

JOHNSON COUNTY PLANNING COMMISSION

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

MINUTES OF REGULAR MEETING

February 23, 2016

5:50 p.m.

I. CALL TO ORDER

A meeting of the Planning Commission of Johnson County, Kansas, was convened at 5:50 p.m. on Tuesday, February 23, 2016, and was called to order by Roxanne Morse, Vice Chairman, with the following members present and participating; to-wit: Katherine Hoffman, Glenn Bonar, Dennis Bollin, Mark Huggins, Jason Meier, George Lund, Pete Opperman and Roger Mason. Also present were Dean Palos, Paul Greeley and Karen Miller, Johnson County Planning Department. Leslie Davis served as Secretary to the Planning Commission.

II. APPROVAL OF AGENDA

Vice Chairman Morse: Any changes to the agenda? [*None.*] Hearing none, it will stand as it's written.

III. CONSIDER MINUTES OF PREVIOUS PLANNING COMMISSION MEETING

Vice Chairman Morse: Are there any comments on the minutes from the January 26th meeting? [*None.*]

Motion by Mr. Lund, seconded by Ms. Hoffman, to approve the minutes of the January 26, 2016, meeting.

IV. PUBLIC HEARING: LONG TERM PERMITS AS A MECHANISM FOR REGULATING PUBLIC FACILITIES AND UTILITIES

Mr. Palos: I'm going to let Karen do the heavy lifting here this evening, but before that, I wanted to let you know that you're getting copies of the Comprehensive Plan that has been revised. This is the fruits of your labor over the past year. It contains changes to CARNP, changes to the land use map, changes to the park plan, and it now includes the Stilwell Community Plan. All of that is in one document. We're trying to be efficient and frugal. If you already have a notebook cover, please exchange it. If you think you need one, we'll give you one. So, we're really pleased. It's a lot of work by you guys, and it's nice to have everything finally under one cover and up to date. Our website is up to date now with all this information. Thank you for your patience and for helping us get this done.

As I said, Karen has done the heavy lifting on this. Rick Lind with our Legal staff has helped quite a bit, as well as Don Jarrett. Paul and the rest of our staff have also been involved in this. This has been a pretty quick turnaround for us, for something of this magnitude. We started on this, as you may recall, because of a request from the County Commissioners, particularly Commissioner Klika, who was concerned. There was a new fire station in Fire District No. 2 that got approved by the zoning board with a 50-year conditional use permit. It went on to the Board of County Commissioners; they approved the 50-year permit. Staff had only recommended a 20-year permit. It led to the question of why we're putting in any

kind of term limits whatsoever on these activities, these type of public facilities. They serve a public need, they serve a public use; they are essential services. So, we spent time with you and reviewed our current conditional use permit regulations, as well as the creation of the special permit regulations. You have a copy of Option A and Option B.

The history on this goes back to 1994 when our regulations were changed. We put in the stipulation that CUPs should only be for 10 years. We started making exceptions to that. So, in 2008, we made a specific provision that they could be for a greater period of time. We didn't specify what that time was, but since then, we have granted quite a few 20-year conditional use permits, both for private sector use as well as public sector use. So, this is unusual.

Since the approval by the Board of County Commissioners of the Fire District No. 2 application for 50 years, they had two renewals of fire stations that they both renewed for 50 years over staff's recommendation for only 20. So, the Board was very clear that they are not satisfied with 20 years. They want a longer term, or they wanted some other option that was no term at all.

So, that's what we've been working on, and that's what we're here to present to you. I want to state right up front, staff has always felt that the 20-year term was sufficient, but we recognize that the Commission has different ideas on that, and we know you have, as well. We're supportive of both Option A and Option B. Both of them work, they have been reviewed by our legal staff; they have elements of them that are somewhat overlapping in many ways. But, we think they will work. I'm going to let Karen present them. We don't want to spend a whole lot of time on this, but we also don't want to short-circuit any of your questions. This is a public hearing. If you have any questions for me - ? [None.]

Ms. Miller: I'll start by taking a look at Option A, which is the indefinite term special permit regulations. I'll give you a quick description of the sections that it contains. Section 1, the Purpose, sets out and describes how these special permits are different than the other permits that we see for conditional use permits. We basically cherry-picked what we think are those important uses that support development, the services and the infrastructure that you need before you can do your residential subdivision, your commercial and industrial uses. These uses that we're looking at under special permit are not traditional development projects.

