

BEFORE THE ST. CHARLES COUNTY COUNCIL  
ST. CHARLES COUNTY, MISSOURI

In the matter of Bill No. 5055 to approve )  
Conditional Use Permit CUP21-21 for a private ) Bill No. 5055  
school to Lynn P. Melson as Trustee for the )  
Lynn P. Melson and Tamara T. Melson )  
Revocable Qualified Spousal Trust, property )  
owners. )

**FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER**

On April 25, 2022, the St. Charles County Council (“**County Council**”), by an affirmative vote of its majority, passed Bill No. 5055, approving Conditional Use Permit CUP21-21. The Planning and Zoning Commission (“**Commission**”) considered the application for Conditional Use Permit CUP21-21 (“**CUP21-21**”) and on a vote of six (6) yeas to two (2) nays decided to recommend it for approval. Pursuant to Section 2.600 of the St. Charles County Charter, an affirmative vote of a majority of the County Council is necessary to pass any bill, unless passing the subject bill would override a negative recommendation of the Commission, in which case, Section 405.510.A of the Ordinances of St. Charles County, Missouri (“**OSCCMo**”) requires the supermajority vote of five (5) Council Members to pass the bill. Because the County Council decided to uphold the positive recommendation from the Commission, only the affirmative vote of a majority of the County Council was necessary to pass Bill No. 5055 approving the CUP21-21.

At the April 25, 2022 meeting, the St. Charles County Council received for its consideration the record as it was stipulated and agreed by and between Lynn P. Melson (“**Applicant**”), and the Lynn P. Melson and Tamara T. Nelson Revocable Qualified Spousal Trust (“**Owner**,” and collectively with Applicant, “**Applicants**”), and St. Charles County Department of Community Development, Planning and Zoning Division (“**Division**”), in that certain Agreement to Stipulate as to the Relevant Facts and the Record and Waiving Formal Hearing, dated April 13, 2022, signed by Applicants and by the Division (“**Stipulation Agreement**”). Said Stipulation Agreement is attached hereto as **EXHIBIT I** and incorporated herein. The record set forth in the Stipulation Agreement constitutes the entire record relied upon by the County Council in making its decision. Having been duly advised in the premises, the County Council hereby makes its Findings of Fact and Conclusions as required by law.

**FINDINGS OF FACT**

**APPLICABLE PROVISIONS OF THE UNIFIED DEVELOPMENT ORDINANCE**

1. At all times relevant to this decision, St. Charles County has had in effect the Unified Development Ordinance for St. Charles County, Missouri (“**UDO**”), including its zoning regulations codified as Chapter 405 of the OSCCMo.

2. Chapter 405 of the UDO sets out zoning regulations applicable to the unincorporated part of St. Charles County.
3. Section 405.050.C.24 of the UDO provides that in “A” Agricultural Districts, the category “Preschool, daycare, special, or other private school” is an authorized conditional use.
4. Section 405.510.A of the UDO provides that applications for conditional use permits for uses specifically authorized for consideration in the district use regulations shall be made to the Division, which shall refer the application to the Commission for public hearing. After holding the public hearing, a report and recommendation shall be filed by the Commission with the County Council.
5. Section 405.510.B of the UDO provides,

Before authorizing the issuance of a conditional use permit, the County Council may impose such conditions as will, in the County Council's judgment, ensure that the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger public health, safety, or general welfare; that the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or to the esthetic and/or scenic values of the vicinity, nor substantially diminish and impair property values within the neighborhood; and that the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

#### THE SUBJECT PROPERTY AND ITS ZONING

6. The property subject to the above-captioned conditional use permit application (“**Subject Property**”) is a parcel of land known as 4180 Benne Road; is located on the southside of Benne Road, one-half mile east of Highway D; and consists of 5.00 acres. (Ex. I.)
7. The Subject Property is within an “A” Agricultural District. (Ex. I.)

