for a total of 36. Is that...?

Mr. Phelps: That would be a typical kind of day That's correct.

Mr. Wingert: Typical kind of day. Okay. Thank you, Mr. Chairman.

Chairman Loyd: Thanks, Fred. I've got a question. It's kind of a two-part scenario question for Harold and the staff. Harold, if this was 120 acres, if that gets divided up into, say, three or four subdivisions and they go in there to do the earth work, to do the subdivision, they're going to run scrapers over that whole piece of property, right?

Mr. Phelps: Yeah. Starting with excavation for the sanitary and storm, and then scrapers to build the streets, right.

Chairman Loyd: And if your design says that you have more cut than fill, and it's just a construction job, you can haul all that soil off at whatever rate you want to do that, right?

[crosstalk]

Mr. Phelps: No, my understanding is the Code allows you, if you're on a permitted site with a permitted project, you are allowed to remove or haul in dirt accordingly.

Chairman Loyd: And if this was being graded as a subdivision, you don't have to do any reclamation?

Mr. Phelps: That's correct.

Chairman Loyd: And it can sit there for however long –

Mr. Phelps: We typically –

Chairman Loyd: You have erosion control, but you wouldn't have reclamation.

Mr. Phelps: Yeah, John, to a point –

Chairman Loyd: Go ahead, Harold. I didn't mean to cut you off.

Mr. Phelps: Typically, in our stormwater pollution prevention plans now for subdivisions, we typically have a seeding spec at the end of the project that we seed the project prior to building permits.

Chairman Loyd: Building permits for the homes?

Mr. Phelps: That's correct.

Chairman Loyd: And so, you're talking about maybe taking six to eight inches off of this, max, so maybe 50 to 70,000 yards. Does that sound right?

Mr. Phelps: I haven't done a dirt quantity to take off on that 120 acres to tell you exactly what that number is, but six to eight inches is the plan, and continue to farm it even after we take that six or eight inches. So, it will continue to be farmed after that.

Chairman Loyd: Okay, so that was kind of my question/scenario, so that's the end of that. Anybody else? Any more questions of the application or of the public commentors or for staff before we go into the Board discussion?

Ms. Davis: Could I add one thing? We have lost Dennis Bollin. I just wanted to put that on the record.

Chairman Loyd: Oh, okay. Well, hopefully he can maybe get his problem or fixed or join by phone.

Ms. Wicklund: I was just looking, and I think we still have quorum, because I think we just need five.

Ms. Davis: Correct.

Ms. Wicklund: Yes.

Chairman Loyd: Okay, well hopefully he joins back up with us here. Thank you, Leslie. So, we're going to close the questioning period now and the public commenting period. We're going to go into discussion among the Board members. I'd like to get everybody's thoughts, questions to each other, points.

Vice Chair Klingensmith: I'll go ahead and start. One, I think we've asked the applicant to remove access to 191st Street. I think Jason Meier noted that in the February meeting when referencing the AIMS website to traffic on that is 400 to 500 people a day. We've removed access to that road, so the only entrance now is on Woodland, where the volume as reported is about 100 people a day. So, less volume on that road, but I am concerned that with the road improvements that are going to be happening at the same time this project is happening in a residential area. I think the redesign of the fields, moving away from the residential areas is a better plan, and I think with Kelley's comment about the consideration of moving the ends to the middle to address the neighborhood to the north, I think that is good for getting things moved quickly away from the residential area. I think the setback of 191st is appreciated, and I think that also adds benefit. I appreciate that the same amount of dust and noise could be compared to like a subdivision or the

roadwork within a subdivision, but the timeframe for something like that is not going to be extended over a five-year period. You're going to get your subdivision built in a year, and homes going and not having the same type of activity occurring every Saturday, potentially, or weekdays for a five-year period.

I do agree. I think the applicant surpassed the minimum standards required by the County. I just feel the location, being surrounded by subdivisions, and being residential in nature, just is not consistent with the use of the nearby properties. The dust control, part of my question in asking about dust control was I've seen the operation at 175th in process, and there was quite a bit of dust, and with this location, surrounded by three subdivisions, I'm just struggling a little bit to get to a positive vote on this. Those are my comments.

Mr. Wingert: Mr. Chairman, I want to start off that I appreciate the comments that are made by the adjacent homeowners. One of the homeowners brought up a comment that was made in the previous meeting by one of our members, and I just wanted to assure that homeowner that, as a member of this Board, I don't feel that way, and my guess is that other members of the Board don't feel that way. The comment that was made that you referenced is regrettable. This Board has approved multiple special use permits that are similar to this with a similar purpose, and some of those were near residential areas. I think the operator is a big part of this, and we haven't talked a lot about the operator. I do believe past performance is a good predictor of future results, and this operator has a long history of doing this in areas in Johnson County. As I look at the amount of traffic that the applicant has indicated, there will be some additional traffic, but if you break that down in the way they're talking about using it, to me it seems somewhat reasonable. The School District did not seem to have a concern. Spring Hill, I think, brought up a couple of concerns, and I appreciate the fact that the applicant has made some changes per the last meeting. I'll be supporting this applicant.

Chairman Loyd: Thank you, Fred. Appreciate that.

Ms. Rast: I'm going to sort of echo what Ken said, about kind of where he's at and all the stuff that he brought up. I also do appreciate everything that Harold has done, on behalf of the applicant, to do some of the changes. It is just hard, because it also seems like there's a few issues that are somewhat arbitrary as far as not knowing for sure. We're putting all these, not only with noises, and other standards. Then of course the dust can be somewhat arbitrary, even though the ground dries, during the wintertime, it still has crops on it from the roots and stuff. They don't dig it up completely bare. Then with the schools. I do think the biggest difference is these people did move down here for a certain quality of life and the schools there, and they weren't expecting this, and it isn't a normal procedure. A new subdivision going up, everybody's kind of used to that, and it's a standard, so if they were trying to sell their house and a new subdivision was going up across the way, that would almost be more of a pro than a con. So, it's a lot of risks and detriment to the homeowners all around this property. I'm having a hard time getting on board with it. That's all. Thank you.

Chairman Loyd: Okay, thank you, Kelley. Ed, do you have any comments?

Mr. Schlesselman: No additional comments.

Chairman Loyd: No additional comments. Has Dennis come back?

Mr. Pendley: I do not see Dennis. It doesn't appear that he is on at this time.

Chairman Loyd: Okay, so I can –

Ms. Davis: Sorry to interrupt. Dennis is in the list of attendees.

Chairman Loyd: There he is.

Ms. Davis: I just added him as a panelist. Dennis, if you want to make some comments, you should be able to now.

Mr. Bollin: [no audio]

Chairman Loyd: Well, if Dennis comes back in, we'll let him go ahead and speak. Well, I hate wind. I hate dust. I'm from down by Wichita and lived with it my whole life, and I hate it. A couple of things I think we need to be clear on and remember is that this sort of an operation, it is consistent with the rules and regulations that we do have now. The reason that they do have to have a Conditional Use Permit is just for situations like this, because each...It's enough of an intrusive operation that the surroundings and the traffic and all of those things do need to be considered, and that's what we're here for. I'm falling a little bit along the lines with what Fred says, but I do think that we should maybe talk about...Some of these things are quantifiable and are measurable. We can measure and quantify the wind and wind direction if we want to, right? Sometimes on some of our project sites we have to do that. The noise can absolutely, all of the noise can be monitored. If those are things that we want to stipulate – well, the noise is already a stipulation – if we want to have a wind speed stipulation, because that's a concern, we can have that. So, I think the property owner and the operator acquired that piece of ground, and they had, when they acquired that piece of ground, the right to at least apply for this permit, and their use that they're proposing is within the guidelines So, it's not like they're going counter to, like Fred said, they're not going counter to things that have been done in the past. I think we need to remember that and then maybe talk about, do we need to do more stipulations? Do we need to discuss that some more, some of those things with the applicant? That is my piece. Dennis?

Ms. Davis: Yes, he's raising his hand.

Chairman Loyd: Dennis, we've got your face and everything now. Go, man.

Mr. Bollin: Okay, well, there's a lot of considerations here to be made both ways, but these people that are complaining about dust, this operation, I live just south of the American Topsoil, and their dust is not worse than a farmer out there cultivating, planting, harvesting crops. I really can't understand their complaints, because they have a farmer on the west side of them, and if we turn this down, they will have a farmer farming this land to the south of them, so other than truck traffic, there's not that much difference. A farmer creates a lot of dust planting crops, harvesting crops, tilling the different types of crops and stuff. I know because I've planted corn, soybeans, wheat and harvested it for several years myself. Hay – you put up hay, you cut it, you rake it, you bale it, you're creating a lot of dust. I still help my son do hay. You create a lot of dust there. The people who moved to the country, you've got to expect dust. I'm sorry. It happens. So, yes, I feel sorry for them in a way, but they're living next to a farm field. They like to eat. You raise crops, so they can eat. This land is, if the dirt gets scraped off the top of it, they're going to plant it back to crops. If the dirt doesn't get scraped away, they're going to plant crops. One way or the other, they're going to get dust. Anyway, I've had my say. Thank you.

Chairman Loyd: Thank you, Dennis. That did remind me of one thing that I wanted to mention. I know firsthand...So, there were some questions about how quickly they would close up these cells and do the reclamation. I can tell you, it's cheaper to seed and get your grass growing than it is to continue to try to maintain erosion control. I think that, economically, these guys are going to want to get it closed up and get the grass growing when they're done, so there's no benefit to being lazy about that, I don't think.

Ms. Rast: I totally agree with what everybody is saying. I think the big difference is...and definitely when you're farming, there's going to be dirt, but it's the consistency that this is going to be done

every single day. When you farm and plant there's only certain times that you might be creating a dust issue, but this process might be something, I think, that the people are thinking that it's a potential dust issue every single time they're working, which is a little bit different than just your average farming, because as far as how many times a week, a month, a year, you actually create dust, and then they're looking at this as five years. Then, I think maybe the other concern, too, is that it's kind of open-ended. If things do go south and it's not going well, they don't really know what they can expect. We did touch on the process, but that's a lot different. I think they'd like to hear that if they're violating, it needs to be shut down. They don't want to go another 30 days with certain things. So, between those two aspects, to me, that's how I'm looking at it. But I agree, there's farming, all that, I just...this is something that's going to be a potential dust issue from what they're doing every single day that they're out there working if the wind and weather provides that opportunity as well.

Mr. Bollin: Okay. This is not going to be every day, though, Kelley. There's going to be a lot of days that they're not going to do this, because the demand is not going to be every day. There's going to be a lot of days that it's going to be raining. They can't do it, just like farming. There's going to be a lot of days that you can't get out there and do this, and as Mr. Phelps said, they're not going to be doing it Saturdays and Sundays. They're going to shut down on Saturdays and Sundays. So, it's not going to be every day.

Ms. Rast: Let me clarify. I guess when I say every day that they're actually actively working. Yes, I understand weather, rain, whatever. He did mention that some Saturdays they would be working, so there is that opportunity for them to be working every time they need to work and every time the weather permits it. But yes. On rainy days, absolutely they're not going to be working. If they don't need to work on Saturday, he did mention that. It's based on a need demand. The point is the activity that they're doing when they're actually working is an activity that can produce some of the concerns that the residents are feeling, and feels detrimental to the area. That's all.

Vice Chair Klingensmith: The hours of operation stipulated in 13, that they could work for the next five years every Saturday, 7:00 to 5:00. So, the door is open for that. While I recognize they say they won't or don't, if I was a homeowner in one of the three residential areas, I can appreciate that that's a potential every Saturday from 7:00 to 5:00. I might feel a little bit better...I think when you look at the quality of the applicant and what they do, this isn't a fly-by-night company. They do a great job. I think it's just in the middle of where they are. Maybe we just adjust the hours if the applicant is fine to do Monday through Friday, 7:00 to 5:00, normal workdays, but that way you at least have your protected weekends when you're having events or outdoor activities, that you don't have this activity occurring.