Section 2 sets out the general provisions for the process that the special permit would follow. It basically follows the same process as the conditional use permit. There would be notice to the public, a public hearing, a recommendation by the zoning board, and a final approval by the Board of County Commissioners. Also, Section 2 emphasizes that the County can require studies such as traffic, noise or lighting studies, and the opinion of experts.

Section 3 is the application requirements, which is the same as the conditional use permit. There's a development plan, and there's a written narrative, among other things.

Section 4 spells out the uses that can be approved by the special permit. There are two categories. There's the public facilities, which are things like parks, fire districts, police uses, libraries, etc. And then there's the utilities – gas, water, wastewater and electricity. While we're looking at these uses, it says park and recreation uses, and it gives examples of swimming pools, athletic fields, etc. And as Planning was working through this and looking at all these uses, we realized there's something kind of different about the park and recreation facilities. We're not so sure that we should really proceed like this, including all those accessory uses. When you think "park," you think of passive uses, you think of community playgrounds, etc. These swimming pools and athletic fields, there's something kind of different about them, and they're not explicitly in support of infrastructure and development. I'll let Dean make comments - .

Mr. Palos: The other thing to note with parks is generally parks are allowed by right in certain zoning districts. In the rural zoning district, they are allowed by right, so they don't need a conditional use permit. The residential zoning districts don't require a conditional use permit to be a park. But, the

accessory uses like soccer fields or sports fields or swimming pools, those things would require a conditional use permit. Basically, we're saying that we're fine with leaving park and recreational facilities in because they are not specifically allowed by right in the PRB district, which is business district, and the PEC district, which is planned employment district, which is generally industrial. So, we're thinking to leave it in for those two zoning districts in particular, but to delete the "such as swimming pools," etc., because we're thinking that the system as it is now, with Parks coming in and asking for conditional use permits for certain types of activities, has worked fine. We've talked with the Park District. I think they're generally okay with that. They've never really complained about the system. In fact, they just got a 20-year renewal for a soccer field at Heritage Park.

So, given that, that spills over to some other changes that need to be made, and if you'll flip to page 18, item number 3, we're wanting to strike the words "privately owned" from there and let it go back to what it was. So we're not differentiating between "privately owned" and "public." The same thing for item 7 and item 9, strike "privately owned." Item 12 is talking about correctional institutions. We're leaving that as is. Item 17 on page 19 is "privately owned and not publicly or quasi-publicly owned" utility stations, water treatment, etc. – We're leaving that as is. At the bottom of page 19, number 3 and number 4, we want to strike "privately owned" on both of those. And on page 20 where it says "privately owned zoos," we want to strike that, as well. So, it's complicated, and it came to us late in the process of doing this, but we're wanting to say that as far as park and recreation, parks are allowed uses. In fact, an example of what happened to Stilwell Park – which is located at 207th, just east of Metcalf, north of the railroad tracks – was zoned PEC-3. Park District came in, and they were going to have to get a conditional use permit for it. We said no, just rezone it. So, they rezoned it to RUR – Rural, and they were allowed to have a park in there. The uses they have in there are very passive. They had to have a development plan that we reviewed and approved. Went through the Aubry board and through the BOCC. So, it went through the whole process. But the things they have are trails, picnic tables, parking lot, water fountain, it's a very passive park. But, if they want to put in a soccer field or an archery range, something that's allowed in the CUP, they have to get a conditional use permit for it. So, we think that process works well. We think the Park District is amenable to that, and has been. This is more of a housekeeping issue for us. I hope I didn't confuse you.

Ms. Miller: And the benefit to pulling it out of the special permit and putting it as active, supporting park uses into the conditional use permit area, is that you can do conditional stipulations on it. So, types of things like sports fields, you can put hours of operation on them, etc. You can put seasons. You can say that this sports field can only operate during a particular season. We looked at these uses and felt that everything on the list could probably use some operational stipulations on them.

Mr. Palos: So, we kind of took you into the weeds on that one, but we think it makes a lot of sense to do it this way, to separate parks out.

