



**To:** Franklin County Board of County Commissioners  
**From:** Kenneth Cook – AICP, CFM  
**Department:** Planning & Building  
**Date:** Wednesday, April 6, 2022

#### **AGENDA ITEM NARRATIVE**

Consider the approval of a Special Use Permit Application #2202-1946 (Sherman-Elbert) to allow for the operation of a contractors shop and office facility in an R-E (Residential Estate) Zoning District.

#### **BACKGROUND**

The Planning Commission held a public hearing on March 17, 2022 to consider Special Use Permit application #2202-1946 (Sherman-Elbert).

After hearing Staff presentation and Applicant's presentation the Planning Commission did recommend approval of Special Use Permit application #2202-1946 (Sherman-Elbert) for the operation of a contractors shop and office facility in an R-E (Residential Estate) Zoning District. The Planning Department sent notice to nine (9) surrounding property owners. The Planning Department did not receive any comments for or against the Special Use Permit request and one person appeared at the public hearing.

#### **STAFF RECOMMENDATION**

Staff recommends that the County Commissioners accept the Planning Commission's recommendation and adopt the attached resolution for the approval of a Special Use Permit Application #2202-1946 (Sherman-Elbert) for the operation of a contractors shop and office facility in an R-E (Residential Estate) Zoning District.

#### **SPECIFIC ACTION REQUESTED**

An Affirmative motion in support of this item would read as follows: "I make a motion to approve Special Use Permit Application #2202-1946 (Sherman-Elbert) for the operation of a contractors shop and office facility in an R-E (Residential Estate) Zoning District ".

#### **ATTACHMENTS**

Planning Commission Staff Report  
Excerpt of Planning Commission Draft Minutes  
Resolution



**Franklin**  
COUNTY KANSAS

EST. 1855

**BOARD OF COUNTY COMMISSIONERS  
FRANKLIN COUNTY, KANSAS**

**RESOLUTION NO. 22-\_\_\_\_\_**

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**A RESOLUTION APPROVING SPECIAL USE PERMIT APPLICATION #2202-1946  
(SHERMAN-ELBERT) TO PERMIT THE OPERATION OF A CONTRACTORS SHOP  
AND OFFICE FACILITY IN AN R-E (RESIDENTIAL ESTATE) ZONING DISTRICT**

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, The Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Planning Commission did publish notice on February 22, 2022 that a public hearing would be held to consider Special Use Permit application #2202-1946 (Sherman-Elbert) as required by K.S.A. 12-757 and Article 23, Section 23-5.02 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on March 17, 2022 hold a public hearing for the consideration of Special Use Permit application #2202-1946 (Sherman-Elbert) to allow for the operation of a contractors shop and office facility in an R-E (Residential Estate) Zoning District; and

WHEREAS, the Franklin County Board of County Commissioners did adopt Zoning Regulations on August 14<sup>th</sup>, 2002 which included Article 19, Section 19-1 through 19-5 setting out the procedures and basis for review in considering a Special Use Permit including the following criteria:

- a. Whether the use is in conformance with, and would further enhance the implementation of, the adopted Comprehensive Plan;
- b. Whether the use complies with the purpose and intent of the adopted Zoning Regulations;
- c. Whether the use complies with other adopted standards of the County;
- d. Whether the use fits the character of the neighborhood
- e. Whether the use would be unduly detrimental to surrounding properties and uses;
- f. The suitability of the subject property for the proposed use;
- g. Approval of mitigation measures to minimize impacts to surrounding properties or services; and

WHEREAS, the Planning Commission, after due consideration of the criteria set forth in Article 23, Section 23-5.04 of the County Zoning Regulations, the relative factors of the Supreme Court case of Golden vs. City of Overland Park, together with all written reports and public testimony, recommended with a unanimous vote of six (6) in favor and zero (0) opposed, that the County Commission approve Special Use Permit #2202-1946, based on the following Findings and subject to the Conditions listed in Section 2 below:

1. The proposed special use permit, as conditioned, adheres to Franklin County Zoning Regulations and can be considered as compatible with uses allowed in the district based upon the intensity described by the applicant.
2. The limited nature of the proposed operation and conditions imposed adequately reduce negative impacts on the surrounding neighborhood.
3. There is no evidence to suggest that the requested use will detrimentally affect nearby property values.
4. The proposed special use permit, as conditioned, adheres to the Franklin County Comprehensive Plan as an objective for Industrial allows consideration for small-scale home-based industries that have reasonable access to major arterials and the use is compatible with and sensitive to the surrounding neighborhood.

NOW, THEREFORE, Be It Resolved, that the Franklin County Board of County Commissioners does hereby approve Special Use Permit Application #2202-1946 (Sherman-Elbert) as follows:

Section 1: Special Use Permit #2202-1946 (Sherman-Elbert) is granted for the following described properties:

*A tract of land in the Northeast Fractional Quarter of Section 4, Township 16 South, Range 20 East of the Sixth Principal Meridian, Franklin County Kansas described as follows: Beginning at the Northeast Corner of said Northeast Fractional Quarter; THENCE South 00 degrees 01 minutes 44 seconds West (assumed bearing) along the East line of said Northeast Fractional Quarter 549.58 feet; THENCE South 90 degrees 00 minutes 00 seconds West 792.62 feet; THENCE North 00 degrees 01 minutes 45 seconds East 549.58 feet to the North line of said Northeast Fractional Quarter; THENCE North 90 degrees 00 minutes 00 seconds East along said North line 792.62 feet to the Point of Beginning.*

Section 2: The Special Use Permit for the real property described above shall be authorized for the operation of a contractors shop and office facility in an R-E (Residential Estate) Zoning District pursuant to the Franklin County Zoning Regulations and the following conditions:

1. This Special Use Permit allows for the operation of a Contractor's Shop and Office facility as described in the applicant's application and shall be developed according to the submitted site plan (Exhibit A), except as amended by the following conditions.

2. Development shall comply with all sanitary, building, fire and other applicable county and state codes and permit requirements.
3. The proposed building shall comply with a minimum setback of 100 feet from the West property boundary.
4. The storage of equipment and materials associated with the business, including parking of the dump truck, shall be within the building. No outside storage is permitted. A fuel storage tank is permitted to be located outside but shall be placed to comply with zoning setbacks and any other applicable regulations, including containment.
5. Maintenance of vehicles or machinery shall be incidental to the Contractor's Shop and the incidental use shall only include minor repair.
6. The location of the entrance must be approved by the Franklin County Public Works Department and all driveways and off-street parking areas shall be maintained with all-weather surfaces.
7. Any sign(s) used in conjunction with this Special Use Permit shall conform to the Franklin County Zoning Regulations.
8. Hours of operation shall be limited to between the hours of 5:00 AM and 10:00 PM.
9. Any illumination associated with parking or outdoor activities shall be shielded so that the light source (bulb) is not visible from, and so that it does not cast light upon, adjacent properties or rights-of-way. Any lighting for the parking areas or other portions of the site shall not exceed twenty-five (25) feet in height
10. The contractor's shop and facility is limited to two (2) trucks.
11. The Term of this Special Use Permit shall be ten (10) years, at which time the Special Use Permit will expire and any continuation of the Special Use Permit shall require submittal of a new application as required for the original request. Upon expiration, all equipment and materials shall be removed within thirty (30) days and the structure shall be limited to those uses permitted by the zoning district.
12. The Special Use Permit shall be null and void by operation of law if the Special Use Permit has not been initiated and utilized by commencing the activity or use at the site specified in said permit within one (1) year of the date of approval.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 6<sup>th</sup> day of April, 2022. This action shall become effective upon publication in the official county newspaper.

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Roy C. Dunn  
Chair

Received and recorded this the 6<sup>th</sup> day of April, 2022.

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Janet Paddock  
County Clerk