Mr. Wingert: A couple things on the subject of dust. There is a fairly substantial hedge row – the applicant can correct me if I'm wrong – but it looks like on two sides. These hedge trees look 30 feet plus. If I'm not right, the applicant can...Can I clarify that with the applicant?

Chairman Loyd: Yeah, you can.

Mr. Pendley: I would just ask that if Diane has that screen, we could show the aerial photo, too, if Harold is able to respond to the site conditions.

Mr. Phelps: Yes. That is correct. There is a substantial hedge row on both the south side and on the east side of the property.

Mr. Wingert: Is it fair to say that those hedge rows are pretty thick?

Mr. Phelps: Yes, they are. I think Diane's got -

Mr. Wingert: Would they be approximately 30 feet tall?

Mr. Phelps: I'd say, yes, 30 feet is probably fair.

Mr. Wingert: So, the hedge trees are going to be in bloom a fair amount of the time that individuals are going to be outside. Not entirely, but that is one consideration, and the small percentage of the property that's going to be "opened up" or being worked relative to dust is relatively small compared to what...This whole property isn't going to be worked all at one time. Those are two considerations from dust that I think are worth noting.

Chairman Loyd: Thank you, Fred. I kind of feel I'm somewhat agreeing with Ken, also. I think that the use of this is appropriate. I think maybe, given the proximity of the subdivisions, maybe a little bit...a look at the stipulations. Maybe the Saturday work, and there was a lot of discussion about that that might be double what it really is. Do we need to maybe, with some input from the applicant, hone in on that number a little bit more? I'm just looking for other comments, if people that would want to support this, what other stipulations that they either might want to modify or add that might be reasonable.

Ms. Rast: I'd like them to consider maybe taking field 4B and at minimum not go any further north than 4A, to keep that whole corner away from the adjacent Foxwood Ranch neighborhood? Does that make sense?

Chairman Loyd: It would if I could read the numbers.

Ms. Rast: It's the most northeast field.

Ms. Wicklund: I don't know if people can see this, but I'm trying to zoom in, if everybody can see this. This is 4B right here. Just to give reference, here's 191st Street, and right up here you can see the street into the subdivision. So, here's 4B that you're talking about and then here's the street for the subdivision. Here's 4B that we were talking about, and here's 191st Street. Did you say you didn't want any farther north than what?

Ms. Rast: Do you see where the northeast tip of field 4A?

Ms. Wicklund: That would be right here, I think.

Ms. Rast: Yeah, so if you just drew a line straight across from there, across 4B, so it takes off maybe the top third.

Chairman Loyd: I see what you're saying, Kelley. Go to the tip of 4A and then go west.

Vice Chair Klingensmith: I'm not tracking. You're saying, from 400 feet, make it go in that much further?

Ms. Wicklund: I think that's what they're saying. You're getting even farther away from 191st Street, so it would be chopping off the north part of field 3C and 3D. It would be –

Chairman Loyd: Only on 4B, I think.

Mr. Wingert: I thought it was only on 4B. Is that correct?

Ms. Rast: Yes. Just that northeast field [distortion] the one that was sent to me, the original. Yeah, just that northeast field, just chop the top one-third of it off, so it just gives more room for the equipment to work freely in that area without getting too close. I know they've already allotted an extra 300 feet, but I think this warrants a little bit more.

[crosstalk]

Ms. Wicklund: This part of 4B?

Vice Chair Klingensmith: I don't know. If we're going to do it, do it. I think your recommendation to say do 4B first and get it out of the way and get it replanted and move out of there, I think is good. I think if you're limiting it, I'm kind of thinking like the applicant, even though I'm not necessarily totally in favor of this is, if you're going do it, do it. If we keep cutting it back, we might as well not do it.

Ms. Rast: Well, that would be fine, too.

Vice Chair Klingensmith: I think having that – and I'm not a topsoil guy – but I think if you did that it would address and get it out of the way. Although, I have driven this. This is not a huge, huge area.

Chairman Loyd: No.

Vice Chair Klingensmith: If you just cut off...if you're going to be out there and have the noise and the weekend and activity and stuff going on, I think cutting the field shorter, I just don't think that makes that much of an impact. I think moving it off 191st was a reasonable consideration.

Chairman Loyd: Okay. Thank you, Ken. Any more discussion? Anybody want to suggest any other stipulations, make a motion?

Vice Chair Klingensmith: Is there any consideration to not do weekends and change the stipulation 12 to Monday through Friday?

Chairman Loyd: I would support that.

Mr. Wingert: I would support that as well.

Vice Chair Klingensmith: I value both Dennis' and Fred's and John's comments. I think we've got a lot here, but it is their property. We're trying to make concessions to come to a compromise, and I can see every Saturday, if I'm outside and I've got noise and items –

Chairman Loyd: What's...? I must have marked it on the old staff report, because didn't we also, stipulation 11, the applicant agreed to strike out the storage of topsoil originating from other locations? That sentence?

Mr. Pendley: That's correct, Mr. Chairman. The applicant did agree to removing that second sentence in stipulation 11, to strike allowing storage of future stockpiles originating offsite.

Chairman Loyd: Okay. There were several questions from the commentators about the depth of the stipulations regarding fuel storage and the bonds. I don't think those things really need to be defined in here. I think the jurisdictions have authority over all that stuff. The rules are there. They're just not part of this. They don't need to be part of this CUP. Would staff agree with that?

Vice Chair Klingensmith: Before they comment, I also think in stipulation 20, those comments that you talked about, John, they're all referenced in there about what they comply to. On page four, stipulation 20, it lists the governing bodies that stipulate that.

Chairman Loyd: Right.

Mr. Pendley: That's correct. Staff would agree with that.

Vice Chair Klingensmith: If I could ask staff a question, if we end up having a problem, say, there's just overwhelming dust and the pool's got dust and all these issues, do we have a faster way to get that resolved than sending a letter and waiting 30 days? Can we just address the neighbors' concerns quicker? Is that a process?

Mr. Pendley: Certainly, when we get a complaint like that our first step would actually be, rather than sending a letter or any kind of notice of violation, the first step would always be having County

staff contact the applicant. We would visit the site and discuss the issue with the applicant and operator. The hope would be that they immediately work to correct any violation and work towards a resolution, just by visiting the site and doing an inspection. However, if they are not able bring whatever the issue may be into immediate compliance, then we have to move to the next step with a notice of violation, but of course, the first step would always be to visit and do an inspection and contact the applicant. So, certainly we work to do that. It's difficult sometimes to go through that process without documentation, but always we will make a first attempt to visit the site and inspect it and visit with the applicant. Usually, most of these situations we're able to get compliance immediately for that, and then it's just an ongoing issue. Certainly, we'll always have to do that. That's really the first step, always, to visit the site and talk to the applicant.

Mr. Wingert: For a point of procedure, if we wanted to make a motion on this, can we do a small amendment per what Ken suggested?

Chairman Loyd: Yes. We can put what whatever we want to in the motion, Fred. We can move for the approval subject to all the stipulations, add stipulations, change stipulations and then that just gets voted on with the motion. I'm trying to make the note to do that right now, actually. Which one had the hours, which stipulation?

Vice Chair Klingensmith: Item number 12.

Chairman Loyd: So, Ken, you and Fred would support – I think, was it Fred? Somebody else would support the hours of the operation shall be Monday to Friday, 7:00 to 5:00?

Mr. Wingert: Yes, I would support that.

Chairman Loyd: Okay. Guys, I'm going to go ahead and make a motion.

Motion by Chairman Loyd, seconded by Mr. Wingert, to approve Application No. SE 20-99-CUP (SP) for topsoil removal, processing, sales, and reclamation operation for the reasons and stipulations recommended by staff, and set forth in the staff report and the memo, but on stipulation 11, striking the second sentence, beginning with "topsoil originating from," going on to say "locations offsite," and on stipulation number 12, changing the hours of operation, to Monday through Friday, 7:00 am to 5:00 pm.

Chairman Loyd: I think we need to do a roll call.

Ms. Davis: Kelley Rast?

Ms. Rast: Yes, I'm in favor.

Ms. Davis: Dennis Bollin?

Mr. Bollin: Aye.

Ms. Davis: Kenneth Klingensmith?

Vice Chair Klingensmith: Still going to be a no.

Ms. Davis: John Loyd?

Chairman Loyd: Aye.

Ms. Davis: Ed Schlesselman?

Mr. Schlesselman: Opposed.

Ms. Davis: Fred Wingert?

Mr. Wingert: Aye.

Motion passed, 4-2.

Ms. Wicklund: Did we get Dennis Bollin in there?

Ms. Davis: Yes.

Mr. Pendley: Yes. Dennis Bollin recommended approval.

Ms. Wicklund: Okay.

Chairman Loyd: Okay, so that motion carries. It will be recommended up to the Board of County Commissioners, and that meeting date and time will be when?

Ms. Wicklund: This recommendation will go to the Board of County Commissioners on April 8th at 9:30 in the morning. We are just encouraging people to check the Board of County Commissioners website to make sure whether that meeting is on Zoom or in person. Details when it gets closer to that date will be on the Board of County Commissioners website. They do take public comment at that meeting. So, April 8th, 9:30 a.m. I just want to confirm that those were the only two changes that the Board is recommending. The Board was not making any changes to field 4B or the site plan. I don't know if Harold Phelps is still on the line, but I guess, just to make sure that he agrees with those changes.

Mr. Phelps: Chairman, I am online, and we certainly accept those changes and recommendation to the Board. Thank you.

Ms. Rast: I just wanted to make sure that the recommendation, too, is that if there are any complaints, they are considered expedited, to be attended to and get through the process as quickly as possible.

Vice Chair Klingensmith: I don't think that was actually part of the motion, but I think that was the intent of Planning.

Chairman Loyd: Yeah I concur with that.

Ms. Wicklund: Chairman, if I could just maybe, since there's public on the line, just to understand that this, the Zoning Board, this is a recommendation of the Zoning Board. The Board of County Commissioners, at that meeting on April 8th, they make the final decisions.

Chairman Loyd: Yes. Thank you, Diane, for emphasizing that point. This will go up to the County Commission on April 8 at 9:30, and people should check the website to make sure whether that's Zoom or in-person. Okay, a lot of comments. A lot of work by staff. A lot of discussion by everybody. That's all appreciated. That puts a wrap on that item. I'm going to make a motion that we take about a five-minute break.

Mr. Wingert: Second.

Chairman Loyd: Who's got that handy dandy timer? Set that thing for five minutes. We'll all go get a glass of water, do whatever else we need to do, and we'll get right back here.

Mr. Pendley: We'll see if we can reset the timer for five minutes. Thank you.

Mr. Bollin: And hope my computer doesn't die again.

[five-minute break]

B. Application No. SE 21-108-PP/FP (AU) – Preliminary and Final Plat – 175th Street and Kenneth Road

Phelps Engineering, Inc., applicant, and Jim and Nancy E. Hall, landowners, requesting Preliminary and Final Plat for two residential lots on 11 acres, (**Hall Acres**) on property zoned RLD, Residential Low Density District, in Section 23, Township 14, Range 25.

Ms. Miller: Hall Acres is a request for Preliminary and Final Plat approval to divide an 11-acre parcel into two parcels, located at the northeast corner of 171st and Kenneth. Here's an aerial view of the property. This is the general location of the subject parcel. It's outlined in blue. You can see 171st and Kenneth Road. Here is a closer up view of the property. The dotted yellow line indicates the proposed division. The north lot will be vacant with 6.4 acres, and the south lot has an existing home and will have 3.6 acres.