Vice Chairman Morse: We'll be leaving parks and recreational facilities in this area - ? On page 4?

Mr. Palos: Right.

Ms. Miller: So, the uses that we talked about would be public facilities and utility uses. Section 5 sets out development and performance standards for uses. This is where it really becomes clear that there's no term. It also provides for screening, lighting, noise, odors, vibration, dust control, off-street parking, signage, stormwater management, right-of-way dedication. It emphasizes that staff can request studies and expert opinion. It emphasizes that the special use has to conform with their development plan and other regulations. And, it allows for deviations from the standards put forth if those deviations meet or exceed the need addressed by the certain standard. So, it's quite a list of things that a special permit use would have to conform with.

Section 6 has the special development performance standards. We separated the various groups out to see if they needed some special standards. Utilities had some standards. The Utilities sections acknowledges

that there will probably be some sort of impact off site. With that as a given, the siting becomes very important. It becomes important to look at the surrounding uses and how it's impacting everything around them. So, the whole idea with the utilities is to try to locate it in a non-residential area, to avoid areas enjoyed by the public. Buffer from surrounding areas with large parcels and large setbacks, and, design the utility to minimize those impacts. So, locate it so that these impacts are minimal.

An important part of this utility section is that the utility facilities have to be designed so that those levels of odor, noise and vibration control meet the industry standard, and that depending on the surrounding uses – for example, if there's residential surrounding this use – then those utilities might be required to exceed the industry standard.

We also identified the category of schools, libraries and fire stations. So, basically the institutional uses. This recognizes that these institutional uses sometimes need to be close to those residential neighborhoods that they serve, and they recognize that these uses tend to cause heightened traffic, noise and activities, and that when siting institutional uses, you should be mindful of the surrounding residential area. And, there's an emphasis that the parcel should be large enough to hold all of the activities anticipated, with the necessary screening and buffering.

We also looked at correctional facilities and recognized that their siting issues are the same as utilities, to keep them away from residential areas.

Section 7 sets out how to review the special permit. You do that with the Golden criteria. The Golden criteria review of a special permit is probably going to emphasize a little bit different criteria. Probably the criteria of benefit to the public health, safety and welfare is really going to pop up with these special uses, and also probably the comp plan. Whereas just an ordinary garden-variety conditional use permit, there's probably more concern with how the use blends in with the character of the neighborhood.

Section 8 sets forth how to amend the development plan associated with special permits. There's a section on minor amendments, and there's a change in this draft. The last draft had a 10 percent change allowed. This draft has 20 percent allowed. I'll let Dean talk about that.

Mr. Palos: I will say I'm the person who is the perpetrator of this, but I have a reason for it. Normally, our current regulations for typical development allow for only administrative amendments if it's a five percent change in the density, or a five percent change in the area of open space. If you turn to page 14, item number 5 and 6, those are also five percent or less. I'm offering 20 percent because I think it makes sense. Number one, these uses are special. We've already talked about how special they are in terms of their service to the public and importance to the public. Number two is, this special permit is an indefinite term. So, the presumption is that these facilities pick this site, they're going to be there once they get permitted, and to make them come back and have minor amendments – because I know we've heard complaints from these types of uses – it seems like we're already here. Why do we have to come back? We don't want to get a building permit, but why do we have to revise our development plan? Also, my experience would say that for the most part, where these uses have been permitted, they've bought themselves sufficient property so that they can expand. That's one of the reasons they select the sites that they pick, is because of the flexibility to expand. Sometimes they expand to the point where they can't expand anymore and they need to move, which is the case with the Stilwell fire station. So, that's my rationale for it. I'm certainly open to discussion about 20 percent, but it seemed to make sense to me. I thought as a place to start, that made sense to me. You don't have to agree with me.

Mr. Greeley: The administrative approval is the thing that the Planning Commission and the Board of County Commissioners gives us authority and discretion on up to a five percent change. No more than that. So, what Dean is suggesting is 20 percent. And there are some very specific criteria that we look at in the regulations – How far is this thing moving? How much closer is it getting to the neighbors? How much is it growing? Those types of things. And we use it regularly. It's really worked to avoid having to come back through the zoning board process – as you guys who are on zoning boards know – on very

minor things. Twenty percent is obviously more than five percent, and for the reasons being mentioned – because these things are permanent, and all those reasons make sense to us, to give staff a little more leeway on that. But, ultimately, it's up to you guys to decide if you feel comfortable, of if you think that's too much and want those things to come back through the zoning board process.

