

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

In the matter of Bill No. 5103 to approve)
Conditional Use Permit CUP22-10 for self-) Bill No. 5103
storage/mini warehouses to Martha A. Keeven)
Revocable Living Trust, Property Owner, and)
Bestbox Storage, Applicant..)
)

FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER

On October 31, 2022, the St. Charles County Council (“**County Council**”), by an affirmative vote of its majority, passed Bill No. 5103, approving Conditional Use Permit CUP22-10. The Planning and Zoning Commission (“**Commission**”) considered the application for Conditional Use Permit CUP22-10 (“**CUP22-10**”) and on a vote of eight (8) yeas to one (1) nay 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. 5103 approving the CUP22-10.

At the October 31, 2022 meeting, the St. Charles County Council received for its consideration the record as it was stipulated and agreed by and between Bestbox Storage (“**Applicant**”), and the Martha A. Keeven Revocable Living 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 October 17, 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 405.135.C.18 of the UDO provides that in “C2” General Commercial Districts, the category “Self-storage or mini warehouses” 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 with Parcel Account No. 410610D001; located at the east side of Highway K, approximately 500 feet south of Royall Springs Parkway, and adjacent to the City of O’Fallon, Missouri; and consists of 3.94 acres. (Ex. I.)
7. The Subject Property is within an “C2” General Commercial District. (Ex. I.)

THE CONDITIONAL USE PERMIT APPLICATION AND ITS REVIEW

8. Through the application for CUP22-10 for the Subject Property owned by Martha A. Keeven Revocable Living Trust, the Applicants are seeking to develop a self-storage/mini warehouses operation. (Ex. I)
9. On September 21, 2022, the Commission conducted a hearing on that application. (Ex. I.)
10. At that hearing, Doug Moslehi, County Planner, provided a verbal report for Application No. CUP22-10. Mr. Moslehi stated that the applicant is requesting a conditional use permit for a self-storage facility, which will be in the form of a 3-story warehouse building. He

discussed the review criteria established within Section 405.510.B of the Unified Development Ordinance, which specify the factors to be considered for conditional use permit applications. He stated that the Planning and Zoning staff has recommended approval of this conditional use permit, subject to specific conditions which are stated in the staff recommendation report. (Ex. I.)

11. Commissioner Cleary asked if this application includes the building plans, or that is something that would be approved internally by County staff. Doug Moslehi responded that the preliminary plat for the subdividing of this property next on the agenda, but building plans are not yet available and would be submitted to and approved by the Building Department at a later time pending approval of the CUP and subdivision plat applications. (Ex. I.)
12. Commissioner Cornwell asked how far it the buildings would be located from the northeast corner of the property line. Doug Moslehi responded that he is unsure. (Ex. I.)
13. Commissioner Koechner asked if a temporary firework stand will still be allowed on that property as they have been in the past if these storage buildings are developed there. Robert Myers, Division Director, responded that this property is zoned commercially so they could come back and request that a conditional use permit for a temporary fireworks stand be approved each year. (Ex. I.)
14. With no further questions for County staff, Chairman Ellis asked the applicant or their representative to come forward. (Ex. I.)
15. Beau Reinberg (7018 Maryland Ave, St. Louis, MO 63130), and Mike Hackmeister from Cochran Engineering (8 East Main St., Wentzville, MO 63385) were sworn in. Mr. Reinberg stated that he is one of the owners of Bestbox Storage, and he has been in the self-storage development and ownership business for 15 years. He stated that he prides himself on having the best-in-class product for residents and small businesses. This specific market within a three-mile radius from this site lacks a “Class A” self-storage facility. He defined a “Class A” storage facility as climate controlled and having secure access with a state-of-the-art security system. He stated that this is an undersupplied market with consumers and residents in this area that have to travel outside of their own area in order to accommodate their storage needs. He has developed a number of projects in residential areas which buffer a commercial area. It has been shown multiple times that a low impact amenity such as self-storage, with low noise and traffic, is a great buffer between higher intense uses and residential uses. He stated that residential residents are their primary customers, and they would be good neighbors. (Ex. I.)