Next, I'll give a little zoning history regarding the parcel, which is important in this situation. The yellow outline on this diagram encompasses 15 acres, all of which was rezoned in 1994 to Residential zoning, in particular RLD, Residential Low District zoning. The purpose of the zoning was to allow division of the subdivision of the 15-acre parcel into four lots. A plat application was not submitted at that time. Instead, shortly after the rezoning in 1994 an administrative tract split was approved, which divided the 15-acre parcel into two parcels, which you can see here. The smaller 3.5 acres was created, and it's in red here. The remaining 11 acres, which is indicated by the gray area, which wrapped around that smaller parcel, that is the 11-acre parcel that the subject of tonight's discussion.

It's important to note, at the time of the rezoning in 1994, the parcels with RLD zoning were allowed by the Regulations at that time to take access directly onto arterial roads, such as Kenneth. However, the Regulations have changed since then and currently parcels in this zoning district are not allowed to take access onto arterial roads. Instead, they are required to take access onto local roads when you have residential zoning, so that would require some kind of waiver, and that transitions us to the next topic. In general, two waivers from the minimum infrastructure requirements will be needed in order to approve this plat application. Also, staff recommends approval of these two waivers. If the Zoning Board is interested, staff analysis of the waiver requests starts on page 11 of the staff report. The first waiver would allow Lot 1, which is the vacant northern lot, to have one new driveway onto Kenneth Road and to allow Lot 2, which is the southern lot with the house, to continue to have 220 feet of frontage rather than the required 330 feet of frontage for its existing driveway onto Kenneth Road. The second waiver would allow the home on Lot 2 to continue to be served by its existing onsite septic system and would allow the future home on the vacant lot to be served by an onsite system.

Finally, staff recommends approval of the two-lot subdivision to be known as Hall Acres, because subject to the compliance with the recommended stipulations and the two minimum infrastructure waivers, the proposed Preliminary and Final Plats are consistent with the Subdivision Regulations and the requirements of the RLD, Residential Low Density district zoning. If you care to use it, there's a suggested Zoning Board motion located on page 14 of the staff report. Thank you, and I'll stand for questions.

Chairman Loyd: All right. Thank you. Questions of the staff?

Vice Chair Klingensmith: Karen, the RLD provides for what, again as a reminder?

Ms. Miller: It's a residential zoning district that requires at least three acres per lot. Does that answer your question?

Vice Chair Klingensmith: Yes, and in this case, this is a 15-acre, so are they proposing –

Ms. Miller: No. I was giving the history. This, right here, this whole area, which if you look here, this is that 15-acre, that's 15 acres. What we're looking at today is 11 acres, which is this U-shaped parcel right here.

Vice Chair Klingensmith: And the proposed division is where that dotted line was, so you'll have the...You're basically dividing that one area and then the bottom area as one?

Ms. Miller: Yes.

Vice Chair Klingensmith: So, that 3.5 acres divided in '94 goes away and basically you draw the line across, and you have two lots.

Ms. Miller: No, this stays. This is a separate owner.

Vice Chair Klingensmith: Okay. Got it. So, there will actually be three at the end of the day.

Ms. Miller: Yes. When you go back to the original 1994 15-acre parcel, the result is three parcels instead of the originally-planned four parcels.

Vice Chair Klingensmith: I understand. Thank you for the clarification.

Chairman Loyd: Thank you, Ken. Any more questions of staff? [None] Okay, we're going to move on to the applicants. Harold, is that you?

Ms. Davis: Scott Confer with Phelps is here.

Scott Confer, Phelps Engineering, 1270 North Winchester, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Confer: I'm representing the owners of the property. We've read through the staff report, and the waivers that we've asked for appear to be approved. On behalf of the ownership, they are anxious to move forward to sell the property to someone that's going to build a big, beautiful home on that northern Lot 1. We're just ready to move forward with it. I can answer any questions if you have any.

Chairman Loyd: Thank you, Scott. Any questions of the applicant from the Board? [None] Okay, we're going to open it up for public comments then. Leslie, have we got anybody who would like to speak on this?

Ms. Davis: We do. We have an Alex Lowe.

Alex Lowe, 16772 Kenneth Road, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Lowe: My only comment is that I'm in favor of the lot split as it's proposed and think it will be great for the area.

Chairman Loyd: Okay, thank you, Alex.

Mr. Lowe: Thank you.

Ms. Davis: That was all for hands raised.

Mr. Wingert: Where is the proposed access to the lot on the north?

Chairman Loyd: Fred, hold on one second. I just want to make sure that we're completely done with the public comments. I want to get an affirmation from Leslie of that.

Ms. Davis: I believe we are done with public comments, sir.

Chairman Loyd: Okay, thank you. Sorry, Fred. I didn't mean to interrupt. Scott, did you have Fred's question?

Mr. Confer: Yeah, I do. What I did was, when we did the site distance study on the lot, we proposed to put the drive access pretty much directly across the street from the other existing drive access from the big estate lot across the street. So, to help eliminate any staggering of driveways or whatnot. I spoke briefly with the person that is interested in buying that lot, and I think he was cooperative with that, so it shouldn't be a big deal. But that's where the intent is.

Mr. Wingert: Thank you.

Chairman Loyd: Any other questions for the applicant? [None] Any other questions at all from the Board members for staff or the applicant? [None] Okay, I'm going to close the question and public comment period and open up the discussion with the Zoning Board.

Vice Chair Klingensmith: I have no discussion and am able to make a motion when we're ready.

Chairman Loyd: It seems pretty clean to me. I'm in favor of this.

Mr. Wingert: I'm in favor of it.

Chairman Loyd: I'd say go ahead and make the motion, Ken.

Motion by Vice Chair Klingensmith, seconded by Ms. Rast, to approve the preliminary and final plat and two waivers from the Minimum Infrastructure Requirements for Application No. SE 21-108-PP/FP (AU) with two waivers, as follows:

Waiver 1: Lots in new subdivisions shall not have access directly onto a Highway, onto a CARNP designated Parkway, or onto a CARNP designated Arterial Street and shall comply with frontage requirements of Article 30, Section 2(B)(2), and, instead, allow Lot 2 to continue to have 220 ft. rather than 330 ft. of frontage for its existing driveway onto Kenneth Road and to allow Lot 1, which is a vacant lot, to have one new driveway directly onto Kenneth Road; and

Waiver 2: Lots in the Urban Fringe Area of the Blue Valley Area Plan shall be served by sanitary sewers, and instead allow the existing home on Lot 2 to continue to be served by an on-site septic system, and for a future home on the vacant Lot 1 to also be served by an on-site septic system,

for the reasons and subject to the stipulations recommended by staff.

Motion passes unanimously.

Chairman Loyd: The motion carries, and it's recommended by the Board up to the County Commissioners, and that will go before them when?

Ms. Miller: This will be heard before the Board of County Commissioners on April 8th at 9:30 in the morning. Again, check to see if this is going to be a Zoom meeting or an in-person meeting by checking the Board of County Commissioners calendar, or you can call Planning staff. Thank you.

Chairman Loyd: Fantastic. Thank you.

C. Application No. SE 21-109-FP (SP) – Final Plat – 183rd Street and Ridgeview

Phelps Engineering, Inc., applicant, and John W. Myers, Jr., landowner, requesting Final Plat for 13 residential lots on 47 acres, (**Sycamore Springs Estates, Third Plat**) on property zoned PRLD, Planned Residential Low Density District, in Section 25, Township 14, Range 23.

Chairman Loyd: Whose case is that?

Ms. Leininger: That is me. Good evening. The item before you right now is the Final Plat for Sycamore Springs Estates, Third Plat. This is the subject property outlined in blue. It's located north and west of the intersection of 183rd Street and Ridgeview Road. Here is an aerial with the zoning on top, and property lines. The subject property, again, outlined in blue, is approximately 47 acres and zoned PRLD. The zoning and Preliminary Plat for the entire PRLD area were approved in June 2000. The Final Plat for phase 3 was previously approved in 2007 but was never recorded and has since expired. This is the current Third Plat proposal. It contains 13 lots and one tract. The only change is the location of the tract for the pedestrian access.

I'm just going to highlight some things on here. I know it's a lot of black and white lines. Here's the proposed streets. To the east it will connect to the current phase 2 of the subdivision, and then there's a future connection to the north. Outlined in the orange color is Tract B, which is a pedestrian connection. To the west of the subject property there is a creek over there, and drainage area, which leads me to the green areas, which are stream buffers. Those are identified with the easements, which allow for no building or clearing in those areas.

There is one correction I'd like to make in the stipulations and staff report, with the fee in lieu of park dedication. It was miscalculated based on the wrong acreage for this phase. It should read \$11,977.09. The applicant has questioned that, and if it is an issue, that is something that we can leave blank in the stipulations at this point and fill in the blank before it gets recorded. There is one waiver request as part of this final plat. It is for a waiver from the dry sewer requirement. As noted in the staff report and with an attached from Johnson County Wastewater, it's unlikely for sanitary sewers to be available in this area within a 15-year period and recommends a waiver be granted. Staff does support this waiver. Staff does recommend approval of the final plat and waiver, subject to the stipulations and the one change in stipulation 1 with the fee amount.

Chairman Loyd: All right. Is that it, Michelle?

Ms. Leininger: Yes.

Chairman Loyd: Okay. Questions for the staff from the Board?

Vice Chair Klingensmith: Michelle, just a point of clarification, the development project under Johnson County Resolution 46-94, is that the park development fund?

Ms. Leininger: Yes.

Vice Chair Klingensmith: Okay.

Chairman Loyd: Okay, if we don't have any more questions for staff from the Board members, the applicant?

Harold Phelps, Phelps Engineering, 1270 North Winchester, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Phelps: It looks like we've kind of dominated the meeting tonight but appreciate your time. This project, to give you a heads-up, we are the applicant as Phelps Engineering, the landowner is actually Jack Meyers, again, so the same client we had earlier. In this particular case, I'm actually glad to tell you that my daughter Jenna Phelps and I have this under contract, and we're going to develop this property under a separate entity, but it is under contract at this time. Jack had started this project with another partner back in 2002. In 2005, they developed the second phase, and then we had a big recession that put the wuhedis [phonetic] on the project. So, we're proposing to finish the project out according to the original Preliminary Plat. The only waiver that we're asking for is the waiver of putting in sanitary sewers, granting the dry sewers. That was

granted on the first two phases. It's a standard exception when Johnson County Wastewater that the sewers are more than 15 years out.

We would ask that stipulation number 1, the amount, be left blank at this time. I just don't want it to be a question of when we get down to the last recording and that number changes slightly. We have no problem with the payment of the park excise tax, just want to make sure that we're all onboard with the same number and valuation of the property. With that, we would ask that you forward it to the County Commission with a favorable recommendation. I'd be happy to stand for any questions.

Chairman Loyd: Thank you, Harold. Questions from the Board members? [None] Questions for the applicant? This is public comment section. Leslie, do we have anybody that wants to speak?

Ms. Davis: No, sir, we do not have any hands up at this time.

Chairman Loyd: Okay, I guess no public comments for this. I guess, since we didn't have any comments, we may not have any more questions, but we're going to go around the horn one more time for questions from Board members for staff or the applicant.

Vice Chair Klingensmith: I have no questions. I can make a motion when appropriate.

Chairman Loyd: Okay. Any other Board Members? Any discussion?

Mr. Wingert: I have none, Mr. Chairman.

Chairman Loyd: Okay, let's call the question and look for a motion.

Motion by Vice Chair Klingensmith, seconded by Ms. Rast, for approval of Application No. SE 21-109-FP (SP), and the Final Plat for Sycamore Estates, Third Plat, including approval of a waiver from the requirement to install dry sewers based on the findings in the staff report and subject to the stipulations recommended by staff and update of stipulation number 1 to remove the physical dollar amount, providing the dollar amount can be entered at a later time based on the one percent of fair market value.