Comm. Morse: If you had someone with a conditional use permit and was expanding, and it was beyond the five percent, can that be an administrative decision? Or are they required to go through the process again?

Mr. Greeley: Technically, they are required. Sometimes the person who is asking will just live with five percent, versus having to go back through the process. Or, some of them go back through the process.

Mr. Palos: There's another element to this. In the paragraph above A., under Section 8, it talks about, it would be up to the zoning administrator, who takes responsibility for reviewing the request. I'm confident, whether it's me or somebody else, if there's a problem with it, or if there's likely to be some kind of impact on the neighbors, we don't have to give them the 20 percent. We can tell them they have to go back through the process. And we have done that from time to time. Not very often. We don't get that many people with minor amendments. We think the process is a good one. It's just, do you all agree with 20 percent? Do you think it should be less, or more?

Ms. Miller: So, if the change is not considered to be a minor amendment and should be administratively approved, then the change is considered to be more than that and they have to go to a public hearing and a final decision by the Board of County Commissioners again. It's basically as if the special permit had not been looked at in the first place.

Section 9 and 10 are related. They deal with enforcement. The enforcement of the special permit is the same as the conditional use permit. Tickets can be issued. Section 10 elevates up to revocation of the special permit. That requires a public hearing before the Board of County Commissioners. Section 11 addresses the cessation of use. If the use is dormant for 12 months or more, or if the use isn't started within three years of approval, the special permit can be removed and terminated with a public hearing in front of the Board of County Commissioners.

Lastly, Article 23 are the housekeeping changes regarding the conditional use permit article. The intent is that, if a use is not allowed to get a special permit, then it defaults to the conditional use permit. Those are my comments with respect to Option A, the special permit. Do you have any questions before I move on to Option B? [None.]

Option B is the long-term conditional use permit for a term up to and including a 50-year term. It doesn't have to be 50 years. We're thinking that a lot of people would be requesting the 50 years. In a nutshell, if they're a public facility or utility use that we talked about, they would be eligible for the 50-year term.

Comm. Morse: Are you going to leave in the section that's in parenthesis - ?

Ms. Miller: Thank you for the clarification.

Mr. Palos: In that case, it can stay.

Vice Chairman Morse: Are there any comments before we open it to the public? [None.] We have one person here. Would you care to speak to this issue, Julie?

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

Ms. Berggren: On the special use permit, I like the 20 percent leeway that Dean has suggested, because as fast as our world changes, to think that there aren't going to be more changes coming when we implement a plan, five percent does not give you very much leeway. From my experience, I put up a building. I had a plan for it and had an overhang kind of porch on the back of it. For some reason, we didn't connect it,

assumed it was going to be done, and it was over the five percent. So, I would have had to come back through and go through the whole process again. So, we opted not to do it. Had we had something like this, it would have been a quick fix, because it was just a simple error. So, I really like that 20 percent.

I did have one question. When you were talking about parks, you mentioned Mildale Farms. Do they have a conditional use permit now? Because they do weddings. Do they have a conditional use permit?

Mr. Palos: They do not have a conditional use permit.

Ms. Berggren: And they're in the RUR district.

Mr. Palos: They're in the RUR district, right.

Ms. Berggren: Okay. And prior to that, that has always been a wedding facility, and that didn't have a conditional use permit either, did it?

Mr. Palos: You know, my understanding was that there were weddings taking place in there – I don't know the extent of it – before the County bought it. I don't think it went on that long.

Ms. Berggren: But no conditional use permit?

Mr. Palos: I don't recall completely. But no, there was never a CUP for it.

Ms. Berggren: Thank you.

Vice Chairman Morse: Which option has more flexibility, in your opinion?

Mr. Palos: In my opinion, I think Option B does. The conditional use permit process that we have now, for the most part, has worked very well. We're very used to it, and it's pretty nimble in terms of recognizing that with not only the public sector and private sector, but these uses are special. They always have unique features about them, so we are able to adapt to that. We're able to have flexibility with that. With Option A, we're pretty much spelling out what they have to do. Now, we still go through the development plan process, the same process, but Option A is a little more prescriptive than Option B. Paul, do you have any thoughts? Karen?