#### THE CONDITIONAL USE PERMIT APPLICATION AND ITS REVIEW

8. Through the application for CUP21-21 for the Subject Property owned by The Lynn P. Melson and Tamara T. Nelson Revocable Qualified Spousal Trust, the Applicant is seeking to develop a private school.
9. On March 16, 2022, the Commission conducted a hearing on that application. (Ex. I.)
10. At that hearing, Robert Myers, Director of Planning and Zoning, provided a verbal report for Application NO CUP21-21. He said that rather than being allowed by right in the Agricultural zoning district, the County’s zoning regulations require that this be approved through a Conditional Use Permit so the public can have a chance to review the land use

impacts for neighbors. Robert Myers provided details about the private school including its location (at Freedom Ranch Subdivision) which was just platted in December. The Concept Plan was shown and a description of what is intended to be built including measurements was provided. Students will be children of family and children of owner's employees. The number of students and teachers was also provided. Robert Myers cited area of concerns including possible requirement of a sprinklers with an onsite well, a proposed recreational area as a soccer field, regulations of light poles and parking requirements. He read the four conditional use permit criteria and suggested the Commission focus on those and what the land use impacts would be for neighbors. The location of this proposed conditional use would take access from a public road (Benne Road) rather than from a private street within the subdivision. Robert Myers stated staff recommends approval of Application No. CUP21-21 with 8 County staff recommendations. The maximum number of students enrolled shall be 50 is an arbitrary number and could be 20 because that is the number the Applicant is applying for. Robert Myers suggested to allow flexibility with that number. (Exh. I)

11. The Division Staff provided the Commission with a recommendation in favor of approval of CUP21-21, subject to the eight conditions.
12. Chairman Ellis asked if the Commission had any questions for County staff.
13. Commissioner Boehmer asked what the ages of the kids will be. Robert Myers said the Applicant could address that. Commissioner Boehmer asked would water availability affect the people who already live there with an additional 20 – 50 more people using it and would it be a concern. Robert Myers answered in the negative as long as they deal with the question about the fire code.
14. Commissioner Shell asked with 18 parking spots being added has the County's Highway Department considered that. Robert Myers said we had the Highway Department review this plan, but they had no comments. He added if this were on the curve there would be more concern about putting a driveway close to the curve. He doesn't believe 18 parking spaces will be a problem in terms of capacity. Commissioner Shell expressed concern with kids getting dropped off due to increase flow of traffic, the 90 degree turn and its narrow pavement.
15. Commissioner Boehmer asked if the time of school functions taking place outdoors as late as 11 p.m. be changed. Chairman Ellis noted it could as those are only recommendations.
16. With no further questions for County staff, Chairman Ellis asked the Applicant to come forward.
17. Patrick Melson, 9716 Avondale Hills Ln, Wentzville, MO 63385 and Gary Kimbel, 4053 N. St. Peters Pkwy, St. Peters, MO 63304 were sworn in. Chairman Ellis asked the Commission if they had questions for the Applicant.