Motion passed unanimously.

Chairman Loyd: Okay, so this is going to be recommended by the Board up to the County Commissioners? Will this be on the April 8th at 9:30, Michelle?

Mr. Pendley: Yes. I can make a note to that, Michelle. Yes, this item will also be before the Board on April 8th at 9:30 at the Board of County Commissioners meeting. As indicated before, we anticipate that meeting will be on Zoom. However, we would recommend that anyone wishing to attend that meeting check the Board of County Commissioners website to see if there are any updates for an in-person meeting.

Chairman Loyd: Thank you, Sean. All right, we're really picking up speed now.

D. Application No. SE 21-110-REZ (AU) – Rezoning & Application No. SE 21-111-PDP (AU) – Preliminary Development Plan (Plat) – 167th Street and Kenneth Road

Dale Brouk applicant, and LL-J3 - Pandi, LLC, landowner, requesting rezoning from RUR, Rural District, to PRN2, Planned Residential Neighborhood 2 District, and a Preliminary Development Plan (as the Preliminary Plat) (**Stonehaven at Loch Lloyd**) for six residential lots on 15 acres, in Section 23, Township 14, Range 25.

Chairman Loyd: Diane, is this yours?

Ms. Wicklund: Yes. I'm going to be doing this one. I'm going to pull up some graphics. This is a rezoning and Preliminary Plat application. It's at the southeast corner of 167th Street and Kenneth Road. There is an existing residence and one accessory structure on the property. It's two parcels but 15 acres total. I would like to enter in the staff report dated February 24, 2021, into the record. The applicant does propose to rezone this 15 acres from Rural Zoning District to PRN2, which is Planned Residential Neighborhood 2 District, and Preliminary Development Plan, which serves as the Preliminary Plat to create six residential lots in a subdivision to be known as Stonehaven at Loch Lloyd.

I'll try to zoom in a little bit more. This is the Preliminary Plat. Here is Kenneth Road, so six lots, two-acre minimum. This new local street that you can see here, will continue on, so where my hand is here is the State Line, so the state line between Kansas and Missouri. This new street will continue on to the existing Loch Lloyd development on the Missouri side. These six lots on the Kansas side are a continuation of the Loch Lloyd development. The subdivision will be a private gated community. The plans show a gatehouse. Here is also the development plan. Here are some landscaping islands. Like I said it will be gated. Here are some entry walls that you can see here. This is what the gatehouse will look like. There are Tracts A and B that are shown on the plan. I'll go back up here – A and B are for purposes of landscaping and installing fencing and columns, and also to serve as a buffer for the two adjacent lots to Kenneth Road. In addition, just a note that the developer has sent indicated that the existing residence and accessory structure will be removed from the property, to accommodate this subdivision.

I'm going to stop sharing, and then I'm going to share again, so we can see...Here is an aerial view of the property. It's two parcels, 15 acres total. You can see the existing house here, this accessory structure, which actually is a small business, but this is the property. Here is a zoom-out version, so you can see the adjacent area. Here is Loch Lloyd on the Missouri side. They actually have just recently gotten a Final Plat approved over here for some more lots on this side of Loch Lloyd, and then that street will connect into and go like this. This is the surrounding area. I just want to point out, real quick, if you can see. I'll try to zoom in just a little bit more, but where my hand is here is something called the Hillside Airport. It's a private airport, but more of a runway. It's about a 2,000-foot long runway. Just want to point that out as well.

Moving on to the infrastructure review. They meet all the road categories. Like I said, they're going to be building this new local subdivision street. In addition, they have to add a shoulder to the Kenneth Road frontage. In addition, the applicant did do a traffic study, and the result of that traffic study is that there were no additional improvements required or no turn lanes, anything required of that traffic study. In that quote in the staff report on page 5, from the traffic study, just to clarify that that came from the engineer who did the traffic study. They have also submitted their stormwater plans, and those have been accepted by Public Works.

In terms of wastewater, the Loch Lloyd Subdivision does have sewers, they are proposing that these six lots here on the Kansas side connect to the sewer system for Loch Lloyd. Generally how that works is that the wastewater in Loch Lloyd is actually sent to the Blue River Wastewater Treatment Plant. That's fine. So that's their proposal for wastewater, is to use the sewers. However, you may have seen the stipulation on this – the Johnson County Wastewater Department/District has what they call an Interlocal Agreement between Loch Lloyd and JCW to accept that flow. So, since they want to add this new area into that, they have to amend that Interlocal Agreement with Johnson County Wastewater. You'll see, there was a stipulation in that and that takes some time to do. I think the applicant will be starting to work on that pretty quickly. Ultimately, the Board of County Commissioners has to approve that amended Interlocal Agreement before sewers can be used. Also, just a quick note that, if for some reason that agreement doesn't happen, these lots have a two-acre minimum. A two-acre minimum is required

for septic systems, so there is an option for septic systems if, for some reason, sewers and this agreement doesn't end up working. In terms of water supply, Water One District will service this and provide the water. It will also meet the County fire flow requirements. So, the application does comply with all the infrastructure requirements, with the infrastructure that they'll be installing.

We did our Golden review, of course. This is a good graphic just to keep up here on the screen. There is a mix of zoning in the area. On this page, you can see there is a mix of lot sizes in the area. Everything from about one-and-a-half acres over here to four or five nine-acre lots over here. If you go north, you get into River Ridge here, so there's just a variation of lot sizes. We feel like the two-acre lot sizes will blend in and be compatible with this area. With this graphic, you can also see that the City limits of Overland Park are right here on this corner. All of this property is Overland Park. Also, here. This parcel adjacent to the north, is county, but then the rest of this north is city. County is to the south, and then here on the west side of Kenneth Road.

In terms of zoning, there's also a mix of zoning. We have this RLD County zoning, which is a three-acre minimum. We have a lot of Rural zoning, which is a 10-acre minimum. Then, we have the PRU-1B, which is a higher-density zoning not too far away that's with the River Ridge Subdivision, and then we have this PRU-1A zoning also over here. There is also a mix of zoning and lot sizes, so I think overall, when you look at the Golden Criteria, we feel like it is compatible. These two-acre lots will blend in with the area.

In terms of the Comprehensive Plan, this is part of the Blue Valley Area Plan. For this, it's in the Growth Policy Area, Agricultural and Residential. That's just an extension of existing residential developments, as long as there's adequate infrastructure, which there is. So, it does meet that Comprehensive Plan. We also worked a lot with the City of Overland Park. Both the applicant and County staff have been coordinating with the City of Overland Park, with this application since the city limits are close by. Overland Park's concerns have been addressed. The applicant revised their plans accordingly, even before they submitted their application. So Overland Park has no concerns or issues with this application at this time, because we did a lot of early work and early coordination on that. That's why you don't see a letter from Overland Park.

There's just a couple of quick things. This has planned zoning, so there's some flexibility with planned zoning. Just wanted to point out a couple of quick things on that. There is a street spacing requirement for 1,000 feet on Kenneth Road from intersections. This new street will be about 275 feet from the intersection. Staff is saying that's fine, that we're okay with that, for a couple reasons. One is this new street intersection does meet site distance requirements. The applicant also did that traffic study, and there were no concerns with traffic and no required improvements. Then, we also look at connectivity to surrounding parcels. Our main reason for not requiring any connectivity is because the new subdivision street, it will be private. It's a gated street, and it won't be open to the general public, and it's connecting to the Loch Lloyd development.

That's primarily it. That vacant parcel to the north does have a significant monument entrance on the property, which traverses the property and goes on to the Missouri side that serves an existing horse farm. That parcel is unlikely to be subdivided in the near future. And then, the properties to the south, of course, if you remember, are smaller parcels, not vacant so not really being developed anymore. I'm talking about these lots here that I'm circling. With that, in the back of the packet you'll see a Public Works memo, a memo from the Building Codes Department, and a memo from Johnson County Wastewater. I believe all of those groups are hopefully still on the line. I know it's getting late. Planning staff is recommending approval of the rezoning and Preliminary Development Plan serving as the Preliminary Plat for these six lots. There are several recommended stipulations. If the Zoning Board wants to recommend approval, I have a couple of additions and some changes to a few of those stipulations, so if and when we get to that point,

remind me. I don't want to forget to make those changes. I think with that, I'm going to stop for questions.

Chairman Loyd: All right. Thank you, Diane. Members of the Board, questions for staff?

Vice Chair Klingensmith: Diane, I think you did an extremely thorough job. It's a great staff report, so I just want to commend you for that. Question. On the zoning, PRN-2 versus an RLD or a different zoning category, what was the consideration or thought behind the PRN-2 versus something else?

Ms. Wicklund: The RLD has a three-acre minimum. The RN-2 has a two-acre minimum. Maybe the applicant can talk about this some more. We did have some conversations with the developer about what zoning and lot sizes we would support. To be honest, they actually really started out with the density sizes over on Loch Lloyd, and I think staff just was not supportive of that density on the Kansas side. So, after that meeting, they came back with the two-acre lot size. I think Planning staff felt like, yes, that's much better. That's something that's more supportable and more compatible over here on the Kansas side.

Vice Chair Klingensmith: Fair enough. Thank you so much.

Chairman Loyd: More questions for staff from Board members?

Vice Chair Klingensmith: Curiosity question – is the airport operational?

Ms. Wicklund: It is. It's operational. It's active, but private and is regulated by the FAA. I think the applicant can speak to it. They've actually already submitted some information to the FAA about they do an analysis to see if they have to do any height restrictions on that, and the applicant has already started that process.

Vice Chair Klingensmith: Okay.

Ms. Rast: I have a question. Does State Line have access, or when that road goes...Does it just go across State Line, and then head into Loch Lloyd, or is there on and off access of State Line onto to that road that's going to go through, right there?

Ms. Wicklund: It will go through. I'm trying to think here –

Mr. Pendley: If you want, Diane, I could try to mention what I understand from the applicant.

Ms. Wicklund: Yes, go ahead.

Mr. Pendley: To answer the question regarding access, the applicant can explain better, but it's in the terms of the phasing of the development, I believe. The portion of development of the overall Loch Lloyd plans that have already been approved on the Missouri side, they have had approval for this expansion on the west side of Loch Lloyd. That's been approved, I believe through the Township for Loch Lloyd. So, they've got approval for that west side. That is the plan as I understand it, to start the construction and phasing on that side first. So, they'll start the continuation of that road that will extend to State Line. Then, following approval on the Kansas side, in Johnson County, that road will be continued on. Again, the applicant can probably explain better the terms of phasing or construction. That street will connect at the State Line at the time of development for this on the Kansas side.

Ms. Rast: Thank you, Sean.

Chairman Loyd: Okay. No more questions from staff, then the applicant?

Mr. Pendley: I believe we have Dale Brouk. We have Loch Lloyd, and we also have Brett Haugland.

Ms. Wicklund: He is the engineer.

Mr. Pendley: With the applicant, yes. Both should be available to speak.

Ms. Davis: And Michelle is also with Loch Lloyd as well.

Dale Brouk, applicant, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Brouk: I represent the owner of the property. Brett Haugland is my engineer, and Michelle Canales is my property manager and handles HOA affairs and design review committee things as houses are being built. Diane, I want to thank you and everybody that's worked with us. The staff report is done very well. It appears that we both listened to each other, which is really nice to see. The staff report, there is nothing in there that we disagree with. The stipulations, we all agree with. I'll try to answer some of the questions. First of all, the FAA, we have been dealing with them for probably about three weeks now. We have sent them an initial request for information. They came back and asked for additional information. The additional information was sent early last week, and we're just waiting to hear back from them. As Diane said, they're going to stipulate the maximum height we could build a house on any of the lots. That includes both the Missouri side and the Kansas side. We expect to hear back from them probably within the next week or so, what their findings are, and if any of those findings we disagree with, we actually can appeal and do more fine-tuned type of analysis will work for them if there's issues. The preliminary review, there was only two lots that were at issue, but they wanted more information for everything, so we're just waiting to hear from them.

