Roll Call and Announcement of Hearing Procedure: Brian Aubert, Chair, called the public hearing to order at 6:01 p.m. and asked for roll call to be taken.

Members Present: Brian Aubert, Judy Moler, Jake Fisher and Tyler Tenbrink. With four members present, a quorum was established.

Members Absent: Chad Depperschmidt and Elaine Schwartz.

Staff Present: Randy Anderson, Planning Director; Anna M. Ortega, Zoning Administrator; Joelee Charles, Administrative Assistant; and Jim Crowl, County Counselor.

Approval of December 9, 2019, Public Hearing Minutes: Ms. Moler moved to approve the December 9, 2019, public hearing minutes, seconded by Mr. Tenbrink, and with a majority voice vote, the minutes were approved.

Communications: Mr. Anderson stated five emails were received from neighbors (two with concerns, two in favor and one in opposition) in addition to the one included in the agenda packet.

Ex Parte Communication by Members of the Board: None were indicated.

Declaration of Conflict of Interest by Members of the Board or Staff: None were indicated.

Election of Officers—Chairman and Vice-Chairman: Mr. Aubert suggested delaying the election of officers due to one board vacancy and the absence of two members. Ms. Moler moved to delay the election of officers until the next meeting, seconded by Mr. Tenbrink, and with a majority voice vote, elections will take place at the next meeting.

Zoning and Subdivision Items:

1. CU20/01 by McCollum Family Trust seeking a Conditional Use Permit to establish a Bed and Breakfast Inn and a Reception, Conference & Assembly Facility on property zoned “RR-1” Residential Reserve District and located at 3521 SE Paulen Road in Tecumseh Township.

   Mr. Anderson summarized the staff report. He indicated a previous CUP request for a similar use in 2018 was denied by the Planning and County Commission. The current request expanded the CUP area to include the total acreage. A new 37th Street driveway access to alleviate traffic congestion is included.

   This property is ideal for urbanization. Traffic would be anticipated with the proposed uses; however, a new single-family residential subdivision would generate significantly more traffic. City utilities, and stub streets, adjoining the property, could easily be extended to it. The extended utilities would aid in facilitating the development of additional properties south of SE 37th Street and east of SE Paulen Road. The applicant could sell the property to a developer and the impact on the neighborhood would be substantial. With either scenario, there is a potential impact.

   Staff recommends approval of both CUP requests, including the revision to Condition 5.g., subject to the following conditions:
   1. Prior to the issuance of permits and the commencement of operations, the applicant shall:
      a. Obtain permits for all improvements to the barn completed without building permits;
      b. Submit a Class "A" Drainage Plan for County Engineer approval;
      c. Submit plans and a permit application to convert the barn into an event center;
d. Submit an event center floor plan showing tables, chairs, and exit doors; and all kitchen, plumbing, and restroom improvements;
e. Obtain permits for sanitary services from the Environmental Health Department;
f. Utilize gravel that does not generate dust for the new parking lot and driveway off SE 37th Street;
g. Obtain building, floor, and site plan approval from Shawnee Heights Fire District;
h. Obtain a SE 37th Street address for the event center for Emergency 911 purposes; and
i. Dedicate additional ROW by written instrument(s) to provide 40-feet from the section line along SE Paulen Road and 45-feet from the section line of SE 37th Street. The site plan shall show the additional ROW and the recording number assigned to the instrument(s).

2. The Plan of Operation shall be incorporated by reference as a condition of approval governing the bed and breakfast inn and the event center.

3. Signage is limited to one 9 SF, double-face, non-illuminated, 6-foot tall sign along SE Paulen Road for the bed and breakfast inn and a sign on SE 37th Street having the same dimensions as the SE Paulen Road sign, for the event center. Each sign shall include the street address.

4. The bed and breakfast inn shall:
   a. Include the dwelling of the property owner, or a tenant, as the primary use of the home;
   b. Provide entrances to all guest rooms from within the residence;
   c. Prohibit cooking facilities in individual rooms;
   d. Provide shared access to a bathroom, kitchen, dining room and a living room; and
   e. Maintain its exterior appearance as a residence.

5. The event center, including outdoor events, shall:
   a. Comply with all applicable building, fire, and health codes, at all times;
   b. Be limited to a maximum occupancy of 90 persons, per the Shawnee Heights Fire District;
   c. Operate between 9 a.m. - 10 p.m. daily, with outdoor activities ceasing at 9 p.m. each night;
   d. Conduct only one event at any given time;
   e. Be available by contract only and shall not be open to the general public;
   f. Limit events to five (5) per month;
   g. Receive deliveries only from SE 37th Street;
   h. Direct all lighting away from all property lines;
   i. Limit the use of sound systems to only the interior of the event center, with the sound of such systems not be perceptible at any property line; and
   j. Not be used to house any overnight guests.