16. Chairman Ellis asked if this property would be purchased or leased. Beau Reinberg responded that it will be purchased. (Ex. I.)
17. Chairman Ellis asked what the restrictions are as to what can be stored in the individual facilities. Beau Reinberg responded that no hazardous or flammable materials will be allowed. (Ex. I.)
18. Robert Myers noted that staff recommendation number 5 states that “No doors for storage units shall be located on the eastern side of the building.” He stated that the purpose of this recommendation is to help protect the residents to the east of the property. He asked if the applicant had any comments or concerns regarding that proposed restriction. Beau Reinberg responded that he has no problem with that restriction. He stated that the current elevation shows doors there, but they have no problem eliminating them. The need for the additional driveway is really driven by the fire department’s need to have that hammerhead access. Seventy percent of the unloading and loading area is facing the commercial area of the vicinity. The rear exterior portion of the property would be left as landscaping and green space. (Ex. I.)
19. Chairman Ellis asked if the existing home would be removed from the property. Mr. Reinberg answered in the affirmative. (Ex. I.)
20. Commissioner Cornwell asked where the building site will be located in relation to the property located to the east, which has a residence on it. Mr. Hackmeister responded that he is not sure, as they have not gotten too far into the engineering aspect at this stage. Commissioner Cornwell stated that he is trying to understand the grade of the property in consideration as to what the surrounding residents will be looking at. Mr. Reinberg stated that there is a thick tree line between the town home community in that area, and there will be a landscaping requirement for maintaining this buffer. (Ex. I.)
21. With no further questions from the Commission, Chairman Ellis opened the public hearing and asked if anyone from the audience wished to comment on Application No. CUP22-10. (Ex. I.)
22. Lisa Gleason (117 Fallon Villa Ct, O’Fallon, MO 63368) was sworn in. Ms. Gleason stated that she is the President of the homeowner’s association of the subdivision that backs up to the Subject Property. She said her home backs up to this property and sits below where this building will be. She said that at first she thought that a storage unit would be great until she found out that it would be three stories high. On her deck she will be looking at a brick wall and there are no trees there. She stated that there are ten to twelve villas, which will also be looking straight at this building and will affect the property value of the entire street.

She stated that she would be fine if this were only a one-story building. Ms. Gleason also stated that there was a spring in that area at one time, and any runoff from this would also be a concern. (Ex. I.)

23. Carolyn Stewart (113 Fallon Villa Ct, O'Fallon MO 63368) was sworn in. Ms. Stewart stated that the hill behind her house has about a 12-foot drop off and adding a three-story building to that would be a problem. She is concerned about the lighting on the third floor of the proposed building which will affect the one-story villas down below. (Ex. I.)
24. Arnie Dienoff (PO Box 1535, O'Fallon, MO 63366) was sworn in. Mr. Dienoff stated that he is in opposition to this application because this corridor on Highway K is one of the largest commercial corridors in the County and he believes that this is the wrong place for a storage facility. He stated that the O'Fallon area is being overwhelmed by storage facilities and they do not pay any sales tax. He stated that he does not believe that this is a good use for property along Highway K and is a terrible use of the land. He believes there are better uses for this property that would generate positive revenue streams. He added that if Planning and Zoning Commission votes to recommend approval of this application, he would like to see additional conditions be added to help protect the neighborhood as a whole. (Ex. I.)
25. With no one further member of the public wishing to comment on this application, Chairman Ellis asked the Applicant to come back to the podium. (Ex. I.)
26. Commissioner Cleary asked about the lighting for this three-story building that will back to the surrounding homes. Mr. Reinberg responded that the lighting will be an easy solution. He further stated that a landscaping buffer and a fence (depending on the elevation) could eliminate some of those concerns. (Ex. I.)
27. Commissioner Boehmer stated that it appears to her that this property sits roughly 12 feet above those homes already without anything being built on it. She asked Mr. Reinberg if that was true. Mr. Reinberg responded that he would have to look at the distance between the rear yard and the back of the building in order to determine that. Mr. Reinberg asked Mr. Hackmeister if he knew what the distance from those rear yards to the back of the proposed building is. Mr. Hackmeister responded that he doesn't know either, but the closest point to the back of this building is 15 feet from that property line. Commissioner Boehmer noted that 15 feet is very close. (Ex. I.)
28. Commissioner Cornwell asked Mr. Reinberg if he would be open to adding a wider buffer yard, maybe even double the width of the proposed buffer. Mr. Reinberg responded that this could be accommodated. He stated that part of that area at the rear of the property is to

accommodate the driveway for the fire department. The buffers can work in either direction. (Ex. I.)