The question on access. So on the Missouri side, the Village of Loch Lloyd approved 25 lots. The smallest lot was a little over an acre. The largest lot was almost three acres. There will be a through road, literally called Wallace Way. It will extend from an existing road that wraps around the lake at Loch Lloyd, called Stonehaven. Wallace Way will connect into Stonehaven, wind through the Missouri property, connect up at the Kansas-Missouri border to what you saw on your diagram as the road that goes from the State Line out to Kenneth Road.

I'll open it to questions. I don't think I have anything else. We're in favor of the staff report as written. We ask for your approval, and I will be happy to answer any other questions you have at this time.

Chairman Loyd: Okay. Thank you, Dale. Nobody else on your team is going to present anything at this time?

Mr. Brouk: They are here to respond to any detailed questions. Because my guess is Brett will know so many answers that I probably won't know.

Chairman Loyd: Okay. Thank you, Dale. Questions for the applicant from the Zoning Board?

Ms. Wicklund: Mr. Chairman, if I could just note, we've got several staff here available for questions on this from the Johnson County Wastewater Department, Building Codes, Chief Francis from Fire District No. 2, and two representatives from Johnson County Wastewater, so we've got lots of people to answer questions.

Mr. Brouk: I didn't realize I was so popular.

Mr. Wingert: Mr. Chairman, on page five, there is a reference to a traffic study, and it said that it was included. What page is the traffic study on? Or there was a summary about it?

Ms. Wicklund: I did not include that traffic study in the packet. But on page five, I just talk about it, and I just have a quote that I lifted out, which is a summary from the engineer that did the traffic

study. That's on page five. But I did not include the whole traffic study in the packet. It was pretty large.

Mr. Wingert: That's what I was referring to, so when it says a KDOT operational warrant was minimally satisfied for Left Turn signal, recommendation is to monitor it, is that fairly common?

Ms. Wicklund: I don't know. I don't know if Keith Markway... I guess I'm not seeing him, from Public Works. I don't know. I'm not that familiar with traffic studies, to be honest. Sean or Jay?

Mr. Pendley: I was looking for Keith, too. I do not see him still on the meeting. I would definitely defer this question to Brett Haugland, with the applicant's team. He would be more familiar with the warrants for the traffic study. He could help answer that. I do know that, typically a recommendation like that it is fairly common, whether it does or does not meet the warrant. I can say, also, that the Public Works staff did review that traffic impact study, and they agreed with the recommendations from the study.

Mr. Wingert: Thank you.

Ms. Rast: This might go along with it, but by the time they put the guard house up, how many cars can fit between the guardhouse and Kenneth Road if it's backed up a little bit?

Ms. Wicklund: I think maybe if Brett wants to answer that as well.

Mr. Pendley: Yeah, like the queue length. That is a good question. I think it's something that we did look at, that distance from Kenneth to the gate for the gatehouse. We could have the applicant address that.

Mr. Brouk: Brett, if you want to, go ahead.

Brett Haugland, Continental Consulting Engineers, 9000 State Line Road, Leawood, Kansas, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Haugland: We've got enough for five or six cars to the gatehouse, but we actually have a gate. It's going to be, initially, an unmanned gatehouse. They're not planning on putting a man in there, so the actual gates that open and close automatically are farther to the east, farther in from that gatehouse, so it will allow for more than just five or six. I can tell you, we've got about 150 feet, 200 feet, to the gates, so there should be ample room for stacking there, allowing about 20 feet per car.

Ms. Rast: Okay, thank you.

Ms. Wicklund: Brett, can you answer the other question about the –

Mr. Haugland: Yeah, the southbound left turn lane, that warrant, when we first did the study, we included a number of lots in Loch Lloyd, and then we expanded per the Johnson County request. We have quite a bit of anticipated...just trying to look at a worst case scenario for how many actual trips would come out of Loch Lloyd to use that entry. We still get a level of service A, if you're familiar with that, in all turning movements in traffic, but over a ten-year period, assuming growth in the area, it's possible that southbound left turn lanes into there could start stacking up, and that's where it's not needed now, and it would need to be evaluated, let's say, ten years from now, or within that ten-year period, as growth occurs in that area, but it would not be needed now. It's not warranted now.

Chairman Loyd: More questions? Okay, no more questions of the applicant, so we're going to move to the public comment period. Leslie, do we have people that would like to speak on this?

Ms. Davis: We do. We actually had one person who did email in some comments. Tom, if you are available to speak and have any additional comments, other than what you have already provided

to the Board, you're free to speak now. And if he is not going to talk, I do have two people with their hands up.

Vice Chair Klingensmith: Leslie, I don't see an email from a gentleman named Tom in the packet. Am I not seeing that?

[crosstalk]

Tom Tietze, 15121 Blackfoot Drive, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Tietze: I own the airport, and I hope that we can work with Loch Lloyd with this airport in a positive manner, to where we benefit each other with a wonderful asset in the community of aviation. Diane had a suggestion, and I hope she follows through on it. The homes that are in the north approach of the air strip, those need to have something on the deed so that the buyers are aware of their situation. We don't have a lot of traffic at Hillside, but we don't want any surprises of small planes flying around every now and then. I think that's about all I have to say. I hope this works well. Thank you.

Chairman Loyd: Thank you, Tom. Okay, you said we have a couple people with their hands up, Leslie?

Ms. Davis: I do. Sorry. So many screens going on. Alex, you are good to go ahead and speak, please.

Alex Lowe, 16772 Kenneth Road, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Lowe: I'm sure you'd be surprised, but I am generally in favor of this project. I had a couple questions that were somewhat addressed, but regarding the traffic counts, is there an average trip that's used to determine, of that 138 homes, how many actual counts that would generate onto Kenneth? Then, I'm in favor of the onsite lighting that is being proposed. I just wanted to, I guess, make a comment that I would be opposed to any largescale street lighting on Kenneth Road itself, whether that's County, City-type installed lighting, trying to keep that to a minimum. Outside of that, I'm generally in favor of the project. That's it. Thank you.

Chairman Loyd: Okay. Can we answer his question on that traffic study, or no?

Ms. Wicklund: I think if Brett wants to answer that, I think that would be good.

Chairman Loyd: Brett, did you hear his question?

Mr. Haugland: Yes, a couple of questions, one about how many trips per home, maybe? How many trips at that location? Generally, it's – and I'm not a traffic engineer. I did not write this report. Generally, you anticipate potentially maybe eight trips or so per day, per household for residential developments. I can get that answer for you, as far as depending on a.m. or p.m. peak hour trips, because that's really what traffic studies are tied to. What's the a.m./p.m. trip counts? I can provide that. I don't have that with me at the moment. I can tell you, as far as lighting goes, we are not planning on putting any lights on Kenneth Road, and the lighting in Loch Lloyd is fairly minimal, so there will not be a lot of lights installed on the Kansas or the Missouri side.

Vice Chair Klingensmith: If I could just follow up on that, Diane. On page 10, Public Works provided comment on the highway and public road congestion in the report. Did they do that based on the evaluation of this lot, or did they value it on the fact that we're opening up Loch Lloyd's residents to all travel quicker and faster through this kind of cut-through road to get onto to the Kansas side. Or even if they would travel, because it seems like we're opening up Loch Lloyd to Kenneth Road.

Mr. Haugland: We included quite a number of homes in Loch Lloyd. We just did not include the 31 lots within this phase of Loch Lloyd. We included about I think about 85 lots, went much farther into Loch Lloyd, even though it's not that reasonable that what we included will come out this way. A lot of these people will use the Holmes Road entry. So, we were very conservative in consideration for what is the potential for homes that could come out to Kenneth Road, and that was really after discussions with Public Works on how far to extend the study area.

Vice Chair Klingensmith: Wonderful. Thank you.

Chairman Loyd: Leslie, anybody else with their hand up?

Mr. Brouk: I just want to point out that the South HOA still has not defined who has the ability to go out this gate. At this point, the only people that have the ability to go out this gate are the 31 homeowners, and then there's another seven on Stonehaven, so right now we've got 38 people that we know that are going to get the ability to go out this gate, and it may not go any further than that. Because the South HOA will have the ability to determine the ability to come in and out of that gate.

Chairman Loyd: Good comment. Okay, thank you, Dale.

Ms. Davis: You have a Vic Mosby. Vick, you are able to speak now.

Vic Mosby, 15437 Overbrook Lane, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Mosby: I live in River Ridge Farms, just north of here. I have complete faith in the quality of Loch Lloyd and the Village. You guys do fantastic stuff, although I am very concerned about this entrance on the west side. I appreciate the fact you all need ways for your residents to get in and out of the facility. I know the north gate, once it was opened and the bridge was opened, the flood of people going across that thing was significant. But I'm speaking from past experience. Twenty years ago, when River Ridge West was developed, there was a lot of fighting with the County about the improvements of Kenneth Road between 162nd and the Blue River. Those improvements have not been accomplished. Still is no shoulder there. There's no improvements on it. We've now added a development on 175th Street and Kenneth. All these developments, when they leave this area, either go down Kenneth to the north, or they go across 175th Street to Mission Road. For those of us that live in that area, the best way to do that is down Kenneth Road. Since I drive that every day, the traffic is significantly greater than it was before, even 20 years when we were fighting to get improvements done.

So, I appreciate the fact that it's a small development that we're adding onto to Kenneth Road. But in reality, it's a large development, and it's been added even more on. So, I'd like to know from the City staff if they have taken traffic counts from Blue River, all the way to 175th Street. That would be a question. Second question is, has anybody checked on the four-way stop at 175th and Kenneth? I drove that today. It's incredibly dangerous, because Kenneth is a stop, and 175th is not. It seems like an interesting intersection. Another question is there was mention of a roundabout at 167th Street and Kenneth. Why? What is that there for? 167th doesn't go anywhere. One other thing is, the previous case we had earlier, when you were having the lot split, we had aligned the one property owner's drive directly across from the one across the street. This drive that we're putting in for this development does not line up with the property owner across the street. It's staggered, so I wondered if you guys would take into account maybe helping him realign his drive to line up with yours.

Other things, as I said, I don't doubt the quality of Loch Lloyd. I'm just concerned that we have deteriorated the quality of Kenneth Road over time. We haven't dealt with it up til now. We've

added more and more developments, and yet I have not seen a plan short of some smaller things that have been done by the County and Overland Park to fix it. So, if you could answer a few of my questions, it would be great. I appreciate your time.

Chairman Loyd: Thanks, Vic. Before we go to the staff to pick up all those questions, let's see if we have any more public comments.

Ms. Davis: We do. We have one more person. Anne Behrens.

Anne Behrens, 16824 Kenneth Road, appeared before the Zoning Board via Zoom, and made the following comments:

Ms. Behrens: I just had a comment. It was kind of covered, but on the roundabout, I saw that in the plans, and just my own personal feeling is that they're dysfunctional and ugly for such a beautiful street, and I'm hoping we hear a little more about that, hoping we're reassured that that will never happen. Thank you.

Chairman Loyd: Thank you, Anne. Is that it for commentors, Leslie?

Ms. Davis: Yes, sir. That is all.

Chairman Loyd: Okay. Diane, can you go back and pick up any questions? I think Vic had several. I don't know if you have answers, but want to get those questions answered.

Ms. Wicklund: I'm going to try, and I'm hoping maybe Jay and Sean can help me, too, here. I'll tackle the easy one first, the roundabout. Yes, that's shown on the plans as a future roundabout. It's shown on the plans because the City of Overland Park, on their future street plans, shows a roundabout at that location. So, they wanted to make sure that there was enough future right-of-way there for that roundabout if and when that would get constructed. That's the information on the roundabout.