Ms. Miller: Roxanne brought up a good point when you asked about Option B, would we be taking out the uses on parks. The answer probably should be yes, we think of those as being active and needing input, and perhaps the shorter terms. So, excuse my misspeak. We would recommend that Option B be changed to remove that park and recreational uses from the 50-year term.

Mr. Palos: Take out all of A? Up to the parentheses?

Ms. Miller: The parentheses –

Mr. Palos: Right.

Comm. Bollin: What is Legal's view of A or B?

Mr. Palos: I think Legal feels that Option A is the better option, because they feel that it's what the Commission asked for in terms of the long-term permit. They feel that a conditional use permit, 50 years is too long. They think it's equivalent to a rezoning. I disagree with them on that, and they are aware of that. But, they feel it's too long to let a CUP. I'll give you my personal impression. We've said we're good with either one of these. They'll both work.

Comm. Bollin: The way I understood the Commissioners, they were more in favor of Option A.

Mr. Palos: I believe that's what they said. In talking with some of the commissioners, my understanding is that they are okay with Option A or B, and I know in talking with Commissioner Eilert, he has reinforced that this is your call. They said it's up to you to submit a recommendation to them.

Comm. Bollin: My main concern is, since I used to be a member of one of the fire districts, our biggest problem was money. Whenever you charge two, three, four, five thousand dollars to the fire district for a conditional use permit, that's taking away from the operational budget of the fire district. And, as you know, between the equipment costs and the very high personnel costs, money is of great importance.

Mr. Palos: I understand. Just a comment. The reason that your expenses are high on that isn't the cost of the permit. The permit application fee is only \$375. It's the attendant costs – the public notice, letters to surrounding properties, and if there's an attachment or amendment, etc. So, the permit fee itself is pretty small.

Comm. Bollin: I understand that, but by the time you add those newspaper costs, legal costs, etc., you wind up with several thousand dollars.

Mr. Palos: And that was the point that the Fire District No. 2 folks made. They also made the point that they are government, just like you.

Comm. Bollin: So, you're taking away from one and giving it to the other.

Mr. Palos: That was [*inaudible*]. I see it a little differently. I'll just say this. What's important about both of these documents is, these are special uses. They have special things associated with them – noise, odors, traffic, etc. And they are public entities. So, it's important that they fit within a neighborhood, that they are compatible with the neighborhood. That's why we think the shorter term is probably better, but 50 years is okay. Indefinite, you're not going to get another look at this. So, I think that's the difference. The purpose of the conditional use permit is to say, yeah, you can be in this neighborhood, provided you're compatible with the neighborhood. And a CUP gives us that flexibility.

Comm. Bollin: You have written in here on Option A the ability to go back in and review it if there's something - .

Mr. Palos: No. Karen, do you want to address that? If they don't live up to --

Comm. Bollin: If they don't live up to expectations --

Mr. Palos: Yes. They can be revoked. But, as far as coming back and discussing the use itself, that's not part of the special permit. I think Karen called it right. It's kind of a hybrid zone. It's a permit, but it's tantamount to zoning.

Mr. Greeley: Mr. Bollin, I just wanted to comment. You mentioned about the cost. Again, the members who are on the zoning board over the years, and me being at those meetings, and the planners, we hear that often as a reason. Not just from applicants, but from zoning board members who are concerned about the cost. The first time through, whether it's a special permit or conditional use permit as we go forward, there's going to be cost associated with that. Like Dean said, there's an application fee, which is going to be nominal, but we still have to notify the neighbors, whether it's a special permit or a conditional use permit. We're going to have to have drawings to show us what you're doing, how you're going to build it. So, first time through, you just can't get away from those.

Now, the second time through, how about no fees? All costs are on the County? It gives the neighbors an opportunity to weigh in on it in a timely manner, but the County would cover the costs. And we do that for the public. You know, I heard that comment when we met with the Board of County Commissioners last fall. Well, if the cost is such an issue, let's try to work with people on cost. So, just things to think about. There's other ways to get there, depending on what's important. Is it more important to keep the cost down? Is it important to make sure the neighbors are involved? Weigh and balance those things.

