



Planning and Zoning Division

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December 22, 2022

This communication summarizes the following bill to be introduced at the January 9, 2023 County Council meeting:

CONDITIONAL USE PERMIT REQUEST - 3835 & 3853 BECKER JOERLING ROAD

Application No: CUP22-08
Property Owner: KAG 144, LLC
Applicant: Kelly McHoney, Manager for KAG 144, LLC
Property Zoning: A, Agricultural District, with Floodway Fringe Overlay District
Conditional Uses: (A) campground, (B) commercial farm stand, (C) Rural recreational activity, and (D) Buildings, structures, or open spaces for conducting weddings and/or other private parties
Parcel Size: 78.00 acres
Location: West side of Becker Joerling Rd, about 4,900 feet north of Femme Osage Creek Rd
Council District: 2
Account Nos.: 615090A001 and T011400021

The purpose of this application is to approve a campground on a 78-acre farm with three related conditional use permits for activities to serve the campground. The location is about 8 miles west of Defiance and off Femme Osage Creek Rd.

The subject properties, which would remain owner-occupied and managed, include two houses, a historic barn, and a small log cabin. Driveway access from Becker Joerling Road is by a private covered bridge or creek bed crossing of Becker Branch. The proposed campground, located within woods and near a 3-acre lake, would be limited to seven sleeping cottages up to 200 square feet in area and which would have toilets but no kitchens. No camping would take place in recreational vehicles, travel trailers, or tents. The applicant intends for the commercial farm stand and rural recreational activity (lake kayaking and canoeing) to serve campers. The historic barn, which would be converted to a common space for campers, could host weddings or other gatherings for campers which, per the proposed conditions, would be limited to no more than four events per year and a maximum of 35 persons. The applicant states they will not advertise the property for weddings.

The Planning and Zoning Commission held a public hearing on December 21, 2022 and received the following input:

Speakers: 5 Support 3 Opposed 1 Concerns
Letters on file: 8 Support 12 Opposed 0 Concerns

Agency Letters on file: none

Recommendation:

Having conducted a public hearing for all four conditional use permits, the Planning and Zoning Commission voted to recommend that the County Council approve each of the four Conditional Use Permit applications with specific conditions to address potential land use impacts. County staff concurs with this recommendation as complying with the conditional use criteria provided in Section 405.510.B of the County Code.

Sincerely,

Robert Myers, AICP
Director of Planning & Zoning

cc: Steve Ehlmann, County Executive
Joann Leykam, Director of Administration
Rory O'Sullivan, Acting County Counselor

APPLICATION CUP22-08

CONDITIONAL USE PERMIT REQUEST - 3835 & 3853 BECKER JOERLING RD.

Application No: CUP22-08
Property Owner: KAG 144, LLC
Applicant: Kelly McHoney, Manager for KAG 114, LLC
Property Zoning: A, Agricultural District, with Floodway Fringe Overlay District
Conditional Use Requests: (A) A campground
(B) A commercial farm stand
(C) Rural recreational activity
(D) Buildings, structures, or open spaces for conducting weddings and/or other private parties
Parcel Size: Approximately 79.00 acres
Location: On the west side of Becker Joerling Road, Approximately 4,900 feet north of Femme Osage Creek Road
County Council District: 2
Account Nos.: 615090A001 and T011400021

CONTENTS:

- Staff Recommendation
 - Photo(s) of Site
 - Aerial Photo
 - Surrounding Zoning Map
 - Notification Area Map
 - CUP Narrative and Additional Use Request Letter
 - Applicant Submitted Photos
 - Preliminary Concept Plan
 - Letters received:
 - ◆ Support - Bill and Wilma Zurweller
 - ◆ Support - Don Mallinckrodt
 - ◆ Support - Janet Perry
 - ◆ Support - Shannah Hultman
 - ◆ Support - Theresa and Dan Shipley
 - ◆ Support - Theresa Hussey
 - ◆ Support - Walter Weaver
 - ◆ Support - Maynard and Ruth Heman Trust
 - ◆ Opposition - Augusta HOA
 - ◆ Opposition - Gary and Betsy Struckhoff
 - ◆ Opposition - Scott and Shelle Horace
 - ◆ Opposition - Isaiah Hultman
 - ◆ Opposition - Laura Lembeck
 - ◆ Opposition - Robert and Karyline Mueller
 - ◆ Opposition - Brook Gavlick
 - ◆ Opposition - Tim Silver
 - ◆ Opposition - Erin Silver
 - ◆ Opposition - Marie Schonlau
 - ◆ Opposition - Gregg and Kelly Smallen
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STAFF RECOMMENDATION