The overall question about increased traffic on Kenneth Road – I thought Keith Markway was on the line, but he's not anymore. I know that we did...I think they talked about this lining up with the driveway. I think they looked at that and I think they felt like, I believe, that Public Works does have a spacing requirement for driveways. I think they felt like that location was okay. I am not sure if I can talk about the history of Kenneth Road and any studies or impact to it. All I know is that Public Works did review this application and didn't have any concerns about increased traffic on Kenneth Road. That was part of the reason why they requested that traffic study.

Mr. Pendley: Diane, I'll just note, we are trying to reach Keith Markway, Johnson County Public Works staff. He is having technical difficulties with his computer, but he's trying to restart and reconnect, so we hope to have him available shortly, but as Diane mentioned, we do also have other staff available for any other specific questions.

Vice Chair Klingensmith: Leslie, can you look at your chat real quick?

Ms. Davis: Yes, sir. Chief Francis can speak at any time.

Vice Chair Klingensmith: Sean, before you close the public comments, Chief Francis is trying to raise his hand and get in there.

Chair Loyd: Yeah.

Jim Francis, Fire Chief, Fire District No.2, appeared before the Zoning Board via Zoom, and made the following comments:

Chief Francis: I really don't have any concerns with these six lots on the Kansas side, nor the gate, as long as we have aerial apparatus access around that gate and through the gate, I have

no concerns with what's occurring on the Kansas side. Here is my concern. The timing of the development on the Missouri side needs to be addressed. Which development is going to occur first – the Kansas side or the Missouri side? Or will they be simultaneous? If the Missouri road is not cut through as a through street into Missouri first, we will create an emergency response for our units and the Belton Fire Department. It will create a very awkward position, which Belton, Missouri, Fire Department apparatus will have to come through the State of Kansas to access residents on the west side of the lake if the street is not cut through first on the Missouri side. That's my question, simply the timing of this development and the timing of the through street into Missouri.

Chair Loyd: Okay. I'm assuming nobody from staff probably has an answer to that. Correct?

Mr. Brouk: I can answer that question. We are already starting on the Missouri side of the development. We anticipate the Missouri side being done first, because we know that we will not be receiving final approval from Johnson County until, at the earliest, July the 2nd, so we fully anticipate, if not completely done, a majority of the road on the Missouri side to be completed, and then we just simply extend that road to Kenneth Road and hook in and have it all the way through. The other thing we have to recognize, too, as you know, Loch Lloyd, if we sell a lot, let's just say we get approval on...The road's all done on August 1st. Before anything really gets built that actually could burn, will probably not be until October or November of this year. So, we don't anticipate there being any, from a timing standpoint, any issue with how it's going to be developed. Missouri will be developed first, and then Kansas will be developed second, with anticipation with the full road to be open sometime between August 1st and Labor Day weekend, depending on weather.

Chief Francis: Thank you. That certainly addresses our concerns. We know Belton already has a lengthy response, and I just didn't want to see a scenario in which they were having to drive through our jurisdiction to access the west side of the lake.

Chair Loyd: Perfect.

Ms. Wicklund: Chairman, if I could just add in something real quick.

Chair Loyd: Yes.

Ms. Wicklund: Anoush Fardipour, our Building Official, is also on the line. Part of what they're talking about is there's a stipulation on page 15 that talks about wanting the applicant to do a mutual aid agreement, or whatever you want to call it, between the fire districts that are involved. That's to help coordinate fire protection, both on the Kansas side and the Missouri side. There is a stipulation about that. I don't know if Anoush wants to talk about that a little bit more, but that's specifically why Anoush and Chief Francis are on the line. So, if there are more questions about that, maybe we can talk about that and hopefully Keith will show back up.

Vice Chair Klingensmith: Real quick, Diane, on stipulation 19, that's between Johnson County and Overland Park. I question, based on hearing Chief Francis, if that should maybe include Belton as well.

Ms. Wicklund: Remember way back, I said there were some changes on stipulations? One of them was going to be to delete out City of Overland Park, and then I'll let Anoush and Chief Francis and the Zoning Board say if we want to add Belton in instead. Well noted, and yeah, we definitely want to amend that and get that corrected.

Mr. Leipzig: I just wanted to let everybody know that Keith Markway is back on the Zoom call, as well, to answer any questions in regard to infrastructure.

Chair Loyd: Okay, thank you. Diane, were you keeping notes on that? Did we have any questions that we needed to send back to him?

Ms. Wicklund: We did. Are we finished up with questions for Anoush and Chief Francis?

Chair Loyd: You're right. Let's finish the fire issue.

Vice Chair Klingensmith: Yeah, let's finish stipulation 19.

Anoush Fardipour, Johnson County Building Official, Acting Johnson County Fire Marshall, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Fardipour: The question which I brought up in discussion with the Planners. I think the initial stage of this development, that since this is kind of a unique situation, which we have a development is going in bi-state, I call it, which is protruding to the State of Kansas side and then some kind of pre-agreement, or we call it Interlocal Agreement, regarding Johnson County Wastewater. I think fire services should have such a thing also, in case of emergency. Mr. Jim Frances, Fire Chief, can explain those much better, but in some area, which is going to be overlapped, maybe each of these fire services can cross the state line to respond to any emergency at a given time, to comply with ISO rating and so forth. I think both fire districts across the states and developer team, they should come up with creating an agreement to sustain this life safety issue for the residents on both sides of the development on both sides of the state line. That was my concern. I brought it up and would like it to be addressed before it gets further, in case we have future development, such a thing toward the Kansas side or bi-state side. Thank you.

Chair Loyd: Thank you.

Chief Francis: This is a delicate and highly political conversation when you're talking about subsidizing a neighboring jurisdiction. We have not done that in the past, and we probably won't do it in the future. Belton Fire Department is a tremendous distance from State Line and from southern Johnson County and our response district. Right now, if we were to initiate an automatic aid agreement, it would be a one-sided agreement, because we wouldn't get much in return, because they're too far away. Now, at some point, when they build a fire station closer, that might be a reality where it would be helpful, but right now if we were to get an automatic aid agreement, or something to that effect, in writing, with them, we would be, in turn, subsidizing a portion of Loch Lloyd.

Now, we have good relationships with Belton Fire. We do not presently have a mutual aid agreement. That doesn't mean much. We go to Belton about once or twice a year in that general vicinity – Belton or Loch Lloyd Community – on structure fires. As a matter of fact, Belton called for us today on an incident. We were all busy on calls and couldn't help them. But we routinely do that kind of thing. When they request us to, we go. But to set up something where we go automatic into another state is problematic on multiple levels. First being, dispatch and how the 911 call is answered, and how the 911 call is routed. There's going to be tremendous time delays, because you're going to be dealing with multiple different dispatch centers. You can dial 911 for yourself from 175th and State Line right now, and depending on which way the wind blows, you might have three or four different police department answering points answer your 911 call, and they're going to have trouble finding out whose jurisdiction you're in.

So, this is very complicated. Then you throw in our transition, to where Overland Park Fire Department is going to service this area, it becomes even more complicated. We simply can't initiate an agreement with someone, especially on the Missouri side, when our duration is only seven or eight more months before Overland Park starts providing our service. I talked to the

Chief of Overland Park about that. They are certainly not going to commit to any agreement until they have our district and they're running it themselves. They can't commit to something futuristically when they're not even under contract to run our district. So, I understand the problem, and we'd love to help them, and we're certainly going to go if they call for us. We've never refused that if we're available. But, if we do something of this, we're subsidizing their fire protection, and that opens a can of worms on many levels, and I'm not sure how we quite address that. But we have taxpayers who pay for our equipment and salaries, and to run calls in Loch Lloyd community, that's going to be problematic.

Chair Loyd: Okay. So, Ken, you brought up the question about that stipulation, and Diane, you had made a note about it. Where do we need to leave this?

Ms. Wicklund: Right now, it's a stipulation. If the Zoning Board, when they get to their motion, we can amend that stipulation or change it a little bit. Right now, we're saying it's required to do some type of an agreement. If we can find some more flexible language, if the Zoning Board wants, we can do that. To see if we can honor both requests, of Anoush and Chief Frances, see if we can come to something that hopefully makes everybody happy but doesn't overstep anybody's authority. We don't want to make it too complicated.

Vice Chair Klingensmith: Is it understood that in stipulation 19 that these six lots would be serviced by Fire District No. 2 and not Overland Park, correct?

Ms. Wicklund: I believe that's correct, but they can answer.

Mr. Fardipour: Jim can answer that, but at the moment, yes. It's going to be Fire District No. 2 but eventually it's going to be some agreement, which he can explain that.

Chief Francis: Fire District No. 2 will be responsible until we get to State Line. Once our transition occurs – which is slated to occur December 1st, the Overland Park Fire Department will respond to that from our existing station on Mission Road. Same equipment, same facility, just different uniforms. So, the response isn't going to change. The people aren't going to change. Just the appearance will change slightly.

Vice Chair Klingensmith: And it would still go just to State Line, for those six lots?

Chief Francis: Right. We have no way of knowing what goes on on the other side of State Line. We don't monitor Belton's Fire Department. That's a whole other issue. We're on different radio frequencies. We have different dispatchers. It simply creates multiple problems we don't have interoperability on a day-to-day basis for them. We don't know when they're going on a fire there unless they call us.

Mr. Fardipour: The reason I want to elaborate on this comment, which I brought it up, actually, initially a couple months ago. Because this is a very unique situation. If this was within the county, different cities within the county, they can resolve it very easy. Since this is bi-state, I don't know how the statute works on it. I even checked with the Legal Department. Even the Legal Department says we have to come up with some kind of resolution on this, with fire services from both sides. Because in the case of an emergency, when the fire happens, maybe we look at it on the Kansas side, but this is encroachment of the Missouri side coming to this side, these 38 lots. Then, according to the Fire Code, we have to have two means of access to this site. If one is out there and one is Kansas, if one of them is blocking during an emergency, somebody can use it on the other side. It's good to have a design team from Loch Lloyd, can look at it, look at the fire protection, maybe consult with some fire protection engineer to come up with some tradeoff if this agreement is going to be hard. But it has to come up with some kind of...this is a very major life safety. You know what I'm saying? When we look at it, even compliance with the Fire Code.

Because I personally don't know. I used to work KCMO 28 years ago, but the last 27 years I'm here. I don't know what's going on on the other side of the state. I think some kind of agreement should be somehow...how lenient or how flexible that agreement should be out there to provide proper response in case of emergency. Thank you.

Mr. Wingert: I have a question of the Chief. Your primary concern is if the road on the Missouri side be usable? Am I stating your concerns correctly?

Chief Francis: The primary concern is that the road be cut through so emergency response vehicles coming from Belton, Missouri, or somewhere in Missouri, can access the west side of Loch Lloyd, without having to drive to 175th and Kenneth, into Kansas, and access those properties through the State of Kansas. Nowhere in Johnson County does this occur. A Missouri resource does not go through Kansas to get to a Missouri address. It simply doesn't occur anywhere. We don't have one automatic aid agreement in Johnson County to run anything in the State of Missouri. All up and down State Line, it's done the same way.

Mr. Wingert: I think I understand, so for the developer, whoever's speaking, are you going to be able to meet this requirement before you start this development? You've heard the Chief's statements.

Mr. Brouk: I have always anticipated that, as the Chief said, that Johnson County Fire District No. 2 will provide fire protection for the six lots in Johnson County, and I know for a fact that the Chief of Belton...Belton is already – it's not really Belton, it's the fire district that hires Belton and Belton has all of Loch Lloyd, and they fully know that we are developing these 25 lots and they fully will serve those 25 lots. That's part of their contract. I know that's already, in fact, happened. I don't know what else I can...As far as getting an agreement, I don't know how to do that, either. Of course, we could talk to both parties and try to figure some language out, but yeah the political nature of that is beyond my pay grade, to say the least.