6. All existing trees and vegetation that screen the barn and proposed outdoor areas shall be retained.

7. An engineering report, with findings about the ability of the deck to support the anticipated dead load of guests and any furniture on the 2nd floor open air deck on the barn, with recommendations to either limit the weight on the deck and/or to improve the deck supports, sealed by a structural engineer, should be submitted. Any required improvements shall be completed before the deck can be put into use.

8. Access to the event center shall comply with all Americans with Disabilities Act Accessibility Guidelines (ADAAG). Handrails shall be installed around the perimeter of the ground level deck, and steps accessing that deck, to prevent falls.”

Mr. Aubert asked for information regarding the property line and the rural character of the area. Mr. Anderson stated the applicant expanded the CUP area to include his whole property. The 2018 request only included a portion. This type of CUP is an allowed use in the RR-1 District. The applicant’s house is also located on the property. The applicant is trying to use his land to its fullest potential.

Rod McCollum, 3521 SE Paulen Road, Topeka, KS 66605.
- Business plan is driven by providing the customer with a pleasurable experience instead of a stressful one.
- The bed and breakfast would lodge the out-of-town guests and those associated with an event.
- The alternative use of the site is a single-family residential subdivision. In comparison, the prosed CUP would have a minimal impact on the neighborhood.
• Second attempt to obtain a CUP.
• To ease neighbors’ concerns on Paulen Road, would extend entrance off 37th Street to a parking area on the west side of the creek. It would handle the flow of the subdivision.
• Activity area is surrounded by trees and shrubs keeping the noise contained.
• A venue for weddings would generate several new jobs, generate revenue from local support companies and higher property taxes.
• Offering a small inconvenience to prevent a very large one.

With no questions for the applicant, Mr. Aubert asked if anyone wanted to speak in favor.

Brett Johnson, 4010 SE 34th Terrace, Topeka, KS 66605.
• In March, he and his wife moved in to enjoy living in a neighborhood with rural elements.
• Family members own a bed and breakfast and have had a positive experience.
• Based on the information he and his wife received, they support the request.

Mr. Aubert asked if anyone wanted to speak in opposition.

Douglas Zerger, 3520 SE Paulen Road, Topeka, KS 66605.
• Lives across the street and his driveway is directly across from the applicant’s driveway.
• Less concerned about traffic, alcohol and headlights since the drive is being moved to another location.
• Concerned for their children’s safety.

Mr. Aubert asked Mr. Zerger if he still had traffic concerns. Mr. Zerger said he would not since the entrance will now be located on 37th Street.

Elizabeth Barranco, 3513 SE Paulen Road, Topeka, KS 66605.
• At this location for 20 years. Property and driveway is closest to the applicant’s property.
• Concerned about traffic and the proposed barricade and signage being an eyesore.
• A possible lack of disclosure. Not enough information was provided until they requested it.
• Opposed. Will protest if approved and litigate.

Juan Barranco, 3513 SE Paulen Road, Topeka, KS 66605.
• Concerned about fire hydrants, liability, potential damage to his property, alcohol consumption, theft, hours of operation and noise.

Mr. Fisher asked for the hours of operation. Mr. Anderson stated new conditions indicate outdoor activities would end at 9 p.m., indoor activities would end at 10 p.m. and five events could be held per month.

A. R. El Koubysi, 3933 SE 37th Street, Topeka, KS 66605.
• Built his home five years ago and owns the acreage adjacent and behind his property.
• Concerned about the traffic from the school and the low visibility of traffic on 37th Street.
• Suggested an adjustment to the speed limit due to the road conditions.

Mr. Aubert indicated the Planning Commission does not typically address traffic issues but focuses only on the planning aspect. Mr. Crowl stated the County Engineer is authorized by the County Commission to complete traffic and speed studies and they would make those requests.

With no further comments in opposition, Mr. Aubert gave the applicant the opportunity to make a rebuttal.

Rod McCollum, 3521 SE Paulen Road, Topeka, KS 66605.
• 37th Street entrance will eliminate traffic on Paulen Road and will be complete before an event is held.
• The goal is to have five events per month. One event per Saturday.
• Arrivals and departures should be approximately one hour each.
- Not serving alcohol; however, he cannot stop anyone from doing so.
- A $1 million event insurance policy will be in place to cover anything that may go wrong.
- The pond located on the property could be used in case there is a fire.
- Will create change in the neighborhood with either this plan or subdividing the site.
- Willing to make accommodations to address concerns.