To: County Planning & Zoning Commission **Prepared by:** Mark Price Jr. AICP, CFM

Application No.: CUP22-08

Date: December 14, 2022

BACKGROUND

Property Owner: KAG 114, LLC

Applicant: Kelly McHoney for KAG 114, LLC

Zoning: A, Agricultural District with Floodway Fringe District overlay

Existing Land Use: agriculture (hayfield) and single-family residence

Requested Action: Conditional Use Permits for:

1. Campground (CUP22-08A)
2. Commercial Farm Stand (CUP22-08B)
3. Rural Recreational Activity (CUP22-08C); and
4. Buildings, structures, and or open spaces for conducting weddings and/or other private parties (CUP22-08D)

Parcel Account No.: 615090A0001 (75.00 acres) and T011400021 (3.00 acres)

Location: 3835 and 3853 Becker Joerling Road, on the west side of Becker Joerling Road, 4,900 feet north of Femme Osage Creek Road

Size: 78.00 Acres in total

Adjacent Land Uses
and Zoning:

Direction	Zoning District	Existing Land Use
North	Agricultural District	residential and agriculture
South	Agricultural District	Residential and agriculture
East	Agricultural District	Agriculture
West	Agricultural District	residential and agriculture

2030 Master Plan: recommends future agricultural land uses

Public Services: County Council District 2 – Joe Brazil
School District – Francis Howell

Fire District – New Melle Fire Protection District

Utilities: Water – Public Water Supply District #2
Sewer – private onsite sewage treatment systems

The applicant has applied for four conditional uses for this property, as noted above, and as indicated in the attached conditional use permit narrative.

The subject properties have been zoned A, Agricultural District, since St. Charles County established zoning in 1959 and have never been the subject of any zoning applications.

The site has two single family homes, one on each parcel, and three outbuildings on the larger parcel. The largest parcel includes a historic farmhouse, barn, and log cabin. The property is primarily forested with approximately 16 acres of open space and a 3-acre lake. Access to this property is from Becker Joerling Road, a County highway. The driveway accessing this property crosses Becker Branch of Femme Osage Creek by both a one-lane covered bridge and across the creek bed. This driveway entrance is located within the Floodway Fringe Zoning District.

Campground: St. Charles County has recently amended its zoning regulations for campgrounds (Ordinance 22-073), including definitions for camping cabins and cottages as a new type of campground accommodation.

Section 405.060 defines the following terms “Campgrounds”; “Camping Cabins” and “Cottages”:

Campgrounds “Open land under single ownership where camping accommodations are advertised or furnished for pay, and which includes temporary occupancy in shelters limited to tents, trailers, travel trailers, recreational vehicles, camping cabins, and/or cottages.”

Camping Cabins “A structure within a campground, not greater than 120 square feet in area, designed and used as shelter for temporary occupancy for camping. A camping cabin shall not be designed as a dwelling nor used for residential occupancy.”

Cottages “A structure within a campground, not greater than 350 square feet in area, designed and used as shelter for temporary occupancy for camping. A cottage shall not be designed as a dwelling nor used for residential occupancy.”

Six cottages of about 200 square feet would be clustered in the middle of the 75-acre tract and adjacent to the barn and lake. Five cottages would be newly constructed with wood cladding, as depicted in the CUP narrative, and one cottage is proposed as a retrofitted historic log cabin. The applicant plans that each cottage would have toilets and running water but not cooking facilities. For sewage disposal, either an onsite sanitary sewage treatment system or containment and haul away of waste would be possible. Additionally, an existing house with a two-car garage on three acres (3853 Becker Joerling Road) is depicted as a “cabin”. Given this is an existing single-family dwelling, and the fact that County zoning does not regulate short term rentals, overnight

guest lodging at 3853 Becker Joerling technically would not require a conditional use permit but will be under common ownership and management as the adjoining, larger tract.