Mr. Wingert: But is it really a political issue, or is it really a road issue?

Mr. Brouk: The road is, again, the road's going to be in...there will be no building occurring in this area until the roads are completely done. Loch Lloyd, we don't let anybody build on a lot until the roads are finished. The water's there. The electric is there. All the utilities are there. And like I said, the earliest that could ever be would be maybe by the end of 2021 we'll have a structure going up that actually could possibly burn down. The through road will be well done before that ever will occur.

Mr. Leipzig: Mr. Chair, I just wanted to suggest, just to make this easy, I think, for the development as well as for staff and also to accommodate Chief Francis' concerns, I would recommend that we just remove that stipulation and create some language to the effect that the roadway must be constructed prior to the development, so they do have access for those six lots. I think that's important. I think for right now, that would accomplish what needs to be done to ensure that the development is safe. I think that might be the easiest way to handle it, just remove that stipulation and add some language in there about the roadway improvements being completed first, or something to that effect.

Mr. Brouk: I'd agree to that stipulation.

Ms. Davis: I'm sorry to interrupt. Can I also add that Michelle with Loch Lloyd has had her hand raised for quite a while, just so you guys know.

Mr. Brouk: Okay, Michelle, go ahead.

Ms. Canales: I'm sorry. I just wanted to let you know that, yes, all the infrastructures will be in before anyone begins building, and typically there is a time lapse before construction begins that process. We also have 172nd Street, which is the access point for Belton Fire, which is very close by this new development phase. There are lock boxes and YELP system on the gates.

Chair Loyd: Okay.

Mr. Brouk: Whoever said - Mr. Leipzig, I think, said it – I would agree to that stipulation that if the roads have to be 100 percent completely installed before any type of building could occur, I would be okay with that stipulation. Because that's what we do anyway.

Mr. Leipzig: Mr. Chairman, I think it will also have a significant impact on the ISO rating for Loch Lloyd as well, which will also help with those homes, as well, because it will take Belton Fire a long time to get over there.

Chair Loyd: Okay.

Mr. Fardipour: The only concern I have for the team, this subdivision, which is coming from Missouri side, I don't have any enforcement across the state. If this one is going to be according to the Fire Code, when you have more than 30 lots, you have to have two means of fire access. That's audited nationally. Maybe some jurisdictions have amended that, but I'm looking at it as a whole project, you know? And then, I know about politics part of it. I understand, but life safety, that's how I'm looking at it at first. That's why I bring this one up and try to reiterate on that part of it, which we have to be cautious and in case of emergency, it has to be proper access from fire department and fire services, emergency services to the site, in case one of them blocked, the other one be accessible.

Chair Loyd: Got it. So, that was really all done during the Public Comments section. We had some questions thrown in there. I'm going to try to lasso this all up. I'm going to go around to the Board and see if any of the Board members have any further questions to the applicant, to any of the commentors, or to staff before we go into the Board discussion.

Vice Chair Klingensmith: I'd like to hear more related to the road study that occurred. I think Keith had joined us to –

Chair Loyd: Oh, yeah. Thank you. Keith is back on. Did he hear the original questions, or do we need to brief him on them?

Keith Markway, Johnson County Public Works, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Markway: No, I did not.

Chair Loyd: Okay. Diane, did you take notes?

Mr. Wingert: There were some questions that I had about the road study and the left turn lane, and there was a ten-year horizon, I think, for analyzing that. And then there was, I think, an exception made for the 1,000 feet.

Ms. Wicklund: Yes, and then I think Vic Mosby had a question about, Keith, just the overall impact of increased traffic on Kenneth Road, and he was remembering some history with River Ridge and concerns about increased traffic on Kenneth Road then. Did Public Works take a look at if this increased traffic would affect Kenneth Road? And then he also had a question – I can't exactly remember what it was – but about the intersection at 175th and Kenneth Road.

Vice Chair Klingensmith: The question on that was related to the safety of the two-way stop, four-way stop and increased traffic that might be generated from Loch Lloyd through this project onto Kenneth Road .

Ms. Wicklund: Perfect. Thank you. I think the last one was, why doesn't the new street line up with an existing driveway, I think on the west side? Those were the questions, I think.

Mr. Markway: Okay. Hopefully, I'll remember them all. First of all, the question about 1,000 feet, I didn't understand that question.

Mr. Pendley: Yeah, the distance, I think the standard requirement for separation from the nearest public street, 167th Street, I think the question about the exception to that being less than 1,000 feet.

Mr. Markway: Oh, they worked with Overland Park because there's going to be a roundabout at 167th and Kenneth, and Overland Park was okay with the distance from their entrance to the roundabout. There is an existing roundabout on Kenneth. I'm not even sure where it's at, where there's a road that's the same distance from that roundabout. And they analyzed the intersection of 167th and Kenneth, which showed that no improvements were required. But the numbers right now are only 200, 300 vehicles, and that's the standard for the county when we look at start putting a hard surface on a gravel road. If you have a gravel road, if we get over 200 to 300 vehicles, then we'll consider chip and sealing it or something like that. But the capacity of the road can handle the traffic. So, it's still, all the intersections and top grade, there's a level A, which is pretty amazing. But there's a lot of traffic out there, and when they originally submitted their study, they showed their area of influence was – of the Loch Lloyd development – would be 80 homes could use that entrance. We asked them to go ahead and up that to 140 homes, even though a lot of those additional 60 homes were closer to Holmes than they were State Line, just to be safe. So, they're actually using larger number of homes and families than are actually going to use the road. We just built in another factor of safety.

I think that was all the questions.

Ms. Wicklund: Is it okay or not okay for the new street not to line up with an existing driveway on the west side of Kenneth?

Mr. Markway: Yeah, there's no problem with that. Actually, I think it's probably safer that it doesn't line up. Because you would have the traffic on the street would be less likely to be paying attention to someone coming out of a driveway directly across from you, as they're looking to the right. Because the street will not go through to the west. Oh, and the left turn lane. That warrant for that, it said to look in ten years and see if there's a possibility that it's warranted, but it's not warranted at this time. But the only way that it would be warranted in the future would be if we get a lot more traffic on Kenneth Road from some other development. It's kind of touchy to make them pay for a left turn lane that may be needed in the future for additional traffic that may be added. Ten years it will be in Overland Park. They've got so much money, they might pave it in gold by then.

Ms. Wicklund: Thanks, Keith. I think that covers all the questions, unless somebody feels like we missed something.

Ms. Rast: When they do the roundabout at 167th, will they have to infringe and take part of that property, one of the new lots? Or have they already accounted for that?

Mr. Pendley: I believe the tracts as proposed with this plat, that right-of-way would be included. That's why one of the tracts – I believe it's tract A – is wider on the north leg of that street, so the plat does accommodate the need for additional right-of-way. So, if and that additional right-of-way

is required for the roundabout, it would be dedicated. It would be removed as part of the tract as laid out by the applicant. Does that answer it correctly, Diane?

Ms. Wicklund: Yes. I believe so. And if we're wrong, Fred or Dale can say something, or Keith.

Mr. Markway: Yes. The question is if this property has provided for the right. The other three corners, they will have to acquire right-of-way.

Mr. Pendley: Right.

Mr. Brouk: That is correct.

Chair Loyd: I have one last question about the traffic study. Where does that culminate? Is that analyzed all the way...Because it seems like the people, if they came from the Missouri side of Loch Lloyd and out through this gate and got to Kenneth, they're probably not going to go north. They're probably going to go south, and so they're going to go south down Kenneth toward the 175th Street, or even if they go the other direction, how far out does this go? Because I know a lot of those roads out there are not in good shape and not wide and no shoulders, so where's the end of the line, I guess, when they did that analysis?

Mr. Markway: I don't know. Can Brett help on that one? I'm not sure how far south they went. It's a long way to an intersection.

Mr. Haugland: We actually had traffic counts done by an independent traffic consultant out there and actually took counts, and we even added 30 percent because of the COVID situation to increase those counts. We included down to 175^h. We didn't analyze, necessarily that intersection, but as stated earlier, we included about 140 trips from Loch Lloyd. Most of those, we believe, would go north, if they came out of Loch Lloyd and went to Kenneth Road. Most would go north, because that's what the indication was where most of the traffic was heading. But we didn't evaluate improvements to the 175th and Kenneth intersection. Just mainly looking at our intersection and the 167th intersection and that relationship with each other.

Chair Loyd: Okay, that's good information. Thank you, Brett. Okay, we've had a lot of discussion, a lot of questions. I think we're going to go ahead and wrap that up if nobody else has any questions of staff or of other commentors, and going to the discussion period for the Board itself, then. Comments?

Ms. Wicklund: Chairman, just a quick note that Gordon Ramos and Stuart Lord from Johnson County Wastewater are also on the line, if anybody would happen to have any questions about that agreement for sewers. Just wanted to point that out, that they're available.

Chair Loyd: Okay, thank you, Diane.

Ms. Rast: I just want to make sure from the Fire Chief that his concerns are addressed, if the road was done, from an emergency and safety perspective of residents, that you're comfortable with what has been discussed? If the infrastructure is 100 percent complete, with the way that you were talking about 911 calls and working cross-state?

Chief Francis: Yeah, I'm satisfied with that. I have no concern with the six lots in Kansas, and that's our primary responsibility, obviously. As long as we can get through that gate with the ladder truck, that addresses any concerns I have there. I just didn't want this development to create another problem on the other side of State Line because if that road is not there first - and they have already agreed that it would be, which addresses my concern - because if it wasn't, it would create a response problem, where Missouri resources would have to come through Kansas to get to it.

Ms. Rast: Okay, perfect. Thank you so much.

Chair Loyd: Other discussion?

Vice Chair Klingensmith: So, we're revising stipulation 19, related to completion of the infrastructure, extending the road, as Jay pointed out. I believe that was the only stipulation we were making a comment or adjustment on. Is that accurate?

Chair Loyd: I think the recommendation was to basically delete all the verbiage in 19, and just replace with verbiage that says that the developer agrees to complete the through road and infrastructure, so they have to have the connection, so the Missouri side is complete.

Ms. Wicklund: Maybe before any building permits can be issued? Is that the general idea there?

Chair Loyd: Yeah, prior to the issuance of any building permits, yeah.

Ms. Wicklund: I think we can craft something up that matches up with that. Then, I did have a few more changes to stipulations whenever you want to hear those.

Vice Chair Klingensmith: I think we're good with the plan.

Ms. Wicklund: Did you say go ahead real quick?

Chair Loyd: Yes.

Ms. Wicklund: I'll just detail these out and maybe we can just say that they can be part of your motion. On stipulation number 14 on page 14, at the end we say the Department of Records and Tax Administration. I just need to change that to TTV. RTA has changed their name.

Vice Chair Klingensmith: What is the new name?

Ms. Wicklund: TTV. I don't have it in front of me. Taxation and something and vehicles.

Vice Chair Klingensmith: Oh, yes, I know what you're talking about.

Mr. Leipzig: Diane, I believe it's Treasury, Taxation and Vehicles.

Ms. Wicklund: Yes. Thank you very much, Jay. Then, we'll delete 19, add in that new language. There's stipulation number 20, about the interlocal agreement. I think that stays and just a note that if for some reason, that can't happen, there's also, I think, potential for a septic system there, but that 20 is for the interlocal agreement for the sanitary sewers. Then, we just want to add a stipulation... The applicant is working with Public Works right now on this right-of-way easement that's on the north part of the subject property. They may vacate that. We're going to hear more about that when they come back through for the final plat application. I just want to add a stipulation that says whatever the result of that is, that all lots still have to maintain a two-acre minimum. If we can also add a stipulation that talks about removal of the house and the accessory structures that are existing on the site, that they have to be removed from the site prior to recording the final plat. That's all I had. Thank you.