29. To address the sales tax issue, Mr. Reinberg stated that an \$8 million to \$9 million dollar building will have a much higher property tax than the vacant land that is currently there now. (Ex. I.)
30. There being no further questions for the applicant, Chairman Ellis brought the application back to the Commission for discussion. (Ex. I.)
31. Commissioner Cleary stated that he has some concerns about whether or not this is the highest and best use for this property with it being right by a residential area. Commissioner Hollander stated that there have been a lot of storage units added to the County within the past two to three years. He stated that some of these units are better suited for a rural area, but this one is quite different. These storage units are in demand. A better use as far as generating tax revenue may possibly be found, but then the neighbors may be opposed to that type of business. (Ex. I.)
32. Commissioner Cleary stated that he is concerned about the site view of the residential area. He added that if you have that 12-foot elevation increase, and anywhere between 1 and 3 story buildings behind it, it creates a negative impact on the value of the surrounding properties. Commissioner Hollander noted that this conditional use permit request does not pertain to the size of the building or the site lines. Those items should be addressed during the preliminary plat presentation. (Ex. I.)
33. Commissioner Shell asked if the motion for approval of this application automatically includes the conditions recommended by County staff. Chairman Ellis responded that he would address those conditions when he asks for a motion. (Ex. I.)
34. There being no further questions for the Applicant or staff, Chairman Ellis entertained a motion to approve Application CUP22-10, subject to the conditions proposed by Division Staff. The Commission considered the motion duly made and seconded and recommended approval of Application CUP22-10 with the conditions recommended by Division Staff by a vote of nine (8) ayes to one (1) nay. (Ex. I)
35. On October 11, 2022, the County Council introduced Bill No. 5103 to consider the Commission's recommendation to approve the application for CUP22-10. (Ex. I)
36. At that Council meeting, Robert Myers, Director of the Planning and Zoning Division and Acting Director of the Department of Community Development, was sworn in by staff and provided an overview of CUP22-10. Mr. Myers explained that the 4-acre site at 2896 Hwy. K is completely surrounded by O'Fallon, is shaped so that the larger section where the

storage will be located has low visibility, includes plans for a 3-story building, a fence and landscape buffer, and non-sliding doors on storage units to address noise. Myers stated the Planning and Zoning Commission recommended approval 8-1 with Division staff in agreement. (Ex. I)

37. Beau Reinberg of BestBox Storage, explained the site plans were updated to address resident concerns by lowering the height of building and moving it closer to Hwy K. A larger buffer between residents and storage units was added and Reidberg noted that this type of commercial use has very low resident impact. (Ex. I)
38. Arnie C. Dienoff, O’Fallon resident, was sworn in and stated he opposed this type of land use in a commercial corridor and voiced concerns that O’Fallon was overwhelmed by storage units and car washes, both of which don’t pay sales tax. If approved, Dienoff requested there be conditions on buffering, water run-off, internal streets and storage of derelict vehicles or chemicals. (Ex. I)
39. 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

40. At the October 31, 2022 meeting, the County Council concluded as a matter of law that it had the authority to grant the application for CUP22-10, because, through the conditions placed on the CUP22-10 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.

41. Given that the proposed use will be screened and buffered by a tree line and a sight-proof fence on the east property lines, and that the buffers will reduce visual or light impacts, the proposed conditional use will not be a detriment or danger to the public health, safety, or general welfare.
42. Given that the proposed use is supported by the 2030 Master Plan; that the use aligns with current uses along Highway K; and that the Applicant has made additional adjustments to its site plan to minimize the effect on neighboring properties, including lowering the height of building and moving it closer to Hwy K and further away from neighboring residential

properties; the proposed use will not injure the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted.