Commercial Farm Stand. The applicant proposes a commercial farm stand that would "...feature agricultural produce and related products grown on the property and through local vendors." The County's Unified Development Ordinance defines "Commercial Farm Stand" as:

"A structure used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants grown on the premises and may be augmented by imported products of the same type. The accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods and homemade handicrafts may also be considered. The floor area devoted to the sales of these accessory items shall not exceed fifty percent (50%) of the total sales area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold at a commercial farm stand."

The concept plan depicts three garden plots at the front of the property located adjacent to Becker Branch. Conceivably, such garden plots could provide fruits and vegetables, flowers, herbs, pumpkins and gourds, and berries. No building or shelter is shown on the concept plan. Ultimately, any approved commercial farm stand must comply with the zoning definition, including sales area limitations. Access to the property by either the existing one-lane covered bridge or creek crossing will be a limitation for operation of a commercial farm stand.

Rural Recreational Activity. Based on the applicant's narrative description, the proposed rural recreational activity will include active and passive recreation for campers that will likely occur at the 3-acre lake. The applicant states that a new pole barn will be constructed on site to store equipment such as kayaks, paddleboards, and life vests.

Buildings, structures or open spaces for conducting weddings and/or wedding receptions or other private parties. The applicant proposes a conditional use to hold weddings and or wedding receptions in the existing historic barn, as depicted on the concept plan (colored orange/No. 2). As the primary use of the barn is to provide common space for campers, and use for events would be adjunct to camping, the applicant states that the property will not be advertised to the public as a wedding venue. The applicant proposes that weddings and special events in the barn shall be limited to no more than four (4) times annually, have a maximum 35 guests, be limited to Fridays and Saturdays only, and end no later than 10:00 pm. No fireworks or amplified sound would be allowed. They will also limit outdoor gatherings, other than those associated with the camping, that will be occurring on the property. The principal purpose of this Conditional Use Permit will be to allow for the use of the barn as a place for retreats that take place on site in conjunction with the camping that will be provided on site.

Conditional Use Permit Analysis

Campground. Per Section 405.510.B of the Unified Development Ordinance the following factors are considered and reported on Conditional Use Permit applications:

1. *Would establishing, maintaining, or operating the conditional use be detrimental to or endanger public health, safety, or the general welfare?*

Obtaining necessary approvals from County Building and Code Enforcement, Planning and Zoning, and Highway Divisions and Departments should mitigate potential land use impacts which might otherwise be detrimental to the public health, safety, and general welfare.

2. *Would the conditional use injure the use and enjoyment of other property in the immediate vicinity for the purposes already permitted?*

The scale of the proposed use, at no more than 30 campers, would not be injurious to the enjoyment of the surrounding property for their current purposes. The cabins will be in the forest and will have a minimal impact on the community.

3. *Would the conditional use injure the aesthetic and/or scenic values of the vicinity?*

New campground structures will be very limited in size, located approximately 1,100 feet from the nearest public road, and surrounded by woods. Based on the applicant's submittal, the proposed cabins would be constructed of wood and designed in a manner aesthetically compatible with the natural setting. Therefore, the aesthetic and/or scenic values of the vicinity will not be injured.

4. *Would the conditional use substantially diminish or impair property values within the neighborhood?*

Staff has no data to support or refute that the proposed use would substantially diminish or impair property values.

5. *Would the conditional use impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district?*

Adjoining properties are zoned A, Agricultural District. As all proposed conditional uses are a subset of agricultural and open space use of the land, and are limited in scale, County staff does not anticipate that they would impede uses allowed in the Agricultural District.

Commercial Farm Stand. County staff has reviewed this criterion relative to the subject site to determine if the proposed conditional use of this property complies with these criteria. Per Section 405.510.B of the Unified Development Ordinance the following factors are considered and reported on Conditional Use Permit applications:

1. *Would establishing, maintaining, or operating the conditional use be detrimental to or endanger public health, safety, or the general welfare?*

Obtaining necessary approvals from County Building and Code Enforcement, Planning and Zoning, Finance, and Highway Divisions and Departments should mitigate potential land use impacts which might otherwise be detrimental to the public health, safety, and general welfare.