18. Commissioner Boehmer asked what the ages of the children will be. Mr. Melson said they will be between the ages of 3 – 14 and that is because his youngest grandchild is 3 years old. Once his grandkids become older, it would end in 8<sup>th</sup> grade.
19. Commissioner Boehmer asked if there would be buses. Mr. Melson answered in the negative. He said the first eight children live in the subdivision. He clarified the Freedom Ranch is not a subdivision because it only has three houses on 25 acres, he and his son and daughter who live on 10 acres each. Mr. Melson explained at first only his grandkids will be attending school, but later will open it up to children of his employees. He added his business, grandkids, employees and their children were disrupted for two years by the pandemic and his intent is to provide a place where 20 students can get a consistent education. In the beginning, those parking spaces will never be used. Mr. Melson added, because he has never owned a school, he would like to make sure that this idea is working out and are no major problems before children of his employees are added.
20. Commissioner Boehmer asked if he is planning to loan or rent out his fields to other than just his teams. Mr. Melson answered in the negative. He added he does not even have a team and that is more of an activity field to play soccer.
21. Commissioner Bahr asked if this school is for his grandchildren and asked what his business is. Mr. Melson said he owns Mid Town Home Improvements.
22. Commissioner Bahr asked if his employees who have kids were not able to come to work during the pandemic. Mr. Melson answered in the affirmative and would like to provide stability. He said he has pledged funding for 20 years that will more than fully fund this school and help his employees.
23. Commissioner Jackson asked what the real number of students is he is planning for in the future to have. Mr. Melson said his grandkids are the test and the employees' kids will come later. His budget will be three teachers and added is far more work than he thought it would be. He added it is not his goal to have 50 kids.
24. Chairman Ellis asked if he would be subject to the State's education regulations. Mr. Melson stated he is assuming he will be but has not gotten that far as he has been focused on getting the building approved first.
25. Chairman Ellis asked Commissioner Bahr if she home schools her children. Commissioner Bahr said she did for 19 years and there are state regulations for home schooling. She said children must have 1000 hours. She added since it will be his grandchildren getting schooled first, it might be considered "home school" because its family until other people come in.
26. Kevin Cleary if there is any reason there might be 50 kids. Mr. Melson said there is a reason why it's not coming into the subdivision because he does not want it to and there will not be funding for 50 kids. Mr. Melson said he would like to make sure that the number of students attending will be able to go to his school at a low cost and have little impact to their parents, his employees.

27. Commissioner Boehmer asked if he would limit it to 30 students. Mr. Melson does not foresee going beyond that number.
28. Chairman Ellis asked Robert Myers, since it is zoned agriculture, if Mr. Melson could build a building to be a barn. Robert Myers answered in the affirmative. But Mr. Melson interjected and said he can't do more than 4,800 square feet without a permit. Robert Myers said large personal storage buildings and agriculture buildings can be built in agricultural zoning district and is not uncommon.
29. Commissioner Frahm asked if he has talked to people who either expressed concern or opposition to his plans. Mr. Melson said he has no idea who that could be and did not know he had opposition.
30. With no further questions by Commissioners, Chairman Ellis opened the public hearing and asked if anyone from the audience wished to comment on Application No. CUP21-21.
31. Marcia Gay, 4570 Hueffmeyer Rd, Defiance, MO 63341 was sworn in. Ms. Gay stated she opposes this school and in this location. She also stated her biggest concern is the water well, as all of the neighbors around Hueffmeyer and Benne are on the same aquifer. She does not feel a well will support another 20 students and a soccer field. She proposes that County water be continued or utilize the same agreement Mr. Busch had to dig into a deeper aquifer at 1500 feet. Her second concern is the narrowness of the road as multiple accidents have occurred on it and is not a good place to put a school. She said she and her neighbors do not want lights from the soccer field on at 11 p.m. in their rural community. Ms. Gay does not feel that the school will have 20 students, she feels there will be more.
32. Commissioner Frahm asked if whether Ms. Gay would be okay with the school if the water problem could be solved. Ms. Gay said addressing the water problem would be a start but limiting the number of students would be second.
33. Commissioner Boehmer asked if 30 students would be acceptable and if the lights were off at 9 p.m. Ms. Gay said not to her and added 20 students would be her maximum. The lights off at 9 p.m. would be better.
34. Sarah and Justin Vermette 4163 Benne Road, were sworn in. Mrs. Vermette said she and her husband are the neighbors located directly to the north of the proposed school and have been there for more than 10 years. Mrs. Vermette is concerned about the capacity of students at 50, the parking lot for 18 vehicles which she believes is triple for what is suggested for private schools with that number of students. She would like confirmation that second building has been removed from the plans and if the parking lot will be used to house mowers and tractors. She added that there should only be one entrance to the school and lighting at 11 p.m. is too late. She is against this plan as it will hinder the ambiance of the area and impact property values. She expressed concerns about the number of entrances to the school that are being considered and runoff issues due to new construction.
35. Arnie C. Dienoff, PO Box 1535, O'Fallon, MO 63366 was sworn in. Mr. Dienoff said he'd like to put on the record, from information he has obtained, that he is fairly certain that the

Busch deal is a dead project due to lack of financing. Regarding the school, Mr. Dienoff said he thinks five acres is a tight squeeze for this proposal. He stated that sprinklers are required at both public and private schools as mandated by the State. He agrees with staff that a Type 2 landscape buffer be required. Mr. Dienoff would like a limitation of 30 students. Last, he said someone needs to address the water resource concern.