Comm. Bollin: I understand where you're coming from, but in life safety – police, fire, EMS – that's public service. Now, this is just an example, but say, Paul, you're out at 191st and Metcalf and you have a heart attack. You want somebody there, right? Same way with the rest of these outlying areas. And if they have to spend all their money for legal fees, etc., that may be tough sometimes, to keep it funded.

Comm. Morse: We're talking every 50 years. I've been back and forth on this. I still feel strongly about having the opportunity to come back and even though it be 50 years, with the special permit, like you've said, that land is basically zoned. You can't change the use on it. If it's not working with a regular conditional use permit, if they abuse that, that use can be taken away from them.

Mr. Palos: Yes. Legal said that with the conditional use permit, the use conforms with the neighborhood. With a special permit, the neighborhood will have to eventually conform to the special permit. That's ultimately the difference.

Comm. Hoffman: And as far as requirements, the only difference I've seen is this 20 percent that you've thrown in there with the special permit, giving them a little more leeway there. That's why I asked, if it's more than five percent with a conditional use permit, is it strictly five percent and it's a hearing on whether you can look at it and say - ? I mean, is it mandatory?

Mr. Palos: The way the regulations are written now – You know, I appreciate the comment made by Julie because I know we've heard that in the past. If this was changed, I think it would set a nice precedent for us to go back and look at our current regulations and re-evaluate them. We may not say up to 20 percent. Because I think there is a difference because this is a public facility like you're talking about, Dennis. Why bring people through a process where the use is there and it's not going to significantly change anything if you don't have to? So, why wouldn't that hold for private sector, as well? I'm just not sure you'd want to [inaudible] 20 percent. But, there's a reliance on the judgment of the zoning administrator, and again, I feel confident that if there was any kind of question about adverse impact on the neighborhood, regardless of who the zoning administrator is, that person is going to say, no, this has to go through the process.

Vice Chairman Morse: Do I understand that the special permit has more restrictions that have to be met than a conditional use permit?

Mr. Palos: That's a good question. Karen?

Ms. Miller: I'm not inclined to say that. They're pretty much the same issues that are looked at for both types of permits – landscaping, noise, odor, that type of thing.

Mr. Greeley: Dean said earlier, about the special permit, that there are prescriptions in there that have to be met. Since it's indefinite, you have to meet those. On a conditional use permit, you could very well have those same things because of the nature of that use. But you may not. There may be reasons not to have all those. So, to say, is it more restrictive? I think maybe there's more flexibility under this CUP, but it doesn't mean someone going to get off where they wouldn't on a special permit. Because if it makes sense on one side, what we have over here, you don't have this prescribed list.

Ms. Miller: I think they both have good site planning in mind. You know, good basic site planning for a conditional use permit in a development plan, and also the special permit. The difference between the special permit uses and the traditional CUP uses is that the special permit uses don't really lend themselves to operational conditions. You don't really want to put hours of operation on police or fire. You don't want to set a season out for the wastewater treatment plant. You want it to function year-round. So, these uses are very unique, specific categories, and they have their own professionals running them. You have the wastewater engineers, the fire people, who are trained in their own areas and know what their standards are for their particular use.

Comm. Lund: I just want to see if I've got this straight, Dean. Under Option B, the CUP, up to 50 years.

Mr. Palos: Up to 50 years. Like the soccer field, you could say no, we're only going to give you 30 years.

Comm. Lund: Oh, so they don't have a choice.

Mr. Palos: Well, the point we're trying to make is that this will allow the 50 years. The board doesn't have to go with 50 years.

Comm. Lund: Okay, so the person who is trying to get the permit, I mean, why would you go for 10 years if you could have 50?

Mr. Palos: Right. What I tried to say earlier on, the Board of County Commissioners did not violate its own regulations when it approved those three 50-year permits because the way it was written allowed for it. What we're trying to do here is respond to the Board, to their request, with something that makes it crystal clear and not a controversy that they can get 50 years. But again, my impression was that a majority of the Board members, particularly Chairman Eilert, said permanent. So, it's up to you guys. They'll entertain whatever you send to them.