2. *Would the conditional use injure the use and enjoyment of other property in the immediate vicinity for the purposes already permitted?*

The 2030 Master Plan shows continuing Agricultural uses for the larger 75-acre parcel and RR Rural residential use for the smaller 3.0-acre parcel, on which the caretaker home lies. The sale of products grown on site is in line with the agricultural nature of the area. Therefore, this proposal is in alignment with the 2030 Land Use Plan.

3. *Would the conditional use injure the aesthetic and/or scenic values of the vicinity?*

The farm stand will be screened from Becker Joerling Road by a County-required vegetative buffer within 25 feet of the top of bank of Becker Branch, an intermittent stream extending along the entire parcel frontage. Also, farm stands are typically small structures and their operation a customary activity in rural areas zoned Agricultural District. Therefore, the aesthetic and/or scenic values of the vicinity will not be injured.

4. *Would the conditional use substantially diminish or impair property values within the neighborhood?*

Staff has no data to support or refute that the proposed use would substantially diminish or impair property values.

5. *Would the conditional use impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district?*

Adjoining properties are zoned A, Agricultural District. As all proposed conditional uses are a subset of agricultural and open space use of the land, and are limited in scale, County staff does not anticipate that they would impede uses allowed in the Agricultural District.

Rural Recreational Activity. County staff has reviewed this criterion relative to the subject site to determine if the proposed conditional use of this property complies with these criteria. Per Section 405.510.B of the Unified Development Ordinance the following factors are considered and reported on Conditional Use Permit applications:

1. *Would establishing, maintaining, or operating the conditional use be detrimental to or endanger public health, safety, or the general welfare?*

Obtaining necessary approvals from County Building and Code Enforcement, Planning and Zoning, and Highway Divisions and Departments should mitigate potential land use impacts which might otherwise be detrimental to the public health, safety, and general welfare.

2. *Would the conditional use injure the use and enjoyment of other property in the immediate vicinity for the purposes already permitted?*

The 2030 Master Plan shows continuing Agricultural uses for the larger 75-acre parcel and RR Rural residential use for the smaller 3.0-acre parcel, on which the caretaker home lies. Therefore, this proposal is in alignment with the 2030 Land Use Plan.

3. *Would the conditional use injure the aesthetic and/or scenic values of the vicinity?*

New structures for the rural recreational activity will be limited to a pole barn which will be screened from Becker Joerling Road by a County-required vegetative buffer within 25 feet of the top of bank of Becker Branch, an intermittent stream extending along the entire parcel frontage. Also, small pole barns for storage is customary in rural areas zoned Agricultural District. Therefore, the aesthetic and/or scenic values of the vicinity will not be injured.

4. *Would the conditional use substantially diminish or impair property values within the neighborhood?*

Staff has no data to support or refute that the proposed use would substantially diminish or impair property values.

5. *Would the conditional use impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district?*

Adjoining properties are zoned A, Agricultural District. As all proposed conditional uses are a subset of agricultural and open space use of the land, and are limited in scale, County staff does not anticipate that they would impede uses allowed in the Agricultural District.

Buildings, structures or open spaces for conducting weddings and/or wedding receptions or other private parties. County staff has reviewed this criterion relative to the subject site to determine if the proposed conditional use of this property complies with these criteria. Per Section 405.510.B of the Unified Development Ordinance the following factors are considered and reported on Conditional Use Permit applications:

1. *Would establishing, maintaining, or operating the conditional use be detrimental to or endanger public health, safety, or the general welfare?*

The structure this use would occur within is already existing. The applicant is proposing sufficient restrictions on the use to prevent this use from being detrimental to the public health, safety, or general welfare.

2. *Would the conditional use injure the use and enjoyment of other property in the immediate vicinity for the purposes already permitted?*

The 2030 Master Plan shows continuing Agricultural uses for the larger 75-acre parcel and RR Rural residential use for the smaller 3.0-acre parcel, on which the caretaker home lies. Therefore, this proposal is in alignment with the 2030 Land Use Plan.