36. With no one else from the audience wishing to comment on this application, Chairman Ellis asked the Applicant to come back to the podium.
37. Commissioner Bahr asked the Applicant if he has taken a look at the difference between permissive use versus conditional use on particular zones. Mr. Melson answered in the negative as when he got started with this application, the County guided him to the conditional use permit. Commissioner Bahr said she has because her children do attend a private school, but they are planning to move to a different place. Commissioner Bahr said she has researched this, and if this was zoned residential or commercial C2, a private school would be a permissive use and not a conditional use. She asked staff if that was correct, and Robert Myers said he thinks she is. Commissioner Bahr asked Mr. Melson, if he owns the land, 50 acres around it with the three homes on it. Mr. Melson said there are no homes on it currently. Commissioner Bahr said it is zoned agricultural which means a home for every five acres. She said theoretically, it would be a permissive use at 50 acres to have 10 homes there. Mr. Melson said if he did it in 10 homes and each home having 5 people, that would be 50 people. He emphasized there will not be 50 people at the school. Commissioner Bahr asked how many grandkids he has and will they all live on the 50 acres. Mr. Melson answered in the affirmative and his grandkids will walk to school.
38. Commissioner Bahr asked if there would be any traffic at first and would there be any cars there at all. Mr. Melson answered in the negative. He added the parking lot because he kept getting kickbacks from the Commission and getting recharged by his engineer to redo plans.
39. Commissioner Bahr told Mr. Melson if he were to build a number of houses on the property and met at a house and his daughter or son were to teach his grandkids unpaid, that would be considered a home school and would need zero permission from anyone. Commissioner Bahr said the reason he is needing permission to do this is because he is bringing other people in, employees' children other than his own grandkids and he is hiring an outside teacher. Mr. Melson explained because the structure of the building is bigger than the structure, they told me I was allowed to build on an Agricultural. That is what he was told and is complying. Commissioner Bahr asked if the maximum square footage is 4,800 and Mr. Melson answered in the affirmative. Mr. Melson said the building would come with a kitchen, and come with an indoor recreational area e.g., a tennis court and six classrooms.
40. Commissioner Bahr asked after his seven grandchildren get started when he will make the expansion to add more students. Mr. Melson said he would like to get this off the ground smoothly with his seven grandkids, then he will add his employees' children.
41. Commissioner Bahr asked why he didn't want to enter off of Freedom Ranch Road, if only three houses will be on the road. Mr. Melson said because this is non-for-profit, and he is