43. Given the conditions placed on CUP22-10 herein, including the Type 3 landscaping buffer to screen the adjacent residential property to the east, as well as additional adjustments the Applicant has made to its site plan to minimize the effect on neighboring properties, including lowering the height of building and moving it closer to Hwy K and further away from neighboring residential properties, the aesthetic and scenic values of the vicinity will not be injured.
44. Given that the proposed use is supported by the 2030 Master Plan; that the use aligns with current uses along Highway K; and that the Applicant has made additional adjustments to its site plan to minimize the effect on neighboring properties, including lowering the height of building and moving it closer to Hwy K and further away from neighboring residential properties, the proposed use will not substantially diminish or impair property values within the neighborhood.
45. Given that the 2030 Master Plan shows the future land use of the Subject Property as commercial, with all surrounding properties aligning with the 2030 Master Plan as well, this conditional use will not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the zoning district.

DECISION AND ORDER

On this 14th day of November 2022, the St. Charles County Council hereby orders:

1. The County Council's majority vote to approve Bill No. 5103 at its October 31, 2022 meeting resulted in the application for conditional use permit CUP22-10 being granted, subject to the following conditions:
 - i. A site plan in conformance with the approved concept plan must be submitted to and approved by the St. Charles County Community Development Department.
 - ii. No conditional use shall be active until all conditions of the approval have been met.
 - iii. A Type 3 landscape buffer along the eastern property line shall be shown on the site plan.
 - iv. All storage shall take place indoors.
 - v. No doors for storage units shall be located on the eastern side of the building.

- vi. All exterior lighting exceeding one foot candle in illumination shall utilize full cutoff light fixtures to reduce light from impact surrounding properties.
- 2. As required by Section 405.511 OSCCMo., the County Council's approval of Bill No. 5103 and granting of the requested Application CUP22-10 at its October 31, 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 CUP22-10 Application.
- 4. The County Registrar shall mail or send certified copies of this Decision and Order to the Applicant and property Owner 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 CUP22-10.

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 document to Martha A. Keeven Revocable Living Trust, 2896 Highway K, O'Fallon, MO 63368; to Matt Garavaglia, Bestbox Storage, 222 South Central Ave., Suite 500, St. Louis, MO 63105; and to Robert Myers, Acting Director of Community Development, St. Charles County, at 201 North Second Street, St. Charles, Missouri 63301.

Brenda Hinton, County Registrar



CONDITIONAL USE PERMIT STIPULATION AGREEMENT

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

In the matter of Bill No. 5103 to approve)
 Conditional Use Permit CUP22-10 for)
 self-storage / mini warehouses on property) Bill No. 5103
 owned by Martha A. Keeven Revocable Living)
 Trust dated December 5, 1995.)

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

It is stipulated and agreed by and between Bestbox Storage ("Applicant"), Martha A. Keeven Revocable Living Trust dated December 5, 1995, ("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
- Building Elevations
- Number of Letters in support 0
- Number of Letter with concerns 0
- Number of Letters in opposition 1
- Minutes from the P&Z Commission meeting on September 21, 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 September 21, 2022
- All testimony received during the public comment session of the County Council meeting on October 11, 2022, where the Bill was introduced, as documented in the video recording of the meeting.

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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 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: Planning & Zoning Director

Date: 10/17/2022

Attest: Sheila Weiss

Bestbox Storage ("Applicant")

Signature By: Ben A. Reinbers

Printed Name: Ben A. Reinbers

Title: EVP

Date: 10/19/22

Attest: [Signature]

Martha A. Keeven Revocable Living Trust ("Owner")

Signature By: Elaine Sachs
DocuSigned by: Elaine Sachs
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Printed Name: _____

Title: Trustee

Date: 10/13/2022 | 4:07 PM CDT

Attest: Harry Daw
DocuSigned by: Harry Daw
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