3. *Would the conditional use injure the aesthetic and/or scenic values of the vicinity?*

The applicant proposes to conduct this use inside an existing, aesthetically attractive, historic wood barn located next to the farmhouse. The barn is located 900 feet from Becker Joerling Road and screened from the roadway by a County-required vegetative buffer within 25 feet of the top of bank of Becker Branch, an intermittent stream extending along the entire parcel frontage. The barn is also screened from neighboring properties by woodlands. Therefore, the aesthetic and/or scenic values of the vicinity will not be injured.

4. *Would the conditional use substantially diminish or impair property values within the neighborhood?*

Staff has no data to support or refute that the proposed use would substantially diminish or impair property values.

5. Would the conditional use impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district?

Adjoining properties are zoned A, Agricultural District. As all proposed conditional uses are a subset of agricultural and open space uses of the land, and are limited in scale, County staff does not anticipate that they would impede uses allowed in the Agricultural District.

As events to be held in the cabin will be limited to 35 persons and no more than four per year, and no amplified sound, County staff views this conditional use as having limited adverse impacts on area properties. The use will be located inside of a barn located on the property this is more than 500 feet away from the nearest property line. The parking for this use will be provided in front of the existing home on the property.

RECOMMENDATIONS

CUP22-08A (Campground): The Planning and Zoning Division recommends this conditional use request be approved, subject to the following conditions:

1. A site plan substantially conforming to the concept plan attached hereto as part of Exhibit B shall be submitted to and approved by the St. Charles County Community Development Department.
2. A maximum of seven (7) camping cabins and/or cottages as defined by Section 405.060 of the Unified Development Ordinance of St. Charles County shall be permitted in the campground.
3. Recreational vehicle camping shall be prohibited.
4. The campground shall be limited to a maximum of thirty (30) guests at any one time.
5. No conditional use shall be active until all conditions of the approval have been met.

CUP22-08B (commercial farm stand): The Planning and Zoning Division recommends that a conditional use permit be approved subject to the following conditions:

1. A site plan substantially complying with the concept plan attached hereto as part of Exhibit B shall be submitted to and approved by the St. Charles County Community Development Department.
2. All activities under this conditional use shall comply with the definition of "farm stand, commercial" as defined in Section 405.060 of the Unified Development Ordinance, and as determined by St. Charles County.
3. All commercial farm stand sales shall take place inside a commercial farm stand structure designated on the site plan.
4. Outdoor sound amplification shall be prohibited.
5. No approved conditional use shall become active until all conditions of the approval shall have been met.

CUP22-08C (rural recreational activity): The Planning and Zoning Division recommends that a conditional use permit be approved subject to the following conditions:

1. A site plan substantially conforming to the concept plan attached hereto as part of Exhibit B shall be submitted to and approved by the St. Charles County Community Development Department.
2. No conditional use shall be active until all conditions of the approval have been met.
3. Equipment associated with this conditional use shall be stored indoors when not in use.
4. Participation in rural recreational activities under this conditional use shall be limited to those camping on the property and their guests.

CUP22-08D (buildings, structures or open spaces for conducting weddings and/or wedding receptions or other private parties) The Planning and Zoning Division recommends this conditional use request be approved subject to the following conditions:

1. A site plan substantially conforming to the concept plan attached hereto as part of Exhibit B shall be submitted to and approved by the St. Charles County Community Development Department.
2. No conditional use shall be active until all conditions of the approval have been met.
3. A maximum of four (4) weddings and wedding receptions shall be held per calendar year.
4. Weddings and wedding receptions shall be held only on Fridays, Saturdays, and/or Sundays.
5. This conditional use shall be limited to thirty-five (35) guests at any one time.
6. Participation in events held under this conditional use shall be limited to those camping on the property and their guests.
7. Outdoor sound amplification shall be prohibited.
8. All events under this conditional use shall concluded by 10:00PM.
9. Fireworks displays associated with this conditional use shall be prohibited.

County staff recommends findings that each of the four proposed conditional uses, as conditioned, comply with the Conditional Use Permit criteria of Section 405.510.B of the Unified Development Ordinance.