- donating the land. He would like for it to be its own entity. He further stated he would have no problem adjusting the time to 9:30 p.m.
42. Kevin Cleary noted that someone stated there was a second building on the concept plan. Mr. Melson said the plans for a second building has been removed.
  43. Commissioner Cornwell asked if the second building was intended for the school. Mr. Melson said he was going to build an indoor soccer field but is not necessary.
  44. Commissioner Bahr asked what he thought about digging a well that is in the deeper aquifer. Mr. Melson said it's twice as much money to dig a well at 1500 feet and is not needed as he already has one at 650 feet. He added it adds additional costs and takes away from educating children.
  45. Commissioner Bahr asked what kind of water the kids would be using. Mr. Melson said there would be four toilets and a water fountain and if the kids were at home, they'd be using the water there. Mr. Nelson said for what he is doing there is less impact on traffic, water and overall, less impact on everything because he could have developed the 50 acres but instead decided to do this.
  46. Kevin Cleary asked if there is something stated in the land covenants that the additional acreage would not be developed. Mr. Melson said it is not because where the houses are going to go are not being set up for other people to come along and build. Kevin Cleary said in twenty-five years there could be. Chairman Ellis said if they wanted to make any changes to the property 25 years later, they would have to come back to Planning & Zoning Commission.
  47. Commissioner Cornwell asked if the indoor tennis court is intended for the school or for leasing it to someone. Mr. Melson said he does not have any intention of leasing anything at all.
  48. Commissioner Boehmer asked staff if Mr. Melson would have to return to the Commission if he wanted to rent or lease the school out. Robert Myers said Commercial Indoor Recreation and Commercial Outdoor Recreation are their own use categories for conditional use permits and if those uses were proposed and happened constant would need approvals.
  49. Robert Myers said regarding land use categories, when this application came to County staff, a variety of avenues were pursued including rezoning to a neighborhood commercial district, where it would be allowed by right. The downside of the option is the Master Plan calls for agriculture uses in this area and going forward to the Planning & Zoning Commission and County Council would go against the Master Plan's recommendation for agricultural. But if this property was zoned commercial, then banks would be allowed by right. Robert Myers based on that it was suggested that this was the better choice rather than the rezoning.
  50. Commissioner Cornwell, regarding the firewall issue and fire sprinklers not being necessary, asked Mr. Myers if that came from the Building Code official and whether we

have anything from the Fire Marshall's office that would trigger a fire sprinkler requirement regardless of the firewall. Robert Myers said that was a comment from the Building & Code Enforcement Division Director that one or the other could be used based on the concept that was presented.

51. Commissioner Boehmer asked if there are no regulations by room for sprinklers. Robert Myers said it depends on the area. Mr. Melson said he has several buildings in O'Fallon and if they are at least 12,000 square feet, fire sprinklers are required unless it is divided by a firewall.
52. Kevin Cleary asked if there will be a sprinkler system. Robert Myers said they can put in a sprinkler system or put in firewalls to divide up the area.
53. Commissioner Frahm asked the Applicant why he proposed 18 parking spots. Mr. Melson said at first, they said there weren't enough spots in the initial plan, and then when the engineer came back, there were more. Robert Myers said that the code requires the minimum and it has to meet the minimum requirements.
54. Commissioner Frahm asked if the Applicant would be comfortable with few students and reduced hours. Mr. Melson said he is fine with reduced hours since eight of the students live in the subdivision. Mr. Melson added these are kids that have brothers and sisters and as soon as you sign up a family, it's usually more than one kid. Mr. Melson said 30 is a fair limit.
55. Commissioner Boehmer asked if 7 a.m. – 9 p.m. would work. Mr. Melson said he does not see a problem with that.
56. Commissioner Cornwell asked staff if the Commission did 30 and Mr. Melson decides to increase it to 40, would he have to come back to the Commission. Chairman Ellis answered in the affirmative.
57. Commissioner Frahm suggested that a condition be added to not have ATVs, motorcycles, dump trucks parked on the premises. Mr. Melson said there will be a storage unit available for that. Commissioner Frahm said the Commission has seen this before and people do whatever they want on the property.
58. There being no further questions for the Applicant, Chairman Ellis brought back the application to the Commission for consideration.
59. Chairman Ellis said before he entertains a motion for Application No. CUP21-21 he'd like for the Commission to consider the conditions recommended by County staff. The Commission considered the Staff's recommended conditions as follows:

Staff Recommended Condition #1: The maximum number of students enrolled at any one time shall be fifty (50).

Commissioner Boehmer made a motion to change the maximum number of students allowed to thirty (30) students, and Commissioner Jackson seconded that motion. The

motion to amend Staff Recommended Condition #1 passed by unanimous voice acclamation.

Staff Recommended Condition #2: A Type 2 landscape buffer, conforming to the requirements of Section 405.435 of the County Code, shall be installed along the eastern and southern property lines to the extent depicted in the concept plan.