Chair Loyd: Thank you. Removed prior to the final plat, you said?

Ms. Wicklund: Recording of final plat.

Mr. Brouk: We agree with all those stipulation changes.

Ms. Wicklund: Thanks, Dale.

Chair Loyd: Do we have a motion? Any more discussion? Go ahead, Ken.

Vice Chair Klingensmith: I was going to say, go ahead, John. Actually, I'll go ahead and make a motion if we have no further discussion.

Chair Loyd: Okay, I think you're good to go, Ken.

Motion by Vice Chair Klingensmith, seconded by Chairman Loyd, for approval of Application No. SE 21-110-REZ (AU) and Application No. SE 21-111-PDP (AU), with changes to include stipulation number 14, to remove the Department of Records and Tax Administration to its new name of Treasury, Taxation and Vehicles; completely remove stipulation number 19; replace stipulation number 19 with stipulation that the roadway and infrastructure shall be completed on the Missouri side before building permits may be issued; add stipulation number 21, that Public Works will continue to work with the development related to easement and right-of-way and that any resulting outcome will retain a two-acre minimum lot size; add stipulation number 22 to remove the house and accessory structures prior to the recording of the final plat. Motion made with consideration of all stipulations, reasons and per the staff report.

Motion passed unanimously.

Chair Loyd: The recommendation carries. It will be sent up to the Commission on -?

Ms. Wicklund: It will go to the Board of County Commissioners on April 8th, 9:30 in the morning. Anybody interested just needs to check the Board of County Commissioners website to see if that will be a Zoom meeting, or if that will be in person. April 8th, it will go to the Board of County Commissioners.

Chair Loyd: All right. Can everybody stay for one more without a break?

Ms. Davis: Dennis is raising his hand. Dennis?

Mr. Bollin: I'd just like to make a comment. The comments that Jim Francis made, he had his political hat on tonight, as Fire Chief. If it came to an emergency, Jim would go to a fire or emergency call anyway. I've known Jim a long time, because I retired as a fire fighter, a Captain on a fire department. I've known Anoush for a long time. I've made a lot of inspections with Anoush, even though he probably doesn't remember me. I don't know if he does or not, but Anoush, he's doing his life safety follow-up, so I know where's he's coming from when he made his comments. Anyway, I understand it completely, where they were both coming from, but Jim especially, if it come to an emergency, he'd go anyway, even though he was playing politics tonight. That's all I had to say. Thank you.

Chair Loyd: All right, thank you, Dennis. Comments appreciated.

F. Application No. SE 21-113-SP (AU) – Special Permit – 17065 Lackman Road

Johnson County Park and Recreation District, applicant/landowner, requesting Special Permit for an existing horse stable operation and riding arena, on 14 acres, (**White Fox Manor**) on property zoned RUR, Rural District, in Section 21, Township 14, Range 24.

Chair Loyd: Diane?

Ms. Wicklund: Chairman, I'm going to do this one. I'm going to try to do it real quick, because I know we're all getting tired. I want to enter in the staff report dated February 24, 2021, into the record. This is a special permit application. Just to note, White Fox Manor, this horse stable, horse boarding facility and show arena stable, it's called White Fox Manor, it operates currently under a Conditional Use Permit, although it's expired, but it's had a Conditional Use Permit for quite some time. They needed to renew the Conditional Use Permit, but we have a new permit, called Special Permit, for public facilities and utilities and government buildings. Fairly new, probably three or four years old. So now we're transitioning this from a Conditional Use Permit to a Special Permit. Really, the only major difference is the Special Permit does not have a term limit like Conditional Use Permits do.

So, this is a Special Permit for an existing Parks and Recreation facility. They do horse boarding, training and have horse shows at this site in the horse arena. I'm just going to try to share screen real quick so that people can see what I'm talking about. This is the property. This is the riding arena. Here is what the horse arena facility looks like. I'm hoping everybody can see this. Tell me if you can't. Here's a picture of the indoor arena. It's located inside Heritage Park, so this aerial just shows you an overview. This is Lackman, and 175th Street is to the south. This horse stable operation is located within Heritage Park. Like I said, it's had a Conditional Use Permit on the property since 1988. There have been really no issues or concerns with the operation over this period of years.

The existing infrastructure system is sufficient, continues to be sufficient and really it's been around for 33 years. It's compatible with the area. These facilities can be found in other public parks across the country. It really has time on its side in terms of compatibility and blending in with the neighborhood. Staff is recommending approval of this Special Permit. We call them terms, not stipulations, but on page eight, there are just three of them, and all it really says is that there is no term and it just has to continue to comply with the uses that are allowed in terms of the horse boarding, training, riding lessons, the horse shows, and if the development changes or they want to add buildings, then they would have to come back. I think I'm going to leave it at that. Bill Maasen with Parks and Recreation is on the line to answer any questions. That's pretty simple, but let's just see if anybody has any questions.

Chair Loyd: Okay, before we go to the applicant, any questions of staff? I have one question. Diane, we're rolling this over to a Special Permit, and you said that there's things that they'll have to just continue to comply with, but they don't have to make any changes, any additions, do anything, stop anything, to roll over into compliance right now?

Ms. Wicklund: That's correct.

Chair Loyd: Okay, Thank you. Other questions for staff?

Vice Chair Klingensmith: Is this a public facility that will be used?

Ms. Wicklund: My understanding is that the horse operation, Parks and Rec does not manage the horse stables. There's a private management company that does it now, and maybe Bill Maasen can elaborate a little bit on that. I don't know if that answers your question.

Vice Chair Klingensmith: I'll let him elaborate. Thank you so much.

Chair Loyd: If there's no other questions for the staff, then we'll go to the applicant.

Bill Maasen, Superintendent, Parks and Golf Courses, Johnson County Parks and Rec, appeared before the Zoning Board via Zoom, and made the following comments:

Mr. Maasen: to get to Ken's question, it is owned by the public. It is a public facility. About 2013, our Board voted to find a private management company to operate the venue. We were losing average \$40 to \$50,000 a year running the facility, and we pay a private vendor to manage the facility, an annual fee. I hope that helps you, Ken, understand how it's operated. But it is open to the public. It's open to patrons. If you want to go watch a horse show you can. You've just got to obey the rules onsite. Pretty simple, really. The JCPRD acquired it, knowing that it would be an interim use. At the time of acquisition, we just wanted to take advantage of the end holding within Heritage Park, so it didn't – if you look at the old plat you can see there could have been as many as ten houses inside the park – so we just saw it as an opportunity to button up our boundaries and try to not lose our shirt, so to speak, on the operation of a horse venue. The horses, as many of you know, horses are an expensive venture, and we were not performing very well, so we went the private management route. I hope that helps.

Vice Chair Klingensmith: Yeah, and folks pay to board their horses there?

Mr. Maasen: If you have a horse, you can board your horse there. If you want to go there for lessons you can use a horse that is owned by the management company and take lessons on that, or you can board your horse there and take lessons, or there are actually trails that connect into the park that access the horse jump area over east in the park, that we used to call Mid America Combined Training Facility. It's now called Midwest Eventing Association. There's a horse jumping course over on the southeast side of Heritage Park. You can see, it's adjacent to the soccer complex as well.

Vice Chair Klingensmith: So, Diane, as I understand, all we're doing is going from a Conditional Use Permit to a Special Permit so we don't have to come back.

Ms. Wicklund: That's correct.

Vice Chair Klingensmith: Thank you.

Chair Loyd: Other than answering those questions, Bill, anything else that you'd like to present?

Mr. Maasen: No, that concludes all my comments. I appreciate your patience and your service to the community. It's not an easy gig. I appreciate you all staying up this late to deal with this little issue.

Chair Loyd: We're sorry that we had to keep you up so late.

Mr. Maasen: That's okay.

Chair Loyd: Any more questions for the applicant or for staff from the Zoning Board members?

Ms. Rast: Just because my daughter grew up in horses around here and stuff, I think White Fox Manner is a great asset to the community. They do camps during the summertime. There are not very many places that run riding programs for kids and adults, I fully support it, 110 percent. And it's been run very, very well under this management.

Mr. Maasen: Thank you, Kelley.

Chair Loyd: Good comments. Maybe you ought to make the motion, Kelley.

Ms. Wicklund: Chairman, did we check for Public Comments?

Mr. Pendley: I was looking at that –

Chair Loyd: Oh, I'm sorry, yeah.

Ms. Wicklund: I'm sorry. I didn't mean to interrupt you, Kelley.

Chair Loyd: No, thank you. Leslie?

Ms. Davis: No, we do not have any public comments. We have a Julie Pickering, but I think she is with the applicant.

Mr. Maasen: She is.

Mr. Pendley: There is, I think, another two residents that are available as attendees, but nobody is raising their hand to speak.

Chair Loyd: Okay. Sorry about that. My bad. So, no more public comments. Any more discussion of the application before we move on to a motion? Okay, now go, Kelley.

Motion by Ms. Rast, seconded by Mr. Bollin, for approval of Application No. SE 21-113-SP for a Special Permit for an existing horse stable and show arena use known as White Fox Manor for the reasons and terms recommended by the staff and set forth in the staff report.

Motion passes unanimously.

Chair Loyd: This will be recommended up to the Board of County Commissioners, and I'm assuming this will be the April 8th meeting, 9:30 in the morning?

Ms. Wicklund: Correct. Check the website later on for Board of County Commissioners to see if it's on Zoom or in person.

Mr. Maasen: Thank you all.

Chair Loyd: Thank you, Bill.

VI. OTHER BUSINESS

Vice Chair Klingensmith: I had a question. We had a continuance on Application E, the Advanced Baseball Academy, and I was having some difficulty locating the report. I'd like to see if I can get a copy of the staff report. That should have been, I think, November of 2016, as well as the Board of Commissioners' February 9th meeting, and I think there is also a December or January meeting. I think the December meeting we didn't have one, so it was the November or January that was shared, and I wonder if we can get a copy of that staff report, just so I can refresh my memory on the conversation.

Mr. Pendley: Yes. Ken, your request would be for the previous staff report from 2017 when this went to the Zoning Board, and then also the Board of County Commissioners minutes from that meeting where it was approved?

Vice Chair Klingensmith: I believe it was November of '16 when it first came. Then we hit December. We did not have a meeting, and then January there was another meeting, and it was finally the February 17th Board of County Commissioners where there was a presentation. I know we got a copy of the resolution, but I didn't know if there was the narrative of the meeting on the topic. I was trying to find it online, and was just not being successful.

Mr. Pendley: We can look for the meeting minutes. Actually, it looks like Pamela is still available. She may know. We can ask her if we have minutes from that meeting.

Ms. Hayhow: Sure, Ken, we can get that to you or be able to provide you the link to the Board of County Commissioners, because when it actually went, all of the minutes and the record went with it, so you could maybe find it all in one spot.

Vice Chair Klingensmith: Link works. I just was having navigation issues, but if you have a link you could just forward, that would be fabulous.

Ms. Hayhow: Okay.

Vice Chair Klingensmith: Thank you.

Mr. Wingert: Mr. Chairman, I have a question on the same application. Was there a reason that the application was postponed? Was it postponed or withdrawn, first of all?

Ms. Hayhow: The applicant requested to have it continued. His legal representative was not able to attend, so he wanted to delay.

Mr. Wingert: Okay. Thank you.

VII. BUSINESS FROM THE FLOOR [None]

VIII. NEW BUSINESS [*None*]

IX. OLD BUSINESS

ADJOURNMENT

Motion by Vice Chair Klingensmith, seconded by Chairman Loyd, for adjournment.

Motion passed unanimously.

Thereupon, with no further business to come before the Southeast Consolidated Zoning Board, Chairman Meier, 11:06 p.m., declared the meeting to be *Adjourned*.

John Loyd, Chairman

ATTEST:

Secretary to the Board