Mr. Aubert closed the public hearing. Mr. Aubert asked if the Fire Marshal had any concerns. Mr. Anderson stated the applicant must complete the revisions as requested by the Fire Marshal as well as meet the conditions listed.

Mr. Tenbrink moved for approval of the Conditional Use Permit with the eight conditions in the Staff Report, including the revision to Condition 5.g to allow deliveries off of SE Paulen Road and SE 37th Street. The motion was seconded by Ms. Moler. With a vote of 4-0-0, the item was Approved.

2. CU20/02 by Bradley K. & Yvonne R. Sowter seeking a Conditional Use Permit to establish a Food Service Facility on property zoned “RR-1” Residential Reserve District and located at 3700 NW Eric Drive in Soldier Township.

Mr. Anderson summarized the staff report. The applicant is proposing to use a portion of an accessory building to prepare food items to sell off-site and for off-site catering. Periodic baking classes would be held for small groups of 8 persons or less. Since it is in a rural area, no adverse effect is anticipated on the neighborhood. No on-site sales would be allowed. Staff recommends approval of the CUP per the following six conditions:
1. The granting of the Conditional Use Permit (CUP) shall be limited to Roxy and Brad Sowter and shall not run with the property or be transferable.
2. Prior to the issuance of permits and the commencement of operations, the applicant shall:
   a. Dedicate additional ROW to establish a 60-foot ROW width for NW 37th Street by a written instrument. The site plan shall show the additional ROW and the recording number assigned to the instrument;
   b. Submit a Class “A” Drainage Plan for County Engineer review and approval;
   c. Comply with all requirements of the 2012 Kansas Food Code at all times, adhere to the Food Safety for Kansas Farmers Market Vendors: Regulations and Best Practices, as amended, and shall obtain a Food Establishment License from the Kansas Department of Agriculture;
   d. Obtain a sanitary sewer permit, if necessary, from the Environmental Health Department; and
   e. Obtain approval of the building, site, and floor plans by Soldier Township Fire District.
3. The Plan of Operation submitted by the applicant is incorporated by reference as a condition of approval governing the uses authorized by the CUP.
4. Retail sales and on-site catered events shall be expressly prohibited. Retail sales and catering at off-site venues is permitted.
5. Exterior signage on the building and on the site shall be prohibited.
6. The exterior of the storage building shall not be modified in a manner to resemble a commercial establishment.

Brad Sowter, 3700 NW Eric Drive, Topeka, KS 66618.
- As a hobby, wife prepares food items in the summer to take to seasonal markets along with having baking classes for small groups. Been doing this for three years. Did not know it required a CUP.
- There is no signage. Does not want people to know. Will never be a store front.
- Has a large drive way in front of the shop for visitors to park their cars.
- No noise is generated from the food preparation.
With no one to speak in favor, Mr. Aubert asked if anyone wanted to speak in opposition.

Elizabeth J. Henrie, 3633 NW Brickyard Road, Topeka, KS 66618.
- Owns property in the area.
- Not in favor of a business.
- Concerned about children’s safety, traffic, the number of deliveries and poor road conditions.

With no further comments in opposition, Mr. Aubert gave the applicant the opportunity to make a rebuttal.

Roxy Sowter, 3700 NW Eric Drive, Topeka, KS 66618.
- Has not generated additional traffic.
- Classes are held sporadically. Some students carpool.
- There are no deliveries. Purchases are made from Sam’s Club.
- Her operation is no different than someone having an in-home party.

Mr. Fisher asked if people were coming to the house to pick up items. Ms. Sowter said people taking the classes take home the items they make.

Mr. Aubert closed the public hearing. There were no comments from the Planning Commission.

Mr. Fisher moved for approval of the Conditional Use Permit with the six conditions in the Staff Report including the revision to Condition 2.c., as recommended by the County Counselor. The motion was seconded by Ms. Moler. With a vote of 4-0-0, the item was Approved.

Public Comment on Non-Agenda Planning and Zoning Items: No one was present to speak.

Discussion of Planning Related Issues: There was no review of the Zoning Regulations.

Adjournment:
With no further items to consider, Mr. Aubert asked for a motion. Mr. Fisher moved to adjourn, seconded by Mr. Tenbrink. A unanimous voice vote declared the public hearing to be adjourned at 7:36 p.m.