The Commission made no changes to Staff Recommended Condition #2.

Staff Recommended Condition #3: No school functions shall take place outdoors between the hours of 11:00 p.m. and 6:00 a.m.

Commissioner Boehmer made a motion to change the hours in Staff Recommended Condition #3 to 9:00 p.m. and 7:00 a.m., and Commissioner Frahm seconded that motion. The motion to amend Staff Recommended Condition #3 passed by unanimous voice acclamation.

Staff Recommended Condition #4: No school functions shall take place outdoors between the hours of 11:00 p.m. and 6:00 a.m.

Commissioner Boehmer made a motion to change the hours in Staff Recommended Condition #4 to 9:00 p.m. and 7:00 a.m., and Commissioner Shell seconded that motion. The motion to amend Staff Recommended Condition #4 passed by unanimous voice acclamation.

Staff Recommended Condition #5: All parking shall take place in parking areas as designated in the approved site plan.

The Commission made no changes to Staff Recommended Condition #5.

Staff Recommended Condition #6: All exterior lighting that exceeds one foot candle shall utilize full cutoff light fixtures to prevent light to impact surrounding properties.

The Commission made no changes to Staff Recommended Condition #6.

Staff Recommended Condition #7: A site plan in conformance with the concept plan, attached as part of Exhibit B, shall be submitted to and approved by the St. Charles County Community Development Department prior to the conditional use becoming active.

The Commission made no changes to Staff Recommended Condition #7.

Staff Recommended Condition #8: No conditional use shall be in active use until such time all conditions of approval have been met.

The Commission made no changes to Staff Recommended Condition #8.

60. Chairman Ellis suggested a motion to add another condition as follows: “No vehicles may be parked on the property between the hours of 11:59 pm and 6:00 am, excepting passenger vehicles which are owned and operated by the school.” Commissioner Boehmer made a motion to add this condition to the Conditional Use Permit, and Commissioner Frahm seconded that motion. The motion to add the condition passed by unanimous voice acclamation.
61. Chairman Ellis suggested a motion to add another condition as follows: “Any and all maintenance equipment shall be stored indoors.” Commissioner Boehmer made a motion to add this condition to the Conditional Use Permit, and Commissioner Cornwell seconded that motion. The motion to add the condition passed by unanimous voice acclamation.
62. There being no further questions for County staff, Chairman Ellis closed the hearing and asked for a motion to recommend approval of Application CUP21-21, subject to the recommendations proposed by the Staff, as amended and added by the Commission. Commissioner Boehmer made such a motion to recommend approval, and Commissioner Bahr seconded the motion. (Ex. I )
63. The Commission considered the motion duly made and seconded and recommended approval of Application CUP21-21, subject to the ten conditions approved by the Commission, by a vote of six (6) ayes to two (2) nays. (Ex. I)
64. On April 11, 2022, the County Council introduced Bill No. 5055 to consider the Commission’s recommendation to approve the application for CUP21-21. (Ex. I)
65. At that Council meeting, the Division staff presented a summary of the application for CUP21-21. Robert Myers was sworn in by staff and testified that the Owners of the Subject Property are requesting to construct and operate a private school for thirty (30) students. Mr. Myers explained the school building would measure 65 feet by 300 feet with an outdoor lighted practice soccer field and parking for eighteen (18) vehicles. Mr. Myers further noted that the school would have a minimal impact to neighbors, as the school is primarily for family members, and would have a minimal impact to land use, as there are conditions in place for a vegetative landscape buffer and deflected lighting. Mr. Myers explained that the Planning and Zoning Commission voted 6-2 in favor of the conditional use. (Ex. I )
66. Sean Melson, representing the Applicant, was sworn in and addressed Council concerns that lighting on the practice soccer field would be allowed until 11:00 pm and that he was willing to comply with all of the conditions in Bill 5055. (Ex. I)
67. Mr. Myers clarified that the lighting would only be allowed on the soccer field from 7:00 am to 9:00 pm, and added that a firewall in the building would offset the need for a sprinkler system, according to the St. Charles County Code. (Ex. I)
68. Council Chair Schneider opened the floor to public comments related to Bill No. 5055. (Ex. I)