Comm. Mason: The narrow group of uses that are listed under special permit led me to believe that those are rather permanent, and I can't imagine needing to move one of those. So, I personally don't have a problem as long as we keep a narrow band on that, having an indefinite time period. Because I can't imagine needing to move the courthouse because the area had grown around it and it didn't work anymore. And you don't usually move power plants because you've got infrastructure going to them. It's a fairly narrow group, and it's all for public support, which differentiates from all the rest of uses that we deal with all the time. I was hesitant to go there, but – I first thought this zoning category made sense, listing all of those, but this is basically the same thing. So, I don't really care what it's called. It gives them a permanent right to have that public facility in place.

Comm. Huggins: I'd like to touch on that 20 percent change. I think that would be a good modification, with the understanding that staff has the discretion to determine if some of the changes would require a new approval by the County Commissioners. I look at a conditional use permit as something that ensures the property owner is going to be responsive to the public and responsible for the use, and for these types of uses, I think that for the users, it's incumbent upon them to be responsible to the public anyway. I'm having trouble getting my mind around a 50-year conditional use permit. I've been in Olathe for 57 years, and I was trying to imagine the things that are here, that have been here for 50 years. By this time, anything that was here when I was a kid, it seems like a permanent situation to me. And I would never imagine any change to that.

Mr. Palos: I can give you an example. The Fire District 2 fire station on Metcalf that's at 194th is on a 40-year CUP. That CUP is about to expire. And now they're replacing the fire station.

Comm. Huggins: That's in the response to the public's need. And that's their job, and they probably understand it as well as you guys. But if they're making a change, they're doing in response to the public needs. And [*inaudible*] types of facilities doing that, and for that reason, I don't see a need for a term limit on their use.

Comm. Hoffman: Could we have both? Could I come in and choose one or the other?

Ms. Miller: I talked with Legal about that.

Comm. Hoffman: They don't want that.

Comm. Mason: If you're prepared to take a motion, I would move that we advance the special permit, Option A, to the County Commission for approval, with the changes noted in discussion with the staff.

Comm. Huggins: Second.

Vice Chairman Morse: Okay. Is there discussion before we vote? [*None.*] I'm still leaving toward the safety of that 50-year thing. I'll call for a vote.

Motion passes 6-3. In favor: Glenn Bonar, Dennis Bollin, Mark Huggins, Jason Meier, George Lund, and Roger Mason. Opposed: Roxanne Morse, Katherine Hoffman, and Pete Opperman.

Vice Chairman Morse: The motion carries for a special permit.

Mr. Palos: We'll take this to the County Commission, probably in about four weeks or so. Congratulations on making a decision. Again, I totally compliment Karen and Legal staff for all of this.

Vice Chairman Morse: We've put you through a lot, too. Two different scenarios.

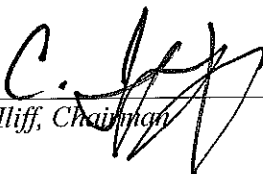
Mr. Palos: You know, it's been an interesting discussion internally. I think this is what the Board was looking for, and I expect they'll be pleased with the response.

V. FUTURE ZONING REGULATIONS.

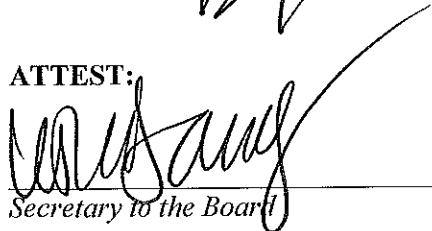
Mr. Palos: Again, these are kind of a preview of coming attractions. I'm thinking I'm going to add to that list to change the development plan requirements for minor amendments – 20 percent. As far as the regulations for the operation of rural commercial activities, Karen's going to start back on that once we get through this. We don't have anything specifically for you next month, so if it's okay with you, we may not have a meeting next month. Although it is time to update the Comprehensive Plan again, but I think that's pretty much going to be a formality. I don't think it's worth coming back for that item only, so if it's okay with you, we'll wait until we get a little further along.

ADJOURNMENT

The next regularly scheduled Planning Commission meeting will be Tuesday, March 22, 2016, at 5:45 p.m.



Chris Iliff, Chairman

ATTEST:


Secretary to the Board