69. Arnie C. Dienoff, O’Fallon resident, was sworn in by Council staff and stated that he saw inconsistencies, thought there was a lot included in the 5-acre plan, and called for no compromises to the buffer landscaping, the amount of students allowed, and the storage of vehicles on-site. Dienoff asked that safety be prioritized with a sprinkler system in the building and for the County to address the z-curve on Benne Rd. Mr. Dienoff further stated that the school would be a good addition to the County. (Ex. I )
70. There being no further public comment or further discussion from Council, Council Chair Schneider announced the public comment and discussion on the matter was closed. (Ex. I)

### **CONCLUSIONS OF LAW**

71. At the April 25, 2022 meeting, the County Council concluded as a matter of law that it had the authority to grant the application for CUP21-21, because, through the conditions placed on the CUP21-21 the County Council can, as the UDO requires,
- ...ensure that the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger public health, safety, or general welfare; that the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or to the esthetic and/or scenic values of the vicinity, nor substantially diminish and impair property values within the neighborhood; and that the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

Section 405.510.B, OSCCMo.

72. Given that the proposed use, as depicted on the concept plan and described in the narrative of such, conforms to the criteria of Section 405.510.B with specific conditions outlined above; that the limited size of the school and other conditions in place means that the school will have minimal impact on the surrounding neighborhood; the Council finds that the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger public health, safety, or general welfare; that the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or to the esthetic and/or scenic values of the vicinity; that the conditional use will not substantially diminish and impair property values within the neighborhood; and that the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district. (Ex. I)

### **DECISION AND ORDER**

On this 9<sup>th</sup> day of May 2022, the St. Charles County Council hereby orders:

1. The County Council's majority vote to approve Bill 5055 at its April 25, 2022 meeting resulted in the application for conditional use permit CUP21-21 being granted, subject to the following conditions:
  - i. The maximum number of students enrolled at any one time shall be thirty (30).
  - ii. A Type 2 landscape buffer, conforming to the requirements of Section 405.435 of the County Code, shall be installed along the eastern and southern property lines to the extent depicted in the concept plan.
  - iii. No school functions shall take place outdoors between the hours of 9:00 PM and 7:00 AM.
  - iv. No lighting of the athletic field shall take place between the hours of 9:00 PM and 7:00 AM.
  - v. All parking shall take place in parking areas as designated in the approved site plan.
  - vi. All exterior lighting that exceeds one foot candle shall utilize full cutoff light fixtures to prevent light to impact surrounding properties.
  - vii. No vehicles may be parked on the property between the hours of 11:59 PM and 6:00 AM, excepting passenger vehicles which are owned and operated by the school.
  - viii. Any and all maintenance equipment shall be stored indoors.
  - ix. A site plan in conformance with the concept plan, attached as part of Exhibit B, shall be submitted to, and approved by the St. Charles County Community Development Department prior to the conditional use becoming active.
  - x. No conditional use shall be in active use until such time all conditions of approval have been met.
2. As required by Section 405.511 OSCCMo., the County Council's approval of Bill 5055 and granting of the requested Application CUP21-21 at its April 25, 2022 meeting is hereby documented in these written Findings of Facts and Conclusions of Law.
3. Upon execution by the undersigned, these Findings of Facts and Conclusions of Law are hereby made part of the record and approved by the Governing Body, such approval constituting the Governing Body's final action on the subject of the CUP21-21 Application.

4. The County Registrar shall mail or send certified copies of this Decision and Order to the Applicant and property Owners at their record addresses and to the Department of Community Development; and
5. The Department of Community Development is directed to retain its certified copy of this Decision and Order with the records on the application for conditional use permit CUP21-21.

ST. CHARLES COUNTY COUNCIL

By: \_\_\_\_\_  
Nancy Schneider, Chairperson

ST. CHARLES COUNTY EXECUTIVE

By: \_\_\_\_\_  
Steve Ehlmann, County Executive

ATTEST:

By: \_\_\_\_\_  
Brenda Hinton, County Registrar

Certificate of Service

The undersigned certifies that on this \_\_\_\_ day of \_\_\_\_\_, 2022, she mailed or sent certified copies of this Decision and Order to Lynn P. Melson, and the Lynn P. Melson and Tamara T. Melson Revocable Qualified Spousal Trust at 4201 Benne Rd, Defiance, MO 63341; and to Michael Hurlbert, Director of Community Development, St. Charles County, at 201 North Second Street, St. Charles, Missouri 63301.

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Brenda Hinton, County Registrar

# EXHIBIT I



## CONDITIONAL USE PERMIT STIPULATION AGREEMENT

### BEFORE THE ST. CHARLES COUNTY COUNCIL ST. CHARLES COUNTY, MISSOURI

In the matter of Bill No. 5055 to approve )  
Conditional Use Permit CUP21-21 for a private )  
school on property owned by Lynn P. Melson ) Bill No. 5055  
and Tamara T. Melson Revocable Qualified )  
Spousal Trust )

### AGREEMENT TO STIPULATE AS TO THE RELEVANT FACTS AND THE RECORD AND WAIVING FORMAL HEARING

It is stipulated and agreed by and between Lynn P. Melson ("Applicant"), Lynn P. Melson and Tamara T. Melson Revocable Qualified Spousal Trust, ("Owner"), and St. Charles County Department of Community Development, Planning and Zoning Division ("Division"), that the relevant facts, as set forth in the documents and additional audio and video recordings listed below, may be considered by the County Governing Body to be true.

- Conditional Use Permit Application
- Division Staff Recommendation to the P&Z Commission
- Property Description
- Photos of the Site
- CUP Narrative
- Concept Plan
- Number of Letters in support 0
- Number of Letter with concerns 3
- Number of Letters in opposition 2
- Minutes from the P&Z Commission meeting on March 16, 2022
- Year 2030 Master Plan for St. Charles County, Missouri
- The Unified Development Ordinance of St. Charles County, Missouri
- Recommendation from the P&Z Commission
- Video Recording of the P&Z Commission meeting on March 16, 2022
- All testimony received during the public comment session of the County Council meeting on April 11, 2022 where the Bill was introduced, as documented in the video recording of the meeting.

It is further stipulated and agreed that the record for consideration by the County Governing Body include only the materials listed above, that copies of these materials be admitted into evidence as if

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originals, and that said record be admitted into evidence before the County Governing Body without objection by either party.

All evidence admissible by this stipulation shall have the same force and effect as if it were admitted by specific ruling of the County Governing Body pursuant to the formal rules of evidence and may be used by the Governing Body in making findings of fact to the same extent as any other properly admitted evidence.

It is further stipulated and agreed by and between the parties to the above-entitled matter that, notwithstanding the right to a formal hearing under Section 405.511 of the Ordinances of St. Charles County, Missouri, such formal hearing shall be and is waived and the matter shall proceed to the County Governing Body for final decision on the record as stipulated herein.

IN WITNESS WHEREOF, the Parties have executed this Stipulation Agreement as of the date last written below:

**St. Charles County Department of Community  
Development, Planning and Zoning Division  
("Division")**

Signature By: Robert Myers

Printed Name: Robert A. Myers

Title: Director of Planning & Zoning

Date: 4/13/2022

Attest: Sheila Weiss

**Lynn P. Melson  
("Applicant")**

Signature By: L P Melson

Printed Name: L Patrick Melson

Title: Applicant

Date: 4/13/2022

Attest: Christin Reger

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**Lynn P. Melson and Tamara T. Melson  
("Owner")**

Signature By: L Patrick Melson

Printed Name: L Patrick Melson

Title: Owner

Date: 4/13/2022

Attest: Christin Reger